

## **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 Practice and Procedure Before the Commission (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed Oct 30, 2000, 2:10 p.m.: 24 IR 666)*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

##### **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)*

#### **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, Indiana Government Center-South, Suite E306, 302 W. Washington St., Indianapolis, Indiana 46204.

(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 eight (8) copies, one (1) of which must be unbound and printed only on 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 thirteen (13) copies, one (1) of which must be unbound and printed only on 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 territorial maps, engineering drawings, or other visual aides must be made on eight and one-half (8½) 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:

- (1) a Saturday;
- (2) a Sunday;
- (3) a legal holiday as defined by state statute; or
- (4) a 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 Saturday, a Sunday, a legal holiday, or a 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 by check payable to the "Treasurer of the State of Indiana" and shall be 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*)

**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 pursuant to 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) Subject to the rules of evidence and discovery, information determined not to be confidential shall be deemed automatically withdrawn.

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

(f) Parties seeking protective orders to prevent or limit discovery of trade secret or other confidential research, development, or commercial information shall make a separate motion under Trial Rule 26(C).

(g) After a determination by the commission that any material is confidential, upon any subsequent filing of such material by a party, the party shall reference the cause number under which the confidentiality determination was made. (*Indiana Utility Regulatory Commission; 170 IAC 1-1.1-4; filed Oct 30, 2000, 2:10 p.m.: 24 IR 655*)

**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)*

**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)*

**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 sign and verify any pleadings or documents in accordance with section 8(d) of this rule [170 IAC 1-1.1-8(d)] and to 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 supreme court of Indiana in good standing.

(c) An attorney not admitted to practice before the supreme court of Indiana in good standing but admitted to practice before the Supreme Court of the United States, or the highest court of any other state or territory of the United States, in good standing, may appear at the discretion of the presiding officer before the commission upon filing a verified petition for limited admission to practice before the commission that meets the requirements of the Indiana Rules for Admission to the Bar and the Discipline of Attorneys Rule 3, Section 2(a). Upon being granted limited admission to practice before the commission, an attorney must appear with cocounsel admitted to practice in Indiana. Pending approval of the petition, such an attorney may be permitted to appear, at the discretion of a presiding officer, at any hearing. Local counsel shall sign all briefs, papers, and pleadings in such cause and shall be jointly responsible therefor.

(d) Any withdrawal of appearance by an attorney on behalf of any party must comply with the Indiana Rules of Professional Conduct, be in writing, and be granted by leave of the presiding officer.

(e) Except for good cause shown, the presiding officer may not grant a request for withdrawal of appearance by an attorney unless the request has been 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)*

**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; IC 35-44-2-1

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, the caption of the petition or complaint shall be revised to accurately describe the relief being sought and republication or renotification of any previously noticed hearing may be required by the commission.

(c) A party may amend his 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 may so amend it at any time within thirty (30) days after it is served. Otherwise a party may amend his 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 the time remaining for response to the original pleading or within 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.

(f) Every pleading of a party represented by an attorney must be signed by at least one (1) attorney of record and the attorney's address, telephone number, fax number, and attorney number must be stated, except that 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*)

#### **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 address, telephone number, and fax number.
- (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, within thirty (30) days following the initiation of such proceeding, 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. The commission may, on its own motion, by order, fix such test year and cutoff date at any time following the filing of any such petition. The commission, a commissioner, or a presiding officer shall confer with the petitioner and the office of the utility consumer counselor before issuing such an order.

(c) In any proceeding in which the petitioner is required by law to publish notice of the filing of the petition, such petitioner shall, following publication of such notice, certify to the commission that such publication has occurred, listing the names of the newspapers and the county or counties in which such notice was published. (*Indiana Utility Regulatory Commission; 170 IAC 1-1.1-*

9; filed Oct 30, 2000, 2:10 p.m.: 24 IR 657)

**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 such 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 may be filed with the commission. Answers to complaints must be filed 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 such 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 statutes, rules, regulations, or 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:

- (A) a plain and concise statement of the facts which are deemed to necessitate or justify relief; and
- (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)*

**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*)

#### **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 make additional parties, strike out improper parties, or substitute parties;
- (3) to dismiss a proceeding for want of jurisdiction, insufficiency of the petition, or order instituting the same or other sufficient cause;
- (4) for a continuance of a hearing or an extension of time for filing a pleading or for complying with an order; or
- (5) for other appropriate relief.

(b) Motions based on matter which 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 reduced to writing and 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 reduced to writing and 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 issues a final order in the cause or makes a determination upon an appeal of the presiding officer's ruling pursuant to 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)

**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*)

**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*)

**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 make possible the more effective use of hearing time in formal proceedings on the merits of a petition or a complaint, and to otherwise expedite the orderly conduct and disposition of those proceedings and to serve the public interest, the commission may require preliminary hearings, which includes prehearing conferences, among parties to the proceedings prior to the commencement of evidentiary hearings on the merits of the petition or complaint. A preliminary hearing 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 that a preliminary hearing be held, and direct 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 preliminary hearing in the proceeding, the preliminary hearing shall be held within forty-five (45) days following the date of filing of the petition.

(c) The following should be considered at the preliminary hearing:

- (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 attend the preliminary hearing unless excused by the presiding officer. They should be fully prepared to discuss all matters involved in the proceeding, both procedural and substantive, and 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) 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 preliminary hearing, 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.

(f) If the parties have previously reached agreement on any or all procedural matters to be considered at a preliminary hearing, the agreement may be reduced to writing and filed for approval in lieu of the preliminary hearing. Commission approval of such an agreement may not be in lieu of a preliminary hearing if a petition to intervene is filed at least five (5) days prior to the date originally set for the preliminary hearing.

(g) The presiding officer at any such preliminary hearing may dispose of any procedural matters during the course of the proceeding.

(h) The presiding officer is authorized, but not limited to, the following actions at the preliminary hearing:

(1) Participate in the discussions.

(2) Arrange for recording stipulations or agreements made at a preliminary hearing.

(3) Fix the date or dates for evidentiary or other hearings on the merits that may be required to dispose of the proceeding.

(4) Otherwise assist the parties to reach agreement that will expedite the proceeding and 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)*

#### **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 petitioner, applicant, complainant, respondent, or intervenor may request, in writing, discovery from any other party. Unless otherwise directed by the presiding officer, if the party against whom the discovery is directed does not satisfy such request within ten (10) 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 discovery sought and the reasons why it is thought to be relevant to the issues. The commission 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 in the commission's order. 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 participate in the discussions and 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) Upon a showing of good cause by the party seeking a protective order, the presiding officer may grant appropriate protective relief. Such appropriate relief may include the convening of an informal attorneys' conference to be conducted off the record of the proceedings for an in camera review of material sought in discovery. Requests for protective orders shall be governed by Rule 26(C) of the Indiana Rules of Trial Procedure. *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-16; filed Oct 30, 2000, 2:10 p.m.: 24 IR 661)*

#### **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*)

**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 testimony, cross-examination, motions, or 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 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)-(h) [170 IAC 21(f)-(h)] of this rule [section 21(f) through 21(h) 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 [170 IAC 1-1.1-3] 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 such 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*)

**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*)

**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*)

**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 admissibility of evidence.
- (2) Ruling on the qualifications of witnesses.
- (3) 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.

(4) 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.

(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 portion of the testimony in another commission proceeding, such portion shall be plainly designated in the stenographic record, and, if admitted, shall be deemed read in evidence as a part of the testimony in the pending proceeding.

(g) 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 plainly designated in the stenographic record and an exhibit number assigned thereto; and, if admitted, it shall be deemed introduced in evidence without physical production and marking for identification.

(h) With the approval of the presiding officer, verified pleadings or affidavits may be received in evidence as proof of the matters contained therein, provided the affiant or affiants are made available for cross-examination.

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

(j) The commission may take administrative notice of relevant administrative rules, commission orders, or other documents previously filed with the commission.

(k) The commission may take administrative notice on its own motion or upon a party's motion.

(l) 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 judicial notice and the tenor of the matter notice. In the absence of prior notification, the request may be made after judicial notice has been taken.

(m) 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.

(n) An [*sic.*] 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*)

#### **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 8-1-1.1-5; 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*)

#### **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 or approval by the commission or the presiding officer and 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 [*170 IAC 1-1.1-13*]. (*Indiana Utility Regulatory Commission; 170 IAC 1-1.1-23; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665*)

#### **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 for six (6) months that is not currently set for hearing and upon which action has not been taken by any party.

(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*)

**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*)

**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*)

**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 8-1-1-5; IC 8-1-2-42; IC 8-1-2-61.5

Sec. 1. (a) As used in this rule, "commission" refers to the Indiana utility regulatory commission.

(b) As used in this rule, "filing a report" means the filing of written testimony or the presentation of oral testimony, or both, by a technical employee in a pending proceeding.

(c) As used in this rule, "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.

(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.

(d) As used in this rule, "technical employee" means a professional employee of the commission working in the accounting, economic, engineering, or other professional technical advisory staff division. The term includes the utilities director. (*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*)

#### **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:

(1) until twenty (20) days after the commission issues a final order if no petition for rehearing or reconsideration has been filed; or

(2) until twenty (20) days after the commission denies a petition for rehearing or reconsideration of a final order; or

(3) until the commission issues a final order following a petition for rehearing or reconsideration; or

(4) during an appeal of an order of the commission to a court of appellate jurisdiction; or

(5) until twenty (20) days after the commission issues a final order in any remand of an appeal described in subdivision (4) of this section; or

(6) until all appeals to a court of appellate jurisdiction have been decided, any opportunity for a further appeal has been exhausted, and 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*)

#### **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, all administrative law judges (except a judge assigned as a settlement judge in a particular proceeding), and all technical employees (except a technical employee directed to file a report in a particular proceeding), may not communicate, directly or indirectly, regarding any issue in a proceeding while the proceeding is pending with:

(1) any:

(A) party;

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

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

(2) any person who has a direct interest in the outcome of the proceeding;

(3) any person who has served as an investigator or advocate in the proceeding or in its preadjudicative stage;

(4) any administrative law judge assigned as a settlement judge in a particular proceeding; or

(5) any 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), or (a)(5) 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) administrative law judge (except a judge assigned as a settlement judge in a particular proceeding); or

(3) technical employee (except a technical employee directed to file a report 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*)

**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, administrative law judges, and technical employees may communicate with each other regarding a particular proceeding pending before the commission. However, an administrative law judge 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, administrative law judges not assigned as settlement judges, or technical employees not assigned to file reports in that particular proceeding, regarding either of the following matters:

(1) Ex parte communications of a type that the member of the commission, administrative law judge, or technical employee would be prohibited from receiving under section 3 of this rule.

(2) Any information outside the evidentiary record of the 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*)

**170 IAC 1-1.5-5 Prior communications**

Authority: IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 5. If, within thirty (30) days before a proceeding begins, a member of the commission, administrative law judge, or technical employee receives a communication, which:

(1) would be ex parte if there were a proceeding before the commission; and

(2) is intended to persuade or advocate a position;

the member or employee of the commission shall disclose the communication as described in section 6 of this rule promptly after the proceeding begins. In addition, a member or employee of the commission who has received a prior communication, which, given its timing and content, that person reasonably believes was intended to circumvent this section may disclose the communication as described in section 6 promptly after the proceeding begins. (*Indiana Utility Regulatory Commission; 170 IAC 1-1.5-5; filed Dec 9, 1996, 10:00 a.m.: 20 IR 940; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**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 administrative law judge, 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;

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

(3) the presiding officer shall admit into the record all items tendered under this section.

(b) Any person identified as the source of a communication disclosed in accordance with subsection (a) shall be permitted an opportunity to respond on the record of the affected proceeding within fifteen (15) 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*)

## **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 8-1-1-12; 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 P.S.C.I. designations:

Electric light and power service . . . . P.S.C.I. No. E . . . . .

Gas service . . . . . P.S.C.I. No. G . . . . .

Heating service . . . . . P.S.C.I. No. H . . . . .

Street railway service . . . . . P.S.C.I. No. SR . . . . .

Telephone and telegraph service . . . . P.S.C.I. No. T . . . . .

Water service . . . . . P.S.C.I. No. W . . . . .

Warehouse and elevator service . . . . P.S.C.I. No. WH . . . . .

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*)

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

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

### **170 IAC 1-2-3 Form of schedules**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

### **170 IAC 1-2-4 Title page**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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 P.S.C.I. Below this number, placed in the upper right-hand corner, shall appear, in smaller type, the P.S.C.I. 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 P.S.C.I. 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 Public Service Commission of Indiana, 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)*

#### **170 IAC 1-2-5    Contents**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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)*

#### **170 IAC 1-2-6    Amendments and supplements**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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)*

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

Authority: IC 8-1-1-3; IC 8-1-1-12; 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 P.S.C.I. 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*)

**170 IAC 1-2-8 Receivership; adoption notice**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

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

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

**170 IAC 1-2-10 Joint rates defined**

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

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

Authority: IC 8-1-1-3; IC 8-1-1-12; 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*)

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

Authority: IC 8-1-1-3; IC 8-1-1-12; 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:

Bureau of Tariffs  
PUBLIC SERVICE COMMISSION  
OF INDIANA,  
State House, Indianapolis, Indiana

*(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)*

### **Rule 3. Advertising Expenditures by Public Utilities**

#### **170 IAC 1-3-1 Definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12

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)*

#### **170 IAC 1-3-2 Applicability of rules**

Authority: IC 8-1-1-3; IC 8-1-1-12

Affected: IC 8-1-1-3; IC 8-1-1-12

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)*

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

Authority: IC 8-1-1-3; IC 8-1-1-12

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)*

**170 IAC 1-3-4 Material benefit defined**

Authority: IC 8-1-1-3; IC 8-1-1-12

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)*

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

Authority: IC 8-1-1-3; IC 8-1-1-12

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)*

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

Authority: IC 8-1-1-3; IC 8-1-1-12

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)*

**170 IAC 1-3-7 Saving clause**

Authority: IC 8-1-1-3; IC 8-1-1-12

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*)

#### **Rule 4. Mediation**

##### **170 IAC 1-4-1 “Mediation” defined**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 1. As used in this rule, “mediation” means an informal and nonadversarial process in which a neutral third person, called a mediator, acts to encourage and to assist in the resolution of a dispute between two (2) or more parties with the objective of helping the disputing parties reach a mutually acceptable agreement between or among themselves on all or any part of the issues in dispute. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-1; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414*)

##### **170 IAC 1-4-2 Agreement to mediate**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 2. Except as otherwise provided in section 4 of this rule, the parties to any proceeding pending before the commission may select any person to act as a mediator. The parties and the mediator shall agree upon an hourly rate or fee for the mediation. The parties shall determine the division of such costs. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-2; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414*)

##### **170 IAC 1-4-3 Immunity of mediator**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 3. A mediator appointed and acting under this rule shall have immunity in the same manner and to the same extent as a judge having jurisdiction in the state of Indiana. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-3; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414*)

##### **170 IAC 1-4-4 Mediator ineligibility**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 4. A mediator may not be selected to mediate a proceeding if the mediator:

- (1) has an interest in the outcome of the proceeding;
- (2) is related to any of the parties or attorneys in the proceeding; or
- (3) is employed by any of the parties or attorneys involved in the proceeding, or is a member or an employee of the commission.

(*Indiana Utility Regulatory Commission; 170 IAC 1-4-4; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414*)

##### **170 IAC 1-4-5 Duties of mediator**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 5. Within ten (10) days of his or her selection by the parties, a mediator for a proceeding under this rule shall do the following:

- (1) Inform the parties of the anticipated cost of mediation.
- (2) Advise the parties that the mediator does not represent either or both of the parties.
- (3) Define and describe the process of mediation to the parties.
- (4) Disclose the nature and extent of any relationship with the parties and any personal, financial, or other interest that may result in bias or a conflict of interest.
- (5) Advise each of the parties to consider independent legal advice.
- (6) Disclose to the parties or their attorneys any factual documentation revealed during the mediation if at the end of the mediation process the disclosure is agreed to by both parties.
- (7) Inform the parties of the extent to which information obtained from and about the participants through the mediation process is not privileged and may be subject to disclosure.
- (8) Inform the parties that they may introduce the written mediated agreement into evidence if the agreement is signed by all parties to the dispute.
- (9) Advise the parties of the time, date, and location of the mediation at least ten (10) days in advance unless a shorter period is agreed to by the parties.
- (10) Advise the parties of all persons whose presence at the mediation might facilitate settlement.

*(Indiana Utility Regulatory Commission; 170 IAC 1-4-5; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414)*

**170 IAC 1-4-6 Individuals present at mediation**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 6. (a) The mediating parties and their attorneys must be present at any mediation session unless otherwise agreed. With the consent of all the mediating parties, nonparties to the dispute may also be present at a mediation session.

(b) All mediating parties, attorneys with settlement authority, representatives with settlement authority, and other necessary individuals shall be present at each mediation conference to facilitate settlement of a dispute unless excused by the parties.

(c) Mediation sessions are not open to the public and shall be closed to all persons other than the parties of record, their legal representatives, and other invited persons. *(Indiana Utility Regulatory Commission; 170 IAC 1-4-6; filed Sep 18, 1998, 11:43 a.m.: 22 IR 414)*

**170 IAC 1-4-7 Confidential statements; nonpublic records**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 7. (a) The attorney for each mediating party may submit to the mediator a confidential statement of the proceeding, not to exceed fifteen (15) pages, prior to a mediation conference. The statement submitted under this section shall include the following:

- (1) The legal and factual contentions of the respective parties.
- (2) The factors considered in arriving at the current settlement posture.
- (3) The status of the settlement negotiations to date.

(b) A confidential statement under this section may be supplemented by other exhibits or evidence that shall be made available to the opposing party or the opposing party's counsel at least five (5) days prior to the mediation conference.

(c) A confidential statement shall, at all times, be held privileged and confidential from other parties unless a written agreement to the contrary is provided to the mediator.

(d) If the mediation process does not result in settlement, any submitted confidential statement of the case, exhibit, or evidence shall be returned to the submitting attorney or party. *(Indiana Utility Regulatory Commission; 170 IAC 1-4-7; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415)*

**170 IAC 1-4-8 Mediator meetings with parties**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5



Sec. 8. In the mediation process, the mediator may meet jointly or separately with the parties and may express an evaluation of the case to one (1) or more parties or their representative. This evaluation may be expressed in the form of settlement ranges rather than exact amounts. The mediator may share revealed settlement authority with other parties or their representatives. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-8; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415*)

**170 IAC 1-4-9 Termination of mediation**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 9. (a) The mediator shall terminate mediation whenever:

- (1) the mediator believes that continuation of the process would harm or prejudice one (1) or more of the parties; or
- (2) the ability or willingness of any party to participate meaningfully in mediation is so lacking that a reasonable agreement is unlikely.

(b) At any time, any mediating party may withdraw from mediation. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-9; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415*)

**170 IAC 1-4-10 Failure to reach agreement; requirements for agreement**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 10. (a) If the mediating parties do not reach any agreement as to any matter as a result of mediation, the mediator shall, with the consent of the parties, identify to the commission any pending motions or outstanding legal issues, discovery process, or other action by any party that, if resolved or completed, would facilitate the possibility of a settlement.

(b) If agreement is reached as a result of mediation, it shall be reduced to writing and signed by the parties. The parties to such an agreement shall then take the procedural steps they believe necessary to seek the commission's approval of the agreement.

(c) If the agreement becomes an order of the commission, in the event of any breach or failure to perform under the agreement, the commission, upon motion, may impose appropriate remedies as permitted by law. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-10; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415*)

**170 IAC 1-4-11 Ability to mediate subsequent disputes**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 11. A person who has served as a mediator in a proceeding may act as a mediator in subsequent disputes between the parties. However, the mediator shall decline to act in any capacity, except as a mediator, unless the subsequent association is clearly distinct from the mediation issues. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-11; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415*)

**170 IAC 1-4-12 Conflicts of interest**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 12. A mediator is required to use an effective system to identify potential conflicts of interest at the time of appointment as a mediator. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-12; filed Sep 18, 1998, 11:43 a.m.: 22 IR 415*)

**170 IAC 1-4-13 Rules of evidence do not apply**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 13. With the exception of privileged communications, the rules of evidence do not apply in mediation, but factual

information should be supported by documentary evidence whenever possible. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-13; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**170 IAC 1-4-14 Limitation of discovery**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 14. By agreement of the parties, or as ordered by the commission, discovery may be deferred during mediation. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-14; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**170 IAC 1-4-15 Mediation regarded as settlement negotiation**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 15. (a) Mediation shall be regarded as a settlement negotiation.

(b) Evidence of conduct or statements made in the course of mediation is not admissible. However, nothing in this rule requires the exclusion of evidence otherwise discoverable merely because it is presented in the course of the mediation process. This rule also does not require exclusion when the evidence is offered for another purpose, such as bias or prejudice of a witness or negating a contention of undue delay. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-15; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**170 IAC 1-4-16 Confidential and privileged nature of mediation**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 16. (a) A mediator shall not be subject to any process requiring disclosure of any matter discussed during the mediation. Matters discussed during mediation shall be considered confidential and privileged in nature.

(b) The confidentiality requirement of subsection (a) may not be waived by the parties.

(c) An objection to the obtaining of testimony or physical evidence from mediation may be made by any party or by the mediator. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-16; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**170 IAC 1-4-17 Conduct of mediator**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 17. Mediators shall comply with all relevant provisions of Rule 7 of the Indiana Supreme Court Rules for Alternative Dispute Resolution, effective March 1, 1997. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-17; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**170 IAC 1-4-18 Service**

Authority: IC 4-21.5-3.5-1; IC 8-1-1-3

Affected: IC 8-1-1-5

Sec. 18. The parties shall comply with Trial Rule 5 of the Indiana Rules of Trial Procedure, effective January 1, 1970, and including amendments received through February 1, 1997, in serving papers and other pleadings on parties during the course of the mediation. (*Indiana Utility Regulatory Commission; 170 IAC 1-4-18; filed Sep 18, 1998, 11:43 a.m.: 22 IR 416*)

**Rule 5. Minimum Standard Filing Requirements**

**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) Where applicable, terms used in this rule shall have the meaning assigned to them in IC 8-1-2-1.

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

(c) Where applicable, terms used in this rule shall have the meaning assigned to them in the FERC Uniform System of Accounts, incorporated by reference at 170 IAC 4-2-1.1 and 170 IAC 5-2-3.

(d) As used in this rule, "AFUDC" has the meaning as set forth in 170 IAC 4-6-1(b).

(e) As used in this rule, "case-in-chief" means the filing by a utility with the commission of the information required under section 6 of this rule.

(f) As used in this rule, "commission" means the Indiana utility regulatory commission.

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

(h) As used in this rule, "CWIP" has the meaning as set forth in 170 IAC 4-6-1(e).

(i) As used in this rule, "demand side management" or "DSM" has the meaning as set forth in 170 IAC 4-8-1(e).

(j) As used in this rule, "electing utility" means a utility that elects to file a case for a general rate change in accordance with this rule.

(k) As used in this rule, "FCC" means the Federal Communications Commission.

(l) As used in this rule, "FERC" means the Federal Energy Regulatory Commission.

(m) As used in this rule, "FERC Uniform System of Accounts" means the rules and regulations governing the classification of accounts applicable to a utility as adopted by the FERC and adopted by reference by the commission for Indiana utilities.

(n) As used in this rule, "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(1) of this rule.

(o) As used in this rule, "NARUC Uniform System of Accounts" means the rules and regulations governing the classification of accounts applicable to a utility as developed by the National Association of Regulatory Utility Commissioners and adopted by reference by the commission for Indiana utilities.

(p) As used in this rule, "parent corporation" means a corporation that owns or controls more than fifty percent (50%) of the voting stock of an electing utility.

(q) As used in this rule, "post-filing date" means the date two (2) weeks following the date a utility files its case-in-chief in accordance with this rule. (*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*)

**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 assist the commission in performing a thorough and expeditious review of an application by an electing utility for a general rate change. The rule is intended to be used to provide support for the electing utility's rate application and to provide supplemental information to facilitate the review of the rate application as filed. The rule is intended as a means to reduce or avoid disputes. The following shall apply to proceedings under this rule notwithstanding any other provisions of this rule:

(1) This rule shall not 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) The submission of information under this rule shall not constitute a waiver of any objection by the commission or any party, including the electing utility, to the admission of the information into the record of any proceeding.

(3) This rule shall not limit a utility's right in a proceeding to supplement the information it files pursuant to this rule, or to seek the admission of supplemental information into the record of a proceeding, as the utility deems appropriate.

(4) This rule shall not be construed to require the production of any information that is subject to or protected by any

applicable privilege, or to require the disclosure of any information that is found by the commission to be confidential under section 3 of this rule.

(b) 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 application for a general rate change.

(c) A commission finding that the information filed or made available by a utility meets all of the requirements of this rule that are not waived shall constitute a finding as follows:

(1) That the test year proposed by the utility in its application for a general rate case is reasonably representative of the electing utility's ongoing operations.

(2) That the cutoff dates reflected in the information filed by an electing utility shall be the cutoff dates used in a proceeding hereunder.

(3) That the accounting methodology reflected in the information filed by an electing utility conforms with the guidelines set forth in section 5 of this rule.

(4) That, commencing as of the date an electing utility's case-in-chief is deemed in compliance under section 4(d) of this rule, ten (10) months is a reasonable amount of time to complete a proceeding. Accordingly, the presiding administrative law judge and commissioner, if any, assigned to a case will establish procedural dates, including specific dates for the filing of testimony, the holding of a settlement conference, the holding of hearings, the filing of posthearing briefs and proposed orders, and the issuance of a commission order, which will allow completion of the case within ten (10) months from the filing of the electing utility's case-in-chief. In addition, the prehearing conference order should provide that any petition for reconsideration or rehearing not granted within sixty (60) days of filing will be deemed denied. The commission will allow the presiding administrative law judge and commissioner, upon consideration of the comments and circumstances of the parties, the discretion to 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 the final proposed order. The presiding administrative law judge and presiding commissioner, if any, are authorized to extend the procedural schedule to twelve (12) months for good cause shown. Extensions beyond twelve (12) months will only be allowed in extraordinary circumstances upon the concurrence of a majority of the commissioners.

(d) A commission finding that the information filed or made available by a utility meets the requirements of this rule that are not waived shall be a finding as to the completeness of the information for purposes of this rule, and not a finding as to the accuracy or reasonableness of such information.

(e) This rule shall be available for use by all utilities subject to the jurisdiction of the commission; provided, however, that the commission may waive the requirements of this rule, in whole or in part, under section 4(e) 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*)

### **170 IAC 1-5-3 Confidential or privileged information**

Authority: IC 8-1-1-3

Affected: IC 5-14-3; IC 8-1-1-8; IC 8-1-2-29; IC 8-1-2-42

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 utility shall apply for a finding by the commission, on or before the date such information is required to be filed hereunder, that such information is confidential. Written applications 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 officer, following an application by the utility 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 information.

(4) Find that information found not to be confidential should be filed in accordance with this rule unless the utility chooses to cease being an electing utility.

(5) Find whether the case can be completed in accordance with this rule despite the amount or type of information found to be confidential.

(b) The application required by subsection (a) shall be accompanied by the sworn statement or testimony of a utility representative that describes the nature of the confidential information, the reasons why the information should be treated as confidential

information pursuant to IC 8-1-2-29 and IC 5-14-3, and the efforts the utility 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 the confidentiality of information submitted pursuant to 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 pursuant to IC 8-1-1-8.

(d) Subject to the rules of evidence and discovery, information determined not to be confidential shall be deemed automatically withdrawn.

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

(f) The failure by a utility to file information required by this rule while an application under subsection (a) is awaiting action by the commission shall not be a basis for a finding by the commission that the utility is not in compliance with the terms of this rule. (*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*)

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

Authority: IC 8-1-1-3

Affected: IC 8-1-2-42

Sec. 4. (a) The information required to be filed or made available by an electing utility shall be filed or made available on the date set forth in this rule unless such requirement is modified or waived in accordance with this rule.

(b) On the date information is filed or made available under this rule by an electing utility, such information shall be available for review by the commission's director of utilities, or his or her designees. Within thirty (30) days thereafter, the director of utilities may file with the commission and serve on all parties to a proceeding a notice that such information does not comply with the requirements of this rule. The notice shall state that the filing is a deficient filing and shall state the requirements necessary to cure any and all deficiencies. The commission shall determine if the alleged deficiencies are deficiencies under this rule and shall order the utility to cure such deficiencies within ten (10) business days of any such determination.

(c) Within twenty (20) days of the date any information is filed or made available by an electing utility, any party to a proceeding may file with the commission a notice that such information does not comply with this rule. The notice shall identify the alleged deficiencies and the requirements necessary to cure the alleged deficiencies. The commission shall determine if the alleged deficiencies are deficiencies under this rule and shall order the utility to cure such deficiencies within ten (10) business days of any such determination.

(d) If a notice of deficiency is not filed pursuant to subsection (b) or (c), the filing of the information shall be deemed in compliance with this rule.

(e) At any time prior to the date information is required to be filed or made available hereunder, an electing utility may request a waiver of compliance with any or all of the requirements of this rule by submitting a written request for a waiver to the director of utilities and serving a copy of such request on all parties to a proceeding.

(f) 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. (*Indiana Utility Regulatory Commission; 170 IAC 1-5-4; filed Oct 28, 1998, 3:38 p.m.: 22 IR 721*)

#### **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) are fixed, known, and measurable for ratemaking purposes; and
- (B) will occur within twelve (12) months following the end of the test year.
- (3) The general rate base cutoff shall reflect the following:
  - (A) Used and useful property at the end of the test year.
  - (B) The cost of plant, to the extent not offset by growth in the depreciation reserve, may be updated to the date of the hearing on the utility's case-in-chief.
- (4) The cutoff for a major project shall be based on the latest information available at the time of the final hearing in a proceeding hereunder, so long as the following tests are met:
  - (A) The major project is specifically identified in the utility's application for a general rate change.
  - (B) An estimate of the investment to be made by the utility in a major project is included in 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.
- (5) 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)*

**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 a witness or witnesses submitting prefiled, direct testimony in support of the utility's request for relief:

- (1) Comparative balance sheets and income statements for the test year and for the twelve (12) month period preceding the test year.
- (2) Revenue requirement calculation.
- (3) Net operating income on a jurisdictional basis:
  - (A) as set forth in the utility's operating financial statements; and
  - (B) as adjusted for ratemaking purposes under present and proposed rates.
- (4) Jurisdictional rate base:
  - (A) as set forth in the utility's operating financial statements; and
  - (B) as 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)*

**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. On or before the post-filing date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, the following information:

- (1) A map of the utility's service territory.
- (2) A chart of accounts that details the types of charges incurred in specific subaccounts as well as a description of the utility's account numbering and coding format.
- (3) A listing of standard monthly journal entries.
- (4) All annual reports to shareowners and quarterly reports to shareowners of the utility and its parent corporation, if any, for

the last two (2) years and the year subsequent to the test year.

(5) All reports of the utility and its parent corporation, if any, filed with the Securities and Exchange Commission for the test year, the year preceding the test year, and the year following the test year, as available.

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

(7) A current listing of the directors and officers of the utility.

(8) The utility's operating and construction budgets for the test year, and the year following the test year and, as available, a statement of the budgeting assumptions included in those budgets.

(9) A detailed description of the utility's financial budgeting and forecasting processes.

(10) 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)*

### **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. On or before the post-filing date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, the following information:

(1) 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 revenues, expenses, and taxes.

(C) An income statement for the test year under the rates being proposed by the electing utility. Expenses reflected in this income statement shall be summarized by the following classifications:

(i) Operating expenses by category.

(ii) Depreciation.

(iii) Taxes other than income.

(iv) Operating income before income taxes.

(v) Current federal income taxes.

(vi) Current state income taxes.

(vii) Deferred income taxes.

(viii) Income tax credits.

(ix) Other charges and credits.

(x) 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 levels.

(C) A description of adjustment methodology.

(3) The following actual and budgeted information by month for the test year that shall be identified by rate class, if available, or if not available by rate class, the utility shall provide the data in as much detail as reasonably possible:

(A) Operating revenues.

(B) Sales or deliveries.

(C) Number of customers.

(D) Other operating revenues by classification.

(4) Monthly sales for the test period and monthly unbilled revenues for the test period if recorded.

(5) Pro forma revenues, sales, or deliveries, and numbers of customers for the test year, including detailed calculations supporting adjustments, if any, for annualization.

(6) Pro forma revenue adjustment and support therefor relating to the proposed change in any of the following charges:

(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.
- (7) The utility's written policies and procedures, if any, related to the write-off of any customer accounts as uncollectible.
- (8) The utility's actual operating expenses by function, account, and subaccount for the test year.
- (9) A schedule detailing purchases for resale of gas, electricity, and water, including costs and volumes purchased during the test year.
- (10) For an electric utility, the following monthly information for the test period, with respect to each electric generating unit that the utility owns or co-owns:
- (A) Quantities in tons, barrels, or cubic feet of coal, oil, and gas burned.
  - (B) The total heat content in British thermal units for each fuel as burned.
  - (C) The total cost of each fuel burned in dollars.
  - (D) The total cost in cents per million British thermal units of each fuel as consumed.
  - (E) MWH net output.
  - (F) Capacity factor.
- (11) For an electric utility, the following information related to electric generating facility maintenance by station:
- (A) Actual and budgeted maintenance costs during the test year.
  - (B) Budgeted maintenance schedule for test year and any future period or periods as available.
- (12) For an electric utility, all costs of net purchased and exchanged power by supplier for the test year.
- (13) The number of employees by month for the test year, categorized by a bargaining unit and exempt, and nonexempt employees.
- (14) If the utility has one (1) or more collective bargaining units, the collective bargaining unit agreements in effect during the test year, and any such agreements that will be in effect during the twelve (12) months following the test year.
- (15) Actual payroll dollars charged to construction, operation, and maintenance expense and other accounts for the test year.
- (16) The following information regarding payroll increases by employee category during the test year:
- (A) The date, percentage increase, and annual amount of each payroll increase.
  - (B) The dates and annual amounts of merit increases granted during the test year.
- (17) 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.
- (18) A list of the categories of benefits provided by the utility to employees, the associated cost of each such category, and the amount charged to operation and maintenance expense during the test year with respect to each.
- (19) The utility's pension expense for the test year and an identification of any unfunded amounts.
- (20) The latest pension actuarial study used by the utility for determining pension accrual.
- (21) The latest actuarial study for other postretirement employee benefits.
- (22) Schedules of net charges by affiliated companies 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 of charges.
  - (C) If the charges are allocated, an explanation of the allocation methodology used.
- (23) The monthly amounts of injury and damage:
- (A) claims paid by the utility; and
  - (B) expense accrued;
- for the test year.
- (24) Test period data applicable to each DSM program of the utility, including a description of the DSM program conducted,



costs related to the program, and the accounting treatment of such costs. The information required by this subdivision shall be provided with reference to the applicable commission orders, if any, regarding each DSM program.

(25) Expenditures associated with outside, consulting, or legal services incurred by the utility during the test year, and amounting to more than ten thousand dollars (\$10,000) to an individual payee.

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

(27) A schedule of all research and development expenditures incurred by the utility during the test period.

(28) A schedule of trade, social, and service organization memberships paid during the test year and charged to utility operations.

(29) A schedule of estimated rate case expenses, including supporting detail, for outside services to be rendered and the expected costs of those services.

(30) A schedule of expenditures by the utility for advertising during the test year, and representative samples of such advertising by major media category, including, but not limited to, television, radio, and newspaper. The schedule required by this subdivision shall identify expenditures by the following subject matters:

(A) Public health and safety.

(B) Conservation of energy.

(C) Explanation of rates, billing practices, and other administrative matters.

(D) Other advertising programs.

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

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

(33) A schedule of amounts of taxes other than income taxes paid during the test period for the following categories:

(A) Social Security.

(B) Unemployment.

(C) Public utility fee.

(D) Property.

(E) Revenue related.

(F) Other.

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

(35) A schedule of deferred tax balances of the utility at the beginning and end of the test year, respectively, and net provisions and paybacks during the test year.

(36) Computations showing the deferred income taxes of the utility derived by using accelerated tax depreciation. Separate computations shall be provided for state and federal income taxes.

(37) A reconciliation of any difference between the deferred tax balance, as shown as a reduction to rate base or as cost-free capital, and the deferred tax balance of the utility as shown on the balance sheet.

(38) 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.

(39) 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.

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

*(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)*

#### **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. On or before the cutoff date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, the following information:

(1) A summary schedule showing the utility's proposed rate base. Such schedule shall show beginning balances per the utility's

books and proposed pro forma adjustments.

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

(A) Beginning test period balance.

(B) End of test period balance.

(C) Proposed balance to be included in rates.

(D) Where applicable, any commission order, accounting pronouncement, or other authorization establishing such asset.

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

(4) 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, 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)*

#### **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. On or before the cutoff date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, the following information:

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

(2) A schedule showing end of test period balances for a utility's plant in service and accumulated depreciation on a functional basis.

(3) The utility's construction budget for the test period and, as available, for the period that ends with the cutoff used to determine the plant in service rate base proposed by the utility.

(4) An annual summary 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 plant additions, retirements, and other changes to plant in service for the test year and, as available, for each month subsequent to the test year ending with the cutoff date.

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

(A) Estimated in service date or dates.

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

(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 end of test period plant in service.

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

(8) A copy of all commission orders that precertify projects added to end of test period plant in service.

*(Indiana Utility Regulatory Commission; 170 IAC 1-5-10; filed Oct 28, 1998, 3:38 p.m.: 22 IR 725)*

#### **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. On or before the post-filing date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, the following information:

(1) The cause number and order date of the commission's rate order authorizing the utility's current depreciation rates.

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

(3) If a utility is seeking a change in its depreciation accrual rates other than a change under 170 IAC 7-5-1, concerning depreciation rates for small local exchange carriers, the utility shall also submit the following information:

(A) The depreciation study performed by or for the utility that serves as the basis for the requested change in depreciation accrual rates.

(B) A copy of any dismantlement or demolition studies performed by or for the utility, the results of which are incorporated into the requested change in depreciation accrual rates.

(C) Supporting working papers for the documents required in clauses (A) and (B).

*(Indiana Utility Regulatory Commission; 170 IAC 1-5-11; filed Oct 28, 1998, 3:38 p.m.: 22 IR 725)*

#### **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. On or before the post-filing date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, 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, a complete description of the fuel inventory level policies used for planning purposes by the utility and 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.

(3) For an electric utility, when determining the pro forma fuel inventory level to be used for regulatory purposes based on a daily burn concept, the utility shall provide the following information for each generating unit and/or plant:

(A) Tons of fuel consumed for the test period or applicable adjusted period.

(B) The daily burn in tons or gallons.

(C) The pro forma optimal number of days' supply required for each plant or unit.

(D) The pro forma inventory of tons or gallons burned by generating unit or plant.

(E) The fuel cost per ton or gallon.

(F) The per books fuel inventory.

(4) For an electric utility, any request for an adjustment to the utility's proposed fuel inventory level intended to meet normal operations must include a narrative discussion of the factors considered in determining that an adjustment is warranted, as well as a detailed exhibit demonstrating the development of the proposed adjustment.

(5) For a gas utility, the leased and contract storage balances at the beginning of the first month and end of each month of the test period 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.

(6) For a gas utility, a complete description of the gas storage and supply policies used for planning purposes by the utility and copies of all analyses conducted by or for the utility establishing the optimal storage and supply level for the utility's system.

(7) The materials and supplies balances at the beginning of the first month and end of each month of the test period 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)*

#### **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. On or before the post-filing date, an electing utility shall submit to the commission staff, the office of utility consumer counselor, and any other party to the proceeding that has filed a written request for such information, 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, as well as 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 and as of the latest date reasonably available prior to the post-filing date, respectively, 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 pre-1971 investment tax credit, deferred taxes for ratemaking, and FAS 106 nonexternally funded liabilities.
  - (G) Post-1970 investment tax credit and other components as appropriate.
- (4) The provisions, if any, of the utility's and its parent company's articles of incorporation or similar document and indentures, or other loan documents that describe coverage requirements, limits on proportions of types of capital outstanding, and restrictions on dividend payouts.
- (5) The latest prospectus for the utility or its parent company, or both.
- (6) A schedule of preferred stock outstanding by series, including current maturities, for the end of the test year and the latest date reasonably available.
- (7) 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.
- (8) 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 post-filing 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.
- (9) Schedules required by this subdivision should contain all relevant information, including, but not limited to, the following:
  - (A) Date of issue.
  - (B) Maturity date.
  - (C) Dollar amount.
  - (D) Coupon or dividend rate.
  - (E) Net proceeds, including discounts and premiums.

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

(G) The calculations in this section.

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

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

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

(11) All 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 post-filing date.

(12) 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.

*(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)*

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

Authority: IC 8-1-1-3

Affected: IC 8-1-2-42

Sec. 14. On or before the post-filing date, an electing utility shall provide reasonable access to the following information upon the written request of the director of utilities 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 or FCC rate case filing, if any, and latest rate order issued by the FERC or FCC, 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:

(A) gas supply;

(B) gas storage;

(C) purchased electric, water, and coal; and

(D) transportation and rail contracts.

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

*(Indiana Utility Regulatory Commission; 170 IAC 1-5-14; filed Oct 28, 1998, 3:38 p.m.: 22 IR 727)*

#### **170 IAC 1-5-15 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) On or before the post-filing date, an electing utility shall submit a jurisdictional separation study, if applicable, and a class cost of service study to the commission staff.

(b) For an electing utility that is an electric utility or a gas 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 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, Fourth Edition.

(d) The requirements of this section shall not apply to an electing utility that is described in IC 8-1-2-61.5 or to any electing utility that is seeking an equal percentage change to its basic rates and charges for all customer classes.

(e) Information submitted pursuant to this section shall be provided to the commission staff on three and one-half (3.5) inch or five and one-fourth (5.25) inch diskettes, or any other medium agreed to by the commission. The information shall 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 pursuant to 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 staff 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 staff pursuant to 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 pursuant to 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 such information to the commission staff in the form described in subsection (e). The party shall also provide the information to any other party to the proceeding that enters into a mutually acceptable confidentiality agreement covering the information among the party, the electing utility, and 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*)

#### **170 IAC 1-5-16 Rate design and tariff filing requirements**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-42

Sec. 16. (a) On or before the post-filing date, an electing utility that proposes to modify the underlying structure of its rates shall submit direct written testimony detailing the reason for the proposed rate structure, and indicating the methods used in developing the proposed rate structure.

(b) On or before the post-filing date, an electing utility shall submit to the commission staff the billing determinants and derived rates used to produce the requested revenue requirement for each proposed charge in a rate schedule or rate group.

(c) On or before the post-filing date, an electing utility proposing to change its nonrecurring charges shall submit direct testimony detailing and justifying the proposed charges. The electing utility shall supply cost justification for the establishment of or a change to the following nonrecurring charges:

- (1) Insufficient funds check charge.
- (2) Reconnect charge.
- (3) Disconnect charge.
- (4) Recharge (establish or change account).
- (5) Collection charge.
- (6) Testing charge.
- (7) Meter reading charge.
- (8) Meter tampering charge.
- (9) Connection or tap fee.

(d) On or before the post-filing date, an electing utility that proposes to modify its terms and conditions of service, rules and regulations, rates and charges, or other tariff provisions shall submit a complete set of tariffs with the commission staff, with additions to the prior tariff shown in bold type, underlined, or italicized, and deletions from the prior tariff.

(e) On or before the post-filing date, an electing utility shall submit bill comparisons to the commission staff 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*)

**ARTICLE 2. MOTOR CARRIERS (TRANSFERRED)**

*NOTE: Transferred from the Indiana Utility Regulatory Commission (170 IAC 2) to the Department of State Revenue (45 IAC 16) by P.L.72-1988, SECTION 12, effective July 1, 1988.*

**ARTICLE 3. RAILROADS**

**Rule 1. Construction and Filing of Tariffs and Rates; Intrastate Transportation by Railroads (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed May 18, 1983, 2:18 pm: 6 IR 1219)*

**Rule 1.1. Tariffs and Rates (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-1) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**Rule 2. Abandonment of Railway Stations; Establishment of Interlocking Systems (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-2) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**Rule 3. Reporting of Railroad Accidents (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-3) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**Rule 4. Railroad Construction; Lateral and Vertical Clearance Requirements (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed May 7, 1982, 2:05 pm: 5 IR 1182; errata, 5 IR 2376)*

**Rule 4.1. Railroad Construction; Lateral and Vertical Clearance Requirements (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-4) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**Rule 5. Rail Service Continuation Subsidies (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-5) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**Rule 6. Railroad Policemen; Basic Training and Fitness Standards (Transferred)**

*NOTE: Transferred to the department of transportation (100 IAC 6-6) by P.L.89-1985, SECTION 6, as amended by P.L.83-1986, SECTION 8, effective July 1, 1986.*

**ARTICLE 4. ELECTRIC UTILITIES**

**Rule 1. Standards of Service**

**170 IAC 4-1-1 Definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-1

Sec. 1. Definitions. (A) Where applicable the definitions set forth in IC 8-1-2-1 (Burns 54-105) shall be applied to these rules,

and

(B) The word “customer” shall mean any person, firm, corporation, municipality or other government agency which has agreed, orally or otherwise, to pay for electric service received from a utility; provided, that for the purposes of Rules 13D, 15, 16 and 16.1 [170 IAC 4-1-13(D), 170 IAC 4-1-15, 170 IAC 4-1-16, 170 IAC 4-1-17], the word “customer” shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(C) The word “disconnection” shall mean the termination or discontinuance of electric service.

(D) The words “late payment charge” shall mean the one time penalty assessed by a utility upon all current bills at such time as they become delinquent.

(E) The word “commission” shall mean the Public Service Commission of Indiana. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 1; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 337; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-1-2 Applicability of rules**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2; IC 8-1-13

Sec. 2. Application of Rules. These rules shall apply to any electrical public utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act [IC 8-1-2], the Rural Electric Membership Corporation Act [IC 8-1-13] or any other statute of the State of Indiana, which now or hereafter may be engaged in the production, sale or distribution of electric service and which comes under the jurisdiction of the commission (herein called “utility” or “utilities”). (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 2; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 337; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-1-3 Retention of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-40

Sec. 3. Records to be Kept. All records required by these rules shall be preserved for at least three years except as otherwise provided herein or by IC 8-1-2-40 (Burns 54-315). Such records shall be kept within the State at the principal place of business of the public utility, or at such other places as the utility shall designate after notification to the commission, and shall be open for examination by the commission or its representatives. Each public utility shall notify the commission of the office at which such records are kept. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 3; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 337; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-1-4 Records and reports of meter purchases and tests**

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

Affected: IC 8-1-2

Sec. 4. (a) Whenever any meter in service is tested, a record shall be preserved containing the information necessary for:

- (1) identifying the meter;
- (2) the reason for making the test;
- (3) the reading of the meter before the test; and
- (4) the result of the test;

together with all data taken at the time of the test in sufficiently complete form to permit the calculation of the average accuracy for billing adjustments if required.

(b) Permanent records shall also be kept, systematically arranged, giving for each meter owned or used by any public utility, the year of purchase, its identification, and the record of the last test to which it has been subjected, with date and general results of the test. These records shall apply to all meters purchased after the effective date of this rule and to all other meters insofar as the information is available.

(c) If required by the commission, annual tabulations of the results of all meter tests shall be made, arranged according to



average accuracy, by groups set out in section 10 of this rule or as the commission may request. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 4; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 338; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2322; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-5 Location of meters; accessibility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35

Sec. 5. Location of Meters. (A) It is recommended that all meters hereafter installed should be located outdoors. Where outdoor installation is impractical, meters may be located indoors, as near as possible to the service entrance, in a clean, dry, safe place.

(B) Meters shall not be placed on any unstable partitions or supports. Unless unavoidable, meters should not be installed in any location where the visits of the meter reader or tester will cause unreasonable annoyance to the customer or undue inconvenience to the utility.

(C) Meters shall be easily accessible for reading, testing and making necessary adjustments and repairs. When a number of meters are placed on the same meter board, the distance between centers may be specified by the public utility company, but in no case shall such distance be less than 7 1/2 inches. Upon request by the residential customer, the utility shall provide the customer with the number of the meter which serves the individual customer's premises, to provide the customer with an opportunity to verify the meter readings. On an installation where similar types of meters record different units (KWH and RKVAH, for example) the meters shall be tagged or marked to indicate the units recorded. Meters should not be less than 4 feet nor more than 6 feet above the final standing surface, measured from the center of the meter cover, unless authorized by the public utility company. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 5; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 338; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-6 Service watthour meters; inspection and repair; installation tests and adjustments**

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

Affected: IC 8-1-2-34; IC 8-1-2-35

Sec. 6. (a) Each new watthour meter, except self-contained single phase and network meters, shall be inspected and tested and adjusted if necessary:

- (1) to detect any possible causes for faulty operation;
- (2) to verify that its register constant, test constant, gear, or dial train to be employed is correctly given;
- (3) to verify that the meter does not register with all load wires disconnected; and
- (4) to verify the accuracy of the meter.

All new meters may be tested by a meter manufacturer if certified tests are supplied.

(b) All meters removed from service shall be carefully inspected for any possible causes of faulty operation that may have developed in use, cleaned and repaired, as necessary, before being tested and adjusted to the accuracy conditions prescribed in section 9 of this rule, prior to being again placed in service, except self-contained meters may be removed and reinstalled without testing if they show no damage or evidence of tampering and are not on a recall or obsolete list.

(c) All watthour meters and demand meters, except self-contained meters, shall be tested prior to their installation or within sixty (60) days after installation, and adjusted, as closely as economically practicable, to the condition of zero (0) error, but in all cases within the limits of tolerance prescribed in section 9 of this rule. Such tolerances are to be interpreted as maximum variations from the condition of zero (0) error which are permitted in order to make reasonable though adequate allowance for variations encountered in accepted good meter practice.

(d) All watthour and demand meters shall be checked for correct connections, proper mechanical conditions, and suitability of location in its permanent position at the time of installation or within sixty (60) days after installation. If the meter does not read directly in KWH consumed or demand units, the multiplier for the meter readings shall be checked and plainly marked on the meter, or marked on a tag attached to the meter. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 6; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 338; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2322; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-7 Meter testing equipment and facilities; reference and portable standards**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 7. Meter Testing Equipment and Facilities. (A) Standardizing Laboratory. Whenever any public utility is maintaining or shall hereafter establish and maintain a standardizing laboratory, periodic inspection by the commission may be made of the instruments and methods in use, and if instruments and methods are acceptable to the commission after such inspection, certification of meters and instruments for such utility's own use and for other public utilities may be made by such laboratory.

(B) Equipment and Facilities. Each public utility shall provide or have available such standard meters, instruments and other equipment and facilities as may be necessary to make the tests required by these rules. Such equipment and facilities shall be subject to review by the commission, and shall be available at all reasonable times for the inspection by any authorized representative of the commission.

(C) Reference Standards. Each public utility shall provide or have available suitable indicating electrical instruments, wattmeters and watthour meters (hereinafter called "reference standards") as may be necessary for testing the accuracy of portable watthour standards and other portable instruments used for testing service meters. The reference standard may be a service type watthour meter, but if so, it shall be permanently mounted in the meter testing shop of the public utility and be used for no other purpose than for checking portable watthour meter standards. Reference standards of all kinds shall be tested and adjusted, if necessary, at least once every two years by a recognized standardizing laboratory with equipment as required in part (A) or (B) of this rule [this section].

(D) Portable Standards. All portable watthour meter standards shall be checked against the corresponding reference standards as often as may be necessary to give reasonable assurance that the errors will not change enough between successive calibrations to materially affect the results of measurements involving their use. If such check shows any portable watthour meter standard to be in error more than one per cent (1%) plus or minus, at any load at which the standard will be used, the standard shall be tested, adjusted and certified in the laboratory of the public utility, or in some other approved laboratory, unless calibration correction is used. Each portable watthour meter standard shall at all times be accompanied by a certificate or calibration card, signed by the proper authority, giving the date when it was last certified.

(E) Portable Indicating Instruments. All portable indicating electrical testing instruments, such as voltmeters, ammeters and wattmeters, when in regular use in testing purposes, shall be checked against suitable reference standards as often as may be necessary to give reasonable assurance that the errors will not change enough between successive calibrations to materially affect the results of measurements involving their use, and if found appreciably in error at zero of more than one per cent (1%) of full scale value at commonly used scale deflection shall, unless calibration correction is used, be adjusted and certified in some approved laboratory.

(F) Records of certification and calibration. Records of certification and calibration shall be kept on file in the office of the public utility. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 7; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 339; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-8 Average accuracy of watthour meters; tests**

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

Affected: IC 8-1-2

Sec. 8. (a) The accuracy at light load shall be determined at a load of approximately ten percent (10%) of the rated test amperes of the meter. The accuracy at full load shall be determined at a load of one hundred percent (100%) of the rated test amperes of the meter. For meters used with current transformers:

(1) full load shall be approximately one hundred percent (100%) of either the meter test amperes or the secondary current rating of the current transformers; and

(2) light load shall be approximately ten percent (10%) of the selected full load current.

Average percentage registration is the average of the percentage registration at light load (LL) and at full load (FL). Thus, average percentage accuracy =  $(FL + LL) \div 2$ .

(b) The accuracy at light load shall be determined by taking the average of at least two (2) tests, which tests must agree within one-half of one percent (.5%) unless the meter has been tested by an automated device in which case one (1) test will be sufficient.

The accuracy at full load shall be determined in a like manner. The average accuracy of the meter shall be determined by taking an average of the accuracy at light load and of the accuracy at full load. However, the average “as found” accuracy of a meter may be determined from one (1) light load test and one (1) full load test if:

- (1) such average accuracy is less than one hundred three percent (103%); and
- (2) if such meter is to be adjusted.

(c) After any meter has been adjusted, the “as left” accuracy of the meter shall be determined by tests at each load as outlined in subsection (b). (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 8; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 340; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2323; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-9 Accuracy of meters**

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

Affected: IC 8-1-2-35

Sec. 9. (a) No watthour meter that registers at no load (the moving element making more than one (1) complete revolution when at “no load”), when the applied voltage is less than one hundred ten percent (110%) of standard service voltage, shall be placed in service or allowed to remain in service in such condition.

(b) No meter shall be placed in service or allowed to remain in service that is in any way mechanically defective, has incorrect constants, or has not been tested for accuracy of measurements and adjusted, if necessary, to meet the following requirements:

- (1) For watthour meters, the following:
  - (A) Average error not over two percent (2%), plus or minus.
  - (B) Error at full load not over one percent (1%), plus or minus.
  - (C) Error at light load not over three percent (3%), plus or minus.
- (2) For curve drawing instruments, the electrical element error shall not exceed two percent (2%), plus or minus, of full scale indication.
- (3) For integrating demand meters, the following:
  - (A) Electric element errors shall not exceed the limits specified for watthour meters.
  - (B) For timing element, a cumulative error shall not be in excess of plus or minus two percent (2%) for the entire billing period. If the time of day is a factor in the rate schedule, the timing element, when operating under normal conditions of service, shall not indicate a difference of more than ten (10) minutes from correct time, and any incorrect indication of time caused by the temporary loss of utility service shall be corrected by the utility by the end of the following work day.
- (4) For lagged demand meters, the following:
  - (A) For electromagnetic type, the error shall not exceed two percent (2%), plus or minus, of full scale indication.
  - (B) For thermal type, the error shall not exceed four percent (4%), plus or minus, of full scale indication.
- (5) Watthour meters, except self-contained meters, which are to be used on circuits supplying inductive load, shall also be tested before installation at one hundred percent (100%) of manufacturer's rated test current at fifty percent (50%) lagging power factor, and, if necessary, adjusted so that the error under such conditions will not be more than two percent (2%), plus or minus. All new meters may be tested by a meter manufacturer if certified tests are supplied.

(c) Where instrument transformers are used for metering, the ratio of transformation and phase angle error of the transformers must be determined before installation, such information being on file in the office of the public utility. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 9; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 341; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2323; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-10 In-service tests; watthour meters, self-contained**

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

Affected: IC 8-1-2-35

Sec. 10. (a) A utility may adopt either Method A as described in subsection (b) or Method B as described in subsection (c) for maintaining the accuracy of self-contained meters without attachments or with frictionless attachments.

(b) For Method A, periodic testing of watthour meters, each public utility shall, after the adoption of this rule, use not more than a sixteen (16) year schedule of periodic testing.

(c) For Method B, quality control testing of watthour meters, a public utility may adopt the following quality control testing method for self-contained watthour meters, in service, on written notice to the commission:

- (1) Meters shall be divided into homogenous groups.
- (2) The meters in each group may be further subdivided into lots; however, no lot size shall be less than three hundred one (301) meters.
- (3) From each lot there shall be drawn annually a number of meters to be tested as specified in Table A-2, ANSI/ASQC Standard Z1.9, dated 1993, using Inspection Level II. Due care shall be exercised that the meters to be tested shall be drawn at random, and all such meters shall be tested for accuracy.
- (4) The test criterion for acceptance or rejection of each lot shall be based on the test at full load only and shall be that designated for Double Specification Limit-Variability Unknown-Standard Deviation Method at the 2.50 Acceptable Quality Level (normal inspection) as shown in Table B-3, ANSI/ASQC Standard Z1.9, dated 1993.
- (5) The necessary calculations shall be made in accordance with the illustration (Example B-3), ANSI/ASQC Standard Z1.9, dated 1993. The upper and lower accuracy specification limits, U and L, shall be one hundred two percent (102%) and ninety-eight percent (98%), respectively.
- (6) A lot shall be rejected if the total estimated percent defective (p) exceeds the appropriate maximum allowable percent defective (m) as determined from Table B-3, ANSI/ASQC Standard Z1.9, dated 1993.
- (7) Meters in a rejected lot shall be subject to an accelerated test schedule to be completed within a maximum period of ninety-six (96) months and shall comply with section 9 of this rule, or shall be retired from service. Such accelerated testing of a rejected lot may be discontinued when the subsequent test results show that the lot is within acceptable limits of accuracy.
- (8) A public utility, operating under this optional testing plan, may elect to test the meters included in any group or lot on a test schedule of not more than sixteen (16) years subject to section 9 of this rule.
- (9) Each public utility shall keep all necessary records to enable the commission to check procedures followed, tests made, and calibrations employed in conformance with this optional testing method.
- (10) All provisions of the aforesaid ANSI/ASQC Standard Z1.9, dated 1993, explanatory of or essential to the application of Table A-2, Table B-3, and Example B-3, as referenced in subdivisions (3) through (5), are hereby incorporated in this rule by reference.

(d) Requirements for other watthour meters are as follows:

- (1) Electromechanical watthour meters with surge proof magnets and the following:
  - (A) Mechanical KWH registers shall be tested at least every sixteen (16) years.
  - (B) Mechanical demand registers shall be tested at least every eight (8) years.
  - (C) Electronic demand registers shall be tested at least every sixteen (16) years.
  - (D) Mechanical cam pulse initiators shall be tested at least every two (2) years.
  - (E) Mechanical gear shutter pulse initiators shall be tested at least every eight (8) years.
  - (F) Electronic pulse initiators shall be tested at least every twelve (12) years.
  - (G) Electronic registers, for example, TOU or recorder, shall be tested at least every sixteen (16) years.
  - (H) Thermal demand registers shall be tested at least every eight (8) years.
- (2) Electronic meters shall be tested at least every sixteen (16) years.

*(Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 10; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 342; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2324; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-1-11 Customer requests for tests; application to utility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 11. Meter Tests Upon Written Request by Customer to Public Utility. Each public utility supplying electrical energy shall make a test of the accuracy of registration of a meter upon written request by a customer. A second test of this meter may be requested after twelve (12) months. The customer may be required to bear the full cost of any subsequent tests of this meter if

requested at less than thirty-six (36) month intervals if no error be found. A written report giving the results of such tests shall be made to the customer and a complete record of the same shall be kept on file in the office of the public utility. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 11; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 344; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-12 Customer requests for tests; application to public service commission**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 12. (a) Upon application of any customer to the commission, a test may be made of the customer's watthour meter by the public utility under the supervision of an employee of the commission. At the time the customer requests a meter test, the commission shall promptly notify the public utility of any such request. No fee shall be payable by the customer for such test.

(b) Upon application of any customer to the commission, an electric demand test may be made upon the customer's electric load by the public utility under the supervision of an employee of the commission, such test to be made as soon as practicable after receipt of the application and under exactly similar conditions of installation and operation as may be mutually agreed upon, in writing, by the customer and the public utility. No fee shall be payable by the customer for such test. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 12; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 345; filed Jan 15, 1997, 2:00 p.m.: 20 IR 1346; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-13 Bills**

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

Affected: IC 8-1-2; IC 8-1-13

Sec. 13. (a) A bill rendered periodically to a customer for electric service must show at least the following information:

- (1) The dates and meter readings of the meter at the beginning and end of the period for which the bill is rendered and the billing date.
- (2) The number and kind of units of service supplied.
- (3) The billing rate code.
- (4) The service or minimum charge, if applicable.
- (5) The previous balance, if any.
- (6) The amount of the bill.
- (7) The sum of the amount of the bill and the late payment charge.
- (8) The date when the bill becomes delinquent and the date the late payment charge will be added to the bill.
- (9) If an estimated bill, clear and conspicuous coding or other indication identifying the bill as an estimated bill.
- (10) Printed statements or actual figures, or both, on either side of the bill must inform the customer of the seventeen (17) day nonpenalty period.
- (11) An easily understood explanation of all codes or symbols, or both, used.

(b) A utility shall not transfer a bill for nonresidential service to a bill for residential service, nor shall a utility transfer a bill for residential service to a bill for nonresidential service. An unpaid bill for merchandise or nonutility service shall not be transferred to a utility bill.

(c) A utility service bill shall be issued as a net bill. A bill is considered delinquent unless payment is received within seventeen (17) days after the initial bill is postmarked. A delinquent bill may be assessed a late payment charge. The late payment charge shall not exceed ten percent (10%) of the first three dollars (\$3) and three percent (3%) of the excess of three dollars (\$3). In order for a utility to assess a late payment charge, the charge must be included in the utility's schedule of rates, tolls, or charges on file and approved by the commission.

(d) A utility may estimate a customer bill only for good cause. As used in this subsection, "good cause" includes, but is not limited to, the following:

- (1) A customer request to estimate a bill.
- (2) Inclement weather.
- (3) Labor or union disputes.

(4) Inaccessibility of a customer's meter, if the utility has made a reasonable attempt to read it.

(5) Other circumstances beyond the control of the utility, its agents, and employees.

(e) A cooperatively owned utility shall, upon a customer's request, and not less than once in a twelve (12) month period, compute and render a bill pursuant to an actual meter reading taken by the utility.

(f) A utility shall develop an alternative billing method. This method must allow an applicant or customer to contract for billing where the utility averages the estimated bill over an extended period and balances the account at the end of that period.

(1) An alternative billing method must be included in a utility's schedule of rates, tolls, or charges on file and approved by the commission.

(2) Notice of the availability of this billing method must be placed in the customer pamphlet required under section 18 of this rule.

(g) A Rural Electric Membership Corporation (REMC) formed under IC 8-1-13 may develop a round-up charitable billing plan. This plan allows a REMC, with a customer's consent, to round-up to the next even dollar amount the customer's bill for a billing period. The difference between the customer's estimated or actual bill for electric service and the rounded up bill may be contributed, when paid by the customer, to a REMC's tax exempt foundation or qualified Internal Revenue Code Section 501(c)(3) trust for investment or use for charitable purposes in the utility's service territory.

(1) A round-up charitable billing plan must be included in a REMC's schedule of rates, tolls, or charges on file with and approved by the commission.

(2) Notice of the availability of this billing plan must be placed in the customer pamphlet required under section 18 of this rule.

*(Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 13; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 345; filed Apr 16, 1994, 5:00 p.m.: 17 IR 2046; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-1-14 Billing adjustments**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34

Sec. 14. Adjustment of Bills. (A) Adjustments Due to Meter Errors. If any service meter, after being tested, as provided for in these rules, is found to have a percentage of error greater than three percent (3%) for watthour meters and four percent (4%) for demand meters, the bills for service shall be adjusted as follows:

(1) Fast Meters—When a meter is found to have a positive average error, the public utility shall refund, or credit the customer's account with the amount of any charges in excess of either (i) an average bill for the kilowatthours and/or demand units incorrectly metered or (ii) separate bills individually adjusted for the percent of error for the period the meter was fast, if such period can be determined, or one year, whichever period is shorter. An average bill shall be calculated on the basis of kilowatthours and/or demand units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be fast. No part of a minimum service charge shall be refunded.

(2) Stopped or Slow Meters—When a meter is stopped or has a negative average error, the public utility may charge the customer for the kilowatthours and/or demand units incorrectly registered for one-half of the period since the last previous test or one year, whichever is shorter. The amount of the charge to the customer shall be estimated on the basis of either (i) an average bill as herein below described or (ii) separate bills individually adjusted for the percent of error. An average bill shall be calculated on the basis of kilowatthours and/or demand units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be slow or stopped. The utility may charge the customer for such amounts except where the utility negligently allows the stopped or slow meter to remain in service.

(B) Other Billing Adjustments. All other billing errors, including incorrect tariff applications, may be adjusted to the known date of error or for a period of one year, whichever period is shorter. *(Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 14; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 346; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-1-15 Creditworthiness of customers; deposits; refunds**

Authority: IC 8-1-1-3

Affected: IC 8-1-2; IC 32-9-1.5-20

Sec. 15. (a) Each utility shall determine the creditworthiness of an applicant or customer in an equitable and nondiscriminatory method:

- (1) without regard to the economic character of the area wherein the applicant or customer resides; and
- (2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.

(b) Each new applicant for residential utility service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:

- (1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:
  - (A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;
  - (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and
  - (C) within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.

(2) If the applicant has not been a customer of a utility during the previous two (2) years, any two (2) of the following criteria are met:

- (A) The applicant either:
  - (i) has been employed by his or her present employer for two (2) years;
  - (ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
  - (iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:
    - (AA) graduating from a school, university, or vocational program; or
    - (BB) being discharged from military service.
- (B) The applicant either:
  - (i) owns or is buying his or her home; or
  - (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.
- (C) The applicant has credit cards, charge accounts, or has been extended credit by a bank, commercial concern, or individual unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a cash deposit. Such deposit shall not exceed one-sixth ( $\frac{1}{6}$ ) of the estimated annual cost of service to be rendered to the applicant. If a deposit is greater than seventy dollars (\$70), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay such deposit in equal installment payments over a period of no less than eight (8) weeks; service shall be connected upon receipt by the utility of the first such payment.

(d) If the utility requires a cash deposit as a condition of providing service, then it must immediately send a written notice to the applicant stating the precise facts upon which it bases its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating his or her creditworthiness.

(e) A utility may require a present customer to make a cash deposit when:

- (1) the customer has been mailed disconnect notices for two (2) consecutive months;
  - (2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period;
- or

(3) the service to the customer has been disconnected within the past four (4) years pursuant to section 16 of this rule.

The amount of such deposit may not exceed an amount equal to one-sixth ( $\frac{1}{6}$ ) of the expected annual billings for the customer at the address at which service is rendered. The utility shall provide the customer with two (2) monthly billing cycles (approximately sixty (60) days) in which to pay any deposit that exceeds seventy dollars (\$70).

(f) Requirements for interest upon deposits shall be as follows:

- (1) Deposits held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such a rate of interest as the commission may prescribe following a public hearing.
- (2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully

disposed.

(g) Requirements for refunds shall be as follows:

(1) Any deposit or accrued interest shall be promptly refunded to the customer without the customer's request when the customer:

(A) submits satisfactory payment for a period of either:

(i) nine (9) successive months; or

(ii) ten (10) out of any twelve (12) consecutive months without late payment in two (2) consecutive months; or

(B) demonstrates his or her creditworthiness by any other means.

(2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.

(3) Following customer-requested termination of service, the utility shall:

(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) days after payment of the final bill.

(4) Each utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current address of the customer so long as he or she maintains an active account with the utility in his or her name.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting such deposit.

(5) Each customer shall be provided a written receipt from the utility at the time his or her deposit is paid in full or he or she makes a cash partial payment. The public utility shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant, customer, or any other person to the utility (less any lawful deductions), or any sum the utility is ordered to refund for utility service, that has remained unclaimed for one (1) year after the utility has made diligent effort to locate the person who made such deposit or the heirs of such person, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).

(7) A deposit may be used by the utility to cover any unpaid balance following disconnection of service under section 16 of this rule; provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

*(Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 15; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 347; filed Oct 28, 1998, 3:22 p.m.: 22 IR 729; errata filed Nov 22, 1999, 3:31 p.m.: 23 IR 812; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-1-16 Disconnection of service; prohibited disconnections; reconnection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-113; IC 8-1-2-122

Sec. 16. (a) The customer shall notify the utility at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billings therefor until service is disconnected pursuant to such notice.

Upon request by a customer of a utility to disconnect service, the utility shall disconnect the service within three (3) working days of the requested disconnection date. The customer shall not be liable for any service rendered to such address or location after the expiration of three (3) such days.

(b) A utility may disconnect service without request by the customer of the service and without prior notice only:

(1) if a condition dangerous or hazardous to life, physical safety or property exists; or

(2) upon order by any court, the commission or other duly authorized public authority; or

(3) if fraudulent or unauthorized use of electricity is detected and the utility has reasonable grounds to believe the affected customer is responsible for such use; or

(4) if the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.



In all other instances a utility, upon providing the customer with proper notice (as defined in subsection (e) of this section) may disconnect service subject to the other provisions of 170 IAC 4-1.

(c) Except as otherwise provided in subsections (a) and (b) of this section a utility shall postpone the disconnection of service for ten (10) days if, prior to the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official which states that disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one additional ten (10) day period upon the provision of an additional such medical statement.

A utility may not disconnect services to the customer:

- (1) upon his failure to pay for merchandise or appliances;
- (2) upon his failure to pay for the service rendered at a different metering point, residence, or location if such bill has remained unpaid for less than forty-five (45) days;
- (3) upon his failure to pay for services to a previous occupant of premises to be served;
- (4) upon his failure to pay for a different form or class of utility service; or
- (5) if the customer or user shows cause for his inability to pay the full amount due (financial hardship shall constitute cause), and said customer:

(A) pays a reasonable portion (not to exceed \$10 or one tenth (1/10) of the bill whichever is less unless the customer agrees to a greater portion) of the bill; and

(B) agrees to pay the remainder of the outstanding bill within three (3) months; and

(C) agrees to pay all undisputed future bills for service as they become due; and

(D) has not breached any similar agreement with the utility made pursuant to this section within the past twelve months.

Provided, however, that the utility may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to 170 IAC 4-1-13(B). Provided further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and by a representative of the utility.

(6) If a customer or user is unable to pay a bill, which is unusually large due to a prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two months, stopped or slow meters, or any human or mechanical error of the utility, and the customer:

(A) pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the six (6) bills immediately preceding the bill in question;

(B) agrees to pay the remainder at a reasonable rate; and

(C) agrees to pay all undisputed future bills for service as they become due;

Provided, however, that the utility may not add to the outstanding bill any late fee. Provided, further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and a representative of the utility.

If a customer proceeds with a review pursuant to 170 IAC 4-1-17(B), the utility may disconnect only as provided in 170 IAC 4-1-17(C).

(d) No utility may disconnect service unless it is done between the hours of 8:00 A.M. and 3:00 P.M., prevailing local time. Disconnections pursuant to subsections (a) and (b) of this section are not subject to this limitation.

A utility may not disconnect service for nonpayment on any day, or beyond twelve noon (12:00 noon) of the day immediately preceding any day, on which the utility office is not open to the public.

(e) Except as otherwise provided herein, electric service to any residential customer shall not be disconnected for a violation of any rule or regulation of a utility or for the non-payment of a bill, except after fourteen (14) days prior written notice to such customer by either:

(1) mailing the notice to such residential customer at the address shown on the records of the public utility; or,

(2) personal delivery of the notice to the residential customer or a responsible member of his household at the address shown on the records of the utility;

(3) no disconnect notice for nonpayment may be rendered prior to the date on which the account becomes delinquent.

The notice must be in language which is clear, concise, and easily understandable to a layman and shall state in separately numbered large types or printed paragraphs:

(1) the date of proposed disconnection;

(2) the specific factual basis and reason for the proposed disconnection;

(3) the telephone number of the utility office which the customer may call during regular business hours in order to question

the proposed disconnection or seek information concerning his rights;

(4) a reference to the pamphlet furnished to the customer pursuant to 170 IAC 4-1-18 for information as to the customer's rights.

(f) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform such function shall make a reasonable attempt to identify himself to the customer or any other responsible person then upon the premises and shall announce the purpose of his presence and shall make a record thereof to be maintained for at least thirty (30) days.

The employee shall have in his possession information sufficient to enable him to inform the customer or other responsible person the reason for disconnection, including the amount of any delinquent bill of the customer, and shall request the customer for any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review. Upon the presentation of such credible evidence, service shall not be disconnected.

The employee shall not be required to accept payment from the customer, user, or other responsible person in order to prevent the service from being disconnected. The utility shall notify its customers pursuant to 170 IAC 4-1-18 its policy with regard to the acceptance or non-acceptance of payment from such employee, and shall uniformly follow such policy without discrimination.

When the employee has disconnected the service, the employee shall give to a responsible person at the user's premises or, if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) A utility may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of such reconnection fee pursuant to 170 IAC 4-1-18.

If the utility disconnects service in violation of 170 IAC 4-1, the service shall immediately be restored at no charge to the customer.

