

ORIGINAL

Commissioner	Yes	No	Not Participating
Zay	√		
Deig	√		
Swinger	√		
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Proposed Rulemaking

IURC RM #26-03
LSA #26-xxx

The Indiana Utility Regulatory Commission (the “Commission”), pursuant to IC 8-1-1-3(g), IC 8-1-2-61.5, IC 8-1-2-34.5, and IC 8-1-26-26, hereby proposes to amend the Indiana Utility Regulatory Commission’s (IURC’s) procedural rules for practice before the IURC (170 IAC 1-1.1), rules relating to ex parte communications (170 IAC 1-1.5), rules relating to advertising expenses by utilities (170 IAC 1-3), rules governing 30-day filings (170 IAC 1-6), and the rules governing certain municipal rates (170 IAC 1-7). The Commission shall hear public comments on the attached proposed rule at a date and time to be determined, in Suite 222, of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana.

The Secretary of the Commission is hereby directed to maintain copies of the proposed rule in the Commission offices and on the Commission website for public inspection. Commission staff are authorized to commence the required comment period(s).

IT IS SO ORDERED.

ZAY, DEIG, SWINGER, VELETA, AND ZIEGNER CONCUR:

APPROVED: MAY 27 2026

**I hereby certify that the above is a true
and correct copy of the Rule as approved.**

Virginia Lucas

Digitally signed by Virginia

Lucas

Date: 2026.05.27 10:40:55 -04'00' on behalf of

Dana Kosco

Secretary of the Commission

Title 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #26-_____

DIGEST

Amends 170 IAC 1-1.1 regarding the IURC's procedural rule; 170 IAC 1-1.5 regarding *ex parte* contacts; 170 IAC 3 regarding advertising expenditures by utility; 170 IAC 6 regarding 30-day filings; and 170 IAC 7 regarding municipal utility rates and charges. Repeals IAC 1-3-6 regarding declarations of compliance for advertising programs; and 170 IAC 1-3-7 regarding the savings clause.

Effective 30 days after publication.

Amends:

170 IAC 1-1.1-1; 170 IAC 1-1.1-2; 170 IAC 1-1.1-3; 170 IAC 1-1.1-3.5; 170 IAC 1-1.1-4; 170 IAC 1-1.1-5; 170 IAC 1-1.1-5.5; 170 IAC 1-1.1-6; 170 IAC 1-1.1-7; 170 IAC 1-1.1-8; 170 IAC 1-1.1-9; 170 IAC 1-1.1-10; 170 IAC 1-1.1-11; 170 IAC 1-1.1-12; 170 IAC 1-1.1-13; 170 IAC 1-1.1-14; 170 IAC 1-1.1-14.5; 170 IAC 1-1.1-15; 170 IAC 1-1.1-16; 170 IAC 1-1.1-16.5; 170 IAC 1-1.1-17; 170 IAC 1-1.1-18; 170 IAC 1-1.1-19; 170 IAC 1-1.1-19.5; 170 IAC 1-1.1-20; 170 IAC 1-1.1-21; 170 IAC 1-1.1-21.5; 170 IAC 1-1.1-22; 170 IAC 1-1.1-23; 170 IAC 1-1.1-24; 170 IAC 1-1.1-25; 170 IAC 1-1.1-25.5; 170 IAC 1-1.1-26.

170 IAC 1-1.5-1; 170 IAC 1-1.5-2; 170 IAC 1-1.5-3; 170 IAC 1-1.5-4; 170 IAC 1-1.5-6

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

170 IAC 1-6-1; 170 IAC 1-6-2; 170 IAC 1-6-3; 170 IAC 1-6-4; 170 IAC 1-6-5; 170 IAC 1-6-6; 170 IAC 1-6-7; 170 IAC 1-6-8; 170 IAC 1-6-9

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

Repeals:

170 IAC 1-3-6; 170 IAC 1-3-7

Rule 1.1. Practice and Procedure Before the Commission

SECTION 1. 170 IAC 1-1.1-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-1 Application and scope

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

Affected: IC 4-22; IC 8-1-1-5; IC 8-1-1.1-5.1

Sec. 1. This rule shall govern the practice and procedure in cases and other matters before the commission ~~arising under the acts of the general assembly conferring powers upon the commission~~ **and under its statutory authority**, except for rulemakings, which shall be governed by IC 4-22. Technical and readability specifications related to electronic filing shall be noted on the commission's electronic filing system or in a general administrative order.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-1; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; filed Feb 4, 2002, 1:00 p.m.: 25 IR 1875; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 2. 170 IAC 1-1.1-2 IS AMENDED TO READ AS FOLLOWS:

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; IC 8-1.5-1-10

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

- (1) "Commission" means the Indiana utility regulatory commission.
- (2) Except as noted in section 5.5 of this rule, "complainant" means:
 - (A) a person or entity that initiates a formal complaint against a utility under IC 8-1-2-54; or
 - (B) a person or entity who formally requests the commission to initiate an investigation under Indiana law.
- (3) "Electronic filing system" means the system used by the commission that contains docketed and certain non-docketed matters and permits parties to file documents electronically.
- (4) "Informal complaint" means a complaint filed by a customer to **the commission's** consumer affairs **division** in accordance with 170 IAC 16-1.
- (5) "Intervenor" means a person or entity, other than:

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

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

(6) “Party” means a participant in a proceeding before the commission, including:

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

(7) “Petition” includes a written request for relief made by a party or parties with standing to seek relief before the commission.

(8) “Petitioner” means a public or municipally-owned utility or other party that has the requisite standing to seek relief from the commission.

(9) “Pleading” means:

- (A) a petition;
- (B) a complaint;
- (C) an answer;
- (D) a motion;
- (E) a response;
- (F) a reply; or
- (G) other similar document;

filed to initiate, or made in the course of, a proceeding before the commission.

(10) “Presiding officer” means a commissioner or administrative law judge assigned to preside in a particular cause before the commission.

(11) “Prevailing local time” means the time where the commission is located.

(12) “Public field hearing” means a hearing conducted in a county in which the utility provides service for the purpose of allowing the utility’s customers and others with a substantial interest in the matter who are not parties to offer comments, including those authorized under IC 8-1-2-61(b) related to general rate proceedings. It is not a formal public hearing contemplated by IC 8-1-2-61.5 related to small utilities.

(13) “Respondent” means a person or entity:

(A) required to:

(i) be named as a respondent by statute, rule, or order of the commission;
or

(ii) respond to an order of the commission; or

(B) against whom an investigation is initiated on motion of a complainant or on the commission’s own motion.

(14) “Service list” refers to the list of attorneys of record and parties appearing *pro se* maintained by the secretary of the commission or in the electronic filing system.

(15) “Signature equivalent” means a signature that meets the standards set out in Indiana Trial Rule 86(I).

(16) “Utility” means a public utility as defined in IC 8-1-2-1 or municipally-owned utility as defined in IC 8-1.5-1-10.

(17) “Utility consumer counselor” means the office established pursuant to IC 8-1-1.1-2.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-2; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 3. 170 IAC 1-1.1-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-3 Filings and communications with the commission, 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) Except as provided in subsections (b), (c), (d), and (e), the filing of a communication, paper, or pleading with the commission shall be made through the electronic filing system. The filing shall comply with this rule and the companion technical and readability specifications as noted in section 1 of this rule. The filing will be file-stamped by the commission to reflect the date the filing was received by the commission. A filing made through the electronic filing

system is considered filed on the date reflected in the notice of receipt associated with the filing. Electronic filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with prevailing local time in Indianapolis, Indiana.

(b) Filings related to:

- (1) informal complaints;
- (2) reviews by the director of consumer affairs or the director's designee under 170 IAC 16-1-5(d); and
- (3) reviews by the commission under 170 IAC 16-1-6;

may be made through the electronic filing system. Alternately, those filings may be made by email or mail. The initial informal complaint may also be made by telephone or in person.

(c) When filing through the electronic filing system is prevented by technical problems, the filer shall do the following:

- (1) bring the circumstances to the attention of the presiding officers and:
 - (A) file in person or by mail if the filer can still file in a timely manner; or
 - (B) request relief within one (1) business day to extend the time within which to file.
- (2) File the communication, paper, or pleading through the United States mail or in person as follows:
 - (A) Filings made by mail are considered filed on the date received by the commission. Filings shall be addressed to the secretary of the commission.
 - (B) 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.
 - (C) For confidentially filed documents, filings shall follow the requirements of ~~subsection 4(i)~~ **section 4(i) of this rule.** ~~[section 4(i) of this rule].~~
- (3) Include a declaration that the party was unable to file electronically in a timely manner due to technical problems.

(d) A presiding officer at a hearing may permit appropriate pleadings or other papers to be filed with the presiding officer at the hearing.

(e) A presiding officer or the commission may require that hard copies be provided as follows:

- (1) Hard copy filing is permitted when electronic filing is not possible due to:

- (A) technical problems;
- (B) files that are too large to upload to the electronic filing system; or
- (C) an exhibit that exists only in physical form and cannot be changed to an electronic format.

(2) Filings other than:

- (A) territorial maps;
- (B) engineering drawings;
- (C) accounting schedules;
- (D) certain oversize filings approved by the presiding officers; or
- (E) other visual aids;

shall be formatted for eight and one-half (8 1/2) inch by eleven (11) inch paper unless otherwise authorized by the presiding officer.

