

Title 170 INDIANA UTILITY REGULATORY COMMISSION

LSA Document #26-\_\_\_\_\_

DIGEST

Amends 170 IAC 14-1-1 regarding Definitions; 170 IAC 14-1-2 regarding Application for rate change; 170 IAC 14-1-3 regarding Incomplete applications; 170 IAC 14-1-4 regarding Review and report on application for rate change; request to file written response; 170 IAC 14-1-5 Hearing on application; 170 IAC 14-1-6 Decision on application; 170 IAC 14-1-7 Applicability of ex parte rules.

Amends:

170 IAC 14-1-1; 170 IAC 14-1-2; 170 IAC 14-1-3; 170 IAC 14-1-4; 170 IAC 14-1-5; 170 IAC 14-1-6; and 170 IAC 14-1-7.

## 170 IAC 14-1-1 Definitions

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

**Affected:** IC 8-1-2-61

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

(b) "Application for rate change" means an application, filed with the commission by a utility in accordance with section 2 of this rule, that:

- (1) functions as a petition or in support of a petition for rate change; and
- (2) may include a financing authority request.

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

(d) "Customer" means a person, firm, corporation, municipality, or other government agency that has agreed, orally or otherwise, to pay for service received from a small utility, provided that, for the purposes of this rule, a customer as defined in this subsection who:

- (1) has more than one (1) connection; and
- (2) is rendered an individual bill for each connection; shall be counted as one (1) customer for each connection.

(e) "Formal public hearing" means a hearing contemplated by IC 8-1-2-61.5.

(f) "Incomplete application" means an application filed under section 2 of this rule in which one (1) or more of the elements specified is missing or incomplete. A **required field** ~~blank not completed~~ filled in or an ~~interrogatory~~ **a question** not answered in the form prescribed under section 2(b)(3) of this rule constitutes an incomplete element and therefore an incomplete application.

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

(h) "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

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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.

(i) "Request for a formal public hearing" means:

(1) a written statement that a formal public hearing is wanted;

(2) filed

**(A) through the commission's electronic filing system or**

**(B) with the secretary of the commission; and**

(3) signed by those making the request who meet at least one (1) of the following standing requirements:

(A) A public or municipal corporation.

(B) Ten (10) individuals, firms, corporations, or associations.

(C) Ten (10) complainants of any of these classes affected by the proposed rate change.

(D) The OUCC.

(j) "Small utility" means a public or municipally owned utility subject to the **rates and charges** jurisdiction of the commission that **meets the requirements listed in IC 8-1-2-61.5(a)(1), (2), and (3).**

~~(1) serves less than five thousand (5,000) customers as of the date an application for rate change is filed;~~

~~(2) primarily provides retail service to customers; and~~

~~(3) does not serve extensively another utility.~~

(k) "Small utility rate change application form" means that current set of forms, schedules, blanks, and instructions generated by the commission and made available to those who would petition for a rate change under section 2 of this rule. The commission staff shall develop the set of forms, schedules, blanks, and instructions that comprise the small utility rate change application form. The forms

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may be revised ~~from time to time as circumstances dictate~~ **as needed**.

Furthermore, commission staff may periodically establish and publish generic rates of return for each type of utility to be used by utilities when submitting a small utility application form.

**(I) "Days" means calendar days.**

*(Indiana Utility Regulatory Commission; [170 IAC 14-1-1](#); filed Jul 11, 1986, 9:47 a.m.: 9 IR 2918; errata, 10 IR254; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1945; 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 Apr 21, 2008, 3:23 p.m.: [20080521-IR-170070830FRA](#); errata filed Jul 21, 2009, 1:33 p.m.: [20090819-IR-170090571ACA](#); 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](#))*

### **170 IAC 14-1-2 Application for rate change**

**Authority:** **IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5**

**Affected:** **IC 8-1-2-61.5**

Sec. 2. (a) A small utility availing itself of this procedure must:

- (1) file the application for rate change through the **commission's** electronic filing system; and
- (2) contemporaneously serve a copy of the application on the OUCC.

(b) The application must include the following:

- (1) A copy of the proposed notice required in subsection (d)(1) exclusive of the date specified in subsection (d)(3)
  - (A) Proof of publication of the actual notice required in subsection (d)(1) must be filed within fifteen (15) days after the filing **date** of the application for rate change.