The utility must reconnect the service to the customer or user as soon as reasonably possible but at least within one (1) working day after it is requested to do so if the customer has satisfied the requirements of 170 IAC 4-1. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 16; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 349; No. 34526; filed Jul 30, 1976, 12:00 pm: Rules and Regs. 1977, p. 385; filed Oct 13, 1983, 4:02 pm: 7 IR 37; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-1-16.5 Home energy assistance; involuntary termination of service; definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-113; IC 8-1-2-121; IC 8-1-2-122

Sec. 16.5. (a) "Commission" means the public service commission of Indiana.

(b) "Customer" means for the purposes of this rule [170 IAC 4-1] a person who has agreed to pay for electric services exclusively for residential purposes.

(c) "Disconnect" means the termination or discontinuance of electric services. (*Indiana Utility Regulatory Commission; 170 IAC 4-1-16.5; filed Oct 13, 1983, 4:02 pm: 7 IR 39; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-1-16.6 Home energy assistance; disconnection of service to recipients; notice period**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-113; IC 8-1-2-121; IC 8-1-2-122

Sec. 16.6. (a) Without customer request, a utility may not, during the period from December 1 through March 15, disconnect electric residential service to any customer who either is receiving or who is eligible for and has applied for assistance under IC 4-27-5 [IC 4-27-5 was repealed by P.L.30-1987, SECTION 22, effective June 30, 1987.].

(b) During the period from December 1 through March 15, a utility may not disconnect service to such customers if:

(1) The customers' eligibility to receive benefits pursuant to IC 4-27-5 [IC 4-27-5 was repealed by P.L.30-1987, SECTION 22, effective June 30, 1987.] is being determined by the department on aging and community services or its designee after the submission of a complete application for benefits by the customer.

(2) The customer has furnished to the utility proof of his application to receive such benefits or the utility has been so notified in writing by the department of aging and community services or its authorized representatives.

(c) This rule [170 IAC 4-1] does not prohibit a utility from terminating residential electric service upon the request of a

customer or under the following circumstances:

- (1) If a condition dangerous or hazardous to life, physical safety, or property exists.
- (2) Upon order by any court, the commission, or other duly authorized public authority.
- (3) If fraudulent or unauthorized use of electricity is detected, and the utility has reasonable grounds to believe the affected customer is responsible for such use.
- (4) If the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

*(Indiana Utility Regulatory Commission; 170 IAC 4-1-16.6; filed Oct 13, 1983, 4:02 pm; 7 IR 39; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-1-17 Customer complaints**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 17. Complaints and Review. (A) Complaint Procedure. (1) A customer may complain at any time to a utility about any bill which is not delinquent at that time, security deposit, disconnection notice, or any other matter relating to its service and may request a conference thereon. Such complaints may be made in person, in writing, or by completing a form available from either the Commission or from the utility at its business offices. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the customer shall state at a minimum, his name, service address, and the general nature of his complaint.

(2) Upon receiving each such complaint or request for conference, the utility:

(a) shall promptly, thoroughly and completely investigate such complaint, confer with the customer when requested and notify, in writing, the customer of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.

(b) Such written notification shall advise the customer that he may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the Commission.

(B) Review. (1) If the customer is dissatisfied with the utility's proposed disposition of the complaint as provided in 16.1(A) (2) [subsection (A)(2) of this section], he may request the Commission in writing within seven (7) days following the date in which such notification is mailed, to informally review the disputed issue and the utility's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the utility involved. Upon receiving such request, the Commission shall provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the utility within thirty (30) days after its receipt of the customer's request. Upon request by either party or the Commission, the parties shall be required to meet and confer to the extent and at such place as the Commission may consider to be appropriate.

(2) The records of the Commission relating to such reviews shall be kept in a systematic order.

(C) Continuation of Service Pending Disposition of Complaint. (1) If the customer is receiving service at the time the complaint and/or request for conference provided for in 16.1(A)(1) [subsection (A)(1) of this section] above is received by the utility, his service shall not be disconnected until ten (10) days have elapsed from the date of mailing of the notification of the utility's proposed disposition of his complaint. Provided, however, that if a review by the Commission of the utility's proposed disposition of the complaint is requested by the customer as provided by 16.1(B)(1) [subsection (B)(1) of this section] within seven (7) days after the mailing of such proposed disposition of the complaint, the utility shall not disconnect the customer's service until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the customer who has requested such review has paid and continues to pay all undisputed bills, portions of disputed bills as specified in 16.1(C) (2) [subsection (C)(2) of this section] below, and pays all future undisputed bills prior to their becoming delinquent.

(2) In those instances when the customer and utility cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the six (6) months immediately preceding the disputed bill except in those cases where the customer has received fewer than six (6) bills, in which event the customer shall pay an amount equal to the average (arithmetical mean) of such bills as have been received.

(D) Record of Complaints. (1) Each utility shall keep a written record of complaints and requests for conferences pursuant to Rule 16.1 [this section]. Such records shall be retained at the office or branch office of the utility or in the respective department

office thereof where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization, or the Commission.

(2) Each utility shall annually submit a report to the Commission which shall state and classify the number of complaints made to the utility pursuant to Rule 16.1 [this section], the general nature of the subject matter thereof, how received (in person, by letter, etc.) and whether a Commission review was conducted thereon. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 16.1; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 353; No. 34526; filed Jul 30, 1976, 12:00 pm: Rules and Regs. 1977, p. 385; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-18 Informational pamphlets and rate schedules; notice of proposed rate change**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 18. Information Provided by Utilities to Applicants and Customers. (A) Each utility must publish and distribute, without request, to all applicants for service and to all current customers, a comprehensive pamphlet which, in clear language, easily understandable to a layman, fully describes the rights and responsibilities of the customers.

(B) A utility shall supply free of charge a copy of the rate schedules applicable to the types of service available to new applicants for and existing customers of residential service, upon request by the applicant or customer.

(C) Each utility, whenever it petitions the commission for any change in its residential base rate schedules must furnish to each residential customer within forty-five (45) days of such request a notice which fairly summarizes the nature and extent of the proposed changes. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 16.2; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 353; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-19 Standard nominal frequency**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 19. Standard Frequency. Each public utility supplying alternating current shall adopt a standard nominal frequency of 60 HZ. Momentary variations of frequency of more than five percent (5%), which are clearly due to no lack of proper equipment or reasonable care on the part of the public utility, shall not be considered a violation of this rule. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 17; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 354; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-20 Standard nominal service voltage; permissible voltage variation**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 20. Standard Voltage and Permissible Voltage Variation. (A) Each public utility shall adopt a standard nominal service voltage, or standard nominal service voltages, as may be required by its distribution system for its entire constant voltage service, or for each of the several districts into which the systems may be divided, and shall file with the commission a statement as to the standard nominal voltages adopted. The voltage maintained at the customer's main service terminals shall be reasonably constant, as follows:

(1) For residential service, the voltage shall be within five percent (5%) plus or minus of the standard adopted, and the total variation of voltage from minimum to maximum shall not exceed six percent (6%) of the average voltage in cities and other incorporated places having a population in excess of 2,500, nor eight percent (8%) of the average voltage in all other places.

(2) A greater variation of voltage than specified above may be allowed when service is supplied directly from a transmission line, or in a limited or extended area where customers are widely scattered or the loads served do not justify close voltage regulation. In such cases the best voltage regulation should be provided that is practicable under the circumstances.

(B) Variations in voltage in excess of those specified, caused by (1) the operation of power apparatus on the customer's premises which necessarily requires large starting current, (2) the action of the elements, and (3) the infrequent and unavoidable fluctuations of short duration due to station operation, shall not be considered a violation of this rule. (*Indiana Utility Regulatory*

*Commission; No. 33629: Standards of Service For Electrical Utilities Rule 18; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 354; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-1-21 Voltage surveys and records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 21. Voltage Surveys and Records. Each public utility shall have available suitable voltage measuring equipment to conduct voltage surveys in sufficient number and diversity to satisfy the commission of the utility's compliance with the voltage requirements of Rule 18 [170 IAC 4-1-20]. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 19; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 354; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-22 Monitoring instruments**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34

Sec. 22. System Metering. Each public utility shall install and maintain in accurate working order such instruments as may be necessary to obtain the daily records of frequency, voltage, kilowatt load, and kilowatt hours output of its generating stations. Each public utility purchasing electrical energy shall install such instruments as may be necessary to obtain complete information as to the monthly purchases, unless such instruments are furnished by the public utility from whom the energy is purchased. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 20; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 354; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-23 Interruptions of service; timing; records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-113

Sec. 23. Interruptions of Service. Each utility shall keep a record of any interruption of service affecting its entire system or a major division thereof, including a statement of time, duration, extent and cause of the interruption. Whenever the service is intentionally interrupted for any purpose, such interruptions shall, except in emergencies, be at a time which will cause the least inconvenience to customers. Those customers who will be most seriously affected by such interruption shall, so far as possible, be notified in advance. Whenever the service is interrupted other than intentionally in a major division or community the utility shall notify the Public Service Commission by telephone at the earliest practicable moment following discovery, giving the above information and confirming by a written report within five days thereafter, and shall submit such additional reports as the commission may require. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 21; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 355; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-24 Accident reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-114

Sec. 24. Accidents. The Public Service Commission Act of 1913 as amended in 1941 contains the following provisions:

"I.C. 8-1-2-114, (Burns 54-713). Every public utility shall whenever an accident attended with loss of human life occurs within this state upon its premises, or directly or indirectly arising from or connected with its maintenance or operation, give immediate notice thereof to the commission. In the event of any such accident, the commission, if it deem the public interest requires it, shall cause an investigation to be made forthwith,..."

In compliance with this legal requirement to inform the commission immediately of every accident attended with loss of human life, the utility shall as soon as possible after being informed of such an accident, and if such accident occurs during a regular business day, inform the commission by telephone of pertinent details of the accident including the name of the deceased. If the accident occurs during a period other than a regular business day the commission shall be so informed as early as practical the first

business day following the accident.

This telephone notification shall be augmented by a written report of the fatal accident as soon as all pertinent information has been accumulated, such report will be filed in the appropriate commission files and available upon proper request or order. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 22; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 355; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-25 Pole identification**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-5

Sec. 25. Pole Identification. (A) Each public utility shall mark each pole, post or other structure used for supporting electrical conductors with (1) the initials of its name, abbreviation of its name, corporate symbol, or other distinguishing mark by which the owner of each such structure may be readily and definitely determined, and (2) a number by which the location of each such structure may be described.

(B) The identification marks shall be made with paint, stamps, brands or other means as the public utility may elect to use, and the characters of the marks shall be of such size and so spaced and hereafter maintained as to be easily read by one standing on the ground.

(C) In the case of two or more public utilities jointly owning any such structure, the distinguishing mark of each public utility shall be placed thereon, but not more than one number need necessarily be placed thereon.

(D) The requirements herein shall apply (1) to all urban areas and (2) to future erected structures in rural areas and (3) to all changes in ownership. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 23; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 355; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-26 Line construction; variances**

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

Affected: IC 8-1-2

Sec. 26. (a) In all cases not covered by specific statutes in effect, Part 2, "Safety Rules for the Installation and Maintenance of Overhead Electric Supply and Communication Lines", and Part 3, "Safety Rules for the Installation and Maintenance of Underground Electric Supply and Communication Lines", of the 2002 edition of the National Electrical Safety Code as approved by the American National Standards Institute June 14, 2001, as ANSI Standard C2, are prescribed for overhead and underground construction practice commenced after the date of promulgation of this section.

(b) The commission incorporates by reference the 2002 National Electrical Safety Code. Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, Piscataway, New Jersey 08855-1331 or are available for copying at the Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.

(c) Any public utility wishing to depart from the National Electrical Safety Code:

(1) for the purpose of experimentation or the development of improved methods of construction;

(2) because it works an injustice or expense not justified by the protection secured or is shown to be impractical; or

(3) where equivalent or safer construction can be more readily provided in other ways;

may informally petition for authorization to construct, install, or use materials, equipment, or methods other than specified in this rule, directing such petition to the engineering department of the commission. The petition shall be accompanied by the consent of any other utility whose facilities will be directly affected by the proposed departure from this rule. The engineering department shall forthwith make an investigation and, if satisfied that such petition falls within one (1) or more of the three (3) categories set forth in this subsection and is justified from an engineering standpoint, shall so advise the commission. The petitioning utility and any consenting utility shall thereupon be notified, in writing, that the proposed departure from this rule has been authorized. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 24; filed Mar 10, 1976, 9:10 a.m.: Rules and Regs. 1977, p. 356; filed Feb 28, 1986, 9:30 a.m.: 9 IR 1564; filed Oct 7, 1987, 12:30 p.m.: 11 IR 565; filed Oct 15, 1990, 3:28 p.m.: 14 IR 418; filed Jan 28, 1993, 9:00 a.m.: 16 IR 1510; filed Feb 23, 1998, 11:30 a.m.: 21 IR 2325; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; filed Sep 27, 2002, 2:33 p.m.: 26 IR 328*)

**170 IAC 4-1-27 Extension of distribution and service lines; variances**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 27. Extension of Distribution Lines and Service Lines by Electric Public Utilities. (A) Jurisdiction of Commission. This Rule 25 *[this section]* applies to the extension of the distribution lines and service lines by electric public utilities throughout the territories served by them, both urban and rural, and shall govern the commission in determining all matters relative thereto coming before it.

(B) Responsibility of Electric Utilities. In addition to its existing statutory responsibilities, each electric utility shall, upon proper application for service have the authority and obligation subject to the provision of (F)(2) below to construct, own, operate and maintain the necessary electrical facilities for rendering service to the customer's meter in the case of underground services, or weatherhead in the case of overhead services.

(C) Extensions. Each electric utility shall, upon proper applications for service from overhead and/or underground distribution facilities, provide necessary facilities for rendering adequate service, without charge for such facilities, when the estimated total revenue for a period of two and one half (2 1/2) years to be realized by the electric utility from permanent and continuing customers on such extension is at least equal to the estimated cost of such extension.

(D) Extension Exceeding the Cost Limits Set Forth in (C) Above. If the estimated cost of the extension required to furnish adequate service is greater than the total estimated revenue from such extension as provided in (C) above such an extension shall be made by the electric utility under the following conditions:

(1) Upon proper applications for such extension and adequate provision for payment to the electric utility by such applicants of that part of the estimated cost of such extension over and above the amount which would have qualified as provided in (C) above, the electric utility shall proceed with such extension, or

(2) If in the opinion of the electric utility (a) the estimated cost of such extension and the prospective revenue to be received from it is so meager as to make it doubtful whether the revenue from the extension would ever pay a fair return on the investment involved in such extension, or (b) in a case of real estate development, with slight or no immediate demand for service, or (c) in the case of an installation requiring extensive equipment with slight or irregular service; then in any of the above cases the electric utility shall submit the same to the commission for investigation and determination as to the public convenience and necessity of such extension, and if so required, the conditions under which it shall be made, and

(3) For each customer, exclusive of the initial applicants considered in the making of an extension, connected to such an extension within the period of six years from the completion of such extension, the electric utility shall refund to such initial applicants, in proportion to their respective contributions toward the cost of such extension, an amount equal to two and one half (2 1/2) times the estimated annual revenue from such new customer, less the cost to service such new customer, but the total of all refunds to any such applicant shall in no event exceed the aforesaid contribution of such applicant.

(E) Information. (1) All estimates of costs as required in (C) above shall be determined by the utility from actual experience, and each electric utility shall within the first quarter of each year submit to the commission information used to establish the basis for the above amounts.

(2) In the event that the applicant is required by (D) above to make any payment, the utility shall upon request make available to the applicant:

(a) the information used to establish the basis for the applicable amount as submitted to the commission in compliance with this rule; and

(b) the information used to establish the basis for the "estimated total revenue for a period of two and one half (2 1/2) years to be realized by the utility from permanent and continuing customers on such extension" as required by this rule.

(F) Service Lines. (1) The applicants in relation to (D)(1) above shall agree to pay their portion of such estimated costs for primary facilities.

(2) For service (defined as the conductors and equipment for delivering energy, not to exceed 600 volts, from the electrical supply system to the wiring system of the premises served) the applicant shall have the right to install same subject to such reasonable specifications and inspections as might be prescribed by the utility. The utility may require the applicant to submit to the utility sufficient designs and/or plans for the service lines before proceeding. If the utility provides the designs and/or plans the utility may require the applicant to reimburse the utility at cost. A utility shall have no responsibility for service lines installed by the applicant.

(G) Contract for Service. An electric utility shall not be required to make extension as provided in this Rule 25 [this section] unless the customers to be initially served by such extension upon its installation have entered into an agreement with the electric utility setting forth the obligations and commitments of the parties, which may require the customer to provide a satisfactory guaranty to the electric utility of the performance of the customer's obligations thereunder.

(H) Variations from Rule. This Rule 25 [this section] shall not be construed as prohibiting an electric utility from (1) making extensions without charge where the cost of the same is greater than is provided in (C) above, or (2) providing an alternate plan to be approved by the commission; provided that in the application of this subsection (H) no discrimination is practiced between customers whose service requirements are similar. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 25; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 356; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-28 Customer modification requests; liability for costs**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-4; IC 8-1-2-101

Sec. 28. Modification at Customer's Expense. If a customer requests for his convenience or by his actions requires that utility facilities be redesigned, reengineered, relocated, removed, modified or reinstalled, the utility may require the customer to make payment to it of the full cost of performing such service. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 26; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 358; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-29 Rate schedules, rules and regulations; filing; public inspection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-38; IC 8-1-2-39; IC 8-1-2-40

Sec. 29. Filing and Posting of Rate Schedules, Rules and Regulations of Public Utility and of the Commission. Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions, and of all rules and regulations covering the relationship between the customer and the public utility shall be filed by each public utility in the office of the commission. Complete schedules, contract forms, rules and regulations, etc., if filed with the commission, shall also be on file in the local office of the public utility, and shall be open to the inspection of the public. The attention of the public shall be called to these files of schedules, rules and regulations, by placing a suitable placard in that part of the office open to the public. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 27; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 359; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1-30 Saving clause**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-1-3

Sec. 30. Saving Clause. The adoption of these rules shall in no way preclude the commission from altering or amending the same, in whole or in part, or from requiring any additional service, equipment, facility or standards, either upon complaint or upon its own motion, or upon the application of any public utility; and, further these rules shall in no way relieve any public utility from any of its duties under the laws of this State. (*Indiana Utility Regulatory Commission; No. 33629: Standards of Service For Electrical Utilities Rule 28; filed Mar 10, 1976, 9:10 am: Rules and Regs. 1977, p. 359; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 1.5. Service to New Buildings**

**170 IAC 4-1.5-1 Definitions**

Authority: IC 8-1-2-69

Affected: IC 8-1-2-1; IC 8-1-2-69



Sec. 1. Definitions. (A) Where applicable, the definitions set forth in IC 8-1-2-1 shall be applied to these rules [170 IAC 4-1.5].

(B) The term "Commission" means the Public Service Commission of Indiana.

(C) The term "new building" means any building or premises containing more than one residential and/or commercial unit for which a local building permit or a certificate of compliance from the Administrative Building Council is issued after the date of effectiveness of these rules [170 IAC 4-1.5], including trailer courts and similar multiple user installations. In the absence of local or state authority, a new building will be one for which construction began after the date of effectiveness of these rules [170 IAC 4-1.5], and it shall be the burden of the builder or owner to prove that construction began before effectiveness of these rules [170 IAC 4-1.5]. (*Indiana Utility Regulatory Commission; No. 35781: Mastermetering Rule 1; filed May 9, 1980, 9:10 am: 3 IR 1075; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1.5-2 Master metering of new multi-unit structures**

Authority: IC 8-1-2-69

Affected: IC 8-1-2-69

Sec. 2. General Prohibition of Master Metering of New Multi Unit Buildings and Exceptions. All electricity delivered to a new building at which units of such premises are separately rented, leased or owned, shall be sold by the electric utility on the basis of individual meter measurement for each such occupancy unit, except for electricity used in hotels, motels and other similar transient lodging, or where the service applicant establishes in writing furnished to the utility before commencement of construction of the new building that costs of purchasing and installing separate meters in such building exceed the long run benefits of individual metering of units and would not substantially serve to meet any of the three objectives of the Act. (*Indiana Utility Regulatory Commission; No. 35781: Mastermetering Rule 2; filed May 9, 1980, 9:10 am: 3 IR 1075; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-1.5-3 Compliance with rules; request for commission determination on individual meters**

Authority: IC 8-1-2-69

Affected: IC 8-1-2-69

Sec. 3. Compliance with Rules. (A) The affected electric utilities shall assure compliance with Rule 2 [170 IAC 4-1.5-2], and shall not furnish service to a new building that does not comply. If a dispute arises between the utility and the builder or owner of a new building over the application of Rule 2 [170 IAC 4-1.5-2], either party may petition the Commission in writing to make a determination on the appropriateness of requiring the installation of individual meters in the particular case. A copy of the petition shall be served on the other party.

(B) Initial Determination. The Commission's initial determination on the appropriateness of individual metering shall be made on the basis of the written petition and such other information as may be submitted, or otherwise available, to the Commission. Written notice of the Commission's initial determination shall be given to the parties within 21 days of the receipt of the petition.

(C) Formal Hearing. Within 10 days of the Commission's initial determination, either party may request a formal hearing thereon. Such request shall be in writing and a copy thereof shall be served on the other party. Formal hearings hereunder shall be conducted in accordance with the Commission's rules of practice and procedure.

(D) Compliance with these Rules [170 IAC 4-1.5] shall start on the date of their effectiveness. (*Indiana Utility Regulatory Commission; No. 35781: Mastermetering Rule 3; filed May 9, 1980, 9:10 am: 3 IR 1075; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 2. Classification of Accounts**

**170 IAC 4-2-1 Adoption of rules of Federal Power Commission for Class A-B private electric utilities (Repealed)**

Sec. 1. (*Repealed by Indiana Utility Regulatory Commission; No. 33685: Class A and B Private Electric Utilities; filed Feb 15, 1979, 10:45 am: 2 IR 298*)

**170 IAC 4-2-1.1 Major private electric utilities; adoption of federal energy regulatory commission rules**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-12

Affected: IC 8-1-2-10; IC 8-1-2-46

Sec. 1.1. (a) The rules and regulations governing the classification of accounts for all major private electric utilities operating within the state of Indiana, as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission on February 12, 1985, are adopted by reference.

(b) Copies of the Accounting and Reporting Requirements prescribed for major private electric utilities, as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission are available for purchase from the Division of Public Information, Federal Energy Regulatory Commission, 825 North Capitol Street, Room 9200, Washington, D.C. 20426. (*Indiana Utility Regulatory Commission; No. 35489: Class A and B Private Electric Utilities; filed Feb 15, 1979, 10:45 a.m.: 2 IR 298; filed Oct 4, 1990, 3:52 p.m.: 14 IR 257; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-2-2 Class C-D private utilities and municipal utilities; adoption of rules**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-12

Affected: IC 8-1-2-10; IC 8-1-2-46

Sec. 2. The rules governing the classification of accounts for Class C-D private electric utilities and Class A-B-C-D municipal electric utilities operating within the state of Indiana, as hereinafter set out in Appendix A which includes the Uniform System of Accounts for Class A and B Electric Utilities, 1976 and the 1976 Revisions of Uniform System of Accounts for Class C and D Electric Utilities, 1973, are hereby adopted by reference. Copies are available from the National Association of Regulatory Utility Commissioners, 1102 Interstate Commerce Commission Building, Constitution Avenue and Twelfth Street, N.W., Post Office Box 684, Washington, D.C. 20044. (*Indiana Utility Regulatory Commission; No. 33685: Electric Utilities; filed Dec 30, 1974, 10:40 a.m.: Rules and Regs. 1975, p. 542; No. 35060; filed Jun 12, 1978, 3:15 p.m.: 1 IR 77; filed Oct 4, 1990, 3:52 p.m.: 14 IR 257; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 3. Electric Supply and Signal Lines; Principles of Safety; Co-ordination with Other Utilities**
**170 IAC 4-3-1 Effective dates of rule**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-14-1; IC 8-3-1-1

Sec. 1. In accordance with statutory provisions, Rules 4 through 12 [170 IAC 4-3-4–170 IAC 4-3-12], inclusive, are and have been effective since January 1, 1946, Rules 2 [170 IAC 4-3-2] and 3 [170 IAC 4-3-3] become effective on approval and filing with the Secretary of State. (*Indiana Utility Regulatory Commission; Appendix "A" No. 30750: Principles And Regulations For Safety And Inductive Co-Ordination Rule 1; filed Sep 28, 1965, 9:30 am: Rules and Regs. 1966, p. 100; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-2 Scope and application of rules**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

Affected: IC 8-1-14-1; IC 8-3-1-1

Sec. 2. These general principles are intended to promote coordination in the location, construction, operation, and maintenance of electric supply and signal lines, including crossing between such lines and steam and electric railway tracks, through the cooperation of the utilities concerned, so as to facilitate the safety and serviceability of all systems. Overhead and underground construction practice commenced after the date of promulgation of this section must comply with section 26(a) [*sic.*] of this rule. (*Indiana Utility Regulatory Commission; No. 31889: Electric Utilities Rule 2; filed Jan 7, 1969, 11:55 a.m.: Rules and Regs. 1970, p. 251; filed Feb 28, 1986, 9:30 a.m.: 9 IR 1565; filed Oct 7, 1987, 12:30 p.m.: 11 IR 566; filed Oct 15, 1990, 3:28 p.m.: 14 IR 419; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-3 Variances**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-14-1; IC 8-3-1-1

Sec. 3. Saving Clause. Any public utility wishing to depart from these rules:

- (1) For the purpose of experimentation or for the development of improved methods of construction or maintenance; or
- (2) Because they work an injustice or expense not justified by the protection secured or are shown to be impractical; or
- (3) Where equivalent or safer construction can be more readily provided in other ways;

may informally petition for authorization to construct, install or use materials, equipment or methods other than those specified in these rules, directing such petition to the engineering department of the Commission. The petition shall be accompanied by the consent of any other utility whose facilities will be directly affected by the proposed departure from these rules. The engineering department shall forthwith make an investigation and if satisfied that such petition falls within one or more of the three categories set forth above and is justified from an engineering standpoint shall so advise the Commission. The petitioning utility and any consenting utility shall thereupon be notified, in writing, that the proposed departure from these rules has been authorized.

The Commission reserves the right to modify or set aside any of the provisions of these rules at any time, in any specific case or otherwise when, in the Commission's opinion, public interest would be served better by so doing. (*Indiana Utility Regulatory Commission; Appendix "A" No. 30750: Principles And Regulations For Safety And Inductive Co-Ordination Rule 3; filed Sep 28, 1965, 9:30 am: Rules and Regs. 1966, p. 100; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-4 General coordination**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

Affected: IC 8-1-2

Sec. 4. General Co-ordination. All supply and signal systems should be so located, constructed, operated and maintained as to meet the reasonable service requirements of the public and in conformity with general co-ordinated methods as far as specified in these rules. These methods should facilitate the safety and serviceability of all systems. Reasonable foresight should be exercised in new construction and reconstruction, to facilitate co-ordination between supply and signal systems and between supply or signal lines and the tracks of steam and electric railroads at crossings. (*Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 4; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1633; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-5 Notice of new installations or major changes**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 5. Co-operation–Notice. In situations where more than one set of facilities are now or are known to be likely to be concerned at some later date as at crossings, conflicts and inductive exposures, each utility before locating and constructing new lines or before making major changes in height, location or construction of existing lines, or before changing type of system, normal operating voltage, frequency or other operating conditions, shall give reasonable notice in advance in writing, to all of the utilities who are now or who are known to be likely to be concerned later, so that consideration may, when necessary, be given to any specific co-operative measures which may be advisable.

Steam and electric railroads, before making changes in tracks at crossings where signal or supply lines are involved, shall give reasonable notice of such changes to the parties concerned, and shall give due consideration to the requirements for relocating or reconstructing such lines.

In case of difficulty in finding owners of any facilities a reasonable effort to locate such owners and giving notice through the public press, in general circulation in the locality affected, shall be considered to be in compliance with this section.

As an essential step in promoting co-operation, there should be an interchange of pertinent data and information between the utilities concerned. (*Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 5; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1634; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-6 Choice between specific coordination methods; pertinent factors**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 6. Choice Between Specific Methods. When specific co-ordinated methods are necessary and there is a choice between specific methods, those which provide the best engineering solution should be adopted.

(a) The specific methods selected should be such as to meet the service requirements of both systems in the most convenient and economical manner without regard to whether they apply to supply systems or signal systems or both.

(b) In determining what specific methods are most convenient and economical in any situation for promoting safety or preventing inductive interference, all factors for all facilities concerned should be taken into consideration, including present factors and those which can be reasonably foreseen.

(c) In determining whether specific methods, where necessary, shall be wholly by separation or partly by methods based on less separation, the choice should be such as to secure the greatest present and future economy and convenience in the rendering of both services.

*(Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 6; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1634; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-3-7 Existing construction; coordination of methods**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 7. Co-ordination for Existing Construction. (a) Utilities operating supply or signal circuits should exercise due diligence in applying co-ordinated methods, as occasion may arise, in accordance with these principles, to existing construction.

(b) When supply or signal circuits are generally reconstructed, or when associated apparatus is rearranged or added, or when any change is made in the arrangement or characteristics of circuits, the new or changed parts should be brought into conformity with these principles. *(Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 7; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1635; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-3-8 Location of lines**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 8. Co-ordinated Locations for Lines. Utilization of the highways is essential to the economical and efficient extension, operation and maintenance of supply and signal facilities. To avoid unduly increasing the number or difficulty of situations of crossings conflicts or inductive exposures incident to the use of the same highway by two different kinds of facilities, all lines, should in general, be located as follows:

(a) General Location. (1) Where the conditions and character of the circuits permit, joint use of poles by signal and supply circuits is generally preferable to separate lines when justified by considerations of safety, economy and convenience, and presuming satisfactory agreement between the parties concerned as to terms and conditions.

(2) Where signal circuits and supply circuits on the same highway are not to occupy joint poles or where either kind of circuit is alone on a highway, all signal circuits should be placed on one side of the highway and all supply circuits should be placed on the other side, so that, as far as practicable, one side of any section of a highway will be available as the signal side and one side as the supply side.

(3) Unnecessary crossings from side to side of the highway should be avoided.

(b) Detailed Location. (1) Local Signal Lines. Where to be located on the same highway with local supply lines, joint use is generally preferable to separate lines, except sometimes in rural districts and except where the character of circuits involved makes separate lines on opposite sides of the highway more desirable.

Where to be located on the same highway with transmission lines, separate lines on opposite sides of the highway are generally preferable unless a large number of service wire crossings would be involved, in which case, joint use or other arrangements may be preferable.

(2) Toll or Through Signal Lines. Where to be located on the same highway with local supply lines or lower voltage transmission supply lines, separate lines on opposite sides of the highway are generally preferable, unless a large number of service wire crossings would be involved, in which case, joint use or other arrangements may be preferable.

Where proposed for location on the same highway or to follow the same general direction with higher voltage transmission supply lines, co-operative consideration should be given to the question of whether such locations should be used, and if so, what specific co-ordinated methods are necessary. Where to be located on the same highway with higher voltage transmission supply lines, separate lines on opposite sides of the highway are preferable.

(3) Local Supply Lines. Where to be located on the same highway with local signal lines, joint use is generally preferable to separate lines except sometimes in rural districts and except where character of circuits involved makes separate lines on opposite sides of the highway more desirable.

Where to be located on the same highway with toll or through signal lines, separate lines on opposite sides of the highway are generally preferable, unless a large number of service wire crossings would be involved, in which case, joint use or other arrangements may be preferable.

(4) Transmission Supply Lines. Where to be located on the same highway with local signal lines or shorter toll or shorter trunk signal lines, separate lines on opposite sides of the highway are generally preferable unless a large number of service wire crossings would be involved, in which case, joint use or other arrangements may be preferable. Where proposed for location on the same highway or to follow the same general direction with longer toll or through signal lines, co-operative consideration should be given to the question of whether such locations should be used and if so, what specific co-ordinated methods are necessary. Where to be located on the same highway with longer toll or through signal lines, separate lines on opposite sides of the highway are preferable.

(5) Avoidance of Overbuilding. Overbuilding of one line by another should be avoided, where practicable. Where necessary for the two kinds of lines to occupy the same side of a highway joint use is generally preferable to overbuilding.

(c) Other Rights of Way. The foregoing principles, although specifically mentioning public highways, should govern situations involving other similar rights of way, where applicable.

*(Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 8; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1635; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-3-9 Deferred coordination**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 9. Deferred General Co-ordination. While signal or supply lines when alone should conform to general co-ordinated methods, such lines, pending the incoming or development of the other kinds of lines, may, if deemed economically advantageous, occupy locations or use types of facilities, construction and operating methods other than those conforming to general co-ordinated methods.

However, the location and character of such facilities should be altered when and as necessary to conform to these methods upon the incoming or development of another kind of facility conforming to general co-ordinated methods. *(Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 9; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1637; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-3-10 Nonconformance with coordinated methods; special location and types**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 10. Special Location and Types. When co-ordination of supply and signal lines of particular types cannot be technically and economically established under the methods of co-ordination covered by these principles, special co-operative consideration should be given to determining what location and type of construction should be established for each line of such type. *(Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 10; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1638; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-3-11 Wires over railroad tracks**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

Affected: IC 8-1-14-1; IC 8-3-1-1

Sec. 11. Wires Over Railroads. All telegraph, telephone, electric light and all other wires of any kind, now or hereafter constructed over the tracks of any railroad shall be constructed to comply with the requirements of the laws of the State of Indiana pertaining thereto, which are by reference made a part of these rules [170 IAC 4-3]. (*Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 11; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1638; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-3-12 Definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

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

Sec. 12. Definitions. For the purpose of these principles and practices, the following terms are used with meanings as defined below.

Inductive Co-ordination. The location, design, construction, operation and maintenance of supply and signal systems in conformity with harmoniously adjusted methods which will prevent inductive interference.

General Co-ordinated Methods. Those methods reasonably available for general application to supply or signal systems, which contribute to inductive co-ordination without specific consideration to the requirements for individual inductive exposures.

Specific Co-ordinated Methods. Those additional methods applicable to specific situations where general co-ordinated methods are inadequate.

Inductive Interference. An effect arising from the characteristics and inductive relations of supply and signal systems of such character and magnitude as would prevent the signal circuits from rendering service satisfactorily and economically if methods of inductive co-ordination were not applied.

Inductive Exposure. A situation of proximity between supply and signal circuits under such conditions that inductive interference must be considered.

Inductive Susceptiveness. Those characteristics of a signal circuit with its associated apparatus which determine, so far as such characteristics can determine, the extent to which it is capable of being adversely affected in giving service, by a given inductive field.

Inductive Influence. Those characteristics of a supply circuit with its associated apparatus that determine the character and intensity of the inductive field which it produces.

Inductive Coupling. The interrelation of neighboring supply and signal circuits by electric or magnetic induction or both.

Circuit means a conductor or system of conductors through which an electric current is intended to flow.

Signal Circuit. Any telephone, telegraph, messenger call, clock, fire, police alarm, or other circuit of similar nature (with connected apparatus) devoted exclusively to the transmission of signals or intelligence which operates at less than 400 volts to ground, or 750 volts between any two points of the circuit and the transmitted power of which does not exceed 150 watts. Below 150 volts no limit is placed on the power capacity of the system.

Supply Circuit. A circuit (with connected apparatus) used for transmitting a supply of electrical energy. Railway signal circuits above 400 volts to ground are always supply circuits within the meaning of these principles. Signal circuits not for public use coming under the above definition may be run and operated as supply circuits if desired when exclusively so.

Conductor means a metallic conducting material, usually in the form of a wire or cable, suitable for carrying an electric current. Does not include bus bars.

Lateral Conductor means, in pole wiring work, a wire or cable extending in a general horizontal direction approximately at right angles to the general direction of the line conductors.

Line Conductor means one of the wires or cables carrying electric current, supported by poles, towers, or other structures, but not including vertical or lateral connecting wires.

Vertical Conductor means, in pole wiring work, a wire or cable extending in an approximately vertical direction.

Conflicting or in Conflict (as applied to a pole line) means that the line is so situated with respect to a second line (except at crossings) that the overturning of the first line will result in contact between its poles or conductors and the conductors of the second

line, assuming that no conductors are broken in either line: Provided, however, That lines on opposite sides of a highway, street, or alley are not considered as conflicting if separated by a distance not less than 60 per cent of the height of the taller pole line, but in no case less than 20 feet.

Urban Districts means thickly settled communities (whether in cities or suburbs) where congested traffic often occurs. A highway, even though in the country, on which the traffic is often very heavy, is considered as urban.

Rural Districts means all places not urban, usually in the country but in some cases within city limits.

Guarded means covered, shielded, fenced, inclosed or otherwise protected, by means of suitable covers or casings, barrier rails or screens, mats or platforms, to remove the liability of dangerous contact or approach by persons or objects to a point of danger.

Open Lines means overhead lines not in conduits, and consisting of single conductors or of individual twisted pairs, as opposed to multiple-conductor cables.

Reconstruction means replacement of any portion of an existing installation by new equipment or construction. Does not include ordinary maintenance replacements.

Normal Sag means the difference in elevation between the highest point of support of a span and the lowest point of the conductor in the span (or in the curve of the conductor in the span produced), at 60 degrees F. with no wind loading.

Apparent Sag of a Span means the maximum departure of the wire in a given span from the straight line between the two points of support of the span, at 60 degrees F. with no wind loading. Where the two supports are at the same level this will be the normal sag.

Apparent sag at any point means the departure of the wire at the particular point in the span from the straight line between the two points of support of the span, at 60 degrees F. with no wind loading.

Service means the connecting conductors by which a supply of electrical energy is carried from a supply line to the building or premises served.

Climbing Space means the vertical space reserved along the side of a pole structure to permit ready access for linemen to equipment and lines located on the pole structure.

Lateral Working Space means the space reserved for working between conductor levels outside the climbing space, and to its right and left.

Common Use means simultaneous use by two or more utilities of the same kind.

Joint Use means simultaneous use by two or more kinds of utilities.

Voltage or volts means the highest effective voltage between any two conductors of the circuit concerned, except that in grounded multiwire circuits, not exceeding 750 volts between outer conductors, it means the highest effective voltage between any wire of the circuit and the ground.

In ungrounded circuits not exceeding 750 volts, voltage to ground means the voltage of the circuit.

When one circuit is directly connected to another circuit of higher voltage (as in the case of an auto-transformer), both are considered as of the higher voltage, unless the circuit of lower voltage is permanently grounded. Direct connection implies electrical connection as distinguished from connection merely through electromagnetic or electrostatic induction. (*Indiana Utility Regulatory Commission; No. 17689: Safety And Inductive Co-ordination Rule 12; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1638; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **Rule 4. Cogeneration and Small Power Production Facilities (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed Mar 7, 1985, 10:04 am: 8 IR 766)*

#### **Rule 4.1. Cogeneration and Alternate Energy Production Facilities**

##### **170 IAC 4-4.1-1 Definitions**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2.4

Sec. 1. (a) As used in this rule, "alternate energy production facility" means an arrangement of equipment for the production of electricity from the movement of water or wind, by photoelectric transformation, or through the combustion of refuse, a renewable source, or a recovered resource.

(b) As used in this rule, “avoided cost” means the incremental cost to an electric utility of electric energy or capacity, or both, which, but for the purchase from a qualifying facility or facilities, the utility would generate or maintain itself or purchase from another source.

(c) As used in this rule, “back-up power” means electric energy or capacity supplied by an electric utility to replace energy ordinarily generated by a qualifying facility's own generation equipment during an unscheduled outage of the facility.

(d) As used in this rule, “capacity” means the ability to provide electric energy in a period of time.

(e) As used in this rule, “cogeneration facility” means an arrangement of equipment which uses thermal energy to sequentially or simultaneously render electricity and useful thermal energy used for industrial, commercial, heating, or cooling purposes. The facility must meet energy efficiency standards for a cogeneration facility established by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3, in effect November 9, 1978.

(f) As used in this rule, “commission” means the Indiana utility regulatory commission.

(g) As used in this rule, “electric utility” means a public utility or municipally-owned utility that owns, operates, or manages an electric plant.

(h) As used in this rule, “existing qualifying facility” means a qualifying facility which was in operation before July 1, 1983.

(i) As used in this rule, “generating electric utility” means an electric utility with an annual sale of five hundred (500) million kilowatt-hours or more, which owns or leases, in whole or part, an electric generating facility providing a portion of the kilowatt-hours sold to its customers.

(j) As used in this rule, “interconnection” means the physical, parallel connection of a qualifying facility with a transmission or distribution facility of an electric utility for the purchase or sale, or both, of electricity.

(k) As used in this rule, “interconnection cost” means the reasonable cost of connection, switching, metering, transmission, distribution, safety provisions, and administrative costs incurred by the electric utility directly related to the installation and maintenance of a physical facility necessary to permit interconnected operations with a qualifying facility, to the extent the costs are:

(1) in excess of the corresponding costs which the electric utility would have incurred if it had not engaged in interconnected operations but instead generated an equivalent amount of electricity itself or purchased an equivalent amount of electricity from other sources; and

(2) not otherwise recognized in rates for purchase of energy, or capacity and energy, by the electric utility.

(l) As used in this rule, “interruptible power” means electric energy or capacity supplied by an electric utility subject to interruption by the electric utility under specified conditions.

(m) As used in this rule, “line losses” means the percentage loss of energy experienced in a period between the generation facilities of an electric utility and the customers of that electric utility.

(n) As used in this rule, “maintenance power” means electric energy or capacity supplied by an electric utility during scheduled outages of the qualifying facility.

(o) As used in this rule, “parallel” means the designed operation of the qualifying facility, interconnection equipment, and electric utility's system where the instantaneous flow of electrical energy may automatically occur in either direction across the interconnection point between the qualifying facility and the electrical utility's transmission and distribution system.

(p) As used in this rule, “purchase” means the purchase of electric energy or capacity, or both, from a qualifying facility by an electric utility.

(q) As used in this rule, “qualifying facility” means a cogeneration or alternate energy production facility of eighty (80) megawatts capacity or less which is owned not more than fifty percent (50%) in equity interest by a person primarily engaged in the generation or retail sale of electricity, gas, or thermal energy, other than as described in this rule.

(r) As used in this rule, “supplementary power” means electric energy or capacity supplied by an electric utility, regularly used by a qualifying facility in addition to that which the facility generates itself.

(s) As used in this rule, “system emergency” means a condition on a utility's system liable to result in any of the following:

(1) A significant disruption of service to a customer.

(2) A substantial deviation from a normal service standard.

(3) An endangerment to life or property.

(t) As used in this rule, “wheeling” means the transfer of energy and capacity by direct transmission or displacement from a qualifying facility to a purchasing electric utility over a transmission or distribution facility, or both, of the utility with which the qualifying facility is interconnected. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-1; filed Mar 7, 1985, 10:04 a.m.: 8*



*IR 759; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1834; filed Apr 4, 1995, 11:45 a.m.: 18 IR 1994; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-4.1-2 Applicability**

Authority: IC 8-1-2.4-1

Affected: IC 8-1-2.4-1

Sec. 2. All electric utilities, which have customers within the state of Indiana, and all qualifying facilities will be subject to 170 IAC 4-4.1. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-2; filed Mar 7, 1985, 10:04 am: 8 IR 760; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-3 Exemption**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 3. Qualifying facilities shall be exempt from revenue requirement and associated regulation under IC 8-1-2 as administered by the Indiana utility regulatory commission, but the commission shall be final authority over rates for purchase and sale of electric energy and capacity in transactions between qualifying facilities and electric utilities. However, nothing in this rule limits the authority of a utility and a qualifying facility to mutually agree to rates for purchase, and sale transactions, which may differ from conditions which are specified in this rule, provided such agreements, specifying rates and terms, are filed with the commission. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-3; filed Mar 7, 1985, 10:04 a.m.: 8 IR 760; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1835; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-4 Filing of rate data**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 4. (a) Each generating electric utility shall file with the commission each year all supporting data for the rates and rate filings required by this rule.

(b) Each nongenerating electric utility shall file with the commission the revised rate schedule, tariff, or contract pursuant to which it purchases electricity from its supplier or each of its suppliers within sixty (60) days of the effective date of the revised rate schedule, tariff, or contract. At the same time, the nongenerating electric utility shall also file a report indicating its demand upon and the amount of energy received from each of its electricity suppliers during the most recent twelve (12) month period. If the electricity supplier's effective rate schedule, tariff, or contract contains multiple components in demand and energy rates, the demand and energy data submitted to the commission by the nongenerating electric utility for that electricity supplier should be set forth by rate component. When such rate components are based on system peaks, the date and hour of those peaks should also be supplied.

(c) The commission may require the electric utility to provide additional data and justification for the rates and rate filings required by this rule. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-4; filed Mar 7, 1985, 10:04 a.m.: 8 IR 760; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1835; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-5 Obligation to purchase and sell**

Authority: IC 8-1-2.4-1

Affected: IC 8-1-2.4-1

Sec. 5. (a) An electric utility shall purchase energy, subject to section 8 of this rule, and capacity, subject to section 9 of this rule, offered by a qualifying facility. If a utility purchases all of its power from a single supplier, such that its avoided cost, as defined in this rule, is derived from the single supplier, the supplier may assume the obligation to purchase the energy and capacity offered by a qualifying facility.

(b) An electric utility which sells to an ultimate consumer shall sell to a qualifying facility back-up power, maintenance power, supplementary power, or interruptible power requested by the qualifying facility at a rate which does not discriminate against the

qualifying facility in comparison to another retail customer with similar load characteristics served by the electric utility. A rate for back-up and maintenance power shall not presume (unless supported by factual data) that a forced outage or other reduction in the electrical output of each qualifying facility on the electric utility's system will occur simultaneously or during the system peak, or both, and may take into account the extent to which a scheduled outage of the qualifying facility can be usefully coordinated with a scheduled outage of the utility's facility.

(c) A purchase and sale under this rule may occur simultaneously or the qualifying facility may elect to sell only that portion of the qualifying facility's output net of its own use. An election between total output and output net of a qualifying facility's own use may occur at the beginning of the contract period of the arrangement between the qualifying facility and the electric utility.

(d) The utility is not required to purchase or sell energy or capacity, or both, during a system emergency. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-5; filed Mar 7, 1985, 10:04 a.m.: 8 IR 760; filed Apr 4, 1995, 11:45 a.m.: 18 IR 1996; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-4.1-6 Wheeling capacity and energy**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 6. (a) The terms and conditions for the wheeling of nonfirm energy or capacity and energy for an Indiana qualifying facility and the rate for such service shall be specified in a contract between the Indiana qualifying facility and the electric utility and shall not conflict with the Federal Energy Regulatory Commission's implementation of the Federal Power Act or with the authority of any other relevant federal authority. The electric utility shall offer to wheel pursuant to, at a minimum:

- (1) a contract of five (5) years' duration or longer to wheel capacity and energy;
- (2) a contract of five (5) years' duration or longer to wheel capacity and energy, subject to cancellation by the electric utility with two (2) years' written notice to the Indiana qualifying facility; or
- (3) a contract to wheel capacity and energy when, as, and if such service is available from the electric utility.

(b) When requested by the qualifying facility, the electric utility shall provide an estimate of the capacity and energy which the electric utility will be able to wheel on its existing and planned transmission-distribution system during the next five (5) years.

(c) Rates for wheeling as follows:

- (1) The wheeling rate will be based on the estimated average cost of the existing transmission and distribution facilities used to provide the wheeling service for the Indiana qualifying facility.
- (2) The rate for wheeling capacity and energy pursuant to a long-term contract subject to cancellation by the electric utility shall be based on the electric utility's estimated average cost of the existing transmission and distribution facilities used to provide the wheeling service for the Indiana qualifying facility.
- (3) The rate for wheeling capacity and energy pursuant to a contract providing for such service when, as, and if available from the electric utility shall be based on the electric utility's actual expenses associated with the transaction plus no more than two (2.0) mills per kilowatt-hour of electricity wheeled.

(d) If an electric utility estimates that its existing and planned transmission and distribution facilities are inadequate to guarantee the wheeling service requested by the qualifying facility, or an electric utility providing wheeling service for the qualifying facility pursuant to a long-term contract subject to cancellation determines such service can no longer be guaranteed without significant service disruptions to the electric utility's own customers or physical additions to electric utility's transmission and distribution facilities, the electric utility will provide the Indiana qualifying facility with an estimate of the additional investment and expenses that it would necessarily incur in order to provide or continue to provide wheeling service for the qualifying facility. This estimate should be based upon sound engineering design and economics. If the qualifying facility agrees to pay the estimated costs, the electric utility shall endeavor to make the additional investment and operational changes necessary to ensure that it will be able to provide or continue to provide the wheeling service requested by the qualifying facility from the electric utility for the required transmission and distribution facility additions or operational changes. Such agreement shall recognize the current and future benefits, if any, provided to the electric utility and its ratepayers by such facility additions or operational changes.

(e) If the electric utility gives notice of its intention to cancel a long-term contract subject to cancellation and the qualifying facility pays for the facility additions and operational changes necessary for the electric utility to be able to continue to guarantee the wheeling service for the qualifying facility, the electric utility shall provide the wheeling service for the remainder of the original contract term plus such additional period as may be requested by the qualifying facility and for which the facility additions and

operational changes paid for by the qualifying facility will permit the electric utility to guarantee such service.

(f) In determining the wheeling rate pursuant to subsection (c), recognition shall be given to the costs paid by the qualifying facility for the facility additions or operational changes in electric utility's transmission-distribution system. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-6; filed Mar 7, 1985, 10:04 a.m.: 8 IR 761; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1835; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-7 Interconnections; metering; costs**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 7. (a) The qualifying facility shall install, operate, and maintain in good order such relays, locks and seals, breakers, automatic synchronizers, and other control and protective apparatus as shall be designated by the electric utility for safe, efficient, and reliable operation in parallel to the electric utility's system. The qualifying facility shall bear full responsibility for the installation and safe operation of this equipment. Breakers capable of isolating the qualifying facility from the electric utility shall at all times be immediately accessible to the electric utility. The electric utility may isolate any qualifying facility at its own discretion if the electric utility believes continued parallel operation with the qualifying facility creates or contributes to a system emergency. System emergencies causing discontinuance of parallel operation are subject to verification by the commission. The facilities installed by the qualifying facility shall comply with 170 IAC 4-1-26(a) and the electric utility's rules and regulations for electric service in effect from time to time.

(b) To properly record the number of kilowatt hours being purchased or sold by the electric utility or qualifying facility, the following configurations shall be the basis for metering:

(1) When purchases by the electric utility from the qualifying facility are intended to be less than one thousand (1,000) kilowatt hours per month and the qualifying facility agrees, a single, bidirectional meter may be placed between the electric utility's system and the qualifying facility.

(2) When the qualifying facility will not be simultaneously selling to and purchasing from the electric utility, two (2) monodirectional meters shall be placed in a series arrangement between the electric utility's electric system and the qualifying facility, as shown below:



(3) When the qualifying facility will simultaneously sell to and purchase from the electric utility, two (2) monodirectional meters shall be placed in a series arrangement between the electric utility's system and the qualifying facility, and a single, monodirectional meter shall be placed between the electric utility's system and the on-site load of the qualifying facility that will be served by the electric utility, as shown below:



(4) The metering equipment installed by the electric utility may be designed to recognize the different rating periods.

(5) The electric utility and the qualifying facility may agree to other metering arrangements.

(6) The electric utility may, solely at its option, install additional metering equipment at its own expense.

(c) The qualifying facility shall reimburse the electric utility for all interconnection costs the utility has reasonably incurred.

The extent to which interconnection costs associated with selling energy and capacity may be assessed against a qualifying facility shall be determined in accordance with general tariff provisions and appropriate rate schedules governing extensions and connection of electric service to the retail customers of the electric utility with similar load characteristics. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-7; filed Mar 7, 1985, 10:04 a.m.: 8 IR 762; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1836; filed Oct 15, 1990, 3:28 p.m.: 14 IR 419; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-8 Rates for energy purchase**

Authority: IC 8-1-2.4-1

Affected: IC 8-1-2.4-1

Sec. 8. (a) The rate to be paid by a generating electric utility for purchase of energy from a qualifying facility shall be an average of marginal running costs of the generating electric utility adjusted for line losses in accordance with:

$$P_j = \frac{\sum_{i=1}^{n_j} \lambda_{ij}}{n_j \left(1 - \left(\frac{\ell}{2}\right)\right)}$$

Where:  $P_j$  = Rate for purchase of energy in the jth rating period.  
 $\lambda_{ij}$  = Expected current fuel and associated variable operating and maintenance costs for the most expensive unit or source on line in the ith hour of the jth rating period as derived from recent historical data adjusted to the present or from appropriate generation simulation programs.  
 $\ell$  = Line losses, expressed as a percentage, for the previous year.  
 $n_j$  = Number of hours in jth rating period.

(b) The rate to be paid by a non-generating electric utility for purchase of energy from a qualifying facility shall be a weighted average of the rate or rates a non-generating electric utility pays to its suppliers, adjusted by the non-generating utility's line losses, in accordance with:

$$P = \frac{\sum_{i=1}^n q_i c_i}{\sum_{i=1}^n q_i \left(1 - \left(\frac{\ell}{2}\right)\right)}$$

Where:  $P$  = Rate for purchase of energy.  
 $n$  = Number of suppliers.  
 $c_i$  = Cost per kilowatt-hour to be charged by ith supplier.  
 $q_i$  = Quantity to be purchased from ith supplier.  
 $\ell$  = Line losses, expressed as a percentage, for the previous year.

(c) Adjustments. For intended purchases of 72,000 kilowatt-hours or more per month from a qualifying facility, the electric utility and the qualifying facility may agree to increase or decrease the rates determined by subsections (a) and (b) in recognition of the following factors:

- (1) the extent to which scheduled outages of the qualifying facility can be usefully coordinated with scheduled outages of the electric utility's generation facilities;
- (2) the relationship of the availability of energy from the qualifying facility to the ability of the electric utility to avoid costs, particularly as is evidenced by the electric utility's ability to dispatch the qualifying facility;
- (3) the usefulness of energy from the qualifying facility during system emergencies, including the ability of the qualifying facility to separate its load from its generation.

(d) An electric utility and a qualifying facility may negotiate a rate for energy which differs from the result of subsections (a) and (b). (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-8; filed Mar 7, 1985, 10:04 am: 8 IR 762; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-9 Rates for capacity purchase**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 9. (a) A basic, unadjusted monthly avoided cost of capacity for a generating utility shall be calculated as follows:

$$C = \frac{1}{12} \left[ DV \left[ \frac{1 - \left( \frac{1+i_p}{1+r} \right)^n}{1 - \left( \frac{1+i_p}{1+r} \right)} \right] \cdot (1+i_p)^{t-1} + O \left( \frac{1+i_o}{1+r} \right) \cdot (1+i_o)^{t-1} + \left( 1 - \frac{l}{2} \right) \right]$$

- Where:
- C = Unadjusted monthly capacity payment per kilowatt of contracted capacity year of completion of unit.
  - D = Present value of carrying charges for one dollar (\$1) of investment over n years with carrying charges assumed to be paid at the end of each year.
  - V = Investment amount in year of completion, including allowance for funds used during construction, of the avoidable or deferrable unit, stated on a per kilowatt basis and including rated share of common costs.
  - n = Expected life of the avoidable or deferrable unit.
  - i<sub>p</sub> = Annual escalation rate associated with the avoidable or deferrable unit.
  - i<sub>o</sub> = Annual escalation rate associated with the operation and maintenance expenses, less fuel and fuel-related expenses, of the avoidable or deferrable unit.
  - r = Purchasing utility's after tax cost of capital.
  - O = Expected total fixed and variable yearly operating and maintenance expenses, less fuel and fuel-related expenses, in expected first year of avoidable or deferrable unit's operation stated on a per kilowatt basis.
  - l = Line losses, expressed as a percentage, for the previous year.
  - t = Contract term in years, with t = 1 to t.

(b) Capacity payments which will begin before the avoidable or deferrable unit is expected to become used and useful, shall be calculated as follows:

$$C_a = C \left( \frac{1+i_p}{1+r} \right)^{\Delta t}$$

- Where:
- C<sub>a</sub> = Adjusted monthly capacity payment.
  - Δt = In-service date of avoidable or deferrable unit less in-service date of qualifying facility.
  - C, i<sub>p</sub>, r as previously defined in equation of subsection (a).

(c) Except as permitted by subsection (g), the unadjusted rate per kilowatt for purchase of capacity shall not be lower in any year than the levelized annual economic carrying charge per kilowatt on a new combustion turbine, which shall be calculated by application of subsection (a) wherein the variable V shall be for a combustion turbine completed in the first year of any contract for purchase of capacity.

(d) Monthly payments for capacity calculated in subsections (a) through (b) shall be adjusted by the following factor:

$$F = \frac{E_p}{(K)(T_p)}$$

- Where:
- F = Capacity payment adjustment factor.
  - E<sub>p</sub> = Kilowatt-hours delivered to the electric utility during the peak period by the qualifying facility.
  - K = Kilowatts of capacity the qualifying facility contracts to provide.

$T_p$  = Number of hours in peak period.

(e) A basic, unadjusted monthly rate per kilowatt for purchase of capacity by a nongenerating utility from a qualifying facility shall be the utility's current weighted average cost per kilowatt paid to the utility's other suppliers.

(f) Monthly payments for capacity calculated in subsection (e) shall be adjusted by application of a factor developed from subsection (d).

(g) An electric utility and a qualifying facility may negotiate a rate for capacity which differs from the results of subsections (a) through (f). (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-9; filed Mar 7, 1985, 10:04 a.m.: 8 IR 763; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1837; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; errata, 25 IR 2521*)

**170 IAC 4-4.1-10      Filing of standard offer**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 10. Within sixty (60) days of the effective date of this rule and on or before February 28, of each subsequent year, each generating electric utility shall file with the commission a standard offer for purchase of energy and capacity at rates derived from the appropriate application of sections 8(a) and 9(c) through 9(d) of this rule. Within sixty (60) days of the effective date of this rule and within sixty (60) days of the effective date of any subsequent wholesale rate schedule, tariff, or contract, each nongenerating utility shall file with the commission a standard offer for the purchase of energy and capacity at rates derived from the appropriate application of sections 8(b) and 9(e) through 9(f) of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-10; filed Mar 7, 1985, 10:04 a.m.: 8 IR 764; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1838; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-4.1-11      Filing of standard contracts**

Authority: IC 8-1-1; IC 8-1-2; IC 8-1-2.4

Affected: IC 8-1-2; IC 8-1-2.4

Sec. 11. (a) Within sixty (60) days of the effective date of this rule each generating electric utility shall submit for approval via the commission's thirty (30) day filing process a standard form contract which it would enter into with a qualifying facility in connection with the generating electric utility's purchase of energy or capacity or both. The standard form contracts shall be prepared in a manner and form which will permit their use in the majority of circumstances with only minor modifications, although it is recognized that in unique situations a standard form contract may have to be revised significantly.

(b) The standard form contract for the purchase of a nonfirm energy should contain provisions addressing the following, at a minimum:

- (1) The basis for the determination of energy rate.
- (2) The expected maximum electrical output to be made available to the generating electric utility.
- (3) The interconnection and metering requirements.
- (4) The operation, protection, and maintenance of the qualifying facility.
- (5) The liability and indemnification between parties.

(c) The standard form contract for the purchase of capacity and energy shall additionally contain the following:

- (1) The term of the contract.
- (2) The rate to be paid by the generating electric utility for the capacity being purchased.
- (3) The amount of capacity the qualifying facility shall guarantee to make available to the electric utility during each year of the contract.
- (4) The events of force majeure.
- (5) The adjustments of capacity payments due to a premature termination of the contract or a reduction in the capacity provided by the qualifying facility below the level specified in the contract.

(d) The commission will not approve the standard form contracts submitted unless they contain provisions which reasonably allocate the risks and benefits of the transaction between the qualifying facility and the electric utility. Insurance provisions contained in the contract shall require a party to obtain only reasonable amounts of insurance against risks for which there is a reasonable likelihood of occurrence.

(e) The following provisions are illustrative of what the commission would consider to properly balance the interests of parties

with respect to indemnification, events of force majeure, and premature termination of the contract or reduction in the capacity provided by the qualifying facility:

(1) Each party shall indemnify and hold the other party harmless from and against all claims, liability, damages, and expenses, including attorney's fees, based on any injury to any person, including loss of life, or damage to any property, including loss of use thereof, arising out of, resulting from, or connected with, or that may be alleged to have arisen out of, resulted from, or connected with an act or omission by such other party, its employees, agents, representatives, successors, or assigns in the construction, ownership, operation, or maintenance of such party's facilities used in connection with this agreement. Upon the written request of the party seeking indemnification under this provision, the other party shall defend any suit asserting a claim covered by this provision. If a party is required to bring action to enforce its indemnification rights under this provision, either as a separate action or in connection with another action, and said indemnification rights were upheld, the party from whom the indemnification was sought shall reimburse the party seeking indemnification for all expenses, including attorney's fees, incurred in connection with such action.

(2) "Force majeure" means any cause or event not reasonably within the control of the party claiming force majeure, including, but not limited to:

- (A) acts of God;
- (B) strikes;
- (C) lockouts or other industrial disturbances;
- (D) acts of public enemies;
- (E) orders, permits, or the absence of the necessary orders or permits of any kind which have been properly applied for from the government of the United States, the state of Indiana, any political subdivision, municipal subdivision, or any of their departments, agencies, or officials, or any civil or military authority;
- (F) unavailability of a fuel or resource used in connection with the generation of electricity;
- (G) extraordinary delay in transportation;
- (H) unforeseen soil conditions;
- (I) equipment, material, supplies, labor, or machinery shortages;
- (J) epidemics;
- (K) landslides;
- (L) lightning;
- (M) earthquakes;
- (N) fires;
- (O) hurricanes;
- (P) tornadoes;
- (Q) storms;
- (R) floods;
- (S) washouts;
- (T) drought;
- (U) arrest;
- (V) war;
- (W) civil disturbances;
- (X) explosions;
- (Y) breakage or accident to machinery, transmission lines, pipes, or canals;
- (Z) partial or entire failure of utilities;
- (AA) breach of contract by any supplier, contractor, subcontractor, laborer, or materialman;
- (BB) sabotage;
- (CC) injunction;
- (DD) blight;
- (EE) famine;
- (FF) blockade; or
- (GG) quarantine.

If either party is rendered wholly or partly unable to perform its obligations because of force majeure, both parties shall be

excused from whatever obligations are affected by the force majeure and shall not be liable or responsible for any delay in the performance of, or the inability to perform, any such obligations for so long as the force majeure continues. The party suffering an occurrence of force majeure shall, as soon as is reasonably possible after such occurrence, give the other party written notice describing the particulars of the occurrence and shall use its best efforts to remedy its inability to perform, provided, however, that the settlement of any strike, walkout, lockout, or other labor dispute shall be entirely within the discretion of the party involved in such labor dispute.

(3) The parties agree that the amount of the capacity payment which the utility is to make to the qualifying facility is based on the agreed value to the utility of the qualifying facility's performance of its obligation to provide capacity during the full term of this agreement. The parties further agree that in the event the utility does not receive such full performance by reason of a termination of this agreement prior to its expiration or reduction in the amount of capacity agreed to be provided by the qualifying facility as specified in this agreement:

- (A) the utility shall be deemed damaged by reason thereof;
- (B) it would be impracticable or extremely difficult to fix the actual damages to the utility resulting therefrom;
- (C) the reductions, offsets and refund payments as provided hereafter, as applicable, are in the nature of adjustments in prices and are to be considered liquidated damages, and not a penalty, and are fair and reasonable; and
- (D) such reductions, offsets, and refund payments represent a reasonable endeavor by the parties to estimate a fair compensation for the reasonable damages that would result from such premature termination or failure to deliver the specified amount of capacity.

(4) In the event this agreement is terminated or the contract capacity is reduced prior to the end of the contract term, the qualifying facility shall refund to the utility the capacity payments in excess of those capacity payments which would have been made had all of the reduced capacity been subject to a capacity rate based on the actual term of delivery to the utility.

(5) Except in the event of force majeure as defined in this section, if, within any twelve (12) month period during the term of this agreement ending on the anniversary date of the date of the qualifying facility first provided capacity to the utility under this agreement, the qualifying facility fails to provide the utility with the capacity specified in this agreement, the capacity for which the qualifying facility shall be entitled to capacity payments during the subsequent twelve (12) month period ("the probationary period") shall be reduced to the capacity provided during the prior twelve (12) month period. If, during the probationary period, the qualifying facility provides the capacity specified in this agreement, the utility, within thirty (30) days following the end of the probationary period, shall reinstate the full capacity amount originally specified in this agreement. If, during the probationary period, the qualifying facility again fails to provide the capacity specified in this agreement, the utility may permanently reduce the capacity purchased from the qualifying facility for the remainder of the term of this agreement. The utility may also require that the reduction in the capacity be subject to the refund provisions of (2) [sic., subdivision (2)].

*(Indiana Utility Regulatory Commission; 170 IAC 4-4.1-11; filed Mar 7, 1985, 10:04 a.m.: 8 IR 764; filed Jun 8, 1989, 2:00 p.m.: 12 IR 1838; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-4.1-12      Petitions for resolution of disputes**

Authority: IC 8-1-2.4-1

Affected: IC 8-1-2.4-1

Sec. 12. In the event an electric utility and a qualifying facility are unable to agree on matters to be determined for purchase or sale, either party may petition the commission for resolution of matters within the scope of 170 IAC 4-4.1-12 and the commission's jurisdiction. In said petition the other party shall be named as a respondent. The commission shall conduct a public hearing on said petition and thereafter determine and fix by order in the matter in dispute. *(Indiana Utility Regulatory Commission; 170 IAC 4-4.1-12; filed Mar 7, 1985, 10:04 am: 8 IR 766; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-4.1-13      Reporting requirements for proposed alternate energy production and cogeneration facilities**

Authority: IC 8-1-8.5-7

Affected: IC 8-1-8.5-7

Sec. 13. (a) "Facility" for purposes of this section means any alternate energy production and cogeneration facility as



previously defined under 170 IAC 4-4.1-1.

(b) Persons wishing to proceed with the construction of a facility as defined for purposes of this section, will submit a report to the commission entailing the following:

- (1) the location of the facility;
- (2) the form(s) of energy output of the facility;
- (3) the owner(s), form and percentage of ownership of the facility;
- (4) the maximum electric generating capacity of the facility;
- (5) the expected annual electric energy output of the facility for the first five years of its operation;
- (6) the primary fuel to be used for the production of electricity by the facility; and
- (7) the expected life of the facility; and
- (8) the expected date of commercial operation for the facility.

This report will be submitted to the commission at least one year prior to the commencement of the proposed construction of the facility. (*Indiana Utility Regulatory Commission; 170 IAC 4-4.1-13; filed Mar 7, 1985, 10:04 am: 8 IR 766; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

## **Rule 5. Electric Submeters of Master Meter Accounts**

### **170 IAC 4-5-1 Scope of rule; enforcement**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5; IC 8-1-2-115

Sec. 1. (a) Purpose and Scope. The provisions of these rules [170 IAC 4-5] are intended to establish a system to assure that the practices involving submetering and billing of dwelling units are just and reasonable to the tenant and the building owner and to establish the rights and responsibilities of the building owner and tenant.

(b) Application. These rules [170 IAC 4-5] shall apply to existing buildings utilizing electrical submetering as of the effective date, as well as those buildings which engage in electrical submetering at any subsequent date, subject to master metering of electric service in new buildings in accordance with sections 113(a)(1) and (b)(1) and 115(d) of Title I of the Public Utility Regulatory Policies Act and subject to 170 IAC 4-1.5.

(c) Enforcement. The provisions of these rule [170 IAC 4-5] are subject to the enforcement provisions of IC 8-1-2-115. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-1; filed Dec 13, 1984, 3:13 pm: 8 IR 484, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

### **170 IAC 4-5-2 Definitions**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 2. Definitions. (a) Qualifying building: Any building containing more than one residential unit including trailer courts and similar multi-user installations which are provided electric service through a master meter pursuant to 170 IAC 4-1.5 but does not include buildings not qualified for master metering pursuant to 170 IAC 4-1.5 and also does not include hotels, motels or other similar transient lodging.

(b) Commission: The term commission means the public service commission of Indiana.

(c) Owner: Any owner, operator or manager of a “qualifying building” who engages in electric submetering.

(d) Electric submetering: The instrumentation devices used to measure the number of KWH used by a tenant and the owner during a particular billing period.

(e) Dwelling unit: A room or rooms suitable for occupancy as a residence containing kitchen and bathroom facilities. This includes trailer court lots and similar multi-user installations.

(f) Hearing: Any proceeding based on an application, petition, complaint, or motion.

(g) “Month” or “monthly”: The period between any two consecutive meter readings by the utility, either actual or estimated, at approximately thirty day intervals.

(h) Master meter: A meter used to measure, for billing purposes, all electric usage of a building including common areas, common facilities and dwelling units therein which is authorized pursuant to 170 IAC 4-1.5.

(i) ANSI: The American National Standards Institute. Standards of American National Standards Institute are referred to herein and defined as follows:

(1)—ANCI: C12.1—1982, American National Code for Electric Metering, 7th Edition, approved July 6, 1982, American National Standards Institute; published by The Institute of Electrical and Electronic Engineers, Inc., 345 Est [sic.] 47th Street, New York, NY 10017, and

(2)—ANSI/IEEE C57.13—1978, American National Standard Requirements for Instrument Transformers, approved September 9, 1976, IEEE Standards Board; published by the Institute of Electrical and Electronic Engineers Inc., 345 East 47th Street, New York, NY 10017.

Any reference to the above does not include any later amendments or editions.

Copies of aforementioned are available from the Public Service Commission of Indiana, 901 State Office Building, Indianapolis, IN 46204 at costs or from the Institute of Electrical and Electronic Engineers, Inc., 345 East 47th Street, New York, NY 10017. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-2; filed Dec 13, 1984, 3:13 pm: 8 IR 485, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-3 Records to be kept**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 3. Records and Reports to be Kept. (a) The owner shall maintain and make available for inspection by the tenant the following records:

(1) the billing from the utility to the owner for the current month and the twelve preceding months,

(2) the calculation of the average cost per KWH for the current month and the twelve preceding months,

(3) all tenant and owner submeter readings and tenant billings for the current month and the twelve preceding months,

(4) all submeter test results for the current month and the twelve preceding months.

(b) Records shall be made available at the resident manager's office during reasonable business hours or, if there is no resident manager, at the dwelling unit of the tenant at the convenience of both the owner and tenant.

(c) All records shall be made available to the commission upon request. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-3; filed Dec 13, 1984, 3:13 pm: 8 IR 485, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-4 Records of submeters and submeter tests**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 4. Records of Submeters and Submeter Tests. (a) Submeter requirements:

(1) Use of submeter: All electrical energy sold by an owner shall be charged for by meter measurements.

(2) Installation by owner: Unless otherwise authorized by the commission, each owner shall be responsible for providing, installing and maintaining all submeters necessary for the measurement of electrical energy to its tenants.

(b) Submeter records. Each owner shall keep the following records:

(1) Submeter equipment record: Each owner shall keep a record of all of its submeters showing the tenant's address and date of the last test.

(2) Records of submeter tests: All submeter tests shall be properly referenced to the submeter record provided for herein. The record of each test made shall show the identifying number of the submeter, the standard meter and other measuring devices used, the date and kind of test made, by whom made, the error (or percentage of accuracy) at each load tested, and sufficient data to permit verification of all calculations.

(c) Submeter readings. Submeter unit indication: In general, each meter shall indicate clearly the kilowatt-hours for which

charge is made to the tenant. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-4; filed Dec 13, 1984, 3:13 pm: 8 IR 486, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-5 Location of submeters**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 5. Location of Submeters. Submeters and service switches in conjunction with the submeter shall be installed in accordance with the ANSI C12.1-1982, or other standards as may be prescribed by the commission, and will be readily accessible for reading, testing and inspection where such activities will cause minimum interference and inconvenience to the tenant. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-5; filed Dec 13, 1984, 3:13 pm: 8 IR 486, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-6 Submeter testing equipment and facilities**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 6. Submeter Testing Equipment and Facilities. (a) Qualified expert: Each owner shall provide or engage an independent qualified expert to provide such instruments and other equipment and facilities as may be necessary to make the submeter tests required by 170 IAC 4-5. Such equipment and facilities shall generally conform to ANSI C12.1-1982, prescribed by the commission, and shall be acceptable to the commission and shall be available at all reasonable times for the inspection by its authorized representatives.

(b) Portable standards: Each owner engaged in electrical submetering shall, unless specifically excused by the commission, provide portable test instruments or utilize a testing firm as necessary for testing billing submeters.

(c) Reference standards: Each owner shall provide or have access to suitable indicating electrical instruments as reference standards for insuring the accuracy of shop and portable instruments used for testing billing submeters.

(d) Testing of reference standards: Reference standards of all kinds shall be submitted once each year or on a scheduled basis approved by the commission to a standardizing laboratory of recognized standing for the purpose of testing and adjustment.

(e) Calibration of test equipment: All shop and portable instruments used for testing billing submeters shall be calibrated by comparing them with a reference standard at least annually. Test equipment shall at all times be accompanied by a certified calibration card signed by the proper authority, giving the date when it was last certified and adjusted. Records of certifications and calibrations shall be kept on file in the office of the owner. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-6; filed Dec 13, 1984, 3:13 pm: 8 IR 486, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-7 Submeter accuracy**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 7. Submeter Accuracy. (a) Limits: No submeter that exceeds the test calibration limits for self-contained watt-hour meters as set by the ANSI C12.1-1982, shall be placed in service or left in service. All electric current transformers, potential transformers, or other such devices used in conjunction with submeters shall be considered part of the submeter and must also meet test calibrations and phase angle limits set by ANSI C12.1-1982 and ANSI/IEEE C57.13-1978 for revenue billing. Whenever on installation, inspection, periodic, or other tests, a submeter or transformer is found to exceed these limits, it shall be adjusted, repaired, or replaced.