(3) Filings made by hard copy shall be unbound and printed on only one (1) side of the page. Additional copies shall be stapled or permanently bound and printed on both sides of the page.

(f) Time periods within which to make filings with the commission are given in calendar days unless otherwise stated. In computing a period of time prescribed or allowed by this rule, by order of the commission or the presiding officer, or by an 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, and as follows:

(1) The last day of the period so computed is to be included unless it is a:

- (A) Saturday;
- (B) Sunday;
- (C) legal holiday as defined by state statute; or
- (D) day that the office in which the act is to be done is closed during regular business hours.

(2) The period runs until the end of the next day that is not one (1) of the following:

- (A) a Saturday;
- (B) a Sunday;
- (C) a legal holiday as defined by state statute; or

(D) a day on which the commission is closed during regular business hours.

(3) Saturdays, Sundays, legal holidays as defined by state statute, and days on which the commission's office is closed during regular business hours shall be excluded from the computations when the period of time allowed is less than seven (7) days.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-3; filed Oct 30, 2000, 2:10 p.m.: 24 IR 654; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 4. 170 IAC 1-1.1-3.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-3.5 Remittances to the commission

Authority: IC 8-1-1-3; IC 8-1-2-61.5; IC 8-1-2-70

Affected: IC 8-1

Sec. 3.5. (a) The following may be remitted to the commission:

(1) Civil penalties imposed under IC 8-1-26-23 or IC 8-1-22.5-7.

(2) Municipal expenses under IC 8-1-2-70 as follows:

(A) In requiring reimbursement of expenses from municipal utilities under IC 8-1-2-70, the commission shall calculate the expenses based on the actual hourly rate and hours spent on the case by commission personnel. Commission expenses are reimbursed at the actual amount of the expense. The office of utility consumer counselor may calculate and submit its fees to the commission in a docketed proceeding for inclusion in its order.

(B) The commission shall set a flat fee for small municipal utilities, as described in IC 8-1-2-61.5, by general administrative order.

(b) Except as noted in subsection (c), payment may be made:

(1) by money order;

(2) by check; or

(3) as ~~indicated~~**directed** by the secretary of the commission;

payable to the Indiana utility regulatory commission.

(c) Remittances in payment of the statutory fees for issuing:

(1) bonds;

(2) notes; or

(3) other securities;

by municipalities under IC 8-1-2-85 shall be made by check payable to the treasurer of the state of Indiana and delivered to the secretary of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-3.5; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA; filed Jan 8, 2025, 10:58 a.m.: 20250205-IR-170240376FRA)

SECTION 5. 170 IAC 1-1.1-4 IS AMENDED TO READ AS FOLLOWS:

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 a 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 do the following:

(1) Apply for a finding by the commission, on or as soon as practicable before the date (if any) the information is required to be filed, that the information is confidential as follows:

(A) In docketed proceedings, an application shall be done through a motion in accordance with section 12 of this rule.

(B) In an instance where confidential treatment is sought by the party and the material is not part of a docketed proceeding, an application shall be done through a petition in accordance with section 9 of this rule.

(C) This subsection applies if a filing party wishes to submit confidential information provided and considered confidential by another party (providing party), and the providing party wishes to submit its own supporting motion for confidential treatment. In this circumstance, the providing party must submit its supporting motion for confidential treatment within five (5) business days after the filing party's submission, or submission of the redacted filing, whichever occurs first. The providing party's motion should indicate whether the other parties to the proceeding object to preliminary confidential treatment of the information.

(2) If the motion is part of a proceeding, the motion should, to the extent the filer can reasonably determine, indicate whether parties to the proceeding object to preliminary confidential treatment of the information.

(b) For motions filed under subsection (a)(1)(A), the written application for a confidentiality finding must be served on the parties of record. After five (5) days, or earlier if the parties have indicated they shall not object, or as ordered by the presiding officers, following an application by a party under this subsection, the commission may take 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.

(c) For petitions filed under subsection (a)(1)(B), the following applies:

- (1) If no objections are filed within thirty (30) days and the presiding officer does not otherwise determine a need for an evidentiary hearing, the commission shall proceed to issue an order.
- (2) If objections are filed within thirty (30) days or the presiding officer determines a need for an evidentiary hearing, the presiding officer shall convene a prehearing conference and establish a procedural schedule.
- (3) After review of objections and matters raised in an evidentiary hearing, as applicable, the commission may take one (1) or more of the following actions:
 - (A) Find information to be confidential, in whole or in part.
 - (B) Find information not to be confidential, in whole or in part.
 - (C) Issue a protective order covering the information.
 - (D) Find that information found not to be confidential should be filed in accordance with this rule.

(d) The application required by subsection (a) shall be accompanied by the sworn statement or testimony of a party setting forth sufficient facts that describe the following:

- (1) The nature of the confidential information.
- (2) The reasons why the information should be treated as confidential information under IC 8-1-2-29 and IC 5-14-3.
- (3) The efforts the party has made to maintain the confidentiality of the information.

(e) At the request of the presiding officer or a party, an in camera inspection shall be conducted for the purpose of hearing argument on confidentiality of information submitted under this

section. 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.

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

- (1) an appeal to the full commission has been decided; or
- (2) the motion to amend or withdraw the information has been finally ruled upon;

whichever occurs later.

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

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

- (1) research;
- (2) development; or
- (3) commercial;

information shall make a separate motion under Indiana Rules of Trial Procedure 26(C).

(i) After receiving a preliminary determination that material is entitled to confidential treatment, the following applies:

- (1) Confidential documents submitted shall comply with the following:
 - (A) Include only the pages of the document that contain confidential information.
 - (B) Be filed on green paper when submitted in hard copy.
 - (C) Be conspicuously marked:
 - (i) “CONFIDENTIAL PER ACCESS TO COURT RECORDS RULE 5”;or
 - (ii) “EXCLUDED FROM PUBLIC ACCESS PER ACCESS TO COURT RECORDS RULE 5”;

with the cause number clearly designated.

- (D) Add any other markings and designations required by the court rules.

(E) Comply with the specific directives set forth in the determination.

At the discretion of the presiding officers, large or oversized filings may be filed on compact discs or in another manner.

(2) If confidential documents are filed, a public access version must also be filed, as follows:

(A) Public access versions of the documents filed shall be filed on white paper **when submitted in hard copy.**

(B) Confidential records or parts of records that are to be excluded from public access shall be omitted or redacted from the public access version. The omission or redaction shall be indicated at the place it occurs in the public access version.

(C) At the request of a party, the presiding officer may initially elect not to require submission of a public access version of a confidential document if such document is large or oversized and filed on compact discs or in another manner.

(D) Regarding a public access version of a confidential document that was initially not required under clause (C):

(i) The presiding officer may later elect to require submission of a public access version.

(ii) The presiding officer shall require submission if one (1) of the following occurs:

(AA) a party not permitted to access the confidential information requests a public access version; or

(BB) a request is made under state or federal public access laws and disclosure by the commission is required by law.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-4; filed Oct 30, 2000, 2:10 p.m.: 24 IR 655; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 6. 170 IAC 1-1.1-5 IS AMENDED TO READ AS FOLLOWS:

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) An individual or entity may informally complain to consumer affairs, as defined by 170 IAC 16-1-2, with respect to a 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 consumer affairs may be appealed by a party thereto ~~under IC 8-1-2-34.5 upon written request for appeal filed with the commission within twenty (20) days after the determination by the director of consumer affairs or the director's designee, as provided in 170 IAC 16-1-6.(a), is rendered in writing.~~ Prior to issuing an order on the appeal, the commission shall afford the parties notice and an opportunity to be heard.

(d) Commission review of a decision by the director is ~~generally limited to a review of the consumer affairs record as compiled during the review conducted under~~ by 170 IAC 16-1-6(c). ~~and to the issues contained therein.~~

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-5; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 7. 170 IAC 1-1.1-5.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-5.5 Excavation damage cases

Authority: IC 8-1-1-3; IC 8-1-2-47; IC 8-1-26-26

Affected: IC 8-1-1-5; IC 8-1-1.1-5.1; IC 8-1-26-10; IC 8-1-26-11; IC 8-1-26-23

Sec. 5.5. (a) The following definitions in this subsection apply throughout this section:

(1) "Advisory committee" means the underground plant protection advisory committee established by IC 8-1-26-23.

(2) "Complainant" means the advisory committee or the division.

(3) "Division" means:

(A) Staff in the pipeline safety division of the commission or the pipeline safety division's publicly-noticed consultant who are investigating the particular case that is the subject of the hearing under IC 8-1-26-23(g) and IC 8-1-26-23(k).

(B) Staff assigned as testimonial by:

(i) the director of the pipeline safety division; or

(ii) the presiding officers assigned by the commission in the case.

(4) “Excavator” means the party that caused damage to a pipeline facility that is the subject of the hearing.

(5) “Operator” means the operator as defined by IC 8-1-26-10 that owns or operates the pipeline facility that was damaged by the excavator.

(6) “Person” has the same meaning as defined in IC 8-1-26-11.

(7) “Public hearing” means the public hearing as referenced in IC 8-1-26-23(k).

(8) “Respondent” means the person requesting the hearing.

(b) If a person who receives notice under 170 IAC 5-5-3(f) requests a hearing as follows, the request must:

(1) Be provided in writing to:

(A) the commission’s general counsel on behalf of the division; and

(B) the advisory committee;

at least ten (10) ~~business~~ **calendar** days before it is filed with the commission.