~~(2) A copy of the proposed written notice required in subsection (d)(2) exclusive of the date specified in subsection (d)(3)(A). An actual copy of the notice required in subsection (d)(2) must be filed within fifteen (15) days after the filing of the application for rate change.~~

~~(3)~~ **(2)** A complete small utility rate change application form in its current version, which form is available from the commission.

~~(4)~~ **(3)** A copy of the resolution or ordinance of the utility's governing body that authorizes the application for rate change.

(c) If the small utility is a not-for-profit water or sewer utility, the application must also include the following:

(1) A verified statement by a responsible officer or manager of the small utility as to whether or not the small utility has an outstanding indebtedness to the federal government.

(2) **If the utility prefers not to have a formal public hearing, written consent from an agency of the federal government that is a creditor of the small utility that the utility may obtain an order affecting its rates without a formal public hearing. If the written consent is not provided, the commission shall hold a formal public hearing.**

(d) Notice requirements for this procedure comprise the following:

(1) Publication of a notice of filing of the application for rate change, not later than ten (10) days after the filing of the application for rate change in a newspaper of general circulation in counties in which the utility renders service.

(2) ~~Provision of w~~**Written** notice of the application for rate change to customers no later than ten (10) days after the filing of the application for rate change.

(3) Both the publication of notice under subdivision (1) and the written notice under subdivision (2) shall contain the following:

(A) The date the application for rate change was filed with the commission.

(B) The statement that the utility has filed its application for rate change under [IC 8-1-2-61.5](#) without the necessary costs of a commission hearing; however, a formal public hearing by the commission **or public field hearing** may be held if:

- (i) a public or municipal corporation;
- (ii) ten (10) individuals, firms, corporations, or associations;
- (iii) ten (10) complainants of any of these classes affected by the proposed rate change; or
- (iv) the OUCC;

requests a formal public hearing **or public field hearing** by filing a written signed request with the secretary of the commission. Written requests for a formal public hearing **or public field hearing** must be received by the commission within ~~forty (40)~~ **sixty (60)** days of the date the application for rate change was filed with the commission.

(C) The overall approximate percentage increase in revenues requested by the utility. Furthermore, if the proposed increase is ~~other than~~ **not** an across-the-board increase, then the approximate percentage increase to each class of customers must be described along with other information that ~~fairly~~ **accurately** summarizes the nature and extent of the proposed change.

(D) The statement that there likely shall be no hearing in the absence of a written request.

(E) If applicable, **documentation showing** the amount of financing authority sought by the utility.

(F) The **utility's** full **legal** name, ~~and~~ current address and contact information for the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-2; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2918; errata, 10 IR 254; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1946; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1091; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA; filed Apr 21, 2008, 3:23 p.m.: 20080521-IR-170070830FRA; 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)*

### **170 IAC 14-1-3 Incomplete applications**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; ~~IC 8-1-2-61.5~~

**Affected:** IC 8-1-2-61

Sec. 3. (a) In the event the initial application for rate change **meets the definition of** is an incomplete application, the commission staff shall file, within twenty (20) days of the **filing** date of the filing of the initial application, a report with the secretary of the commission **through the commission's electronic filing system**. The report shall specify which elements of the application are missing or incomplete.

(b) In the event the initial application for rate change is deemed an incomplete application under subsection (a), the time frames specified under:

- (1) section 4(a) of this rule;
- (2) section 5(a) of this rule; and
- (3) section 6(b) of this rule;

shall not be counted from the **original filing** date ~~of the an~~ incomplete application ~~was originally filed~~, but shall be counted from the **filing** date ~~the commission staff files a report with the secretary of the commission stating that the small utility has corrected the deficiencies specified in the~~ **of the** staff report filed under subsection (a) and is otherwise complete.

(c) The commission may dismiss without prejudice any incomplete application which remains on file more than ninety (90) days.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-3; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2919; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; errata filed Sep 9, 1991, 10:45 a.m.: 15 IR 10; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: [20070509-IR-170070147RFA](#); filed Apr 21, 2008, 3:23 p.m.: [20080521-IR-170070830FRA](#); readopted filed Jul 29, 2014, 8:39 a.m.: [20140827-IR-170140181RFA](#); readopted filed Apr 15, 2020, 12:02 p.m.: [20200513-IR-170200084RFA](#))*

**170 IAC 14-1-4 Review and report on application for rate change; request to file written response**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

**Affected:** IC 8-1-2-61

Sec. 4. (a) The OUCC staff shall review the application for rate change and, subject to section 3(b) of this rule, shall within ninety (90) ~~calendar~~ days after the filing of a complete application or substantive amendment to the application file a **staff** report ~~with the secretary of the commission on the application making such recommendations as the OUCC deems appropriate.~~ **The OUCC staff report shall be filed through the commission's electronic filing system.** By order of the commission, the time for filing **deadline** of the **staff** report may be extended if so requested by the OUCC.