(b) Adjustments: Submeters shall be adjusted as close as possible to the condition of zero error. The tolerances are specified only to allow for necessary variations. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-7; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary*

*of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-8 Testing of submeters in service**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 8. Testing of Submeters in Service. Submeters shall be tested every five years or change in tenants, whichever is greater, unless specified otherwise by the commission. Annually, the owner shall file with the commission a report showing the number of meters tested and the number of meters exceeding the standards of ANSI C12.1-1982. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-8; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-9 Testing of submeters prior to installation**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 9. Tests of Submeters Prior to Installation. No submeter shall be placed in service unless its accuracy has been established. If any submeter is removed from actual service and replaced by another submeter for any purpose whatsoever, it shall be properly tested and adjusted before being placed in service again. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-9; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-10 Submeter tests upon written request to owner; fee**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 10. Submeter Tests upon Written Request to the Owner. Upon the written request of a tenant and if the tenant so desires, in the tenant's presence or in the presence of the tenant's authorized representative, each owner shall make a test of the accuracy of the tenant's submeter. The test shall be made during reasonable business hours at a time convenient to the tenant desiring to observe the test. If the submeter tests within the accuracy standards for self-contained watt-hour meters as established by the latest edition of ANSI C12.1-1982, a charge of up to \$15 may be charged the tenant for making the test. Following completion of any requested test, the owner shall promptly advise the tenant of the results of the test. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-10; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-11 Submeter tests upon application to commission; fee**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 11. Submeter Tests upon Application to the Commission. Upon application of any tenant to the commission, a test may be made of the tenant's submeter. The application for such test shall be accompanied by a fee of fifteen dollars. If the submeter tests within the accuracy standards for self-contained watt-hour meters as established by the ANSI C12.1-1982, the fee shall be turned over to the owner; if the test shows the meter to exceed the standards, then the fifteen dollars paid by the tenant shall be refunded to said tenant by the commission. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-11; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-12 Bills for electric service**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 12. Bills for Electric Service. (a) Bills shall be rendered for the same billing period as that of the utility, generally monthly, unless service is rendered for less than that period. Bills shall be rendered as promptly as possible following the reading of the submeters. The submeters shall be read within 3 days of the scheduled reading date of the utility's master meter.

(b) The unit of measurement shall be the kilowatt-hour (KWH).

(c) The owner shall be responsible for determining that the energy billed to any dwelling unit shall be only for energy consumed within that unit, and so metered.

(d) The owner shall be entitled to collect only those charges made to him by the electric utility and no more.

(e) The tenant's bill shall be calculated in the following manner: After the owner's electric bill is received from the utility, the owner shall divide the total net charges for electrical consumption, plus applicable tax, by the total number of kilowatt-hours to obtain an average cost per kilowatt-hour. This average kilowatt-hour cost shall then be multiplied by each tenant's kilowatt-hour consumption to obtain the charge to the tenant. The computation of the average cost per kilowatt-hour shall not include any penalties charged by the utility to the owner for disconnection, late payment, or other similar service charges.

(f) Prorated initial or final tenants' bills shall be calculated using the most recent available average cost per kilowatt-hour.

(g) The tenant's bill shall show all of the following information:

(1) The date and reading of the submeter at the beginning and at the end of the period for which the bill is rendered.

(2) The number of kilowatt-hours metered.

(3) The computed rate per kilowatt-hour.

(4) The total amount due for electricity used.

(5) A clear and unambiguous statement that the bill is not from the electric utility which provides service to the qualifying building.

(6) The name and address of the tenant to whom the bill is applicable.

(7) The name of the firm rendering the submetering bill and the name or title, address and telephone number of the person or persons to be contacted in case of a billing dispute.

(8) The date by which the tenant must pay the bill.

(h) The tenants of any dwelling unit whose electrical consumption is submetered shall be allowed by the owner to review and copy the masterbilling for the current month's billing period as well as for the twelve preceding months, and all submeter readings of the dwelling unit for the current month as well as for the twelve preceding months.

(i) All rental agreements between the owner and the tenants of dwelling units shall clearly state that: the dwelling unit is submetered, electric bills will be based upon submeter readings, electrical consumption for all common areas and common facilities will be the responsibility of the owner and not the tenant and will describe the procedure to be followed in the event of disputes.

(j) Estimated bills shall not be rendered unless the meter has been tampered with or is out of order, and in such case the bill shall be distinctly marked as such.

(k) Each owner may elect an alternative billing method which allows a tenant to contract for a plan whereby the owner averages the estimated bill over an extended period and balances the account at the end of that period. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-12; filed Dec 13, 1984, 3:13 pm: 8 IR 487, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-5-13 Adjustment of bills**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 13. Adjustment of Bills. (a) Adjustment due to meter errors. If any service meter, after being tested, as provided for in these rules [170 IAC 4-5], is found to exceed the accuracy standards as established by ANSI C12.1-1982, the bills for service shall be adjusted as follows:

(1) Fast meters—When a meter is found to have a positive average error, the owner shall refund or credit the tenant's account

with the amount of any charges in excess of either (i) an average bill for the kilowatthours or (ii) separate bills individually adjusted for the percent of error for the period the meter was fast, if such period can be determined, or one year, whichever period is shorter. An average bill shall be calculated on the basis of kilowatthours registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be fast.

(2) Stopped or slow meters—When a meter is stopped or has a negative average error, the owner may charge the customer for the kilowatthours incorrectly registered for one-half of the period since the previous test or one year, whichever is shorter. The amount of the charge to the customer shall be estimated on the basis of either (i) an average bill as herein below described or (ii) separate bills individually adjusted for the percent of error. An average bill shall be calculated on the basis of kilowatt-hours registered on the meter of corresponding periods either prior or subsequent to the period for which the meter is determined to be slow or stopped. The owner may charge the tenant for such amounts except where the owner negligently allows the stopped or slow meter to remain in service.

(3) Other billing adjustments. All other billing errors may be adjusted to the known date of error or for a period of one year, whichever period is shorter.

(b) Cash refunds by utility company. Any cash refunds received by the owner from the utility company for excess KWH billing shall be credited to the accounts of the current tenants *[sic.]*. However, if the cash refund amounts to more than five dollars per tenant it shall be refunded directly to the tenants or former tenants which occupied the dwelling units during the period of time that the refund is provided for. Former tenants which cannot be located shall have their refunds credited to the accounts of the current tenants. (*Indiana Utility Regulatory Commission; 170 IAC 4-5-13; filed Dec 13, 1984, 3:13 pm: 8 IR 488, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-5-14 Complaints; review**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 14. Complaints and Review. (a) Complaint procedure: (1) A customer may complain at any time to the owner about any bill which is not delinquent at that time or any other matter relating to its service and may request a conference thereon. Such complaints may be made in person, in writing, or by completing a form available from either the commission or the owner. A complaint shall be considered filed upon receipt by the owner, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the customer shall state at a minimum, his name, service address, and the general nature of his complaint.

(2) Upon receiving each such complaint or request for conference, the owner:

(A) Shall promptly, thoroughly and completely investigate such complaint, confer with the customer when requested, and notify in writing the customer of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.

(B) Such written notification shall advise the customer that he may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the commission.

(b) Review: (1) If the customer is dissatisfied with the owner's proposed disposition of the complaint as provided in (a)(2), he may request the commission in writing within seven (7) days following the date in which such notification is mailed to informally review the disputed issue and the owner's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the owner involved. Upon receiving such request, the commission shall provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the owner within thirty (30) days after the commission's receipt of the customer's request. Upon request by either party or the commission, the parties shall be required to meet and confer to the extent and at such place as the commission may consider to be appropriate.

(2) The records of the commission relating to such review shall be kept in a systematic order.

(3) In those instances when the customer and owner cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the six (6) months immediately preceding *[sic.]* the disputed bill. However, in those cases where the customer has received fewer than six (6) bills the customer shall pay an amount equal to the average (arithmetical mean) of such bills as have been received.

(c) Record of complaints: (1) Each owner shall keep a written record of complaints and requests for conferences pursuant to 170 IAC 4-1-17. Such records shall be retained at the location where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization, or the commission.

(2) Each owner shall annually submit a report to the commission which shall state and classify the number of complaints made to the owner pursuant to 170 IAC 4-1-17, the general nature of the subject matter thereof, how received (in person, by letter, etc.) and whether a commission review was conducted thereon. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-14; filed Dec 13, 1984, 3:13 pm: 8 IR 489, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-5-15 Restrictions**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 15. Restrictions. (a) Unless otherwise provided by the commission, no dwelling unit may be submetered unless all dwelling units of a qualifying building are submetered.

(b) All submetered units must have their utility bills determined on the basis of submeter readings. However, to allow the building owners to comply with current rental lease terms relating to the building owners' responsibility to pay for electric utility costs or the inclusion of said costs within rental payments, the dwelling units subject to such current lease terms need not have their utility bills determined on the basis of their submeter readings. However, after the expiration of said current rental leases, said dwelling units shall have their utility billings determined on the basis of their respective submeter readings. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-15; filed Dec 13, 1984, 3:13 pm: 8 IR 490, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-5-16 Same type of meters required throughout building**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 16. Same Type Meters Required. All submeters in a building which are served by the same master meter shall be of the same type, such as induction or electronic. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-16; filed Dec 13, 1984, 3:13 pm: 8 IR 490, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-5-17 Registration**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 17. Registration. Each owner engaged in submetering shall register with the commission at the outset, and by January 1 of each year thereafter, provide the following information:

(1) The principal business location:

- (A) Name and address
- (B) County
- (C) Phone number
- (D) Location of records required by this rule [170 IAC 4-5]
- (E) Total submeters in service

(2) If the owner is engaged in submetering in counties other than the county of its principal business location then the owner shall provide the following information for each submetered location in those counties:

- (A) Name and address
- (B) County

(C) Phone number

(D) Location of records required by this rule [170 IAC 4-5]

(E) Total submeters in service

*(Indiana Utility Regulatory Commission; 170 IAC 4-5-17; filed Dec 13, 1984, 3:13 pm: 8 IR 490, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-18 Saving clause**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 18. Saving Clause. The adoption of these rules in no way precludes the commission from altering or amending the same, in whole or in part, or from requiring any additional service equipment, facility or standards, either upon complaint or upon its own motion, or upon the application of any owner. Furthermore, these rules shall in no way relieve any owners from their duties under the laws of the state. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-18; filed Dec 13, 1984, 3:13 pm: 8 IR 490, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-5-19 Effective date**

Authority: IC 8-1-1-3; IC 8-1-2-36.5

Affected: IC 8-1-2-36.5

Sec. 19. This rulemaking document takes effect January 1, 1985. *(Indiana Utility Regulatory Commission; 170 IAC 4-5-19; filed Dec 13, 1984, 3:13 pm: 8 IR 490, eff Jan 1, 1985 [IC 4-22-2-5 suspends the effectiveness of a rule document for thirty (30) days after filing with the Secretary of State. LSA Document #84-57(F) was filed Dec 13, 1984.]; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**Rule 6. Ratemaking Treatment of Qualified Pollution Control Property Under Construction**

**170 IAC 4-6-1 Definitions**

Authority: IC 8-1-2-6.1; IC 8-1-2-6.6

Affected: IC 8-1-8.7; IC 8-1-27-12; IC 8-1-27-19

Sec. 1. (a) As used in this rule, “air pollution control device” means the systems, equipment, facilities, appliances, controls, monitors, processes, and identifiable structures or parts of structures located at a utility's coal burning electric generating facility which are:

- (1) designed to directly or indirectly reduce airborne emissions that result from the combustion of coal or designed to temporarily or permanently control, remove, store, or otherwise dispose of solid or liquid effluent byproducts resulting from the direct or indirect reduction of airborne emissions of sulfur or nitrogen based pollutants;
- (2) not intended to reduce airborne emissions of sulfur or nitrogen based pollutants by replacing the generation of electricity through coal combustion with another method of electricity generation; and
- (3) not intended to generate additional amounts of electricity for the operations described in subdivision (1).

(b) As used in this rule, “allowance for funds used during construction (AFUDC)” means the cost for the period of construction of borrowed funds used for the construction of qualified pollution control property, as defined in subsection (l), and a reasonable rate on other funds when so used. AFUDC for qualified pollution control property shall be recorded in separate subaccounts or their subdivisions in accordance with the FERC or NARUC uniform system of accounts.

(c) As used in this rule, “clean coal technology” means a technology (including precombustion treatment of coal):

- (1) that is used in a new or existing electric generating facility and directly or indirectly reduces airborne emissions of sulfur or nitrogen based pollutants associated with the combustion or use of coal; and
- (2) that either:



(A) is not in general commercial use at the same or greater scale in new or existing facilities in the United States as of January 1, 1989; or

(B) has been selected by the United States Department of Energy for funding under its Innovative Clean Coal Technology program and is finally approved for such funding on or after January 1, 1989.

(d) As used in this rule, "commission" means the Indiana utility regulatory commission.

(e) As used in this rule, "construction work in progress (CWIP)" means the balances of all work orders for qualified pollution control property, as defined in subsection (l), under construction. Balances of construction expenditures shall be recorded in separate subaccounts or their subdivisions in accordance with the FERC or NARUC uniform system of accounts.

(f) As used in this rule, "equipment that constitutes clean coal technology" means the systems, equipment, facilities, appliances, processes, controls, monitors, and identifiable structures or parts of structures that constitute a utility project implementing or using clean coal technology, as defined in subsection (c), to the extent that the utility project has received and continues to possess a valid certificate of public convenience and necessity from the commission under IC 8-1-8.7.

(g) As used in this rule, the "FERC Uniform System of Accounts" means the rules and regulations governing the classification of accounts for Class A-B private electric utilities, as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission in 18 CFR 41 and 18 CFR 101 and adopted by the commission for Indiana electric utilities at 170 IAC 4-2-1.1.

(h) As used in this rule, "Indiana coal" means coal from a mine whose coal deposits are located in the ground wholly or partially in Indiana regardless of the location of the mine's tipple.

(i) As used in this rule, the "NARUC Uniform System of Accounts" means the rules and regulations governing the classification of accounts for Class C-D private electric utilities and Class A-B-C-D municipal electric utilities, as developed by the National Association of Regulatory Utility Commissioners and adopted by the commission for Indiana electric utilities under 170 IAC 4-2-2.

(j) As used in this rule, "preconstruction costs" means the costs of employing clean coal technology incurred and recorded in the utility's accounts before commencing construction of a project for which the utility has been awarded a certificate under IC 8-1-8.7. Preconstruction costs shall include the cost of the following:

(1) Engineering and design prior to commencing construction.

(2) Site investigation and analysis and site preparation.

(3) Licensing, permitting, and application for a certificate under IC 8-1-8.7.

(4) Environmental assessments.

(5) The preparation and submission of technical proposals to a governmental or not-for-profit entity engaged in the research or development of clean coal technology for the purpose of receiving joint funding for the utility's clean coal technology project.

(6) Other costs approved by the commission.

(k) As used in this rule, "primary fuel source" means the specific fuel consumed for the production of electricity at a utility's coal burning electric generating facility, where the specific fuel consumption amounts to no less than one hundred percent (100%) of the total fuel consumed at the facility within any twelve (12) months after the qualified pollution control property is fully operating at the facility, and where:

(1) the specific fuel and total fuel consumption at the facility are measured in terms of British thermal units (Btu); and

(2) the total fuel consumption at the facility does not include such items as:

(A) the minimum amounts of fuel required for ignition, start-up, testing, flame stabilization, and control uses; and

(B) the minimum amounts of fuel required to alleviate or prevent:

(i) unanticipated equipment outages; and

(ii) emergencies directly affecting the public health, safety, or welfare which would result from electric power outages.

(l) As used in this rule, "qualified pollution control property" means an air pollution control device or equipment that:

(1) constitutes clean coal technology;

(2) meets applicable state or federal requirements; and

(3) is designed to accommodate the burning of coal from the geological formation known as the Illinois Basin.

(m) As used in this rule, "research and development" means the planned efforts of a utility for the design, development, or implementation of:

(1) an experimental facility;

- (2) a plant process;
- (3) a product;
- (4) a formula;
- (5) an invention;
- (6) a system or similar items; or
- (7) the improvement of already existing items of a like nature;

for the express purpose of increasing the use of Indiana coal.

(n) As used in this rule, "utility" means an electric generating utility allowed by law to earn a return on its investment.

(o) As used in this rule, "value of qualified pollution control property under construction" means the value of CWIP, including the amounts of AFUDC, for a utility's qualified pollution control property under construction, where these amounts have been recorded in the utility's accounts in accordance with the FERC or NARUC Uniform System of Accounts at the date of valuation. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-1; filed Oct 5, 1993, 5:00 p.m.: 17 IR 174; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-2 Application**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-61; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27-3

Sec. 2. A utility that intends to commence construction of qualified pollution control property at one (1) or more of its electric generating facilities, and intends to add to the value of its property the value of the qualified pollution control property under construction as provided in this rule, shall request the commission's approval of the use of the qualified pollution control property before commencing construction. The utility is not required to request such commission approval if:

- (1) the utility has a valid certificate of public convenience and necessity authorizing the utility to use clean coal technology at the facilities under IC 8-1-8.7 or has an application for such a certificate pending before the commission;
- (2) the utility has a valid certificate of public convenience and necessity to construct, purchase, or lease a facility that will incorporate one (1) or more air pollution control devices under IC 8-1-8.5 or has an application for such a certificate pending before the commission; or
- (3) the utility's proposed use of qualified pollution control property is part of the utility's environmental compliance plan, as defined at IC 8-1-27-3, that has received and continues to possess commission approval under IC 8-1-27, or that is pending before the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-2; filed Oct 5, 1993, 5:00 p.m.: 17 IR 176; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-3 Deemed approved**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 3. The use of qualified pollution control property by a utility at one (1) or more of its electric generating facilities shall be deemed approved by the commission if:

- (1) the utility has a valid certificate of public convenience and necessity authorizing the utility to use clean coal technology at the facilities under IC 8-1-8.7;
- (2) the utility has a valid certificate of public convenience and necessity to construct, purchase, or lease a facility that will incorporate one (1) or more air pollution control devices under IC 8-1-8.5; or
- (3) the utility's proposed use of qualified pollution control property is part of the utility's environmental compliance plan for which the utility has received and continues to possess commission approval under IC 8-1-27.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-3; filed Oct 5, 1993, 5:00 p.m.: 17 IR 176; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-4 Approval**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-6.6

Sec. 4. The commission shall approve the use by a utility of qualified pollution control property to be constructed if the qualified pollution control property consists of one (1) or more air pollution control devices and, after notice and hearing, the commission finds:

- (1) the proposed air pollution control devices meet applicable state or federal requirements;
- (2) the proposed air pollution control devices are designed to accommodate the burning of coal from the geological formation known as the Illinois Basin;
- (3) the estimated costs of construction and installation of the air pollution control devices are reasonable and should be approved by the commission; and
- (4) the proposed air pollution control devices will be installed at one (1) or more coal burning generating facilities that will utilize Indiana coal as their primary fuel once the air pollution control devices are fully operational or, if a facility to be equipped with one (1) or more air pollution control devices will not use Indiana coal as its primary fuel totally or in part after the device or devices are fully operational, the utility will be justified in doing so because of:

(A) governmental requirements, including:

- (i) federal or state environmental protection laws, rules, or regulations;
- (ii) approved environmental compliance plan requirements; or
- (iii) other governmental requirements reasonably found by the commission; or

(B) economic considerations, including:

- (i) the minimization of total electric power and energy generation costs by the utility's system where the total costs:

(AA) account for the maintenance of acceptable levels of reliability in the utility's system;

(BB) include reasonably anticipated utility costs for environmental compliance at the utility's coal burning generating facilities that will be equipped with air pollution control devices;

(CC) are estimated through reasonable methods and assumptions over a time period that the utility uses for ascertaining its future long term electric power and energy demand and supply requirements; and

(DD) are measured in present value dollars as of the time of the proceedings before the commission on the utility's application; and

- (ii) other economic considerations reasonably specified by the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-4; filed Oct 5, 1993, 5:00 p.m.: 17 IR 176; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-5 Approval modification**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 5. After a utility has received the commission's approval for the use of qualified pollution control property in the utility's coal burning generating facilities as provided in sections 3 and 4 of this rule, the utility shall seek the commission's approval for the modified use of the qualified pollution control property where:

- (1) the utility has added to the value of its property the value of the qualified pollution control property under construction for ratemaking purposes as provided in this rule; and
- (2) the utility reasonably anticipates that it will use less Indiana coal as the primary fuel in its facilities after the qualified pollution control property becomes fully operational than the utility had anticipated when the commission approved the use of qualified pollution control property in the facilities.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-5; filed Oct 5, 1993, 5:00 p.m.: 17 IR 176; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-6 Approval modification procedure**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-61; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 6. A utility may seek commission approval for the modified use of qualified pollution control property in the utility's coal burning generating facility under section 5 of this rule by filing an appropriate petition with the commission under IC 8-1-2-61 or in the context of a review proceeding under IC 8-1-8.5, IC 8-1-8.7, or IC 8-1-27. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-6; filed Oct 5, 1993, 5:00 p.m.: 17 IR 177; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-7 Qualified pollution control property use; approval modification**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-61; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 7. The commission shall approve a utility's modified use of qualified pollution control property at a coal burning electric generating facility, after notice and hearing, if the commission finds:

- (1) the estimated costs of construction and installation of the proposed air pollution control devices are reasonable and should be approved by the commission;
- (2) the facility to be equipped with one (1) or more air pollution control devices will reduce its use of Indiana coal as its primary fuel after the device or devices are fully operational, and the utility is justified in reducing the use of Indiana coal because of:

- (A) governmental requirements, including:

- (i) federal or state environmental protection laws, rules, or regulations;
  - (ii) approved environmental compliance plan requirements; or
  - (iii) other governmental requirements reasonably found by the commission; or

- (B) economic considerations, including:

- (i) the minimization of total electric power and energy generation costs by the utility's system where the total costs:

- (AA) account for the maintenance of acceptable levels of reliability in the utility's system;

- (BB) include reasonably anticipated utility costs for environmental compliance at the utility's coal burning generating facilities that will be equipped with air pollution control devices;

- (CC) are estimated through reasonable methods and assumptions over a time period that the utility utilizes for ascertaining its future long term electric power and energy demand and supply requirements; and

- (DD) are measured in present value dollars as of the time of the proceedings before the commission on the request for modified approval; and

- (ii) other economic considerations reasonably specified by the commission; and

- (3) the utility still has a valid certificate under IC 8-1-8.5 or IC 8-1-8.7, or the utility's environmental compliance plan still has commission approval under IC 8-1-27, if the use of the qualified pollution control property was originally deemed approved under section 3 of this rule as part of a proceeding under IC 8-1-8.5, IC 8-1-8.7, or IC 8-1-27.

(*Indiana Utility Regulatory Commission; 170 IAC 4-6-7; filed Oct 5, 1993, 5:00 p.m.: 17 IR 177; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-8 Approval denied; ratemaking treatment**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 8. The following requirements apply if the commission denies a utility's request for approval of the modified use of qualified pollution control property projects under sections 5 through 7 of this rule, and the utility does not proceed with the use of the qualified pollution control property originally approved by the commission under sections 3 and 4 of this rule:

- (1) Rates collected by the utility because of ratemaking treatment accorded under this rule to the qualified pollution control property projects under construction that did not receive modified use approval shall be interim and subject to refund as of

the date of the commission's ruling denying modified approval.

(2) Within fifteen (15) days of the commission's ruling denying modified use approval, the utility shall provide the commission a list of the qualified pollution control property projects under construction that did not receive modified use approval and include the following for each project:

- (A) The most recently anticipated inservice dates.
- (B) The stages of completion.
- (C) The dollar amounts expended by the utility in their construction to the date of the commission's ruling denying modified approval.
- (D) The total revenue amounts collected because of the ratemaking treatment accorded under this rule.
- (E) The most recent aggregate annual amount of rates collected by the utility because of the ratemaking treatment accorded under this rule.
- (F) Any other information the commission may require.

(3) The collection of revenues associated with the ratemaking treatment accorded under this rule to the utility's qualified pollution control property projects under construction shall cease by either of the following methods:

- (A) The utility filing amended rate schedules with the commission within thirty (30) days of the denial.
- (B) The commission, after notice and hearing, shall determine and rule on the amounts of the utility's rate reductions and refunds as of the date of the commission's ruling denying modified use approval for qualified pollution control property projects that had received ratemaking treatment under this rule.

(4) Refunds required by this section may be accomplished first by a reduction in revenue being collected as a result of ratemaking treatment granted by the commission under this rule, to the extent that the utility is still collecting such revenues.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-8; filed Oct 5, 1993, 5:00 p.m.: 17 IR 177; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-9 Ratemaking treatment; timing of initial application**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-6.1; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 9. A utility may request that the commission, for ratemaking purposes, add to the value of the utility's property on which the utility is authorized to earn a return the value of qualified pollution control property under construction to the extent that the qualified pollution control property has been under construction for not less than six (6) months prior to the utility's request. The recording of preconstruction costs, as defined in section 1(j) of this rule, in the utility's accounts does not constitute the commencement of construction under this section. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-9; filed Oct 5, 1993, 5:00 p.m.: 17 IR 178; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-10 Ratemaking treatment; eligible amounts**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27; IC 8-1.5-3-8

Sec. 10. The commission shall, after notice and hearing, add to the value of a utility's property on which the utility is authorized to earn a return the value of qualified pollution control property projects under construction provided that the use of the projects has been approved or deemed approved by the commission under this rule. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-10; filed Oct 5, 1993, 5:00 p.m.: 17 IR 178; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-11 Ratemaking treatment; initial application proceedings**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27; IC 8-1.5-3-8

Sec. 11. The commission shall grant ratemaking treatment to qualified pollution control property under construction eligible for ratemaking treatment under IC 8-1-2-6.6, as provided in section 10 of this rule, on petition by a utility under IC 8-1-2-61 or at the request of a utility in any of the following:

(1) A proceeding involving the utility's base rates and charges or an adjustment to its rates, charges, or rate structures, except for a fuel cost adjustment proceeding under IC 8-1-2-42(d).

(2) A review proceeding under IC 8-1-8.5 or IC 8-1-8.7. The commission may grant ratemaking treatment under this section only for construction of qualified pollution control property associated with the generating facility or clean coal technology project under review.

(3) A review proceeding under IC 8-1-27.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-11; filed Oct 5, 1993, 5:00 p.m.: 17 IR 178; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-12 Ratemaking treatment; initial application testimony and exhibits**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 12. A utility shall submit the following to the commission as part of its prefiled written testimony and exhibits in support of its request under section 11 of this rule:

(1) The value of the qualified pollution control property under construction for which the utility is seeking ratemaking treatment.

(2) The computation of the AFUDC amounts included in the value of the qualified pollution control property under construction for which the utility is seeking ratemaking treatment, including the derivation of the associated AFUDC rate.

(3) A list of the qualified pollution control property projects under construction, including the following for each project:

(A) The anticipated inservice dates.

(B) The stages of completion.

(C) The qualified pollution control property values for which the utility is seeking ratemaking treatment.

(4) The derivation of the utility's weighted cost of capital, including the amounts, proportions, and cost rates for each of the utility's capital structure components used in the derivation of the utility's weighted cost of capital incorporated in the utility's request for ratemaking treatment of the value of its qualified pollution control property under construction.

(5) The derivation of the utility's revenue requirement, including tax calculations, associated with the ratemaking treatment of the value of the qualified pollution control property under construction.

(6) The method and allocation of the utility's revenue requirement associated with the proposed ratemaking treatment of the value of qualified pollution control property under construction among the utility's customer classes.

(7) Proposed amendments to the utility's rate schedules on file with the commission that would reflect the proposed ratemaking treatment of the value of qualified pollution control property under construction.

(8) Any other information, calculations, written testimony, or exhibits requested by the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-12; filed Oct 5, 1993, 5:00 p.m.: 17 IR 178; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-13 Ratemaking treatment; AFUDC computation**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 13. A utility seeking ratemaking treatment for the value of its qualified pollution control property under construction under this rule shall compute the AFUDC amounts and relevant AFUDC rates for the qualified pollution control property in accordance with the FERC or NARUC Uniform System of Accounts. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-13; filed Oct 5, 1993, 5:00 p.m.: 17 IR 179; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-6-14 Ratemaking treatment; computation of revenue requirement**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 14. A utility seeking ratemaking treatment under this rule for the value of its qualified pollution control property under

construction shall use the following parameters in computing its related revenue requirement:

(1) If the utility is an investor-owned utility, it shall compute its weighted cost of capital used in the revenue requirement determination by including the following:

(A) The amount, ratio, and cost rate for the utility's long term debt and preferred equity capital as of the date of valuation of the utility's qualified pollution control property under construction for which the utility is seeking ratemaking treatment.

(B) The amount, ratio, and cost rate for the utility's common equity capital, where this amount corresponds to the date of valuation of the utility's qualified pollution control property under construction, and where the cost rate has been established by the commission in a previous proceeding involving the utility's base rates and charges. If the commission has established a range of cost rates for the utility's common equity capital, the utility shall use the midpoint of such range for the computation of its overall weighted cost of capital. The commission shall not make a new finding on the cost rate for the common equity capital of a utility in a proceeding under this rule unless the proceeding also involves the establishment or investigation of the utility's base rates and charges.

(C) The appropriate amount, ratio, and cost rate as of the date of valuation of the utility's qualified pollution control property under construction for such capital structure components as deferred taxes, customer deposits, and investment tax credits.

(2) If the utility is a municipal utility, it shall compute the revenue requirement associated with its qualified pollution control property under construction for which the utility is seeking ratemaking treatment under this rule on the basis of the following:

(A) The interest payments on indebtedness the utility has accrued in connection with its construction of qualified pollution control property, where the amount of indebtedness is reduced by amounts previously recognized in the utility's rates for debt service for the project or amounts previously recognized in rates for extensions and replacements used for the construction of the property.

(B) The return on plant authorized by the commission in the utility's last general rate case. The commission shall not make a new finding on the utility's return on plant in a proceeding under this rule unless the proceeding also involves the establishment or investigation of the utility's base rates and charges.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-14; filed Oct 5, 1993, 5:00 p.m.: 17 IR 179; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-15 Ratemaking treatment; jurisdictional revenue requirement allocation**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-4; IC 8-1-2-42; IC 8-1.5-3-8

Sec. 15. A utility's jurisdictional revenue requirement that results from the ratemaking treatment of qualified pollution control property under construction under this rule shall be allocated among the utility's customer classes in accordance with the allocation parameters established by the commission in the utility's last general rate case. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-15; filed Oct 5, 1993, 5:00 p.m.: 17 IR 179; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-16 Ratemaking treatment; preconstruction costs of clean coal technology**

Authority: IC 8-1-2-6.1; IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 16. A utility that engages in one (1) or more clean coal technology projects may classify preconstruction costs related to the projects as operating expenses and record these expenses in a deferred account. The utility may seek ratemaking treatment of the preconstruction costs in a general rate case before the commission. If the utility classifies preconstruction costs as operating expenses, the utility shall not record the same amounts as CWIP. *(Indiana Utility Regulatory Commission; 170 IAC 4-6-16; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-6-17 Ratemaking treatment; research and development expenses**

Authority: IC 8-1-2-6.1; IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 17. A utility that engages in research and development, as defined in section 1(m) of this rule, may classify research and development expenses as operating expenses and record these expenses in a deferred account. The utility may seek ratemaking treatment for a reasonable level of these research and development expenses in a general rate case before the commission. If the utility classifies research and development expenses as operating expenses, the utility shall not record the same amounts as CWIP. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-17; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-18 Ratemaking treatment; subsequent applications**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 18. A utility may subsequently request that the commission grant ratemaking treatment after notice and hearing, as provided in section 10 of this rule, to additional values of qualified pollution control property under construction. These requests may be made, as provided in section 11 of this rule, in six (6) month intervals following the original request for ratemaking treatment of the value of qualified pollution control property under construction. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-18; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-19 Ratemaking treatment; testimony and exhibits for subsequent applications**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 19. A utility shall submit to the commission, as part of its prefiled written testimony and exhibits in support of its request for ratemaking treatment of additional values of qualified pollution control property under construction under section 18 of this rule, the information, materials, and computations specified in section 12 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-19; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-20 Ratemaking treatment; ceasing AFUDC accrual**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 20. A utility that receives ratemaking treatment under this rule for the value of its qualified pollution control property under construction shall not accrue AFUDC amounts for the qualified pollution control property under construction receiving such ratemaking treatment as of the date the commission issues its order granting the ratemaking treatment. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-20; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-21 Ratemaking treatment and fuel adjustment charges**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-42

Sec. 21. (a) A utility that receives ratemaking treatment under this rule for the value of its qualified pollution control property under construction shall do the following:

(1) Add the approved CWIP earnings to its net operating income authorized by the commission for purposes of IC 8-1-2-42(d)(2) and IC 8-1-2-42(d)(3) in a fuel adjustment charge proceeding.

(2) As of the date of cancellation, indefinite suspension, or order denying modified use approval, whichever is appropriate, subtract from its net operating income authorized by the commission for purposes of IC 8-1-2-42(d)(2) and IC 8-1-2-42(d)(3), CWIP earnings that relate to:

(A) qualified pollution control property projects under construction, previously approved by the commission, that have not received modified use approval if required under sections 5 through 7 of this rule; or

(B) qualified pollution control property projects under construction that have been canceled or indefinitely suspended under section 23 of this rule.



(b) A utility that receives ratemaking treatment under this rule for the value of its qualified pollution control property under construction shall not adjust in a fuel adjustment charge proceeding the value of its used and useful property on which it is entitled to earn a return to reflect the ratemaking treatment accorded under this rule to the utility's qualified pollution control property under construction. (*Indiana Utility Regulatory Commission; 170 IAC 4-6-21; filed Oct 5, 1993, 5:00 p.m.: 17 IR 180; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-22 Ratemaking treatment; limitations**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2-4; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27

Sec. 22. A utility may continue collecting revenues as a result of ratemaking treatment granted by the commission under this rule for the value of its qualified pollution control property under construction, to the extent that the related qualified pollution control property projects continue to be or are deemed to be under construction, until the commission determines whether these projects are used and useful in a proceeding that involves the establishment or investigation of the utility's base rates and charges, the values of these projects do not exceed the construction cost estimates approved by the commission, and the projects are any of the following:

- (1) Equipment that constitutes clean coal technology, as defined in section 1(f) of this rule.
- (2) Air pollution control devices at a coal burning electric generating facility for which the utility has obtained and continues to possess a valid certificate of public convenience and necessity under IC 8-1-8.5.
- (3) Part of a utility's environmental compliance plan or modified environmental compliance plan for which the utility has obtained and continues to possess commission approval under IC 8-1-27.
- (4) Air pollution control devices and the utility has obtained the commission's approval or modified approval for their use under sections 2 through 7 of this rule.

(*Indiana Utility Regulatory Commission; 170 IAC 4-6-22; filed Oct 5, 1993, 5:00 p.m.: 17 IR 181; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-6-23 Ratemaking treatment; canceled or indefinitely suspended projects**

Authority: IC 8-1-2-6.6

Affected: IC 8-1-2; IC 8-1-8.5; IC 8-1-8.7; IC 8-1-27; IC 8-1.5-3-8

Sec. 23. The following requirements apply if a utility cancels or indefinitely suspends the construction of qualified pollution control property which has received ratemaking treatment under this rule on its own initiative or as a result of commission action:

- (1) The utility shall provide notice of the cancellation or indefinite suspension of construction to the commission and to the office of utility consumer counselor within fifteen (15) days from the date the utility cancels or suspends the construction of projects that had received ratemaking treatment under this rule. The notice shall be verified by a responsible officer or manager of the utility and shall provide the following:

(A) A list of the qualified pollution control property projects that were canceled or indefinitely suspended, including the following:

- (i) The effective dates of cancellation or indefinite suspension.
- (ii) The most recently anticipated inservice dates.
- (iii) The stages of completion.
- (iv) The dollar amounts expended by the utility in their construction to the date of cancellation or indefinite suspension.
- (v) The total revenue amounts collected because of the ratemaking treatment accorded to the projects under this rule.

(B) The most recent aggregate annual amount of rates collected by the utility because of the ratemaking treatment accorded to the projects under this rule.

(C) The reasons for the cancellation or indefinite suspension of the projects.

(D) Any other information the commission may require.

- (2) Rates collected by the utility because of ratemaking treatment accorded under this rule to qualified pollution control

property projects under construction that are canceled or indefinitely suspended shall be interim and subject to refund as of the date of cancellation or indefinite suspension.

(3) The collection of revenues associated with the ratemaking treatment accorded under this rule to the utility's qualified pollution control property projects under construction shall cease by either of the following methods:

(A) The utility filing amended rate schedules with the commission within thirty (30) days of the suspension or cancellation.

(B) The commission, after notice and hearing, shall determine and rule on the amounts of the utility's rate reductions and refunds as of the date of cancellation or indefinite suspension of qualified pollution control property projects that had received ratemaking treatment under this rule.

(4) Refunds required by this section may be accomplished first by a reduction in revenue being collected as a result of ratemaking treatment granted by the commission under this rule, to the extent that the utility is still collecting such revenues.

(5) A utility that, under this section, ceases collecting revenues associated with the ratemaking treatment of qualified pollution control property projects that have been canceled or indefinitely suspended shall not be precluded from recovering its expenditures in the canceled or indefinitely suspended projects under IC 8-1-8.7, IC 8-1-8.5, or IC 8-1-27.

*(Indiana Utility Regulatory Commission; 170 IAC 4-6-23; filed Oct 5, 1993, 5:00 p.m.: 17 IR 181; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

## **Rule 7. Guidelines for Integrated Resource Planning by an Electric Utility**

### **170 IAC 4-7-1 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-2.4; IC 8-1-8.5; IC 8-1.5

Sec. 1. (a) As used in this rule, "allowance" or "emission allowance" means the authority to emit one (1) ton of sulfur dioxide (SO<sub>2</sub>), as defined under Section 7651 of the Clean Air Act Amendments of 1990, 42 U.S.C. 7401 to 7671q, effective November 15, 1990.

(b) As used in this rule, "avoided cost" means the amount of fuel, operation, maintenance, purchased power, labor, capital, taxes, and other cost not incurred by a utility if an alternative supply or demand-side resource is included in the utility's integrated resource plan.

(c) As used in this rule, "Clean Air Act Amendments of 1990" or "CAAA" means Title IV, Acid Deposition Control, of the federal Clean Air Act Amendments of 1990, 42 U.S.C. 7401 to 42 U.S.C. 7671q, in effect November 15, 1990.

(d) As used in this rule, "cogeneration facility" means the following:

(1) A facility that simultaneously generates electricity and useful thermal energy and meets the energy efficiency standards established for a cogeneration facility by the Federal Energy Regulatory Commission (FERC) under 16 U.S.C. 824a-3, in effect November 9, 1978.

(2) The land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility.

(3) The transmission or distribution facility necessary to conduct the energy produced by the facility to a user located at or near the project site.

(e) As used in this rule, "commission" means the Indiana utility regulatory commission.

(f) As used in this rule, "conservation" means reducing the amount of energy consumed by a customer for a specific end-use. Conservation includes behavior changes such as thermostat setback. Conservation does not include changing the timing of energy use, switching to another fossil fuel source, or increasing off-peak usage.

(g) As used in this rule, "demand-side management" or "DSM" means the planning, implementation, and monitoring of a utility activity designed to influence customer use of electricity that produces a desired change in a utility's load shape. DSM includes only an activity that involves deliberate intervention by a utility to alter load shape.

(h) As used in this rule, "demand-side measure" means a particular end-use device, technology, service, or rate design at a targeted customer's premises or a utility's energy delivery system for a specific DSM program.

(i) As used in this rule, "demand-side program" means a utility program designed to implement a demand-side measure.

(j) As used in this rule, "demand-side resource" means a resource that reduces the demand for electrical power or energy by

applying a demand-side program to implement one (1) or more demand-side measures.

(k) As used in this rule, “discount rate” means the interest rate used in determining the present value of future cash flows.

(l) As used in this rule, “dispersed generation” means electric generation technology that is relatively small in size, and its implementation favors installation near a load center or remote location on the subtransmission or distribution system.

(m) As used in this rule, “end-use” means the light, heat, cooling, refrigeration, motor drive, microwave energy, video or audio signal, computer processing, electrolytic process, or other useful work produced by equipment using electricity.

(n) As used in this rule, “energy efficiency improvement” means reduced energy use for a comparable level of energy service.

(o) As used in this rule, “energy service” means the light, heat, motor drive, and other service for which a customer purchases electricity from the utility.

(p) As used in this rule, “engineering estimate” means an estimate of energy (kWh) and demand (kW) impact resulting from a demand-side measure based on an engineering calculation procedure. An engineering estimate addresses change in energy use of a building or system resulting from installation of a DSM measure. If multiple DSM measures are installed, an engineering estimate accounts for the interactive effect between the DSM measures.

(q) As used in this rule, “firm wholesale power sale” means a power sale intended to be available to the purchaser at all times, including under adverse conditions, during the period covered by the commitment.

(r) As used in this rule, “hourly system lambda” means the change in a utility's total cost associated with a marginal change in hourly load. The hourly system lambda is a short run measure that reflects the change in fuel cost and includes incremental (or decremental) operation and maintenance expenses.

(s) As used in this rule, “integrated resource planning”, “plan” or “IRP” means a utility's assessment of a variety of demand-side and supply-side resources to cost-effectively meet customer electricity service needs. The IRP may also include, but is not limited to, the following:

(1) A public participation procedure.

(2) An analysis of the uncertainty and risk posed by different resources and external factors.

(t) As used in this rule, “load building” means a program intended to increase electricity consumption without regard to the timing of the increased usage.

(u) As used in this rule, “load research” means the collection of electricity usage data through a metering device associated with an end-use, a circuit, or a building. The metered data is used to better understand the characteristics of electric loads, the timing of their use, and the amount of electricity consumed by users. The data may be collected over a variety of time intervals, usually sixty (60) minutes or less.

(v) As used in this rule, “load shape” means the time pattern of customer electricity use and the relationship of the level of energy use to a specific time during the day, month, and year.

(w) As used in this rule, “lost opportunity” means a situation where a cost-effective demand-side measure could have been installed at a site during construction, renovation, or replacement of equipment, but was not, rendering a subsequent equal or more extensive modification to the site not cost-effective.

(x) As used in this rule, “non-utility generator” or “NUG” means a facility for generating electricity that:

(1) is not exclusively owned by a public utility;

(2) operates connected to an electric utility system; and

(3) sells electricity to a utility for resale to retail customers.

(y) As used in this rule, “participant” means a utility customer participating in a utility-sponsored DSM program.

(z) As used in this rule, “participant test” means a cost-effectiveness test that measures the difference between the cost incurred by a participant in a demand-side program and the value received by the participant. A participant's cost includes all costs borne by the participant. A participant's value from a DSM program consists of only the direct economic benefit received by the participant.

(aa) As used in this rule, “penetration” means the ratio of the number of a specific type of new units installed to the total number of new units installed during a given time.

(bb) As used in this rule, “present value” means today's value of a future payment, or stream of payments, discounted at some appropriate compound interest or discount rate.

(cc) As used in this rule, “program cost” means all expenses incurred by a utility in a given year for operation of a DSM program whether the cost is capitalized or expensed. An expense includes, but is not limited to, the following:

(1) Administration.

- (2) Equipment.
- (3) Incentives paid to program participants.
- (4) Marketing and advertising.
- (5) Monitoring and evaluation.

(dd) As used in this rule, “public participation” means a procedure where a customer or interested party is provided the opportunity to comment on a utility's integrated resource plan prior to the submission of the IRP to the commission.

(ee) As used in this rule, “ratepayer impact measure” or “RIM” test means a cost-effectiveness test which analyzes how a rate for electricity is altered by implementing a DSM program. This test measures the change in a revenue requirement expressed on a per unit of sale basis.

(ff) As used in this rule, “renewable resource” means a generation facility or technology utilizing a fuel source such as, but not limited to, the following:

- (1) Wind.
- (2) Solar.
- (3) Geothermal.
- (4) Waste.
- (5) Biomass.
- (6) Small hydro.

(gg) As used in this rule, “resource” means a facility, project, contract, or other mechanism used by a utility to provide electric energy service to the customer.

(hh) As used in this rule, “saturation” means the ratio of the number of a specific type of similar appliance or equipment to the total number of customers in that class or the total number of similar appliances or equipment in use.

(ii) As used in this rule, “screening” means an evaluation performed by a utility to determine whether a demand-side or supply-side resource option is eligible for potential inclusion in the utility's integrated resource plan.

(jj) As used in this rule “self-generation” means an electric generation facility primarily for the customer's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation.

(kk) As used in this rule, “short term action plan” means a schedule of activities and goals developed by a utility to begin efficient implementation of its integrated resource plan.

(ll) As used in this rule, “standard industrial classification” or “SIC” means a system developed by the United States Department of Commerce for use in the classification of establishments by type of activity in which engaged, for purposes of facilitating the collection, tabulation, presentation and analysis of data relating to establishments, and for promoting uniformity and comparability in the presentation of statistical data collected by various agencies of the United States Government, state agencies, trade associations, and private research organizations.

(mm) As used in this rule, “supply-side resource” means a resource that provides a supply of electrical energy or capacity, or both, to a utility. A supply-side resource includes the following:

- (1) A utility-owned generation capacity addition.
- (2) A wholesale power purchase from another utility or non-utility generator.
- (3) A refurbishment or upgrading of an existing utility-owned generating facility.
- (4) A cogeneration facility.
- (5) A renewable resource technology.

(nn) As used in this rule, “targeted demand-side management” or “targeted DSM” means a demand-side program designed to defer or eliminate investment in a transmission or distribution facility.

(oo) As used in this rule, “total resource cost test” means a cost-effectiveness test that eliminates the distinction between a participant and nonparticipant by analyzing whether a resource is cost-effective based on the total cost and benefit of the program, independent of the precise allocation to a shareholder, ratepayer, and participant.

(pp) As used in this rule, “utility” means:

- (1) a public, municipally owned, or cooperatively owned utility; or
- (2) a joint agency created under IC 8-1-2.2.

(qq) As used in this rule, “utility cost test” or “revenue requirements test” means a cost-effectiveness test designed to minimize the net present value of a utility's revenue requirements. (*Indiana Utility Regulatory Commission; 170 IAC 4-7-1; filed Aug 31, 1995, 9:00 a.m.: 19 IR 16; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-7-2    Effects of filing integrated resource planning**

Authority: IC 8-1-1-3

Affected: IC 5-14-3; IC 8-1-1-8; IC 8-1-8.5; IC 8-1.5

Sec. 2. (a) The commission may use an IRP or written comments, or both, submitted pursuant to this rule, to assist in the preparation of an analysis of the long range needs for expansion of facilities for the generation of electricity and plan for meeting the future requirements of electricity as required by IC 8-1-8.5. The commission may also use the IRP or written comments, or both, submitted pursuant to this rule in the preparation of a staff report in other formally docketed proceedings.

(1) An IRP or written comments submitted to the commission pursuant to this rule may be admitted as evidence in a formally docketed proceeding before the commission under the Indiana Rules of Evidence.

(2) The commission shall give such weight as it determines appropriate to any IRP, or written comments submitted to the commission thereon, admitted as evidence in a formally docketed proceeding as provided in subsection 2(a)(1) [subdivision (1)] above.

(3) An IRP or comments submitted pursuant to this rule may not be admitted as evidence in a formally docketed proceeding before the commission through use of 170 IAC 1-1-18(f).

(b) Notice of the submission of an IRP to the commission shall be provided pursuant to the publication requirements of IC 8-1-1-8.

(c) Contemporaneously with the submission of an IRP to the commission, a utility must include the following information:

(1) The name and address, if known, of each individual or entity considered by the utility to be an interested party.

(2) A statement that the utility has sent each interested party, by deposit in the United States mail, First Class postage prepaid, a notice of the utility's submission of an IRP to the commission. The notice must contain, at a minimum, the following information:

(A) A general description of the subject matter of the submitted IRP.

(B) A statement that the commission invites an interested party to submit written comment on the utility's submitted IRP.

(C) A statement that the commission will provide notice of the IRP and the due date for the submission of written comments pursuant to the publication requirements of IC 8-1-1-8. The statement must also include that subsection (e) below provides for a ninety (90) day time period, or longer as determined by the commission, to submit written comments.

A utility is not required to separately notice, as provided in this subsection, each of its customers. A utility may, however, individually notify a business, organization, or a particular customer having a substantial interest in the IRP.

(3) A statement that the utility has served a copy of the IRP on the office of the consumer counselor.

(d) An IRP submitted to the commission may be viewed, inspected, or copied, in accordance with IC 5-14-3, at the office of the commission at 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.

(e) A customer or interested party may comment on an IRP submitted to the commission. The comments must be in writing and received by the commission within ninety (90) days from the date a utility submits an IRP to the commission. A customer or interested party must:

(1) submit to the commission, at the address provided in subsection (d), an original and eight (8) copies of the written comments;

(2) clearly identify the utility upon which written comments are submitted; and

(3) when submitting written comments on an IRP, serve a copy of the comments upon the utility.

The commission may extend the filing deadline for submitting written comments.

(f) Upon the receipt of written comments of a customer or interested party, a utility may submit to the commission supplemental or response comments. Supplemental or response comments must be in writing and received by the commission within thirty (30) days from the date a customer or interested party submits comments to the commission. A utility must:

(1) submit to the commission, at the address provided in subsection (d), an original and eight (8) copies of the supplemental or response comments; and

(2) serve a copy of the supplemental or response comments upon the customer or interested party who submitted written comments and the office of the consumer counselor.

The commission may extend the filing deadline for submitting supplemental or response comments.

(g) The commission may allow additional written comment periods.

(h) The failure of an interested party to file comments pursuant to subsection (e) shall not constitute a waiver of any right to participate as a party or to advance any argument or position in a formally docketed proceeding before the commission. Similarly, the content of comments filed by an interested party under subsection (e) shall not estop or preclude that party from advancing any argument or position in a formally docketed proceeding before the commission, whether or not that argument or position was raised in comments submitted under subsection (e). (*Indiana Utility Regulatory Commission; 170 IAC 4-7-2; filed Aug 31, 1995, 9:00 a.m.: 19 IR 18; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-7-3    Applicability**

Authority: IC 8-1-1-3

Affected: IC 5-14-3; IC 8-1-2-29; IC 8-1-2.2; IC 8-1-8.5-7; IC 8-1.5

Sec. 3. (a) To assist the commission in its administration of the Utility Powerplant Construction Law, IC 8-1-8.5, this rule applies to the following:

(1) A public, municipally owned, or cooperatively owned utility.

(2) A joint agency created under IC 8-1-2.2. An individual member of a joint agency is not required to submit to the commission a separate integrated resource plan.

(b) This rule does not apply to a person who is exempt pursuant to IC 8-1-8.5-7.

(c) A utility operating or owning, in part or whole, an electrical generating facility as of January 1, 1995, to provide electric service within the state of Indiana must submit to the commission on a biennial basis, beginning on or before November 1, 1995, an integrated resource plan consistent with this rule. Upon request of a utility, the commission may grant an extension of any such submission dates, for good cause shown.

(d) A utility not subject to subsection (c) prior to constructing, purchasing, or leasing a generating facility to provide electric service within the state of Indiana must submit to the commission an integrated resource plan consistent with this rule. If the generating facility, after appropriate commission review, is constructed, purchased, or leased, the utility shall submit to the commission on a biennial basis, an integrated resource plan consistent with this rule.

(e) A utility subject to subsection (a) must submit to the commission, on or before the applicable date as specified in subsection (c) or (d), the following documents:

(1) The integrated resource plan.

(2) A technical appendix containing supporting documentation.

(f) If a utility considers information in the IRP or technical appendix to be proprietary or otherwise confidential, a utility must file concurrently a redacted version, a nonredacted version under seal which shall be treated as confidential pending completion of the proceeding described below, verified affidavits from appropriate representatives of the utility setting forth the reasons why the information is proprietary or otherwise confidential, and a petition requesting that the commission find that such information is confidential pursuant to IC 8-1-2-29 and IC 5-14-3. A customer or interested party seeking access to or desiring to contest a commission determination regarding information claimed by a utility to be proprietary and confidential may do so only through intervention and participation in the proceeding on the utility petition requesting a finding of confidentiality. If, after review, the commission determines the information is proprietary or confidential, the commission and its staff will treat the information as proprietary or confidential in accordance with IC 8-1-2-29 and IC 5-14-3. (*Indiana Utility Regulatory Commission; 170 IAC 4-7-3; filed Aug 31, 1995, 9:00 a.m.: 19 IR 19; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 4-7-4    Methodology and documentation requirements**

Authority: IC 8-1-1-3; IC 8-1-8.5

Affected: IC 8-1; IC 8-1.5

Sec. 4. An IRP covering at least a twenty (20) year future period prepared by a utility must include a discussion of the methods, models, data, assumptions, and definitions used in developing the IRP and the goals and objectives of the plan. The following information must be included:

(1) The data sets, including data sources, used to establish base and alternative forecasts. A third party data source may be presented in the form of a reference. The reference must include the source title, author, publishing address, date, and page

number of relevant data. The data sets must include an explanation for adjustments. The data must be provided on electronic media and hard copy, or as specified by the commission.

(2) A description of the utility's effort to develop and maintain, by customer class, rate class, SIC code, and end-use, a data base of electricity consumption patterns. The data base may be developed using, but not limited to, the following methods:

- (A) Load research developed by the individual utility.
- (B) Load research developed in conjunction with another utility.
- (C) Load research developed by another utility and modified to meet the characteristics of that utility.
- (D) Engineering estimates.
- (E) Load data developed by a non-utility source.

(3) A proposed schedule for industrial, commercial, and residential customer surveys to obtain data on end-use appliance penetration, end-use saturation rates, and end-use electricity consumption patterns.

(4) A discussion of customer self-generation within the service territory and the potential effects on generation, transmission, and distribution planning and load forecasting.

(5) A description of model structure and an evaluation of model performance.

(6) A complete discussion of the alternative forecast scenarios developed and analyzed, including a justification of the assumptions and modeling variables used in each scenario.

(7) A description of the fuel inventory and procurement planning practices, including the rationale, used in the development of the utility's integrated resource plan.

(8) A description of the SO<sub>2</sub> emission allowance inventory and procurement planning practices, including the rationale, used in the development of the utility's integrated resource plan.

(9) A description of the generation expansion planning criteria used in developing the integrated resource plan. The description must fully explain the basis for the criteria selected, including an analysis and rationale for the level of system wide generation reliability assumed in the IRP.

(10) A regional, or at a minimum, Indiana specific power flow study prepared by a regional or subregional organization. This requirement may be met by submitting Federal Energy Regulatory Commission (FERC) Form 715, as adopted in Docket No. RM93-10-00, in effect October 30, 1993. The power flow study shall include the following:

- (A) Solved real flows.
- (B) Solved reactive flows.
- (C) Voltages.
- (D) Detailed assumptions.
- (E) Brief description of the model(s).
- (F) Glossary of terms with cross references to the names of buses and line terminals.
- (G) Sensitivity analysis, including, but not limited to, the forecast of the following:
  - (i) Summer and winter peak conditions.
  - (ii) Light load as well as heavy transfer conditions for one (1), two (2), five (5), and ten (10) years out.
  - (iii) Branch circuit ratings, including, but not limited to, normal, long term, short term, and emergency.

(11) Any recent dynamic stability study prepared for the utility or by the utility. This requirement may be met by submitting FERC Form 715, as adopted in Docket No. RM93-10-00, in effect October 30, 1993.

(12) Applicable transmission maps. This requirement may be met by submitting FERC Form 715, as adopted in Docket No. RM93-10-00, in effect October 30, 1993.

(13) A description of reliability criteria for transmission planning as well as the assessment practice used. This requirement may be met by submitting FERC Form 715, as adopted in Docket No. RM93-10-00, in effect October 30, 1993.

(14) An evaluation of the reliability criteria in relation to present performance and the expected performance of the utility's transmission system. This requirement may be met by submitting FERC Form 715, as adopted in Docket No. RM93-10-00, in effect October 30, 1993.

(15) A description of the utility's effort to develop and improve the methodology and the data for evaluating a resource (supply-side or demand-side) option's contribution to system wide reliability. The measure of system wide reliability must cover the reliability of the entire system, including transmission, distribution, and generation.

(16) An explanation, with supporting documentation, of the avoided cost calculation. An avoided cost must be calculated for each year in the forecast period. The avoided cost calculation must reflect timing factors specific to the resource under

consideration such as project life and seasonal operation. Avoided cost shall include, but is not limited to, the following:

- (A) The avoided generating capacity cost adjusted for transmission and distribution losses and the reserve margin requirement.
- (B) The avoided transmission capacity cost.
- (C) The avoided distribution capacity cost.
- (D) The avoided operating cost, including fuel, plant operation and maintenance, spinning reserve, emission allowances, and transmission and distribution operation and maintenance.

(17) The hourly system lambda and the actual demand for all hours of the most recent historical year available. For purposes of comparison, a utility must maintain three (3) years of hourly data and the corresponding dispatch logs.

(18) A description of the utility's public participation procedure if the utility conducts a procedure prior to the submission of an IRP to the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 4-7-4; filed Aug 31, 1995, 9:00 a.m.: 19 IR 20; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-7-5 Energy and demand forecasts**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 5. (a) An electric utility subject to this rule shall prepare an analysis of historical and forecasted levels of peak demand and energy usage which includes the following:

(1) An historical and projected analysis of a variety of load shapes, including, but not limited to, the following:

- (A) Annual load shapes.
- (B) Seasonal load shapes.
- (C) Monthly load shapes.
- (D) Selected weekly and daily load shapes. Daily load shapes shall include, at a minimum, summer and winter peak days and a typical weekday and weekend day.

(2) Historical and projected load shapes shall be disaggregated, to the extent possible, by customer class, interruptible load, and end-use and demand-side management program.

(3) Disaggregation of historical data and forecasts by customer class, interruptible load, and end-use where information permits.

(4) The use and reporting of actual and weather normalized energy and demand levels.

(5) A discussion of all methods and processes used to normalize for weather.

(6) A twenty (20) year period for energy and demand forecasts.

(7) An evaluation of the performance of energy and demand forecasts for the previous ten (10) years, including, but not limited to, the following:

- (A) Total system.
- (B) Customer classes or rate classes, or both.
- (C) Firm wholesale power sales.

(8) If an end-use methodology has not been used in forecasting, an explanation as to why this methodology has not been used.

(9) For purposes of section 5(a)(1) and 5(a)(2) [subdivisions (1) and (2)], a utility may use utility specific data or more generic data, such as, but not limited to, the types of data described in section 4(2) of this rule.

(b) A utility shall provide at least three (3) alternative forecasts of peak demand and energy usage. At a minimum, the utility shall include high, low, and most probable energy and peak demand forecasts based on combinations of alternative assumptions such as:

- (1) Rate of change in population.
- (2) Economic activity.
- (3) Fuel prices.
- (4) Changes in technology.
- (5) Behavioral factors affecting customer consumption.
- (6) State and federal energy policies.



(7) State and federal environmental policies.

*(Indiana Utility Regulatory Commission; 170 IAC 4-7-5; filed Aug 31, 1995, 9:00 a.m.: 19 IR 21; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-7-6 Resource assessment**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 6. (a) For each year of the planning period, excluding subsection 6(a)(6) [subdivision (6)], recognizing the potential effects of self-generation, an electric utility shall provide a description of the utility's electric power resources that must include, at a minimum, the following information:

- (1) The net dependable generating capacity of the system and each generating unit.
- (2) The expected changes to existing generating capacity, including, but not limited to, the following:
  - (A) Retirements.
  - (B) Deratings.
  - (C) Plant life extensions.
  - (D) Repowering.
  - (E) Refurbishment.
- (3) A fuel price forecast by generating unit.
- (4) The significant environmental effects, including:
  - (A) air emissions;
  - (B) solid waste disposal;
  - (C) hazardous waste; and
  - (D) subsequent disposal;

at each existing fossil fueled generating unit.

(5) The scheduled power import and export transactions, both firm and nonfirm, as well as cogeneration and non-utility production expected to be available for purchase by the utility.

(6) An analysis of the existing utility transmission system that includes the following:

- (A) An evaluation of the adequacy to support load growth and long term power purchases and sales.
- (B) An evaluation of the supply-side resource potential of actions to reduce transmission losses.
- (C) An evaluation of the potential impact of demand-side resources on the transmission network.
- (D) An assessment of the transmission component of avoided cost.

(7) A discussion of demand-side programs, including existing company-sponsored and government-sponsored or mandated energy conservation or load management programs available in the utility's service area and the estimated impact of those programs on the utility's historical and forecasted peak demand and energy.

(b) An electric utility shall consider alternative methods of meeting future demand for electric service. A utility must consider a demand-side resource, including innovative rate design, as a source of new supply in meeting future electric service requirements. The utility shall consider a comprehensive array of demand-side measures that provide an opportunity for all ratepayers to participate in DSM, including low-income residential ratepayers. For a utility-sponsored program identified as a potential demand-side resource, the utility's plan shall, at a minimum, include the following:

- (1) A description of the demand-side program considered.
- (2) A detailed account of utility strategies designed to capture lost opportunities.
- (3) The avoided cost projection on an annual basis for the forecast period that accounts for avoided generation, transmission, and distribution system costs. The avoided cost calculation must reflect timing factors specific to resources under consideration such as project life and seasonal operation.
- (4) The customer class or end-use, or both, affected by the program.
- (5) A participant bill reduction projection and participation incentive to be provided in the program.
- (6) A projection of the program cost to be borne by the participant.
- (7) Estimated energy (kWh) and demand (kW) savings per participant for each program.
- (8) The estimated program penetration rate and the basis of the estimate.

(9) The estimated impact of a program on the utility's load, generating capacity, and transmission and distribution requirements.

(c) A utility shall consider supply-side resources as an alternative in meeting future electric service requirements. The utility's plan shall include, at a minimum, the following:

(1) Identify and describe the resource considered, including the following:

(A) Size (MW).

(B) Utilized technology and fuel type.

(C) Additional transmission facilities necessitated by the resource.

(2) Significant environmental effects, including the following:

(A) Air emissions.

(B) Solid waste disposal.

(C) Hazardous waste and subsequent disposal.

(3) An analysis of how a proposed generation facility conforms with the utility-wide plan to comply with the Clean Air Act Amendments of 1990.

(4) A discussion of the utility's effort to coordinate planning, construction, and operation of the supply-side resource with other utilities to reduce cost.

(d) A utility shall identify transmission and distribution facilities required to meet, in an economical and reliable manner, future electric service requirements. The plan shall, at a minimum, include the following:

(1) An analysis of transmission network capability to reliably support the loads and resources placed upon the network.

(2) A list of the principal criteria upon which the design of the transmission network is based. Include an explanation of the principal criteria and their significance in identifying the need for and selecting transmission facilities.

(3) A description of the timing and types of expansion and alternative options considered.

(4) The approximate cost of expected expansion and alteration of the transmission network.

*(Indiana Utility Regulatory Commission; 170 IAC 4-7-6; filed Aug 31, 1995, 9:00 a.m.; 19 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.; 24 IR 4233)*

#### **170 IAC 4-7-7 Selection of future resources**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 7. (a) In order to eliminate nonviable alternatives, a utility shall perform an initial screening of all future resource alternatives listed in sections 6(b) through (c) of this rule. The utility's screening process and the decision to reject or accept a resource alternative for further analysis must be fully explained and supported.

(b) Integrated resource planning includes one (1) or more tests used to evaluate the cost-effectiveness of a demand-side resource option. A cost-benefit analysis must be performed using the following tests except as provided under subsection (e):

(1) Participant.

(2) Ratepayer impact measure (RIM).

(3) Utility cost (UC).

(4) Total resource cost (TRC).

(5) Other reasonable tests accepted by the commission.

(c) A utility is not required to express a test result in a specific format. However, a utility must, in all cases, calculate the net present value of the program impact over the life cycle of the impact. A utility shall also explain the rationale for choosing the discount rate used in the test.

(d) A utility is required to:

(1) specify the components of the benefit and the cost for each of the major tests; and

(2) identify the equation used to express the result.

(e) If a reasonable cost-effectiveness analysis for a demand-side management program cannot be performed using the tests in subsection (b), where it is difficult to establish an estimate of load impact, such as a generalized information program, the cost-effectiveness tests are not required.

(f) To determine cost-effectiveness, the RIM test must be applied to a load building program. A load building program shall

not be considered as an alternative to other resource options. (*Indiana Utility Regulatory Commission; 170 IAC 4-7-7; filed Aug 31, 1995, 9:00 a.m.: 19 IR 23; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-7-8 Resource integration**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 8. A utility shall select a mix of resources consistent with the objectives of the integrated resource plan. The utility must provide the commission, at a minimum, the following information:

- (1) Describe the utility's resource plan.
- (2) Identify the variables, standards of reliability, and other assumptions expected to have the greatest effect on the least-cost mix of resources.
- (3) Determine the present value revenue requirement of the utility's resource plan, stated in total dollars and in dollars per kilowatt-hour delivered, with the discount rate specified.
- (4) Demonstrate that the utility's resource plan utilizes, to the extent practical, all economical load management, conservation, nonconventional technology relying on renewable resources, cogeneration, and energy efficiency improvements as sources of new supply.
- (5) Discuss how the utility's resource plan takes into account the utility's judgment of risks and uncertainties associated with potential environmental and other regulations.
- (6) Demonstrate that the most economical source of supply-side resources has been included in the integrated resource plan.
- (7) Discuss the utility's evaluation of dispersed generation and targeted DSM programs including their impacts, if any, on the utility's transmission and distribution system for the first ten (10) years of the planning period.
- (8) Discuss the financial impact on the utility of acquiring future resources identified in the utility's resource plan. The discussion shall include, where appropriate, the following:
  - (A) The operating and capital costs of the integrated resource plan.
  - (B) The average price per kilowatt-hour as calculated in the resource plan. The price must be consistent with the electricity price assumption used to forecast the utility's expected load by customer class in section 5 of this rule.
  - (C) An estimate of the utility's avoided cost for each year of the plan.
  - (D) The impact of a planned addition to supply-side or demand-side resources on the utility's rate.
  - (E) The utility's ability to finance the acquisition of a required new resource.
- (9) Identify and explain assumptions concerning existing and proposed regulations, laws, practices, and policies made concerning decisions used in formulating the IRP.
- (10) Demonstrate, to the extent practicable and reasonable, that the utility's resource plan incorporates a workable strategy for reacting to unexpected changes. A workable strategy is one that allows the utility to adapt to unexpected circumstances and preserves the plan's ability to achieve its intended purpose. Unexpected changes include, but are not limited to, the following:
  - (A) The demand for electric service.
  - (B) The cost of a new supply-side or demand-side technology.
  - (C) Other factors which would cause the forecasted relationship between supply and demand for electric service to be in error.

(*Indiana Utility Regulatory Commission; 170 IAC 4-7-8; filed Aug 31, 1995, 9:00 a.m.: 19 IR 23; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-7-9 Short term action plan**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 9. A short term action plan shall be prepared as part of the utility's IRP filing or separately, and shall cover each of the two (2) years beginning with the IRP submitted pursuant to this rule. The short term action plan is a summary of the resource options or programs contained in the utility's current integrated resource plan where the utility must take action or incur expenses during

the two (2) year period. The short term action plan must include, but is not limited to, the following:

- (1) A description of each resource option or program included in the short term action plan. The description must include, but is not limited to, the following:
  - (A) The objective of the resource option or program.
  - (B) The criteria for measuring progress toward the objective.
  - (C) The actual progress toward the objective to date.
- (2) The participation of small business in the implementation of a DSM resource option or program.
- (3) The implementation schedule for the resource option or program.
- (4) The timetable for implementation and resource acquisition.
- (5) A detailed budget for the cost to be incurred for each resource or program.

*(Indiana Utility Regulatory Commission; 170 IAC 4-7-9; filed Aug 31, 1995, 9:00 a.m.: 19 IR 24; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

## **Rule 8. Guidelines for Demand-Side Cost Recovery by Electric Utilities**

### **170 IAC 4-8-1 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-8.5; IC 8-1.5

Sec. 1. (a) As used in this rule, “allowance for funds used during construction” or “AFUDC” means the cost of borrowed funds used for capital expenditures associated with a utility-sponsored DSM program, and a reasonable rate on other funds when so used. AFUDC for capital expenditures shall be recorded in separate subaccounts or their subdivisions in accordance with the FERC or NARUC uniform system of accounts.

(b) As used in this rule, “avoided cost” means the amount of fuel, operation, maintenance, purchased power, labor, capital, taxes, and other cost not incurred by a utility if an alternative supply or demand-side resource is included in the utility's integrated resource plan.

(c) As used in this rule, “commission” means the Indiana utility regulatory commission.

(d) As used in this rule, “conservation” means reducing the amount of energy consumed by a customer for a specific end-use. Conservation includes behavior changes such as thermostat setback. Conservation does not include changing the timing of energy use, switching to another fossil fuel source, or increasing off-peak usage.

(e) As used in this rule, “demand-side management” or “DSM” means the planning, implementation, and monitoring of a utility activity designed to influence customer use of electricity that produces a desired change in a utility's load shape, for example, a change in the time pattern and magnitude of a utility's load. DSM includes only an activity that involves deliberate intervention by a utility to alter load shape.

(f) As used in this rule, “demand-side measure” means a particular end-use device, technology, service, or rate design at a targeted customer's premises or a utility's energy delivery system for a specific DSM program.

(g) As used in this rule, “demand-side program” means a utility program designed to implement a demand-side measure.

(h) As used in this rule, “demand-side resource” means a resource that reduces the demand for electrical power or energy by applying a demand-side program to implement one (1) or more demand-side measures.

(i) As used in this rule, “end-use” means the light, heat, cooling, refrigeration, motor drive, microwave energy, video or audio signal, computer processing, electrolytic process, or other useful work produced by equipment using electricity.

(j) As used in this rule, “energy efficiency improvement” means reduced energy use for a comparable level of energy service.

(k) As used in this rule, “energy service” means the light, heat, motor drive, and other service for which a customer purchases electricity from the utility.

(l) As used in this rule, “engineering estimate” means an estimate of energy (kWh) and demand (kW) impact resulting from a demand-side measure based on an engineering calculation procedure. An engineering estimate addresses change in energy use of a building or system resulting from installation of a DSM measure. If multiple DSM measures are installed, an engineering estimate accounts for the interactive effect between the DSM measures.

(m) As used in this rule, the “FERC Uniform System of Accounts” means the rules and regulations governing the classification of accounts for Class A-B private electric utilities, as approved, prescribed, and promulgated by the Federal Energy

Regulatory Commission in 18 CFR 41 and 18 CFR 101 and adopted by the commission for Indiana electric utilities at 170 IAC 4-2-1.1.

(n) As used in this rule, “free-rider” means a customer who would have installed a demand-side measure without participating in a utility-sponsored DSM program, yet participates in the DSM program and receives an incentive or bonus for participation.

(o) As used in this rule, “income effect” means the change in a customer's energy use that is induced by a change in the amount of disposable income available to the customer.

(p) As used in this rule, “integrated resource planning”, or “plan” or “IRP” means a utility's assessment of a variety of demand-side and supply-side resources to cost-effectively meet customer electricity service needs. The IRP may also include, but is not limited to, the following:

(1) A public participation procedure.

(2) An analysis of the uncertainty and risk posed by different resources and external factors.

(q) As used in this rule, “load building” means a program intended to increase electricity consumption without regard to the timing of the increased usage.

(r) As used in this rule, “load research” means the collection of electricity usage data through a metering device associated with an end-use, a circuit, or a building. The metered data is used to better understand the characteristics of electric loads, the timing of their use, and the amount of electricity consumed by users. The data may be collected over a variety of time intervals, usually sixty (60) minutes or less.

(s) As used in this rule, “load retention” means a program intended to induce customers, that have a bona fide option of switching to alternative sources of energy services or self-generation, to remain as customers.

(t) As used in this rule, “load shape” means the time pattern of customer electricity use and the relationship of the level of energy use to a specific time during the day, month, and year.

(u) As used in this rule, “lost revenue” means the revenue lost less the variable operating and maintenance costs saved as a result of not generating electricity because of a utility-sponsored DSM program.

(v) As used in this rule, “NARUC Uniform System of Accounts” means the rules and regulations governing the classification of accounts for Class C-D private electric utilities and Class A-B-C-D municipal electric utilities, as developed by the National Association of Regulatory Utility Commissioners and adopted by the commission for Indiana electric utilities under 170 IAC 4-2-2.

(w) As used in this rule, “participant” means a utility customer participating in a utility-sponsored DSM program.

(x) As used in this rule, “participation level” means the actual number of customers participating in a specific demand-side program relative to the eligible number of customers available to participate in the demand-side program expressed as a percentage or a fraction.

(y) As used in this rule, “penetration” means the ratio of the number of a specific type of new units installed to the total number of new units installed during a given time.

(z) As used in this rule, “persistence” means the DSM measure's effectiveness over time. The effectiveness of a DSM measure is represented as the percentage of energy-saving effectiveness remaining in a particular year compared to the initial year of the measure's installation or implementation. The measure of effectiveness is a function of the following two (2) factors:

(1) Equipment degradation.

(2) Consumer behavior.