(2) Be filed with the commission within **thirty (30) days from the date when notice of the right to request a hearing was mailed to the respondent under 170 IAC 5-5-3(f)** ~~of the time permitted by 170 IAC 5-5-3(f)~~.

(3) Be served on the office of utility consumer counselor, the commission’s general counsel on behalf of the division, and the advisory committee.

(4) Comply with:

(A) this rule;

(B) an applicable general administrative order the commission issues and posts on its website regarding excavation damage cases or filing requirements; and

(C) other applicable laws.

(5) Include the following:

(A) A case caption that follows this format: IN THE MATTER OF THE PIPELINE SAFETY DIVISION’S INVESTIGATION OF (respondent’s name) IN PIPELINE SAFETY DIVISION CASE NUMBER _____.

(B) A copy of the letter the respondent received regarding the disposition of the case.

(C) Respondent’s contact information, including:

- (i) mailing address;
- (ii) telephone number; **and**
- ~~(iii) fax number, if available; and~~
- ~~(iv)~~**(iii)** email address, if available.

(D) Confirmation the respondent provided the request to the commission's general counsel on behalf of the division and the advisory committee at least ten (10) ~~business~~ days before the respondent filed the request with the commission.

(E) Whether respondent is contesting:

- (i) the division's findings;
- (ii) the advisory committee's recommendation; or
- (iii) both.

(F) The reasons why the respondent believes the findings or recommendations are in error.

(G) The requested relief.

(H) Additional information the respondent believes is pertinent.

(c) The division's case-in-chief shall include, at a minimum, the following documents:

- (1) Documents submitted by the excavator and operator in the underlying case.
- (2) The division's investigation summary report.

(d) The advisory committee's case-in-chief shall include, at a minimum, the following documents:

- (1) The recommendation form.
- (2) The penalty schedule, if any, used at the time the advisory committee recommended the penalty.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-5.5; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 8. 170 IAC 1-1.1-6 IS AMENDED TO READ AS FOLLOWS:

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 a proceeding in which the office of utility consumer counselor ~~shall appear~~**appears** on behalf of the public. However, individuals or groups may be granted intervention and be represented by independent counsel.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-6; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 9. 170 IAC 1-1.1-7 IS AMENDED TO READ AS FOLLOWS:

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) An appearance shall be filed as a separate document.

(b) A person filing an appearance *pro se* to represent his or her own interest is required to:

- (1) sign, or provide a signature equivalent in the electronic filing system, and verify pleadings and documents in accordance with section 8(d) of this rule; and
- (2) comply with rules applicable to commission proceedings.

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

(1) in an application filed under IC 8-1-32.5, the representative is authorized to bind the entity and personally verifies such authorization under penalties of perjury, or

(2) in an application filed under IC § 8-1-2-61.5 in which no formal public hearing is scheduled, an authorized representative may verify such application under penalties of perjury.

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

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

(A) An appearance in the cause.

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

(2) At hearings, appear with co-counsel admitted to practice in Indiana, unless authorized by the presiding officers to appear at the hearing without the presence of co-counsel.

Local counsel shall:

(A) sign, or provide a signature equivalent in the electronic filing system, briefs, papers, and pleadings in the cause; and

(B) be jointly responsible therefor.

(e) A withdrawal of appearance by an attorney on behalf of a party must:

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

(2) be in writing; and

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

(f) Except for good cause shown, a request for withdrawal of appearance by an attorney must be filed with the commission at least ten (10) days prior to the next scheduled hearing date.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-7; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; filed Jul 9, 2012, 2:57 p.m.: 20120808-IR-170110590FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 10. 170 IAC 1-1.1-8 IS AMENDED TO READ AS FOLLOWS:

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 35-44.1-2-1

Sec. 8. (a) An attorney eligible to practice before the commission shall sign, or provide a signature equivalent in the electronic filing system, 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 another party to the proceeding to demonstrate undue prejudice. If the amended or supplemented petition or complaint seeks relief substantially different than that originally prayed for:

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

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

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

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

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

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

(d) The signature, or signature equivalent in the electronic filing system, 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, or a signature equivalent is not provided in the electronic filing system, 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 is required to be verified, or where an oath is required to be taken, it is sufficient if the ~~subscriber~~ **signatory** ~~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 35-44.1-2-1.

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

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

(2) include the attorney’s:

(A) address;

(B) telephone number;

~~(C) fax number;~~

~~(D)~~(C) email address; and

~~(E)~~(D) attorney number.

This subsection does not apply to pleadings and motions made orally and transcribed as a result of a hearing.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-8; filed Oct 30, 2000, 2:10 p.m.: 24 IR 656; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 11. 170 IAC 1-1.1-9 IS AMENDED TO READ AS FOLLOWS:

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 the petitioners in the matters involved in the proceeding.

- (3) A plain and concise statement of the facts that necessitate or justify relief.
- (4) A reference to the statutes under which the commission has jurisdiction and the rules of the commission deemed applicable.
- (5) A statement designating the person in Indiana authorized to accept for the petitioner service of pleadings in the proceeding, including that person's:

- (A) address;
- (B) telephone number; **and**
- (C) ~~fax number; and~~
- ~~(D)~~ email address.

- (6) The name of the respondent., ~~as required.~~
- (7) Specific prayers for the relief requested, including a reasonable amount of detail about the nature of the request.
- (8) A proposed procedural schedule and a statement indicating whether the parties reasonably anticipated to participate in the proceeding are in agreement with the proposed procedural schedule for the prefiling of evidence and the evidentiary hearing, as follows:

- (A) This must be followed for cases involving rate adjustment mechanisms, also known as trackers.
- (B) For cases not involving rate adjustment mechanisms or trackers, an alternative to providing the proposed procedural schedule when filing the petition is to indicate that a proposed procedural schedule will be filed within thirty (30) days of the filing of the petition.
- (C) The commission's general administrative orders may provide guidance for determining an appropriate procedural schedule.

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

(c) In a proceeding in which the petitioner is required by law to publish notice of the filing of the petition, the petitioner shall, following publication of the notice, certify to the commission that the publication has occurred, listing the names of the newspapers and the county or counties in which the notice was published.

(d) In a proceeding in which the petitioner is required by law to publish notice through a newspaper, the petitioner shall certify to the commission that a substantially similar notice was also posted on the petitioner's website or provide a verified statement as contemplated by section 8(d) of this rule that the petitioner does not have a website or could not add the posting without substantial cost or hardship and explain why.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-9; filed Oct 30, 2000, 2:10 p.m.: 24 IR 657; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 12. 170 IAC 1-1.1-10 IS AMENDED TO READ AS FOLLOWS:

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; IC 8-1-2-54

Sec. 10. (a) ~~In addition to the matters required by sections 8 and 9 of this rule,~~ Complaints filed pursuant to IC 8-1-2-54 must ~~also~~ state the name of each respondent and individual or entity, if any, who, under an applicable statute or commission rule, is required to be named in the complaint because of the individual's or entity's interest or possible interest in the subject matter. The complaint must state the address of each respondent, individual, or entity, if known. If the address is unknown, the complaint must state that the parties joining in the complaint have been unable to ascertain the address upon reasonable inquiry.

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

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

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

(A) statute;

(B) the commission; or

(C) the presiding officer.

(2) 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.

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

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

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

(B) The provisions of the:

(i) statutes;

(ii) rules;

(iii) regulations; or

(iv) orders;

relied upon.

(C) The injury complained of.

(D) The relief sought.

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

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

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

(B) Specific prayers for the relief deemed appropriate.

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

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

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

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-10; filed Oct 30, 2000, 2:10 p.m.: 24 IR 657; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 13. 170 IAC 1-1.1-11 IS AMENDED TO READ AS FOLLOWS:

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 a 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 a 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, when granted intervention, 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 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 the 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 may be deemed to have waived an objection to the granting of the petition. A response shall be filed within seven (7) days after service of the petition to intervene unless the presiding officer prescribes a different time. The response shall be served on the other parties. A 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 the hearing or prehearing conference if there exists insufficient time prior to the hearing or conference to make a written response or reply according to the deadlines provided under this section.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-11; filed Oct 30, 2000, 2:10 p.m.: 24 IR 658; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 14. 170 IAC 1-1.1-12 IS AMENDED TO READ AS FOLLOWS:

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 and the relief sought. Parties may file motions:

- (1) to strike an insufficient claim or defense;
- (2) to:
 - (A) add additional parties;
 - (B) strike out improper parties; or
 - (C) substitute parties;
- (3) to dismiss a proceeding for:
 - (A) lack of jurisdiction;
 - (B) insufficiency of the petition; or
 - (C) other sufficient cause;
- (4) for:
 - (A) a continuance of a hearing; or
 - (B) an extension of time for:
 - (i) filing a pleading; or

- (ii) complying with an order; or
 - (5) for other appropriate relief.
 - (b) Motions based on a matter that does not appear of record shall be supported by affidavit.
 - (c) Motions may be accompanied by supporting memoranda.
 - (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 oral motions be:
 - (1) reduced to writing; and
 - (2) filed separately.
 - (e) Responses to motions made during hearings may be stated orally on the record, or the presiding officer may require that oral responses be:
 - (1) reduced to writing; and
 - (2) filed separately.
 - (f) A 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 or unless it is an objection to a request for confidential treatment under section 4(a)(1)(A) of this rule.
 - ~~(f)~~(g) 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. A 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)~~(h) A presiding officer is authorized to rule upon motions. No ruling by a presiding officer upon a motion shall be deemed a final ruling of the commission for purposes of IC 8-1-3-1 until the commission:
 - (1) issues a final order in the cause; or
 - (2) makes a determination upon an appeal of the presiding officer's ruling under section 25 of this rule.
 - ~~(h)~~(i) Motions not specifically provided for by this section shall be made in accordance with an **applicable** Indiana Rule of Trial Procedure ~~applicable~~, consistent with section 26(a) of this rule.
- (Indiana Utility Regulatory Commission; 170 IAC 1-1.1-12; filed Oct 30, 2000, 2:10 p.m.: 24 IR 659; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-*

170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 15. 170 IAC 1-1.1-13 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-13 Service

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 required by United States mail.