**(1) The OUCC report should state whether any degree of agreement exists and describe its details. The OUCC report should confirm if no agreement has been reached.**

(b) If the small utility intends to submit a written response to the OUCC staff report, the small utility shall file a notice of its intention in writing ~~with the secretary of the commission~~ **through the commission's electronic filing system** not later than fifteen (15) days following the **filing** date ~~that of the OUCC staff report was filed.~~

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(c) If the small utility notice is filed under subsection (b), the small utility shall file its written response to the OUCC staff report within thirty (30) days of the date the notice is filed.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-4; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: [20070509-IR-170070147RFA](#); filed Apr 21, 2008, 3:23 p.m.: [20080521-IR-170070830FRA](#); readopted filed Jul 29, 2014, 8:39 a.m.: [20140827-IR-170140181RFA](#); readopted filed Apr 15, 2020, 12:02 p.m.: [20200513-IR-170200084RFA](#))*

**170 IAC 14-1-5 Hearing on application**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

**Affected:** IC 8-1-2-61

Sec. 5. (a) Subject to section 3(b) of this rule, a request for formal public hearing on an application for rate change filed under this rule shall be filed:

**(1) Through the commission's electronic filing system; or**

**(2) with the secretary of the commission**

within ~~forty (40)~~ **sixty (60)** calendar days of the initial filing of the application for rate change, unless the commission extends the period for filing.

(b) The commission may, upon a request timely filed by a public or municipal corporation, ten (10) individuals, firms, corporations, or associations, or ten (10) complainants of any of these classes affected by the proposed rate change or by the OUCC, conduct a formal public hearing with respect to an application for rate change.

(c) The commission may require a formal public hearing or conduct a public field hearing on its own motion.

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(d) In the event a formal public hearing is held, under this section, the small utility may elect to designate its application **for rate change** to serve as its prefiled evidence, constituting its case-in-chief; however, the small utility is not precluded from filing additional evidence.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-5; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1947; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1092; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: [20070509-IR-170070147RFA](#); filed Apr 21, 2008, 3:23 p.m.: [20080521-IR-170070830FRA](#); 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](#))*

### **170 IAC 14-1-6 Decision on application**

**Authority:** **IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5**

**Affected:** **IC 8-1-2-61**

Sec. 6. (a) If no formal public hearing under [IC 8-1-2-61.5\(a\)](#), [IC 8-1-2-61.5\(b\)](#), or [IC 8-1-2-61.5\(c\)](#) is held, the commission may issue an order on the application for rate change based on the data in the application for rate change, the **staff** report filed by the OUCC staff concerning the application for rate change, and a written response of the small utility to the OUCC staff report.

(b) Subject to section 3(b) of this rule, the commission shall not enter an order under this procedure until at least ~~forty (40)~~ **forty-five (45)** calendar days have elapsed from the date of the initial filing of the application for rate change.

*(Indiana Utility Regulatory Commission; 170 IAC 14-1-6; filed Jul 11, 1986, 9:47 a.m.: 9 IR 2920; filed Jun 19, 1991, 3:45 p.m.: 14 IR 1948; filed Jan 5, 2000, 3:52 p.m.: 23 IR 1092; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: [20070509-IR-170070147RFA](#); filed Apr 21, 2008, 3:23 p.m.: [20080521-IR-170070830FRA](#); 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](#))

**170 IAC 14-1-7 Applicability of ex parte rules**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1-2-61.5

**Affected:** IC 8-1-1-5; IC 8-1-2-61

Sec. 7. Under 170 IAC 1-1.5-1(e)(3), filings **on the application for rate change** under this rule are exempt from the ex parte rules of the commission. However, if a formal public hearing is scheduled under IC 8-1-2-61.5(b), then the ex parte rules of the commission located in 170 IAC 1- 1.5 apply from the date the hearing is noticed, except that under 170 IAC 1-1.5-2, the proceeding shall be considered pending from the date the hearing is noticed rather than the thirty (30) days before the date of filing.

(Indiana Utility Regulatory Commission; 170 IAC 14-1-7; filed Apr 21, 2008, 3:23 p.m.: [20080521-IR- 170070830FRA](#); 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](#))