(aa) As used in this rule, “program cost” means all expenses incurred by a utility in a given year for operation of a DSM program whether the cost is capitalized or expensed. An expense includes, but is not limited to, the following:

(1) Administration.

(2) Equipment.

(3) Incentives paid to program participants.

(4) Marketing and advertising.

(5) Monitoring and evaluation.

(bb) As used in this rule, “public participation” means a procedure where a customer or interested party is provided the opportunity to comment on a utility's integrated resource plan prior to the submission of the IRP to the commission.

(cc) As used in this rule, “rebound effect” means a specific effect where a customer responds to a lower relative cost of electric service by purchasing more electricity in the same end-use where the demand-side program is concentrated.

(dd) As used in this rule, “resource” means a facility, project, contract, or other mechanism used by a utility to provide electric energy service to the customer.

(ee) As used in this rule, “self-generation” means an electric generation facility primarily for the customer's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation.

(ff) As used in this rule, “supply-side resource” means a resource that provides a supply of electrical energy or capacity, or both, to a utility. A supply-side resource includes the following:

- (1) A utility-owned generation capacity addition.
- (2) A wholesale power purchase from another utility or non-utility generator.
- (3) A refurbishment or upgrading of an existing utility-owned generating facility.
- (4) A cogeneration facility.
- (5) A renewable resource technology.

(gg) As used in this rule, “useful life” means the period of time the investment in a measure remains cost-effectively serviceable.

(hh) As used in this rule, “utility” means:

- (1) a public, municipally owned, or cooperatively owned utility; or
- (2) a joint agency created under IC 8-1-2.2.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-1; filed Aug 31, 1995, 10:00 a.m.: 19 IR 24; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-8-2 Applicability**

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-8.5; IC 8-1.5

Sec. 2. (a) To assist the commission in its administration of the Utility Powerplant Construction Law (IC 8-1-8.5), this rule applies to the following:

- (1) A public, municipally owned, or cooperatively owned utility.
- (2) A joint agency created under IC 8-1-2.2.

(b) Section 7 of this rule does not apply to a municipally owned or cooperatively owned utility or a joint agency created under IC 8-1-2.2. *(Indiana Utility Regulatory Commission; 170 IAC 4-8-2; filed Aug 31, 1995, 10:00 a.m.: 19 IR 26; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 4-8-3 Purpose**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 3. (a) In order to facilitate compliance with the Utility Powerplant Construction Act (IC 8-1-8.5) and to comply with the National Energy Policy Act of 1992 (16 U.S.C. 2621 and 16 U.S.C. 2622 effective October 24, 1992, P.L.102-486 Stat. 2795), the commission has developed a regulatory framework that allows a utility an incentive to meet long term resource needs with both supply-side and demand-side resource options in a least-cost manner and ensures that the financial incentive offered to a DSM program participant is fair and economically justified. The regulatory framework attempts to eliminate or offset regulatory or financial bias against DSM, or in favor of a supply-side resource, a utility might encounter in procuring least-cost resources. The commission, where appropriate, will review and evaluate the existence and extent of regulatory or financial bias.

(b) In order to comply with the National Energy Policy Act of 1992 (16 U.S.C. 2621 and 16 U.S.C. 2622 effective October 24, 1992, P.L.102-486 Stat. 2795), the commission will review and evaluate the impact the utility's proposed demand-side management program may have on small privately owned business, as specified in section 8 of this rule.

(c) To ensure a utility's proposal is consistent with acquiring the least-cost mix of demand-side and supply-side resources to reliably meet the long term electric service requirements of the utility's customers, the commission, where appropriate, will review and evaluate, as a package, the proposed DSM programs, DSM cost recovery, lost revenue, and shareholder DSM incentive mechanisms. *(Indiana Utility Regulatory Commission; 170 IAC 4-8-3; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-8-4 Demand-side management program evaluation**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 4. (a) When seeking commission approval for cost recovery, DSM incentives, or lost revenue, a utility shall develop a process and load impact evaluation plan to assess implementation and quantify the impact on energy and demand of the demand-side resource. The evaluation plan must include the following:

- (1) The type and timing of the measurement activity used to evaluate a demand-side resource.
- (2) The process where the result is used to modify the impact estimate for future planning and design of the demand-side program.
- (3) The procedure employed regarding the following aspects of the evaluation of each program:
  - (A) Establish a protocol to collect basic data on load impact, participation level, utility cost, participant cost, and total cost. Data must be gathered to determine the load shape impact, net program savings, useful life of the measure, and persistence of savings, including utility actions to optimize market penetration of the program and minimize free-riders.
  - (B) Compare demand patterns of similar participant and nonparticipant groups, through the use of customer bill analysis, engineering estimates, end-use meter data, or other methods to identify the gross and net impacts of program participation on customers' usage and demand patterns.
- (4) A method to measure rebound or the income effect for a program or a sector where the effect may be significant.

(b) A utility shall submit to the commission, annually, a document containing information, data, and results from the utility's process and load impact evaluation studies. (*Indiana Utility Regulatory Commission; 170 IAC 4-8-4; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-8-5 Cost recovery**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 5. (a) A utility is entitled to recover the reasonable cost of planning and implementing a demand-side management program, in one (1) or more of the following ways, or any combination of them, as determined by the commission:

- (1) The inclusion of the cost in the utility's base rates during a rate case using a balancing account, where appropriate, to reconcile the utility's recovered expenditures. The commission may, where appropriate, limit cost recovery to the utility's actual incurred expenses, if the utility is spending less than the costs authorized by the commission for inclusion in the utility's base rates.
- (2) The periodic recovery of the cost incurred in excess of the cost that is included in the utility's base rates.
- (3) The inclusion of the capital cost, with accumulated AFUDC, in the utility's rate base during its rate case, amortized over a period set by the commission.
- (4) The accumulation, with a carrying charge, of the non-capital cost incurred and not otherwise recovered through the utility's base rates or through periodic adjustments in a deferred account to be amortized over a period set by the commission.
- (5) A cost recovery mechanism proposed by the utility, other parties, or the commission.

(b) The commission shall determine the cost recovery mechanism for a demand-side management program when the demand-side management program is submitted for commission approval.

(c) The determination of a cost recovery mechanism for a demand-side management program under this section shall not constitute approval of a specific dollar amount, and the reasonableness or prudence of a revenue requirement for cost recovery may be debated in a future proceeding before the commission.

(d) A utility proposing a load building or load retention program must quantify and document by program specific analysis, the net benefit to the utility's customers, and justify nonparticipant ratepayer funding for the program.

(e) Cost recovery of a demand-side management program under this section shall continue as determined by the commission provided that the utility maintains satisfactory implementation and completion of DSM program measurement and evaluation activities as specified in section 4 of this rule.

(f) In order to ensure that DSM program benefits and costs are allocated between utility shareholders, participants, and nonparticipants in a fair and economical way, the utility must show the commission when a DSM program is reviewed that an

incentive paid by the utility to the customer for participating in a DSM program when combined with the reduction in the participant's utility bills:

(1) reflects the net benefit of the DSM program to the utility and all customers; and

(2) minimize cross-subsidies between customer groups and between participants and nonparticipants within a customer group.

*(Indiana Utility Regulatory Commission; 170 IAC 4-8-5; filed Aug 31, 1995, 10:00 a.m.: 19 IR 27; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-8-6 Lost revenue**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 6. (a) The commission may allow the utility to recover the utility's lost revenue from the implementation of a demand-side management program sponsored or instituted by the utility. The calculation of lost revenue must account for the following:

(1) The impact of free-riders.

(2) The change in the number of DSM program participants between base rate changes and on the revised estimate of a program specific load impact that result from the utility's measurement and evaluation activities under sections 4 and 5(e) of this rule.

(b) A utility seeking recovery of lost revenue shall propose for commission review a methodology or process for incorporating a lost revenue recovery mechanism which includes the following:

(1) The level of free-riders in a DSM program.

(2) A revised estimate of a DSM program specific load impact resulting from regular utility measurement and evaluation activities.

(c) The commission may periodically review the need for continued recovery of the lost revenue as a result of a utility's DSM program, and the approval of a lost revenue recovery mechanism shall not constitute approval of specific dollar amount, the prudence or reasonableness of which may be debated in a future proceeding before the commission. *(Indiana Utility Regulatory Commission; 170 IAC 4-8-6; filed Aug 31, 1995, 10:00 a.m.: 19 IR 28; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 4-8-7 Demand-side management incentives**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 7. (a) A utility is allowed an opportunity for earnings from prudent investments in both supply-side and demand-side resources. When appropriate, the commission may provide the utility with a shareholder incentive to encourage participation in and promotion of a demand-side management program. A utility may propose a shareholder incentive based on particular attributes of a DSM program and the program's desired results. A shareholder incentive may include, but is not limited to, the following:

(1) Grant a utility a percentage share of the net benefit attributable to a demand-side management program.

(2) Allow a utility to earn a greater than normal return on equity for a rate based demand-side management expenditure.

(3) Adjust a utility's overall return on equity in response to quantitative or qualitative evaluation of demand-side management program performance.

(b) The commission may terminate, when appropriate, a shareholder incentive.

(c) A shareholder incentive shall not provide an incentive payment for a program unless the net kilowatt or kilowatt-hour impact, or both, can be reasonably determined.

(d) Load building and load retention programs are not eligible for shareholder incentives.

(e) A utility must include a comprehensive measurement and evaluation plan with a shareholder incentive request as described in section 4 of this rule.

(f) A shareholder incentive mechanism must reflect the value to the utility's customers of the supply-side resource cost avoided or deferred by the utility's DSM program minus incurred utility DSM program cost.

(g) In order to reflect only the conservation and load management impact of a utility-sponsored DSM program, the shareholder incentive mechanism must exclude the effect of free-riders from the incentive calculation.

(h) A shareholder incentive applicable to a DSM program may be based on prespecified demand and energy savings until the



information on demand and energy savings from utility measurement and evaluation activities becomes available.

(i) Commission approval of a mechanism for the recovery of a shareholder incentive based on a utility-sponsored DSM program is not approval for a specific dollar amount. The reasonableness or prudence of a revenue requirement for recovery of a shareholder incentive may be debated in a future proceeding before the commission. (*Indiana Utility Regulatory Commission; 170 IAC 4-8-7; filed Aug 31, 1995, 10:00 a.m.: 19 IR 28; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 4-8-8 Impact of demand-side management on small business**

Authority: IC 8-1-1-3

Affected: IC 8-1-8.5; IC 8-1.5

Sec. 8. Contemporaneously with the commission's approval of a utility's DSM program, the commission shall, under 16 U.S.C. 2621(c)(3)(A) and 16 U.S.C. 2621(c)(3)(B) effective October 23, 1992, do the following:

(1) Consider the impact that implementation of the proposed DSM program would have on small business engaged in design, sale, supply, installation, or servicing of energy conservation, energy efficiency improvements, or other demand-side management measures.

(2) If necessary, implement a revision to the proposed DSM program to assure that utility actions would not provide the utility with an unfair competitive advantage over small business.

(*Indiana Utility Regulatory Commission; 170 IAC 4-8-8; filed Aug 31, 1995, 10:00 a.m.: 19 IR 29; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**ARTICLE 5. GAS UTILITIES**

**Rule 1. Standards of Service**

**170 IAC 5-1-1 Definitions**

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

Affected: IC 8-1-2-1

Sec. 1. (a) Where applicable, the definitions set forth in IC 8-1-2-1 apply throughout this rule.

(b) As used in this rule, "customer" means any person, firm, corporation, municipality, or other government agency which has agreed, orally or otherwise, to pay for gas service received from a public utility. However, for the purposes of sections 13(d) and 15 through 17 of this rule, "customer" shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(c) As used in this rule, "disconnection" means the termination or discontinuance of gas service.

(d) As used in this rule, "late payment charge" means the one (1) time penalty assessed by a public utility upon all current bills at such time as they become delinquent.

(e) As used in this rule, "cubic foot of gas" means, for testing purposes, the amount of gas in a volume of one (1) cubic foot when saturated with water vapor, at sixty degrees Fahrenheit (60° F) and at an absolute pressure of thirty (30) inches of mercury at a temperature of thirty-two degrees Fahrenheit (32° F).

(f) As used in this rule, "commission" means the Indiana utility regulatory commission.

(g) As used in this rule, "check rate" means thirty-five percent (35%) of a meter's rated capacity.

(h) As used in this rule, "open rate" means eighty percent (80%) of a meter's rated capacity. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 1; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 391; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2161; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-2 Applicability of rules**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-1; IC 8-1-2-33; IC 8-1-2-87

Sec. 2. Application of Rules. These rules shall apply to any gas public utility subject to the jurisdiction of the commission

pursuant to the provisions of the Public Service Commission Act [IC 8-1-2], or any other statute of the State of Indiana, which now or hereafter may be engaged in the sale or distribution of gas service (herein called "public utility" or "utility"). (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 2; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-3 Retention of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-14; IC 8-1-2-15

Sec. 3. Records to be Kept. All records required by these rules shall be preserved for at least three years except as otherwise provided herein or by IC 8-1-2-4 (Burns 54-315). Such records shall be kept within the State at the principal place of business of the public utility, or at such other places as the utility shall designate after notification to the commission, and shall be open for examination by the commission or its representatives. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 3; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-4 Meter records and reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 4. Record of Meters and Meter Tests. (A) Meter Test Record. Whenever any meter in service is tested, a record shall be preserved containing the information necessary for identifying the meter, the reason for making the test, the reading of the meter before the test and the result of the test, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of the methods employed.

(B) Meter Record. Permanent records shall also be kept, systematically arranged, giving for each meter owned or used by any public utility, the year of purchase, its identification and the record of the last test to which it has been subjected, with date and general results of the test.

These records to apply to all meters purchased after the effective date of these rules [170 IAC 5-1] and to all other meters insofar as the information is available.

(C) Tabulation of Meter Tests. If required by the commission, annual tabulations of the results of all meter tests shall be made, arranged according to average accuracy or as the commission may request. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 4; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-5 Location of meters and regulators**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 5. Location of Meters and Regulators. Meter and regulator locations shall be provided by the customer for the building or premises to be served. Location, space requirements, dimensions and type of installation shall be acceptable to the gas utility.

Piping at multiple meter installations shall be plainly marked by a metal tag or other permanent means, designating the part of the building being supplied. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 5; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-6 Customer meters; general requirements**

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

Affected: IC 8-1-2

Sec. 6. (a) Whenever a meter is tested to determine the accuracy with which it has been registering in service, it may be considered correct if found not more than an average of two percent (2%), plus or minus, in error when tested at its check and open

rates.

(b) For purpose of measurement to a customer, a cubic foot of gas is the amount of gas in a volume of one (1) cubic foot under the conditions existing in that customer's meter as and where installed, except:

- (1) corrections may be made for temperature, pressure, and other nonstandard gas conditions as provided in the customer's contract; or
- (2) the utility may, at its option, install gas meters which will compensate for changes in temperature above or below sixty degrees Fahrenheit (60° F).

(c) Each service meter of the displacement type must indicate clearly the cubic feet or other units of volume for which charge is made to the customer. Where gas is metered under high pressure or where the quantity is determined by calculation from recording devices, the utility shall, on request, supply the customer with the information to make clear the method by which the quantity is determined. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 6; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 392; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2161; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-7 Meter testing equipment and facilities; availability for inspection or use**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 7. Meter Testing Equipment and Facilities. Each public utility furnishing gas service shall maintain the equipment and facilities necessary for accurately testing all types and sizes of meters employed for the measurement of gas delivered to its customers, unless arrangements shall have been made to have such testing done elsewhere. Testing equipment shall be maintained in good condition and correct adjustment so that it shall be capable of determining the accuracy of any service meter to within one-half of one per cent.

The accuracy of all provers and methods of operating same may be verified from time to time by a representative of the Commission. The equipment so provided shall be available for inspection or use by any authorized Commission representative. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 7; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 393; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-8 Meter accuracy; error rates**

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

Affected: IC 8-1-2

Sec. 8. Every gas service meter, whether new, repaired, or removed from service for any cause, when installed for the use of any customer, must be in good order and must have been adjusted to be as near zero (0) error as practicable, but not more than one and one-half percent (1 1/2%), plus or minus, in error when gas is flowing, at its check rate. Every meter shall also be adjusted so that the accuracy at open rate or full flow shall be within one percent (1%), plus or minus, of the accuracy at its check flow. The error of the meter shall be the average error of the check and open rates. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 8; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 393; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2161; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-9 Periodic testing of meters**

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

Affected: IC 8-1-2

Sec. 9. A public utility may not allow a gas meter to remain in service for longer than sixteen (16) years without either:

- (1) checking it for accuracy and readjusting it if found to be incorrect beyond the limits established under section 8 of this rule; or
- (2) verifying by statistical quality control sampling as established in the approved statistical quality control program in the fifteenth year in service, and in each succeeding year the meter is allowed to remain in service that the meter in the population sampled does not exceed an average accuracy figure of one hundred two percent (102%) or two percent (2%) above absolute

accuracy of one hundred percent (100%) when tested at the meter's check and open rates with an acceptable quality level (AQL) equal to ten (10.0).

*(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 9; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 393; filed Jun 11, 1984, 1:00 p.m.: 7 IR 1707; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2162; errata filed Jul 17, 1992, 5:00 p.m.: 15 IR 2596; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-9.1 Approved statistical quality control program**

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

Affected: IC 8-1-2

Sec. 9.1. (a) A utility, at its option, may elect to use either of the following statistical quality control programs hereby incorporated by reference into the rules of the Indiana utility regulatory commission. Copies are available from the U.S. Government Printing Office Bookstores, 219 South Dearborn Street, Room 1365, Chicago, Illinois 60604.

(1) United States Military Standard #105-D, "Sampling Procedures and Tables for Inspection by Attributes", April 29, 1963.

(2) United States Military Standard #414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective", June 11, 1957.

(b) When using the method in subsection (a)(1), sample size code letters shall be taken from Table I, General Inspection Level II, or a tighter level at the utility's option. Sample size and acceptance-rejection numbers shall then be determined from Table II A, single sampling plan for normal inspection, using acceptable quality level (AQL) ten (10.0).

(c) When using the method in subsection (a)(2), sample size code letters shall be taken from Table A-2, General Inspection Level IV, or a tighter level at the utility's option. Sample size and maximum allowable percent defective (M) shall then be determined from Table B-3, master table for normal and tightened inspection for plans based on variability unknown, using an AQL ten (10.0).

(d) Meters for quality control sampling shall be separated into homogenous groups by year set, and may be further separated by manufacturer, capacity rating (or model), case type, diaphragm material, or other distinguishing characteristics. Where one (1) or more groups established are believed to be too small for practical quality control sampling, they may, at the utility's option, be combined with another group of similar operating characteristics to establish a larger sampling base. Combined groups shall have sample size and acceptance-rejection numbers based on the combined total of meters.

(e) All meter groups, or combined meter groups, shall be subject to acceptance or rejection on the basis of the statistical results unless it becomes obvious that the rejected meters are predominantly from one (1) identifiable subgroup which may be shown by test data to have been affected by location, age, or other common factors. If this result should occur, the identifiable subgroup may be separated and the remaining meters treated as a new combined group with appropriate sample size and acceptance-rejection numbers.

(f) Rejected groups, or subgroups, shall be scheduled for removal from service during the next calendar year and shall be adjusted to meet the limits established under section 8 of this rule before being returned to service. *(Indiana Utility Regulatory Commission; 170 IAC 5-1-9.1; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2163; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-9.2 Statistical quality control program; meters in service**

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

Affected: IC 8-1-2

Sec. 9.2. (a) The statistical quality control program may apply to all temperature compensated and noncompensated standard type diaphragm displacement gas meters in service. One (1) of the following must be used as a reference in implementing the statistical quality control program:

(1) United States Military Standard #105-D, "Sampling Procedures and Tables for Inspection by Attributes", April 29, 1963.

(2) United States Military Standard #414, "Sampling Procedures and Tables for Inspection by Variables for Percent Defective", June 11, 1957.

(b) All meters in service shall be separated into homogenous groups by year set and may be further separated by manufacturer, capacity rating (or model), case type, diaphragm material, or other distinguishing characteristics. Where one (1) or more groups established are believed to be too small for practical quality control sampling, they may be combined with other groups of similar characteristics to establish a larger sampling base.

(c) The sample for each group, so far as possible, shall be taken from routine meter exchanges and removals for each year, except that those meters removed or exchanged because of known or suspected defects and for special tests may be excluded from the quality control sample. If the number of routinely changed or removed meters exceeds the sample required, the test sample will be randomly selected from these meters in accordance with widely accepted tables of random numbers. If an inadequate number of meters are routinely exchanged or removed, the balance of meters required for sampling will be obtained from meters in service by removal on a randomly selected basis in accordance with widely accepted tables of random numbers.

(d) During the first through fourteenth year in service, a meter group may be sampled to forecast service life and exchange requirements or to predict work loads. If this sampling is done, service life shall not be required to be curtailed because of results obtained in these premature sampling tests. In the fifteenth and subsequent service years, meter groups shall be sample tested annually, being allowed to continue in service until an annual sample reaches its rejection number or maximum allowable percent defective number of deviant meters.

(e) A meter group in its fifteenth or later year in service shall be removed from service during the calendar year following that in which the group sample test indicates a rejected lot. Removed meters shall be adjusted to meet the limits established under section 8 of this rule before being returned to service.

(f) If it becomes obvious that the rejected meters are predominantly from an identifiable subgroup, which may be shown by test data to have been affected by location, age, or other common factors, the suspect subgroup may be separated. The remaining members of the original group may be evaluated separately with the newly established group then becoming subject to the action indicated by its acceptance-rejection numbers.

(g) Any meter tested which exceeds an average accuracy figure of one hundred two percent (102%) or two percent (2%) above absolute accuracy of one hundred percent (100%) when tested at check and open rates shall be classed as rejected. The entire meter group from which the sample was taken shall be classed as rejected when the number of sample meters rejected equals or exceeds the appropriate reject number for that sample quantity or when the percentage of defective meters, from Table B-5 of the United States Military Standard #414, exceeds the maximum allowable percent defective for that sample quantity.

(h) The sample size code shall be determined from Table I, General Inspection Level II of the United States Military Standard #105-D, or a tighter level at the utility's option. The sample quantity and rejection number are then determined from Table II A of the United States Military Standard #105-D for the code letter determined and acceptable quality level (AQL) ten (10.0).

(i) The sample size code shall be determined from Table A-2, General Inspection Level IV of the United States Military Standard #414, or a tighter level at the utility's option. Sample quantity and the maximum allowable percent defective are then determined from Table B-3 of the United States Military Standard #414 for the code determined and acceptable quality level (AQL) ten (10.0). The population percent defective is then determined from Table B-5 of the United States Military Standard #414 and compared to the maximum allowable percent defective to determine acceptance or rejection.

(j) A public utility that elects to follow the sixteen (16) year periodic testing requirement, under section 9 of this rule, shall, by not later than March 1 of the succeeding year, file with the commission engineering division a report of sufficient detail to verify compliance with the periodic testing requirement for a given year.

(k) A public utility that verifies the accuracy of meters by an approved statistical quality control program under section 9 of this rule, shall, by not later than March 1 of each year, file with the commission engineering division a report of the results of sample tests for the preceding calendar year. This report shall be in such detail as to verify that the statistical quality control sampling tests were performed as set out in subsections (b) through (e).

(l) All flow and differential meters shall be checked for accuracy and, if found incorrect, be adjusted as near zero (0) error as practicable, at periods not to exceed three (3) months, in a manner satisfactory to the commission. (*Indiana Utility Regulatory Commission; 170 IAC 5-1-9.2; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2164; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 5-1-10 Pressure and temperature recorders tests**

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

Affected: IC 8-1-2

Sec. 10. All pressure, temperature, and other instruments used in correcting gas volumes to base or standard conditions (other than temperature-compensated meters) shall be checked for accuracy at intervals not exceeding one (1) year and if found to be out of limits shall be adjusted to as near zero (0) error as practicable. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 10; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 398; filed Jun 8, 1992, 5:00*

*p.m.: 15 IR 2165; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-1-11 Customer request for meter test; application to utility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 11. Meter Tests Upon Written Request by Customer to Public Utility. Each public utility supplying gas service shall make a test of the accuracy of registration of a meter upon written request by a customer. A second test of the customer's meter may be requested after twelve (12) months. The customer may be required to bear the full cost of any subsequent tests of customer's meter if requested at less than thirty-six (36) months after preceding test, if error of the meter is found to be in compliance with Rule 6 (A) [170 IAC 5-1-6(A)]. A written report giving the results of such tests shall be made to the customer and a complete record of the same shall be kept on file in the office of the public utility. Any appeal, in regard to the results of the customer's meter test, shall be filed with the commission under Rule 12 [170 IAC 5-1-12] within five (5) days of date of report. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 11; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 398; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-12 Customer request for meter test; application to commission**

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

Affected: IC 8-1-2-35

Sec. 12. (a) A test will be made of a customer's meter by the public utility under the supervision of an employee of the commission upon formal notice to the utility and application to the commission. At the time the customer requests a meter test, the commission shall promptly notify the public utility of any such request. No fee shall be payable by the customer for such test.

(b) This section shall not interfere with the practice of a public utility in its test of gas service meters except that, in the event of a written application to the commission by a customer for a test, the utility shall not knowingly remove or interfere with said meter without the prior written approval of the customer. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 12; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 398; errata, 11 IR 4109; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2165; filed Jan 15, 1997, 2:00 p.m.: 20 IR 1346; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-13 Bills**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-38; IC 8-1-2-42; IC 8-1-2-87

Sec. 13. Bills for Gas Service. (A) Bills rendered periodically to customers for gas service shall show at least the following information:

- (1) The dates and meter readings of the meter at the beginning and end of the period for which the bill is rendered and the billing date, and
- (2) The number and kind of units of service supplied,
- (3) The billing rate code,
- (4) The previous balance, if any,
- (5) The amount of the bill,
- (6) The sum of the amount of the bill and the late payment charge,
- (7) The date on which the bill becomes delinquent and on which the late payment charge will be added to the bill,
- (8) If the bill is estimated, a clear and conspicuous coding or other indication identifying the bill as an estimated bill must be shown,
- (9) Printed statements and/or actual figures on either side of the bill shall inform the customer of the seventeen (17) day non-penalty period,
- (10) An explanation, which can be readily understood, of all codes and/or symbols shall be shown on the bill.

(B) Delinquencies. (1) A utility service bill which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill shall be a delinquent bill.

(2) A utility service bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, it shall become a delinquent bill and a late payment charge may be added in the amount of ten (10) percent of the first three (3) dollars and three (3) percent of the excess of three (3) dollars.

(C) Estimated Bills. (1) A gas public utility may estimate the bill of any customer only for good cause. Good cause includes, but is not limited to: requests of customer; inclement weather; labor or union disputes; inaccessibility of a customer's meter, if the utility has made a reasonable attempt to read it; and other circumstances beyond the control of the utility, its agents, and employees.

(D) Alternative Billing Method and Dates ("Budget Plan").

(1) Each utility shall have and shall advise each applicant and customer of a policy and practice which allows applicant or customer to contract for a plan whereby the company averages the estimated bill over an extended period and balances the account at the end of that period.

*(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 13; filed Oct 14, 1976, 10:20 am; Rules and Regs. 1977, p. 399; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-14 Billing adjustments**

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

Affected: IC 8-1-2

Sec. 14. (a) If any service meter is found to have a percentage of error greater than that allowed under section 6(a) of this rule, the following provisions for the adjustment of bills shall be observed:

(1) When a meter is found to be fast, in excess of two percent (2%) when tested at check and open rates (positive average error), the utility shall refund the customer's account with the amount of any charges in excess of either of the following:

(A) An average bill for the units of gas incorrectly metered.

(B) Separate bills individually adjusted for the percent of error for a period equal to one-half (1/2) of the time elapsed since the previous test, or one (1) year, whichever period is shorter.

An average bill shall be calculated on the basis of units registered on the meter over corresponding periods either prior to or subsequent to the period for which the meter is determined to be fast. No part of a minimum service charge shall be refunded.

(2) When a meter is stopped or is slow, in excess of two percent (2%) when tested at check and open rates (negative average error), the utility may charge the customer for the units of gas incorrectly metered for one-half (1/2) of the time elapsed since the previous test, or one (1) year, whichever period is shorter. The amount of the charge to the customer shall be estimated on the basis of either of the following:

(A) An average bill.

(B) Separate bills individually adjusted for percent of error.

An average bill shall be calculated on the basis of units registered on the meter over corresponding periods either prior to or subsequent to the period for which the meter is determined to be slow or stopped. Such action may be taken only in cases where the utility is not at fault for allowing the stopped or slow meter to remain in service.

(b) All other billing errors, including incorrect tariff applications, may be adjusted to the known date of error or for a period of one (1) year, whichever period is shorter. *(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 14; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 400; filed Jun 8, 1992, 5:00 p.m.: 15 IR 2166; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-15 Creditworthiness of customer; deposit; refund**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-87; IC 32-9-1.5-20

Sec. 15. (a) Each utility shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

(1) without regard to the economic character of the area wherein the applicant or customer resides; and

(2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.

(b) Each new applicant for residential gas service shall be deemed creditworthy and shall not be required to make a cash

deposit as a condition of receiving service if the applicant satisfies the following criteria:

- (1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:
  - (A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;
  - (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and
  - (C) within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.
- (2) If the applicant has not been a customer of a utility during the previous two (2) years, any two (2) of the following criteria are met:
  - (A) The applicant either:
    - (i) has been employed by his or her present employer for two (2) years;
    - (ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
    - (iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:
      - (AA) graduating from a school, university, or vocational program; or
      - (BB) being discharged from military service.
  - (B) The applicant either:
    - (i) owns or is buying his or her home; or
    - (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.
  - (C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable cash deposit. Such deposit shall not exceed one-third ( $\frac{1}{3}$ ) of the estimated annual cost of service to be rendered to the applicant unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments. If a deposit is greater than seventy dollars (\$70), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay such deposit in equal installment payments over a period of no less than eight (8) weeks; service shall be connected upon receipt by the utility of the first such payment.

(d) If the utility requires a cash deposit as a condition of providing service, then it must immediately notify the applicant in writing stating the precise facts upon which the utility based its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating his or her creditworthiness.

(e) A utility may require a present customer to make a reasonable cash deposit when:

- (1) the customer has been mailed disconnect notices for two (2) consecutive months;
  - (2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period;
- or

(3) the service to the customer has been disconnected within the past four (4) years pursuant to section 16 of this rule.

The amount of such deposit may not exceed an amount equal to one-third ( $\frac{1}{3}$ ) of the expected annual billings for the customer at the address at which service is rendered unless the customer has contracted for the budget plan, in which case the amount of the deposit shall be no more than the equivalent of two (2) monthly budget payments. In the event the required deposit is in excess of seventy dollars (\$70), the utility shall advise the customer that he or she may pay such deposit in equal installment payments over a period of up to eight (8) weeks, except where such deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection.

(f) Requirements for interest upon deposits shall be as follows:

- (1) Deposits held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing.
- (2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed.



(g) Requirements for refunds shall be as follows:

(1) Any deposit or accrued interest shall be promptly refunded to the customer without the customer's request when the customer:

(A) submits satisfactory payment for a period of either:

(i) twelve (12) successive months; or

(ii) twelve (12) out of any fifteen (15) consecutive months without late payment in two (2) consecutive months;  
or

(B) demonstrates his or her creditworthiness as provided by subsection (b).

(2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.

(3) Following customer-requested termination of service, the utility shall:

(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) days after payment of the final bill.

(4) Each utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current address of the customer so long as he or she maintains an active account with the utility in his or her name.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting such deposit.

(5) Each customer shall be provided a written receipt from the utility at the time his or her deposit is paid in full or when he or she makes a cash partial payment. The public utility shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant, customer, or any other person to the utility (less any lawful deductions), or any sum the utility is ordered to refund for utility service, that has remained unclaimed for one (1) year after the utility has made diligent efforts to locate the person who made such deposit or the heirs of such person, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).

(7) A deposit may be used by the utility to cover any unpaid balance following disconnection of service under section 16 of this rule; provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

*(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 15; filed Oct 14, 1976, 10:20 a.m.: Rules and Regs. 1977, p. 401; filed Oct 28, 1998, 3:22 p.m.: 22 IR 730; errata filed Nov 22, 1999, 3:31 p.m.: 23 IR 812; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-16 Disconnection of service; prohibited disconnections; reconnection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87; IC 8-1-2-122

Sec. 16. (a) The customer shall notify the utility at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billings therefor until service is disconnected pursuant to such notice.

Upon request by a customer of a utility to disconnect service, the utility shall disconnect the service within three (3) working days of the requested disconnection date. The customer shall not be liable for any service rendered to such address or location after the expiration of three (3) such days.

(b) A utility may disconnect service without request by the customer of the service and without prior notice only:

(1) if a condition dangerous or hazardous to life, physical safety or property exists; or

(2) upon order by any court, the commission or other duly authorized public authority; or

(3) if fraudulent or unauthorized use of gas is detected and the utility has reasonable grounds to believe the affected customer is responsible for such use; or

(4) if the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

In all other instances a utility, upon providing the customer with proper notice (as defined in subsection (e) of this section), may disconnect service subject to the other provisions of 170 IAC 5-1.

(c) Except as otherwise provided in subsections (a) and (b) of this section, a utility shall postpone the disconnection of service for ten (10) days if, prior to the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official which states that disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one additional ten (10) day period upon the provision of an additional such medical statement.

A utility may not disconnect service to the customer:

- (1) upon his failure to pay for merchandise or appliances purchased from the utility furnishing the gas;
- (2) upon his failure to pay for the service rendered at a different metering point, residence, or location if such bill has remained unpaid for less than forty-five (45) days;
- (3) upon his failure to pay for services to a previous occupant of premises to be served, unless the utility has good reason to believe the customer is attempting to defraud the utility by using another name;
- (4) upon his failure to pay for a different form or class of utility service; or
- (5) if the customer shows cause for his inability to pay the full amount due (financial hardship shall constitute cause), and said customer:

- (A) pays a reasonable portion (not to exceed \$10 or one tenth (1/10) of the bill, whichever is less, unless the customer agrees to a greater portion) of the bill; and
- (B) agrees to pay the remainder of the outstanding bill within three (3) months; and
- (C) agrees to pay all undisputed future bills for service as they become due; and
- (D) has not breached any similar agreement with the utility made pursuant to this section within the past twelve months.

Provided, however, that the utility may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to 170 IAC 5-1-13(b). Provided further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and by a representative of the utility. Only one late payment charge may be charged to the customer under this section.

(6) If a customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two months, stopped or slow meters, or any human or mechanical error of the utility, and the customer:

- (A) pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve (12) bills immediately preceding the bill in question; and
- (B) agrees to pay the remainder at a reasonable rate; and
- (C) agrees to pay all undisputed future bills for service as they become due;

Provided, however, that the utility may not add to the outstanding bill any late fee. Provided, further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and a representative of the utility.

If a customer proceeds with a review pursuant to 170 IAC 5-1-17(b), the utility may disconnect only as provided in 170 IAC 5-1-17(c).

(d) No utility may disconnect service unless it is done between the hours of 8:00 AM and 3:00 PM, prevailing local time. Disconnection pursuant to subsections (a) and (b) of this section are not subject to this limitation.

A utility may not disconnect service for non-payment on any day on which the utility office is closed to the public, or after twelve noon (12:00 noon) of the day immediately preceding any day on which the utility office is not open to the public.

(e) Except as otherwise provided herein, gas service to any residential customer shall not be disconnected for a violation of any rule or regulation of a utility or for the non-payment of a bill, except after fourteen (14) days prior written notice to such customer by either:

- (1) mailing the notice to such residential customer at the address shown on the records of the public utility; or,
- (2) personal delivery of the notice to the residential customer or a responsible member of his household at the address shown on the records of the utility;
- (3) no disconnect notice for non-payment may be rendered prior to the date on which the account becomes delinquent.

The notice must be in language which is clear, concise, and easily understandable to a layman and shall state in separately numbered large types or printed paragraphs:

- (1) the date of proposed disconnection;

- (2) the specific actual basis and reason for the proposed disconnection;
- (3) the telephone number of the utility office at which the customer may call during regular business hours in order to question the proposed disconnection or seek information concerning his rights;
- (4) a reference to the pamphlet furnished to the customer pursuant to 170 IAC 5-1-18 for information as to the customer's rights.

(f) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform such function shall make a reasonable attempt to identify himself to the customer or any other responsible person then upon the premises and shall announce the purpose of his presence and shall make a record thereof to be maintained for at least thirty (30) days.

The employee shall have in his possession information sufficient to enable him to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review under 170 IAC 5-1-17(b). Upon the presentation of such credible evidence, service shall not be disconnected.

The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the service from being disconnected. The utility shall notify its customers pursuant to 170 IAC 5-1-18 of its policy with regard to the acceptance or non-acceptance of payment by such employee, and shall uniformly follow such policy without discrimination.

When the employee has disconnected the service, the employee shall give to a responsible person at the user's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the user may arrange to have service reconnected.

(g) A utility may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the utility's filed tariffs. A utility shall inform its customers of such reconnection fee pursuant to 170 IAC 5-1-18.

If the utility disconnects service in violation of 170 IAC 5-1, the service shall immediately be restored at no charge to the customer.

The utility must reconnect the service to the customer as soon as reasonably possible but at least within one (1) working day after it is requested to do so if the customer has satisfied the requirements of 170 IAC 5-1. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 16; filed Oct 14, 1976, 10:20 am; Rules and Regs. 1977, p. 403; filed Oct 13, 1983, 4:02 pm; 7 IR 40; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 5-1-16.5 Home energy assistance; involuntary termination of service; definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87; IC 8-1-2-122

Sec. 16.5. (a) "Commission" means the public service commission of Indiana.

(b) "Customer" means for the purposes of this rule [170 IAC 5-1] a person who has agreed to pay for gas services exclusively for residential purposes.

(c) "Disconnect" means the termination or discontinuance of gas services. (*Indiana Utility Regulatory Commission; 170 IAC 5-1-16.5; filed Oct 13, 1983, 4:02 pm; 7 IR 42; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 5-1-16.6 Home energy assistance; disconnection of service to recipients; notice period**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-113; IC 8-1-2-121

Sec. 16.6. (a) Without customer request, a utility may not during the period from December 1 through March 15, disconnect gas residential service to any customer who either is receiving or who is eligible for and has applied for assistance under IC 4-27-5 [IC 4-27-5 was repealed by P.L.30-1987, SECTION 22, effective June 30, 1987.].

(b) During the period from December 1 through March 15, a utility may not disconnect service to such customers if:

(1) The customers' eligibility to receive benefits pursuant to IC 4-27-5 [IC 4-27-5 was repealed by P.L.30-1987, SECTION 22, effective June 30, 1987.] is being determined by the department of aging and community services or its designee after the submission of a complete application for benefits by the customer.

(2) The customer has furnished to the utility proof of his application to receive such benefits or the utility has been so notified in writing by the department of aging and community services or its authorized representatives.

(c) This rule [170 IAC 5-1] does not prohibit a utility from terminating residential gas service upon the request of a customer or under the following circumstances:

- (1) If a condition dangerous or hazardous to life, physical safety, or property exists.
- (2) Upon order by any court, the commission, or other duly authorized public authority.
- (3) If fraudulent or unauthorized use of gas is detected, and the utility has reasonable grounds to believe the affected customer is responsible for such use.
- (4) If the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

*(Indiana Utility Regulatory Commission; 170 IAC 5-1-16.6; filed Oct 13, 1983, 4:02 pm; 7 IR 42; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-1-17 Customer complaints**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-55; IC 8-1-2-58; IC 8-1-2-59

Sec. 17. Complaints and Review. (A) Complaint Procedure. (1) A customer may complain at any time to a utility about any bill which is not delinquent at that time, security deposit, disconnection notice, or any other matter relating to its service and may request a conference thereon. Such complaints may be made in person, in writing, or by completing a form available from either the Commission or from the utility at its business offices. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the customer shall state at a minimum, his name, service address, and the general nature of his complaint.

(2) Upon receiving each such complaint or request for conference, the utility:

- (a) shall promptly, thoroughly and completely investigate such complaint, confer with the customer when requested and notify, in writing, the customer of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.
- (b) such written notification shall advise the customer that he may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the Commission.

(B) Review. (1) If the customer is dissatisfied with the utility's proposed disposition of the complaint as provided in Rule 16.1(A) (2) [subsection (A)(2) of this section], he may request the Commission in writing within seven (7) days following the date in which such notification is mailed, to informally review the disputed issue and the utility's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the utility involved. Upon receiving such request, the Commission shall provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the utility within thirty (30) days after its receipt of the customer's request. Upon request by either party or the Commission, the parties shall be required to meet and confer to the extent and at such place as the Commission may consider to be appropriate.

(2) The records of the Commission relating to such reviews shall be kept in a systematic order.

(C) Continuation of Service Pending Disposition of Complaint. (1) If the customer is receiving service at the time the complaint and/or request for conference provided for in Rule 16.1(A) (1) [subsection (A)(1) of this section] above is received by the utility, his service shall not be disconnected until ten (10) days have elapsed from the date of mailing of the notification of the utility's proposed disposition of his complaint. Provided, however, that if a review by the Commission of the utility's proposed disposition of the complaint is requested by the customer as provided by Rule 16.1(B) (1) [subsection (B)(1) of this section] within seven (7) days after the mailing of such proposed disposition of the complaint, the utility shall not disconnect the customer's service until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the customer who has requested such review has paid and continues to pay all undisputed bills, portions of disputed bills as specified in Rule 16.1(C) (2) [subsection (C)(2) of this section] below, and pays all future undisputed bills prior to their becoming delinquent.

(2) In those instances when the customer and utility cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the twelve (12) months immediately preceding the disputed bill except in those cases where the customer has received fewer than twelve (12) bills, in which event the customer shall pay an amount equal to 1/12 of the estimated annual cost of service to be rendered to the customer.

(D) Record of Complaints. (1) Each utility shall keep a written record of complaints and requests for conferences pursuant to Rule 16.1 [this section]. Such records shall be retained at the office or branch office of the utility or in the respective department office thereof where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization, or the Commission.

(2) Each utility shall annually submit a report to the Commission which shall state and classify the number of complaints made to the utility pursuant to Rule 16.1 [this section], the general nature of the subject matter thereof, how received (in person, by letter, etc.) and whether a Commission review was conducted thereon.

*(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 16.1; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 407; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-1-18 Informational pamphlets; rate schedules; notice of proposed rate change**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-42; IC 8-1-2-43

Sec. 18. Information Provided by Utilities to Applicants and Customers. (A) Each utility must publish and distribute, without request, to all applicants for service and to all current customers, a comprehensive pamphlet which, in clear language, easily understandable to a layman, fully describes the rights and responsibilities of the customers.

(B) A utility shall supply free of charge a copy of the rate schedules applicable to the types of service available to new applicants for and existing customers of residential service, upon request by the applicant or customer.

(C) Each utility, whenever it petitions the Commission for any change in its residential base rate schedules must furnish to each residential customer within forty-five (45) days of such request and prior to the date of the public hearing a notice which fairly summarizes the nature and extent of the proposed changes. Notice is not necessary, under this section, for tracking increases or decreases. *(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 16.2; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 409; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-1-19 System instrumentation; testing requirements**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34; IC 8-1-2-35

Sec. 19. System Instrumentation. (A) Pressure Records. Periodic test shall be made of pressure maintained in various districts, and the records or charts so obtained shall be filed where they may be conveniently examined by authorized personnel of the Commission.

(B) Meters. Each public utility shall install meters where necessary, so that total gas send-out may be determined.

(C) Heating Value Measurement. Each utility distributing other than natural gas (gases whose heating value can vary significantly over a period of time) shall have equipment for measuring the heating value of the gases distributed or shall have such information available. Heating value measurements shall be made as often as necessary to verify that the gas being distributed is within the required heating value limits. *(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 17; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 409; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-1-20 Standard heating value; allowable variations**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87

Sec. 20. Heating Value. (A) Standard heating value of the gas distributed by a public utility shall be that of its major suppliers as shown on its rate schedules or as filed with the Commission.

(B) Variation from standard heating value is permissible, on injection into the distribution system of substitute gases, to maintain a quality of gas interchangeable with the utility's standard heating value. Heating value shall not be allowed to fall more than five (5) percent below the heating value upon which the utility's rates are predicated. *(Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 18; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 409; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-1-21 Gas pressure; allowable variations**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87

Sec. 21. Pressure of Gas. (A) Gas shall be supplied at a pressure never varying by an amount more than fifty percent above or below the normal pressure, as measured at point of delivery to the customer, provided however, that the maximum pressure on any day at point of delivery, shall never be greater than twice the normal minimum pressure on that day at that point, excluding customers being supplied gas under special contracts.

(B) Any public utility supplying gas shall not be deemed to have violated the preceding paragraph of this rule, if it can be shown that variations in gas pressure occurring are due to conditions beyond the control of the utility. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 19; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-22 Gas purity**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87

Sec. 22. Purity of Gas. Gas distributed in this state shall be commercially free of liquids, solids, and gaseous materials which would interfere with its safe use in properly adjusted approved equipment and appliances of customers or which would seriously corrode, damage, or affect the safe and proper operation of gas approved lines, regulators, meters, or other equipment of the utility or its customers. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 20; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-23 Interruption of service; records and reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87; IC 8-1-2-113

Sec. 23. Interruption of Service. Public gas utilities shall maintain records and file reports of interruptions of service in the manner and form as prescribed in "Minimum State Safety Standards for the Transportation of Gas and Related Pipeline Facilities Appendix A" Rule 4 (C) [170 IAC 5-3-4], as approved in Commission Order No. 32885, March 24, 1972, including any deletions, additions or revisions subsequent thereto on approval of the Commission. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 21; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-24 Accident reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-87; IC 8-1-2-114

Sec. 24. Accidents. Public gas utilities shall file accident reports with the Pipeline Safety Division of the Commission, as set forth in "Minimum State Safety Standards for the Transportation of Gas and Related Pipeline Facilities Appendix A", Rule 4(A) [170 IAC 5-3-4], approved by the Commission in its Order No. 32885, March 24, 1972, including any subsequent deletions, additions or revisions thereto approved by the Commission. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 22; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-25 Transportation and pipeline safety standards**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-87

Sec. 25. Construction, Operations and Maintenance. Construction, operation and maintenance of gas facilities by public gas

utilities shall comply with the "Minimum State Safety Standards for the Transportation of Gas and Related Pipeline Facilities Appendix A" [170 IAC 5-3] as approved by the Commission in its Order No. 32885, March 24, 1972, and any subsequent deletions, additions or revisions thereto approved by the Commission. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 23; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-26 Customer requests for modification; liability for costs**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-87

Sec. 26. Modification at Customer's Expense. If a customer requests for his convenience or by his actions requires that utility facilities be redesigned, reengineered, relocated, removed, modified, or reinstalled, the utility may require the customer to make payment to it of the full cost of performing such service. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 24; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 410; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-27 Extension of distribution mains; variances**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-87

Sec. 27. Extension of Distribution Mains. (A) Jurisdiction of Commission. The provisions of this rule [*this section*] shall govern the Commission in determining all matters relative thereto coming before it.

(B) Responsibility of Gas Utilities. In addition to its statutory responsibilities, each gas public utility shall, upon proper application for service, have the authority and obligation subject to the provisions below and in keeping with the filings approved by the Commission as to the availability of gas service, to make free of charge an extension necessary to give service when the estimated total revenue, for a period of three (3) years, from the prospective customer or customers, is at least equal to the estimated cost of such extension.

(C) Extension Exceeding the Costs Limits Set Forth in (B) Above. If the estimated cost of the extension required to furnish service is greater than the total estimated revenue from such extension specified herein, such an extension shall be made under the following conditions:

(1) Upon proper application for such extension and (i) receipt by the gas public utility of a cash deposit in an amount equal to the cost of such extension in excess of the amount which would have qualified as provided in (B) above or (ii) receipt by the gas public utility of adequate provision, mutually acceptable to the parties, for payment of such cash deposit upon completion of the construction of the extension, the gas utility shall proceed with such extension, without specific approval of the agreement by the Commission, or

(2) If (a) in the opinion of the gas utility the estimated cost of such extension and the prospective revenue to be received from it is so meager as to make it doubtful whether the revenue from the extension would ever pay a fair return on the investment involved in such extension, or (b) in a case of real estate development, with slight or no immediate demand for service, or (c) in the case of an installation requiring extensive equipment with slight or irregular service; then in any of these cases the gas utility shall submit the agreement for such an extension to the Commission for investigation and determination as to the public convenience and necessity of such extension, and if so required, the conditions under which it shall be made, and

(3) For each customer, exclusive of the initial applicants considered in the making of an extension, connected to such an extension within the period of six years from the completion of such extension, the gas utility shall refund to such initial applicants, in proportion to their respective contributions toward the cost of such extension, an amount equal to three (3) times the estimated annual revenue from such new customer, less the cost of service such new customer, but the total of all refunds to any such applicant shall in no event exceed the aforesaid contribution of such applicant.

(D) Information. (1) All estimates of cost as required in (B) above shall be determined by the utility from actual experience, and each gas utility shall within the first quarter of each year submit to the Commission information used to establish the basis for the above amounts.

(2) In estimating the cost of an extension, the estimate shall be based on the diameter of the pipe to be used; provided,

however, the estimated cost to the customer or customers shall not be based on a pipe diameter in excess of four (4) inches, unless actual consumption estimated for the proposed customer(s) requires a larger pipe.

(3) In the event that the applicant is required by (C) above to make any payment, the utility shall upon request make available to the applicant:

(a) the information used to establish the basis for the applicable amount as submitted to the Commission in compliance with this rule; and

(b) the information used to establish the basis for the “estimated total revenue for a period of three (3) years to be realized by the utility from permanent and continuing customers on such extension” as required by this rule.

(E) Contract for Service. A gas utility shall not be required to make extension as provided in this Rule 25 *[this section]* unless the customers to be initially served by such extension upon its installation have entered into an agreement with the gas utility setting forth the obligations and commitments of the parties, which may require the customer to provide a satisfactory guaranty to the gas utility of the performance of the customer's obligations thereunder.

(F) Variations from Rule. This Rule 25 *[this section]* shall not be construed as prohibiting a gas utility from (1) making extensions without charge where the cost of the same is greater than is provided in (B) above, or (2) providing an alternate plan to be approved by the Commission; provided that in the application of this subsection (F) no discrimination is practiced between customers whose service requirements are similar.

(G) The utility shall use good utility and engineering practices in determining the route for the main extension required to serve a petitioner(s). If it is unreasonable to use public rights-of-way or it is otherwise unavailable for the utilities' use, the petitioner shall give all reasonable assistance in obtaining private rights-of-way for the main extension; however, if such a negotiated acquisition is impossible, then the utility shall use its power of eminent domain to obtain the needed right-of-way for installation of the extension where the extension is proposed to or will be capable of serving two or more users. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 25; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 411; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-28 Rate schedules, rules and regulations; filing; public inspection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-38; IC 8-1-2-39

Sec. 28. Filing and Posting of Rate Schedules, Rules and Regulations of Public Utility and of the Commission. Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions, and of all rules and regulations covering the relationship between the customer and the public utility shall be filed by each public utility in the office of the Commission. Complete schedules, contract forms, rules and regulations, etc., if filed with the Commission, shall also be on file in the local office of the public utility, and shall be open to the inspection of the public. The attention of the public shall be called to these files of schedules, rules and regulations, by placing a suitable placard in that part of the office open to the public. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 26; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 413; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-29 Date of compliance with rules, regulations and standards of service**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-87

Sec. 29. Date of Compliance with Rules. All gas public utilities shall comply with these Rules, Regulations and Standards of Service *[170 IAC 5-1]* within 180 days after their date of effectiveness. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 27; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 413; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-1-30 Savings clause**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-87



Sec. 30. Saving Clause. The adoption of these rules [170 IAC 5-1] shall in no way preclude the Commission from altering or amending the same, in whole or in part, or from requiring any additional service, equipment, facility or standards, whether upon complaint or upon its own motion, or upon the application of any public utility; and, further these rules [170 IAC 5-1] shall in no way relieve any public utility from any of its duties under the laws of this State. (*Indiana Utility Regulatory Commission; No. 34613: Standards of Service For Gas Public Utilities Rule 28; filed Oct 14, 1976, 10:20 am: Rules and Regs. 1977, p. 413; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

## **Rule 2. Classification of Accounts**

### **170 IAC 5-2-1 Combination gas and electric private utilities (Repealed)**

Sec. 1. (*Repealed by Indiana Utility Regulatory Commission; No. 33684: Combination Gas and Electric Private Utilities; filed Jan 30, 1979, 10:50 am: 2 IR 299*) NOTE: IAC citation in Indiana Register is incorrectly cited as 170 IAC 5-2-2.

### **170 IAC 5-2-2 Classification of accounts; adoption of rules**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-12

Affected: IC 8-1-2

Sec. 2. The amendments to the rules governing the classification of accounts for all other Class A-B private gas utilities and all Class C-D private gas utilities and Class A-B-C-D municipal gas utilities operating within the state of Indiana, as hereinafter set out in Appendix A which includes the Uniform System of Accounts for Class A and B Gas Utilities, 1976 and the 1976 Revisions of Uniform System of Accounts for Class C and D Gas Utilities, 1973, are hereby adopted by reference. Copies are available from the National Association of Regulatory Utility Commissioners, 1102 Interstate Commerce Commission Building, Constitution Avenue and Twelfth Street, N.W., Post Office Box 684, Washington, D.C. 20044. (*Indiana Utility Regulatory Commission; No. 33684: Gas Utilities; filed Dec 30, 1974, 10:41 a.m.: Rules and Regs. 1975, p. 538; No. 35061: filed Jun 12, 1978, 3:15 p.m.: 1 IR 76; filed Oct 4, 1990, 3:51 p.m.: 14 IR 258; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

### **170 IAC 5-2-3 Major private gas utilities; adoption of federal energy regulatory commission rules**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-12

Affected: IC 8-1-2

Sec. 3. (a) The rules governing the classification of accounts for all major private gas utilities, not provided for in section 2 of this rule, operating within the state of Indiana as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission on February 12, 1985, are adopted by reference.

(b) Copies of the accounting and reporting requirements prescribed for major private gas utilities as approved, prescribed, and promulgated by the Federal Energy Regulatory Commission are available for purchase from the Division of Public Information, Federal Energy Regulatory Commission, 825 North Capitol Street, Room 9200, Washington, D.C. 20426. (*Indiana Utility Regulatory Commission; 170 IAC 5-2-3; filed Oct 4, 1990, 3:51 p.m.: 14 IR 258; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

## **Rule 3. Minimum Safety Standards for the Transportation of Gas and Related Pipeline Facilities**

### **170 IAC 5-3-1 Federal and other standards; compliance; general provisions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-22.5-4

Affected: IC 8-1-2-12; IC 8-1-2-14; IC 8-1-2-15; IC 8-1-22.5

Sec. 1. General. (a) In accordance with Indiana Public Law 84, Acts of 1971 (IC 1971, 8-1-22.5) each intrastate gas pipeline operator, having gas facilities within the State of Indiana, shall:

(1) Construct, operate and maintain its facilities in accordance with Federal safety standards applicable to the transportation of natural and other gas and for pipeline facilities used in this transportation established and in effect, from time to time,

pursuant to the Natural Gas Pipeline Safety Act of 1968 (Public Law 90-481, 49 U.S.C., 1671 et seq.) as the same may be amended, with the following supplements contained herein:

(2) Comply with any other code, standard or regulation contained herein, insofar as any such code, standard or regulation is herein made applicable, and

(3) Be governed, after due notice, by any deletion, addition, revision or amendment thereof.

(b) Any and all terms used herein shall, where applicable, be defined in accordance with and be the same as the definitions specified in Parts 191, 192, and 193, Title 49, Code of Federal Regulations and Indiana Public Law 84, Acts of 1971 (IC 1971, 8-1-22.5).

(c) The Section numbers listed herein refer to the Section numbers of Title 49 Code of Federal Regulations, Parts 191, 192, and 193.

(d) All records required by these rules [170 IAC 5-3] shall be preserved for at least three years after they are made. Such records shall be kept within the State, at the office or offices of the operator located in the territory served by it, and shall be open for examination by the Commission or its representatives. The provisions of this subsection shall not be construed so as to lessen or increase the period of maintenance of records as specifically provided herein. (*Indiana Utility Regulatory Commission; No. 32885: Minimum Safety Standards for Transportation of Gas and Related Pipeline Facilities Rule 1; filed May 12, 1972, 10:30 am: Rules and Regs. 1973, p. 537; filed May 7, 1982, 2:00 pm: 5 IR 1175; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 5-3-2 Federal regulations; revision**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-22.5-4

Affected: IC 8-1-2-1; IC 8-1-2-33; IC 8-1-2-87; IC 8-1-22.5

Sec. 2. Revisions of Federal Regulations, Title 49 CFR, Part 192. ITEM I—Inspection and Maintenance Plan; Filing of Plan; (Ref: Public Law 84, Acts of 1971, IC 8-1-22.5).

(a) Each operator shall:

(1) Have a written Plan covering the inspection and maintenance procedures to be used by the operator to assure the safe operation of its pipeline facilities. The Plan shall include, by sections, the inspection and maintenance procedures of all such pipeline facilities. This Plan, when filed, becomes in effect a regulation for the particular operator who filed it.

(2) File two copies of the Plan with the Pipeline Safety Division of the Commission; both copies of which are to be signed by an official of the operator.

(3) Keep records necessary to administer the Plan effectively.

(4) Revise the Plan as experience dictates and as exposure of the facilities and changes in operating conditions might warrant.

(5) File with the Pipeline Safety Division of the Commission all subsequent revisions of the Plan not later than 20 days after the effective date of such changes.

ITEM II—Joining of Materials Other Than by Welding; (Ref: Title 49 CFR, Part 192, Section 192.273).

Paragraph (b) shall read:

(b) Each joint made under this Subpart must be made by a person (or under the supervision of a person) qualified by experience and training, in accordance with written procedures that have been proven by test or experience to produce strong, gastight joints.

ITEM III—Customer Meters and Regulators: Installation; (Ref: Title 49 CFR, Part 192, Section 192.357).

Paragraph (e) shall read:

(e) An operator may not initiate gas service for any customer (including for his own usage) without first ascertaining:

(1) The meter and regulator installation are proper for their intended use and pressure tight at the operating pressure;

(2) The piping from the meter to the customer's appliances is pressure tight at the operating pressure.

ITEM IV—Service Lines; Location of Valves; (Ref: Title 49 CFR, Part 192, Section 192.365).

Paragraph (b) shall read:

(b) Each service line must have a shut-off valve in a readily accessible location that is outside of the building.

ITEM V—Service Lines: Cast Iron and Ductile Iron; (Ref: Title 49 CFR, Part 192, Section 192.373).

Paragraph (a) shall read:

(a) Cast or ductile iron pipe shall not be installed for service lines. Delete Paragraphs (b) and (c).

ITEM VI—Test Requirements—General; (Ref: Title 49 CFR, Part 192, Section 192.503).

Paragraph (a) shall read:

(a) No person may operate a new segment of pipeline, or return to service a segment of pipeline that has been relocated, replaced, or has been abandoned previously, until—

Paragraph (e) shall read:

(e) No testing, by a medium other than natural gas under this Subpart, may be done against a valve on a transmission line, distribution main or auxiliary apparatus, that is connected by the valve to a source of gas, unless a positive suitable means has been provided to prevent the leakage or admission of the testing medium into the transmission line, distribution main or auxiliary apparatus.

ITEM VII—Test Requirements for Pipelines to Operate At or Below 100 p.s.i.g.; (Ref: Title 49 CFR, Part 192, Section 192.509).

Paragraph (b) shall read:

(b) Each main other than steel or plastic that is to be operated at less than one p.s.i.g. must be tested to at least 10 p.s.i.g., and each main to be operated at or above one p.s.i.g. must be tested to 150 per cent of the maximum operating pressure or at least 90 p.s.i.g., whichever is greater.

Paragraph (c) shall read:

(c) Each steel main that is to be operated at less than 100 p.s.i.g. must be tested to 150 per cent of the maximum operating pressure or at least 90 p.s.i.g., whichever is greater.

ITEM VIII—Test Requirements for Service Lines (Ref: Title 49 CFR, Part 192, Section 192.511).

Paragraph (b) shall read:

(b) Each segment of a service line (other than plastic) stressed under 20 per cent SMYS must be tested at 150 per cent of the maximum operating pressure or at least to 90 p.s.i.g., whichever is greater. The test procedure used must ensure discovery of all potentially hazardous leaks in the segment being tested.

Paragraph (c) shall read:

(c) Each segment of a service line (other than plastic) stressed to 20 per cent or more of SMYS must be tested in accordance with Section 192.505 or 192.507, whichever is applicable, of this Subpart.

ITEM IX—Subpart K—Upgrading; General Requirements; (Ref: Title 49 CFR, Part 192, Section 192.553).

Paragraph (e) shall read:

(e) Service regulators supplying gas from transmission lines or distribution mains that are being upgraded under this Subpart shall meet the requirements of Section 192.197.

ITEM X—Upgrading: Steel Pipelines To a Pressure That Will Produce a Hoop Stress Less Than 30 Per Cent of SMYS; Plastic, Cast Iron and Ductile Iron Pipelines; (Ref: Title 49 CFR, Part 192, Section 192.557).

Paragraph (b-5) shall read:

(b-5) Isolate by physical separation all mains between the segment of pipeline in which the pressure is to be increased from any adjacent segment that will continue to be operated at the lower pressure, except such mains that are required to supply through a pressure regulator, (with approved overpressure protection designed in accordance with Section 192.195), the adjacent segment that will continue to be operated at the lower pressure; and

ITEM XI—Subpart L—Operations; General Provisions; (Ref: Title 49 CFR, Part 192, Section 192.603).

Paragraph (c) shall read:

(c) Each operator shall maintain a system of records of its physical plant. These shall include records and maps of its active physical plant in use, and be in such form as to facilitate the operation and maintenance of the plant in a safe manner. Such records shall be kept updated at intervals not exceeding 12 months.

ITEM XII—Continuing Surveillance; (Ref: Title 49 CFR, Part 192, Section 192.613).

Paragraph (c) shall read:

(c) All records and procedures pertaining to the conditions listed in Paragraphs (a) and (b) and the action taken shall be kept in the file of the operating company.

ITEM XIII—Emergency Plans; (Ref: Title 49 CFR, Part 192, Section 192.615).

Paragraph (e) shall read:

(e) Establish liaison with appropriate communication officials, such as newspaper, radio and television, for assistance in

keeping the public informed during emergencies.

Paragraph (f) shall read:

(f) Each operator shall carry a listing in the current telephone directory of each community which it serves or within which it operates whereby a responsible employee or agent of the operator may be reached on a 24-hour basis. The listing shall be under the name of the operator with a designation for hours other than regular business hours.

ITEM XIV—Distribution Systems: Leakage Surveys and Procedures; (Ref: Title 49 CFR, Part 192, Section 192.723).

Paragraph (b-1) shall read:

(b-1) A gas detector survey shall be conducted in (1) business districts; (2) areas of high occupancy buildings such as schools, churches, hospitals, apartment buildings, office buildings, commercial buildings; (3) built-up residential areas where continuous pavement exists, and (4) in such other areas as the Commission may direct, at intervals not exceeding one year. The surveys in business districts and areas of high occupancy buildings, (1) and (2), shall be made at least to the meter outlet. Tests shall include tests of the atmosphere in utility manholes, at cracks in the pavement and sidewalks and other locations providing an opportunity for finding gas leakage.

Paragraph (b-2) shall read:

(b-2) Leakage surveys of the distribution system outside of the areas as listed in (b-1) must be made as frequently as necessary but at intervals not exceeding five years. A vegetation type survey shall not be used as a single means of leakage control.

Paragraph (c) shall read:

(c) All leaks reported, regardless of the origin of the reports shall be recorded on suitable report forms. These report forms should provide space for all pertinent information. Each leak reported shall be accounted for, and when repairs are completed the report shall be so noted and filed in a systematic manner.

Paragraph (c-1) shall read:

(c-1) All leaks reported shall be investigated promptly and classified in a manner whereby gas leakage that is hazardous to life and/or property shall receive immediate attention for repairs.

Paragraph (c-2) shall read:

(c-2) Leak indications where repairs are not completed shall be rechecked on subsequent surveys.

Paragraph (d) shall read:

(d) Records shall be made covering these surveys, inspections and repairs made. These records, along with any other routine or unusual inspections and repairs, shall be kept in the file of operating company.

*(Indiana Utility Regulatory Commission; No. 32885: Minimum Safety Standards for Transportation of Gas and Related Pipeline Facilities Rule 2; filed May 12, 1972, 10:30 am: Rules and Regs. 1973, p. 537; filed May 7, 1982, 2:00 pm: 5 IR 1176; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 5-3-3 Acquisition of pipe or components to determine cause of failure**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-22.5-4

Affected: IC 8-1-2-12; IC 8-1-2-14; IC 8-1-2-15; IC 8-1-22.5

#### **Sec. 3. Acquisition of Pipe or Components.**

(a) Pursuant to the provisions of Public Law 84, Acts of 1971 (IC 1971, 8-1-22.5) the Pipeline Safety Division, acting through the Commission, may acquire from any operator or person sections of pipe or pipeline components that have failed in operation or test, or of pipeline components similar to the failed component, for the purpose of examination in an effort to determine the cause of such failure.

(b) Prior to the acquisition of such pipe or pipeline components, such specimens shall be positively identified in the presence of a representative of the operator or person owning such pipeline components and a Division Engineer as to the item acquired, date of incident, date of acquisition, position of component part in the pipeline system and other pertinent data. The operator or person from whom the pipe or pipeline components are acquired shall be given a receipt for the same by the Division Engineer receiving such parts.

(c) Upon the acquisition of such pipe or pipeline components, the Division shall pursue its examination and/or tests without delay. Upon the completion of such examinations and tests the Division shall return the components acquired to the operator or person from whom acquired, obtaining a receipt for the same.

(d) As a result of such tests and/or other investigation the Commission may restrict or limit the use of similar pipeline

components until such time that they have been proved to be safe for the specified service.

*(Indiana Utility Regulatory Commission; No. 32885: Minimum Safety Standards for Transportation of Gas and Related Pipeline Facilities Rule 3; filed May 12, 1972, 10:30 am: Rules and Regs. 1973, p. 541; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 5-3-4 Reports to pipeline safety division**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-22.5-4

Affected: IC 8-1-2-114

Sec. 4. Reports. Each operator shall file the following reports with the pipeline safety division of the Indiana utility regulatory commission and/or the addressee listed in Section 191.7, Title 49 C.F.R., Part 191.

(a) Accident Reports. (1) Reports as required by Public Law Acts of 1913, c. 76, S. 123 (IC 1971, 8-1-2-114), shall be filed with the pipeline safety division of the commission; telephonic report at the earliest practicable moment following discovery with a written report filed within twenty (20) days.

(2) All accidents or incidents of a serious nature occurring upon the premises of the operator or the operator's customer's premises, accompanied by an explosion, fire, misapplication and/or escapement of gas, and is attended with total property damage exceeding three thousand dollars (\$3,000), or injury requiring hospitalization shall be reported by telephone at the earliest practicable moment following discovery. This notification shall be followed by a written report within twenty (20) days thereafter and such additional reports as the commission may require.

(3) The written report as required in (1) and (2) above [subdivisions (1) through (2)] shall include, but not be limited to:

- (i) Name of operator;
- (ii) Date and time of incident;
- (iii) Definite location: street address or, if rural, locate definitely (not R.R.);
- (iv) Number of employees injured requiring hospitalization and/or fatalities: (name, sex, age, and address);
- (v) Number of non-employees injured requiring hospitalization and/or fatalities: (name, sex, age, and address);
- (vi) Estimated value of total property damage and description of damaged property;
- (vii) Description of accident;
- (viii) Location and description of the operator's plant, including sketches or maps, if necessary, for clarification;
- (ix) Condition of operator's plant as found on inspection;
- (x) Extent of investigation and findings;
- (xi) The signature of a responsible representative of the operator.

(b) Leak Reports. Leak reports as required by Title 49 C.F.R., Part 191, Sections 191.9 and 191.15, shall be filed in duplicate with the pipeline safety division of the commission as soon as practicable but not more than twenty (20) days after detection. The division shall, after review, forward the original copy to the department of transportation, in accordance with Section 191.7, Title 49 C.F.R., Part 191.

(i) Telephonic notice shall be made by the operator as required by Section 191.5, and also be made as soon as practicable to the pipeline safety division of the commission.

(ii) In case an accident occurs as a result of a leak, an accident report shall be filed also under item (a) of this rule [subsection (a)]. In this case the additional information called for in Paragraph (a-3) [subsection (a)(3)] may be an addendum to the commission's copy of the report.

(c) Interruption of Service Reports. Each operator shall keep a record of any interruption of service affecting its entire system or a major division thereof, including a statement of time, duration, extent, and cause of the interruption. Whenever the service is intentionally interrupted for any purpose, such interruptions shall, except in emergencies, be at a time which will cause the least inconvenience to customers. Those customers who will be most seriously affected by such interruption shall, so far as possible, be notified in advance. Whenever the service is interrupted other than intentionally in a major division or community, the operator shall notify the pipeline safety division of the commission by telephone at the earliest practicable moment following discovery, giving the above information and confirming by a written report within twenty (20) days thereafter, and such additional reports as the Commission may require.

(d) Annual Reports. (1) Annual reports for the preceding calendar year, as required by Title 49 C.F.R., Part 191, Section 191.11 and 191.17, shall be filed in duplicate with the pipeline safety division of the commission by not later than March 1st of each year. The division shall, after review, forward the original copy in accordance with Section 191.7 Title 49 C.F.R., Part

191.

(2) Each operator shall submit to the pipeline safety division of the commission two (2) annual leak repair reports which shall show (1) for the distribution system of the operator and (2) for the transmission system of the operator;

(i) Number of unrepaired leak reports on January 1st of the preceding year;

(ii) Number of leak reports received during the preceding year;

(iii) Number of leaks repaired during the preceding year; and

(iv) Number of unrepaired leak reports at the end of the preceding year.

(v) These reports shall include all known leak reports regardless of classification, on the respective systems, up to and including the meter outlet. These reports shall be filed with the pipeline safety division of the commission by March 1st for the preceding calendar year.

(3) Each operator shall submit to the pipeline safety division of the commission within two (2) months after the start of their operating year, a list of major upgrading projects proposed for the ensuing year. A brief description should be given of each proposed upgrading project, such as main and/or service replacements, maintenance projects, installation of cathodic protection on presently unprotected sections, installation of overpressuring protection, and any other proposed work of an upgrading nature. Proposed major construction and/or relocation projects of pipelines operating at one hundred (100) p.s.i.g. or more should be included. Include location (town, township, county), amount and size of pipe involved, estimated cost, and other pertinent data.

(4) Each operator shall submit to the pipeline safety division of the commission within two (2) months after the end of their operating year a list of major upgrading projects which were completed during the preceding year. The list should contain such information as listed in paragraph (3) above [subdivision (3)], except being for projects actually completed or a major portion completed.

(5) For pipelines operating at or above forty (40) per cent of the specified minimum yield strength (SMYS) each operator shall certify to the pipeline safety division of the commission by March 1st of each year that it has complied with the federal safety standard, in force and effect from time to time applicable to the determination of change in class location and of confirmation or revision of the maximum allowable operating pressure for such pipelines.

(6) Each operator shall submit to the pipeline safety division of the commission by August 1st of each year a report of its unaccounted-for gas for the twelve (12) month period ending June 30th. This report shall include:

(i) Total input in cubic feet into their system for the twelve (12) month period; (gas produced and purchased);

(ii) Total sales and company usage in cubic feet during the twelve (12) month period;

(iii) Unaccounted-for gas in cubic feet during the twelve (12) month period; (item (i) minus item (ii));

(iv) Per cent of unaccounted-for gas for the period;

$$\frac{\text{item (iii)} \times 100}{\text{item (i)}}$$

(7) Each operator shall submit to the pipeline safety division of the commission such other reports as may be required that are relevant to the safe operation of the operator's system.

(e) Such reports as listed and required in the foregoing paragraphs of this rule [this section] shall not imply or be considered an admission of any liability or responsibility of the operator in connection with the accident or incident so mentioned.