(b) Service by the commission is described in this subsection. Unless the commission or a presiding officer specifies another method, orders, notices, and other documents originating with the commission shall be served by email through the electronic filing system. 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 the following:

- (1) Each named respondent.
- (2) The office of utility consumer counselor.
- (3) An individual or entity who is required to be named in the petition under section 10(a) of this rule.

(d) Service by parties is described in this subsection. Pleadings, briefs, and other documents filed in proceedings pending before the commission shall be served on the parties in the proceeding including the office of utility consumer counselor on the same day the pleading, brief, or other document is filed with the commission, except as may be otherwise ordered by the commission:

(1) Service shall be made to parties:

- (A) through email;
- (B) by United States mail, properly addressed with postage prepaid; or
- (C) as agreed to by the parties.

(2) Service by email shall be deemed complete upon transmission, except service by email that occurs on a:

- (A) Saturday;
- (B) Sunday;
- (C) legal holiday; or

(D) day the commission is closed during regular business hours;

shall be deemed complete the next business day.

(3) A certificate of service must be included on pleadings and other documents filed with the commission. The certificate shall **affirm service on all parties** and indicate ~~that service~~ **the method of service.** ~~was accomplished by email or United States mail. If service is by United States mail, service shall be made 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.~~

(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, a 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 a 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;

(2) delivered in person;

(3) sent via email; or

(4) delivered as agreed by the parties.

(g) Whenever a party has the right or is required to do an act or take an 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 provides.

(h) An interested person or entity who is not admitted to a proceeding as a party may receive notices, docket entries, orders, and other documents relating to the proceeding issued by the commission by subscribing to the case in the electronic filing system. However, an interested nonparty shall not be added to the service list maintained by the secretary of the commission for that proceeding and the fact that a person or entity is subscribed to a case does not negate a party's normal service obligations.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-13; filed Oct 30, 2000, 2:10 p.m.: 24 IR 659; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 16. 170 IAC 1-1.1-14 IS AMENDED TO READ AS FOLLOWS:

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 a party, issue subpoenas for the attendance of witnesses and subpoenas *duces tecum*. Subpoenas shall not be issued for commission staff unless the staff is designated as testimonial staff in the proceeding. Subpoenas shall be signed by the secretary of the commission 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 the 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 a member of commission staff who is designated as testimonial staff, in a deposition or at a formally docketed hearing, shall do the following:

(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.

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

(e) A subpoena to secure the testimony of a member of commission staff who is designated as testimonial staff in a formally docketed proceeding before the commission may not be issued less than ~~forty-eight (48) hours~~ **five (5) days** prior to the commencement of the hearing in which the testimony shall be given, except upon written leave granted by the presiding officer for good cause shown.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-14; filed Oct 30, 2000, 2:10 p.m.: 24 IR 660; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 17. 170 IAC 1-1.1-14.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-14.5 Production of books, accounts, papers, or records

Authority: IC 8-1-1-3; IC 8-1-2-50

Affected: IC 4-22-2-19.6; IC 8-1-2-50

Sec. 14.5. (a) The commission may require, by order or subpoena, the production of a public utility's books, accounts, papers, or records.

(b) The commission may assess **monetary** penalties for failing to comply with a commission order or subpoena made under this section. In determining the **monetary** penalty amount under IC 8-1-2-50, the commission shall consider IC 4-22-2-19.6(d) and the following factors:

- (1) Whether the conduct was limited in scope.
- (2) Whether the public utility has a history of previous violations.
- (3) Whether the public utility voluntarily stopped engaging in the violation and made appropriate restitution.
- (4) Whether there is a need to deter future violations.

(Indiana Utility Regulatory Commission, 170 IAC 1-1.1-14.5; filed Jan 8, 2025, 10:58 a.m.: 20250205-IR-170240376FRA)

SECTION 18. 170 IAC 1-1.1-15 IS AMENDED TO READ AS FOLLOWS:

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) To:

- ~~(1) make possible the more effective use of hearing time in formal proceedings on the merits of a petition or a complaint;~~
- ~~(2) otherwise expedite the orderly conduct and disposition of those proceedings; and~~
- ~~(3) serve the public interest;~~

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

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

- (1) that a preliminary hearing be held; and
- (2) the parties to the proceeding appear to consider any of the matters enumerated in subsection (c).

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

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

- (1) The possibilities for settlement of the proceeding, subject to the approval of the commission.
- (2) Whether the proceeding is appropriate for alternative dispute resolution.
- (3) The estimated amount of hearing time that shall 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) 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 the parties shall:

- (1) attend the prehearing conference unless excused by the presiding officer;
- (2) be fully prepared to discuss both procedural and substantive matters involved in the proceeding; and
- (3) be fully authorized to make commitments with respect to those matters.

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

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

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

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

- (1) Participating in technical and legal discussions.
- (2) Arranging for recording stipulations or agreements made by the parties to the proceeding.
- (3) Discussing procedural matters and issues that may be addressed at prehearing conferences.
- (4) Otherwise assisting the parties in their effort to reach an agreement to:
 - (A) expedite the proceeding; and
 - (B) serve the public interest.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-15; filed Oct 30, 2000, 2:10 p.m.: 24 IR 660; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 19. 170 IAC 1-1.1-16 IS AMENDED TO READ AS FOLLOWS:

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

Sec. 16. (a) Parties shall be entitled to use 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) A party may issue a written request for discovery to another party. Unless otherwise directed by the presiding officer, if the party against whom the discovery is directed does not satisfy the request within ten (10) calendar days following receipt thereof or reach an agreement with the requesting party as to the nature, scope, and time for the requested discovery, the party seeking discovery may make written application to the commission for an order compelling discovery, specifically setting forth and detailing the:

- (1) discovery sought;
- (2) reasons why it is thought to be relevant to the issues; and
- (3) reasonable efforts taken to reach agreement.

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

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

- (1) participate in the discussions; and
- (2) assist the parties in resolving discovery disputes.

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

(d) Parties may request a protective order pursuant to the requirements set forth in Indiana Trial Rule 26(C) and, as appropriate, section 4 of this rule. Upon a request, the presiding officer may grant appropriate protective relief, which may include an informal, off the record attorneys' conference to conduct an in camera review of the material sought in discovery.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-16; filed Oct 30, 2000, 2:10 p.m.: 24 IR 661; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 20. 170 IAC 1-1.1-16.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-16.5 Mediation

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. 16.5. (a) Parties may voluntarily ~~choose~~ **engage in** mediation in an attempt to resolve some or all of the issues on which they disagree.

(b) The commission may propose mediation guidelines in a general administrative order.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-16.5; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 21. 170 IAC 1-1.1-17 IS AMENDED TO READ AS FOLLOWS:

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 section shall be construed as precluding parties in a proceeding from submitting, prior to the issuance of a final order in the proceeding, settlement proposals or from requesting a hearing for that 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, a 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 the rejection.

(d) The settlement must be supported by probative evidence.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-17; filed Oct 30, 2000, 2:10 p.m.: 24 IR 661; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 22. 170 IAC 1-1.1-18 IS AMENDED TO READ AS FOLLOWS:

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; IC 8-1-3-8

Sec. 18. (a) Hearings ~~must~~**shall** 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~~**shall** enter upon the record appearances, with a notation on whose behalf the appearance is made.

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

- (1) testimony;
- (2) cross-examination;
- (3) motions; or
- (4) objections.

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

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

(f) The presiding officer may, at his or her discretion, permit a party to furnish designated exhibits after the close of the hearing with copies to the parties of record. The presiding officer ~~must~~**shall** 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 a party may be presented in written question and answer form and must have related exhibits attached unless the presiding officer prescribes another format. Unless otherwise provided by the presiding officer, prepared testimony and exhibits must be filed with the commission in accordance with section 3 of this rule and served on the 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 testimony without the specific order of a presiding officer or the commission.

(h) Unless otherwise approved by the presiding officer, exhibits that are offered as evidence in a hearing must be:

(1) clean copies with no writing on the copy, unless the writing is integral to the exhibit; and

(2) hard copies that are:

(A) single-sided;

(B) fastened together with:

(i) staples;

(ii) binder clips; or

(iii) other non-permanent bindings, and with no more than three (3) holes, along the longest edge; and

(C) only if confidential, printed on green paper ~~and provided in a sealed envelope;~~

or electronic copies stored on a medium that is accessible by commission staff, and, only if confidential, marked confidential on the medium, filename, and within the exhibit, if possible.

(i) Unless otherwise directed by the commission, pre-filed 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.

(j) A party to a proceeding may move in writing for an extension of time in which to prefile testimony. The motion shall 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 the testimony to avoid undue delay and provide reasonable opportunity for the parties to properly prepare their cases. Parties shall be given an opportunity to object to a motion for extension of time.

