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TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #03-267(E)

DIGEST

Temporarily amends 170 IAC 7-1.2-10 concerning telephone utilities extension of facilities by removing the requirements for new real estate developments. Authority: IC 4-22-2-37.1. The original emergency document, LSA Document #03-192, printed at 26 IR 3659, effective August 8, 2003, expires October 7, 2003. Effective October 8, 2003.

SECTION 1. (170 IAC 7-1.2-10) (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 an *[sic., 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. ~~The LEC shall also have the right to require a deposit from the developer to cover the full cost of constructing the requested facilities in accordance with applicable rules, regulations, and tariffs approved by the commission. The LEC shall refund the deposit to the developer on a pro rata basis as customers connect to the newly extended facilities. Such refunds shall be paid to the developer on a quarterly basis or at longer intervals if the developer and the LEC so agree. If refunds are returned quarterly, no interest shall be paid. If refunds are returned annually, the refundable portion of the deposit shall bear interest at the rate of six percent (6%) per annum from the date the first customer is connected to the newly extended facilities.~~

(2) ~~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.~~

(3) 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.

(4) 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.

(5) Except as provided in filed tariffs, the ownership of all facilities constructed, as herein provided, shall be vested in the LEC.

(6) 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, as long as no discrimination is practiced between customers under the same or substantially the same circumstances and conditions.

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