*(Indiana Utility Regulatory Commission; No. 32885: Minimum Safety Standards for Transportation of Gas and Related Pipeline Facilities Rule 4; filed May 12, 1972, 10:30 a.m.: Rules and Regs. 1973, p. 542; filed Aug 12, 1988, 4:00 p.m.: 12 IR 6; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 5-3-5 Waiver of compliance; application; investigation**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-22.5-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 5. Waiver of Compliance. (a) Any operator may apply to the Public Service Commission of Indiana for authorization to construct, install or use material and equipment which have not been approved, or otherwise waive in whole or in part compliance with any code, standard or regulation established under this Cause [170 IAC 5-3]. The Commission shall investigate such application, and, if it determines that such application of waiver of compliance with such code, standard or regulation is not inconsistent with gas pipeline safety, the Commission may grant such waiver after due compliance with the requirements of state

statute and the provisions of the Natural Gas Pipeline Safety Act of 1968 with regard to such waiver. Authorization will not be granted to install or use such materials or equipment as are specifically prohibited by the Federal and/or State regulations. (*Indiana Utility Regulatory Commission; No. 32885: Minimum Safety Standards for Transportation of Gas and Related Pipeline Facilities Rule 5; filed May 12, 1972, 10:30 am; Rules and Regs. 1973, p. 545; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 4. Natural Gas for Outdoor Lighting**

**170 IAC 5-4-1 Definitions (Repealed)**

Sec. 1. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-2 Prohibited installations of natural gas outdoor lighting fixtures (Repealed)**

Sec. 2. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-3 Prohibited sales of natural gas for outdoor lighting use (Repealed)**

Sec. 3. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-4 Traditional commercial lighting exemption (Repealed)**

Sec. 4. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-5 Memorial lighting exemption (Repealed)**

Sec. 5. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-6 Historical commercial lighting exemption (Repealed)**

Sec. 6. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-7 Protection of safety of persons and property; exemption (Repealed)**

Sec. 7. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-8 Compliance entailing substantial expense; exemption (Repealed)**

Sec. 8. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-9 Public interest exemption (Repealed)**

Sec. 9. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-10 Temporary exemption to install substitute lighting (Repealed)**

Sec. 10. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-11 Petitions for exemptions; form; service (Repealed)**

Sec. 11. (*Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334*)

**170 IAC 5-4-12 Stay of prohibition pending final commission action (Repealed)**

Sec. 12. *(Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334)*

**170 IAC 5-4-13 Determination of exemptions; procedure; formal hearing (Repealed)**

Sec. 13. *(Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2334)*

**170 IAC 5-4-14 Notice to customers regarding prohibition; costs; reporting (Repealed)**

Sec. 14. *(Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2335)*

**170 IAC 5-4-15 Reports submitted to commission (Repealed)**

Sec. 15. *(Repealed by Indiana Utility Regulatory Commission; filed May 7, 1982, 2:05 pm: 5 IR 1175)*

**170 IAC 5-4-15.1 Penalties (Repealed)**

Sec. 15.1. *(Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2335)*

**170 IAC 5-4-16 Penalties (Repealed)**

Sec. 16. *(Repealed by Indiana Utility Regulatory Commission; filed May 7, 1982, 2:05 pm: 5 IR 1175)*

**170 IAC 5-4-17 Effective date (Repealed)**

Sec. 17. *(Repealed by the Indiana Utility Regulatory Commission; filed Feb 23, 1988, 9:53 am: 11 IR 2335)*

**ARTICLE 6. WATER UTILITIES**

**Rule 1. Standards of Service**

**170 IAC 6-1-1 Definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-1

Sec. 1. Definitions. (A) Where applicable, the definitions set forth in IC 8-1-2-1 (Burns 54-105) shall be applied to these rules, and

(B) The word “customer” shall mean any person, firm, corporation, municipality or other government agency which has agreed, orally, or otherwise, to pay for water service received from a water utility; provided, that for the purposes of Rules 15, 16 and 16.1 [170 IAC 6-1-15–170 IAC 6-1-17], the word “customer” shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(C) The word “disconnection” shall mean the termination or discontinuance of water service.

(D) The words “late payment charge” shall mean the one time penalty assessed by a water utility upon all current bills at such time as they become delinquent.

(E) The word “commission” shall mean the Public Service Commission of Indiana. *(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 1; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 678; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*



**170 IAC 6-1-2 Applicability of rules**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 2. Application of Rules. These rules [170 IAC 6-1] shall apply to any public water utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act [IC 8-1-2], or any other statute of the State of Indiana, which is now or hereafter may be engaged in the production, sale or distribution of water service (herein called "utility" or "water utility.") (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 2; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 679; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-3 Retention of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-40

Sec. 3. Records to be Kept. All records required by these rules [170 IAC 6-1] shall be preserved for at least three years except as otherwise provided herein or by IC 8-1-2-40 (Burns 54-135). Such records shall be kept within the State at the principal place of business of the water utility, or at such other places within the State as the utility shall designate after notification to the commission, and shall be open for examination by the commission or its representatives. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 3; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 679; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-4 Meter records and reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-34; IC 8-1-2-35

Sec. 4. Record of Meters and Meter Tests. (A) Meter Test Record. Whenever any meter in service is tested, a record shall be preserved containing the information necessary for identifying the meter, the reason for making the test, the reading of the meter before the test and the result of the test, together with all data taken at the time of the test in sufficiently complete form to permit the convenient checking of the methods employed.

(B) Meter Record. Permanent records shall also be kept, systematically arranged, giving for each meter owned or used by any water utility, the year of purchase, its identification and the record of the last test to which it has been subjected, with dates and general results of the test. These requirements apply to all meters purchased after the effective date of these rules and to all other meters insofar as the information is available.

(C) Tabulation of Meter Tests. If required by the commission, annual tabulations of the results of all meter tests shall be made, arranged according to types and sizes of meters and intervals of tests or as the commission may request. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 4; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 679; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-5 Location of meters**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35

Sec. 5. Location of Meters. The meter may be located either in an outdoor pit, or inside the building or premises of the customer being served.

When the meter is to be installed in an underground pit, the pit shall be located in a convenient and readily accessible location. Upon request by the customer before the installation is made, the pit will be located at the point requested, if feasible under proper utility standards. The pit must be constructed to protect the meter from freezing and damage by vehicular traffic. The pit location and design should prevent, as far as possible, the inflow of surface water.

When the meter is to be installed indoors, it shall be located, as near as practical to where the service pipe enters the building, in a clean, dry, safe place, protected from freezing and hot water, not subject to wide temperature variations, and so placed as to be

at all times accessible for reading, inspection and removal for testing.

If a customer requests and the utility approves, or if the utility determines that it is desirable in order to facilitate meter reading, a remote reading register device may be installed outside the building at an accessible location. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 5; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 679; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-6 Meter dials**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-32; IC 8-1-2-33; IC 8-1-2-34

Sec. 6. Meter Dials. All meters used to measure the volume of water sales shall register in either U.S. gallons, cubic feet, or metric units. The meter register face shall clearly indicate whether the register is in U.S. gallons, cubic feet, or metric units. Straight and circular reading registers shall have printed on the dial face the required numerals, so that the meter can be correctly read to the nearest 100 cubic feet, 1,000 U.S. gallons, or the metric equivalent thereof. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 6; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 680; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-7 Testing equipment and facilities; portable test meters**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35; IC 8-1-2-36

Sec. 7. Testing Equipment and Facilities. (A) Equipment. Each water utility furnishing water to any of its customers on a metered basis shall provide and maintain suitable equipment and facilities for testing and adjusting its meters satisfactory to the Commission. Meter testing equipment shall at all reasonable hours be accessible for inspection and use by authorized representatives of the Engineering Department of the Commission. Upon written request, the Engineering Department of the Commission may exempt a utility from this requirement if satisfactory arrangements are made for the testing and adjusting of its meters by another water utility or repair agency, equipped to test meters properly in compliance with the Commission's rules and regulations.

(B) Portable Test Meters. Where portable test meters are used to determine the accuracy of meters in service, they shall be recalibrated by suitable testing apparatus at sufficiently frequent intervals to insure correct registration at the specified rates of flow. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 7; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 680; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-8 Accuracy of meters**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 8. Meter Accuracy. (A) General. All meters and appurtenances used for measuring quantity of water delivered to a customer shall be in good mechanical condition and shall be adequate in size and design for the type of service which they measure and shall be accurate to within generally accepted standards.

(B) Test Flows. For determination of minimum test flow and normal test flow limits, the following specifications will be used for test flows for displacement type cold water meters:

Nominal Meter Size	Minimum Text Flow Gallons Per Minutes	Normal Test Flow Limit Gallons Per Minute
5/8"	1/4	1-20
3/4"	1/2	2-30
1"	3/4	3-50
1 1/2"	1 1/2	5-100
2"	2	8-160
3"	4	16-300
4"	7	28-500

(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 8; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 680; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

#### 170 IAC 6-1-9 Determination of meter accuracy

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 9. Determination of Accuracy. Displacement meters shall be tested at three or more test flows: One at the minimum test flow, one at not more than 10% of the maximum normal test flow limit, and one not less than 35% of the maximum normal test flow limit. A meter shall not be placed in service if it registers less than 95% of the water passed through it at the minimum test flow or over or under registers more than 1 ½% in the normal test flow limits, with the exception that a repaired meter shall register not less than the following appropriate percentage of the water passed through it at the minimum test flow, and shall not over or under register more than 2% in the normal test flow limits.

If manufactured on or after January 1, 1955 ..... 90%

If manufactured prior to January 1, 1955 ..... 85%

(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 9; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 681; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

#### 170 IAC 6-1-10 Periodic inspections and tests

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 10. Periodic Tests. (A) For testing the accuracy of water meters, the utility may either adopt one of the methods set out in Rule 10(B) and 10(C) [subsections (B) and (C) of this section], or request approval of an alternative method, as provided for in Rule 10(D) [subsection (D) of this section].

(B) Each consumer water meter installed shall be periodically inspected and tested in accordance with the following schedule, or more often if the results may warrant, to insure that the meter accuracy is maintained within the limits set out in Rule 9 [170 IAC 6-1-9].

5/8-inch meters	—10 years, or for 100,000 cubic feet or equivalent units registered
¾-inch meters	—8 years, or for each 150,000 cubic feet or equivalent units registered
1-inch meters	—6 years, or for each 300,000 cubic feet or equivalent units registered
1½-inch and over	—4 years

(C) The schedule of periodic testing for installed water meters set forth above in Rule 10(B) [subsection (B) of this section] may be extended by the use of the following Statistical Quality Control Program:

(1) The Statistical Quality Control Program shall be based on Military Standard No. 105-D, Sampling Procedures and Tables for Inspection by Attributes. Sample size code letters shall be taken from Table I, General Inspection Level II. Sample size and acceptance-rejection numbers shall then be determined from Table II A, single sampling plan for normal inspection, using Acceptance Quality Level (AQL) 10.

(2) The meters for quality control sampling shall be separated into homogeneous groups by manufacture, model, design, or other distinguishing characteristics by year set. The sample for each group shall, as far as possible, be taken from routine meter exchanges, removals, and field tests for each year, except that those meters removed or exchanged because of known or suspected defects or for special tests may be excluded from the quality control sample.

(3) If an inadequate sample of meters is routinely exchanged or removed, the balance of meters required for sampling will be obtained from meters in service by removal on a randomly selected basis.

(4) Beginning in the year prior to the last year indicated in the schedule of periodic testing set forth in Rule 10(B) [subsection (B) of this section], and continuing through subsequent service years, meter groups shall be sample tested annually, being allowed to continue in service until an annual sample reaches its rejection number of deviant meters. The service life of meter groups may be extended by this quality control program as long as ninety percent of the meters in a sample group do not

exceed an accuracy figure of 102.0 percent when tested at not less than 35% of its rated capacity.

(D) If any utility can furnish evidence that the methods outlined in Rule 10(B) and 10(C) [subsections (B) and (C) of this section] are not necessary, an alternate testing method may be used if submitted to and approved by the Engineering Department of the Commission. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 10; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 681; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-11 Customer request for meter test; application to utility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 11. Meter Tests Upon Written Request by Customer to Utility. Each utility supplying water service shall make a test of the accuracy of registration of a meter upon written request by a customer. A second test of the customer's meter may be requested after twelve (12) months. The customer may be required to bear the full cost of any subsequent test of his meter if requested at less than thirty-six (36) months after the preceding test, if error of the meter is found to be in compliance with Rule 9 [170 IAC 6-1-9]. A written report giving the results of such tests shall be made to the customer within 10 days after the test is complete and a complete record of the same shall be kept on file in the office of the utility. Any appeal, in regard to the results of the customer's meter test, shall be filed with the Commission under Rule 12 [170 IAC 6-1-12] within five (5) days of the date of the report. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 11; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 682; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-12 Customer request for meter test; application to public service commission**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-35

Sec. 12. Meter Tests Upon Application to the Commission. (A) A test will be made of a customer's meter by the utility under the supervision of an employee of the Commission upon application to the Commission by the customer and formal notice to the utility by the Commission. The application for such a test shall be accompanied by a fee as set out below in paragraph (B). This fee paid by the customer shall be retained by the Commission; however, if the tests show the meter to be more than two per cent (2%) fast, the utility supplying the water service shall reimburse the customer the amount of such fee.

(B) The amount of fee to be paid for a meter test made on application to the Commission shall be as follows:

Through 3/4" meter .....	\$ 8.00
1" meter through 2" meter .....	\$16.00
Above 2" meter .....	Actual cost of test

(C) This rule [this section] shall not interfere with the practice of a utility in its tests of water service meters except that, in the event of a written application to the Commission by a customer for a test, the utility shall not knowingly remove or interfere with said meter without the consent previously given in writing by the customer. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 12; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 682; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-13 Bills**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 13. Bills for Water Service. (A) Bills rendered periodically to customers for water service shall show at least the following information:

- (1) The dates and meter readings of the meter at the beginning and end of the period for which the bill is rendered and the billing date,
- (2) The number and kind of units of service supplied,
- (3) The billing rate code, if any,
- (4) The previous balance, if any,

- (5) The amount of the bill,
- (6) The sum of the amount of the bill and the late payment charge, if any,
- (7) The date on which the bill becomes delinquent and on which a late payment charge will be added to the bill,
- (8) If an estimated bill, a clear and conspicuous coding or other indication identifying the bill as an estimated bill,
- (9) Printed statements and/or actual figures on either side of the bill shall inform the customer of the seventeen (17) day non-penalty period.
- (10) An explanation, which can be readily understood, of all codes and/or symbols shall be shown on the bill.

(B) Delinquencies. (1) A utility service bill which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill shall be a delinquent bill.

(2) A utility service bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, it shall become a delinquent bill and a late payment charge may be added in the amount of ten (10) percent of the first three (3) dollars and three (3) percent of the excess of three (3) dollars.

(C) Estimated Billing. A water utility may estimate the bill of any customer pursuant to a billing procedure approved by the Commission or for other good cause, including, but not limited to: request of customer; inclement weather; labor or union disputes; inaccessibility of a customer's meter if the utility has made a reasonable attempt to read it; and other circumstances beyond the control of the utility, its agents and employees. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 13; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 683; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 6-1-14 Billing adjustments**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34

Sec. 14. Adjustment of Bills. (A) Adjustments Due to Meter Error. If any service meter shall be found to have a percentage of error greater than that allowed in Rule 9 [170 IAC 6-1-9], the following provisions for the adjustment of bills shall be observed:

(1) Fast Meters. When a meter is found to have a positive average error, i.e., is fast, in excess of two (2) percent, the utility shall refund or credit the customer's account with the amount in excess of that determined to be an average charge for one-half of the time elapsed since the previous test, or one (1) year, whichever period is shorter. This average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be fast. No part of a minimum service charge need be refunded.

(2) Stopped or Slow Meters. When a meter is stopped or has a negative average error, i.e., is slow, in excess of two (2) percent, the utility may charge the customer an amount estimated to be an average charge for one-half of the time elapsed since the previous test or one (1) year, whichever period is shorter. This average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be slow or stopped. Such action may be taken only in cases where the utility is not at fault for allowing the stopped or slow meter to remain in service.

(B) Adjustment for Interruption of Service. In the event the customer's service is interrupted for a reason other than the act of the customer or the condition of customer controlled equipment, and the service remains interrupted for more than two (2) days after being reported or found to be out of order, appropriate adjustments or refunds shall be made to the customer. Each company shall file with the commission a tariff detailing the method and amount of refund in such cases.

(C) Other Billing Adjustments. All other billing errors, including incorrect tariff applications, may be adjusted to the known date of error or for a period of one year, whichever period is shorter. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 14; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 684; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 6-1-15 Creditworthiness of customer; deposit; refund**

Authority: IC 8-1-1-3

Affected: IC 8-1-2; IC 32-9-1.5-20

Sec. 15. (a) Each utility shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

- (1) without regard to the economic character of the area wherein the applicant or customer resides; and
  - (2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or she lives.
  - (b) Each new applicant for residential water service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:
    - (1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:
      - (A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;
      - (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and
      - (C) within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.
    - (2) If the applicant has not been a customer of a utility during the previous two (2) years, any two (2) of the following criteria are met:
      - (A) The applicant either:
        - (i) has been employed by his or her present employer for two (2) years;
        - (ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
        - (iii) has been employed by the present employer for less than two (2) years and has no previous employment due to recently:
          - (AA) graduating from a school, university, or vocational program; or
          - (BB) being discharged from military service.
      - (B) The applicant either:
        - (i) owns or is buying his or her home; or
        - (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.
      - (C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.
  - (c) If the applicant fails to establish that he or she is creditworthy, under subsection (b), the applicant may be required to make a reasonable cash deposit. Such deposit shall not exceed one-sixth ( $\frac{1}{6}$ ) of the estimated annual cost of service to be rendered to the applicant. If a deposit is greater than seventy dollars (\$70), the utility shall advise the applicant or customer simultaneously with making a demand for a deposit that the applicant or customer may pay such deposit in equal installment payments over a period of no less than eight (8) weeks; service shall be connected upon receipt by the utility of the first such payment.
  - (d) If the utility requires a cash deposit as a condition of providing service, then it must immediately notify the applicant in writing stating the precise facts upon which the utility based its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating his or her creditworthiness.
  - (e) A utility may require a present customer to make a reasonable cash deposit when:
    - (1) the customer has been mailed disconnect notices for two (2) consecutive months;
    - (2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period;or
  - (3) the service to the customer has been disconnected within the past four (4) years pursuant to section 16 of this rule.
- The amount of such deposit may not exceed an amount equal to one-sixth ( $\frac{1}{6}$ ) of the expected annual billings for the customer at the address at which service is rendered. In the event the required deposit is in excess of seventy dollars (\$70), the utility shall advise the customer that he or she may pay such deposit in equal installment payments over a period of up to eight (8) weeks, except where such deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection.
- (f) Requirements for interest upon deposits shall be as follows:
    - (1) Deposits held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing.
    - (2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully

disposed.

(g) Requirements for refunds shall be as follows:

(1) Any deposit or accrued interest shall be promptly refunded to the customer without the customer's request when the customer:

(A) submits satisfactory payment for a period of either:

(i) nine (9) successive months; or

(ii) ten (10) out of any twelve (12) consecutive months without late payment in two (2) consecutive months; or

(B) demonstrates his or her creditworthiness as provided by subsection (b).

(2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.

(3) Following customer-requested termination of service, the utility shall:

(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) days after payment of the final bill.

(4) Each utility shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current address of the customer so long as he or she maintains an active account with the utility in his or her name.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting such deposit.

(5) Each customer shall be provided a written receipt from the utility at the time his or her deposit is paid in full or when he or she makes a cash partial payment. The utility shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant, customer, or any other person to the utility (less any lawful deductions), or any sum the utility is ordered to refund for utility service, that has remained unclaimed for one (1) year after the utility has made diligent efforts to locate the person who made such deposit or the heirs of such person, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).

(7) A deposit may be used by the utility to cover any unpaid balance following disconnection of service under section 16 of this rule; provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

*(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 15; filed Nov 28, 1977, 3:00 p.m.: Rules and Regs. 1978, p. 684; filed Oct 28, 1998, 3:22 p.m.: 22 IR 732; errata filed Nov 22, 1999, 3:31 p.m.: 23 IR 812; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 6-1-16 Disconnection of service; prohibited disconnection; reconnection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-4; IC 8-1-2-113

Sec. 16. Disconnection of Service. (A) Upon Customer's Request. (1) The customer shall notify the utility at least three (3) days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billings therefor until service is disconnected pursuant to such notice.

(2) Upon request by a customer of a utility to disconnect service, the utility shall disconnect the service within three (3) working days of the requested disconnection date. The customer shall not be liable for any service rendered to such address or location after the expiration of these three (3) days.

(B) Without Customer's Request. (1) A utility may disconnect service without request by the customer and without prior notice only:

(a) if a condition dangerous or hazardous to life, physical safety or property exists; or

(b) upon order by any court, the Commission or other duly authorized public authority; or

(c) if fraudulent or unauthorized use of water is detected and the utility has reasonable ground to believe the affected customer is responsible for such use; or

(d) if the utility's regulating or measuring equipment has been tampered with and the utility has reasonable grounds to believe that the affected customer is responsible for such tampering.

(2) In all other instances a utility, upon providing the customer with proper notice (as defined in Rule 16 (E) *[subsection (E) of this section]*), may disconnect service subject to the other provisions of these rules.

(C) Prohibited Disconnection. (1) Except as otherwise provided in subsection 16 (A) and 16 (B) *[subsections (A) and (B) of this section]*, a utility shall postpone the disconnection of service for ten (10) days if, prior to the disconnect date specified in the disconnect notice, the customer provides the utility with a medical statement from a licensed physician or public health official which states that disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one additional ten (10) day period upon the provision of an additional such medical statement.

(2) A utility may not disconnect service to the customer:

- (a) upon his failure to pay for merchandise or appliances purchased from the utility furnishing the water;
- (b) upon his failure to pay for the service rendered at a different metering point, residence, or location if such bill has remained unpaid for less than forty-five (45) days;
- (c) upon his failure to pay for services to a previous occupant of premises to be served, unless the utility has good reason to believe the customer is attempting to defraud the utility by using another name;
- (d) upon his failure to pay for a different form or class of utility service; or
- (e) if the customer shows cause for his inability to pay the full amount due (financial hardship shall constitute cause), and said customer:
  - (i) pays a reasonable portion (not to exceed \$10 or one tenth (1/10) of the bill, whichever is less, unless the customer agrees to a greater portion) of the bill; and
  - (ii) agrees to pay the remainder of the outstanding bill within three (3) months; and
  - (iii) agrees to pay all undisputed future bills for service as they become due; and
  - (iv) has not breached any similar agreement with the utility made pursuant to this rule within the past twelve months.

Provided, however, that the utility may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to Rule 13 (B) *[170 IAC 6-1-13(B)]*. Provided further, that the above terms of the agreement shall be put in writing by the utility and signed by the customer and by a representative of the utility. Only one late payment charge may be made to the customer under this section.

(f) If a customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the meter, incorrect application of the rate schedule, incorrect connection or functioning of the meter, prior estimates where no actual reading was taken for over two months, stopped or slow meter, or any human or mechanical error of the utility, and the customer:

- (i) pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve (12) bills immediately preceding the bill in question; and,
- (ii) agrees to pay the remainder at a reasonable rate, and
- (iii) agrees to pay all undisputed future bills for service as they become due;

Provided, however, that the utility may not add to the outstanding bill any late fee. Provided, further, that the above terms of agreement shall be put in writing by the utility and signed by the customer and a representative of the utility.

(3) If a customer proceeds with a review pursuant to Rule 16.1 (B) *[170 IAC 6-1-17(B)]*, the utility may disconnect only as provided in Rule 16.1 (C) *[170 IAC 6-1-17(C)]*.

(D) Time. (1) No utility may disconnect service unless it is done between the hours of 8:00 A.M. and 3:00 P.M., prevailing local time. Disconnections pursuant to Rules 16 (A) and 16 (B) *[subsections (A) and (B) of this section]* are not subject to this limitation.

(2) A utility may not disconnect service for non-payment on any day on which the utility office is closed to the public, or after twelve noon (12:00 noon) of the day immediately preceding any day on which the utility office is not open to the public.

(E) Notice Required Prior to Involuntary Disconnection. (1) Except as otherwise provided herein, service to any residential customer shall not be disconnected for a violation of any rule or regulation of a utility or for the non-payment of a bill, except after seven (7) days prior written notice to such customer by either:

- (a) Mailing the notice to such residential customer at the address shown on the records of the utility; or,



(b) Personal delivery of the notice to the residential customer or a responsible member of his household at the address shown on the records of the utility.

(c) No disconnect notice for non-payment may be rendered prior to the date on which the account becomes delinquent.

(2) The notice must be in language which is clear, concise, and easily understandable to a layman and shall state in separately numbered large typed or printed paragraphs

(a) the date of proposed disconnection;

(b) the specific actual basis and reason for the proposed disconnection;

(c) the telephone number of the utility office at which the customer may call during regular business hours in order to question the proposed disconnection or seek information concerning his rights;

(d) a reference to the pamphlet or the copy of the rules furnished to the customer pursuant to Rule 16.2 [170 IAC 6-1-18] for information as to the customer's rights.

(F) Procedure for Involuntary Disconnection. (1) Immediately preceding the actual disconnection of service, the employee of the utility designated to perform such function shall make a reasonable attempt to identify himself to the customer or any other responsible person then upon the premises and shall announce the purpose of his presence and shall make a record thereof to be maintained for at least thirty (30) days.

(2) The employee shall have in his possession information sufficient to enable him to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review under Rule 16.1 (B) [170 IAC 6-1-17(B)]. Upon the presentation of such credible evidence, service shall not be disconnected.

(3) The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the service from being disconnected. The utility shall notify its customers pursuant to Rule 16.2 [170 IAC 6-1-18] of its policy with regard to the acceptance or non-acceptance of payment by such employee, and shall uniformly follow such policy without discrimination.

(4) When the employee has disconnected the service, he shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the utility where the customer may arrange to have service reconnected.

(G) Reconnection. (1) A utility may charge a reasonable reconnection charge, not to exceed the charge approved by the Commission in the utility's filed tariffs. A utility shall inform its customers of such reconnection fee pursuant to Rule 16.2 [170 IAC 6-1-18].

(2) If the utility disconnects service in violation of these rules [170 IAC 6-1], the service shall immediately be restored at no charge to the customer.

(3) The utility must reconnect the service to the customer as soon as reasonably possible but at least within one (1) working day after it is requested to do so; provided however, that the utility shall not be required to reconnect the service until

(a) the conditions, circumstances or practices which caused the disconnection have been corrected;

(b) payment of all delinquent charges owed the utility by the customer and any deposit authorized by these rules [170 IAC 6-1] has been made; and

(c) a responsible person is present in the premises to see that all water outlets are closed to prevent damage from escaping water.

*(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 16; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 687; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 6-1-17 Customer complaints**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 17. Complaints and Review. (A) Complaint Procedure. (1) A customer may complain at any time to a utility about any bill which is not delinquent at that time, security deposit, disconnection notice, or any other matter relating to its service and may request a conference thereon. Such complaints may be made in person, in writing, or by completing a form available from either the Commission or from the utility at its business offices. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the

customer shall state at a minimum, his name, service address, and the general nature of his complaint.

(2) Upon receiving each such complaint or request for conference, the utility:

(a) shall promptly, thoroughly and completely investigate such complaint, confer with the customer when requested and notify, in writing, the customer of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.

(b) Such written notification shall advise the customer that he may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the commission.

(B) Review. (1) If the customer is dissatisfied with the utility's proposed disposition of the complaint as provided in 16.1 (A)

(2) [subsection (A)(2) of this section], he may request the Commission in writing within seven (7) days following the date on which such notification is mailed, to informally review the disputed issue and the utility's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the utility involved. Upon receiving such request, the Commission shall provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the utility within thirty (30) days after its receipt of the customer's request. Upon request by either party or the Commission, the parties shall be required to meet and confer to the extent and at such place as the Commission may consider to be appropriate.

(2) The records of the Commission relating to such reviews shall be kept in a systematic order.

(C) Continuation of Service Pending Disposition of Complaint. (1) If the customer is receiving service at the time the complaint and/or request for conference provided for in 16.1 (A) (1) [subsection (A)(1) of this section] above is received by the utility, his service shall not be disconnected until ten (10) days have elapsed from the date of mailing of the notification of the utility's proposed disposition of his complaint. Provided, however, that if a review by the Commission of the utility's proposed disposition of the complaint is requested by the customer as provided by 16.1 (B) (1) [subsection (B)(1) of this section] within seven (7) days after the mailing of such proposed disposition of the complaint, the utility shall not disconnect the customer's service until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the customer who has requested such review has paid and continues to pay all undisputed bills, portions of disputed bills as specified in 16.1 (C) (2) [subsection (C)(2) of this section] below, and pays all future undisputed bills prior to their becoming delinquent.

(2) In those instances when the customer and utility cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the twelve (12) months immediately preceding the disputed bill except in those cases where the customer has received fewer than twelve (12) bills, in which event the customer shall pay an amount equal to 1/12 of the estimated annual cost of service to be rendered to the customer.

(D) Record of Complaints. (1) Each utility shall keep a written record of complaints and requests for conferences pursuant to Rule 16.1 [this section]. Such records shall be retained at the office or branch office of the utility or in the respective department office thereof where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization, or the Commission.

(2) Each utility shall annually submit a report to the Commission which shall state and classify the number of complaints made to the utility pursuant to Rule 16.1 [this section], the general nature of the subject matter thereof, how received (in person, by letter, etc.) and whether a Commission review was conducted thereon.

*(Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 16.1; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 691; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 6-1-18 Informational pamphlets; rate schedules; notice of proposed rate change**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2

Sec. 18. Information Provided by Utilities to Applicants and Customers. (A) All utilities except Class D water utilities must publish and distribute, without request, to all applicants for service and to all current customers, a comprehensive pamphlet which, in clear language, easily understandable to a layman, fully describes the rights and responsibilities of the customers. For Class D utilities it shall be sufficient to distribute a copy of Rules 11 to 16.2 [170 IAC 6-1-11–170 IAC 6-1-18] of these rules to their customers and applicants for service.

(B) A utility shall supply free of charge a copy of the rate schedules applicable to the types of service available to new applicants for and existing customers of residential service, upon request by the applicant or customer.

(C) Each utility, whenever it petitions the Commission for a change in any of its base rate schedules must furnish to each customer within forty-five (45) days of such request and prior to the date of the public hearing a notice which fairly summarizes the nature and extent of the proposed changes. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 16.2; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 692; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-19 Station meters and pressure surveys; records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 19. Station Meters and Pressure Surveys. (A) Each utility furnishing water service shall install at each supply station such station meters and instruments as may be necessary to obtain a daily and monthly record of the total amounts of water delivered into the mains.

(B) Each utility furnishing water service to more than 750 but less than 1,500 customers shall maintain a graphic recording pressure gauge at its plant, downtown office, or at some central point in the distribution system where continuous records shall be made of the pressure in the mains at that point.

(C) Utilities furnishing water service to 1,500 or more customers shall equip themselves with one or more portable graphic recording pressure gauges, in addition to the foregoing, and shall make records, each covering at least a 24-hour period, of the water pressure at sufficiently frequent intervals and at a sufficient number of points on the system to provide an adequate record of system pressures. The records or charts made by these meters shall be identified, dated and kept on file and available for inspection for a period of three years. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 17; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 693; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-20 Water quality standards**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 20. Quality. (A) Water furnished by any water utility for human consumption or for domestic use shall be of such quality as will have the approval, or comply with the requirements, of the Indiana State Board of Health.

(B) (1) Public water supplies within the distribution pipe systems shall be adequately protected against pollution from back siphonage or cross connections with other systems on customer's property by proper installation of protective devices in accordance with the rules of the Indiana State Board of Health. Such protective devices shall be installed and maintained at the cost and expense of the customer, subject however, to the inspection test and approval of the utility before being placed in service, and at such times thereafter as recommended by the Indiana State Board of Health.

(2) Public water supplies shall also be adequately protected against any unnecessary and avoidable pollution at their own sources, and at all times after being taken therefrom, until delivery to the customer, to conform in all cases to the requirements of the Indiana State Board of Health. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 18; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 693; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-21 Flushing mains; records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 21. Flushing Mains. (A) Proper provision shall be made for flushing those parts of a distribution system which need flushing in order to eliminate or minimize complaints from customers arising from discoloration or other abnormal conditions of the water.

(B) Records shall be kept of all flushings of mains, showing date, place and duration, and such records shall be used as a guide in determining the necessary frequency of flushing of the same mains thereafter. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 19; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 693; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-22 Interruptions in service; notice to customers**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-113

Sec. 22. Interruptions of Service. Each utility shall keep a record of any interruption of service affecting its entire system or major division thereof, including a statement of the time, duration, extent and cause of the interruption. Whenever the service is intentionally interrupted for any purpose, such interruption shall, except in emergencies, be at a time during regular working hours of the utility which will cause the least inconvenience to customers. Customers who will be affected by such interruption shall, to the extent practical, be notified in advance. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 20; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 693; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-23 Accident reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-114

Sec. 23. Accidents. In addition to the reports required by statute, every utility shall give notice to the Commission of each serious accident occurring upon its or its customer's premises when the same is accompanied by flooding with water from the utility's system, and is attended with serious damage to property or human life. Said notice shall be given within 24 hours of the utility's knowledge of such accident. A written report shall also be made if the same is required by the Commission.

Neither said notice nor report shall imply or be considered an admission of any liability or responsibility in connection with the accident. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 21; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 694; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-24 Customer request for modification; liability for costs**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-4; IC 8-1-2-101

Sec. 24. Modification at Customer's Expense. If a customer requests for his convenience or by his actions requires that utility facilities be redesigned, reengineered, relocated, removed, modified, or reinstalled, the utility may require the customer to make payment to it of the full cost of performing such service. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 24; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 694; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-25 Extension of water mains (Repealed)**

Sec. 25. (*Repealed by Indiana Utility Regulatory Commission; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566*)

**170 IAC 6-1-26 Rate schedules, rules and regulations; filing; public inspection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-38; IC 8-1-2-39; IC 8-1-2-40

Sec. 26. Filing and Posting of Rate Schedules, Rules and Regulations of the Utility and of the Commission. Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions, and of all rules and regulations covering the relationship between the customer and the utility shall be filed by each utility in the office of the Commission. Complete schedules, contract forms, rules and regulations, etc., if filed with the Commission, shall also be on file in the local office of the utility, and shall be open to the inspection of the public. The attention of the public shall be called to these files of schedules, rules and regulations, by placing a suitable placard in that part of the office open to the public. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 26; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 700; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-27 Date of compliance with rules**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-1-3

Sec. 27. Date of Compliance with Rules. All water utilities shall comply with these Rules, Regulations, and Standards of Service [170 IAC 6-1] as soon as practicable and be in full compliance within 180 days after their date of effectiveness. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 27; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 700; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1-28 Saving clause**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-1-3

Sec. 28. Saving Clause. The adoption of these rules [170 IAC 6-1] shall in no way preclude the Commission from altering or amending the same, in whole or in part, or from requiring any additional service, equipment, facility or standards, whether upon complaint or upon its own motion, or upon the application of any utility; and, further, these rules [170 IAC 6-1] shall in no way relieve any utility from any of its duties under the laws of this State. (*Indiana Utility Regulatory Commission; No. 34805: Standards of Service For Water Utilities Rule 28; filed Nov 28, 1977, 3:00 pm: Rules and Regs. 1978, p. 700; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 1.5. Extension of Water Mains**

**170 IAC 6-1.5-1 “Applicant” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 1. As used in this rule, “applicant” means a person requesting the main extension in order to receive water utility service from the utility. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-1; filed Dec 5, 1990, 3:35 p.m.: 14 IR 559; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-2 “Commission” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 2. As used in this rule, “commission” refers to the Indiana utility regulatory commission. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-2; filed Dec 5, 1990, 3:35 p.m.: 14 IR 559; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-3 “Completion date of the main extension” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 3. As used in this rule, “completion date of the main extension” means the date the utility declares the main extension to be in service and releases it for taps. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-3; filed Dec 5, 1990, 3:35 p.m.: 14 IR 559; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-4 “Cost of connecting” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 4. As used in this rule, “cost of connecting” means the average of the utility's costs for the same size service connection

incurred during the preceding calendar year including, if provided by the utility, the service pipe, service stop, meter and meter vault, tap, and installation thereof or portions thereof; however, the cost of connecting shall not be applicable under this rule for those portions of such cost recovered from an applicant by a utility in the form of a tap or similar charge. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-4; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-5 “Cost of the main extension” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 5. As used in this rule, “cost of the main extension” means the cost of installing the main as determined in sections 31 through 32 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-5; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-6 “Customer” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 6. As used in this rule, “customer” means a person being supplied with water utility service. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-6; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-7 “Deposit” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 7. As used in this rule, “deposit” means the amount required to be deposited by or on behalf of each applicant or prospective customer for a main extension prior to the utility commencing construction of the main extension. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-7; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-8 “Estimated annual revenue” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 8. As used in this rule, “estimated annual revenue” for an applicant connecting to the main means the utility's average annual revenue per applicant from comparable customers in the calendar year preceding such connection, adjusted to reflect any changes in the applicable rates and charges of the utility for such service. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-8; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-9 “Frontage” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 9. As used in this rule, “frontage” means the footage, ten (10) feet minimum length, of a lot or tract (but not an easement) boundary that is parallel to or curvilinear to, and immediately adjacent to a main extension in a public thoroughfare or easement. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-9; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-10 “Immediate revenue allowance” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 10. As used in this rule, “immediate revenue allowance” means the amount of three (3) times the estimated annual revenue less the cost of connecting for an applicant. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-10; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-11 “Lot” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 11. As used in this rule, “lot” means a parcel of land as platted or, if the area to be served is not platted, the equivalent of a parcel of land as determined in accordance with section 30 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-11; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-12 “Main” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 12. As used in this rule, “main” means a pipe owned by the utility which delivers water to fire hydrants and service pipes. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-12; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-13 “Main extension” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 13. As used in this rule, “main extension” means the mains, hydrants, and appurtenances installed by the utility to provide the water utility service requested by or on behalf of the applicant or prospective customer, but does not include the service pipes. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-13; filed Dec 5, 1990, 3:35 p.m.: 14 IR 560; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-14 “Original depositor” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 14. As used in this rule, “original depositor” means an applicant who enters into a main extension agreement and makes a deposit with the utility. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-14; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-15 “Person” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 15. As used in this rule, “person” means an individual, firm, corporation, governmental agency, or other entity. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-15; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-16 “Prospective customer” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 16. As used in this rule, “prospective customer” means a person who is not an original depositor, but whose lot or

frontage directly abuts the main extension between its original beginning and its original end point. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-16; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-17 “Public thoroughfare” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 17. As used in this rule, “public thoroughfare” means a road, street, or way which has been dedicated for use by the public and accepted by the appropriate governmental authority. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-17; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-18 “Refund” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 18. As used in this rule, “refund” means the subsequent connector's fees, subsequent connector's revenue allowances, and revenue allowances from depositor-authorized connections of lots included in the original depositor's main extension agreement that must be paid by the utility to the original depositor for ten (10) years after the completion date of the main extension. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-18; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-19 “Revenue allowance from depositor-authorized connection” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 19. As used in this rule, “revenue allowance from depositor-authorized connection” means the amount of three (3) times the estimated annual revenue less the cost of connecting that the utility may refund to original depositor for connections for lots or unplatted areas owned, controlled, or designated by the original depositor and does not include an immediate revenue allowance. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-19; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-20 “Service pipe” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 20. As used in this rule, “service pipe” means a supply line leading directly into the premises supplied or to be supplied from the main adjacent to such premises. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-20; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-21 “Service stop” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 21. As used in this rule, “service stop” means a valve inserted in the service pipe between the main and the meter for the purpose of turning water on and off. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-21; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-22 “Subsequent connector” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12



Sec. 22. As used in this rule, “subsequent connector” means a person who was not an original depositor but subsequently applies for water service and who connects to the main within ten (10) years after the completion date of the main extension. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-22; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-23 “Subsequent connector's fee” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 23. As used in this rule, “subsequent connector's fee” means the cash fee equal to the cost per lot of the main extension determined in accordance with sections 30 through 32 of this rule, multiplied by the number of lots for which service is requested. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-23; filed Dec 5, 1990, 3:35 p.m.: 14 IR 561; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-24 “Subsequent connector's revenue allowance” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 24. As used in this rule, “subsequent connector's revenue allowance” means three (3) times the estimated annual revenue for the subsequent connector less the cost of connecting. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-24; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-25 “Tap” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 25. As used in this rule, “tap” means a fitting owned by the utility and inserted by it into a main to which a service pipe is attached. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-25; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-26 “Total required deposit” defined**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 26. As used in this rule, “total required deposit” means the amount by which the cost of the main extension exceeds the immediate revenue allowance for the original depositor. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-26; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-27 Free extension**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 27. A utility, upon written request for service by an applicant, shall extend a main and connect the applicant free of charge to provide the service requested if:

(1) the cost of the main extension does not exceed the immediate revenue allowance for the applicant; and

(2) the applicant agrees to take service within nine (9) months following the completion date of the main extension.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-27; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-28 Main extension; exception to commission approval**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 28. If the cost of the main extension is greater than the free extension cost provided in section 27 of this rule, that extension shall be made, upon receipt by the utility of a signed agreement and a deposit from the applicant, without specific approval of the agreement by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-28; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-29 Main extension route**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 29. (a) The utility shall use good engineering and water utility practices in determining the route for all main extensions.

(b) The utility shall determine the total length of the extension from its existing main to serve the extension to the end of the lot or frontage of the most remote applicant to be served.

(c) However, if the end lot or frontage is a corner lot or frontage abutting an intersecting street in which an existing main is located, the end of the new extension must connect with the existing main located in that intersecting street.

(d) If the end lot or frontage is a corner lot or frontage abutting an intersecting street in which no main is located, the end of the new extension may not extend beyond the intersecting street corner of that lot.

(e) If the street in which the main is to be laid dead ends in a cul-de-sac or appears to be permanently dead ended against a railroad, creek, river, or other major physical or natural barrier, the end point of the main extension, if serving the most remote lot or frontage, shall be the point of the most remote service pipe connection, which connection point shall be at least ten (10) feet beyond the lot line. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-29; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-30 Number of lots served by main extension**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 30. A determination shall be made of the number of lots to be served by the main extension. The determination may include only lots which directly abut the main extension between its original beginning and its original end point. If any part of the main extension is located within an area platted or to be platted, the number of lots shown within the plat to be served shall be included in the determination. If any part of the main extension is located in an unplatted area, the number of lots to be included shall be determined by dividing the total frontage of the main extension within the unplatted area on either or both sides of the public thoroughfare or easement in which the main is located by one hundred (100) feet and rounded to the nearest whole number of lots, provided either or both sides are available for future development and not restricted against usage because of limited access or other reasons. The determination of the number of lots for a particular extension may include a combination of platted and unplatted lots as defined in this section. Any further main extension subsequently connected to the original main extension shall, for all purposes under this rule, constitute a separate main extension. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-30; filed Dec 5, 1990, 3:35 p.m.: 14 IR 562; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-31 Main extension cost**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 31. (a) The cost of the main extension may, as determined by the utility, be either:

(1) the computed cost based on the average costs for similar main extensions experienced by the utility during its preceding fiscal year, plus or minus any amount necessary to adjust for known cost increases or decreases;

(2) the estimated cost of the extension; or

(3) the actual cost of a developer-installed extension.

(b) In the absence of representative cost data for the previous year for any size or type of main or for any special construction, or for any other facility involved in a main extension, the cost shall be the utility's best estimate of the cost of the main, special construction, or related facilities based upon current available information.

(c) If the cost of the main extension is computed or estimated under subsection (a)(1) or (a)(2), it shall be based on an eight (8) inch main unless the utility determines that a larger or smaller main is reasonably necessary to serve the applicant, including fire protection service, in which event the cost, computed or estimated, shall be based on the size of main determined reasonably necessary.

(d) If the utility's future extension plans require a larger main than is reasonably necessary to serve the applicants and prospective customers, the difference in the cost for the larger main size and increased material and installation cost, if any, shall be borne by the utility.

(e) The computed or estimated cost may be adjusted to the actual cost by the utility, in which event the actual cost as finally determined shall constitute the cost of the main extension. If the main extension agreement provides for the adjustment of the computed or estimated cost of the main extension to the actual cost, the adjustment shall be made upon completion of the main extension. If the actual cost of the extension is less than the computed or estimated cost, the utility shall refund the difference to the original depositor as soon as the actual cost has been determined. If the actual cost of the extension exceeds the computed or estimated cost, then the utility shall bill the original depositor for, and that depositor shall pay, the difference between the computed or estimated cost and the actual cost.

(f) If the utility determines that a main larger than eight (8) inches is reasonably necessary to serve the domestic and fire protection requirements of the applicant, and those requirements are significantly in excess of the requirements of the other applicants or the prospective customers along the intervening route of the main, the cost of the main extension or deposit for other applicants or subsequent connector's fee for the prospective customers shall be based on the smaller size main that the utility has determined is adequate to meet the requirements of the other applicants or the prospective customers along the intervening route. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-31; filed Dec 5, 1990, 3:35 p.m.: 14 IR 563; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-32 Cost per lot**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 32. The cost per lot shall be determined by:

- (1) the total number of lots to be served by the main extension divided into the cost of the main extension; or
- (2) the cost of the main extension shall be divided proportionately on the basis of respective lot frontage for all lots to be served by the main extension.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-32; filed Dec 5, 1990, 3:35 p.m.: 14 IR 563; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-33 Cost options**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 33. (a) The utility shall file with the commission, for approval, its choice of the following options with appropriately revised rules:

- (1) For the main extension, the applicant shall be required to pay the cost of the main extension, and the full gross-up state and federal taxes associated with the cost of the extension and the applicant shall receive refunds as provided in sections 36 through 37 of this rule.
- (2) For the main extension, the applicant shall be required to pay the cost of the main extension exclusive of the tax associated with the main extension, and the applicant shall receive refunds as provided in sections 36 through 37 of this rule.
- (3) For the main extension, the applicant shall be allowed the option of paying the cost of the main extension and full gross-up state and federal taxes associated with the cost of the main extension, and the applicant shall receive refunds as provided in

sections 36 through 37 of this rule, or shall pay the cost of the main extension exclusive of the tax associated with the main extension and the applicant shall forfeit all rights to immediate revenue allowances and to refunds, except for subsequent connector's fees.

(b) If the utility desires to change its option after initial filing, the utility shall submit its requested revisions to the commission for approval. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-33; filed Dec 5, 1990, 3:35 p.m.: 14 IR 563; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-34      Total required deposit**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 34. (a) In the case of a residential real estate development, immediate revenue allowance may not be deducted from the cost of the main extension in determining the amount of the total required deposit, except for those residential dwelling units, if any, where construction has commenced above the first floor level.

(b) In the case of a commercial or industrial real estate development, immediate revenue allowance may not be deducted from the cost of the main extension in determining the amount of the total required deposit, except where building construction has commenced and pertinent data, such as customer types, service pipe, metering arrangements, and water demands, have been furnished to the utility, to allow the utility to determine the estimated annual revenue from that development.

(c) The total required deposit for a main extension may either be made in a cash payment, or it may be secured by an irrevocable letter of credit acceptable to the utility and issued by a national banking association or a bank chartered under the laws of the state. The deposit may also be secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the deposit immediately upon completion of the main extension.

(d) If permitted by the utility, the main extension may be installed by the developer or the developer's contractor according to the extension and installation policies of the utility, and the actual cost of the developer-installed extension shall be considered the total required deposit.

(e) A utility may allocate, or permit original depositors to allocate, the total required deposit on the basis of the number of lots, the respective lot frontage, or any other basis mutually acceptable to the original depositors. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-34; filed Dec 5, 1990, 3:35 p.m.: 14 IR 564; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-35      Subsequent connector fee**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 35. (a) Within ten (10) years after the completion date of the main extension, a utility shall not permit a subsequent connector to connect to a main extension until after the subsequent connector has paid the required subsequent connector's fee to the utility.

(b) Applicants for service connections for lots in subdivision and tract developments which are included in the original depositor's main extension agreement, are not required to pay a subsequent connector's fee, unless otherwise specifically provided for in the main extension agreement.

(c) If a prospective customer with frontage land that was unplatted on one (1) or both sides of the street at the time the main extension was installed later subdivides this frontage prior to the expiration of the ten (10) years after the completion date of the main extension in such a manner that some or all lots will not require service directly from that main extension, the customer is considered to have requested a lateral extension from that main extension to serve the customer's land. The utility, in that case, shall collect from the prospective customer prior to installing the requested lateral main extension, a subsequent connector's fee for each equivalent lot of the frontage land used in determining the main extension cost per lot and which will not be served directly by the original main extension. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.5-35; filed Dec 5, 1990, 3:35 p.m.: 14 IR 564; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-1.5-36 Refunds**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 36. (a) Refunds shall be paid for a period of ten (10) years after the completion date of the main extension to the original depositor in proportion to the respective deposits, unless the original depositor for the main extension forfeited all rights to refunds, except subsequent connector's fees, as provided in section 33(a)(3) of this rule.

(b) However, no refunds shall be required to be made by the utility until the number of customers actually connected to the main extension equals the number of applicants for which an immediate revenue allowance was included in computing the total required deposit for the main extension. The refunds shall be paid annually or more frequently at regular intervals at the discretion of the utility.

(c) Total refunds to any original depositor shall not exceed the amount of the original deposit except in the case of a phased residential real estate development. In this situation the preliminary plat must be submitted to the utility at the time of the first request for a main extension. During the ten (10) year period beginning with the completion date of the first main extension, the amount of any refunds generated in excess of the deposit made on any phase of the development must be applied against the deposit made for any other phase of the development, so long as the total amount of refunds to the original depositor shall not at any time exceed the total amount of his deposits during the period. The utility shall not require any subsequent connector's fee which is in excess of the unrefunded balance of the aggregate of deposits received from all original depositors.

(d) The refund shall be made by mailing the payment to the original depositor's last known address as shown on the books and records of the utility. Any refund distribution which cannot be returned to an original depositor after the refund becomes due and payable must be reported as required by IC 32-9-1-42 *[Repealed by P.L.31-1995, SECTION 9, effective July 1, 1996.]*. (Indiana Utility Regulatory Commission; 170 IAC 6-1.5-36; filed Dec 5, 1990, 3:35 p.m.: 14 IR 564; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

**170 IAC 6-1.5-37 Deposit**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 37. A deposit shall be held by the utility as a customer's advance for construction. Any deposit which is not subject to refund because of the running of the ten (10) year period as provided in section 36 of this rule, shall be transferred by the utility to contributions in aid of construction. If the original depositor for a main extension forfeits all rights to a refund, except for subsequent connector's fees as provided in section 33(a)(3) of this rule, the payment must be included in contributions in aid of construction, and the associated taxes shall be deducted from contributions in aid of construction. All other deposits must be held as customers' advances for construction until returned to the original depositor or be reported as required by IC 32-9-1-36 *[Repealed by P.L.31-1995, SECTION 9, effective July 1, 1996.]*. (Indiana Utility Regulatory Commission; 170 IAC 6-1.5-37; filed Dec 5, 1990, 3:35 p.m.: 14 IR 565; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

**170 IAC 6-1.5-38 Basis for costs**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 38. (a) Each utility shall, no later than the first quarter of each year, submit to the commission information used to establish the basis for computed costs for typical main extensions.

(b) If the applicant is required to make any payment, the utility shall, upon request, make the following available to the applicant:

(1) The information used to establish the basis for the applicable amount as submitted to the commission in compliance with this rule.

(2) The information used to establish the basis for the estimated annual revenue for a period of three (3) years to be realized by the utility from permanent and continuing customers on main extensions as required by this rule.

(3) The cost of connecting for the sizes of service connections.

*(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-38; filed Dec 5, 1990, 3:35 p.m.: 14 IR 565; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-39      Extension exception**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 39. A utility shall not be required to make extensions as described in this rule unless the applicants to be initially served by those extensions contract to use the service for a period of three (3) years. A bond may be required of the applicant in this situation. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-39; filed Dec 5, 1990, 3:35 p.m.: 14 IR 565; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-40      Special contract**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 40. (a) A utility may require a special contract when:

- (1) the requested main extension is of such length and the prospective business to be developed by it is so meager as to make it doubtful whether the business from the extension would ever pay a fair return on the utility investment involved in such extension;
- (2) the prospects are that the patronage and demand will not be of such permanency as to warrant the capital expenditure involved;
- (3) there are industrial installations requiring extensive water utility investment and where the demand for water service is expected to be slight, irregular, or of unknown quantity; or
- (4) there are other abnormal or extraordinary circumstances.

(b) The utility and the applicant requesting the extension may enter into a special contract establishing the terms and conditions on which the extension will be made. In the event they are unable to agree on the terms and conditions, the matter, including the contract embodying the terms and conditions, shall be submitted to the commission for determination. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-40; filed Dec 5, 1990, 3:35 p.m.: 14 IR 565; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-1.5-41      Prohibition exception**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-12

Affected: IC 8-1-12

Sec. 41. This rule does not prohibit a utility from making free extensions of lengths greater than specified in this rule or from providing a method of return of deposits for extensions more favorable to original depositors, so long as discrimination is not practiced among applicants or original depositors whose service requirements are similar. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.5-41; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**Rule 2.      Classification of Accounts for Class A, B, and C Water Utilities**

**170 IAC 6-2-1      Classification of accounts; adoption of rules (Repealed)**

Sec. 1. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 15, 1990, 4:30 p.m.: 13 IR 1136)*

**170 IAC 6-2-2      Classification of accounts for Class A, B, and C water utilities; adoption by reference**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

Affected: IC 8-1-2-10; IC 8-1-2-46

Sec. 2. (a) The rules governing the classification of accounts for Class A, B, and C water utilities operating within the state

of Indiana as approved, prescribed, and promulgated by the National Association of Regulatory Utility Commissioners at the 96th Annual Convention on November 26-29, 1984, are adopted by reference.

(b) Copies of the Uniform System of Accounts prescribed for Class A, B, and C water utilities, as approved, prescribed, and promulgated by the National Association of Regulatory Utility Commissioners, as set out at the 96th Annual Convention on November 26-29, 1984, are available for purchase from the National Association of Regulatory Commissioners, Post Office Box 684, Room 1102, Interstate Commerce Commission Building, Washington, D.C. 20044. (*Indiana Utility Regulatory Commission; 170 IAC 6-2-2; filed Feb 15, 1990, 4:30 p.m.: 13 IR 1136; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

### **Rule 3. Central Station Hot Water Heating Utilities**

#### **170 IAC 6-3-1 Statutory provisions and definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 1. Statutory Provisions and Definitions. In accordance with statutory provisions in Sections 36 and 37 [*IC 8-1-2-33, IC 8-1-2-34*], Acts of 1913, the attached code of standards [*170 IAC 6-3*] for central station hot water heating service has been prepared. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 1; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1653; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 6-3-2 Definitions; effect of rule; customer compliance with regulations**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 2. Definitions and General Provisions. (a) The word "Utility," used herein, shall be construed to mean public utility; the word "Commission" shall be construed to mean the Public Service Commission of Indiana; the word "Consumer" shall be taken to mean any person, firm, corporation, municipality or other political subdivision of the state supplied by any such utility.

(b) The adoption of these rules and regulations [*170 IAC 6-3*] shall in no way preclude the commission from altering or amending the same in whole or in part, after due notice and public hearing, or from allowing other or requiring additional service, equipment, facility, or standards, either upon complaint or upon its own motion, or upon the application of any utility. These rules [*170 IAC 6-3*] shall not in any way relieve any utility from any of its duties under the laws of this State.

(c) Any utility may decline to serve a consumer or prospective consumer until he has complied with the State and municipal regulations on central station hot water heating service and the reasonable rules and regulations of the utility furnishing the service. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 2; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1653; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 6-3-3 Retention of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12

Sec. 3. Records to be Kept in the State. All records required under these standards [*170 IAC 6-3*] shall be preserved for at least three years after they are made. Such records shall be kept within the State, at an office, or offices, of the utility located in the territory served by it, unless otherwise ordered, and shall be open for examination by the commission or its representatives. Each utility shall notify the commission of the office or offices at which the various classes of records are kept. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 3; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1654; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 6-3-4 Complaint records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12; IC 8-1-2-54

Sec. 4. Complaints, Records of. (a) Each utility shall keep a record of all written complaints received at its office in regard to service which record shall include the name and address of the consumer, the date, nature of complaint, and the remedy. The record shall be available for inspection by duly accredited representatives of the commission.

(b) The commission may require any utility to file with the commission a copy of such record covering any stated interval of time. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 4; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1654; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-5 Station instruments and gauges**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 5. Station Instruments and Gauges. (a) Each utility shall install both indicating and recording thermometers for obtaining the temperature of the water in flow and return mains and also for obtaining the outside temperature.

The thermometers for obtaining the temperature of flow and return water shall be installed so as not to be affected by any local temperature changes other than that of the flow and return water.

The thermometer for obtaining the outside temperature of the atmosphere shall be placed at least one foot from the building in a standard approved case and protected from local conditions tending to give an incorrect indication of the temperature.

(b) Each utility shall install such indicating and recording pressure gauges as may be necessary to obtain the pressure of flow and return water in the mains.

(c) Each utility should install a suitable standard meter in the flow water main which will both indicate and record the amount of water being supplied to the system.

(d) Each utility should install a suitable wind velocity indicator or anemometer. It shall be so located as to indicate the wind velocity in the district served by the utility. Anemometers not of the recording type shall have a record taken of their indications at intervals of one hour. The average velocity of the wind during a period of one minute shall be the velocity recorded. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 5; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1654; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-6 Instrument approval and testing; allowable errors**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-34; IC 8-1-2-35

Sec. 6. Approval and Tests of Instruments and Allowable Errors. (a) All recording and indicating thermometers, gauges, or other instruments used by the utility in connection with its central station heating service shall be of a suitable make and type satisfactory to the commission and shall be subject to the following tests:

(b) Recording thermometers, shall be compared at least once per month and indicating thermometers and gauges shall be compared at least twice during the heating season with standard calibrated indicating instruments. The range of the check observations shall extend, so far as practicable, over approximately two-thirds of the working scale.

(c) A record shall be kept of all tests, which record shall contain all the information necessary to identify the instrument, the date of the test, the results of the test and all readings taken.

(d) The error of the indicating thermometers used to indicate the temperature of the water in the station flow and return mains shall not exceed plus or minus 1 degree between 70° F. and 240° F.

(e) The error of the recording thermometers used to record the temperatures of the water in the station flow and return mains shall not exceed plus or minus 3 degrees between 70° F. and 240° F.

(f) The error of the indicating thermometer used to indicate the temperature of the outside air shall not exceed plus or minus 1 degree between -20° F. and 70° F.

(g) The error of the recording thermometer used to record the temperature of the outside air shall not exceed plus or minus two degrees between -20° F. and 70° F.

(h) A record of the indication, at intervals of one hour, of all indicating thermometers required under this section shall be kept by the utility.

(i) Where recording thermometers are used the utility will not be required to keep a record of the readings of the corresponding



indicating thermometers. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 6; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1655; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-7 Map of distribution system; reports**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12

Sec. 7. Reports to the Commission. Each utility shall file with the commission a map of its distribution system and such reports as the commission may from time to time require. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 7; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1656; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-8 Boiler horsepower**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 8. Boiler Horsepower. There shall be available for use at times of zero weather at least six boiler horsepower capacity for each 1,000 square feet of radiation connected to the utility's mains.

Note.—A boiler horsepower is equivalent to the evaporation of 34.5 pounds of water per hour from feed water of 212° F. to saturated steam at the same temperature. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 8; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1656; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-9 Water flow in mains; pressure variations and surveys**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 9. Pressure and Flow of Water in Mains. (a) Pressure Variation. The pressure of the water supplied by any utility as measured at the consumer's service where it enters the building shall not indicate a differential pressure of less than one-half pound per square inch working pressure between flow and return pipes and the average pressure in flow and return service pipes shall be sufficient at all times completely to fill all radiators in the consumer's installation.

(b) Pressure Surveys. Each hot water heating utility shall provide itself with the proper gauges and instruments and shall take and record on order of the commission measurements of the water pressures and variations in pressure throughout the system at points indicated on a map of the distribution system on file with the commission.

(c) Flow. The utility shall be equipped and prepared to furnish at least six pounds of water at the consumer's premises per square foot of radiation per hour. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 9; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1656; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-10 Temperature, pressure and water flow instruments; records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 10. Temperature Pressure and Flow of Water in Mains and Services. (a) Each utility shall provide itself with the proper thermometers and other instruments and shall take and record on order of the commission, the temperature of the water throughout the system at points indicated on a map of the distribution system on file with the commission.

(b) In new installations there shall be provided at the consumer's expense the necessary connections in the consumer's installation for taking the temperature and pressure of the flow and return water in the consumer's installation also the necessary connections for the attachment of a portable venturi device for measuring the quantity of water flowing through the installation.

(c) In old installations when there is complaint of inadequacy of service there shall be provided at the consumer's expense the necessary connections in the consumer's installation for taking the temperature, pressure and flow of water as is required in new installations.

(d) The utility shall provide itself with suitable indicating and recording portable instruments to be connected to the consumer's installation for the purpose of determining the quality of service and the quantity of heat being delivered to the consumer during a given period of time. The instruments will consist of thermometers, pressure gauges and a set of venturi tubes. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 10; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1657; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### 170 IAC 6-3-11 Temperature standards

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-34

Sec. 11. Station Operating Schedule of Temperatures. (a) The standard for heating service shall be determined by the average temperature of the flow and return water in the mains at the heating plant of the utility and shall not be less than that indicated in the following table showing the average temperatures of flow and return.

(b) The average temperature of station flow and return water shall be determined by dividing by two the sum of the temperature of the water in the flow main and the temperature of the water in the return main.

TABLE I

Table Showing Average Temperatures of Flow and Return Water

Outside Temperature Degrees Fahrenheit	Day Schedule	Permissible Night Schedules	
	6:00 a.m. to 6:00 p.m.	6:00 p.m. to 9:30 p.m. 3:30 a.m. to 6:00 a.m.	9:30 p.m. to 3:30 a.m.
70	80	85	70
65	92	98	82
60	102	107	92
55	111	116	101
50	121	126	111
45	129	134	119
40	137	142	128
35	144	148	136
30	151	154	145
25	158	160	154
20	164	165	162
15	170	170	170
10	175	175	175
5	180	180	180
zero	184	184	184
-5	187	187	187
-10	190	190	190
-15	191	191	191
-20	192	192	192

NOTE.—See appendix [170 IAC 6-3-27] for schedule of station flow temperature.

TABLE II

Table Showing Temperature-Lowering Coefficients of Wind Movements

Outside Temperature	Temperature-Lowering Effect per Mile per Hour
50° to 40°	.75 degrees
40 to 30	1.00 degrees
30 to 20	1.10 degrees
20 to 10	1.20 degrees

10 to 0	1.30 degrees
0 to -10	1.40 degrees
-10 to -20	1.50 degrees

TABLE III  
Table Showing Temperature-Lowering Effect of Wind

Outside Temperature	Wind		
	Light 5 to 10 m.p.h.	Medium 10 to 15 m.p.h.	Strong 15 to 20 m.p.h.
50° to 40°	6°	9°	13°
40 to 30	8	13	17
30 to 20	8	14	19
20 to 10	9	15	21
10 to 0	10	16	23
0 to -10	10	17	25
-10 to -20	11	19	26

NOTE.—The plant operator will vary these wind coefficients to suit local conditions.

*(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 11; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1657; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-12 Interruption of service; notice to consumer**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 12. Interruptions of Service. Each utility shall make all reasonable efforts to eliminate interruptions of service, and when such interruptions occur shall endeavor to re-establish service with the shortest possible delay. Whenever the service is to be interrupted for any length of time the consumer shall be notified, if possible, in advance. *(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 12; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1659; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-13 Hourly station readings; records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-12

Sec. 13. Station Records. Each utility shall keep a station record, which record shall show at least the hourly readings of:

The temperature of the water in the flow main

The temperature of the water in the return main

The temperature of the outside atmosphere

The pressure of the water in the flow main

The pressure of the water in the return main

The wind velocity where there is installed a suitable wind gauge.

Also, the pounds of coal burned per month where it is not practicable to get daily reports.

The time of starting and shutting down boilers, heating equipment and pumps.

And such other data as is required to determine the characteristics of the load.

*(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 13; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1660; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-14 Sediment in mains; blowout pipes**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-101

Sec. 14. Sediment in Mains. Each utility shall provide blow-out pipes, on all lateral extensions of mains and at other necessary places in the distribution system for the removal of sediment in the mains. The mains shall be maintained free of sediment. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 14; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1660; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-15 Bills**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-4; IC 8-1-2-33

Sec. 15. Billing of Consumer for Service. (a) Bills rendered periodically to consumers for hot water heating service shall show the number of square feet of radiation set, all flat rate charges, and the price per unit of service. On all bills which are computed on any other basis than a definite charge per unit of service, the other factors used in computing the bills shall be clearly stated so that the amount may be readily computed from the information appearing on the bill.

(b) The billing for all consumers having new heating installation or altered heating installation, shall be based upon the radiation set in the consumer's premises.

(c) Bills rendered to old consumers or to consumers whose radiation has not been altered shall be based upon the radiation set when the amount of radiation set is the correct amount as determined by inspection or test made by the utility subject to the approval of the commission.

(d) The total square feet of radiation set in any consumer's installation shall include in addition to the cast iron radiators, all exposed piping, indirect radiation and such other radiating surfaces which are not covered by suitable pipe covering.

(e) The consumer shall install storm sash strips or other equally effective protections to the doors and windows and keep them securely fastened in place and maintained so during the heating season so as to reduce the amount of radiation required and to conserve the heat.

(f) The company shall at all times exercise reasonable diligence in supplying water in sufficient amount and of such a temperature, as will reasonably heat the premises of the consumer, with all windows and other openings properly closed and maintained.

(g) The company shall furnish hot water in a sufficient quantity to heat the building to a temperature of not less than 70 degrees Fahr., when the outside temperature is zero degrees Fahr., and above provided that sufficient radiation be installed by the consumer to maintain the desired temperature.

(h) The consumer shall not in any manner change, divert or use the water circulating through said interior system and through said connections or permit the same to be so changed, diverted or used, and shall exercise at all times reasonable care for the protection of the utility's property on the premises and shall not install any additional radiation in said premises without the written consent of the utility, and properly identified authorized agents and employees of the utility shall have the right to enter at all reasonable hours upon the premises for the purpose of inspecting the interior system and connections; the consumer shall at all times keep the interior system and the building in good repair and condition at his own expense, and the outside openings properly closed so as to exclude the outside air in cold weather during the heating season; and the utility shall not be liable for any failure of circulation in the interior system nor for damage to person or property arising directly or indirectly from the furnishing of the heat on the premises or for defects in the interior system. However, controlling devices and shut-off valves located on the consumer's premises shall be installed at the expense of the consumer and maintained at the expense of the utility.

(i) The consumer shall prevent all persons other than the duly authorized representatives of the utility from making use of the shut-off cocks of the heating connections outside of the building; when the circulation is once established and the water turned on, such service shall not be discontinued except by an authorized representative of the utility; the utility may seal all drain valves between the heating system and the sewer.

(j) The utility is advised, in so far as it is possible to contract for service with no other party than the owner of the building to be heated. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 15; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1660; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-16 Indirect radiation; rate**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-32; IC 8-1-2-33; IC 8-1-2-39

Sec. 16. Indirect Radiation. Indirect radiation is not recommended but when installed shall be charged for at a rate, 100% in excess of the rate for direct radiation. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 16; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1662; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-17 Underset radiation; rate increase**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-32; IC 8-1-2-33; IC 8-1-2-39

Sec. 17. Underset Radiation. Consumers having less than the proper amount of radiation installed shall be billed at the following increased rate until such time as they can procure and install the proper amount of radiation. Rates for direct radiation, where less than normal or standard amount of radiation is installed:

90% of normal or standard radiation installed, add 5% to normal rate.

80% of normal or standard radiation installed, add 10% to normal rate.

70% of normal or standard radiation installed, add 15% to normal rate.

60% of normal or standard radiation installed, add 20% to normal rate.

50% of normal or standard radiation installed, add 25% to normal rate.

Note.—By normal or standard amount of radiation is meant the radiator area required to keep the room or building at 70° F. inside when the outside temperature is zero in calm weather. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 17; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1662; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-18 Customer request for test; application to utility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-37

Sec. 18. Test on Request of Consumer to Utility. (a) In case of complaint by a consumer alleging inadequate service, the utility shall immediately investigate the heating system on said consumer's premises, taking such measurements and data as may be necessary to disclose the difficulty. If the utility is at fault it shall remedy the trouble as soon as practicable. If the utility is not at fault it shall recommend to the consumer in writing what changes should be made to give the desired service.

(b) Evidence of the adequacy of service shall be that, with all radiator valves open and radiators free from sediment, the average temperature of the flow and return water, measured at or near the point of entrance of the service pipes to the building, shall not be less than the day schedule of temperature given in the table of average temperatures of flow and return.

(c) Evidence of the adequacy of the number of square feet of radiation set shall be that, with all the radiator valves open and radiators free from sediment, and the average temperature of the flow and return water maintained as given in table of average temperatures for the day schedule, making allowance for temperature-lowering effects of wind velocity, and with the outside openings, such as doors and windows, etc., properly closed and maintained so as to exclude the outside air in cold weather, and the utility furnishing at least six pounds of water per square foot of radiation, and with the pressure differential between flow and return pipe maintained to at least one-half pound per square inch working pressure and the inside building temperature maintained at 70 degrees Fahr., then and in that case the number of square feet of radiation shall be considered as adequate. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 18; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1663; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-19 Customer request for test; application to public service commission**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 19. Test or Inspection upon Application to the Commission. Upon formal application of any consumer to the commission, an inspection and if necessary, a test will be made upon the consumer's heating system, such inspection or test to be made as soon as is practicable after the receipt of the application. If the commission finds that the utility is at fault and has rendered inadequate

service, the expense of the investigation or test shall be borne by the utility and the cause of inadequate service be remedied within a period of time as determined by the commission. If the commission finds that the consumer is at fault, the expense of the investigation or test shall be borne by the consumer and the cause for inadequate service be remedied within a period of time as determined by the commission. In case a test is required a cash deposit of five dollars shall be made with the commission by the petitioner previous to the making of the test. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 19; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1664; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-20 Regulation of service; installation standards**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 20. Regulation of Consumer's Service. (a) Each utility may regulate the water on the consumer's installation by thermostatic regulator, differential valve, or other device, and shall maintain such regulating device or devices at its own expense.

(b) Each utility shall, from time to time, give its consumers such information and assistance as is reasonably necessary, in order that the consumer may secure safe and adequate service from the heating installation.

(c) The heating installations of all consumers, including cast iron radiation, piping, and other heating devices, shall be thoroughly cleaned by the utility, at reasonable intervals of time as determined by the commission, of all corrosion, mud and other sediment.

(d) The utility may require, on old installations where there is complaint as to service, the consumer to install at his own expense suitable connections for a venturi tube, also thermometer wells and pressure gauge connections at the point where the service pipes enter the building, in order that the quantity of heat furnished the consumer by the utility during any given period of time may be measured.

(e) The utility shall by its inspectors, agents, or workmen, have the right of free access, at all reasonable hours, to the premises supplied with heat, to the valves, or service pipe from mains, to look after the heating system, to turn the water on or off, to adjust and care for the controlling devices or other portions of the heating system of said premises, and to make any and all such tests as may be necessary. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 20; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1664; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-21 Drawing-off of water; consent of utility**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-38; IC 8-1-2-39

Sec. 21. Using or Draining Water from Heating System. The hot water supplied by the utility is the property of the utility and the drawing off of any of this water for any purpose shall not be permitted except upon written consent of the utility. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 21; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1665; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-22 Payment for heating service; recommended payment schedule**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33; IC 8-1-2-38; IC 8-1-2-39

Sec. 22. Payment for Heating Service. (a) All hot water heating service shall be furnished on a season basis and bills shall be payable monthly from October 1st to April 1st, inclusive. The per cent of the total heating bill that should be due per month of service shall be determined by the utility, subject to the approval of the commission and included as a part of the contract with the consumer.

The following payments for heating service are recommended:

October 1st .....	10 per cent.
November 1st .....	15 per cent.
December 1st .....	15 per cent.

January 1st .....	20 per cent.
February 1st .....	20 per cent.
March 1st .....	10 per cent.
April 1st .....	10 per cent.

(b) A consumer receiving service as per his request for a period less than the full heating season shall be charged one-half of the regular rate for that portion of the heating season in which service is not taken and at the full rate for that part of the season in which service is taken.

(c) All contracts for hot water heating service should be made in duplicate, one copy of which shall be given to the consumer and the other copy retained on file by the utility. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 22; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1666; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-23 Heating season defined**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 23. Heating Season. Each utility shall contract to maintain regular heating service from October 1st to April 30th, whenever the outside temperature is at a point below 60 degrees F., and at such other times after September 14th and before May 21st when the outside temperature is 60 degrees F., or below. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 23; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1666; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-24 Radiation requirements; temperature in consumer's premises**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-38; IC 8-1-2-39

Sec. 24. Radiation Requirements—Temperature in Consumer's Premises. Each utility shall contract to deliver hot water in sufficient quantities to maintain in the consumer's premises the agreed upon temperature when the outside temperature is zero degrees Fahr., provided, however, that doors, windows and ventilators are closed and tight and the premises are in evidence of good repair and that there is sufficient radiation set. (*Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 24; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1666; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-3-25 Estimate of required radiation; formula; table of factors**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-33

Sec. 25. Estimating Radiation Required. (a) As a tentative basis for the billing of contemplated new consumers and of such other consumers where there is complaint of inadequate service indicating insufficient radiation, each utility shall measure the buildings and premises of said consumers for radiation required by the formula and as set out in the table showing temperature-lowering coefficients of wind movements.

(b) Upon the request of any consumer, or the commission, the utility shall furnish a complete detailed set of figures and data relating to the radiation requirements, in said consumer's premises, upon which it is proposed that the consumer is to be billed for heating service.

(c) The utility supplying hot water heating service shall not be required to contract with any consumer to heat only a part of the used portion of a building, residence, or apartment where such other parts of the building or buildings are not provided with adequate radiation suitably connected.

Table Showing Formula for Estimating Radiation  

$$R = C \times Fc + (E-W-D) \times Fe + (W \times Fw) + (D \times Fd)$$

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Where: R = Required radiation in square feet.  
 C = Cubic feet of contents.  
 E = Square feet of exposed walls.  
 W = Square feet of windows.  
 D = Square feet of doors.  
 Fc = Factor for cubic contents as shown in table.  
 Fe = Factor for exposed walls, ceiling or floors as in table.  
 Fw = Factor for windows as shown in table.  
 Fd = Factor for doors as shown in table.