(k) With the approval of the presiding officer, corrections or changes in the stenographic record may be made upon the written agreement of the 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.

(l) Parties may obtain copies of the stenographic record from the official reporter upon payment of the reasonable cost fixed by general administrative order of the commission as per IC 8-1-3-8.

(m) Following 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 or in a docket entry do not need to be published. It is the obligation of counsel and parties to a formally docketed cause to keep themselves informed of actions taken in a proceeding before the commission.

(n) After being duly notified, a party who fails to be represented at a scheduled conference or hearing in a proceeding is deemed to have waived the opportunity to participate in the conference or hearing, and is deemed to have consented to, and may not be permitted thereafter to reopen, a matter resolved or accomplished at the 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 the reopening for further examination. If a witness is recalled for further examination, then the recalling party must pay the expert fees, costs, and expenses.

(o) Parties to a proceeding may not offer comments at public field hearings associated with the proceeding.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-18; filed Oct 30, 2000, 2:10 p.m.: 24 IR 662; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 23. 170 IAC 1-1.1-19 IS AMENDED TO READ AS FOLLOWS:

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. (a) Causes sharing common issues of fact or law may be consolidated at the discretion of a presiding officer.

(b) A consolidated cause shall continue to list the cause number of the earliest filed case. The presiding officer may keep the underlying captions or create a new caption for the consolidated cause.

(c) ~~Where~~**When** two (2) or more proceedings are consolidated for hearing, the presiding officer shall determine the order in which the parties introduce evidence.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-19; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 24. 170 IAC 1-1.1-19.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-19.5 Sub-Dockets

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. 19.5. (a) Causes with issues or facts ~~discreet~~**discrete** from the main docketed proceeding may be broken into one (1) or more sub-dockets at the discretion of a presiding officer.

(b) A party to the main docket that wants to be a party in the sub-docket shall file an appearance as outlined in section 7 of this rule.

(c) A person or entity not a party to the main docket that wants to be a party in the sub-docket shall file a petition to intervene as outlined in section 11 of this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-19.5; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 25. 170 IAC 1-1.1-20 IS AMENDED TO READ AS FOLLOWS:

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. A party may move for continuance of a hearing or filing deadline. **The moving party must state whether the other parties to the case agree or oppose the proposed continuance. If the moving party is unable to determine the other parties' positions at the time of the filing, the moving party must provide the dates, times, and manner(s) of all attempts to reach the other parties.** ~~Contested~~ Motions for continuance of a hearing filed within seven (7) days of the hearing must be verified. ~~If the motion for continuance of a hearing is contested, the moving party must state the positions of the other parties to the case on the issue of continuance.~~

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-20; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-

170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 26. 170 IAC 1-1.1-21 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-21 Evidence

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 necessary authority to control the receipt and admissibility of evidence, including, but not limited to, the following:

(1) Ruling on the:

(A) admissibility of evidence; or

(B) qualifications of witnesses;

or both.

(2) Confining the evidence to the issues in the proceeding and imposing, where appropriate, the following:

(A) Limitations on the number of witnesses to be heard.

(B) Limitations of time and scope for direct and cross-examinations.

(C) Limitations on the presentation of further cumulative or repetitious evidence.

(D) Other necessary limitations.

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

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

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

(1) by agreement of parties; or

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

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

(e) An offer ~~to prove~~**of proof** 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~~**of proof** 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~~**of proof**. If the proffered evidence is oral testimony, the offer ~~to prove~~**of proof** must consist of a summary of the evidence that the counsel contends would be adduced by the testimony. The presiding officer may, when requested, permit an offer ~~to prove~~**of proof** to be made orally or by the written pre-filed testimony of a witness. The presiding officer may also request a statement of the basis for admissibility of the evidence.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-21; filed Oct 30, 2000, 2:10 p.m.: 24 IR 663; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 27. 170 IAC 1-1.1-21.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-21.5 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. 21.5. (a) The commission shall take administrative notice of a fact that must be judicially noticed by a court of Indiana.

(b) The commission may take administrative notice of a fact on its own or upon a party's motion if the parties are:

- (1) notified of the specific facts and the source of the facts, including memoranda or data of the commission staff related thereto;
- (2) provided a copy of the document; and
- (3) afforded an opportunity, upon timely request, to be heard as to the propriety of taking administrative notice.

In the absence of prior notification, the request may be made after administrative notice has been taken.

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

(d) A party requesting ~~administrative~~ **administrative** notice must submit at the evidentiary hearing a hard copy of the documents to be offered into evidence.

(e) Documents administratively noticed by the commission shall become part of the record for the proceeding.

(f) The commission and parties may cite to the commission's orders and **administrative** rules without taking administrative notice of those documents.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-21.5; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 28. 170 IAC 1-1.1-22 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-22 Posthearing relief

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

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

Sec. 22. (a) After the record is closed, but before a final order is issued, a party to the proceeding may file with the commission and serve upon the 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 the 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 the changes of fact or law purportedly would affect the outcome of the proceeding if received into evidence.

(4) A showing that the evidence shall 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 the petition to reopen upon the parties to the proceeding, any other party may file a response to the petition unless the presiding officer prescribes a different time. A reply to the responses shall be filed within seven (7) days following service of the response unless the presiding officer prescribes 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, a party to a proceeding may file with the commission and serve upon the 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) The 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 the new evidence was not available at the time of the hearing or could not be discovered with due diligence.

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

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

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

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

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

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

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

(D) reverse the final order.

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

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

~~(f) Upon filing of a written request for the record as provided by IC 8-1-3-4, a copy of the request for the record must be served upon the office of the attorney general of Indiana on the same day the request is filed with the commission.~~

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-22; filed Oct 30, 2000, 2:10 p.m.: 24 IR 664; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 29. 170 IAC 1-1.1-23 IS AMENDED TO READ AS FOLLOWS:

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

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

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

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

(b) Briefs and proposed orders shall be filed with the commission, with an editable version emailed to the administrative law judge assigned to the proceeding, and a copy served by the submitting party upon the other parties to the proceeding, the service and certificate of service to comply with section 13 of this rule.

(c) Post-hearing briefs and proposed orders are not evidence and therefore are not part of the evidentiary record on which the commission may rely for support of its factual findings.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-23; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 30. 170 IAC 1-1.1-24 IS AMENDED TO READ AS FOLLOWS:

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 a proceeding that has been pending upon the commission docket:

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

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

(b) Prior to the dismissal, the commission shall notify the parties to the proceeding of its intention to dismiss in accordance with section 13 of this rule. Notice shall be served at least ten (10) days prior to the entry of dismissal.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-24; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; filed May 21, 2008, 9:29 a.m.: 20080618-IR-170070514FRA; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 31. 170 IAC 1-1.1-25 IS AMENDED TO READ AS FOLLOWS:

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) A 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 shall advise the parties of record of the 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 the parties within six (6) business days following the date of the docket entry.

(c) Written appeals to the commission shall be served by the appealing party on the other parties on the same day the appeal is filed with the commission. Any other party wanting to be heard with respect to an appeal to the commission shall file a brief setting forth its position by the fifth day following service of the appeal. The appealing party may file a reply to a response within five (5) days after service of the response. The provisions of section 12 of this rule relating to motions ~~generally~~ do not apply to the extent they are in conflict with this section.

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

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

(f) Absent a ruling of the presiding officer being overruled by the commission under this section, rulings of the presiding officer are considered rulings of the commission upon the issuance of a final order in a cause.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-25; filed Oct 30, 2000, 2:10 p.m.: 24 IR 665; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 32. 170 IAC 1-1.1-25.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.1-25.5 Reporter fees

Authority: IC 8-1-1-3

Affected: IC 8-1-3-8

Sec. 25.5. The commission shall set reporter fees by issuing a general administrative order under IC 8-1-3-8 ~~setting forth~~ **that specifies** a schedule of reasonable reporter fees.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-25.5; filed Jan 8, 2025, 10:58 a.m.: 20250205-IR-170240376FRA)

SECTION 33. 170 IAC 1-1.1-26 IS AMENDED TO READ AS FOLLOWS:

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 ~~special rules, regulations, or orders of the commission in effect, from time to time, under or pursuant to the provisions of laws of the United States of America or regulations or requirements of a federal agency or commission thereunder.~~ **in matters under the commission's statutory authority.** *(Indiana Utility Regulatory Commission; 170 IAC 1-1.1-26; filed Oct 30, 2000, 2:10 p.m.: 24 IR 666; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; readopted filed Jun 14, 2012, 3:04 p.m.: 20120711-IR-170120199RFA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)*

Rule 1.5. Ex Parte Contacts

SECTION 34. 170 IAC 1-1.5-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.5-1 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2; IC 8-1-32.5; IC 8-1-34

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

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

~~(c)~~ “File a report” means written testimony filed by or oral testimony presented by, or both, a technical employee in a pending proceeding.

~~(d)~~(c) “Formal public hearing” means a hearing contemplated by IC 8-1-2-61.5.

~~(e)~~(d) “Proceeding” means a formally docketed proceeding before the commission. The term does not include non-docketed matters, including, but not limited to, the following:

(1) A rulemaking.

(2) A thirty (30) day filing under IC 8-1-2-42(a).

(3) A filing under IC 8-1-2-61.5(a), even if a public field hearing occurs.

(4) A document **or meeting** related to integrated resource planning submitted pursuant to 170 IAC 4-7.