Table of Factors

Kind of Exposure	Difference in Temperature Between Room and Outside				
	60°	65°	70°	75°	80°
Fw					
Single glass . . . . .	.478	.517	.557	.595	.705
Double or plate glass . . . . .	.212	.229	.247	.265	.282
Single sky light . . . . .	.382	.413	.445	.477	.508
Double sky light . . . . .	.212	.229	.247	.265	.282
Fd					
Good door, one-half glass . . . . .	.244	.265	.285	.305	.325
Good door, solid . . . . .	.170	.184	.198	.212	.226
Fe					
Frame wall (N-W exposure) . . . . .	.148	.160	.173	.185	.198
Frame wall (S-E exposure) . . . . .	.134	.146	.159	.171	.184
12" masonry wall (N-W exposure) . . . . .	.106	.115	.124	.132	.141
12" masonry wall (S-E exposure) . . . . .	.093	.102	.111	.119	.128
17" masonry wall (N-W exposure) . . . . .	.085	.092	.099	.106	.113
17" masonry wall (S-E exposure) . . . . .	.071	.078	.085	.092	.099
Ceiling with no heat in space above . . . . .	.106	.115	.124	.132	.141
Floor with no heat in space below . . . . .	.053	.057	.062	.067	.071
Partition wall (frame plastered) but no heat on other side . . . . .	.071	.077	.082	.088	.094
Cubic Contents					
Fc					
½ change of air per hour— Garages, etc. . . . .	.0032	.0035	.0038	.0040	.0043
1 change of air per hour— Dwellings, officers, etc. . . . .	.0064	.0069	.0075	.0080	.0086
2 changes of air per hour—Public assembly rooms . . . . .	.0128	.0139	.0150	.0160	.0172

*(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Sec 25; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1666; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-26 Rate schedules, rules and regulations; filing; public inspection**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4  
 Affected: IC 8-1-2-13

Sec. 26. File of Rate Schedules, Rules, and Regulations of the Utility and of the Commission. (a) Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions of lines and of all rules and regulations covering the relations of consumers and utility shall be filed by each utility in the office of the commission. Complete schedules, contract forms, rules and regulations, etc., as filed with the commission, shall also be open to the inspection of the public.

(b) It is recommended that a copy of the rules and regulations for central station hot water heating service as published by the Public Service Commission should be on file and open to the inspection of the public.

(c) It is recommended that the attention of the public be called to these files of schedules, rules and regulations, by placing a suitable placard in the office of the utility. *(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central*



*Station Hot Water Heating Utilities Sec 26; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1668; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-27 Station flow temperature table**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-13

Sec. 27. Table A.

Outside Temperature Degrees Fahrenheit	TABLE A Station Flow Temperatures		
	Day Schedule	Permissible Night Schedules	
	6:00 a.m. to 6:00 p.m.	6:00 p.m. to 9:30 p.m. 3:30 a.m. to 6:00 a.m.	9:30 pm. to 3:30 a.m.
70	85	90	75
65	97	103	87
60	109	115	99
55	120	125	110
50	130	135	120
45	139	144	129
40	148	152	139
35	156	160	148
30	164	167	158
25	171	174	167
20	178	179	176
15	185	185	185
10	190	190	190
5	195	195	195
zero	200	200	200
-5	203	203	203
-10	206	206	206
-15	208	208	208
-20	210	210	210

NOTE.—In case of difficulty in maintaining the average temperatures with these flow temperatures, increase the rate of pumpage.

*(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Table A; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1669; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-3-28 Contract form**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4

Affected: IC 8-1-2-13

Sec. 28. (Standard Form of Central Station Hot Water Heating Contract recommended by the Public Service Commission of Indiana.)

Contract for Central Station Hot Water Heating.

THIS AGREEMENT entered into this \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_, by and between \_\_\_\_ Company, hereafter called “Company” and \_\_\_\_ hereinafter called “Consumer.”

Witnesseth: For and in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree with each other as follows:

The Company agrees to furnish to the Consumer during the term of this agreement, and the Consumer agrees to take from the Company, subject to the rules and regulations which are a part of the published Rate Schedule of the Company, and which are

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hereby incorporated in this agreement, hot water heating service in the premises located at \_\_\_\_\_.

The Company is to furnish and the Consumer is to take the heating service under the terms of this agreement, for a period of \_\_\_\_\_ year \_\_\_\_\_, beginning the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, and continuing thereafter in successive periods of not less than \_\_\_\_\_ year \_\_\_\_\_ each, until either party shall give the other not less than thirty (30) days' notice in writing of its or his election to discontinue the service at the expiration of any such specified periods, provided, however, that no cancellation of this agreement shall be effective during any heating season.

The Consumer agrees to pay to the Company for such hot water heating service the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) per year, payable as follows:

October 1st .....	10% of total specified above
November 1st .....	15% of total specified above
December 1st .....	15% of total specified above
January 1st .....	20% of total specified above
February 1st .....	20% of total specified above
March 1st .....	10% of total specified above
April 1st .....	10% of total specified above

which is at the rate of \_\_\_\_\_ cents per square foot of direct radiation and an increased rate of 100% for indirect radiation, plus a flat rate charge of \_\_\_\_\_ dollars per season for \_\_\_\_\_ gallons capacity of range boiler for domestic supply.

This service for range boilers does not apply to barber shops, public baths, laundries or other customers using large quantities of hot water, nor will such service in any event be rendered except during the regular heating season.

The regular heating season is understood to be from October 1st to April 30th inclusive when the outside temperature is at a point below 60° Fahr., and at such other times after September 14th and before May 21st when the outside temperature is 60° Fahr., or below.

It is further understood and agreed by the parties hereto that no range boiler or other apparatus for the heating of water shall be connected to the system without the written consent of the Company and when so connected shall be paid for at the regular heating rates of the Company.

Consumers connected to and receiving the hot water service after the beginning of the heating season shall be charged one-half of the rate for the expired portion of the heating season and at the full rate for the remainder of the season.

Consumers receiving service as per their request for a period less than the full heating season shall be charged one-half of the regular rate for that portion of the heating season in which service is not taken and at the full rate for the remainder of the season in which service is taken.

The premises to be heated under this contract are described in the accompanying diagram.

IT IS AGREED, That the Consumer shall equip and furnish the above described premises with an interior system of radiation, consisting of radiators, pipes and other apparatus and appliances for hot water heating, extending to the outside of the building to a point designated by the Company, the arrangement and material of said system and the workmanship thereon to be approved by the Company before any obligation on its part is incurred hereunder. All pipes and connections which are now or may hereafter be placed outside of the building on said premises, at the expense of the company, shall be and remain the property of the Company and subject to its exclusive control, and may be removed by it whenever this contract is terminated for any cause.

IT IS AGREED, That the Consumer shall keep the storm sash strips and protections to the doors and windows securely fastened in place and maintained so during the heating season. Failure by said Consumer to comply with this agreement shall work a forfeiture of this contract if the Company so elects.

The Company will at all times exercise reasonable diligence in supplying water in sufficient amount and of such a temperature, as will reasonably heat the premises of the Consumer, with all windows and other openings properly closed and maintained.

IT IS AGREED by the Company that it will furnish hot water in a sufficient quantity to heat said building to a temperature of not less than 70 degrees Fahr. when outside temperature is zero degrees Fahr., provided that sufficient radiation be installed by the Consumer to maintain the desired temperature. Evidence of the adequacy of service shall be that with all radiator valves open and radiators free from sediment the average temperature of the flow and return, measured at the entrance of the service pipe to the building, shall not be less than specified by the rules of the Public Service Commission of Indiana.

IT IS AGREED by the Consumer that he will not in any manner change, divert or use the water circulating through said interior system and through said connections or permit the same to be changed, diverted or used, and will exercise at all times reasonable care for the protection of the Company's property on the premises and will not install any additional radiation in said

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premises without the written consent of the Company endorsed herein, and that properly identified authorized agents and employees of the Company shall have the right to enter at reasonable hours upon the premises herein described for the purpose of inspecting said interior system and said connections; that the Consumer will at all times keep said interior system and that part of service line owned by him and the building in good repair and condition at his own expense, and the outside openings properly closed so as to exclude the outside air in cold weather during the heating season; and that it is expressly agreed that the Company shall not be liable for any failure of circulation in said interior system nor for damage to person or property arising directly or indirectly from the furnishing of said heat on said premises, or for defects in said interior system. However, all controlling devices and shut-off valves shall be installed at the expense of the consumer and maintained at the expense of the Company.

IT IS AGREED by the Consumer that he will make all reasonable effort to prevent all persons other than the duly authorized representatives of the Company from making use of the shut-off cocks of the heating connections outside or inside of the building; that, when the circulation is once established and the water turned on, such service shall not be discontinued except by an authorized representative of the Company; that the Company may seal all drain valves between the heating system and the sewer; and in case drain valves are interfered with by any person such interference shall constitute a breach of this contract on the part of the Consumer.

It is understood that the water in the pipes and radiators is the property of said Company, and the drawing off of any of this water, for any purpose, shall be considered a violation of this contract and the Company shall have the right to and may collect from said Consumer the full value of the water and heat contained.

The Company reserves the right to refuse to contract for service with any person other than the owner of the building to be heated.

It is hereby agreed and understood that the Company shall not be liable for any damage to person or property caused by the lack of hot water sufficient to heat such premises, provided said lack of hot water be caused by accident, breakage or any other cause beyond the control of the Company, and that said Company shall not be liable for damage caused by leaks in the piping or radiation, caused by bursting pipes or otherwise.

The Company shall at reasonable hours by its inspectors, agents, or workmen properly identified have the right of free access to the premises supplied with heat, to the valves or service pipe from mains, to look after the heating system, to turn the water on or off, to adjust and care for the controlling devices or other portions of the heating system of said premises, and to make any and all such tests as may be necessary or desired by the Company.

The Consumer should notify the Company promptly of any defects in the service or any trouble or accident to the hot water supply.

A deposit satisfactory to the Company will be required from all consumers unable to give the Company a satisfactory reference. The Company will pay interest at the rate of 6% per annum on deposits so made.

It is also agreed that this contract is not assignable nor transferable by the Consumer without the written consent of the Company and that in case of a sale or leasing of said premises by the Consumer during the life of this contract no rights under this contract shall pass to the purchaser of such sale or lease, and in case of such sale or lease the Company or its successors or assigns may at its or their option cancel this contract and shut off the supply of heating service to said premises.

This contract is subject to all rules and regulations of the Public Service Commission of Indiana and of the Company as herein set forth and on file with the Public Service Commission of Indiana, duplicate copies of which are on file in the local office of the company and no promise, agreement, or representation of any agent or employee of the Company shall be valid unless incorporated in this contract.

Unless otherwise stated this contract is for one year only.

\_\_\_\_ Consumer.

Accepted this \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_ Company.

By \_\_\_\_\_

By \_\_\_\_\_

*(Indiana Utility Regulatory Commission; No. 17689: Standards of Service For Central Station Hot Water Heating Utilities Form; filed Jan 2, 1946, 10:00 am: Rules and Regs. 1947, p. 1669; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**Rule 4. Small Water Utilities; Rate Changes (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed Jun 28, 1991, 3:20 p.m.: 14 IR 1948)*

**Rule 5. Water Tracker Procedure**

**170 IAC 6-5-1 “Application for water tracker” defined**

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

Affected: IC 8-1-2-42; IC 8-1-2-125; IC 8-1-2.7

Sec. 1. As used in this rule, “application for water tracker” means an application submitted to the engineering division of the commission in accordance with section 7 of this rule and IC 8-1-2-42, that functions as a request or in support of a request for a water tracker. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-1; filed Dec 3, 1990, 9:34 a.m.: 14 IR 557; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-2 “Commission” defined**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 2. As used in this rule, “commission” refers to the Indiana utility regulatory commission. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-2; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-3 “Supplier” defined**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 3. As used in this rule, “supplier” means a utility supplying water to a water utility. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-3; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-4 “Water tracker” defined**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 4. As used in this rule, “water tracker” means the procedure available to a water utility under this rule to recover an increase or a decrease in costs associated with purchased water due to a change in the supplier's rates. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-4; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-5 “Water tracker information form” defined**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 5. As used in this rule, “water tracker application form” means the forms, schedules, and instructions provided by the engineering division of the commission under this rule. The commission staff shall develop the forms, schedules, and instructions that comprise the water tracker application form and shall revise the water tracker application form as needed. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-5; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-6 “Water utility” defined**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 6. As used in this rule, “water utility” means a utility supplying water service to the public at rates that are subject to the jurisdiction of the commission and that purchases water for ultimate resale to the public. (*Indiana Utility Regulatory Commission; 170 IAC 6-5-6; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 6-5-7 Water tracker procedure**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 7. A water utility may apply to the commission to recover an increase or decrease in the costs associated with purchased water by submitting an application for water tracker to the engineering division of the commission. The application must include the following:

- (1) A completed water tracker application form. The form is available from the engineering division of the commission.
- (2) Proof of publication of notice in accordance with section 8 of this rule.
- (3) A copy of:
  - (A) the resolution or ordinance of the water utility's governing body authorizing the application for water tracker; or
  - (B) the minutes of the meeting of the water utility's governing body where the application for water tracker was authorized.
- (4) A verified statement by an officer or manager of the water utility in support of the proposed change in the utility's schedule of rates and charges that specifies the amount of the water tracker.
- (5) Two (2) unmarked copies of the water utility's current schedule of rates and charges incorporating the water tracker.

*(Indiana Utility Regulatory Commission; 170 IAC 6-5-7; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-5-8 Publication of notice**

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

Affected: IC 8-1-2-42; IC 8-1-2-125; IC 8-1-2.7

Sec. 8. A water utility that files an application for water tracker shall publish notice of the filing at least twenty (20) days prior to the proposed effective date of the water tracker. Notice must be published in a newspaper of general circulation in all counties in which the water utility renders service. The notice must contain the following:

- (1) The amount of the water tracker to be applied to the water utility's schedule of rates.
- (2) A statement that the rate change is based solely on the change in the cost of water purchased by the water utility.
- (3) The name of the supplier.
- (4) A statement that the rate change will apply to the next practical consumption period following final approval by the commission in accordance with IC 8-1-2-42.

*(Indiana Utility Regulatory Commission; 170 IAC 6-5-8; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-5-9 Application of water tracker**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 9. Once a water utility employs the water tracker procedure of this rule to recover an increase in the cost associated with purchased water, the utility must use the water tracker to offset its rates by any decrease the water utility experiences in the cost of purchased water. A water utility required to offset its rates by any decrease must make its application within thirty (30) days of the implementation of the decrease. *(Indiana Utility Regulatory Commission; 170 IAC 6-5-9; filed Dec 3, 1990, 9:34 a.m.: 14 IR 558; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-5-10 Commission review**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 10. The commission staff shall review each application for water tracker submitted to the commission. The review must include an investigation into the following:

- (1) Whether or not the revised purchased water costs are true and correct.
- (2) Whether or not the proposed revised rates filed by the water utility are equal to the actual increase or decrease in the purchased water expense.
- (3) Whether or not the water utility's calculations are mathematically accurate.
- (4) The effective date of the supplier's rates and the nature and permanency of those rates.

*(Indiana Utility Regulatory Commission; 170 IAC 6-5-10; filed Dec 3, 1990, 9:34 a.m.: 14 IR 559; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 6-5-11 Commission action**

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

Affected: IC 8-1-2-125; IC 8-1-2.7

Sec. 11. (a) After conducting its review in accordance with section 10 of this rule, the commission staff shall report its recommendations in writing to the commission.

(b) After reviewing the staff's recommendations the commission may:

- (1) approve the application;
- (2) disapprove the application; or
- (3) approve a modified version of the application.

*(Indiana Utility Regulatory Commission; 170 IAC 6-5-11; filed Dec 3, 1990, 9:34 a.m.: 14 IR 559; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**ARTICLE 7. TELEPHONE UTILITIES**

**Rule 1. Standards of Service (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; No. 32928: Standards of Service for Telephone Utilities; filed May 31, 1979, 2:31 pm: 2 IR 811)*

**Rule 1.1. Standards of Service**

**170 IAC 7-1.1-1 Applicability of standards; variances; scope; severability (Repealed)**

Sec. 1. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-2 Definitions (Repealed)**

Sec. 2. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-3 Records and reports (Repealed)**

Sec. 3. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-4 Applications for service; held applications; records and reports (Repealed)**

Sec. 4. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-5 Tariffs; maps of service areas (Repealed)**

Sec. 5. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-6 Design and construction of plant and facilities; safety standards (Repealed)**

Sec. 6. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-7 Operator services (Repealed)**

Sec. 7. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-8 Commission staff inquiries; response time (Repealed)**

Sec. 8. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-9 Directories (Repealed)**

Sec. 9. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-10 Classification of telephone exchanges; scope and application (Repealed)**

Sec. 10. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-11 Service standards (Repealed)**

Sec. 11. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-12 Bills for utility service (Repealed)**

Sec. 12. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-13 Billing adjustments (Repealed)**

Sec. 13. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-14 “Customer” and “applicant” defined (Repealed)**

Sec. 14. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-15 Creditworthiness of customer; deposit; refund (Repealed)**

Sec. 15. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-16      Disconnection of service; prohibited disconnections; reconnection (Repealed)**

Sec. 16. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-17      Customer complaints (Repealed)**

Sec. 17. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-18      Informational pamphlets; explanation of available service; notice of proposed rate change (Repealed)**

Sec. 18. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.1-19      Unauthorized switching of telecommunications providers; billing for telecommunications or other services added without customer's consent**

Authority: IC 8-1-1-3; IC 8-1-29

Affected: IC 8-1-2-4

Sec. 19. (a) For purposes of this rule, the following definitions apply:

(1) "Electronic letter of agency" or "ELOA" means an electronically signed written statement that:

(A) authorizes a change to the customer's primary interexchange carrier or primary local exchange carrier; and

(B) includes the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).

(2) "Express authorization" means an express, affirmative act by the customer clearly agreeing to the change in PIC or LEC in the form of:

(A) a written authorization;

(B) a customer-initiated call to the prospective IXC or LEC;

(C) an oral authorization verified and recorded by an independent third party;

(D) a recorded electronic authorization;

(E) some other form of recorded authorization, such as personal identification numbers (PINs) or passwords; or

(F) an electronic authorization.

(3) "Letter of agency" or "LOA" means a written statement that the customer signs that authorizes a change to that customer's primary interexchange carrier or primary local exchange carrier.

(4) "Local exchange carrier" or "LEC" means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.

(5) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.

(6) "Primary interexchange carrier" or "PIC" means a provider of presubscribed inter-LATA or intra-LATA long distance telecommunications services. The term includes the following:

(A) Presubscribed facilities-based carriers of long distance service.

(B) Resellers of long distance service.

(C) Local exchange carriers providing long distance service.

In those local exchanges where intra-LATA equal access is available, customers may receive presubscribed long distance service from more than one (1) PIC (one (1) for inter-LATA and one (1) for intra-LATA toll) or may select a single PIC that



provides both inter-LATA and intra-LATA toll service.

(7) "Primary local exchange carrier" or "PLEC" means a carrier to which a customer has presubscribed for local exchange service.

(8) "Properly disputed" means the filing of a complaint, either verbally or in writing, with the commission.

(9) "Telemarketing" means the use of telecommunications in marketing campaigns to reach prospective purchasers and sell them goods or services.

(b) No prospective PIC shall submit to a LEC a PIC change order generated by telemarketing unless the prospective PIC has first obtained express authorization from the customer. No prospective LEC shall submit a PLEC change order generated by telemarketing unless the prospective LEC has first obtained express authorization from the customer.

(c) The prospective PIC or prospective LEC shall confirm such express authorization through one (1) of the following three (3) procedures:

(1) The prospective PIC or prospective LEC shall obtain the customer's written or electronic authorization in a form that meets the requirements of subsections (e) through (n).

(2) The prospective PIC or prospective LEC shall obtain the customer's electronic authorization, placed from the telephone number or numbers on which the PIC or PLEC is to be changed, to submit a PIC or PLEC change order. The authorization shall include the information described in subsection (i). Prospective PICs or prospective LECs electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. A call to the number or numbers will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC or PLEC change, including automatically recording the automatic number identification (ANI).

(3) An appropriately qualified and independent third party shall obtain the customer's oral authorization to submit the PIC or PLEC change order. Such authorization shall confirm and include appropriate verification data, for example, the customer's date of birth, mother's maiden name, or Social Security number or part thereof. Such authorization is valid only if the entity that obtained the authorization:

(A) is independent of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC;

(B) complies with this section regarding changes to telecommunications carriers;

(C) has a written policy regarding customer complaints and abides by that policy;

(D) has a written policy requiring the maintenance and storage of recorded electronic authorizations for a minimum period of one (1) year and abides by that policy;

(E) has a written script that it uses when obtaining verifications, and the script provides clear and unambiguous notice to the customer:

(i) that the customer is authorizing a change in primary interexchange or primary local exchange carrier;

(ii) of the identity of the new primary interexchange or primary local exchange carrier;

(iii) of a toll-free or local number of the LEC that the customer can call to verify whether the change has occurred;

(iv) that, for any one (1) telephone number:

(AA) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

(BB) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

(CC) only one (1) intrastate primary LEC may be designated as the subscriber's primary LEC; and

(v) that the PIC change will automatically apply to both inter-LATA and intra-LATA long distance service offerings unless the customer directs otherwise; and

(F) is in a location that is physically separate from that of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC.

(d) A PIC or PLEC change made in violation of any of the requirements of this section is invalid. A prospective PIC or PLEC must provide all information regarding disputed carrier changes and services billings to the commission within thirty (30) days of a commission request for said information.

(e) If the prospective PIC or prospective LEC utilizes the authorization procedure in subsection (c)(1), the prospective PIC or LEC shall obtain any necessary written authorization from a subscriber for a PIC or PLEC change by using a letter of agency or

electronic letter of agency as specified in subsections (f) through (n). Any letter of agency or electronic letter of agency that does not conform to those subsections is invalid.

(f) The letter of agency or electronic letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or Web page containing only the authorizing language described in subsection (i), whose sole purpose is to authorize a prospective PIC or LEC to initiate a primary interexchange carrier or PLEC change. The letter of agency must be signed and dated by the subscriber to the telephone line or lines requesting the primary interexchange carrier or PLEC change. The subscriber (or authorized agent in the case of a business customer) whose name appears on bills for local and interexchange service shall be the only party authorized to execute a letter of agency.

(g) The letter of agency shall not be combined with inducements of any kind on the same document, screen, or Web page.

(h) Notwithstanding subsections (f) and (g), the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in subsection (i) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, bold-face type on the front of the check, a notice that the consumer is authorizing a primary interexchange carrier or PLEC change by signing the check. The letter of agency language shall also be placed near the signature line on the back of the check.

(i) At a minimum, the letter of agency must be printed with a typeface of sufficient size and clarity to be clearly legible and must contain clear and unambiguous language that confirms:

(1) the subscriber's billing name and address and each telephone number to be covered by the primary interexchange carrier or PLEC change order;

(2) the subscriber's decision to change the primary interexchange carrier or PLEC from the current interexchange carrier or LEC to the prospective interexchange carrier or prospective LEC;

(3) that the subscriber designates the prospective interexchange carrier or prospective LEC to act as the subscriber's agent for the primary interexchange carrier or PLEC change;

(4) that the subscriber understands that, for any one (1) telephone number:

(A) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

(B) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

(C) only one (1) intrastate primary LEC may be designated as the subscriber's intrastate primary LEC;

(5) that the subscriber understands that any change in primary interexchange carrier or primary LEC may result in a charge to the subscriber; and

(6) the LEC's toll-free or local number that the customer can call to verify whether the change has occurred.

(j) To the extent a customer selects separate carriers for inter-LATA, intra-LATA, and LEC services, the letter of agency must contain separate statements regarding those choices. Any carrier designated as a primary interexchange carrier for inter-LATA service must be the carrier directly setting the inter-LATA service rates for the subscriber. Any carrier designated as a primary interexchange carrier for intra-LATA services must be the carrier directly setting the intra-LATA service rates for the subscriber. Any carrier designated as a primary local exchange carrier must be the LEC directly setting the local exchange service rates for the subscriber. One (1) interexchange carrier can be both a subscriber's inter-LATA primary interexchange carrier and a subscriber's intra-LATA primary interexchange carrier.

(k) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current interexchange carrier or LEC.

(l) If any portion of a letter of agency is translated into a language other than English, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the letter of agency.

(m) The letter of agency shall provide the toll-free telephone number and mailing address of the consumer affairs division of the Indiana utility regulatory commission and shall inform the customer of his or her right to file a complaint with that division.

(n) Letters of agency submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).

(o) Upon request of the customer, offers to provide telecommunications interexchange or local exchange services shall be sent to the customer in written form describing the terms and conditions of service.

(p) Except for tariff-regulated, customer-initiated, one-time use products, such as collect calling services, optional pay-per-use services (including automatic callback, repeat dialing, and three-way calling), no PIC or LEC or any billing agent acting for said PIC or LEC shall bill a customer for any service unless the PIC, LEC, or billing agent possesses written or electronic documentation

that shows:

- (1) the name of the customer requesting the service;
- (2) a description of the service requested by the customer;
- (3) the date on which the customer requested the service;
- (4) the means by which the customer requested the service; and
- (5) the name, address, and telephone number of all sales agents involved.

(q) No PIC, LEC, or billing agent for any PIC or LEC shall be entitled to any compensation from a customer for services rendered in violation of this rule.

(r) The customer's local exchange company shall not disconnect the customer's phone service for nonpayment where the customer has properly disputed a carrier change or service billing.

(s) A telecommunications carrier shall submit a preferred carrier change order on behalf of a subscriber within no more than sixty (60) days of obtaining a written or electronically signed letter of agency. However, letters of agency for multiline and/or multilocation business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term agreement shall be valid for the period specified in the term agreement.

(t) This rule shall apply only to the extent not preempted by federal law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.1-19; filed Jan 18, 1999, 1:18 p.m.: 22 IR 1938; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; filed Mar 4, 2002, 2:57 p.m.: 25 IR 2209; filed Jul 14, 2004, 9:45 a.m.: 27 IR 3872*)

## **Rule 1.2. Telecommunications Service Quality Standards; Standards of Service**

### **170 IAC 7-1.2-1 Applicability of standards; variances; scope; severability**

Authority: IC 8-1-1-3

Affected: IC 8-1-2; IC 8-1-2.6

Sec. 1. (a) This rule applies to any local exchange carrier (LEC) that is now, or may hereafter be, engaged in the business of rendering telecommunications services to the public under the jurisdiction of the commission. This rule is intended to result in the provision of reasonable quality telecommunications services to the public and to establish the obligations of both the LEC and the customer. The standards of service provided in this rule create a minimum level of service that an LEC must meet when providing reasonable quality telecommunications services within Indiana.

(b) Any LEC subject to the service quality standards set forth in this rule that fails to meet such standards shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any LEC fails to comply.

(c) An LEC may be excused from the service quality measures of this rule when such failure is the direct result of customer-owned equipment, negligent acts of a customer, or acts of God as determined by the commission. A CLEC shall not be held responsible for failure to meet any provision of this rule, including the credit provisions, when such failure is directly related to ILEC-provided services, systems, or facilities. Sections 3(g), 5, 10, 12, 14, 15, and 18 of this rule do not apply to bundled local resellers of local exchange service or LECs that provide local service via the unbundled network element platform (UNE-Platform).

(d) Credits required by this rule do not apply if the violation of a service quality standard:

- (1) occurs as a result of a negligent or willful act on the part of the customer;
- (2) occurs as a result of a malfunction of customer-owned telephone equipment or inside wiring;
- (3) occurs as a result of, or is extended by, an emergency situation;
- (4) is extended by the carrier's inability to gain access to the customer's premises due to the customer missing an appointment, provided that the violation is not further extended by the carrier;
- (5) occurs as a result of a customer request to change the scheduled appointment, provided that the violation is not further extended by the carrier; or
- (6) occurs as a result of a carrier's right to refuse service to a customer as provided by law.

(e) The commission may, upon petition of an LEC or the utility consumer counselor, upon its own motion, or in response to customer complaints, take any of the following actions in accordance with applicable legal and procedural requirements:

- (1) Alter or amend this rule, in whole or in part.
- (2) Require an LEC to offer any other services.
- (3) Require an LEC to utilize or provide any other equipment or facilities.
- (4) Require an LEC to comply with any other service standards.
- (5) At its sole discretion, grant, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.
- (f) When the commission initiates an administrative adjudication under subsection (e), either in response to customer complaints, upon petition of an LEC, the utility consumer counselor, or upon the commission's own motion, it shall consider whether public convenience and necessity will be served by granting the requested relief and whether the requested relief is:
  - (1) justified under IC 8-1-2.6;
  - (2) necessary to avoid unreasonable hardship to an LEC or its customers; or
  - (3) necessary to meet other exceptional conditions.
- (g) The adoption of this rule shall not relieve any LEC from any of its duties under the laws of Indiana, applicable federal laws, and applicable commission orders.
- (h) If any provision of this rule is determined by a court of competent jurisdiction to be prohibited or otherwise unenforceable under controlling state or federal law, such provision shall be ineffective to the extent of such prohibition or unenforceability, without invalidating the remaining provisions hereof.
- (i) If an LEC's tariff on file with the commission contains provisions that conflict with this rule, this rule supersedes any conflicting tariff provisions. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-1; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4053, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.2-2 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-1.1-2; IC 8-1-2

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

- (1) "Access line" means the facilities and transmission path used to create a telecommunications connection from a network interface device to the serving switch center and composing the local loop.
- (2) "All trunks busy" means any equipment condition in which all trunks (paths) in a given trunk group are busy, causing callers to receive a fast busy signal.
- (3) "Bundled local reseller" means a public utility providing telecommunications services that purchases packages (bundles) of retail local services at wholesale rates from an underlying ILEC for resale to customers. The term does not include carriers that purchase disaggregate local service of an underlying ILEC, such as unbundled network elements, components, functionalities, or facilities to use in its provision of local exchange services.
- (4) "Business days" means all days other than:
  - (A) a Saturday;
  - (B) a Sunday;
  - (C) a legal holiday; or
  - (D) a day that the office in which the act is to be done is closed during regular business hours.
- (5) "Busy hour" means the hour of the day during which a telephone system carries the most traffic.
- (6) "Call" means an attempted or completed telephone message.
- (7) "Central office" means a switching unit in a system that provides central office telecommunications services to the general public having the necessary equipment and operating arrangements for terminating and interconnecting access lines and trunks or trunks only. There may be more than one (1) central office in a building.
- (8) "Certificate of territorial authority" or "CTA" means a telecommunications service provider's authorization, as granted by the commission in compliance with IC 8-1-2-88, to provide service within a designated area.
- (9) "Class of service" means a designation given to an exchange service dependent upon the nature of its use, such as business or residence service.
- (10) "Commission" means the Indiana utility regulatory commission.
- (11) "Competitive local exchange carrier" or "CLEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and does not qualify as an incumbent local exchange

carrier under subdivision (18).

(12) "Consumer affairs division" means the commission's division that reviews and issues dispositions on informal complaints submitted to the commission by LEC customers under IC 8-1-2-34.5.

(13) "Customer" means any person, firm, partnership, corporation, municipality, governmental agency, limited liability company, or other entity provided with local exchange carrier telecommunications service and may also be referred to as "end user".

(14) "Exchange" means a geographic service area established by an incumbent local exchange carrier and approved by the commission, usually embracing a city, town, or village and designated surrounding or adjacent area, that typically encompasses one (1) or more central offices, together with the associated plant used in furnishing telecommunications service to the general public.

(15) "Extended area service" or "EAS" means telephone service permitting persons in a given exchange to place and receive calls from one (1) or more other exchanges at monthly flat or measured rates without being assessed toll message charges for each message.

(16) "Facility" means any one (1) or all of the elements of physical plant used to provide telecommunications services, sometimes used synonymously with "transmission path", including all of the physical cables and equipment associated with that path.

(17) "Grade of service" means the type of service furnished a customer with respect to the functionality and capabilities of the service offering.

(18) "Incumbent local exchange carrier" or "ILEC" means a local service LEC that provides telephone service to customers in the geographic territory served by the local exchange and that:

(A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b), 60 FR 19530 (April 19, 1995)\*; or

(B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).

(19) "Intercept service" means a service arrangement provided by the LEC whereby calls placed to a nonworking, disconnected, or discontinued telephone number are intercepted and the calling party is informed that:

(A) the called telephone number is not in service or has been changed to another number; or

(B) the calls are received by another telephone number.

(20) "Interoffice call" means a telephone call originating in one (1) central office unit or entity but terminating in another central office unit or entity, both of which are in the same designated exchange area.

(21) "Intraoffice call" means a telephone call originating and terminating within the same central office unit or entity.

(22) "Legal holiday" means the following:

(A) New Year's day.

(B) Dr. Martin Luther King, Jr. day.

(C) Washington's birthday.

(D) Memorial day.

(E) Independence day.

(F) Labor day.

(G) Veteran's day.

(H) Thanksgiving day.

(I) Christmas day.

(J) Any other day appointed as a holiday by the President or the Congress of the United States or by the governor of the state of Indiana.

(23) "Local exchange carrier" or "LEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange under IC 8-1-2-88 and excluding those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service. The agents of an LEC are deemed to be the LEC for purposes of this rule.

(24) "Local service" means telephone service furnished to customers under a specific schedule of exchange rates not including toll charges.

(25) "Local service area" means the area within which telephone service is furnished to customers under a specific schedule

of exchange rates and without toll charges, which may include one (1) or more exchange areas or portions of exchange areas.

(26) "Loop" means the facilities used to connect the customer premises with the central office.

(27) "Out-of-service trouble report" means the loss of dial tone or the inability to complete either or both incoming and outgoing calls over the customer's access line. As used in this rule, the term shall not include service difficulties such as slow dial tone, circuits busy, or other network or switching capacity shortages.

(28) "Primary service" means the initial access line providing local service to a customer.

(29) "Public safety answering position" or "PSAP" means a person or group of people who answer 9-1-1 emergency calls.

(30) "Service-affecting trouble report" means any regulated service-related trouble report that does not constitute an out-of-service condition.

(31) "Service interruption" means the loss of dial tone or the inability to complete either or both incoming and outgoing calls over the customer's access line. As used in this rule, the term shall not include service difficulties, such as:

(A) slow dial tone;

(B) circuits busy; or

(C) other network or switching capacity shortages.

(32) "Speed of answer" means the following:

(A) For live operator systems, it is the number of seconds required to reach an operator or service representative who is ready to render assistance and accept the information necessary to process the call.

(B) For automated, interactive answering systems, it is the number of seconds from the time a customer's call exits the automated system until the call is answered by a live operator, service representative, or automated system ready to render assistance and accept the information necessary to process the call.

(33) "Tariff" means a schedule of regulated recurring and nonrecurring charges together with the appropriate general rules and regulations applicable to customers of the LEC for services furnished properly filed with and approved by the commission.

(34) "Toll blocking" means a service that customers may use to block outgoing toll calls from their access lines.

(35) "Toll message" means a completed telephone call between stations in different exchanges for which toll charges are applicable.

(36) "Tracking number" means a number that allows the customer to verify that a requested repair or installation order has been received by the LEC.

(37) "Traffic" means the amount of activity during a given period of time over a circuit, access line, or group of access lines, or the number of messages handled by a data communications switch.

(38) "Trouble report" means any oral or written report to an appropriate LEC representative from the LEC's customer relating to a physical defect in or difficulty with subscribed network facilities providing regulated telecommunications services. For purposes of this rule, trouble reports are classified as either an out-of-service trouble report or a service-affecting trouble report.

(39) "Trunk" means a common communications line between two (2) switching systems. Information from a variety of users goes through the same trunking facilities.

(40) "Utility" means any public utility as defined in IC 8-1-2-1.

(41) "Utility consumer counselor" means the office established pursuant to IC 8-1-1.1-2.

(42) "Valid number" means a number for a specific telephone terminal in an assigned area code and working central office that is equipped to ring and connect a calling party to such terminal number.

(43) "Wire center" means the location where the LEC terminates customer access lines with the necessary testing facilities to maintain the access lines.

\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-2; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4054, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

### **170 IAC 7-1.2-3 Records and reports**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-52; IC 8-1-2-88

Sec. 3. (a) The LEC shall furnish the commission with any information concerning the LEC's facilities or operations that the commission may request and require. Each LEC shall also furnish to the commission, at such time and in such form as the commission may require, the results of any required tests and summaries of any required records. All such data, unless otherwise specified, shall be consistent and reconcilable with the LEC's annual report to the commission.

(b) Where an LEC is operated with another business that is not regulated by the commission, data and records of the LEC shall be separate such that the results of the LEC's intrastate telephone operations may be determined at any time at the level of detail prescribed under applicable state and federal law.

(c) Upon the direction of the commission and notification to the LEC, any member of the commission staff may, at any reasonable time during normal business hours, visit the LEC's offices or other places of business within or outside Indiana and inspect any accounts, books, records, and papers of the LEC that may be necessary in the discharge of commission duties.

(d) During such visits by the commission staff, and during comparable visits by the utility consumer counselor's staff, the LEC shall provide staff members with adequate and comfortable working and filing space, consistent with the prevailing conditions and climate, and comparable to the accommodations the LEC provides for its independent auditors.

(e) Requirements for location and preservation of records are as follows:

(1) All records that an LEC is required to keep, by reason of this rule or other rules prescribed by the commission, shall be kept at the office or offices of the LEC located within Indiana unless otherwise authorized by the commission.

(2) All LECs shall maintain sufficient records necessary to verify and substantiate all requirements of these rules. The failure of an LEC to maintain sufficient records to verify and substantiate the LEC's compliance with a service quality standard shall serve as an admission that the LEC failed to meet that service quality standard.

(3) An LEC that receives commission authorization to keep its required records in another state shall reimburse the commission for all reasonable out-of-state travel expenses incurred to review records kept in another state.

(4) An LEC that receives commission authorization to keep its required records in another state shall reimburse the utility consumer counselor for all reasonable out-of-state travel expenses incurred to review records kept in another state if out-of-state inspection and review of records becomes necessary in order to satisfy a discovery request from the utility consumer counselor in any docketed proceeding.

(5) Unless otherwise directed by the commission, an LEC shall maintain its records in accordance with 47 CFR 42 and the master index maintained pursuant to 47 CFR 42.4, 51 FR 32653 (September 15, 1986)\*. Notwithstanding any other provision of this rule, all records necessary to substantiate an LEC's compliance with the requirements of this rule, including any underlying documentation, shall be maintained for at least eighteen (18) months.

(f) Each LEC shall maintain suitable maps and records to show the location and description of its toll and exchange plant facilities and the extent of area served by the LEC.

(g) Requirements for reports of interruptions are as follows:

(1) Each LEC shall inform the commission's consumer affairs division and the utility consumer counselor of any interruptions to service exceeding one (1) hour affecting an entire exchange or a substantial portion (twenty-five percent (25%) of the LEC's average number of lines per exchange or two thousand (2,000) lines, whichever is fewer) of an exchange or central office within two (2) hours during normal work hours of the business day after the LEC becomes aware of such interruption to service and shall within one (1) business day notify the consumer affairs division and the utility consumer counselor when service has been restored. If the offices of the commission and utility consumer counselor are not open for business when any interruptions to service exceeding one (1) hour and affecting an entire exchange or a substantial portion (twenty-five percent (25%) of the LEC's average number of lines per exchange or two thousand (2,000) lines, whichever is fewer) of an exchange or central office occurs, the LEC shall notify the commission's consumer affairs division and the utility consumer counselor of those events during the first two (2) hours on the next regular business day.

(2) In the event of a 9-1-1 service affecting disruption or impairment that affects all or a substantial portion of an exchange, the LEC shall notify the affected PSAP designated contact immediately upon identification and verification of the service affecting disruption or impairment. A status regarding the restoration of the service affecting disruption or impairment shall be provided by the LEC to the affected PSAP every sixty (60) minutes unless otherwise negotiated with the PSAP. The LEC shall inform the commission's consumer affairs division and the utility consumer counselor of such 9-1-1 service affecting disruption or impairment within two (2) hours during normal work hours of the business day and shall within two (2) hours during normal work hours of the business day notify the commission's consumer affairs division and the utility consumer counselor regarding the restoration of the service. If the offices of the commission and the utility consumer counselor are not

open for business when a service affecting disruption or impairment or restoration of service occurs, the LEC shall notify the commission's consumer affairs division and the utility consumer counselor of those events during the first two (2) hours on the next regular business day.

(h) The commission may require that data be reported by the utilities in order to determine whether an LEC is providing service consistent with this rule. The LEC shall respond to any quality of service survey that is issued by the commission. The commission may revise, as necessary, the quality of service survey to acknowledge technological advances, deployment of advanced services, changes to the set of universally supported services, or other telecommunications related events.

\*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 302 West Washington Street, Suite E306, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-3; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4055, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.2-4 Tariffs; maps of service areas**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-38; IC 8-1-2-39

Sec. 4. (a) Each LEC shall maintain on file with the commission tariffs which set forth all rates and charges for customer services, applicable local service areas, any applicable classes and grades of service, the conditions and circumstances under which service will be furnished, and all general rules and regulations governing the relationship between the LEC and its customers. Such tariff filings shall comply with this rule and with other applicable law.

(b) Each ILEC shall file maps with the commission depicting the ILEC's local exchange service areas. The maps shall cover all territory included in the ILEC's CTA and shall delineate the local exchange service area boundaries in sufficient detail to permit such boundaries to be located in the field. The maps shall be maintained on a current basis, with signatures of concurrence from duly accredited representatives of each affected ILEC for abutting exchanges, where necessary.

(c) Each LEC shall make copies of the following available for public inspection during normal business hours at all of its public service center locations in Indiana:

- (1) All current local exchange tariffs.
- (2) All intrastate toll rate schedules showing any applicable tariffed rate structure distinctions.
- (3) All local exchange service area maps.

The LEC shall provide copies of the items listed in this subsection to the public within twenty-four (24) hours of receiving an oral request or a request in person. The LEC shall provide copies of the items listed in this subsection to the public within seven (7) days of receiving a request by mail or facsimile. If the LEC charges customers for copies of the items listed in this subsection, such charges shall be included in the LEC's approved local exchange service tariffs on file with the commission.

(d)(1) Any LEC having a Web site, or with a parent corporation with a Web site, shall place on that Web site the following information:

- (A) The LEC's effective Indiana jurisdictional tariff.
- (B) All pending tariff supplements and revisions.

(2) An LEC shall notify the commission of all applicable Web site addresses. If any changes occur in an LEC's Web site address, the LEC shall notify the commission in writing within seven (7) days of such change. An LEC shall direct this correspondence to the commission's consumer affairs division.

(3) An LEC shall certify to the commission that the electronic tariffs are, and will continue to be, accurate electronic representations of the officially filed tariff. However, the electronic tariffs are not the official documents of the commission, and the Web site user assumes responsibility for any reliance placed on them.

(4) Tariff files shall be in a widely used and commercially available format. Tariff files shall be in read-only format to prevent Web site users from modifying the tariff language. Tariffs shall continue to be filed in hard copy format pursuant to applicable law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-4; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4057, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)



**170 IAC 7-1.2-5 Safety standards**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4

Sec. 5. (a) The LEC's plant and facilities shall be designed, constructed, installed, maintained, operated, and removed in accordance with applicable provisions of the 2002 edition of the National Electrical Safety Code (copyright 2001), as approved by the American National Standards Institute on June 14, 2001\*, other state and federal workplace safety laws, and generally accepted industry practice to help ensure continuity of service and safety of persons and property.

(b) Each LEC shall use reasonable efforts to properly warn and protect the public from any known dangers caused by the LEC's facilities or operations. Each LEC shall exercise due care to reduce the hazards to employees, customers, or members of the general public caused by the LEC's equipment, facilities, or operations.

\*This document is incorporated by reference. Copies may be obtained from the Institute of Electrical and Electronics Engineers, Inc., 445 Hoes Lane, Piscataway, New Jersey 08855-1331 or are available for copying at the Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 West Washington, Room E306, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-5; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4057, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

**170 IAC 7-1.2-6 Operator services**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4

Sec. 6. (a) Each LEC that provides operator services shall adopt suitable practices concerning the operating methods used by its telephone operators, with the objective of providing prompt, courteous, accurate, and efficient operator services to each of its customers.

(b) Each LEC that contracts with another entity for the provision of operator services for its customers shall require that the contracting operator service provider adopt suitable practices concerning the operating methods used by the contractor's telephone operators, with the objective of providing prompt, courteous, accurate, and efficient operator services to each customer of the contracting LEC.

(c) Each LEC and contracting provider of operator services shall ensure that the telephone operators and service evaluation personnel used to provide operator services to the LEC's Indiana customers are familiar with and instructed to comply with all applicable state and federal laws concerning privacy of telecommunications.

(d) Except for those customers who request nonpublished listings, each LEC shall provide access to the following information to the directory assistance and intercept operators used by the LEC:

(1) The names of all customers.

(2) The telephone numbers of all customers.

(3) The service addresses of all customers.

The LEC shall also arrange for new or changed listings to be provided to the LEC's directory assistance and intercept operators within two (2) calendar days after installation of new or changed service, excluding Sundays and legal holidays. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-6; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4058, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

**170 IAC 7-1.2-7 Response to commission staff inquiries**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-53

Sec. 7. Each LEC shall fully and promptly answer all inquiries received from the commission staff concerning service or any other matters pertaining to this rule. Each LEC shall fully and promptly answer such requests, at the earliest possible date, not to exceed fifteen (15) calendar days after the LEC receives such an inquiry from the commission, unless otherwise directed by the staff. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-7; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4058, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

**170 IAC 7-1.2-8 Telephone directories; white pages**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88; IC 35-45-2-4

Sec. 8. (a) This section applies only to those telephone directories that an LEC publishes for its customers or contracts to provide to its customers in a given area.

(b) Telephone directories shall be revised at least once every fifteen (15) months, except when it is known that impending service changes require the rescheduling of directory revision dates. The commission, upon written application by an LEC, may allow exemptions from this section upon a showing that it is unnecessary or impractical to revise the directory within the normal time limit.

(c) Upon issuance of a directory, each customer served by such directory shall be furnished one (1) copy of that directory at no charge. The telephone directory shall list the name, address, and telephone number of all customers located in the area covered by the directory, excluding:

- (1) information on customers who request unlisted or nonpublished telephone numbers; and
- (2) identifying information concerning public pay phones.

Upon request, additional directories shall be furnished at no charge, not to exceed the total number of access lines, as provided under tariff, if available. Additional or foreign directories shall be provided when available by the LEC to its customers at cost.

(d) Upon customer request, each LEC shall provide, at no charge, a copy of any other telephone directory containing listings that may be dialed as either a local call or extended area service call by the requesting customer. These additional directories shall be furnished when available and shall not exceed the total number of access lines as provided under tariff.

(e) A current copy of all directories shall be furnished to the commission at no charge.

(f) Upon mutual consent of the LEC and the customer, the LEC may provide the customer with a directory in an electronic format, in lieu of a printed directory.

(g) The name of the publisher of the local telephone directory, the general areas included in the directory, and the month and year in which the directory was issued shall appear on the front cover of the directory.

(h) On the directory cover or spine, the primary area codes being served by the directory will be identified. Listings included in the directory from other area codes shall be presented with both the area code and number being shown.

(i) All of the following information shall be listed conspicuously on the first pages of the directory:

(1) Instructions on the use of 9-1-1 emergency service numbers for all areas covered by the directory where 9-1-1 service is available. For areas covered by the directory that do not have 9-1-1 service, the directory shall list the emergency numbers for either the sheriff or local police agency and the local fire department. A statement identifying where nonemergency numbers for local police and fire agencies are located shall also be included in the directory.

(2) A statement that the customer should contact its local exchange service provider for local service bills or its long distance service providers for long distance bills and to obtain instructions on how to submit payments to the customer's telecommunications service providers.

(3) A statement that the customer should contact the local exchange service provider for the following:

- (A) Matters relating to local exchange service.
- (B) Instructions on how to place local calls.
- (C) Instructions on how to report local service problems.
- (D) Instructions on how to change service options.
- (E) Instructions on how to access local directory assistance.
- (F) Instructions on how to access local operators.

(4) A statement that the customer should contact the long distance service providers for the following:

- (A) Matters relating to long distance service.
- (B) Instructions on how to place long distance calls.
- (C) Instructions on how to report long distance service problems.
- (D) Instructions on how to change service options.
- (E) Instructions on how to access long distance directory assistance.
- (F) Instructions on how to access long distance operators.

(5) A statement that the LEC's complaint handling process can be obtained by:

- (A) calling the LEC;
  - (B) reviewing the terms of the LEC's current tariff on file with the commission; or
  - (C) accessing the LEC's Web page at a given Internet address.
- (6) A statement that if a customer is not able to resolve billing or service related complaints directly with the serving LEC, after attempting to do so, the customer is invited to contact the commission's consumer affairs division. This statement shall include the name, address, local telephone number, toll-free telephone number, TDD number, and Internet address of the consumer affairs division.
- (7) A statement that a company's tariff is available for public inspection at the LEC's public service center and at the offices of the commission.
- (8) A statement identifying the existence of low-income telephone assistance programs available in the area covered by the LEC, with instructions to contact the LEC to obtain additional information.
- (9) A statement that the commission's:
- (A) service quality rule may be found at 170 IAC 7-1.2; and
  - (B) consumer rights rule may be found at 170 IAC 7-1.3.
- (10) A statement that is consistent with commission orders explaining both the LEC's and the customer's responsibilities regarding inside wiring.
- (11) A copy of the rights and responsibilities of customers of telephone utilities (or a summary that has been approved by the commission for use in telephone directories).
- (12) A statement that the federal statute that governs and limits privacy protections for interstate or foreign telecommunications is located at 47 U.S.C. 605 and the Indiana statute that affords protections for intrastate telecommunications is located at IC 35-45-2-4.
- (j) If a customer's telephone number is shown incorrectly in an LEC-provided telephone directory, the LEC shall comply with the intercept provisions found in section 17 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-8; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4058, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

**170 IAC 7-1.2-9 Availability of service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 9. (a) Each LEC that provides central office equipment and outside plant facilities shall design and engineer such equipment and facilities in accordance with the following:

- (1) Recognized industry technical standards.
  - (2) The service quality standards and other provisions of this rule.
  - (3) Reasonable anticipated customer demand for basic telephone service.
  - (4) Applicable commission orders.
  - (5) Applicable tariffs.
- (b) Where central office and outside plant facilities are readily available:
- (1) An LEC shall complete at least ninety-two percent (92%) of all requests for primary service in any month within an interval of five (5) business days after receipt of an application. The following conditions must be met for the standards set forth in this subsection to apply:
    - (A) The customer applicant has complied with all applicable tariff requirements.
    - (B) The customer applicant is prepared to accept the service.
    - (C) The customer applicant has not requested a later installation date.
    - (D) The requested service does not require the installation of special equipment or the provision of special services.
    - (E) For CLECs, all ILEC-provisioned services and network elements that are necessary in order for a CLEC to install primary service to end-user customers have been obtained by and are available to the CLEC.
  - (2) An LEC shall disclose to a customer its obligation to install primary service within an interval of five (5) business days or provide the customer with a credit, except when the LEC offers an installation date of five (5) days or less, or when the customer requests an installation date that exceeds five (5) days.

(3) If a customer requests installation of primary service within five (5) business days of the date the request was placed, the following provisions apply:

(A) The LEC shall advise the customer applicant of the date and time by which the LEC will be able to provide service and inform the customer of the tracking number assigned to the installation request.

(B) If the installation of service requires the customer to be present, the LEC shall fulfill the requirements of subsection (f).

(C) If the LEC fails to install primary service within five (5) business days of the date the request was placed, the LEC shall, without the customer's request, credit the customer's billing account twenty percent (20%) of the nonrecurring installation fees associated with the installation for the sixth day and each day thereafter until the LEC completes installation of trouble free primary service, provided, however, that the credit for failure to install primary service within five (5) business days shall not exceed the total amount of the installation fee.

(D) If the LEC fails to install trouble free primary service within ten (10) business days of the date the request was placed, the LEC shall provide the customer with alternative service free of charge.

(4) If a customer requests installation of primary service six (6) or more business days after the date the order was placed, the following provisions apply:

(A) The LEC shall advise the customer applicant of the date and time by which the LEC will be able to provide service.

(B) If the installation of service requires the customer to be present, the LEC shall fulfill the requirements of subsection (f).

(C) If the LEC fails to install service by the customer requested in service date, the LEC shall, without the customer's request, credit the customer's billing account twenty percent (20%) of the nonrecurring installation fees associated with the installation for each day after the customer requested installation date, provided, however, that the credit for failure to timely install primary service shall not exceed the total amount of the installation fee.

(D) If the LEC fails to install trouble-free primary service within five (5) business days of the customer request in service date, the LEC shall provide the customer with alternative service free of charge.

(5) Credits issued pursuant to this section shall be applied as soon as practicable but not later than two (2) billing cycles after the date of the completed installation.

(6) This section applies to new primary service installations by LECs and does not apply to service migrations from one (1) LEC to another LEC.

(c) Where central office and outside plant facilities are not readily available, the ILEC shall promptly notify the customer applicant of that fact and provide a date and time acceptable to the customer on which the required central office and outside plant facilities will be available for the ILEC to provide the requested services and provide the customer with a tracking number. Even when central office and outside plant facilities are not readily available, each ILEC shall strive to provide primary service to every customer applicant:

(1) on or before the requested in-service date, whenever possible; or

(2) otherwise, as close to the customer-requested in-service date as possible and within thirty (30) days of the application for primary service.

(d) Each LEC shall maintain records reasonably sufficient to show the extent of its compliance with subsections (b) and (c) for the previous eighteen (18) months.

(e) If any ILEC fails to satisfy any primary service request within thirty (30) days of the requested in-service date, the ILEC shall do the following:

(1) File a report of any failure with the commission at the end of each calendar quarter. The report shall include an explanation of relevant circumstances and shall identify any factors outside the ILEC's control that prevented it from providing the requested service within thirty (30) days of the requested in-service date.

(2) Waive the nonrecurring installation charges upon installation of the requested service unless the ILEC requests and the commission grants a waiver for installation beyond thirty (30) days of the requested in-service date.

(f) If it is necessary for the customer to be present during an on-premise installation, the LEC shall make appointments for such installation, at a mutually agreed upon date and time (which shall be identified as occurring within a four (4) hour window, such as morning, afternoon, or evening). If a service installation appointment cannot be kept, the LEC shall make reasonable efforts to notify the customer applicant by 6:00 p.m. on the day prior to the appointment to explain the reason for the delay. The LEC shall obtain a contact point from the customer in order to provide such advance notice. If the LEC fails to notify the customer by 6:00

p.m. on the day prior to the scheduled installation appointment and the LEC fails to keep the installation appointment, the LEC shall, without the customer's request, credit the customer's account twenty-five dollars (\$25). (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-9; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4059, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:36 p.m.: 26 IR 382*)

**170 IAC 7-1.2-10      Extension of facilities**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 10. (a) Each LEC shall include in its tariffs filed with the commission a statement of its standard extension policy setting forth the terms and conditions under which its facilities will be extended to provide service to customer applicants located within the LEC's certificated service territory. The LEC's policies for service extensions shall conform to construction charges for extension of facilities required to provide local service and will not apply to facilities located on public rights-of-way, except where:

(1) unusual costs, as defined in tariffs or otherwise determined by the commission, are involved in the establishment of service;

(2) the installation is for a temporary or semipermanent purpose; or

(3) the facilities cannot be used for other general telephone purposes if service to the customer applicant is discontinued.

(b) Provided the type of facilities and method of installation are the type normally used by the LEC to provide the requested service, construction charges for facilities to be located on private rights-of-way in order to satisfy a customer applicant's request for local service shall not apply to the following:

(1) The first one-tenth (0.1) of a mile for business service.

(2) The first two-tenths (0.2) of a mile for residential service.

If a customer applicant requests a type of facility or method of installation that differs from the norm, the LEC shall charge the customer applicant for the difference in cost between the two (2) types of construction. The customer applicant shall also be responsible for providing necessary private rights-of-way if construction is required in areas where the right of eminent domain does not exist. The provision of any facilities beyond the first one-tenth (0.1) of a mile for business service and two-tenths (0.2) of a mile for residential service shall be charged to the customer applicant at cost.

(c) Requirements for new real estate developments are as follows:

(1) If a developer requests the installation of telephone facilities for a new real estate development, the developer shall have the property:

(A) cleared of trees, tree stumps, paving, and other obstructions necessary for installation of the telephone facilities;

(B) staked to show property lines and final grade; and

(C) graded to within six (6) inches of final grade;

all at no charge to the LEC.

(2) The LEC shall also have the right to require a deposit from the developer to cover the cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission. The requirements for charging a deposit are as follows:

(A) Each LEC shall file with the commission for approval, tariff provisions setting forth the conditions under which it will make line extensions to real estate developments.

(B) Such filing shall include line extension procedures, a specific explanation regarding how deposits will be calculated and how cost support will be presented.

(C) Upon application, each LEC shall provide an information sheet to developers describing line extension procedures and providing cost support as approved in the LEC's tariff on file with the commission.

(D) The LEC shall refund the deposit to the developer on a pro rata basis as lots are sold. The developer shall notify and provide documentation to the LEC as lots are sold. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. The refundable portion of the deposit shall bear interest as prescribed in 170 IAC 7-1.3-3(h).

(3) Any amount that is still owed to the LEC under this subsection or subsection (a) or (b) may be withheld when the deposit is returned to the developer.

(4) Any portion of the deposit that has not been refunded five (5) years from the date that the LEC is first ready to render

service from the extension may be retained by the LEC as liquidated damages.

(5) When customers request pole attachments to avoid new construction costs, the LEC may charge the customer all expenses and rental charges associated with the attachments.

(6) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.

(7) Except as provided in this subsection, no portion of the expense assessed against the customer shall be subject to later refund.

(d) Nothing in this rule shall be construed as prohibiting any LEC from establishing an extension policy more favorable to customers than that contained herein, provided such policy complies with the following requirements:

(1) No discrimination is practiced between customers.

(2) The policy has been approved and is included in the LEC's tariffs on file with the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-10; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4061, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; filed Apr 26, 2004, 2:00 p.m.: 27 IR 2712)*

#### **170 IAC 7-1.2-11      Grade of service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 11. The minimum grade of local exchange telecommunications service that may be provided within Indiana shall include the following:

(1) Voice grade access to the public switched network with a minimum bandwidth of three hundred (300) hertz to three thousand (3,000) hertz that enables a user of telecommunications services to transmit voice communications, including signaling the network that the caller wishes to place a call, and to receive voice communications, including receiving a signal indicating there is an incoming call.

(2) All switched voice circuits shall be adequately designed and maintained. Within sixty (60) days of a customer's application therefore, a voice grade access line will be provisioned for connectivity of at least fourteen thousand four hundred (14,400) bits of data per second when connected through an industry standard modem (IT U-T V.32bis, V.34bis, or equivalent) or a facsimile machine (IT U-T V.17bis or equivalent). An LEC that is unable to meet this requirement may petition the commission for waiver of this subdivision.

(3) Local service.

(4) Dual tone multifrequency signaling.

(5) Single-party service or its functional equivalent.

(6) Access to emergency services, including access to 9-1-1 and enhanced 9-1-1, where such emergency services are provided by local governments through a PSAP.

(7) Availability of toll blocking services.

(8) Access to local operator services (O-).

(9) Access to local directory assistance.

(10) Access to interexchange services (1+), including access to toll operator services (O+).

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-11; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4062, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:36 p.m.: 26 IR 382)*

#### **170 IAC 7-1.2-12      Maintenance of plant equipment**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 12. (a) Each LEC shall adopt and pursue a maintenance program aimed at achieving efficient operation of its system so as to permit the rendition of safe, adequate, and continuous service at all times.

(b) A maintenance program shall include keeping all plant and equipment in a good state of repair consistent with safety, adequate service performance, and industry standards. Broken, damaged, or deteriorated parts shall be promptly repaired or replaced. Adjustable apparatus and equipment shall be readjusted as necessary when found to be in unsatisfactory operating condition.

Electrical faults, such as leakage or poor insulation, noise induction, cross talk, or poor transmission characteristics shall be corrected to comply with industry standards.

(c) A LEC shall make reasonable attempts to notify customers whose service is expected to be interrupted for more than one (1) hour for scheduled maintenance or facilities upgrades, consistent with safety and security considerations.

(d) When additions or changes to plant or records are scheduled that will necessitate a large group of telephone numbers to change, the serving LEC shall notify all of its affected customers then of record who will be affected by the change at least sixty (60) days in advance of such scheduled additions or changes, regardless of whether the number change is scheduled to occur at approximately the same time that the serving LEC's next local telephone directory is issued.

(e) Anytime a customer premise visit is required for a residential unit or business unit with fewer than four (4) access lines, or upon request by a customer, the LEC shall install a network interface device (NID), if the premises is not already so equipped. The LEC shall notify its customers of their ability to request that a NID be installed through bill inserts, directory information pages, or other cost-efficient means. The LEC shall not charge the customer for the installation of the NID. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-12; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4062, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

### **170 IAC 7-1.2-13      Trouble reports**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 13. (a) Each LEC shall provide for the receipt of customer trouble reports twenty-four (24) hours a day, seven (7) days a week. For purposes of this rule, trouble reports shall be classified as either out-of-service trouble reports or service-affecting trouble reports. An out-of-service trouble report shall not be downgraded to a service-affecting trouble report. However, a service-affecting trouble report shall be upgraded to an out-of-service trouble report if changing conditions so indicate.

(b) Each LEC shall make all reasonable efforts to minimize the extent and duration of all service outages. In at least ninety-two percent (92%) of service outages reported for any given calendar month, service shall be restored within twenty-four (24) hours from the time the LEC receives an out-of-service trouble report. If the LEC fails to restore service to a customer within twenty-four (24) hours, the LEC shall, without the customer's request, issue the customer a bill credit equal to the thirty-three percent (33%) of the recurring monthly service charge. The LEC shall issue the customer additional credits equal to thirty-three percent (33%) of the recurring monthly service charge for each twenty-four (24) hour period after the initial twenty-four (24) hour period until the customer's service is restored.

(c) Each LEC shall make all reasonable efforts to minimize the extent and duration of all service-affecting problems. Ninety percent (90%) of all service-affecting problems shall be corrected within forty-eight (48) hours from the time the LEC receives the service-affecting trouble report, excluding Saturdays, Sundays, and legal holidays.

(d) Credits shall be in the form of either:

(1) a credit to the customer's account made within the next two (2) billing periods; or

(2) direct payment to the customer made within the next two (2) billing periods if the customer's account is current and the credit exceeds one (1) month's recurring charges.

(e) Priority shall be given to those out-of-service trouble reports and service-affecting trouble reports that adversely affect the public health, safety, or welfare.

(f) If the LEC's investigation reveals that the customer is responsible for correcting the reported service problem, the LEC shall notify the customer of that fact within twenty-four (24) hours.

(g) If it is necessary for the customer to be present during an on-premises repair, the LEC shall make appointments for such repair, at a mutually agreed upon date and time (which shall be identified as occurring within a four (4) hour window, such as morning, afternoon, or evening). If a repair appointment cannot be kept, the LEC shall notify the customer applicant by 6:00 p.m. on the day prior to the appointment to explain the reason for the delay. The LEC shall obtain a contact point from the customer in order to provide such advance notice. If the LEC fails to notify the customer by 6:00 p.m. on the day prior to the scheduled repair appointment and the LEC fails to keep the repair visit, the LEC shall, without the customer's request, credit the customer's account fifty dollars (\$50).

(h) Each LEC shall maintain an accurate record of trouble reports and the disposition of each trouble report and shall maintain service at a level such that the average number of initial customer trouble reports measured on a statewide basis for the LEC's

Indiana operations does not exceed five (5) trouble reports per one hundred (100) access lines. For purposes of this section, an initial customer trouble report shall be construed to mean the first trouble report on a station, access line, or other plant item on which all previous customer reports on record for that particular problem have been closed.

(i) If the average number of initial customer trouble reports for any exchange or wire center exceeds five (5) trouble reports per one hundred (100) access lines in each of any three (3) consecutive months, the LEC shall file a written report with the commission within thirty (30) days, explaining relevant circumstances and describing corrective actions taken by the LEC.

(j) Each LEC shall attempt to minimize the occurrence of repeat trouble reports. A repeat trouble report is any report made within thirty (30) days after the closing of another trouble report involving the same type of service problem and the same access line. An LEC shall maintain service at such level that repeat trouble reports result from less than fifteen percent (15%) of all trouble reports.

(k) Each LEC shall be responsible for maintaining the trouble report information required by this section for its Indiana operations and by exchange for at least eighteen (18) months. The records of the LEC shall record, at a minimum for each trouble report, the date and time the report was received, whether the trouble report was for out-of-service or service-affecting, whether the complaint was upgraded to out-of-service, when service was restored (date and time), whether the trouble report was a repeat trouble report, the amount of the credit, and the date the credit was issued. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-13; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4062, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.2-14 Adequacy of service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 14. (a) Each LEC shall provide or otherwise arrange for the use of switching equipment, trunking, and associated facilities for the handling of that LEC's local traffic within its service territory. Such facilities shall be designed and engineered on the basis of realistic forecasts of growth so as to ensure that at least ninety-seven percent (97%) of all calls offered during the busy hour to any LEC trunk group will not encounter an all-trunk busy condition or a no-circuit condition.

(b) Busy hour calls to valid numbers shall encounter an audible ring-back tone, line busy signal, or nonworking intercept facility for operator or recording after completion of dialing at not less than the following performance standards established for such calls, by category of call:

- (1) Ninety-five percent (95%) for intraoffice calls.
- (2) Ninety-five percent (95%) for interoffice calls.
- (3) Ninety-five percent (95%) for extended area calls.

Noncompletions include all-trunk busy conditions, no-circuit conditions, reorders, and equipment failures. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-14; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4063, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.2-15 Transmission requirements**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 15. Local networks shall be designed and operated so as to meet the following service objectives:

- (1) For loop loss, transmission loss will vary with the characteristics of the loop and the type of interface used, whether analog or digital. However, the loop loss objective to the end user's network interface device (NID) shall be designed to meet an objective of eight and five-tenths (8.5) decibels, with no loops exceeding ten (10) decibels.
- (2) For loop noise, the standard for steady state C-Message loop noise is independent of the characteristics of the loop and the interface to the central office equipment. The weighted loop noise objective measured at the NID shall not exceed thirty (30) decibels at reference noise of one thousand (1,000) hertz (30 dBrnC).
- (3) The alternating current (AC) power influence (noise to ground) level on a subscriber loop shall be below ninety (90) decibels at reference noise up one thousand (1,000) hertz (90 dBrnC).
- (4) For loop current, to ensure proper operation of customer premises equipment, sufficient loop current shall be maintained.



The loop current objective, measured at the NID, shall not be less than twenty (20) milliamperes.  
*(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-15; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4064, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

**170 IAC 7-1.2-16      Answering times**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 16. (a) The average speed of answer for an LEC's Indiana operations shall meet the following requirements during normal business hours:

- (1) The average speed of answer for calls to the LEC's repair service center shall not exceed sixty (60) seconds.
- (2) The average speed of answer for calls to the LEC's business offices shall not exceed sixty (60) seconds.
- (3) The average speed of answer for calls to the LEC's local service operators shall not exceed twenty (20) seconds.
- (4) The average speed of answer for calls to the LEC's local directory assistance operators shall not exceed twenty (20) seconds.
- (5) The average number of calls to each service listed above which are deflected or encounter a busy signal shall not exceed ten percent (10%).

(b) Each LEC shall monitor its Indiana operations' speed of answer in each of the categories set forth in subsection (a) throughout the calendar year to ensure that applicable average speed of answer requirements are met, at least on a quarterly average basis. Where an LEC cannot practically differentiate among the types of calls identified in subsection (a) because it utilizes a single customer service number for all calls, the LEC shall meet an average speed of answer for all calls of sixty (60) seconds and shall monitor its speed of answer of all calls on an undifferentiated basis. If it is not economically feasible for an LEC to purchase or otherwise arrange for the use of an automated answering speed measurement system, the LEC may request a waiver from the commission to conduct manual time studies each calendar quarter, or more frequently if required by the commission, to test the LEC's ongoing compliance with the above average speed of answer requirements. Each LEC shall comply with all requests and directives from the commission concerning testing methodology and frequency to ensure that any time studies conducted by or on behalf of the LEC produce accurate data concerning the LEC's average speed of answer for each of the above types of calls.

(c) When an LEC utilizes a menu driven, automated, interactive answering system (referred to in this subsection as an automated system), the option of transferring to a live attendant shall be included in the initial message. At any time during the call, the customer shall be transferred to a live attendant if the customer fails to interact with the automated system for a time period exceeding ten (10) seconds following any prompt. At that point, the speed of answer of the customer's call shall be governed by subsection (a). For purposes of this subsection, "interaction" means responding to a customer prompt offered by the automated system by keying a number or character of an activated touch-tone keypad or by providing an audible response, if requested. When an automated system is utilized, instructions shall be provided on how to make or reschedule appointments.

(d) Local service providers, when offering bundled service packages, shall explain that each service or feature within the package may be purchased individually, list each service and/or feature contained in the package, and, upon subscriber request, provide individual rates for each service or feature.

(e) When a customer calls an LEC to request information about a specific local exchange service or feature, to report service trouble, and or to make payment arrangements, the LEC shall not engage in sales practices until the LEC first confirms that it has completely responded to the subscriber's concern or concerns. Upon a customer's request, the LEC shall discontinue the sales discussion. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-16; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4064, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:36 p.m.: 26 IR 382)*

**170 IAC 7-1.2-17      Intercept service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 17. (a) This section does not apply to area code or other commission-authorized telephone number changes. In all other cases, each LEC shall provide the following intercept services for office codes assigned to that LEC:

(1) All nonworking office codes (NXXs), service codes, and numbers shall be routed to a vacant code recorded announcement.

(2) At the customer's request, the LEC shall provide changed number intercept for a maximum of ninety (90) days for residential customers and three hundred sixty (360) days for business customers following a number change.

(3) When an emergency service number other than 9-1-1 is replaced by the universal emergency service number (9-1-1), the number that is being replaced shall be intercepted to an operator, a PSAP, or a changed number recorded announcement for at least one (1) year or until the next local telephone directory is issued, whichever is later.

(4) When an LEC's operations or planned capital improvements necessitate the changing of a customer's telephone number, the serving LEC shall maintain or otherwise arrange for an appropriate intercept on the customer's access line until either:

(A) the old telephone number is permanently reassigned; or

(B) an updated local telephone directory is issued.

(b) Adequate intercept facilities shall be available for routine number changes. When number change volumes are abnormally high, auxiliary intercept facilities shall be utilized.

(c) If a customer's telephone number is shown incorrectly in an LEC-provided telephone directory, within two (2) calendar days after receiving a complaint from the customer, excluding Sundays and legal holidays, the serving LEC shall either:

(1) intercept all calls to the incorrect number; or

(2) arrange for such calls to be intercepted by the serving LEC's intercept operator;

as long as the number is not otherwise required for service. The customer's correct listing and omitted number shall be placed on directory assistance and intercept, and the correct number shall be furnished to the calling party, either upon request or upon interception, until the serving LEC issues its next telephone directory for the affected area. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-17; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.2-18      Emergency operation**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 18. (a) Each LEC shall make reasonable provisions to meet emergencies resulting from commercial electrical failure and sudden, prolonged increases in traffic due to extraordinary circumstances. Each LEC shall instruct employees on procedures to be followed in the event of such emergencies in order to prevent or mitigate interruption or impairment of telephone service.

(b) All existing central offices shall maintain the following:

(1) Central offices with installed emergency power generating equipment will have a minimum of three (3) hours central office battery capacity of busy-season, busy-hour load.

(2) Central offices without installed emergency power generating equipment shall have a minimum central office battery capacity of five (5) hours busy-season, busy-hour load. Facilities needed to connect a portable generator shall also be readily available in each central office.

(c) It is essential that all central offices have adequate provision for emergency power. All new central offices, central office replacements, and major additions placed on order after the effective date of this rule and standards shall be designed to meet the following objectives:

(1) Central offices with installed emergency power generating equipment will have a minimum of three (3) hours central office battery capacity of busy-season, busy-hour load.

(2) Central offices without installed emergency power generating equipment shall have a minimum central office battery capacity of eight (8) hours busy-season, busy-hour load. Facilities needed to connect a portable generator shall also be readily available in each central office.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-18; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **Rule 1.3.    Telecommunications Customer Service Rights and Responsibilities**

**170 IAC 7-1.3-1 Purpose and scope**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1.5-1-10

Sec. 1. (a) This rule applies to any utility that is now, or may hereafter be, engaged in the business of rendering telephone services to the public under the jurisdiction of the commission. Excluded under this rule are those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service. This rule creates the minimum level of service that an LEC is expected to meet when providing reasonable quality telephone services to the public and to establish the obligations of both the utility and the customer. Sections 3 through 7 and 10 through 12 of this rule do not apply to (CLECs) that serve less than five thousand (5,000) access lines.

(b) This rule supersedes 170 IAC 7-1.1-12 through 170 IAC 7-1.1-18.

(c) No utility shall discriminate against or penalize a customer for exercising any right granted by this rule. If an LEC's tariff on file with the commission contains provisions that conflict with this rule, this rule supersedes any conflicting tariff provisions.

(d) Any LEC subject to the telecommunications customer service rights and responsibilities set forth in this rule that fails to meet such standards shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any LEC fails to comply.

(e) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

(1) Altering or amending this rule in whole or in part.

(2) Requiring any other or additional service, equipment, facility, or standard.

(3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.

(4) Require an LEC to comply with any other service standards.

(5) At its sole discretion, grant, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

(f) The adoption of this rule shall not in any way relieve any utility from any of its duties under the laws of this state.

(g) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, such provision shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-1; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:54 p.m.: 26 IR 382*)

**170 IAC 7-1.3-2 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1.5-1-10

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

(1) "Applicant" means any person, company, or designated agent who seeks to become a customer for basic residential or small business telephone services.

(2) "Basic local service" means the provision to a customer of an access line that transmits two-way interactive switched voice or communication within a local calling area.

(3) "Business days" means all days other than a:

(A) Saturday;

(B) Sunday;

(C) legal holiday as defined by statute; or

(D) day that the utility (or service provider) office is closed during regular business hours.

(4) "Clear and conspicuous notification" means notice that would be apparent to a reasonable consumer.

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

(6) "Competitive local exchange carrier" or "CLEC" means a local service telephone utility that provides telephone service

to customers in the geographic territory served by the local exchange and does not qualify as an incumbent local exchange carrier under subdivision (9).

(7) "Customer" means the following:

(A) Any person that requests and obtains telephone service and is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.

(B) Any business or institutional entity, whether an individual, partnership, corporation, association, or other business or institutional form that:

(i) does or will operate with four (4) or fewer single access lines;

(ii) requests and obtains telephone service for occupational, professional, or institutional purposes; and

(iii) is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.

(C) Any customer whose service has been temporarily disconnected shall continue to be a customer for purposes of this rule until such time as service is permanently disconnected and the customer must reapply for new service.

(8) "Deniable charges" means charges for basic local service. Delinquency in payment of deniable charges may result in disconnection of basic local service.

(9) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:

(A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or

(B) is a person or entity that on or after February 8, 1996, became a successor or assignee of a member described in clause (A).

(10) "Local exchange carrier" or "LEC" means a local serving telephone utility that provides telephone service to customers in the geographic territory served by the local exchange, and excluding those services provided pursuant to a CTA issued for a radio common carrier or commercial mobile radio service.

(11) "Long distance service" or "toll service" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis.

(12) "New service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. The term includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill unless the service is subsequently canceled.

(13) "Nondeniable charges" means charges for toll service and unregulated telecommunications services. Delinquency in payment of nondeniable charges shall not result in disconnection of basic local service.

(14) "Temporary disconnection" means a disconnection that has not yet resulted in the customer's account being permanently removed from the telephone provider's network.

(15) "Utility" means any public utility (as defined in IC 8-1-2-1) or municipal utility (as defined in IC 8-1.5-1-10) that furnishes telephone service to the public under the jurisdiction of the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-2; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata, 26 IR 1565; errata, 26 IR 2375)*

### **170 IAC 7-1.3-3 Creditworthiness of residential customer; deposit; refund**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 3. (a) Each LEC shall determine the creditworthiness of applicants or customers in an equitable and nondiscriminatory manner:

(1) without regard to the race, sex, national origin, or marital status of the applicant or customer, or the economic character of the area wherein the applicant or customer resides or operates; and

(2) solely upon the credit risk of the applicant or customer without regard to the collective credit reputation of the area in which the applicant or customer resides or operates.

(b) Each new applicant for residential telephone service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving basic local service if the applicant satisfies either of the following criteria:

(1) The applicant has been a customer of a public or municipal utility in the United States within the last two (2) years, and

the applicant:

- (A) owes no outstanding bills for service rendered within the past four (4) years by such utility;
- (B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to such utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and
- (C) within the last two (2) years did not have a service disconnected by such utility for nonpayment of a bill for services rendered by that utility.

(2) The applicant has not been a customer of a utility during the previous two (2) years and any of the following criteria are met:

- (A) The applicant either has been employed by:
  - (i) his or her present employer for two (2) years;
  - (ii) his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or
  - (iii) the present employer for less than two (2) years and has no previous employment due to recently:
    - (AA) graduating from a school, university, or vocational program; or
    - (BB) being discharged from military service.
- (B) The applicant either:
  - (i) owns or is buying his or her home; or
  - (ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(c) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable initial cash deposit. Such initial deposit shall not exceed one-sixth ( $\frac{1}{6}$ ) of the estimated annual billings for local service to the applicant and shall be paid in full before installation of service. Such initial deposit shall be subject to reevaluation upon the request of either the LEC or the customer, based upon actual charges for services rendered, at any time after service has been provided.

(d) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility, of payment for all telephone service rendered or to be rendered to the applicant. The guarantor may terminate the guarantee upon thirty (30) days prior written notice. Said guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of either:

- (1) nine (9) consecutive months; or
- (2) ten (10) out of any twelve (12) consecutive months.

(e) If the utility requires a cash deposit or a written guarantee as a condition of providing service, the utility shall advise the applicant of the reason upon which it bases its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating creditworthiness.

(f) The LEC may require a present customer to make a reasonable cash deposit, or an additional deposit in cases where a deposit has been made, when the customer has been mailed disconnect notices for two (2) consecutive months or any three (3) months within the preceding twelve (12) month period. In such cases, notice of the need for a deposit shall be in writing, and the customer shall be given ten (10) business days from the mailing date of the notice within which to make said deposit. When the service has been disconnected within the past four (4) years pursuant to section 11 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for local service pursuant to this section may not exceed an amount equal to one-sixth ( $\frac{1}{6}$ ) of the annualized estimated billings for the customer at the address at which service is rendered.

(g) The LEC shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366.

(h) Requirements for interest upon a deposit shall be as follows:

(1) A deposit held more than thirty (30) days shall earn interest from the date of deposit. Beginning on the effective date of this rule, the rate of interest shall be set by the commission based upon the then-existing rate for one-year United States treasury bills. The interest rate will be rounded to the nearest one-half ( $\frac{1}{2}$ ) of one percent (1%). In December of each year, the commission shall issue a General Administrative Order establishing the interest rate for the next calendar year that shall be paid on all deposits held during all or part of the subsequent year.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully

disposed of as provided in subsection (i)(6).

(i) Requirements for refunds shall be as follows:

(1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.

(2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.

(3) Following a customer-requested termination of service, the LEC shall:

(A) apply the deposit, plus accrued interest, to the final bill; or

(B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) business days after payment of the final bill.

(4) Each LEC shall maintain a record of each applicant or customer making a deposit that shows the following:

(A) The name of the customer.

(B) The current mailing address of the customer.

(C) The amount of the deposit.

(D) The date the deposit was made.

(E) A record of each transaction affecting such deposit.

(5) Each customer shall be provided a written receipt from the LEC at the time the customer's deposit is paid in full or when the customer makes a cash partial payment. The LEC shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.

(6) Any deposit made by the applicant or customer to the LEC (less any lawful deductions to be refunded), or any sum the LEC is ordered to refund for telephone services that has remained unclaimed for one (1) year after the LEC has made a diligent effort to locate the customer who made such deposit or the heirs of such customer, shall be presumed abandoned and treated in accordance with IC 32-34-1-20(c).

(7) A deposit may be used by the LEC to cover any unpaid balances owed the LEC following disconnection of any service under section 11 of this rule, provided, however, that any surplus be returned to the customer as provided in this subsection.

(8) Establishment of credit by cash deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-3; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4067, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:54 p.m.: 26 IR 382)*

#### **170 IAC 7-1.3-4 Rejection of application for service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88; IC 32-9-1.5-20

Sec. 4. (a) An application for telephone service may be rejected until remedied for any one (1) or more of the following reasons:

(1) Misrepresentation of the customer or applicant's identity for the purpose of obtaining telephone service.

(2) Information provided by the applicant is materially false or materially misrepresentative of the applicant's true status.

(3) Failure to pay a deposit if required under section 3 of this rule.

(b) In order to obtain service, a customer or applicant may be required to pay a deposit as provided in section 3 of this rule after disconnection of service for the reasons listed in section 11(b) of this rule. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-4; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.3-5 Explanation of available service; notice of proposed rate change**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-40; IC 8-1-2-88

Sec. 5. (a) Each utility shall supply to each customer on an annual basis, without charge, a brief summary of the customer's rights and responsibilities contained in this rule. Each utility shall forward a copy to the commission annually to be kept on record

with the commission's consumer affairs division.

(b) When a utility representative takes an order for new telephone service, the representative shall describe to the applicant the least expensive telephone service available. Such description shall include lifeline/link-up services for eligible customers.

(c) Each utility shall have a copy of this rule in all of its business offices that shall be available for inspection by applicants and customers.

(d) Each utility shall furnish notice of rate increases to its affected customers that fairly summarizes the nature and extent of the increase within forty-five (45) days of such request and prior to the date of the initial public hearing. If the rate change is one that does not require a hearing, then notice should be included in the first bill where the change is effective. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-5; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-6 Bills for utility service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 6. (a) Bills rendered periodically to customers for telephone service shall show at least the following information:

- (1) The customer's name, billing address, telephone number, and date of bill.
- (2) For measured service, details shall include the number of additional local calls, rate, and total amount of charges.
- (3) Itemization of toll calls and charges.
- (4) State and federal taxes.
- (5) Previous balance.
- (6) Explanation of codes and abbreviations.
- (7) The past due date or the date on which the bill becomes delinquent.
- (8) The total amount of bill.
- (9) The name for the service provider associated with each charge shall be clearly identified.
- (10) Where charges for two (2) or more telephone carriers appear on the same telephone bill, the charges shall be separated by service provider, and the billing entity shall provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new service provider has begun providing service. The notification shall describe the nature of the relationship with the customer, including a description of whether the new service provider is the presubscribed:
  - (A) local exchange carrier;
  - (B) intra-LATA interexchange carrier; or
  - (C) inter-LATA interexchange carrier.
- (11) Charges contained on telephone bills shall be accompanied by a brief, clear, nonmisleading, plain language description of the individual service or services rendered. The description shall be sufficiently clear in presentation and specific enough in content so that:
  - (A) a customer can accurately assess that the services for which he or she is billed correspond to those that he or she has requested and received; and
  - (B) the costs assessed for those services conform to the customer's understanding of the price charged.
- (12) Telephone bills shall contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. The bill shall contain a clear and conspicuous notice that the customer may dispute charges on the bill prior to payment, including, but not limited to, the following:
  - (A) A prominent display on each bill of a toll free number of the carrier by which a customer may inquire or dispute any charge contained on the bill.
  - (B) A carrier may list a toll free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Where the customer does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or Internet, the carrier may comply with this subdivision by providing on the bill an e-mail or Web site address. Each carrier shall make a business address available upon request from a customer.

(b) The billing requirements of subsection (a)(9) through (a)(11) may be waived for business customers if those customers consent in writing to such waiver.

(c) A utility service bill, which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill, shall be a delinquent bill. A utility service bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, the net bill shall become a delinquent bill and a late payment charge may be added in the amount of ten percent (10%) of the first three dollars (\$3) and three percent (3%) of the excess of three dollars (\$3).

(d) The LEC may only change a monthly billing cycle to another periodic form of billing if the customer agrees in writing to such change.

(e) Where a bill contains charges for basic local service in addition to charges for toll service and unregulated services, the bill shall distinguish between deniable and nondeniable charges. The carrier shall:

(1) explain the distinction between nondeniable and deniable charges to the customer; and

(2) clearly and conspicuously identify on the bill those charges for which nonpayment will result in disconnection of basic local service.

(f) If a customer is delinquent in payment of nondeniable charges, the telephone carrier may remove or restrict those services for which there is a nondeniable charge from the customer's account without the customer's consent. If toll service is removed or restricted, the LEC may require a deposit pursuant to section 3 of this rule before restoring those services to the customer's account. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-6; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-7 Billing adjustments**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-34.5

Sec. 7. (a) Adjustment of a disputed nondeniable charge shall be made in accordance with sections 8 and 9 of this rule.

(b) A billing error, including an incorrect tariff application, may be adjusted to the known date of error or for a period of eighteen (18) months, whichever period is shorter. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-7; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4070, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-8 Customer complaints to the utility**

Authority: IC 8-1-1-3

Affected: IC 8-1-2

Sec. 8. (a) A customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. Such complaints may be made in person, by telephone, in writing, or by completing a form available from the utility at its business offices. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed two (2) calendar days after the postmark date. In making a complaint or request for conference, the customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

(1) Immediately notify a customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance section 11 of this rule.

(2) Promptly, thoroughly, and completely investigate such complaint in good faith, attempt to confer with the customer when requested, and notify the customer of its proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on customer's credit rating.

(3) Without the customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.

(4) Charges that are disputed by the customer shall not be treated as delinquent while an investigation is pending.

(5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate.



(6) If the utility's proposed disposition is not in the customer's favor, the utility shall notify the customer of such disposition in writing if the complaint was made in writing. If the utility's proposed disposition is not in the customer's favor, the utility shall notify the customer in writing or orally, if the complaint was made orally. The notification shall advise the customer or applicant that if he or she is dissatisfied with the telephone company's disposition, the customer or applicant may, within twenty-one (21) days, file a complaint with the commission's consumer affairs division (pursuant to section 9 of this rule). Such notification shall include contact information for the commission, including the commission's mailing address, toll free complaint number, and local telephone number.

(c) If at any time the customer files a complaint with the commission regarding a dispute with a utility, the procedures set forth in section 9 of this rule shall apply. Any disconnection of the customer's service shall be governed by section 11 of this rule.

(d) Each utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. Such records shall be maintained at the office or branch office of the utility or in the respective department office thereof where such complaints were received or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the commission.

(e) Each utility shall, at the request of the commission, submit a report covering the previous twelve (12) month period to the commission that shall state and classify the number of complaints made to the utility pursuant to this rule, the general nature of the subject matter thereof, how the complaint was received, and whether a commission review was conducted thereon. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4070, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-9 Customer complaints to the commission**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-34.5; IC 8-1-2-88

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. Such complaints may be made in person, by telephone, in writing, or by completing a form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Without the customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of such complaint is pending. The customer shall continue to pay all undisputed charges. In those instances when the customer and utility cannot agree as to what portion of a bill is undisputed, the customer shall pay on the disputed bill an amount equal to the customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the customer has received fewer than twelve (12) bills, the customer shall pay an amount equal to one-twelfth ( $\frac{1}{12}$ ) of the estimated annual billing for service to be rendered to the customer.

(c) If the customer is dissatisfied with a utility's notice of its proposed disposition of the complaint as provided in section 8 of this rule, the customer or applicant may, within twenty-one (21) days after the postmark date of the notice, file a consumer complaint with the commission's consumer affairs division.

(d) Upon receiving a consumer complaint, the following actions shall be taken:

(1) The utility shall be notified that a complaint has been made.

(2) The complaint shall be investigated.

(3) The customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

(1) The customer or the utility may make a written request that a decision made pursuant to subsection (d) be reviewed informally by the consumer affairs director or designee. Such written request shall be made within fourteen (14) days of the decision. The records of the commission relating to such reviews shall be kept in a systematic order.

(2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review within thirty (30) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the utility within thirty (30) days after its receipt of the customer's request. Upon request by either party or the consumer affairs director or designee, the parties shall be required

to meet and confer to the extent and at such place as the consumer affairs director or designee may consider appropriate.

(f) The customer may make a written request that the commission investigate the disposition of the informal review. Such written request shall be made within fourteen (14) days of the consumer affairs division's notice of disposition. Prior to entering an order upon a commission investigation, the commission shall afford the customer and the utility notice and an opportunity to be heard.

(g) Without the customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least fourteen (14) days have elapsed from the postmark date of the consumer affair's division disposition, or the commission's order upon investigation, if any. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-9; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4071, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-10      Customer payments**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 10. (a) When a residential customer cannot pay an undisputed bill or the undisputed portions of a disputed bill in full, the LEC shall continue to serve the customer if the customer and the LEC agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid in accordance with the following guidelines:

(1) If the customer shows just cause for his or her inability to pay deniable charges (financial hardship shall constitute just cause), and the customer pays a reasonable portion of such amount, not to exceed the greater of either twenty dollars (\$20) or twenty-five percent (25%) of all amounts due for deniable charges.

(2) In deciding on the reasonableness of a particular agreement, the LEC shall consider the following:

(A) The customer's ability to pay.

(B) The size of the unpaid balance.

(C) The customer's payment history and length of service.

(D) The amount of time and reasons why the debt is outstanding.

(E) The customer:

(i) agrees to pay the balance of all amounts due in equal monthly installments;

(ii) agrees to pay all undisputed future bills for local service as they become due; and

(iii) has not breached any similar agreement with the LEC made pursuant to this section in the last twelve (12) months.

The LEC may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to section 6(d) of this rule.

(b) The terms of any payment arrangement made pursuant to this section shall be put in writing by the LEC and sent by mail to the customer.

(c) Only one (1) late payment charge may be assessed against the charges applicable to any given month.

(d) If the customer does not meet any of the conditions in subsection (a), the LEC may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(e) If a customer makes a partial payment on a bill, the LEC shall first apply that payment to any deniable charges. A partial payment may only be applied to nondeniable charges when all deniable charges have been paid in full. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-10; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4072, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later*)

#### **170 IAC 7-1.3-11      Disconnection and prohibited disconnections**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 11. (a) This section shall not apply to CLECs that provide service either through resale of the LEC services or through the purchase of unbundled network elements.

(b) Requirements for disconnection upon a customer's request are as follows:

(1) The customer shall notify the LEC at least three (3) business days in advance of the day disconnection is desired. The

customer shall remain responsible for all service used and the billing therefore until the date the customer has requested disconnection pursuant to such notice.

(2) Upon request by a customer to an LEC to disconnect service in less than three (3) business days, the LEC shall disconnect the service within three (3) business days of the request. The customer shall not be liable for any service rendered to such address after the expiration of three (3) such days.

(3) The customer shall not charge service or authorize the charging of service to any account that has been disconnected at the customer's request or otherwise. Subdivisions (1) and (2), to the contrary notwithstanding, a customer shall be responsible for any services he or she charges or authorizes charged to such account in violation of the prohibition in this subdivision.

(c) Requirements for disconnection without a customer's request are as follows:

(1) An LEC may disconnect service without request by the customer of the service and without prior notice only:

(A) if a condition dangerous or hazardous to life, physical safety, or property exists;

(B) upon order by any court, the commission or other duly authorized public authority;

(C) if fraudulent or unauthorized use of service is detected and the LEC has reasonable grounds to believe the affected customer is responsible for such use;

(D) if the LEC's equipment has been tampered with and the LEC has reasonable grounds to believe that the affected customer is responsible for such tampering; and

(E) if the LEC's equipment is used in a manner disruptive to the service of other customers.

(2) An LEC may place a toll restriction on a customer's line for nonpayment of toll charges. If the LEC initiates the toll restriction, there shall be no charge for that service.

(3) An LEC may disconnect service to a customer or applicant based on a delinquent account with the same class of service for that customer or applicant.

(4) If a customer files a complaint under section 8 or 9 of this rule, the LEC may disconnect only as provided in those sections.

(5) In all other instances, upon providing the customer with proper notice, as defined in subsection (e), an LEC may disconnect service subject to the other provisions of this section.

(d) Requirements for prohibited disconnections are as follows:

(1) Except as otherwise provided in subsections (a) and (b), an LEC shall postpone the disconnection of local service or the placing of a toll restriction for thirty (30) days if, prior to the disconnect date specified in the disconnect notice, the residential customer provides the LEC with a medical statement from a licensed physician or public health official that states that disconnection would be a serious and immediate threat to the health and safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional such medical statement.

(2) An LEC may not disconnect basic local service to the customer for any of the following reasons:

(A) For nonpayment of any toll charges or unregulated telecommunications services.

(B) Upon the customer's failure to pay for services to a previous occupant of the premises being served unless the customer is attempting to defraud the LEC by using another name.

(C) On the basis of the delinquent character of an account of any other person, except if such customer is the guarantor of that other person's account for telephone service.

(D) If the customer makes a payment arrangement pursuant to section 10 of this rule.

(E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, or any human or mechanical error of the LEC, and the customer:

(i) makes a payment arrangement in accordance with the guidelines set forth in section 10(a)(2)(E)(ii) and 10(a)(2)(E)(iii) of this rule; and

(ii) agrees to pay all undisputed future bills for basic local service as they become due, provided, however, that the LEC may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item (i) and this item shall be put in writing by the LEC and sent by mail to the customer.

(e) No LEC may disconnect service unless it is done between the hours of 8 a.m. and 3 p.m. Disconnections pursuant to subsections (a) and (b) are not subject to this limitation. The LEC may not disconnect service for nonpayment:

(1) on any Friday after noon;

(2) on any Saturday;

(3) on any Sunday;

- (4) on any other day the LEC's offices are not open for business; or
- (5) after noon on any day immediately before a day the LEC's office are not open for business.
- (f) Requirements for notice required prior to involuntary disconnection are as follows:
  - (1) Except as otherwise provided in this section, service to any customer shall not be disconnected for a violation of any rule of the LEC or for nonpayment of a bill, except after seven (7) business days from the postmark date of a written notice sent to such customer at the address shown on the records of the LEC. No disconnect notice for nonpayment may be rendered prior to the date on which the account becomes delinquent.
  - (2) The disconnection notice shall be in language that is clear, concise, and easily understandable to a layman and shall state, in separately numbered large print paragraphs, the following information:
    - (A) The date of proposed disconnection.
    - (B) The specific reason for the proposed disconnection.
    - (C) The telephone number of the LEC office at which the customer may call during regular business hours to question the proposed disconnection or seek information concerning the customer's rights.
    - (D) The local and toll free telephone numbers and office hours of the commission.
    - (E) The customer may make a partial payment of a specified amount to cover deniable charges in order to avoid disconnection of basic local service.
    - (F) Information as to the customer's rights, pursuant to this rule, including, but not limited to, the following:
      - (i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency pursuant to subsection (c).
      - (ii) That the customer may file a complaint with the utility or the commission pursuant to sections 8 and 9 of this rule.
      - (iii) That the customer may make payment arrangements pursuant to section 10 of this rule.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-11; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4072, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **170 IAC 7-1.3-12      Reconnection**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 12. (a) An LEC may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the LEC's filed tariffs. An LEC shall inform its customers of such reconnection fee pursuant to section 5 of this rule.

(b) The LEC shall reconnect service to the customer as soon as reasonably possible after it is requested to do so if the customer has satisfied the requirements of this rule, not to exceed the following time frames:

- (1) Within twenty-four (24) hours of identification for disconnections that were not made pursuant to this rule.
- (2) One (1) business day for temporary disconnections for nonpayment.
- (3) For disconnections for nonpayment after customer has been removed from the network the rules for new installations in sections 3 and 4 of this rule will apply.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-12; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

#### **Rule 2.      Classification of Accounts for Class A, B, and C Telephone Companies (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; No. 33105: Classification of Accounts for Class A, B and C Telephone Companies; filed Jul 17, 1979, 10:30 am: 2 IR 1199) NOTE: The repealer which appeared at 2 IR 1199 incorrectly cited No. 17690 promulgated Nov 8, 1945 as the repealed item.*

#### **Rule 2.1.      Classification of Accounts for Class A and B Telephone Companies**

##### **170 IAC 7-2.1-1      Uniform system of accounts for Class A and B companies; adoption by reference**

Authority: IC 8-1-1-3

Affected: IC 8-1-2

Sec. 1. (a) The rules and regulations governing the classification of accounts for Class A and B telephone companies operating within the state of Indiana as approved, prescribed, and promulgated by the Federal Communications Commission, as set out in Part 32, 51 Fed. Reg. 43498 (1986) and as amended by 53 Fed. Reg. 30058 (1988), FCC Rules and Regulations are adopted by reference.

(b) Copies of the Uniform System of Accounts prescribed for Class A and B telephone companies, as approved, prescribed, and promulgated by the Federal Communications Commission, as set out in Part 32, 51 Fed. Reg. 43498 (1986) and as amended by 53 Fed. Reg. 30058 (1988) FCC Rules and Regulations, are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (*Indiana Utility Regulatory Commission; No. 35628: Classification of Accounts for Class A and B Telephone Companies; filed Jul 17, 1979, 10:30 a.m.: 2 IR 1199; filed Sep 7, 1989, 11:20 a.m.: 13 IR 269; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 7-2.1-2 Amendments to uniform system of accounts for class A and B companies**

Authority: IC 8-1-1-3

Affected: IC 8-1-2

Sec. 2. (1) Section 31.01-3 is amended by revising paragraph (ee) to read as follows:

§31.01-3 Definitions.

\* \* \* \* \*

(ee) "Service value" means the difference between the original cost and the net salvage as defined in paragraph (u) of this section.

\* \* \* \* \*

(2) §31.02-80 is amended by revising paragraph (c) to read as follows:

§31.02-80 Computation of depreciation rate.

\* \* \* \* \*

(c) The company shall keep such records of property and property retirements as will reflect the service life of property which has been retired, or will permit the determination of service life indications by mortality, turnover, or other appropriate methods, and also such records as will reflect the percentage of salvage value, or net salvage value, as appropriate, for property retired from each class of depreciable plant. Further, the station connections—inside wiring subclass of account 232 will be amortized according to the schedule noted in account 232 (b).

(See also accounts 605 and 232 for the accounting for costs incurred in the disconnection and removal of station apparatus.)

(3) §31.02-82 is amended by redesignating the existing note as Note A and adding a new Note B to read as follows:

§31.02-82 Classes of depreciable telephone plant.

Note A: When depreciable plant carried in account 276, "Telephone plant acquired," is distributed to the appropriate plant accounts, adjusting entries shall be made covering the depreciation charges applicable to such plant for the period during which it was carried in account 276.

Note B: The investment in account 232 shall be maintained in two separate subclasses, "Station connections—inside wiring" and "Station connections—other" (drop, block and protector portion). Depreciation of Station connections—other and the amortization of Station connections—inside wiring shall be maintained in separate subclasses of account 171, "Depreciation reserve."

(4) §31.122 is amended by revising Note E to read as follows:

§31.122 Material and supplies.

\* \* \* \* \*

Note E: This account shall not include items in stock which are includible in account 231, "Station apparatus" or account 124, "Merchandise and material held for sale." Materials in stock that are normally used for station apparatus repair purposes shall be included in account 605, "Installations and repairs of station equipment," if company-held, and in this account if in stock and held by others.

(5) §31.124 is added to read as follows:

§31.124 Merchandise and material held for sale.

This account shall include the cost of all station equipment purchased for resale and the cost of material and supplies held for use in the provision of repair service on customer provided equipment. (Note account 231.) The cost shall include applicable transportation charges, sale and use taxes, cash and other purchase discounts. Inventory shortages and overages

shall be charged and credited, respectively, to account 316.

Note: The cost of material used to install and connect station apparatus shall be charged to account 316, "Miscellaneous income."

(6) §31.231 is amended to revise paragraph (a) and Note A to read as follows:

§31.231 Station apparatus.

(a) This account shall include the original cost of station apparatus, including small private branch exchanges and booths, installed either for customers' or the company's use. This account shall also include the cost of materials in stock which are normally used as station apparatus or additions thereto, except for items purchased for sale, as distinguished from items normally used for repair purposes. (Note account 124.) Items included in this account which are normally used as station apparatus shall remain herein until finally disposed of or until in such manner as to be includible in other accounts.

\* \* \* \* \*

Note A: The cost of installation (including cabling, station protectors, and wiring) shall be charged to account 232, "Station connections" and/or account 605, "Installations and repairs of station equipment," as appropriate.

\* \* \* \* \*

(7) §31.232 is amended by revising paragraphs (b), (c), (d) and Notes A and C, and adding new Notes D and E to read as follows:

§31.232 Station connections.

\* \* \* \* \*

(b) Effective no later than October 1, 1981, this account shall be separated into two subclasses, "Station connections—inside wiring" and "Station connections—other." The investment in station connections—inside wiring is to be amortized to account 608, "Depreciation," with a corresponding credit to account 171, "Depreciation reserves" over a ten year period commencing no later than October 1, 1981. In calculating this amortization, the company shall first determine the net book cost of station connections—inside wiring by subtracting the depreciation reserve attributable to station connections—inside wiring from the book cost of station connections—inside wiring. This net book cost shall be divided by the number of months remaining in the ten year amortization period to determine the appropriate amortization for that month. For example, the amortization amount for the first month will be determined by dividing the net book cost by 120. The second month, the net book cost will be divided by 119, the third month by 118, etc. Carriers are to assume that the first month's reserve balance for this subclass is zero. However, if from the studies required by Docket 20188 or the results of the represervation process any reserve is identified as applicable to the station connections—inside wiring, it will be added to the inside wiring reserve and should be deducted from the remaining investment to be amortized. Also, the amounts resulting from the amortization schedule should not be considered in the determination of the separate reserves established for each category of plant. The embedded investment on the books up to October 1, 1981, will be fully recovered by October 1, 1991. For carriers who adopt the phase-in approach, the growth in investment in inside wiring between October 1, 1981, and September 30, 1982, shall be specifically identified and amortized according to the schedule noted above over ten years with full amortization completed by October 1, 1992. The growth in investment between October 1, 1982, and September 30, 1983 and between October 1, 1983, and September 30, 1984, shall be handled in the same manner with full amortization on all inside wiring completed by September 30, 1994. Under no circumstances shall the cumulative amortization credits to account 171 exceed the balance of the investment for station connections—inside wiring. The station connections—other subclass will be depreciated in accordance with Section 31.02-80.

(c) Effective no later than October 1, 1981, for carriers who select a phase-in approach, when a station apparatus is installed except as part of a replacement or an inside move, the cost of the inside wiring portion of the installation cost shall be charged to this account (subclass inside wiring) on the following basis: 75% between October 1, 1981, and September 30, 1982; 50% between October 1, 1982, and September 30, 1983; 25% between October 1, 1983, and September 30, 1984; and 0% after September 30, 1984. The remaining cost not chargeable to this account shall be charged to the appropriate subaccount of account 605. Effective no later than October 1, 1981, for carriers who select a flash-cut approach, the otherwise capitalizable amount chargeable to the station connections—inside wiring subclass shall be expensed to the appropriate subaccount of account 605.

(d) When a station connection—inside wiring is physically removed, sold, destroyed, or abandoned, the original cost (actual or estimated average unit cost) carried in this account shall be credited hereto and charged to account 171, "Depreciation reserve"; or if a separate depreciation reserve account or accounts are established for station connections, the debit entry shall

be made to the appropriate depreciation reserve account.

\* \* \* \* \*

Note A: Costs charged to this account prior to October 1, 1981, in connection with inside cabling are restricted to small cables used in station installations instead of wires, such as those run from wall outlets or floor terminals to the station apparatus, and to cables used in installing small private branch exchanges. The cost of cables used in installing equipment includible in account 234, "Large private branch exchanges," shall be included in that account and shall be included in whole or in part in account 232. The cost of other inside cables, including riser and distributing cables in buildings, which by their physical character, method of installation, and permanence constitute house cables, is chargeable to account 242.1, "Aerial cable."

\* \* \* \* \*

Note C: Provision denials of service to stations for nonpayment shall not be treated as stations disconnected unless the denials become final. Similarly, restoration of service to such stations subjected to provisional denials which have not become final shall not be treated as stations reconnected. The cost of disconnecting and reconnecting customers' lines at customers' premises to effect such provisional denials and restorations shall be charged to account 605, "Installations and repairs of station equipment." If the disconnection and reconnection are made in central offices, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

Note D: Any company so desiring may make the above revisions retroactive to an earlier date in calendar year 1981.

Note E: Effective October 1, 1981, to the extent applicable, the items shown above shall be charged to account 605, "Installations and repairs of station equipment."

(8) §31.242:1 is amended by revising note A to read as follows:

§31.242:1 Aerial cable.

\* \* \* \* \*

Note A: House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscribers' stations which are included in account 232 or account 605 (effective October 1, 1981), or the cables for subscribers' private branch exchange switchboards which are included in account 232 or account 605 (effective October 1, 1981) or account 234, as appropriate.

(9) §31.242:2 is amended to revise Notes B and D to read as follows:

§31.242:2 Underground cable.

\* \* \* \* \*

Note B: The cost of small cables used in station installations is included in account 232 or account 605 (effective October 1, 1981). However, the cost of small cables used as drop wires shall be charged to account 232.

\* \* \* \* \*

Note D: House cables are considered to be extensions of aerial cable plant. They do not include the inside wires extending from terminal boxes of house cables to subscribers' stations which are included in account 232 or account 605, or the cables for subscribers' private branch exchange switchboards which are included in account 232, account 605 or account 234, as appropriate.

(10) §31.244 is amended to revise Note B to read as follows:

§31.244 Underground conduit.

\* \* \* \* \*

Note B: The cost of pipes or other protective covering for underground drop and block wires shall be charged to account 232. However, the cost of pipes or other protective covering for inside wiring shall be charged to account 232 or account 605 (effective October 1, 1981).

(11) §31.316 is amended to read as follows:

§31.316 Miscellaneous income.

(a) This account shall include in separate subaccounts revenues from and the cost of and expenses (direct and indirect) associated with the sale and installation of equipment and material initially includible in account 124, "Merchandise and material held for sale." It shall also include in separate subaccounts revenues and expenses associated with the provision of repair service on customer provided equipment.

(b) This account shall also include all other items not provided for elsewhere, properly creditable to income.

ITEMS

(Note §31.01-8)

Fees collected in connection with the exchange of coupon bonds for registered bonds.  
Profits from the telephone operations of other companies realized by the company under contract.  
Profits realized from customer work performed for others not incident to the company's telephone operations.  
Profits realized on the same of temporary cash investments.

Note: Taxes applicable to account 124 shall be charged to account 327, "Other nonoperating taxes."

(12) §31.327 is amended by revising paragraph (b) to read as follows:

§31.327 Other nonoperating taxes.

\* \* \* \* \*

(b) This account shall also include taxes on merchandise and material held for sale, miscellaneous physical property, taxes on wages not applicable to operations or construction and all other taxes not provided for elsewhere. (Note §§31.2-22 (b) (8), 31.124, 31.179, 31.304, 31.307, 31.326, 31.380, 31.402 and 31.413.)

\* \* \* \* \*

(13) §31.6-61 is amended by revising paragraph (a), redesignating paragraph (b) as (d) and adding new paragraphs (b) and (c) to read as follows:

§31.6-61 Cost of repairs.

(a) The cost of repairs chargeable to the various operating expense and clearing accounts includes: Inspecting, testing and reporting on the condition of telephone plant to determine the need for repairs, replacements, rearrangements and changes; testing for, locating and clearing trouble; routine work (note also paragraph (d) of this section) to prevent trouble, such as pulling up slack, tightening guys and raking guy stubs, trimming trees, straightening poles and crossarms, and cleaning and adjusting equipment; replacing minor items of telephone plant (note also §31.2-25); rearranging and changing the location of property not retired; repairing material for reuse; restoring the condition of property damaged by storms, floods, fire or other casualties (note also paragraph (d) of this section); training employees for maintenance work; inspecting and testing after repairs have been made; and an equitable proportion of the cost of local plant administration, general plant supervision and engineering.

(b) The cost of repairs also includes expenses associated with the provision of repair services on customer owned telecommunications equipment. (Note also account 316.)

(c) The cost of repairs also includes the cost of installing, connecting, disconnecting, and removing station apparatus and station connection-inside wiring. (Note also accounts 231 and 605.)

(d) The cost of repairs does not include the cost of replacing items of property designated as "retirement units." (Note also Section 31.2-25.)

(14) §31.6-64 is amended to read as follows:

§31.6-64 Extensive replacements.

When it becomes necessary to replace the majority of station apparatus, inside wires, or drop and block wires, in any given central office district, together with any number of such items in contiguous districts, the cost of the replacements chargeable to account 605, "Installations and repairs of station equipment," if so authorized by this Commission upon application to it, shall be charged to account 138, "Extraordinary maintenance and retirements," and cleared to account 605 over the period specified in the authority.

(15) §31.6-65 is amended to read as follows:

§31.6-65 Operating expense accounts to be maintained.

\* \* \* \* \*

Accounts for Class A Companies

\* \* \* \* \*

605 Installations and repairs of station equipment

\* \* \* \* \*

Accounts for Class B Companies

\* \* \* \* \*

605 Installations and repairs of station equipment

(16) §31.605 is amended to revise paragraphs (a) and (b) and add new paragraphs (c) and (d) and revise the items list and Notes A and B to read as follows:

§31.605 Installations and repairs of station equipment.



(a) This account shall include the cost of installing items of station apparatus (included in account 231) and the cost of inside wiring under either the phase-in or flash-cut approach. Under the phase-in approach this installation activity shall be charged to this account on the following basis: 25% between October 1, 1981, and September 30, 1982; 50% between October 1, 1982, and September 30, 1983; 75% between October 1, 1983, and September 30, 1984; and 100% after September 30, 1984. Under the flash-cut approach all costs of this installation activity shall be charged to this account. Carriers shall maintain the cost of installing items of station apparatus (included in account 231) and the cost of inside wiring under either of the above approaches in a separate subaccount. This account shall also include the cost of reconnecting customers' lines at customers' premises (note also account 232 and account 316).

(b) This account shall include also the costs of repairing station apparatus, station connections, and large private branch exchanges. It shall also include the cost of replacing station apparatus (excluding the cost of material other than repair parts and material in account 124) and the cost of replacing station connections.

(c) This account shall include also the cost of disconnecting or removing station apparatus and inside wiring.

(d) This account shall include also amortization of costs of extensive replacements of station apparatus, inside wires, and drop and block wires, which under conditions provided in §31.6-64 have been included in account 138, "Extraordinary maintenance and retirements."

#### ITEMS

(Note §31.01-08)

The wires (or small cables) extending from the point of connection with (1) terminal boxes of house cables or (2) protectors or other terminating devices of service wires to station apparatus or customers' terminal equipment.

The wires (or small cables) used to connect station apparatus in the same building, such as main stations and extension stations, and stations of intercommunicating systems.

The wires (or small cables) used to connect small private branch exchange switchboards or their distributing frames (or equivalent distributing panels) with terminal stations in the same building.

The wires (or small cables) used to connect the various parts of a small private branch exchange, such as the cables or wires from distributing frames (or equivalent distributing panels) to switchboards. The wires (or small cables) installed specifically to serve as trunk, battery, or generator circuits from a small private branch exchange to the point of connection with the permanent or service wires.

Connecting blocks, jacks, ground wires, station protectors, clamps, cleats, nails, screws, and other material used in the installation of station apparatus and inside wiring.

Labor and other costs incurred in connection with station apparatus and wiring installations or additions thereto.

Brackets, bridle rings, insulators, knobs, span clamps, screws, sleeves, strand, tubes and other material.

Changing inside wiring and service wires.

Changing type of telephone, such as from nondial to dial or from one color to another.

Cleaning station apparatus and large private branch exchange equipment.

Connecting or installing station apparatus.

Disconnecting customers' lines at customers' premises. If the disconnection is made in a central office, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

Disconnecting or removing station apparatus.

House service for public telephones.

Inspecting, testing, and reporting on condition of equipment to determine the need for repairs and replacements. (See also account 603.)

Material normally used as repair parts for station apparatus.

Moves or relocations of items of station apparatus.

Number plate changes.

Plant assignment and related clerical work (e.g., assigning plant facilities, service order dispatch, service order final completion, and assignment record administrative work).

Reconnecting customers' lines at customers' premises. If the reconnecting is made in a central office, the cost thereof shall be charged to account 604, "Repairs of central office equipment."

Removing inside wiring.

Removing sediment from and cleaning batteries.

Repainting and other repairs to booths, except those owned by others.

Repairing used station equipment for reuse.

Replacing defective station apparatus.

Replacing dry-cell batteries.

Replacing minor items of large private branch exchanges, including labor and material used and the removal and recovery of the items retired less salvage recovered, except when such items are replaced through the replacement of retirement units. (Note also §31.2-25.)

Replacing one small private branch exchange with another.

Supply expense applicable to station apparatus being reused.

Testing for, locating and clearing trouble in station apparatus and large private branch exchanges. (See also account 603.)

Note A: Costs chargeable to this account in connection with inside cabling are restricted to small cables used in station installations instead of wires, such as those that run from wall outlets or floor terminals to the station apparatus, and to cables used in installing small private branch exchanges. The cost of cables used in installing equipment includible in account 234, "Large private branch exchanges," shall be included in that account. The cost of other inside cables, including riser and distributing cables in buildings, which by their physical character, method of installation, and permanence constitute house cables, is chargeable to account 242.1, "Aerial Cable."

Note B: Amounts charged customers for moves and changes of station apparatus and large private branch exchanges shall be credited to account 500 or to other revenue accounts appropriate for the class of service involved.

(17) §31.608 is revised to read as follows:

§31.608 Depreciation.

This account shall include the amount of depreciation charges applicable to the accounting period for all classes of depreciable telephone plant, except amounts chargeable to clearing accounts. The depreciation charges shall be made in accordance with §§31.02-80 to 31.02-82 and 31.2-23(c). This account shall also include the amount of amortization charges applicable to the accounting period for the amortization of the inside wiring portion of station connections in a separate subaccount. (Note account 232 for amortization schedule; note accounts 315 and 174 for depreciation of miscellaneous physical property.)

*(Indiana Utility Regulatory Commission; Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies; filed Sep 29, 1981, 3:15 pm: 4 IR 2216; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **Rule 3. Classification of Accounts for Class D Telephone Companies (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed Sep 7, 1989, 11:20 a.m.: 13 IR 269)*

### **Rule 4. Extended Area Telephone Service**

#### **170 IAC 7-4-1 Policy (Repealed)**

Sec. 1. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

#### **170 IAC 7-4-2 Definitions (Repealed)**

Sec. 2. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

#### **170 IAC 7-4-3 Petition for extended area service (Repealed)**

Sec. 3. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

#### **170 IAC 7-4-4 Calling usage studies; community of interest qualifications (Repealed)**

Sec. 4. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

#### **170 IAC 7-4-5 Determination of costs (Repealed)**

Sec. 5. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

**170 IAC 7-4-6 Assigned recovery of costs (Repealed)**

Sec. 6. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

**170 IAC 7-4-7 Customer survey (Repealed)**

Sec. 7. *(Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)*

**170 IAC 7-4-8 Procedure for establishing extended area service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 8. Whenever higher than average interexchange calling or a strong community of interest between exchanges demonstrates that customer needs may be adequately served by alternative service offerings, the commission may give consideration to other alternatives developed by certificated local telecommunications service providers (including, but not limited to, one-way optional calling plans, interexchange message rate service, usage sensitive pricing options, discounted toll offering). In no event shall alternate service be provided at less than cost. *(Indiana Utility Regulatory Commission; 170 IAC 7-4-8; filed Jul 11, 1986, 9:45 a.m.: 9 IR 2924; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**Rule 5. Small Local Exchange Carriers**

**170 IAC 7-5-1 Policy**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2-19

Sec. 1. (a) This rule is to establish a procedure for processing requests for new, revised, or existing depreciation rates by small local exchange carriers (LECs).

(b) This rule applies to an LEC that meets the following requirements:

(1) Uses depreciation rates authorized by the commission under IC 8-1-2-19.

(2) Operates less than fifty thousand one (50,001) total local access lines.

*(Indiana Utility Regulatory Commission; 170 IAC 7-5-1; filed Nov 17, 1994: 18 IR 838; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 7-5-2 Definitions**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 2. (a) As used in this rule, "account" means the depreciable plant account or subaccount in the system of accounts as adopted by the Indiana utility regulatory commission (commission) for Indiana telephone utilities at 170 IAC 7-2.1-1 or another system of accounts deemed appropriate by the commission.

(b) As used in this rule, "average" means the estimated service life or net salvage of a plant account is only coincidentally appropriate to a single unit in the plant account. An average must be obtained through an appropriate mathematical weighting process or based upon bona fide knowledge, for example, engineering judgment, of the items in the plant account.

(c) As used in this rule, "average net salvage" or "ANS" means the composite of the past net salvage and the future net salvage.

(d) As used in this rule, "average net salvage percentage" or "ANS%" means the ANS expressed as a percent of a year end plant account balance and past retirements. This percentage is expressed to the nearest whole percent (1.0%).

(e) As used in this rule, "average remaining life" or "ARL" means the estimated remaining life of the telephone plant in the

entire plant account.

(f) As used in this rule, “average service life” or “ASL” means the estimated service life of the telephone plant in the entire plant account.

(g) As used in this rule, “cost of removal” or “COR” means the cost of demolishing, dismantling, removing, or otherwise disposing of the telephone plant.

(h) As used in this rule, “depreciation rates request” or “request for depreciation rates” means a request by an LEC under this rule for approval of new remaining life depreciation rates, revised remaining life depreciation rates, or continuation of depreciation rates previously approved by the commission.

(i) As used in this rule, “depreciation reserve” means the account that reflects the accumulation of the following:

(1) The following credits:

(A) Depreciation expense.

(B) Gross salvage.

(C) Adjustments.

(2) The following debits:

(A) Plant retirements.

(B) Cost of removal.

(C) Adjustments.

(j) As used in this rule, “depreciation reserve ratio” means the ratio of the year end balances of the following two (2) accounts:

(1) Depreciation reserve account.

(2) Plant account.

The dividend in this calculation is the year end depreciation reserve account balance, and the divisor is the year end plant account balance. The quotient resulting from this calculation shall be expressed to the nearest one one-thousandth (0.001).

$$\frac{\text{Year end depreciation reserve account balance}}{\text{Year end plant account balance}} = \text{Depreciation reserve ratio}$$

(k) As used in this rule, “future net salvage” or “FNS” means the net amount expected to be realized (future gross salvage less future cost of removal) from the eventual disposition of all the telephone plant on the books at year end.

(l) As used in this rule, “future net salvage percentage” or “FNS%” means the FNS amount expressed as a percent of the year end plant account balance. This percentage is expressed to the nearest whole percent (1.0%).

(m) As used in this rule, “gross salvage” or “GS” means the amount of money received or the amount of money debited to the inventory account or held for future use account, upon the disposition of the retired telephone plant.

(n) As used in this rule, “local exchange carrier” or “LEC” means a local service telephone utility providing telephone service to a customer in the geographic territory served by a local exchange.

(o) As used in this rule, “past net salvage” means the net amount realized (past gross salvage less past cost of removal) from the telephone plant retired by year end.

(p) As used in this rule, “plant account” means the account that reflects the installed cost, both direct and indirect, of the telephone plant providing service at year end.

(q) As used in this rule, “remaining life” or “remaining service life” means the period between January 1 of the year in which the request for depreciation rates is made and the telephone plant's time of retirement. The remaining life is an estimate and applies only to the telephone plant on the books of a plant account at year end.

(r) As used in this rule, “remaining life depreciation rate” or “average remaining service life depreciation rate” means the book reserve ratio and the FNS% are subtracted from one hundred percent (100%) of the telephone plant account and the result is divided by the ARL. The remaining life depreciation rate is expressed to the nearest one-tenth of one percent (0.1%).

(s) As used in this rule, “telephone plant” means physical property that is used and useful in providing telecommunications services.

(t) As used in this rule, “time of retirement” means the date the telephone plant is removed, sold, abandoned, destroyed, or otherwise withdrawn from service and the telephone plant's installed cost is retired or removed from the books of account.

(u) As used in this rule, “whole life” or “service life” means the period between the time the telephone plant begins service and the plant's time of retirement.

(v) As used in this rule, “whole life depreciation rate” means the ARL% is subtracted from one hundred percent (100%) of

the telephone plant account, and the result is divided by the ASL. The whole life depreciation rate is expressed to the nearest one-tenth of one percent (0.1%).

(w) As used in this rule, "year end" means the end of the year immediately preceding the year in which the depreciation rates request is filed. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-2; filed Nov 17, 1994: 18 IR 838; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 7-5-3 Request for depreciation rates**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 3. (a) A depreciation rates request must be filed with the secretary of the Indiana utility regulatory commission (commission) in the form prescribed by this rule. Contemporaneously with the filing of a request for depreciation rates, a copy of a request for depreciation rates must be served on the office of the utility consumer counselor.

(b) A depreciation rates request cannot be filed within twelve (12) months of an LEC's most recently approved depreciation rate order.

(c) The ARL and FNS% estimates proposed in a depreciation rates request for a plant account must be selected from the ARL and FNS% ranges provided in the commission's small LEC depreciation forms. Small LEC depreciation forms may be obtained from the Office of the Secretary, Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.

(d) A request for depreciation rates that contains an ARL or FNS% outside the current range for depreciable plant account must include an underlying study detail to support the request.

(e) A request for depreciation rates must contain the following:

(1) The name and address of the LEC making the request.

(2) The name and telephone number of an LEC representative to whom questions, notices, orders, and other correspondence may be sent.

(3) The authority for the LEC's current depreciation rates.

(4) A schedule (Statement A) showing for each depreciable plant account the following:

(A) The account number.

(B) The account name.

(C) The currently approved depreciation rate.

(D) The proposed depreciation rate.

(E) For remaining life depreciation rates, the underlying depreciation reserve percent and ARL and FNS% estimates.

(F) For whole life depreciation rates, the underlying ASL and ANS%, if known.

(5) A schedule (Statement B) showing for each depreciable plant account the following:

(A) The balance of each depreciable plant account at year end.

(B) The total depreciable plant.

(C) The total current accruals, such as the estimated amount of depreciation accruals determined by multiplying the depreciation rate currently approved by the year end plant account balance.

(D) The total proposed accruals, such as the estimated amount of depreciation accruals determined by multiplying the rate proposed to be used by the year end plant account balances.

(E) The difference between the two (2) accruals.

(6) A brief narrative statement describing the LEC's rationale for requesting each depreciable plant account's proposed depreciation rate.

(7) The effective date of the proposed depreciation rates determined under section 5 of this rule.

(8) Proof of publication of the notice required in section 6 of this rule.

(9) Other information the commission deems appropriate.

(f) If an initial application for depreciation rates is an incomplete application, the commission staff shall notify the LEC in writing within fifteen (15) days of the date of the filing of the initial application of the specific elements of the application missing or incomplete.

(g) The commission may dismiss without prejudice an incomplete application which remains on file more than ninety (90)

days. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-3; filed Nov 17, 1994: 18 IR 839; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 7-5-4 Remaining life rate development**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 4. (a) A request for depreciation rates must use the remaining life depreciation rate formula unless an LEC requests continuation of whole life rates previously approved by the commission or other special treatment. The remaining life depreciation formula is defined as follows:

$$\text{Remaining life depreciation rate\%} = \frac{[100\% - \text{FNS\%} - \text{Reserve\%}]}{\text{ARL}}$$

(b) Prior to use of the remaining life depreciation rate formula, an LEC must calculate the depreciation reserve percentage as of year end and estimate the ARL and FNS% of each depreciable plant account. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-4; filed Nov 17, 1994: 18 IR 840; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 7-5-5 Effective date of depreciation rates**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 5. A request for depreciation rates must contain a proposed effective date of requested depreciation rates. The effective date of the requested depreciation rates is determined as follows:

- (1) The first day of any one (1) of the months of the year in which the request is made; or
- (2) January 1 of the subsequent year.

For example, if a request for depreciation rates is filed on March 20, 1993, the effective date may be the first day of a 1993 month or January 1, 1994. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-5; filed Nov 17, 1994: 18 IR 840; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 7-5-6 Public notice**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-1-8; IC 8-1-2-19

Sec. 6. Publication of a notice of filing of the application for depreciation rates shall be no later than ten (10) days after the filing of the application for depreciation rates pursuant to the publication requirements of IC 8-1-1-8. The notice must contain the following information:

- (1) The date the request for depreciation rates was filed with the Indiana utility regulatory commission (commission).
- (2) A statement that the utility has filed its request for depreciation rates under IC 8-1-2-19 without the necessary costs of a commission hearing; however, a public hearing by the commission may be held if a public or municipal corporation, ten (10) individuals, firms, or associations, or ten (10) complainants of all or any of these classes affected by the proposed depreciation rate change or the utility consumer counselor requests a formal public hearing by filing a written, signed request with the Secretary, Indiana Utility Regulatory Commission, Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.
- (3) The appropriate change in depreciation rates requested by the utility.
- (4) The written request in subdivision (2) must be received by the commission within forty (40) days of the date the request for depreciation rates was filed with the commission.
- (5) A statement that there may be no hearing in the absence of a written request.

(*Indiana Utility Regulatory Commission; 170 IAC 7-5-6; filed Nov 17, 1994: 18 IR 840; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 7-5-7 Approval of depreciation rates**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 7. (a) A depreciation rates request filed under this rule shall be reviewed by the Indiana utility regulatory commission (commission).

(b) If, after review of the depreciation rate request filed under this rule, the commission finds that an LEC has complied with this rule and that the requested depreciation rate is appropriate, the commission may issue an order granting the LEC authority to book the requested depreciation rate. The commission may require a formal public hearing on its own motion.

(c) An LEC may withdraw or dismiss its request for depreciation rates.

(d) A depreciation rate approved under this rule shall be considered appropriate for the LEC's accounting and ratemaking purposes until the rate is superseded by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-7; filed Nov 17, 1994: 18 IR 840; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 7-5-8 Review of ARL and FNS%**

Authority: IC 8-1-1-3; IC 8-1-2-10; IC 8-1-2-19; IC 8-1-2-20

Affected: IC 8-1-2

Sec. 8. The ARL and FNS% ranges may be reviewed by the Indiana utility regulatory commission (commission) within three (3) years after the effective date of this rule. Thereafter, ARL and FNS% ranges may be reviewed triennially by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 7-5-8; filed Nov 17, 1994: 18 IR 841; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 6. Disconnection of Alternative Local Exchange Carrier by Incumbent Local Exchange Carrier**

**170 IAC 7-6-1 Policy and scope**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 1. (a) This rule is intended to establish a procedure for providing notice to customers when an alternative local exchange carrier is disconnected from an incumbent local exchange carrier.

(b) This rule supersedes any written contractual provisions that may exist pertaining to disconnection of service between local exchange carriers. (*Indiana Utility Regulatory Commission; 170 IAC 7-6-1; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762*)

**170 IAC 7-6-2 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

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

(1) "Alternative local exchange carrier" or "ALEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange that does not qualify as an incumbent local exchange carrier under subdivision (2).

(2) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:

(A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or

(B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).

(*Indiana Utility Regulatory Commission; 170 IAC 7-6-2; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762*)

**170 IAC 7-6-3 Notice to the commission; notice to customers**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) When an ILEC serves a notice of disconnection upon a ALEC, the ILEC shall serve simultaneous notice of the disconnection upon the commission. The ILEC shall serve notice of disconnection to the ALEC and the commission via certified mail, return receipt requested.

(b) Five (5) business days after the notice from the ILEC is mailed to the ALEC, the ALEC must provide the commission, in writing, with one (1) of the following:

(1) Proof of payment.

(2) The ALEC's customer list, including each customer's name, address, and telephone number. Absent a showing to the contrary, the ALEC's customer list shall be deemed confidential by the commission.

(3) Reasonable grounds for nonpayment to the ILEC.

(c) If the ALEC fails to provide the commission with proof of payment under subsection (b)(1) or reasonable grounds for nonpayment to the ILEC under subsection (b)(3), within ten (10) days after the disconnection notice is sent from the ILEC, the ALEC must mail notice of disconnection to its customers. The ALEC must provide proof of mailing the customer disconnection notice to the commission. The ALEC's notice of disconnection to its customers must include the following:

(1) A statement that the customer must contact the telephone service provider of his or her choice for new service.

(2) The last date of guaranteed service by the ALEC.

(3) The address and toll-free number of the commission and the utility consumer counselor.

(4) A statement notifying the customer that if the customer fails to choose a new local exchange carrier on or before the date of disconnection from the ALEC, the customer will be without telephone service.

(d) If the ALEC fails to notify its customers or show proof of mailing disconnection notices as required by subsection (c), the commission may initiate an investigation or other procedure in accordance with IC 8-1-2-58, IC 8-1-2-69, or other related statutes.

(e) An ILEC may not disconnect the ALEC until thirty (30) business days after the ILEC sends the disconnection notice to the ALEC.

(f) This rule shall not prohibit an ALEC from rescinding its disconnection notice to customers after complying with subsection (c) if the ALEC makes payment to the ILEC prior to its disconnection. (*Indiana Utility Regulatory Commission; 170 IAC 7-6-3; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762*)

**Rule 7. Expedited Procedure for Resolving Interconnection Disputes Between Telecommunications Carriers**

**170 IAC 7-7-1 Policy and scope**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-54

Sec. 1. (a) This rule is intended to establish an expedited procedure for resolving interconnection disputes between telecommunications carriers that arise from the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq. Only those disputes that directly affect the ability of a party to provide uninterrupted service to its customers or preclude the provisioning of any service, functionality, or network element are entitled to expedited review.

(b) Expedited review pursuant to this rule shall not be used unless the parties have exhausted all dispute resolution procedures included in the commission approved interconnection agreement that is the subject of the dispute, if any. Any binding dispute resolution made pursuant to a commission approved interconnection agreement cannot be challenged under this rule.

(c) Expedited review pursuant to this rule shall be granted at the commission's sole discretion. An order dismissing a party's request for expedited review pursuant to this rule will be issued without prejudice for leave to file a formal complaint under IC 8-1-2-54 and related statutes.

(d) To the extent that this rule does not address issues of practice and procedure, 170 IAC 1-1.1 applies. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-1; filed Nov 27, 2000, 9:36 a.m.: 24 IR 949*)



**170 IAC 7-7-2 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

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

(1) "Complainant" means any telecommunications utility that files a complaint seeking relief from the commission pursuant to this rule.

(2) "Interconnection agreement" means an agreement executed pursuant to 47 U.S.C. §§ 251 and 252, including interconnection agreements, resale agreements, agreements for the purchase or lease of unbundled network elements, or statements of generally available terms and conditions, whether those agreements were entered into through negotiation, settlement, arbitration, or adoption of a prior agreement.

(3) "Respondent" means any telecommunications utility against whom a complaint is filed pursuant to this rule.

*(Indiana Utility Regulatory Commission; 170 IAC 7-7-2; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950)*

**170 IAC 7-7-3 Notice**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) At least ten (10) business days prior to filing a complaint with the commission, a complainant shall serve written notice upon all parties to the dispute and to the commission's telecommunications division director that the complainant intends to file a complaint alleging a violation of a commission approved interconnection agreement or an interconnection-related commission order.

(b) The written notice to the respondent shall identify the provisions of the order or interconnection agreement that the complainant alleges have been violated by the respondent and the specific acts or omissions causing the violation. The written notice to respondent shall also identify the circumstances that directly affect the complainant's ability to provide uninterrupted service to its customers or preclude the provisioning of any service, functionality, or network element which entitle the dispute to expedited review.

(c) If the complainant fails to serve written notice of its intent to file a complaint as required in subsection (a), the presiding officer may extend any deadline imposed by this rule. *(Indiana Utility Regulatory Commission; 170 IAC 7-7-3; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950)*

**170 IAC 7-7-4 Complaint**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 4. (a) The complaint shall contain the following:

(1) A detailed statement of the facts supporting the complainant's position and demonstrating that despite good faith efforts, the complainant was unable to resolve its dispute with the respondent. The statement of facts must be:

(A) supported by testimony or affidavits; and

(B) made by persons with personal knowledge of the relevant facts.

(2) A statement of facts specifying each violation of the commission order or commission approved interconnection agreement committed by the respondent.

(3) A statement of applicable law, supported by appropriate citations.

(4) A statement indicating whether the remedy sought is consistent with the dispute resolution provisions of any interconnection agreement between the parties or other commission order, if applicable.

(5) An affirmation that the complainant provided the written notice required in section 3(a) of this rule.

(6) The name, address, and telephone number of the complainant's attorney, including local counsel.

(7) A copy of the interconnection agreement or the portion of the interconnection agreement that the complainant contends was or is being violated. If a copy of the entire interconnection agreement is provided, the complainant must specify the provisions at issue. If the interconnection agreement was adopted as a prior agreement or a portion of a prior agreement, the

complaint must also indicate the provisions adopted in that agreement.

(b) The complainant may amend its complaint upon discovery of facts or circumstances unknown or unavailable to the complainant at the time the complaint was filed. Upon amendment of a complaint, the procedural schedule shall be adjusted at the discretion of the presiding officer.

(c) A complaint filed pursuant to this rule shall be assigned a cause number that corresponds to the interconnection agreement between the telecommunications carriers followed by the suffix "RD", and a sequential number to designate each dispute. For example, if the complaint involves the first dispute over an interconnection agreement that was approved by the commission in cause number 12345, the cause number for the dispute will be 12345-RD-01. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-4; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950*)

#### **170 IAC 7-7-5 Expedited procedural schedule**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 5. (a) Upon the filing of a complaint pursuant to this rule, the presiding officer shall immediately fix a procedural schedule that includes, but is not limited to, the following:

- (1) Deadlines for the filing of all pleadings and briefs.
- (2) The date for a settlement conference.
- (3) The date for an evidentiary hearing.
- (4) The deadline for the issuance of a commission order.

(b) A party may file a request for discovery with a complaint, answer, or motion to intervene. Discovery requests shall be reasonable and limited to matters directly at issue. Parties shall respond to discovery requests within forty-eight (48) hours, unless another time is set by the presiding officer. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-5; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; errata filed May 4, 2001, 11:09 a.m.: 24 IR 2709*)

#### **170 IAC 7-7-6 Service of complaint**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 6. The complainant shall serve a copy of the complaint to the respondent, the respondent's authorized representative, attorney of record, or designated agent for service of process on the same day the complaint is filed with the commission. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-6; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951*)

#### **170 IAC 7-7-7 Answer**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 7. (a) An answer to the complaint shall be filed within ten (10) business days after service of the complaint.

(b) The answer shall contain the following:

- (1) A response to each allegation in the complaint, setting forth any affirmative defenses.
- (2) A statement of the facts supporting the respondent's position. The statement of facts must be:
  - (A) supported by testimony or affidavits; and
  - (B) made by persons with personal knowledge of the relevant facts.

(3) A statement of applicable law, supported by appropriate citations.

(4) The name, address, and telephone number of the respondent's attorney, including local counsel.

(c) A response to any motion filed by the complainant shall be filed as a separate document.

(d) The respondent may also file motions seeking affirmative relief.

(e) The respondent may file a motion subsequent to the filing of the answer based upon facts or circumstances unknown or unavailable to the respondent at the time the answer was filed.

(f) The respondent shall serve a copy of the answer and any other motions or responses on the complainant's attorney, as listed

in the complaint, or the person who signed the complaint, if the complainant has no attorney. Service may be made by hand delivery or overnight mail.

(g) Service to all parties must be made on the same day the answer is filed with the commission.

(h) Any allegations raised in the complaint but not addressed in the answer shall be deemed admitted. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-7; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951*)

**170 IAC 7-7-8 Reply**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 8. (a) The complainant must reply to an answer that contains affirmative defenses.

(b) The reply must be filed with the commission no later than ten (10) business days after the answer is filed.

(c) The complainant shall serve the reply upon all parties on the same day the reply is filed with the commission.

(d) If the reply contains new facts or legal issues not raised in the complaint, the reply shall comply with section 4(a)(2) through 4(a)(4) of this rule. In addition, if the reply contains new facts or legal issues not raised in the original complaint, the presiding officer may set a new procedural schedule pursuant to section 5 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-8; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951*)

**170 IAC 7-7-9 Settlement conference**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 9. (a) A settlement conference shall be held no later than ten (10) business days from the date the final pleading is filed.

(b) Representatives of all parties shall attend the settlement conference unless excused by the presiding officer. Parties should be fully prepared to discuss all matters involved in the proceedings, both procedural and substantive, and be fully authorized to make commitments with respect to settlement.

(c) Only the complainant and the respondent may participate in the settlement conference; however, at the discretion of the presiding officer, testimonial commission staff may be directed to attend and participate in the settlement conference and to file a report that contains recommendations for resolution of the dispute.

(d) The settlement conference shall be conducted as an informal meeting and will not be on the record. Settlement discussions are privileged and confidential and will not be subject to discovery and cross-examination or be presented as evidence before the commission or any court of competent jurisdiction.

(e) If parties reach a settlement agreement in principle, the parties shall memorialize the agreement in writing before ending settlement discussions. If an agreement resolving the dispute is reached at the settlement conference, and if any party to the agreement desires a commission order approving the agreement, the parties are required to jointly file the written settlement agreement with the commission within ten (10) business days of the settlement conference. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-9; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951*)

**170 IAC 7-7-10 Evidentiary hearing**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 10. (a) If no settlement is reached, an evidentiary hearing will begin no later than forty-five (45) business days after the complaint is filed with the commission.

(b) The presiding officer has discretion to decide how a proceeding shall be conducted pursuant to this rule, including, but not limited to, the power to do the following:

(1) Limit the number of exhibits and witnesses and the time for their presentation.

(2) Limit the examination of witnesses.

(3) Require the parties to submit additional information necessary for a fair and expeditious resolution of the case.

(4) Require the parties to submit a joint statement listing what facts, if any, have been stipulated to, what facts remain in

dispute, what legal issues are in dispute, and a brief summary of the position of the parties on each issue.

(5) Bifurcate the proceeding for more efficient consideration of the issues.

(6) Consolidate two (2) or more expedited review proceedings filed pursuant to this rule for more efficient consideration of the issues.

(7) Continue the evidentiary hearing for good cause shown.

(8) Permit other parties who have a direct interest in the interconnection dispute and the specific facts alleged in the complaint to intervene on a limited basis at the presiding officer's discretion. Petitions to intervene must be received by the commission within seven (7) business days of the filing of the complaint. Upon granting a request for intervention, the expedited procedural schedule may be modified at the presiding officer's discretion in accordance with section 5 of this rule to allow the intervenor to submit evidence and participate in the evidentiary hearing.

*(Indiana Utility Regulatory Commission; 170 IAC 7-7-10; filed Nov 27, 2000, 9:36 a.m.: 24 IR 952; errata filed May 4, 2001, 11:09 a.m.: 24 IR 2709)*

**170 IAC 7-7-11 Order**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 11. The commission shall render a disposition on any complaint filed pursuant to this rule within sixty (60) business days after the complaint is filed. The commission may extend this deadline for good cause. *(Indiana Utility Regulatory Commission; 170 IAC 7-7-11; filed Nov 27, 2000, 9:36 a.m.: 24 IR 952)*

**ARTICLE 8. PRIVATE RURAL SEWAGE UTILITIES**

**Rule 1. Classification of Accounts (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; No. 29533: Private Rural Sewage; filed Jan 29, 1979, 2:45 pm: 2 IR 298)*

**Rule 1.1. Classification of Accounts (Repealed)**

*(Repealed by Indiana Utility Regulatory Commission; filed Feb 15, 1990, 4:30 p.m.: 13 IR 1136)*

**Rule 2. Classification of Accounts for Class A, B, and C Private Rural Sewage Utilities**

**170 IAC 8-2-1 Classification of accounts; adoption by reference**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 1. (a) The rules governing the classification of accounts for Class A, B, and C private rural sewage utilities operating within the state of Indiana as approved, prescribed, and promulgated by the National Association of Regulatory Utility Commissioners at the 96th Annual Convention on November 26-29, 1984, are adopted by reference.

(b) Copies of the Uniform System of Accounts prescribed for Class A, B, and C private rural sewage utilities, as approved, prescribed, and promulgated by the National Association of Regulatory Utility Commissioners, as set out at the 96th Annual Convention on November 26-29, 1984, are available for purchase from the National Association of Regulatory Commissioners, Post Office Box 684, Room 1102, Interstate Commerce Commission Building, Washington, D.C. 20044. *(Indiana Utility Regulatory Commission; 170 IAC 8-2-1; filed Feb 15, 1990, 4:30 p.m.: 13 IR 1136; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**ARTICLE 8.5. SEWAGE DISPOSAL SERVICES**

**Rule 1. General Provisions**

**170 IAC 8.5-1-1 Definitions**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-2-1; IC 8-1-2-89

Sec. 1. Definitions. (a) Where applicable, the definitions set forth in IC 8-1-2-1 shall be applied to these rules [170 IAC 8.5], and

(b) The word “customer” shall mean any person, firm, corporation, municipality or other government agency which has agreed, orally or otherwise, to pay for sewage disposal service rendered by a sewage disposal company; provided that for the purposes of Rules 15, 16 and 16.1 [170 IAC 8.5-2-3, 170 IAC 8.5-2-4 and 170 IAC 8.5-2-5], the word “customer” shall be limited to mean persons who have agreed to pay for such service exclusively for residential purposes.

(c) The word “disconnection” shall mean the termination or discontinuance of sewage disposal service.

(d) The words “late payment charge” shall mean the one-time penalty assessed by a sewage disposal company upon all current bills at such time as they become delinquent.

(e) The word “Commission” shall mean the Public Service Commission of Indiana.

(f) The words “lateral sewer” shall mean sewerage pipe, owned, operated or maintained by a sewage disposal company, which is used to transport sewage, but does not include “service pipe”.

(g) The words “service pipe” shall mean the pipe which runs from the customer's premises to the lateral sewer and which receives sewage from the customer's premises.

(h) The word “premises” shall mean a tract of land or real estate, including buildings and other appurtenances thereon.

(i) The words “sewage disposal service” shall mean any utility service whereby liquid and solid waste, sewage, night soil and industrial waste within the limitations of Rule 2(C) [170 IAC 8.5-1-2(c)] of any single territorial area is collected, treated, purified and disposed of in a sanitary manner, and includes all sewage treatment plant or plants, main sewers, submain sewers, local and/or lateral sewers, intercepting sewers, outfall sewers force mains, pumping stations, ejector stations and all other equipment and appurtenances necessary or useful and convenient for the rendition of such service.

(j) The words “sewage disposal company” shall mean any natural person, firm, association, corporation or partnership owning, leasing or operating any sewage disposal service within the rural areas of this state. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 1; filed Dec 9, 1981, 10:20 am: 5 IR 13; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-1-2 Application of rule**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 2. Application of Rules. (a) Application. These rules [170 IAC 8.5] shall apply to any sewage disposal company (herein sometimes called utility or company) which is now or hereafter may be engaged in sewage disposal service and which is subject to the jurisdiction of the Commission pursuant to the provisions of the Public Service Commission Acts, or any other Statute of the State of Indiana.

(b) Purpose. These regulations [170 IAC 8.5] are intended to promote safe and adequate service to the public, to provide standards for uniform and reasonable practices by sewage disposal companies and to outline the responsibilities of the public in requesting and receiving service from sewage disposal companies.

(c) Limitations of Sewerage System. A sewage disposal company shall not be obliged to receive for treatment or disposal any material except sewage as defined in Rule 1(I) [170 IAC 8.5-1-1(i)]. The utility shall not receive for treatment water discharged from sump pumps or footing drains, or rain water discharged from roofs, lawns, paved areas, etc. The utility shall prohibit greases, oils, acids, alkalis or any other substance of a quantity or type deleterious to the wastewater treatment process from being discharged directly into the wastewater treatment facility. Such substances shall be adequately pre-treated, or separately treated and disposed of, or necessary additional treatment provided. The sewage disposal company shall also prohibit the discharge of ground or shredded garbage into the wastewater treatment facility where a major portion of the organic loading on the facility would be ground garbage, such as from a produce department of a supermarket, restaurant, or similar establishment. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 2; filed Dec 9, 1981, 10:20 am: 5 IR 14; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-1-3 Record requirements**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-40; IC 8-1-2-89

Sec. 3. Records to be Kept. (a) All records required by these rules [170 IAC 8.5] shall be preserved for at least three (3) years except as otherwise provided herein or by IC 8-1-2-40. Except as provided by Rule 3(B) [subsection (b) of this section] such records shall be kept within the State at the principal place of business of the sewage disposal company, or at such other places within the State as the company shall designate after notification of the Commission, and shall be open for examination by the Commission or its representatives.

(b) The Commission may, at the written request of the sewage disposal company, grant the company permission to maintain its records outside the State of Indiana subject to the provision that all books, records, accounts, and papers shall be retained within the State of Indiana that may be necessary or useful in responding to questions or complaints of customers as to billing, charges, service or other customer service related matters; and further provided, that said company shall return all such books and records to within the State of Indiana upon written request by this Commission, or, at the option of the Commission, reimburse the Commission for all expenses reasonably necessary and incidental to examination thereof by the staff of the Commission outside the State of Indiana. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 3; filed Dec 9, 1981, 10:20 am: 5 IR 14; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-1-4 Filing and posting rate schedules and rules**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 4. Filing and Posting of Rate Schedules, Rules and Regulations of the Sewage Disposal Company and of the Commission. Copies of all schedules of rates for service, forms of contracts, charges for service connections and extensions, and of all rules and regulations covering the relationship between the customer and the sewage disposal company shall be filed by each sewage disposal company in the office of the Commission. Complete schedules, contract forms, rules and regulations, etc., if filed with the Commission, shall also be on file in the local office of the sewage disposal company, and shall be open to the inspection of the public. The attention of the public shall be called to these files of schedules, rules and regulations, by placing a suitable placard in that part of the office open to the public. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 26; filed Dec 9, 1981, 10:20 am: 5 IR 15; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**Rule 2. Customer Rights and Responsibilities**

**170 IAC 8.5-2-1 Billing for service**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 1. Bills for Sewage Disposal Service. (a) Bills rendered periodically to customers for sewage disposal service shall show at least the following information:

- (1) The date of the bill, the time period for which the bill is rendered or the dates and readings of the water meter, if used as the basis for the sewage bill, at the beginning and end of the billing period,
- (2) The number and kind of units of service supplied, if based upon metered water consumption,
- (3) The billing rate code, if any,
- (4) The previous balance, if any,
- (5) The amount of the bill,
- (6) The sum of the amount of the bill and the late payment charge, if any,
- (7) The date on which the bill becomes delinquent and on which a late payment charge will be added to the bill,
- (8) If an estimated bill of a customer whose sewage bill is based on metered water service, a clear and conspicuous coding or other indication identifying the bill as an estimated bill,
- (9) Printed statements and/or actual figures on either side of the bill shall inform the customer of the seventeen (17) day non-

penalty period,

(10) An explanation, which can be readily understood, of all codes and/or symbols used on the bill.