(5) An informal investigation including, but not limited to, investigations permitted by the following until a time the matter may become a proceeding:

(A) Information and answers submitted under IC 8-1-2-52.

(B) Examination of records under IC 8-1-2-53.

(C) Complaints against a public utility under IC 8-1-2-54.

(D) Investigations of public utilities under IC 8-1-2-58.

(6) Investigations and records related to damage to an underground pipeline under IC 8-1-26.

~~(6)~~(7) An investigation and disposition by the consumer affairs division of the commission under IC 8-1-2-34.5.

~~(7)~~(8) An application or notice of change form filed under IC 8-1-32.5.

~~(8)~~(9) An application or notice of change form filed under IC 8-1-34.

~~(f)~~(e) “Public field hearing” means a hearing conducted in a county in which the utility provides service for the purpose of allowing the utility’s customers and others with a substantial interest in the matter who are not parties to offer comments. It is not a formal public hearing contemplated by IC 8-1-2-61.5.

~~(g)~~(f) “Technical employee” means an employee within one (1) of the commission’s technical divisions.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-1; filed Dec 9, 1996, 10:00 a.m.: 20 IR 938; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21

a.m.: 20070509-IR-170070147RFA; filed May 24, 2007, 4:15 p.m.: 20070620-IR-170060514FRA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; filed Sep 29, 2009, 3:49 p.m.: 20091028-IR-170090212FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 35. 170 IAC 1-1.5-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.5-2 Pending proceeding

Authority: IC 8-1-1-3

Affected: IC 8-1

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

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

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-2; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 36. 170 IAC 1-1.5-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.5-3 ~~Violations~~ Prohibited Communications

Authority: IC 8-1-1-3

Affected: IC 8-1

Sec. 3. (a) Unless required for the disposition of *ex parte* matters specifically authorized by statute, rule, or order of the commission, members of the commission, an attorney assigned to a particular proceeding as an administrative law judge, and a technical employee assigned to advise the commission in a particular proceeding may not communicate, directly or indirectly, regarding ~~an~~ **a specific issue of fact or law to be decided** in a proceeding while the proceeding is pending with:

- (1) a party;
- (2) a party's employee, attorney, or representative;
- (3) an entity known to act on behalf of a party;
- (4) a person who has:
 - (A) a direct interest in the outcome of the proceeding; or
 - (B) served as an investigator or advocate in the proceeding or in its pre-adjudicative stage;
- (5) an attorney assigned counsel to a member of commission staff designated as testimonial staff in a particular proceeding; or
- (6) a technical employee ~~directed to file a report~~ **designated as testimonial staff** in the proceeding;

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

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

- (1) a member of the commission;
- (2) an attorney assigned to a particular proceeding as an administrative law judge; or
- (3) a technical employee assigned to advise the commission in a particular proceeding;

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

(c) For the purposes of this rule, the director and staff of the commission's consumer affairs division are not parties in docketed proceedings and may be communicated with at any time, including after a consumer affairs division decision or referral is docketed before the commission, by members and employees of the commission and by those listed in subsection (a).

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

(e) Only to the extent not otherwise inconsistent with this rule, a person may make educational or informational communications that are not intended to persuade or advocate a position on an issue **of fact or law to be decided** in a particular proceeding while the proceeding is pending.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-3; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21

a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 37. 170 IAC 1-1.5-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.5-4 Communication within the commission

Authority: IC 8-1-1-3

Affected: IC 8-1

Sec. 4. (a) Except as provided in subsection (b), members of the commission, its attorneys, and technical employees may communicate with one another regarding a particular proceeding pending before the commission.

(b) An attorney assigned as counsel to a member of commission staff who is designated as testimonial staff, a technical employee ~~directed to file a report~~ **assigned as testimonial staff** in a particular proceeding, or a member of commission staff who is designated as testimonial staff may not communicate regarding the particular proceeding with members of the commission, attorneys not assigned as counsel to a member of commission staff who is designated as testimonial staff, or technical employees ~~not assigned to file a report~~ **assigned to advise the commission** in that particular proceeding, ~~or designated as testimonial staff~~. Members of the consumer affairs division as defined by 170 IAC 16-1-2 are not testimonial or technical staff.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-4; filed Dec 9, 1996, 10:00 a.m.: 20 IR 939; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

SECTION 38. 170 IAC 1-1.5-6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-1.5-6 Disclosure

Authority: IC 8-1-1-3

Affected: IC 8-1

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

(1) tender to the record of the proceeding:

- (A) written communications received;
- (B) written responses to the communication; and
- (C) a memorandum stating:
 - (i) the substance of oral communications received;
 - (ii) oral responses made; and
 - (iii) the identity of a person from whom an *ex parte* communication was received; and

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

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

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

(c) In a proceeding in which a communication has been disclosed in accordance with subsection (a), the commission **or presiding officers** may ~~determine whether~~ **require** additional action ~~is if~~ necessary to maintain a fair and impartial proceeding.

(Indiana Utility Regulatory Commission; 170 IAC 1-1.5-6; filed Dec 9, 1996, 10:00 a.m.: 20 IR 940; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Dec 3, 2007, 10:30 a.m.: 20080102-IR-170070379FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

Rule 3. Advertising Expenditures by Public Utilities

SECTION 38. 170 IAC 1-3-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-3-1 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1

Sec. 1. (a) ~~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]~~, **apply to this rule.**

~~(B)~~ (b) The word “Advertising” ~~shall mean~~ means:

(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, **and on the internet, including social media.**

(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)~~ (c) The word “Ratepayer” shall mean ~~means~~ **any** person, firm or corporation, municipality or other political subdivision of the State receiving and **customer** paying for services delivered by a public utility.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 1; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508-IR-170190136RFA)

SECTION 39. 170 IAC 1-3-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-3-2 Applicability of rules

Authority: IC 8-1-1-3

Affected: IC 8-1-1-3

~~Sec. 2. Application of Rules. These rules [170 IAC 1-3] This rule shall apply applies to any a public utility subject to the jurisdiction of the commission. which is engaged in the conveyance of telegraph or telephone messages, or in the production, transmission, delivery or furnishing of heat, light, water or power, or in the collection, treatment, purification and disposal in a sanitary manner of liquid and solid waste, sewage, night soil and industrial waste.~~

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 2; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508-IR-170190136RFA)

SECTION 40. 170 IAC 1-3-3 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4

Sec. 3. ~~Advertising Allowed.~~ ~~(A)~~ **(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)~~ **(b)** Each such A public utility should make every effort to minimize advertising expenses and costs.

~~(C)~~ **(c)** As used in ~~these rules~~ **this rule**, advertising expenditures shall include costs of advertising directly incurred by the public utility and those costs of advertising incurred by contribution to parent or affiliated companies.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 3; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 391; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508-IR-170190136RFA)

SECTION 41. 170 IAC 1-3-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-3-4 Material benefit defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4

Sec. 4. ~~Material Benefit.~~ Advertising expenditures which “produce a material benefit” ~~are, without limitation because of enumeration:~~ **include:**

~~(A)~~ **(1)** advertising limited exclusively to demonstration of means for ratepayers to eliminate energy waste;

~~(B)~~ **(2)** advertising conveying safety information in the direct use of energy or equipment using ~~such~~ energy;

~~(C)~~ **(3)** demonstration of methods by which ratepayers may reduce their costs and those of the serving public utility;

~~(D)~~ **(4)** 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)~~ **(5)** advertising means or desirability of decreasing consumption, particularly during shortage and peak periods;

~~(F)~~ **(6)** furnishing factual and objective data programs in educational institutions on the subject of energy or communications technology;

~~(G)~~ **(7)** advertising concerning excavation near the location of underground transmission or distribution lines; and,

~~(H)~~ **(8)** legal advertising required by statute or notices to ratepayers required by statute, rule, or order of the commission.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 4; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508-IR-170190136RFA)

SECTION 42. 170 IAC 1-3-5 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4

Sec. 5. ~~Burden of Proof.~~ The utility shall have the burden of proving that any advertising cost or expenditures proposed for inclusion in its operating expenses for rate making purposes within a given test year fall within the categories enumerated in ~~Rule 4 [170 IAC 1-3-4]~~ **of section 4 of this rule**, or ~~where~~**are** otherwise of material benefit to its ratepayers.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 5; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828-IR-170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508-IR-170190136RFA)

SECTION 43. 170 IAC 1-3-6 IS REPEALED:

[Repealed sections remains in strikeout here for the convenience of the reader]

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

~~Authority: IC 8-1-1-3~~

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

~~Sec. 6. Declaration of Compliance. (A)(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~~**this rule.**

~~(B)(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)(c)~~ Publication of notice of said hearing shall be made in accordance with the provisions of IC 8-1-1-8.

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 6; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 392; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509 IR 170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828 IR 170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508 IR 170190136RFA)

SECTION 44. 170 IAC 1-3-7 IS REPEALED.

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

~~Authority: IC 8-1-1-3~~

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

~~Sec. 7. Saving Clause. The adoption of these Rules and Regulations [170 IAC 1-3] shall in no way preclude the commission from altering or amending the same, in whole or in part, or from adopting rules or regulations containing other provisions whenever the commission shall deem it in the public interest to do so; and, further, these rules and regulations [170 IAC 1-3] shall in no way relieve any public utility from any of its duties under the laws of this State.~~

(Indiana Utility Regulatory Commission; No. 34132: Advertising Expenditures by Utilities Rule 7; filed Dec 29, 1975, 1:35 pm: Rules and Regs. 1976, p. 393; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509 IR 170070147RFA; readopted filed Aug 2, 2013, 2:16 p.m.: 20130828 IR 170130227RFA; readopted filed Apr 11, 2019, 9:04 a.m.: 20190508 IR 170190136RFA)

Rule 6. Thirty-Day Administrative Filing Procedures and Guidelines

SECTION 45. 170 IAC 1-6-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-1 Policy and scope

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

Affected: IC 8-1-1-5; IC 8-1-37-4

Sec. 1. (a) This rule is intended to establish thirty (30) day administrative filing procedures for certain requests by a utility for changes in:

- (1) its rates;
- (2) its charges;
- (3) its rules;
- (4) its regulations; or
- (5) any combination of subdivisions (1) through (4);

that are outside the context of a general rate case and that are not subject to other commission rules establishing specific filing requirements for the subject matter of the filing.

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

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

(d) A period of thirty (30) days from the date the filing is received by the commission is the minimum amount of time in which approval of changes to rates and charges may occur under IC 8-1-2-42(a), unless the commission has approved an order prescribing a different time frame. Additional time may be required for **other** reasons including, but not limited to, the following:

- (1) Objections under section 7 of this rule.
- (2) Failure to follow the procedures as provided in this rule.
- (3) Failure to respond promptly to inquiries from:
 - (A) commission staff; or
 - (B) OUCC staff.
- (4) Complex filings.
- (5) Incomplete filings.

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

(f) To ensure that a utility's filing under this rule is consistent with the purpose of the procedures in this rule, the commission division will:

- (1) review and evaluate the filing; and
- (2) recommend to the commission approval or denial;

subject to the provisions of section 8 of this rule. The commission will make the final determination regarding whether the filing is approved or disapproved.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-1; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA)

SECTION 46. 170 IAC 1-6-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-2 Definitions

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

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

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

- (1) “Clean energy” has the meaning set forth in 170 IAC 17.1-2-5.
- (2) “Clean energy credit” has the meaning set forth in IC 8-1-37-3.
- (3) “Clean energy resource” has the meaning set forth in IC 8-1-37-4(a).
- (4) “Commission” means the Indiana utility regulatory commission.
- (5) “Commission division” means the technical division of the commission for the industry to which the utility making the filing under this rule belongs.
- (6) “Conference” means the official regularly scheduled meeting of the commission at which orders and utility articles are presented for approval.
- (7) “Customer” means any:
 - (A) person;
 - (B) firm;
 - (C) corporation;
 - (D) municipality;
 - (E) government agency; or
 - (F) other entity;that has agreed, orally or otherwise, to pay for service received from a utility.
- (8) “Filing date” means the date a filing under this rule is received and file stamped by the secretary of the commission.

(9) “New rate” means a rate or charge for utility service not currently encompassed by the utility’s tariffs.

(10) “Noncontroversial filing” means a filing regarding which no person or entity has filed a valid objection, as determined by the commission under section 7 of this rule.

(11) “Nonrecurring charge” means a charge to a utility customer for costs incurred by the utility outside the context of month-to-month service, which includes the following:

(A) Customer deposits.

(B) Customer checks returned to the utility due to insufficient funds.

(C) ~~Connect~~**Connection** fees.

(D) ~~Reconnect~~**Reconnection** fees.

(E) Tap fees.

(12) “OUCC” means the Indiana office of utility consumer counselor.

(13) “Rate” means base rates and charges incident to providing usual and customary utility service on a month-to-month basis.

(14) “Utility”, only for purposes of this rule, includes a clean energy resource that:

(A) produces thermal energy; and

(B) is seeking approval of an alternative equation to determine the number of clean energy credits earned for the useful thermal energy produced.

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

(Indiana Utility Regulatory Commission; 170 IAC 1-6-2; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 47. 170 IAC 1-6-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-3 Allowable filings

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

Affected: IC 8-1

Sec. 3. The following types of filings are allowable under the procedures and guidelines of this rule:

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

(Indiana Utility Regulatory Commission; 170 IAC 1-6-3; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 48. 170 IAC 1-6-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-4 Prohibited filings

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

Affected: IC 8-1

Sec. 4. The following types of filings ~~may~~**are** not be allowed under this rule:

- (1) Increases to existing rates.

- (2) Rules and regulations of the utility that:
 - (A) violate the commission's rules and regulations as found in this title; or
 - (B) have the effect of being more ~~lenient~~**favorable** to the utility than the commission's rules and regulations.
- (3) A general rate increase.
- (4) Class rate restructuring.
- (5) Approval of financing.
- (6) A request inconsistent with a commission order dealing with the subject matter of the request.
- (7) A filing for which the utility wants confidential treatment for all or part of the filing.
- (8) Any:
 - (A) rates;
 - (B) charges;
 - (C) rules;
 - (D) conditions of service; or
 - (E) change to one or more of (A) – (D);

that the commission in its discretion determines may not be processed under this rule.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-4; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 49. 170 IAC 1-6-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-5 Filing requirements

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

Affected: IC 8-1-2.6-1.5; IC 8-1-32.5-4; IC 8-1-32.5-11

Sec. 5. (a) A filing under this rule must include the following:

- (1) A cover letter clearly stating:
 - (A) that the filing is being made under this rule;
 - (B) the purpose of the filing;

- (C) the need for what is being requested; and
 - (D) why the filing is an allowable request under section 3 of this rule.
- (2) Contact information for the utility regarding this filing, including the following for each person to be contacted:
- (A) The name of the person or persons to be contacted.
 - (B) Telephone number.
 - (C) Mailing address.
 - (D) An electronic mailing address.
- (3) Tariff sheet or sheets.
- (4) Additionally, for communications service provider intrastate access tariffs, the following:
- (A) A statement indicating whether the local exchange carrier's intrastate access tariff concurs with its interstate access tariff.
 - (B) Exceptions to the local exchange carrier's intrastate access tariff's mirroring of its interstate access tariff, including specific citations to the interstate access tariff and the FCC transmittal number or numbers corresponding to the intrastate access tariff filing.
 - (C) Intrastate access check sheets showing the FCC transmittal number or numbers corresponding to the intrastate tariff filing.
 - (D) A statement or an explanation indicating whether the intrastate access tariff is a stand-alone intrastate access tariff or otherwise unrelated to an interstate access tariff.
 - (E) Intrastate tariff sheets that include the intrastate access services or rate elements, rates and charges, rate structures, or terms and conditions that do not mirror their interstate counterparts or the corresponding provisions of the intrastate access tariff in which it is concurring.
- (5) Under IC 8-1-32.5-11(c), tariffs filed by communications service providers, as defined by IC 8-1-32.5-4, become effective upon filing. However, a communications service provider ~~is free to~~**may** submit an intrastate access tariff in advance of the desired effective date, so long as the communications service provider includes in its cover letter ~~on~~the date the communications service provider desires the intrastate access tariff to be considered filed with the commission for purposes of establishing the effective date under IC 8-1-32.5-11(c).

(6) For tariffs other than intrastate access tariff filings, all work papers supporting the filing, including revenue and cost projections, which must be clearly explained and include clear explanations of the following:

(A) The assumptions used.

(B) Whether the data used is actual or estimated. It is presumed that actual data is used in the supporting calculations. If it is necessary to use estimated data, the utility shall state the following:

(i) The reasons the estimated data is being used.

(ii) How the estimated data was derived.

(iii) Why the estimated data should be used.

(C) The source of the data.

(D) Models or methodologies used.

(7) A verified statement by the utility, unless exempted under IC 8-1-2.6-1.5(d):

(A) affirming that affected customers have been notified as required under section 6 of this rule;

(B) stating in detail the means used for notification; and

(C) including copies of any written means of notification.

(b) For tariffs other than intrastate access tariffs, a copy of the items listed in subsection (a) shall be provided to the OUCC on the filing date.

(c) The items listed in subsection (a) shall be filed through the commission's electronic filing system. A filing made through the electronic filing system is considered filed on the date reflected in the notice of receipt associated with the filing. Electronic filing must be completed before midnight to be considered filed that day, and compliance with filing deadlines is determined in accordance with prevailing local time in Indianapolis, Indiana.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-5; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 50. 170 IAC 1-6-6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-6 Notice requirements

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

Affected: IC 8-1-2.6-1.5

Sec. 6. (a) A utility that intends to make a filing under this rule shall provide notice, unless exempted under IC 8-1-2.6-1.5(d), before the filing date by:

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

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

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

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

(b) ~~A~~**The notice in subsection (a)** must contain at least the following information:

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

(A) The nature of the filing.

(B) Which customers may be affected.

(C) How customers may be affected.

(2) The expected filing date.

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

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

(A) secretary of the commission; and

(B) OUCC.

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

(Indiana Utility Regulatory Commission; 170 IAC 1-6-6; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 51. 170 IAC 1-6-7 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-7 Objections

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

Affected: IC 8-1-1-5; IC 8-1-2-34.5; IC 8-1-2-54

Sec. 7. (a) If ~~any~~a person or entity has an objection to a filing made under this rule, the objection shall be filed through the commission's electronic filing system.

(b) An objection must be:

(1) received not later than fifteen (15) business days after the date the filing is submitted to the commission; and

(2) emailed to the utility using the contact information in the filing outlined in section 5(a)(2)(D) of this rule.

(c) An objection must include a description of:

(1) how the objector would be adversely affected if the filing is approved; and

(2) the reason at least one (1) of the following applies to the filing:

(A) It is a violation of:

(i) applicable law;

(ii) a prior commission order; or

(iii) a commission rule;

under which the filing was made.