(b) Delinquencies.

(1) A sewage disposal service bill which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill shall be a delinquent bill.

(2) A sewage disposal bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, it shall become a delinquent bill and a late payment charge may be added in the amount of ten (10) percent of the first three (3) dollars and three (3) percent of the excess of three (3) dollars.

(c) Estimated Billing. A sewage disposal company may estimate the bill of any customer whose sewage bill is based on metered water service pursuant to a billing procedure approved by the Commission or for other good cause, including, but not limited to: request of customer; inclement weather; labor or union disputes; inaccessibility of a customer's meter if the company has made a reasonable attempt to read it; and other circumstances beyond the control of the sewage disposal company, its agents and employees. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 13; filed Dec 9, 1981, 10:20 am: 5 IR 15; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 8.5-2-2 Adjustment of bills**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 2. Adjustment of Bills. (a) Adjustments Due to Meter Error. If any water meter on which a sewage bill is based shall be found to have a percentage of error greater than two (2) percent, the following provisions for the adjustment of bills shall be observed:

(1) Fast Meters. When a meter is found to have a positive average error, i.e., is fast, in excess of two (2) percent, the company shall refund or credit the customer's account with the amount in excess of that determined to be an average charge for one-half of the time elapsed since the previous test, or one (1) year, whichever period is shorter. This average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be fast. No part of a minimum service charge need be refunded.

(2) Stopped or Slow Meters. When a meter is stopped or has a negative average error, i.e., is slow, in excess of two (2) percent, the company may charge the customer an amount estimated to be an average charge for one-half of the time elapsed since the previous test or one (1) year, whichever period is shorter. The average charge shall be calculated on the basis of units registered on the meter over corresponding periods either prior or subsequent to the period for which the meter is determined to be slow or stopped. Such action may be taken only in cases where the sewage disposal company is not at fault for allowing the stopped or slow meter to remain in service.

(b) Adjustment for Interruption of Service. In the event the customer's service is interrupted for a reason other than the act of the customer or the condition of customer controlled equipment, and the service remains interrupted for more than two (2) days after being reported or found to be out of order, appropriate adjustments or refunds shall be made to the customer. Each company shall file with the Commission a tariff detailing the method and amount of refund in such cases.

(c) Other Billing Adjustments. All other billing errors, including incorrect tariff applications, may be adjusted to the known date of error or for a period of one year, whichever period is shorter. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 14; filed Dec 9, 1981, 10:20 am: 5 IR 15; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 8.5-2-3 Deposit to ensure payment of bill**

Authority: IC 8-1-1-3

Affected: IC 32-9-1.5-20

Sec. 3. (a) Each sewage disposal company shall determine the creditworthiness of residential applicants or customers in an equitable and nondiscriminatory method:

(1) without regard to the economic character of the area wherein the applicant or customer resides; and

(2) solely upon the credit risk of the individual without regard to the collective credit reputation of the area in which he or

she lives.

(b) Each new applicant for residential sewage disposal service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving service if the applicant satisfies the following criteria:

(1) If the applicant has been a customer of any utility within the last two (2) years, the applicant:

(A) owes no outstanding bills for service rendered within the past four (4) years by any such utility;

(B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to any utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and

(C) within the last two (2) years did not have a service disconnected by a utility for nonpayment of a bill for services rendered by that utility.

(2) If the applicant has not been a customer of a utility during the previous two (2) years, the applicant shall be deemed creditworthy if any two (2) of the following criteria are met:

(A) The applicant either:

(i) has been employed by his or her present employer for two (2) years;

(ii) has been employed by his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or

(iii) has been employed by the present employer for less than two (2) years and has no previous employer due to recently:

(AA) graduating from a school, university, or vocational program; or

(BB) being discharged from military service.

(B) The applicant either:

(i) owns or is buying his or her home; or

(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.

(C) The applicant has credit cards, charge accounts, or has been extended credit by a bank or commercial concern unless a credit check shows that the applicant has been in default on any such account more than twice within the last twelve (12) months.

(c) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable cash deposit. Such deposit shall not exceed one-sixth ( $\frac{1}{6}$ ) of the estimated annual cost of service to be rendered to the applicant. If a deposit is greater than seventy dollars (\$70), the company shall advise the applicant or customer that he or she may pay such deposit in equal installment payments over a period of no less than eight (8) weeks; service shall be connected upon receipt by the company of the first such payment.

(d) If the company requires a cash deposit as a condition of providing service, then it must immediately notify the applicant in writing stating the precise facts upon which it based its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating his or her creditworthiness as provided under subsection (b).

(e) A sewage disposal company may require a present customer to make a reasonable cash deposit when:

(1) the customer has been mailed disconnect notices for two (2) consecutive months;

(2) the customer has been mailed disconnect notices for any three (3) months within the preceding twelve (12) month period; or

(3) the service to the customer has been disconnected within the past four (4) years pursuant to section 4 of this rule.

The amount of such deposit may not exceed an amount equal to one-sixth ( $\frac{1}{6}$ ) of the expected annual billings for the customer at the address at which service is rendered. In the event the required deposit is in excess of seventy dollars (\$70), the sewage disposal company shall advise the customer that he or she may pay such deposit in equal installment payments over a period of up to eight (8) weeks, except where such deposit is required as a result of a disconnection for nonpayment, in which case full payment of the deposit may be required prior to reconnection.

(f) Requirements for interest upon deposits shall be as follows:

(1) Deposits held more than twelve (12) months shall earn interest from the date of deposit at a rate of six percent (6%) per annum or at such other rate of interest as the commission may prescribe following a public hearing.

(2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed.

(g) Requirements for refunds shall be as follows:



- (1) Any deposit or accrued interest shall be promptly refunded to the customer without the customer's request when the customer:
  - (A) submits satisfactory payment for a period of either:
    - (i) nine (9) successive months; or
    - (ii) ten (10) out of any twelve (12) consecutive months without late payment in two (2) consecutive months; or
  - (B) demonstrates his or her creditworthiness as provided by subsection (b).
- (2) Refunds of deposits or accrued interest issued under this section must be accompanied by a statement of accounting for each transaction affecting the deposit and interest.
- (3) Following customer-requested termination of service, the utility shall:
  - (A) apply the deposit, plus accrued interest, to the final bill; or
  - (B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) days after the payment of the final bill.
- (4) Each sewage disposal company shall maintain a record of each applicant or customer making a deposit that shows the following:
  - (A) The name of the customer.
  - (B) The current address of the customer so long as he or she maintains an active account with the sewage disposal company in his or her name.
  - (C) The amount of the deposit.
  - (D) The date the deposit was made.
  - (E) A record of each transaction affecting such deposit.
- (5) Each customer shall be provided a written receipt from the company at the time his or her deposit is paid in full or when he or she makes a cash partial payment. The company shall provide a reasonable method by which a customer who is unable to locate his or her receipt may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.
- (6) Any deposit made by the applicant, customer, or any other person to the company (less any lawful deductions), or any sum the company is ordered to refund for sewage disposal service, that has remained unclaimed for one (1) year after the company has made diligent efforts to locate the person who made such deposit or the heirs of such person, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).
- (7) A deposit may be used by the sewage disposal company to cover any unpaid balance following disconnection of service under section 16 of this rule *[sic.]* provided, however, that any surplus be returned to the customer as provided in subsection (f) and this subsection.

*(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 15; filed Dec 9, 1981, 10:20 a.m.: 5 IR 16; filed Oct 19, 1998, 10:14 a.m.: 22 IR 736; errata filed Sep 10, 1999, 10:39 a.m.: 23 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-2-4 Disconnection of services**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

##### **Sec. 4. (a) Without Customer's Request.**

- (1) A company may disconnect service without request by the customer and without prior notice only:
  - (A) If a condition dangerous or hazardous to life, physical safety or property exists; or
  - (B) Upon order by any court, the Commission or other duly authorized public authority; or
  - (C) If fraudulent or unauthorized use of sewage disposal service is detected and the company has reasonable grounds to believe the affected customer is responsible for such use; or
  - (D) If the company's regulating or measuring equipment has been tampered with and the company has reasonable grounds to believe that the affected customer is responsible for such tampering.
- (2) In all other instances, a sewage utility upon providing the customer with proper notice (as defined in Rule 16(E) *[subsection (d) of this section]*) may disconnect service subject to the other provisions of these rules *[170 IAC 8.5]*.
- (b) Prohibited Disconnection.
- (1) Except as otherwise provided in Rule 16(B) *[subsection (a) of this section]*, a sewage disposal company shall postpone

the disconnection of service for ten (10) days if, prior to the disconnect date specified in the disconnect notice, the customer provides the company with a medical statement from a licensed physician or public health official which states that a disconnection would be a serious and immediate threat to the health or safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one additional ten (10) day period upon the provision of an additional such medical statement.

(2) A company may not disconnect service to the customer:

(A) Upon his failure to pay for the service rendered at a different metering point, residence, or location if such bill has remained unpaid for less than forty-five (45) days;

(B) Upon his failure to pay for services to a previous occupant of premises to be served, unless the company has good reason to believe the customer is attempting to defraud the company by using another name;

(C) Upon his failure to pay for a different form or class of sewage disposal service, or

(D) If the customer shows cause for his inability to pay the full amount due (financial hardship shall constitute cause), and said customer:

(i) Pays a reasonable portion (not to exceed \$10 or one tenth (1/10) of the bill, whichever is less, unless the customer agrees to a greater portion) of the bill; and

(ii) Agrees to pay the remainder of the outstanding bill within three (3) months; and

(iii) Agrees to pay all undisputed future bills for service as they become due; and

(iv) Has not breached any similar agreement with the utility made pursuant to this rule [170 IAC 8.5-2] within the past twelve months.

Provided, however that the company may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to Rule 13(B) [170 IAC 8.5-2-1(b)]. Provided further, that the above terms of the agreement shall be put in writing by the company and signed by the customer and by a representative of the company. Only one late payment charge may be made to the customer under this section.

(E) If a customer is unable to pay a bill, which is unusually large due to prior incorrect reading of the water meter, incorrect application of the rate schedule, incorrect connection or functioning of the water meter, prior estimates where no actual reading was taken for over two months, stopped or slow water meter, or any human or mechanical error of the sewage disposal company, and the customer:

(i) Pays a reasonable portion of the bill, not to exceed an amount equal to the customer's average bill for the twelve (12) bills immediately preceding the bill in question; and

(ii) Agrees to pay the remainder at a reasonable rate, and

(iii) Agrees to pay all undisputed future bills for service as they become due;

Provided, however, that the company may not add to the outstanding bill any late fee. Provided, further, that the above terms of the agreement shall be put in writing by the company and signed by the customer and a representative of the company.

(3) If a customer proceeds with a review pursuant to Rule 16.1(B) [170 IAC 8.5-2-5(b)], the sewage disposal company may disconnect only as provided in Rule 16.1(C) [170 IAC 8.5-2-5(c)].

(c) Time.

(1) No sewage utility may disconnect service unless it is done between the hours of 8:00 A.M. and 3:00 P.M., prevailing local time. Disconnections pursuant to Rule 16(B) [subsection (a) of this section] are not subject to this limitation.

(2) A company may not disconnect service for non-payment on any day on which the company office is closed to the public, or after twelve noon (12:00 noon) of the day immediately preceding any day on which the company office is not open to the public.

(d) Notice Required Prior to Involuntary Disconnection.

(1) Except as otherwise provided herein, service to any residential customer shall not be disconnected for a violation of any rule or regulation of a sewage disposal company or for the non-payment of a bill, except after seven (7) days prior written notice to such customer by either:

(A) Mailing the notice to such residential customer at the address shown on the records of the utility; or,

(B) Personal delivery of the notice to the residential customer or a responsible member of his household at the address shown on the records of the sewage utility.

(C) No disconnect notice for non-payment may be rendered prior to the date on which the account becomes delinquent.

(2) The notice must be in language which is clear, concise, and easily understandable to a layman and shall state in separately numbered large type or printed paragraphs:

- (A) The date of proposed disconnection;
- (B) The specific actual basis and reason for the proposed disconnection;
- (C) The telephone number of the sewage disposal company office at which the customer may call during the regular business hours in order to question the proposed disconnection or seek information concerning his rights;
- (D) A reference to the pamphlet or the copy of the rules furnished to the customer pursuant to Rule 16.2 [170 IAC 8.5-2-6] for information as to the customer's rights.

(e) Procedure for Involuntary Disconnection.

(1) Immediately preceding the actual disconnection of service, the employee of the sewage disposal company designated to perform such function shall make a reasonable attempt to identify himself to the customer or any other responsible person then upon the premises and shall make a record thereof to be maintained for at least thirty (30) days.

(2) The employee shall have in his possession information sufficient to enable him to inform the customer or other responsible person of the reason for disconnection, including the amount of any delinquent bill of the customer, and shall request from the customer any available verification that the outstanding bill has been satisfied or is currently in dispute pursuant to review under Rule 16.1(B) [170 IAC 8.5-2-5(b)]. Upon the presentation of such credible evidence, service shall not be disconnected.

(3) The employee shall not be required to accept payment from the customer or other responsible person in order to prevent the service from being disconnected. The sewage disposal company shall notify its customers pursuant to Rule 16.2 [170 IAC 8.5-2-6] of its policy with regard to the acceptance or non-acceptance of payment by such employee, and shall uniformly follow such policy without discrimination.

(4) When the employee has disconnected the service, he shall give to a responsible person at the customer's premises, or if no one is at home, shall leave at a conspicuous place on the premises, a notice stating that service has been disconnected and stating the address and telephone number of the company where the customer may arrange to have service reconnected.

(f) Reconnection.

(1) A sewage disposal company may charge a reasonable reconnection charge, not to exceed the charge approved by the Commission in the company's filed tariffs, to compensate the company for the costs of disconnecting and reconnecting the service. The company shall inform its customers of such reconnection charge pursuant to Rule 16.2 [170 IAC 8.5-2-6].

(2) If the company disconnects service in violation of the rules, the service shall immediately be restored at no charge to the customer.

(3) The company must reconnect the service to the customer as soon as reasonably possible but at least within five (5) working days after requested if conditions permit; provided however, that the company shall not be required to reconnect the service until:

- (A) The conditions, circumstances or practices which caused the disconnection have been corrected; and
- (B) Payment of all delinquent and reconnection charges owed the utility by the customer and any deposit authorized by these rules [170 IAC 8.5] has been made.

*(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 16; filed Dec 9, 1981, 10:20 am: 5 IR 17; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-2-5 Complaints and review**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 5. Complaints and Review. (a) Complaint Procedure.

(1) A customer may complain at any time to a sewage disposal company about any bill which is not delinquent at that time, security deposit, disconnection notice, or any other matter relating to its service and may request a conference thereon. Such complaints may be made in person, in writing, or by completing a form available from either the Commission or from the company at its business offices. A complaint shall be considered filed upon receipt by the sewage disposal company, except mailed complaints shall be considered filed as of the postmark date. In making a complaint and/or request for conference, the customer shall state at a minimum, his name, service address, and the general nature of this complaint.

(2) Upon receiving each such complaint or request for conference, the company:

(A) Shall promptly, thoroughly and completely investigate such complaint, confer with the customer when requested and notify, in writing, the customer of the results of its proposed disposition of the complaint after having made a good faith attempt to resolve the complaint.

(B) Such written notification shall advise the customer that he may, within seven (7) days following the date in which such notification is mailed, request a review of such proposed disposition by the Commission.

(b) Review.

(1) If the customer is dissatisfied with the company's proposed disposition of the complaint as provided in Rule 16.1(A)(2) [subsection (a)(2) of this section], he may request the Commission in writing within seven (7) days following the date on which such notification is mailed, to informally review the disputed issue and the company's proposed disposition thereof. Such request shall certify that the customer has also sent a copy of his request for review to the sewage disposal company involved. Upon receiving such request, the Commission shall provide an informal review within twenty-one (21) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the company within thirty (30) days after its receipt of the customer's request. Upon request by either party or the Commission, the parties shall be required to meet and confer to the extent and at such place as the Commission may consider to be appropriate.

(2) The records of the Commission relating to such review shall be kept in a systematic order.

(c) Continuation of Service Pending Disposition of Complaint.

(1) If the customer is receiving service at the time the complaint and/or request for conference provided for in Rule 16.1(A)(1) [subsection (a)(1) of this section] above is received by the sewage disposal company, his service shall not be disconnected until ten (10) days have elapsed from the date of mailing of the notification of the company's proposed disposition of his complaint. Provided, however, that if a review by the Commission of the company's proposed disposition of the complaint is requested by the customer as provided by Rule 16.1(B)(1) [subsection (b)(1) of this section] within seven (7) days after the mailing of such proposed disposition of the complaint, the company shall not disconnect the customer's service until at least three (3) days have elapsed from the date of mailing of the Commission's decision upon and pursuant to such review if the customer who has requested such review has paid and continues to pay all future undisputed bills prior to their becoming delinquent.

(2) In those instances when the customer and the company cannot agree as to what portion of a bill is undisputed, it shall be sufficient that the customer pay on the disputed bill an amount equal to his average bill for the twelve (12) months immediately preceding the disputed bill except in those cases where the customer has received fewer than twelve (12) bills, in which event the customer shall pay an amount equal to 1/12 of the estimated annual cost of service to be rendered to the customer.

(d) Record of Complaints.

(1) Each sewage disposal company shall keep a written record of complaints and requests for conference pursuant to Rule 16.1 [this section]. Such records shall be retained at the office or branch office of the company or in the respective department office thereof where such complaints were received and/or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, his agent possessing written authorization or the Commission.

(2) Each sewage disposal company shall annually submit a report to the Commission which shall state and classify the number of complaints made to the company pursuant to Rule 16.1 [this section], the general nature of the subject matter thereof, how received (in person, by letter, etc.) and whether a Commission review was conducted thereon.

*(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 16.1; filed Dec 9, 1981, 10:20 am: 5 IR 19; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 8.5-2-6 Information to applicants and customers**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3

Sec. 6. Information Provided by Sewage Disposal Companies to Applicants and Customers. (a) All sewage disposal companies must publish and distribute, without request, to all applicants for service and to all current customers, a copy of Rules 11 to 16.2 [170 IAC 8.5-2-1; 170 IAC 8.5-2-2; 170 IAC 8.5-2-3; 170 IAC 8.5-2-4; 170 IAC 8.5-2-5; 170 IAC 8.5-2-6] inclusive of these rules.

(b) A sewage disposal company shall supply free of charge a copy of the rate schedules applicable to the types of service

available to new applicants for and existing customers of residential service, upon request by the applicant or customer.

(c) Each sewage disposal company whenever it petitions the Commission for a change in any of its base rate schedules must furnish within forty-five (45) days of such request and prior to the date of the public hearing a notice which fairly summarizes the nature and extent of the proposed changes.

(d) System Maps or Records. Each sewage disposal company shall maintain up-to-date maps, plans or records of its entire force main and collection systems, with such other information as may be necessary to enable the company to advise prospective customers, and others entitled to the information, as to the facilities available for serving any locality.

(e) Persons to Contact. Each sewage disposal company shall file with the Commission the name, title, address, and telephone number of the person who should be contacted in connection with:

- (1) General management duties
- (2) Customer relations (complaints)
- (3) Engineering operations
- (4) Emergencies during non-office hours

*(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 16.2; filed Dec 9, 1981, 10:20 am: 5 IR 20; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **Rule 3. Operation of Sewage Lines**

#### **170 IAC 8.5-3-1 Application for Certificate of Territorial Authority (CTA)**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 1. Application for Certificate of Territorial Authority (CTA). Whenever a sewage disposal company petitions for a Certificate of Territorial Authority, either as an initial authority or as an expansion of its authorized territory, it shall submit, where appropriate, the following exhibits, sufficiently in advance of the hearing to enable the Commission staff to make a proper review of them so as to avoid any delay in the hearing:

- (1) Articles of Incorporation. Required only for initial applications.
- (2) Legal description of area to be served.
- (3) Legal description of Petitioner's sewage disposal plant site. Required only for initial applications.
- (4) Letter of approval of Environmental Management Board.
- (5) Letter of approval of Stream Pollution Control Board.
- (6) Certificate of approval of Department of Natural Resources.
- (7) Plans and specifications of treatment plant.
- (8) Plans and specifications of sanitary sewers.
- (9) Area maps as outlined in instructions of Rule 18 [170 IAC 8.5-3-2].
- (10) Letter of acknowledgement from owner-operator of any sanitary system within five (5) miles of the company's system that he is familiar with the company's interest to apply for a Certificate of Territorial Authority. In lieu thereof, a copy of the sewage disposal company's certified letter to the owner-operator informing him of the company's application for a Certificate of Territorial Authority should be submitted together with the signed return receipts. Any other correspondence from such owner-operator relating to the proposal shall be included.
- (11) Statement of estimated costs of construction of sewage disposal plant, including and separately as to treatment plant, collection system and pumping plant.
- (12) Estimated operating expenses, depreciation and revenue. Required only for initial applications.
- (13) Five-year feasibility study and pro forma statement. Required only for initial applications.
- (14) Personal guarantee by a principal of the corporation for a period of five years, accompanied by a personal financial statement (See Rule 19 [170 IAC 8.5-3-3] for sample form). Required only for initial applications or as otherwise deemed appropriate by the Administrative Law Judge.

Instructions on the contents of the required exhibits for a CTA follow in Rule 18 [170 IAC 8.5-3-2] and sample forms are set out in Rule 19 [170 IAC 8.5-3-3]. Rules 18 and 19 [170 IAC 8.5-3-2 and 170 IAC 8.5-3-3] follow Commission Order No. 27122 which prescribes the form of CTA applications for sewage disposal service in rural areas in Indiana. *(Indiana Utility Regulatory*

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INDIANA UTILITY REGULATORY COMMISSION

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*Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 17; filed Dec 9, 1981, 10:20 am: 5 IR 21; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-3-2 Instructions for exhibits for CTA applications**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 2. Instructions for Exhibits for CTA Applications. (1) Maps—The area, or areas, should be shown on a county map (if more than one county, separate county maps) scaled at approximately one inch per mile. The maps should include all roads and highways, streams, section and township lines, and range and township numbers. Township corner sections should be numbered, (1, 6, 30 and 36).

The maps may be or be similar to:

General Highway and Transportation Map Prepared by The State Highway Department of Indiana Planning Division In Cooperation with the U.S. Department of Commerce Bureau of Public Roads

The rural areas presently being served by sewage disposal service, if any, shall be colored in green and the area requested shall be colored in red. Any sewer systems or municipal corporation limits within 5 miles of the proposed area to be served by this petition shall be clearly shown on this map.

(2) Description of Area—The rural areas shall be outlined and described:

(A) County

(B) Township

(C) Sections, or parts of sections, range and township

(3) Other Maps or Plats—If the rural area is subdivided, or planned for subdivision, there shall be maps showing this platting. These maps may be part of the plans, as requested below, showing the sewage collection mains and appurtenances.

(4) Plans and Specifications—The plans should show a layout of collection mains showing size, manholes, location of disposal plant, effluent line and stream receiving the effluent. A plan of the disposal plant should show the flow, major functional operations, stages of treatment and capacity. A waiver may be granted by the Engineering Department upon request and with justification.

(5) Feasibility Study—This study should include balance sheets; revenue and operating statements; original cost of plant if now operating as a public utility, as prescribed in the Uniform System of Accounts for Rural Sewage Utilities prepared by the Accounting Department of the Public Service Commission of Indiana; estimated construction costs of new plant or additions; method of financing costs; and pro forma revenue and expenses by years for a period of five years, including supporting details to pro forma revenues. *(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 18; filed Dec 9, 1981, 10:20 am: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-3-3 Sample CTA application and personal guarantee forms**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 3. Sample CTA Application and Personal Guarantee Forms. (a) Application Form

STATE OF INDIANA

PUBLIC SERVICE COMMISSION

OF INDIANA

APPLICATION OF \_\_\_\_\_ )  
FOR A CERTIFICATE OF TERRITORIAL \_\_\_\_\_ )  
AUTHORITY TO RENDER SEWAGE DISPOSAL \_\_\_\_\_ ) CAUSE NO.  
SERVICE IN A RURAL AREA IN \_\_\_\_\_ )  
COUNTY, INDIANA. \_\_\_\_\_ )  
TO THE PUBLIC SERVICE COMMISSION OF INDIANA:

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INDIANA UTILITY REGULATORY COMMISSION

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Your applicant, \_\_\_\_\_ respectfully represents:

1. Application is a corporation organized under the laws of the State of \_\_\_\_\_, with its principal office in the City of \_\_\_\_\_ County, \_\_\_\_\_. (See Note 1) The officers executing this application are authorized to receive notices and communications from the Commission. Applicant has a charter power and authority to engage in, and is engaged in operating a sewage disposal service within the rural area of the State of Indiana.

2. Applicant desires to commence rendering sewage disposal service in a rural area in \_\_\_\_\_ County in Indiana, which rural area is shown on the Map that is marked "Exhibit A" (See Note 2), is attached hereto and is hereby made a part thereof, and which rural area is more particularly described in Item 2 of the Statement which marked "Exhibit B" (See Note 2), is attached hereto and is hereby made a part hereof. Such facilities, or extension of facilities, to provide said service as will be presently constructed, and the location thereof, are described in Item 3 of said "Exhibit B".

3. Applicant represents that it has lawful power and authority to obtain a Certificate of Territorial Authority and to render the proposed sewage disposal service if it obtains a Certificate of Territorial Authority therefor, that it has the financial ability to provide the proposed sewage disposal service, that public convenience and necessity require the rendering of the proposed sewage disposal service, and that the public interest will be served by the issuance to applicant of the Certificate of Territorial Authority hereby sought.

WHEREFORE, Applicant prays that, after due notice and public hearing, the Commission shall grant this application and issue to Applicant a Certificate of Territorial Authority to commence and render a sewage disposal service in the rural area herein described, and shall grant all other proper relief.

\_\_\_\_\_  
Name of Applicant

By \_\_\_\_\_  
President or  
Vice-President  
(See Note 3.)

\_\_\_\_\_  
(Address of Applicant)

ATTEST:

\_\_\_\_\_  
SECRETARY (See Note 3.)

\_\_\_\_\_  
(Name and address of Attorney)

STATE OF \_\_\_\_\_ )

) SS:

COUNTY OF \_\_\_\_\_ )

\_\_\_\_\_, being first duly sworn on oath deposes and says that he is \_\_\_\_\_ of \_\_\_\_\_, Applicant herein; that he has read the foregoing application and is familiar with the contents thereof; and that the statements therein contained are true to the best of his knowledge, information and belief.

\_\_\_\_\_  
(See Note 3.)

SUBSCRIBED and SWORN to before me this \_\_\_\_\_

INDIANA UTILITY REGULATORY COMMISSION

\_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_.

(See Note 3.) Notary Public

My Commission expires \_\_\_\_\_

NOTES:

1. If applicant is not a corporation, appropriate changes in the application, including the signature thereto, should be made.
2. If rural areas in more than one county are covered by the application, designate "Exhibit A- Part," etc., or "Exhibit B-Part 1," etc., as applicable.
3. Immediately below each signature the name of the person signing shall be typed in.
4. Commission rules require that 5 copies of this application be filed.

PERSONAL GUARANTEE

APPLICANT'S EXHIBIT \_\_\_\_\_

PERSONAL GUARANTEE OF \_\_\_\_\_ \*

WHEREAS, the undersigned, \_\_\_\_\_ \* is the \_\_\_\_\_ \* of \_\_\_\_\_, \*\*\* and

WHEREAS, he is also an officer of \_\_\_\_\_ \*\* which is the owner of all the outstanding capital stock of \_\_\_\_\_ \*\*\* and,

WHEREAS, he also owns controlling interest in the outstanding stock of \_\_\_\_\_ \*\*.

NOW THEREFORE, for the purpose of inducing the Public Service Commission of Indiana to issue a Certificate of Territorial Authority to \_\_\_\_\_ \*\*\*, an Indiana corporation, authorizing it to furnish sewage treatment and disposal services in the area described in said Petition, the undersigned does hereby agree and bind himself as follows, to wit:

(1) To operate and maintain the plant and property of the Petitioner, \_\_\_\_\_ \*\*\* in a satisfactory and reasonable manner so as to serve its customers with adequate service as authorized and directed by the Public Service Commission of Indiana.

(2) To supply, from time to time, sufficient working capital to said Petitioner corporation if and when such capital shall be needed to carry out the guarantee herein set forth.

(3) This agreement shall be in full force and effect and binding upon the undersigned \_\_\_\_\_ \* for a period beginning on the date of the issuance of the above described Certificate of the Public Service Commission of Indiana and shall continue in full force and effect for a period of five (5) years hereafter, after which said agreement shall become null and void.

IN WITNESS WHEREOF, the said \_\_\_\_\_ \* has hereunto set his hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_.

STATE OF INDIANA

)

) SS:

COUNTY OF

)

Before me, the undersigned, a Notary Public, personally appeared \_\_\_\_\_ \* and acknowledged the execution of the above and foregoing guarantee for the use and purposes therein set forth this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:



\*Name and position of an officer of corporation making this guarantee.

\*\*Name of organization sponsoring the development requiring sewerage service.

\*\*\*Name of sewerage services corporation.

*(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 19; filed Dec 9, 1981, 10:20 am: 5 IR 22; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-3-4 Interruptions of service**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 4. Interruptions of Service. Each sewage disposal company shall keep a record of any interruption of service affecting its entire system or a major division thereof, including a statement of time, duration, extent and cause of the interruption. Whenever the service is intentionally interrupted for any purpose, such interruption shall, except in emergencies, be at a time during regular working hours of the company which will cause the least inconvenience to customers. Customers who will be affected by such interruption shall, to the extent practical, be notified in advance. *(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 20; filed Dec 9, 1981, 10:20 am: 5 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-3-5 Accidents; notices and reports**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 5. Accidents. In addition to the reports required by statute, every sewage disposal company shall give notice to the Commission of each serious accident involving the company occurring upon its or its customer's premises when the same is accompanied by serious damage to property or human life. Said notice shall be given within 24 hours of the company's knowledge of such accident. A written report shall also be made if the same is required by the Commission.

Neither said notice nor report shall imply or be considered an admission of any liability or responsibility in connection with the accident. *(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 21; filed Dec 9, 1981, 10:20 am: 5 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-3-6 Safety program**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 6. Safety Program. (a) Adopt Safety Program. Each sewage disposal company shall adopt and execute a safety program appropriate for the size and type of its operations.

(b) Use Suitable Tools and Equipment. Each sewage disposal company shall require its employees to use suitable tools and equipment to enable them to perform their work in a safe manner.

(c) Promote Safe Work Methods. Each company shall require its employees to use safe methods in performing their work.

(d) Instruction in Artificial Respiration. Each company shall require that its employees who, in the course of their work, are subjected to the hazards of asphyxiation, electrical shock or drowning, be properly instructed in accepted methods of artificial respiration. *(Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 22; filed Dec 9, 1981, 10:20 am: 5 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 8.5-3-7 Service pipe connections**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 7. Service Pipe Connections. (a) Company's Service Pipe. The sewage disposal company shall install and maintain that portion of the service pipe from the lateral to the boundary line of the easement, public road, or street, under which such lateral may be located, except as subsequently provided. The customer shall "rod" and otherwise clean the company's portion of the service pipe serving the customer in the event the same becomes clogged or blocked as a result of debris or waste entering such service pipe from the customer's premises, as a result of the customer's actions.

(b) Customer's Service Pipe. The customer shall install and maintain that portion of the service pipe from the end of the company's portion into the premises served.

(c) Requirements for Customer's Service Pipe. The customer's service pipe and appurtenances shall be constructed of materials approved by the sewage disposal company and be installed under the inspection of the sewage disposal company. It shall be the customer's responsibility to maintain his service pipe and appurtenances in good operating condition. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 23; filed Dec 9, 1981, 10:20 am: 5 IR 25; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-3-8 Modification at customer's expense**

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 8. Modification at Customer's Expense. If a customer requests for his convenience or by his actions requires that sewage utility facilities be redesigned, reengineered, relocated, removed, modified, or reinstalled, the company may require the customer to make payment to it of the full cost of performing such service. (*Indiana Utility Regulatory Commission; Service for Utilities Rendering Sewage Disposal Service in Ind; Rule 24; filed Dec 9, 1981, 10:20 am: 5 IR 26; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-3-9 Extension of sewer lines (Repealed)**

Sec. 9. (*Repealed by Indiana Utility Regulatory Commission; filed Dec 5, 1990, 3:35 p.m.: 14 IR 572*)

**Rule 4. Extension of Sewer Mains**

**170 IAC 8.5-4-1 "Applicant" defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 1. As used in this rule, "applicant" means a person requesting the main extension in order to receive sewer utility service from the utility. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-1; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-2 "Commission" defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 2. As used in this rule, "commission" refers to the Indiana utility regulatory commission. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-2; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-3 "Completion date of the main extension" defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 3. As used in this rule, "completion date of the main extension" means the date the utility declares the main extension to be in service and releases it for taps. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-3; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)

**170 IAC 8.5-4-4 “Cost of connecting” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 4. As used in this rule, “cost of connecting” means the average of the utility's costs for the same size service connection incurred during the preceding calendar year including, if provided by the utility, the service pipe, tap, and installation thereof or portions thereof; however, the cost of connecting shall not be applicable under this rule for those portions of such cost recovered from an applicant by a utility in the form of a tap or similar charge. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-4; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-5 “Cost of the main extension” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 5. As used in this rule, “cost of the main extension” means the cost of installing the main as determined in sections 30 through 33 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-5; filed Dec 5, 1990, 3:35 p.m.: 14 IR 566; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-6 “Customer” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 6. As used in this rule, “customer” means a person being supplied with sewer utility service. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-6; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-7 “Deposit” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 7. As used in this rule, “deposit” means the amount required to be deposited by or on behalf of each applicant or prospective customer for a main extension prior to the utility commencing construction of the main extension. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-7; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-8 “Estimated annual revenue” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 8. As used in this rule, “estimated annual revenue” for an applicant connecting to the main means the utility's average annual revenue per applicant from comparable customers in the calendar year preceding such connection, adjusted to reflect any changes in the applicable rates and charges of the utility for such service. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-8; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-9 “Frontage” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 9. As used in this rule, “frontage” means the footage, ten (10) feet minimum length, of a lot or tract (but not an easement)

boundary that is parallel to or curvilinear to, and immediately adjacent to a main extension in a public thoroughfare or easement. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-9; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-10 “Immediate revenue allowance” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 10. As used in this rule, “immediate revenue allowance” means the amount of three (3) times the estimated annual revenue less the cost of connecting for an applicant. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-10; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-11 “Lot” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 11. As used in this rule, “lot” means a parcel of land as platted, or if the area to be served is not platted, the equivalent of a parcel of land as determined in accordance with section 29 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-11; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-12 “Main” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 12. As used in this rule, “main” means a pipe owned by the utility which connects to service pipes for transmitting sewage effluent. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-12; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-13 “Main extension” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 13. As used in this rule, “main extension” means the mains and appurtenances installed by the utility to provide the sewer utility service requested by or on behalf of the applicant or prospective customer, but does not include the service pipes. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-13; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-14 “Original depositor” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 14. As used in this rule, “original depositor” means an applicant who enters into a main extension agreement and makes a deposit with the utility. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-14; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-15 “Person” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 15. As used in this rule, “person” means an individual, firm, corporation, governmental agency, or other entity. (*Indiana*

*Utility Regulatory Commission; 170 IAC 8.5-4-15; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-16 “Prospective customer” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 16. As used in this rule, “prospective customer” means a person who is not an original depositor, but whose lot or frontage directly abuts the main extension between its original beginning and its original end point. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-16; filed Dec 5, 1990, 3:35 p.m.: 14 IR 567; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-17 “Public thoroughfare” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 17. As used in this rule, “public thoroughfare” means a road, street, or way which has been dedicated for use by the public and accepted by the appropriate governmental authority. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-17; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-18 “Refund” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 18. As used in this rule, “refund” means the subsequent connector's fees, subsequent connector's revenue allowances, and revenue allowances from depositor-authorized connections of lots included in the original depositor's main extension agreement that must be paid by the utility to the original depositor for ten (10) years after the completion date of the main extension. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-18; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-19 “Revenue allowance from depositor-authorized connection” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 19. As used in this rule, “revenue allowance from depositor-authorized connection” means the amount of three (3) times the estimated annual revenue less the cost of connecting that the utility may refund to original depositor for connections for lots or unplatted areas owned, controlled, or designated by the original depositor and does not include an immediate revenue allowance. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-19; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-20 “Service pipe” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 20. As used in this rule, “service pipe” means a sanitary sewer line leading directly from the premises to the main adjacent to such premises. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-20; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-21 “Subsequent connector” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 21. As used in this rule, “subsequent connector” means a person who was not an original depositor but subsequently applies for sewer service and who connects to the main within ten (10) years after the completion date of the main extension. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-21; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-22 “Subsequent connector's fee” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 22. As used in this rule, “subsequent connector's fee” means the cash fee equal to the cost per lot of the main extension determined in accordance with sections 29 through 31 of this rule, multiplied by the number of lots for which service is requested. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-22; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-23 “Subsequent connector's revenue allowance” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 23. As used in this rule, “subsequent connector's revenue allowance” means three (3) times the estimated annual revenue for the subsequent connector less the cost of connecting. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-23; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-24 “Tap” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 24. As used in this rule, “tap” means a fitting owned by the utility and inserted by it into a main to which a service pipe is attached. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-24; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-25 “Total required deposit” defined**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 25. As used in this rule, “total required deposit” means the amount by which the cost of the main extension exceeds the immediate revenue allowance for the original depositor. *(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-25; filed Dec 5, 1990, 3:35 p.m.: 14 IR 568; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-26 Free extension**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 26. A utility, upon written request for service by an applicant, shall extend a main and connect the applicant free of charge to provide the service requested if:

(1) the cost of the main extension does not exceed the immediate revenue allowance for the applicant; and

(2) the applicant agrees to take service within nine (9) months following the completion date of the main extension.

*(Indiana Utility Regulatory Commission; 170 IAC 8.5-4-26; filed Dec 5, 1990, 3:35 p.m.: 14 IR 569; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 8.5-4-27 Main extension; exception to commission approval**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 27. If the cost of the main extension is greater than the free extension cost provided in section 26 of this rule, that extension shall be made, upon receipt by the utility of a signed agreement and a deposit from the applicant, without specific approval of the agreement by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-27; filed Dec 5, 1990, 3:35 p.m.: 14 IR 569; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-28 Main extension route**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 28. (a) The utility shall use good engineering and sewer utility practices in determining the route for all main extensions. Any facilities installed in connection with main extensions shall become the property of the sewer utility.

(b) The utility shall determine the total length of the extension from its existing main to serve the extension to the end of the lot or frontage of the most remote applicant to be served.

(c) If the end lot or frontage is a corner lot or frontage abutting an intersecting street in which no main is located, the end of the new extension may not extend beyond the intersecting street corner of that lot.

(d) If the street in which the main is to be laid dead ends in a cul-de-sac or appears to be permanently dead ended against a railroad, creek, river, or other major physical or natural barrier, the end point of the main extension, if serving the most remote lot or frontage, shall be the point of the most remote service pipe connection, which connection point shall be at least ten (10) feet beyond the lot line. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-28; filed Dec 5, 1990, 3:35 p.m.: 14 IR 569; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-29 Number of lots served by main extension**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 29. A determination shall be made of the number of lots to be served by the main extension. The determination may include only lots which directly abut the main extension between its original beginning and its original end point. If any part of the main extension is located within an area platted or to be platted, the number of lots shown within the plat to be served shall be included in the determination. If any part of the main extension is located in an unplatted area, the number of lots to be included shall be determined by dividing the total frontage of the main extension within the unplatted area on either or both sides of the public thoroughfare or easement in which the main is located by one hundred (100) feet and rounded to the nearest whole number of lots, provided either or both sides are available for future development and not restricted against usage because of limited access or other reasons. The determination of the number of lots for a particular extension may include a combination of platted and unplatted lots as defined in this section. Any further main extension subsequently connected to the original main extension shall, for all purposes under this rule, constitute a separate main extension. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-29; filed Dec 5, 1990, 3:35 p.m.: 14 IR 569; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-30 Main extension cost**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 30. (a) The cost of the main extension may, as determined by the utility, be either:

- (1) the estimated cost of the extension; or
- (2) the actual cost of a developer-installed extension.

(b) For any special construction, or for any other facility involved in a main extension, the cost shall be the utility's best estimate of the cost of the main, special construction, or related facilities based upon current available information.

(c) If the utility's future extension plans require a larger main than is reasonably necessary to serve the applicants and prospective customers, the difference in the cost for the larger main size and increased material and installation cost, if any, shall be borne by the utility.

(d) The estimated cost shall be adjusted to the actual cost by the utility, in which event the actual cost as finally determined shall constitute the cost of the main extension. If the main extension agreement provides for the adjustment of the estimated cost of the main extension to the actual cost, the adjustment shall be made upon completion of the main extension. If the actual cost of the extension is less than the estimated cost, the utility shall refund the difference to the original depositor as soon as the actual cost has been determined. If the actual cost of the extension exceeds the estimated cost, then the utility shall bill the original depositor for, and such depositor shall pay, the difference between the estimated cost and the actual cost. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-30; filed Dec 5, 1990, 3:35 p.m.: 14 IR 569; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-31      Cost per lot**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 31. The cost per lot shall be determined by:

- (1) the total number of lots to be served by the main extension divided into the cost of the main extension; or
- (2) the cost of the main extension shall be divided proportionately on the basis of respective lot frontage for all lots to be served by the main extension.

(*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-31; filed Dec 5, 1990, 3:35 p.m.: 14 IR 570; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-32      Cost options**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 32. (a) The utility shall file with the commission, for approval, its choice of the following options with appropriately revised rules:

- (1) For the main extension, the applicant shall be allowed to pay the cost of the main extension, and the full gross-up state and federal taxes associated with the cost of the extension and the applicant shall receive refunds as provided in sections 36 through 37 of this rule.
- (2) For the main extension, the applicant shall be allowed to pay the cost of the main extension exclusive of the tax associated with the main extension, and the applicant shall receive refunds as provided in sections 36 through 37 of this rule.
- (3) For the main extension, the applicant shall be allowed the option of paying the cost of the main extension and full gross-up state and federal taxes associated with the cost of the main extension, and the applicant shall receive refunds as provided in sections 36 through 37 of this rule, or paying the cost of the main extension exclusive of the tax associated with the main extension, and the applicant shall forfeit all rights to immediate revenue allowances and to refunds, except for subsequent connector's fees.

(b) If the utility desires to change its option after initial filing, the utility shall submit its requested revisions to the commission for approval. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-32; filed Dec 5, 1990, 3:35 p.m.: 14 IR 570; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-33      Total required deposit**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 33. (a) In the case of a residential real estate development, immediate revenue allowance may not be deducted from the cost of the main extension in determining the amount of the total required deposit, except for those residential dwelling units, if any, where construction has commenced above the first floor level.

(b) In the case of a commercial or industrial real estate development, immediate revenue allowance may not be deducted from



the cost of the main extension in determining the amount of the total required deposit, except where building construction has commenced and pertinent data, such as customer types, service pipe, metering arrangements, and sewer demands, have been furnished to the utility, to allow the utility to determine the estimated annual revenue from that development.

(c) The total required deposit for a main extension may either be made in a cash payment or it may be secured by an irrevocable letter of credit acceptable to the utility and issued by a national banking association or a bank chartered under the laws of the state. The deposit may also be secured in any other manner which is mutually acceptable to the parties and which guarantees payment of the deposit immediately upon completion of the main extension.

(d) If permitted by the utility, the main extension may be installed by the developer or the developer's contractor according to the extension and installation policies of the utility, and the actual cost of the developer-installed extension shall be considered the total required deposit.

(e) A utility may allocate, or permit original depositors to allocate, the total required deposit on the basis of the number of lots, the respective lot frontage, or any other basis mutually acceptable to the original depositors. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-33; filed Dec 5, 1990, 3:35 p.m.: 14 IR 570; errata filed Mar 11, 1991, 3:55 p.m.: 14 IR 1455; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-34 Subsequent connector fee**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 34. (a) Within ten (10) years after the completion date of the main extension, a utility shall not permit a subsequent connector to connect to a main extension until after the subsequent connector has paid the required subsequent connector's fee to the utility.

(b) Applicants for service connections for lots in subdivision and tract developments which are included in the original depositor's main extension agreement, are not required to pay a subsequent connector's fee, unless otherwise specifically provided for in the main extension agreement.

(c) If a prospective customer with frontage land that was unplatted on one (1) or both sides of the street at the time the main extension was installed later subdivides this frontage prior to the expiration of the ten (10) years after the completion date of the main extension in such a manner that some or all lots will not require service directly from that main extension, the customer is considered to have requested another extension from that main extension to serve the customer's land. The utility in that case shall collect from the prospective customer prior to installing the requested second extension, a subsequent connector's fee for each equivalent lot of the frontage land used in determining the main extension cost per lot and which will not be served directly by the original main extension. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-34; filed Dec 5, 1990, 3:35 p.m.: 14 IR 571; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-35 Refunds**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 35. (a) Refunds shall be paid for a period of ten (10) years after the completion date of the main extension to the original depositor in proportion to the respective deposits, unless the original depositor for the main extension forfeited all rights to refunds, except subsequent connector's fees, as provided in section 32(a)(3) of this rule.

(b) However, no refunds shall be required to be made by the utility until the number of customers actually connected to the main extension equals the number of applicants for which an immediate revenue allowance was included in computing the total required deposit for the main extension. The refunds shall be paid annually or more frequently at regular intervals at the discretion of the utility.

(c) Total refunds to any original depositor shall not exceed the amount of the original deposit except in the case of a phased residential real estate development. In this situation the preliminary plat must be submitted to the utility at the time of the first request for a main extension. During the ten (10) year period beginning with the completion date of the first main extension, the amount of any refunds generated in excess of the deposit made on any phase of the development must be applied against the deposit made for any other phase of the development, so long as the total amount of refunds to the original depositor shall not at any time exceed

the total amount of his deposits during the period. The utility shall not require any subsequent connector's fee which is in excess of the unrefunded balance of the aggregate of deposits received from all original depositors.

(d) The refund shall be made by mailing the payment to the original depositor's last known address as shown on the books and records of the utility. Any refund distribution which cannot be returned to an original depositor after the refund becomes due and payable must be reported as required by IC 32-9-1-42 [Repealed by P.L.31-1995, SECTION 9, effective July 1, 1996.]. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-35; filed Dec 5, 1990, 3:35 p.m.: 14 IR 571; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-36      Deposit**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 36. A deposit shall be held by the utility as a customer's advance for construction. Any deposit which is not subject to refund because of the running of the ten (10) year period as provided in section 35 of this rule, shall be transferred by the utility to contributions in aid of construction. If the original depositor for a main extension forfeits all rights to a refund, except for subsequent connector's fees, as provided in section 32(a)(3) of this rule, the payment must be included in contributions in aid of construction and the associated taxes shall be deducted from contributions in aid of construction. All other deposits must be held as customers' advances for construction until returned to the original depositor or be reported as required under IC 32-9-1-36 [Repealed by P.L.31-1995, SECTION 9, effective July 1, 1996.], and as provided under section 35 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-36; filed Dec 5, 1990, 3:35 p.m.: 14 IR 571; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-37      Basis for costs**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 37. If the applicant is required to make any payment, the utility shall, upon request, make the following available to the applicant:

(1) The information used to establish the basis for the cost of the main extension.

(2) The information used to establish the basis for the estimated annual revenue for a period of three (3) years to be realized by the utility from permanent and continuing customers on main extensions as required by this rule.

(*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-37; filed Dec 5, 1990, 3:35 p.m.: 14 IR 572; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-38      Extension exception**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 38. A utility shall not be required to make extensions as described in this rule unless the applicants to be initially served by those extensions contract to use the service for a period of three (3) years. A bond may be required of the applicant in this situation. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-38; filed Dec 5, 1990, 3:35 p.m.: 14 IR 572; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 8.5-4-39      Special contract**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 39. (a) A utility may require a special contract when:

(1) the requested main extension is of such length and the prospective business to be developed by it is so meager as to make it doubtful whether the business from the extension would ever pay a fair return on the utility investment involved in such extension;

(2) the prospects are that the patronage and demand will not be of such permanency as to warrant the capital expenditure involved;

(3) there are industrial installations requiring extensive sewer utility investment and where the demand for sewer service is expected to be slight, irregular, or of unknown quantity; or

(4) there are other abnormal or extraordinary circumstances.

(b) The utility and the applicant requesting the extension may enter into a special contract establishing the terms and conditions on which the extension will be made. In the event they are unable to agree on the terms and conditions, the matter, including the contract embodying the terms and conditions, shall be submitted to the commission for a determination. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-39; filed Dec 5, 1990, 3:35 p.m.: 14 IR 572; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 8.5-4-40 Prohibition exception**

Authority: IC 8-1-2-47; IC 8-1-2-69; IC 8-1-2-89

Affected: IC 8-1-1-3; IC 8-1-2-89

Sec. 40. This rule does not prohibit a utility from making free extensions of lengths greater than specified in this rule or from providing a method of return of deposits for extensions more favorable to original depositors, so long as discrimination is not practiced among applicants or original depositors whose service requirements are similar. (*Indiana Utility Regulatory Commission; 170 IAC 8.5-4-40; filed Dec 5, 1990, 3:35 p.m.: 14 IR 572; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

### **ARTICLE 8.6. SEWER TRACKER**

#### **Rule 1. General Provisions**

##### **170 IAC 8.6-1-1 Definitions**

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

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

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

(b) "Sewer utility" means a utility engaged in supplying sewage disposal service to the public at rates which are subject to the jurisdiction of this commission, and which purchases sewage disposal service from another utility.

(c) "Supplier" means a utility supplying sewage disposal service to a sewer utility.

(d) "Sewer tracker" means the mechanism available to a sewer utility to recover an increase in costs, or refund a decrease in costs associated with a change in supplier's rates.

(e) "Application for sewer tracker" means an application submitted to the engineering division of the commission in accordance with 170 IAC 8.6-1-2 and in accordance with IC 8-1-2-42, which functions as a request, or in support of a request for a sewer tracker.

(f) "Sewer tracker application form" means that current set of forms, schedules, blanks, and instructions generated by the engineering division of the commission and made available to those who would request an increase or decrease under 170 IAC 8.6-1-2. The staff shall develop the set of forms, schedules, blanks, and instructions which comprise the sewer tracker form. Such forms will be revised from time to time as circumstances dictate. (*Indiana Utility Regulatory Commission; 170 IAC 8.6-1-1; filed Dec 15, 1987, 1:14 pm: 11 IR 1505; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

##### **170 IAC 8.6-1-2 Filing requirements**

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

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

Sec. 2. (a) Any sewer utility availing itself of this procedure must submit an application for a sewer tracker to the engineering division in care of the secretary of the commission. Said application must include:

(1) A copy of the proposed written notice required in (b) of this section. Proof of publication of the actual notice required in (b) of this section must be submitted prior to final approval of the sewer tracker.

(2) A complete sewer tracker application form in its current version, which form is available from the engineering division of the commission.

(3) A copy of the resolution or ordinance of the utility's governing body or minutes of the meeting which authorizes the application for sewer tracker.

(4) A verified statement by an officer or manager of the sewer utility detailing the amount of the sewer tracker and the effective date of the supplier's rate change.

(5) Two copies of the sewer utility's current tariff with reference to Appendix "A" and two copies of Appendix "A".

(b) Notice requirements for this procedure comprise of publication of a notice of filing of the application for sewer tracker, within ten days of the filing of the application for sewer tracker with the commission, in a newspaper of general circulation in any and all counties in which the utility renders service, which notice will advise the public of the following:

(1) The date the application for rate change was filed with the commission.

(2) The effective date of the rate change to the sewer utility by the supplier.

(3) That the rate change shall apply to the next practical consumption period following final approval by the commission in accordance with IC 8-1-2-42.

*(Indiana Utility Regulatory Commission; 170 IAC 8.6-1-2; filed Dec 15, 1987, 1:14 pm: 11 IR 1505; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 8.6-1-3 Processing**

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

Affected: IC 8-1-1-3

Sec. 3. The commission staff will review the application for sewer tracker. The staff review will include but shall not be limited to the following:

(1) Whether the revised sewage disposal service costs are true and correct.

(2) Whether the proposed revised rates filed by the sewer utility are no more than sufficient to offset the changed rates of the supplier.

(3) Whether the utility's calculations are mathematically accurate.

(4) The effective date of the supplier's rates and the nature and permanency thereof.

(5) Whether an investor-owned sewer utility is earning a return in excess of the return authorized in the sewer utility's last rate case.

*(Indiana Utility Regulatory Commission; 170 IAC 8.6-1-3; filed Dec 15, 1987, 1:14 pm: 11 IR 1506; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

## **ARTICLE 9. RURAL ELECTRIFICATION ADMINISTRATION**

### **Rule 1. Accounting System Requirements for Telephone Company Borrowers**

#### **170 IAC 9-1-1 Telephone company borrowers; adoption of accounting system rules and regulations of Rural Electrification Administration**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-10

Affected: IC 8-1-2-10

Sec. 1. IT IS THEREFORE ORDERED BY THE PUBLIC SERVICE COMMISSION OF INDIANA that the Rules and Regulations governing the accounting system requirements for telephone company borrowers of the Rural Electrification Administration for telephone companies operating within the State of Indiana as approved, prescribed and promulgated by the Rural Electrification Administration, U. S. Department of Agriculture, as set out in REA Bulletin 461-1 effective January 1, 1972, as hereinafter set out as Appendix A attached hereto and made a part hereof, be, and the same are hereby adopted.

Appendix A  
Accounting System Requirements  
for

Telephone Borrowers  
of the  
Rural Electrification Administration  
Effective January 1, 1972  
Rural Electrification Administration  
U. S. Department of Agriculture  
REA Bulletin 461-1

*(Indiana Utility Regulatory Commission; No. 33106: Accounting System Requirements for Telephone Company Borrowers of Rural Electrification Administration; filed Sep 6, 1973, 1:00 pm: Rules and Regs. 1974, p. 537; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**Rule 2. Accounting System Requirements for Electric Borrowers (Repealed)**

*(Repealed by Public Service Commission of Indiana; No. 33123: Accounting System Requirements for Rural Electric Borrowers; filed Jan 26, 1979, 2:00 pm: 2 IR 297)*

**Rule 2.1. Accounting System Requirements for Electric Borrowers**

**170 IAC 9-2.1-1 Electric borrowers; adoption of accounting system rules and regulations of Rural Electrification Administration**

Authority: IC 8-1-1-3; IC 8-1-13-18

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 1. IT IS THEREFORE ORDERED BY THE PUBLIC SERVICE COMMISSION OF INDIANA that the rules and regulations governing the accounting system requirements for electric borrowers of the Rural Electrification Administration as approved, prescribed and promulgated by the Rural Electrification Administration, U.S. Department of Agriculture, as set out in REA Bulletin 181-1, effective January 1, 1978, should be adopted and promulgated.

Copies of REA Bulletin 181-1 Rural Electrification Administration, U.S. Department of Agriculture, effective January 1, 1978 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. *(Indiana Utility Regulatory Commission; No. 35417: Accounting System Requirements for Rural Electric Borrowers; filed Jan 26, 1979, 2:00 pm: 2 IR 297; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**ARTICLE 10. PRESERVATION OF RECORDS**

**Rule 1. Telephone Companies**

**170 IAC 10-1-1 Telephone companies; preservation of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-15

Affected: IC 8-1-2-12

Sec. 1. The rules and regulations governing the preservation of records of telephone companies operating within the State of Indiana as approved, prescribed and promulgated by the Federal Communications Commission for the use of communication common carriers as set out in Part 42 of Volume VIII FCC Rules and Regulations as hereinafter set out in Appendix A, attached hereto and made a part hereof, be and the same are hereby adopted.

Appendix A  
Rules and Regulations  
Part 42  
Preservation of Records of  
Communication Common Carriers  
March 1973  
Federal Communications Commission

(Available from: Federal Communications  
Commission,  
Washington, D. C. 20554.)

*(Indiana Utility Regulatory Commission; No. 33686: Preservation of Records of Telephone Companies; filed Sep 25, 1974, 9:40 am: Rules and Regs. 1975, p. 546; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

## **Rule 2. Electric, Gas and Water Utilities**

### **170 IAC 10-2-1 Class A-B electric utilities; preservation of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-15

Affected: IC 8-1-2-12

Sec. 1. IT IS THEREFORE ORDERED BY THE PUBLIC SERVICE COMMISSION OF INDIANA that the rules and regulations governing the preservation of records of public utilities and licensees for all Class A-B electric utilities operating within the State of Indiana, as approved, prescribed and promulgated by the Federal Power Commission, as set out in Part 125 of Subchapter C, FPC Rules and Regulations, as hereinafter set out in Appendix A, attached hereto and made a part hereof, be and the same are hereby adopted.

APPENDIX A Preservation of Records for Class A-B electric utilities as set out in Part 125, Subchapter C, effective January 1, 1972 of Rules and Regulations of the Federal Power Commission, Washington, D.C. 20426. *(Indiana Utility Regulatory Commission; No. 33742: Class A-B Electric Utilities; filed Sep 25, 1974, 9:40 am: Rules and Regs. 1975, p. 549; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 10-2-2 Combination gas and electric utilities; preservation of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-15

Affected: IC 8-1-2-12

Sec. 2. IT IS FURTHER ORDERED that the rules and regulations governing the preservation of records for the two combination gas and electric private utilities operating within the State of Indiana as approved, prescribed and promulgated by the Federal Power Commission for natural gas companies as set out in part 225 of Subchapter F, FPC Rules and Regulations, as hereinafter set out in Appendix B, attached hereto and made a part hereof, be and the same are hereby adopted.

APPENDIX B Preservation of Records for combination gas and electric private utilities issued effective January 1, 1972 in Part 225 of Subchapter F for natural gas companies by the Federal Power Commission, Washington, D.C. 20426. *(Indiana Utility Regulatory Commission; No. 33742: Gas and Electric Private Utilities; filed Sep 25, 1974, 9:40 am: Rules and Regs. 1975, p. 549; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

### **170 IAC 10-2-3 Specified gas, electric and water utilities; preservation of records**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-15

Affected: IC 8-1-2-12

Sec. 3. IT IS FURTHER ORDERED that the rules and regulations governing the preservation of records of all Class A-B municipal electric utilities; all Class C-D private and municipal electric utilities; all Class A-B-C and D municipal and private gas utilities except the two combination gas and electric private utilities; and all Class A-B-C and D water utilities operating within the State of Indiana as approved, prescribed and promulgated by the National Association of Regulatory Utility Commissioners as amended, as hereinafter set out in Appendix C, attached hereto and made a part hereof, be and the same are hereby adopted.

#### **APPENDIX C**

Preservation of Records for Class A-B municipal electric utilities, Class C-D private and municipal electric utilities, Class A-B-C & D municipal and private gas utilities and Class A-B-C-D water utilities issued April 1974 by National Association of Regulatory Utility Commissioners, P.O. Box 684, Washington, D.C. 20044. *(Indiana Utility Regulatory Commission; No. 33742: Class A-B Municipal Electric Utilities; filed Sep 25, 1974, 9:40 am: Rules and Regs. 1975, p. 549; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

## **ARTICLE 11. COMBINATION GAS AND ELECTRIC PRIVATE UTILITIES**

### **Rule 1. General Provisions**

#### **170 IAC 11-1-1 Combination gas and electric private utilities; adoption of rules and regulations**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 1. IT IS THEREFORE ORDERED BY THE PUBLIC SERVICE COMMISSION OF INDIANA that the rules and regulations governing the classification of accounts for combination gas and electric private utilities operating within the State of Indiana as approved prescribed and promulgated by the Federal Power Commission on May 29, 1974 and its successor, the Federal Energy Regulatory Commission, should be adopted and promulgated.

Copies of the rules and regulations governing the classification of accounts for combination gas and electric private utilities operating within the State of Indiana as approved, prescribed and promulgated by the Federal Power Commission and its successor, the Federal Energy Regulatory Commission, are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (*Indiana Utility Regulatory Commission; No. 35490: Combination Gas and Electric Private Utilities; filed Jan 30, 1979, 10:50 am: 2 IR 298; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

## **ARTICLE 12. RESIDENTIAL CONSERVATION SERVICE PROGRAM**

### **Rule 1. Accounting; Record Keeping**

#### **170 IAC 12-1-1 Definitions**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 1. Definitions. (a) The term State Plan means a plan for a Residential Conservation Service Program pursuant to Subparts B and C of 10 CFR 456.

(b) The term Lead Agency means the Energy Group of the State's Department of Commerce which will administer a State Plan.

(c) The term Program Audit means those procedures for assessing the efficacy of energy conservation measures and energy conserving practices at a utility customer's residence and the related communication of audit results as described at 10 CFR 456.307.

(d) The term Conservation Measures means those measures for residential buildings which are described at 10 CFR 456.105(f) and which are incorporated in the State Plan.

(e) The term Conserving Practices means those practices for residential buildings which are described at 10 CFR 456.105(g) and which are incorporated in the State Plan.

(f) The term Arranging means those services provided by a utility which directly assist the customer to obtain financing or installation from those on the Master Record who provide financing or installation of conservation measures enumerated in the State Plan.

(g) The term Master Record means a compilation of names of all suppliers, contractors and lenders as provided for in the State Plan who sell, install, or finance Conservation Measures and who wish to be included in the lists distributed according to the State Plan. (*Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 1; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 12-1-2 List circulation costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 2. Costs of circulating lists of suppliers, installers and lenders for Conservation Measures enumerated in the State Plan shall be borne as a current operating expense of the utility providing such lists. (*Indiana Utility Regulatory Commission; 36060:*

*Residential Conservation Service Program Rule 2; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 12-1-3 Service costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 3. Costs of services provided by the utility to the customer that directly assist the customer in arranging for finance or installation of Conservation Measures shall be borne as a current operating expense of the utility providing such arranging services. *(Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 3; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 12-1-4 Program audit costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 4. Costs of a Program Audit shall be charged to the individual customer requesting the audit at a standard amount of Fifteen Dollars (\$15.00) per dwelling unit or at such greater amount as prescribed by the National Energy Conservation Policy Act or amendments thereto and Rules and Regulations promulgated thereunder. *(Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 4; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 12-1-5 Administrative costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 5. Administrative costs associated with the functions of the utility as an intermediary for collection of loans made by lenders on the Master Record for the purchase and installation of a Conservation Measure which are incurred by the utility providing for repayment of the loan as part of the utility bill shall be recovered by the utility from the lender. *(Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 5; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 12-1-6 Labor and materials costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 6. All amounts expended by a utility for labor and materials in connection with the purchase or installation of any Conservation Measures shall be charged to the customer for whom such activity is performed. *(Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 6; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 12-1-7 Program execution costs**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 7. The actual cost of executing program measures, to the extent they are in excess of customer or lender assessment, shall be borne as a current operating expense of the utility. *(Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 7; filed May 6, 1981, 3:30 pm: 4 IR 908; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*



**170 IAC 12-1-8 “Program audit”; federal implementation**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 8. The Rules prescribed herein are subject to the National Energy Conservation Policy Act 42 USC § 8211 et seq., as amended from time to time, and any final Rules and Regulations implementing such Act. Based upon the record developed in Cause No. 36060 [*this article*] and such other information available to the Commission, it shall be presumed that the actual cost of “Program Audit” to an eligible customer will exceed Fifteen Dollars (\$15.00). (*Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 8; filed May 6, 1981, 3:30 pm: 4 IR 909; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 12-1-9 Record keeping costs of residential conservation service program**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-10; IC 8-1-2-12

Sec. 9. Utilities participating in the State Plan shall keep a record of services performed, fees and revenues received, and costs borne in connection with the Residential Conservation Service Program as described at 10 CFR 456 and embodied in the State Plan and shall make such information available to the Lead Agency. (*Indiana Utility Regulatory Commission; 36060: Residential Conservation Service Program Rule 9; filed May 6, 1981, 3:30 pm: 4 IR 909; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**ARTICLE 13. (RESERVED)**
**ARTICLE 14. SMALL UTILITIES**
**Rule 1. Rate Changes**
**170 IAC 14-1-1 Definitions**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4; IC 8-1-2-61.5

Affected: IC 8-1-2-61

Sec. 1. (a) As used in this rule, “commission” means the Indiana utility regulatory commission.

(b) As used in this rule, “small utility” means a utility subject to the jurisdiction of the commission, with fewer than five thousand (5,000) customers as of the date any application for rate change is filed. The small utility must be one (1) of the following types:

- (1) A not-for-profit water utility.
- (2) A private rural water and sewer utility.
- (3) A private rural water utility.
- (4) An investor-owned water utility.
- (5) An investor-owned gas utility.
- (6) A municipal utility.
- (7) An investor-owned local exchange carrier telephone company.
- (8) A distribution cooperative.

(c) As used in this rule, “application for rate change” means an application, filed with the commission by a utility in accordance with section 2 of this rule, which functions as a petition or in support of a petition for rate change.

(d) As used in this rule, “incomplete application” means an application filed under section 2 of this rule in which either one (1) or more of the elements specified is missing or incomplete. Any blanks not filled in or any interrogatories not answered in the form prescribed under section 2(a)(3) of this rule constitutes an incomplete element and therefore an incomplete application.

(e) As used in this rule, “small utility rate change application form” means that current set of forms, schedules, blanks, and instructions generated by the commission and made available to those who would petition for a rate change under section 2 of this rule. The staff shall develop the set of forms, schedules, blanks, and instructions which comprise the small utility rate change

application form. Such form will be revised from time to time as circumstances dictate. Furthermore, staff may periodically establish and publish generic rates of return for each of the utility types specified under subsection (b) to be used by utilities when submitting a small utility application form.

(f) As used in this rule, “request for formal public hearing” means a written statement that a hearing is wanted. The request shall be filed with the secretary of the commission and be signed by those making the request.

(g) As used in this rule, “customer” means any person, firm, corporation, municipality, or other government agency which receives service from a small utility; provided, that for the purposes of this rule, any customer as defined in this subsection who has more than one (1) connection and is rendered an individual bill for each such connection shall be counted as one (1) customer for each connection. (*Indiana Utility Regulatory Commission; 170 IAC 14-1-1; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2918; errata, 10 IR 254; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1945; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

#### **170 IAC 14-1-2 Application for rate change**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

Affected: IC 8-1-2-61.5

Sec. 2. (a) Any small utility availing itself of this procedure must file an original and eight (8) copies of an application for rate change with the secretary of the commission and contemporaneously serve a copy of such application on the office of the utility consumer counselor. The application must include the following:

(1) A copy of the proposed notice required in subsection (b)(1) exclusive of the date specified in subsection (b)(1)(A). Proof of publication of the actual notice required in subsection (b)(1) must be filed within fifteen (15) days after the filing of the application for rate change.

(2) A copy of the proposed written notice required in subsection (b)(2) exclusive of the date specified in subsection (b)(2)(A). An actual copy of the notice required in subsection (b)(2) must be filed within fifteen (15) days after the filing of the application for rate change.

(3) A complete small utility rate change application form in its current version, which form is available from the Rates Division, Indiana Utility Regulatory Commission, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.

(4) A copy of the resolution or ordinance of the utility’s governing body that authorizes the application for rate change.

(5) A verified statement by a responsible officer or manager of the small utility as to whether or not the small utility has an outstanding indebtedness to the federal government, if the small utility is a not-for-profit water utility, conservancy district water utility, or municipal utility.

(6) Written consent from any agency of the federal government that is a creditor of the small utility that the utility may obtain an order affecting its rates without a formal public hearing, if the small utility is a not-for-profit water utility, conservancy district water utility, or municipal utility.

(b) Notice requirements for this procedure comprise the following:

(1) Publication of a notice of filing of the application for rate change, no later than ten (10) days after the filing of the application for rate change in a newspaper of general circulation in any and all counties in which the utility renders service, which notice will advise the public of the following:

(A) The date the application for rate change was filed with the utility regulatory commission.

(B) The statement that the utility has filed its application for rate change under IC 8-1-2-61.5 without the necessary costs of a utility regulatory commission hearing; however, a public hearing by the utility regulatory commission may be held if any public or municipal corporation, ten (10) individuals, firms, corporations, or associations, or ten (10) complainants of all or any of these classes affected by the proposed rate change or the utility consumer counselor requests a formal public hearing by filing a written signed request with the Secretary, Utility Regulatory Commission, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.

(C) The overall approximate percentage increase in revenues requested by the utility. Furthermore, if the proposed increase is other than an across-the-board increase, then the approximate percentage increase to each class of customers must be described along with any other information that fairly summarizes the nature and extent of the proposed changes.

(D) The written request in clause (B) must be received by the utility regulatory commission within forty (40) days of the date the application for rate change was filed with the utility regulatory commission.

- (E) The statement that there likely will be no hearing in the absence of a written request.
- (2) Provision of written notice of the application for rate change to each customer no later than ten (10) days after the filing of the application for rate change, which notice will advise the customers of the following:
- (A) The date the application for rate change was filed with the utility regulatory commission.
  - (B) The statement that the utility has filed its application for rate change under IC 8-1-2-61.5 without the necessary costs of a utility regulatory commission hearing; however, a public hearing by the utility regulatory commission may be held if any public or municipal corporation, ten (10) individuals, firms, corporations, or associations, or ten (10) complainants of all or any of these classes affected by the proposed rate change or the utility consumer counselor requests a formal public hearing by filing a written signed request with the Secretary, Utility Regulatory Commission, 302 West Washington Street, Room E306, Indianapolis, Indiana 46204.
  - (C) The overall approximate percentage increase in revenues requested by the utility. Furthermore, if the proposed increase is other than an across-the-board increase, then the approximate percentage increase to each class of customers must be described along with any other information that fairly summarizes the nature and extent of the proposed change.
  - (D) The written request in clause (B) must be received by the utility regulatory commission within forty (40) days of the date the application for rate change was filed with the utility regulatory commission.
  - (E) The statement that there likely will be no hearing in the absence of a written request.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-2; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2918; errata, 10 IR 254; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1946; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1091; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 14-1-3 Incomplete applications**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4; IC 8-1-2-61.5  
Affected: IC 8-1-2-61

Sec. 3. (a) In the event the initial application for rate change is an incomplete application, the staff of the commission shall file, within fifteen (15) days of the date of the filing of the initial application, a report with the secretary of the commission. Said report shall specify which elements of the application are missing or incomplete.

(b) The ninety (90) calendar days specified under section 4(a) of this rule and the forty (40) calendar days specified under section 6(b) of this rule shall not be counted from the date an incomplete application was originally filed, but shall be counted from the date the small utility corrects the deficiencies specified in the staff report filed under subsection (a).

(c) The commission may dismiss without prejudice any incomplete application which remains on file more than ninety (90) days. *(Indiana Utility Regulatory Commission; 170 IAC 14-1-3; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2919; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; errata filed Sep 9, 1991, 10:45 a.m.: 15 IR 10; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

#### **170 IAC 14-1-4 Review and report on application for rate change; request to file written response**

Authority: IC 8-1-1-3; IC 8-1-1-12; IC 8-1-2-4; IC 8-1-2-61.5  
Affected: IC 8-1-2-61

Sec. 4. (a) The utility consumer counselor staff will review the application for rate change and shall within ninety (90) calendar days after the filing of a complete application or substantive amendment to such application file a report with the secretary of the commission on the application making such recommendations as the utility consumer counselor deems appropriate. By order of the commission, such time for filing of the report may be extended if so requested by the office of the utility consumer counselor.

(b) The small utility may request leave to file a written response to the utility consumer counselor staff report required in subsection (a). Such request shall be in writing and filed with the secretary of the commission no later than fifteen (15) days following the date that the utility consumer counselor's staff report was filed. *(Indiana Utility Regulatory Commission; 170 IAC 14-1-4; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233)*

**170 IAC 14-1-5 Hearing on application**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

Affected: IC 8-1-2-61

Sec. 5. (a) A request for formal public hearing on an application for rate change filed under this rule shall be filed with the secretary of the commission within forty (40) calendar days of the initial filing of the application for rate change, unless the commission extends the period for filing.

(b) The commission may, upon a request timely filed by any public or municipal corporation, ten (10) individuals, firms, corporations, or associations, or ten (10) complainants of all, or any, of these classes affected by the proposed rate change or by the utility consumer counselor, conduct a formal public hearing with respect to any application for rate change.

(c) The commission may require a formal public hearing on its own motion.

(d) In the event a formal public hearing is held, under this section, the small utility may elect to designate its application to serve as its prefiled evidence, constituting its case-in-chief; however, the small utility is not precluded from filing additional evidence. (*Indiana Utility Regulatory Commission; 170 IAC 14-1-5; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1092; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

**170 IAC 14-1-6 Decision on application**

Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

Affected: IC 8-1-2-61

Sec. 6. (a) If no formal hearing is held, the commission may issue an order on the application for rate change based on the data in the application for rate change, the report filed by the utility consumer counselor's staff concerning the application for rate change, and any written response of the small utility to the utility consumer counselor's staff report.

(b) The commission shall not enter an order under this procedure until forty (40) calendar days have elapsed from the date of the initial filing of the application for rate change. (*Indiana Utility Regulatory Commission; 170 IAC 14-1-6; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1948; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1092; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233*)

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