(B) Information in the filing is inaccurate.

(C) The filing is:

(i) incomplete; or

(ii) prohibited under section 4 of this rule.

(d) Within ten (10) calendar days after the objection is emailed to the utility, the utility may submit through the commission's electronic filing system at least one (1) of the following:

(1) A response to the objection.

(2) Clarification of the filing.

(3) Additional information.

(4) An amendment to the filing.

(5) A withdrawal of its filing.

A filing may be withdrawn at any time before it is presented to the commission for approval under section 8 of this rule.

(e) If an objection is resolved to the satisfaction of the:

- (1) objector;
- (2) utility;
- (3) OUCC; and
- (4) commission division;

the filing may continue through the recommendation and approval process in section 8 of this rule. Otherwise, if the filing has not been previously withdrawn by the utility, the filing, under IC 8-1-1-5, may not be presented to the commission for consideration on an objection that complies with this section.

(f) If an objection that complies with this section is not received by the commission by the deadline specified in subsection (b)(1), the objection may still be:

- (1) a basis for an investigation by the commission;
- (2) used as part of a complaint that complies with:
 - (A) IC 8-1-2-54; or
 - (B) IC 8-1-2-34.5(b); and
- (3) considered by the commission in accordance with the commission's procedural rules and evidentiary standards in subsequent related filings by the utility.

(g) Nothing in this rule shall restrict:

- (1) a person's or an entity's rights regarding, or access to, the complaint processes and procedures of the commission; or
- (2) the commission's investigatory authority.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-7; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 52. 170 IAC 1-6-8 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-6-8 Commission approval

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

Affected: IC 8-1-2-88.6; IC 8-1-32.5-11

Sec. 8. (a) The commission division shall review the filings for its respective utility industry and promptly inform the utility of any:

- (1) missing information;
- (2) incomplete information; or
- (3) additional information;

it requires to complete review of the filing.

(b) After completing its review, the commission division shall recommend the filing for approval or denial by the commission. If the commission division recommends the filing be denied, it shall notify the utility of its decision in writing through electronic mail at least five (5) calendar days before submitting its recommendations to the commission. The utility may withdraw its filing at any time before the date of the conference at which the filing is considered by the commission.

(c) If the utility has not previously withdrawn the filing, the commission division shall submit:

- (1) a description of the filing; and
- (2) the commission division's recommendation;

to the ~~utility articles~~ **commission in the utility articles** for consideration at the next conference, which must be at least thirty (30) days after the filing date unless the commission has approved an order prescribing a different time frame.

(d) A utility may do the following:

- (1) Withdraw its filing at any time without approval of the commission.
- (2) Resubmit a filing that has previously been:
 - (A) withdrawn by the utility; or
 - (B) denied by the commission.

(e) An intrastate access tariff filing that does not mirror the applicable interstate or intrastate access tariff may be subject to post-filing review by the commission for reasonableness under IC 8-1-2-88.6(b). A tariff determined by the commission or commission division to be subject to this rule, including post-filing changes recommended by the commission division, may be included within the scope of the utility articles subject to approval by the commission at a conference to be held at least thirty (30) days after the filing date. Application of the tariff review process contemplated in IC 8-1-2-88.6(b) is consistent with and does not in any way nullify or restrict the effective upon filing provisions of IC 8-1-32.5-11(c).

(Indiana Utility Regulatory Commission; 170 IAC 1-6-8; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jan 24, 2025, 10:09 a.m.: 20250219-IR-170240378FRA)

SECTION 53. 170 IAC 1-6-9 IS AMENDED TO READ AS FOLLOWS:

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

Authority: IC 8-1-1-3

Affected: IC 8-1

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

(b) A filing under this rule and related communications shall not be deemed communications **in need of disclosure** under 170 IAC 1-1.5-6, even if the filing is:

- (1) withdrawn by the utility; or
- (2) denied by the commission.

(Indiana Utility Regulatory Commission; 170 IAC 1-6-9; filed Nov 25, 2008, 1:18 p.m.: 20081217-IR-170070829FRA; readopted filed Jul 29, 2014, 8:39 a.m.: 20140827-IR-170140181RFA; readopted filed Apr 15, 2020, 12:02 p.m.: 20200513-IR-170200084RFA; filed Jun 10, 2020, 7:38 a.m.: 20200708-IR-170190378FRA)

Rule 7. Commission Review of Municipal Utility Rates and Charges

SECTION 54. 170 IAC 1-7-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-1 Policy and scope

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

Affected: IC 8-1.5-3-8.3

Sec. 1. This rule ~~is intended to establish~~ **establishes** procedures by which:

- (1) a municipality; or
- (2) customers whose property is located outside the corporate boundaries of the municipality;

may file a petition under IC 8-1.5-3-8.3(d) or IC 8-1.5-3-8.3(e) for the commission to review and adjust, if necessary, the rates and charges imposed on customers whose property is located outside the corporate boundaries.

(Indiana Utility Regulatory Commission; 170 IAC 1-7-1; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jul 20, 2021, 9:21 a.m.: 20210818-IR-170200089FRA; readopted filed May 25, 2023, 11:48 a.m.: 20230621-IR-170230296RFA)

SECTION 55. 170 IAC 1-7-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-2 Definitions

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

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

Sec. 2. The definitions in IC 8-1.5-3-8.3 and the following apply throughout this rule:

- (1) “Commission” has the meaning set forth in IC 8-1.5-1-3.
- (2) “Customers” means the users of the works of the municipality.
- (3) “Filing date” means the date a filing under this rule is ~~received and~~ file stamped by the ~~secretary of the~~ commission.
- (4) “Municipality” has the meaning set forth in IC 8-1.5-1-8.
- (5) “Ordinance” means the ordinance adopted by the municipality as referenced in IC 8-1.5-3-8.3 that imposes rates and charges on customers outside the corporate boundaries of the municipality that are greater than those imposed on customers whose property is located inside the corporate boundaries of the municipality.
- (6) “OUCC” means the Indiana office of utility consumer counselor.
- (7) “Petition” means a petition meeting the form and manner prescribed by the commission as defined in section 3 of this rule.
- (8) “Working papers” means documents that were relied upon to support a party’s position.

(Indiana Utility Regulatory Commission; 170 IAC 1-7-2; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jul 20, 2021, 9:21 a.m.: 20210818-IR-170200089FRA; readopted filed May 25, 2023, 11:48 a.m.: 20230621-IR-170230296RFA)

SECTION 56. 170 IAC 1-7-3 IS AMENDED TO READ AS FOLLOWS:

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

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

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

Sec. 3. (a) A petition filed under this rule must be filed within the time allotted in IC 8-1.5-3-8.3(d) or IC 8-1.5-3-8.3(e).

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

(c) At the time that the customers file their petition, they shall provide notice to the municipality by providing the following information:

- (1) A copy of the petition.
- (2) The date the petition was filed.
- (3) Contact information for each individual customer seeking review by the commission or, if the customers are represented by an attorney licensed to practice law in Indiana, then the contact information of the attorney.

(d) At the time that the municipality files its petition, it shall provide notice to the customers by providing the following information:

- (1) The municipality has filed a petition under this rule.
- (2) The date the petition was filed.
- (3) How the customer can obtain a copy of the petition.
- (4) The deadline by which the customer may respond to the petition as set forth in subsection (h).
- (5) A statement that the customer may also contact the commission concerning a complaint.
- (6) Contact information for the commission.

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

(f) Within ten (10) days after a petition is filed under this rule, the municipality must file its case in support of the rate differential, which may include:

- (1) testimony;
- (2) revenue requirements;
- (3) cost of service studies;
- (4) related working papers; and

(5) other documentation or analysis relied upon when approving the ordinance;
that supports the rates and charges imposed on the customers and that would assist the utility in meeting its burden of proof as required by IC 8-1.5-3-8.3.

(g) Working papers shall be submitted in accordance with 170 IAC 1-1.1 and must be:

- (1) legible;
- (2) paginated; and
- (3) specifically identified.

(h) Within forty (40) days of the date the municipality has filed its case in support of the rate differential with the commission, the following may file its response, including working papers, with the commission:

- (1) The OUCC.
- (2) A party to the proceeding.

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

(j) Filings to the commission under this rule shall also be served no later than the date filed, by email, U.S. mail, or as agreed to by the parties, upon the following:

- (1) The OUCC.
- (2) The municipality.
- (3) A party to the proceeding.

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

(Indiana Utility Regulatory Commission; 170 IAC 1-7-3; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jul 20, 2021, 9:21 a.m.: 20210818-IR-170200089FRA; readopted filed May 25, 2023, 11:48 a.m.: 20230621-IR-170230296RFA)

SECTION 57. 170 IAC 1-7-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 1-7-5 Commission determination and order

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

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

Sec. 5. (a) The commission ~~must~~**shall** make its determination on a petition within the time allotted in IC 8-1.5-3-8.3(g).

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

(Indiana Utility Regulatory Commission; 170 IAC 1-7-5; filed Nov 21, 2012, 7:10 a.m.: 20121219-IR-170120442FRA; readopted filed Apr 12, 2018, 11:21 a.m.: 20180509-IR-170180113RFA; filed Jul 20, 2021, 9:21 a.m.: 20210818-IR-170200089FRA; readopted filed May 25, 2023, 11:48 a.m.: 20230621-IR-170230296RFA)