Received: October 7, 2011
IURC 30-Day Filing No: 2898
Indiana Utility Regulatory Commission

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN RE: HARRISON COUNTY REMC'S	)	
30-DAY FILING SEEKING APPROVAL	)	**IURC 30-DAY**
OF A NEW OPTIONAL PILOT TIME OF	)	**FILING NO. 2898**
USE TARIFF	)	

<u>OUCC'S OBJECTION TO HARRISON COUNTY REMC'S 30-DAY FILING</u>

The Indiana Office of Utility Consumer Counselor ("OUCC"), pursuant to 170 IAC 1-6-7, objects to Harrison County REMC's (Harrison) 30-day filing seeking Commission approval for a new optional pilot Residential Time of Use Tariff. The OUCC's objection to the filing is made pursuant to 170 IAC 1-6-7 and is based upon this being a prohibited increase to an existing rate and the "incomplete" and "complex" nature of Harrison's submission. Furthermore, since the subject of Harrison's 30-day filing is "controversial", as defined by 170 IAC 1-6-1(b), it should not be considered by the Commission under the streamlined and expedited 30-day filing process. The OUCC therefore respectfully requests the Commission use its discretion, pursuant to 170 IAC 1-6-4(9), to disallow the 30-day filing. In support of its Objection, the OUCC states as follows:

Background

On September 8, 2011, Harrison submitted IURC 30-Day Filing No. 2898 requesting approval for a new optional Residential Time of Use Tariff. In the cover letter accompanying its filing, Harrison states, "this rate is optional and is part of a pilot program, limited to no more than 500 members who meet certain qualifications and agree to stay on the rate for 12 consecutive months."

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Harrison's 30-Day Filing is Prohibited as it Increases its Existing Minimum Billing Charge.

170 IAC 1-6-3 allows "rates and charges for new services" to be processed under the 30-day filing process. 170 IAC 1-6-4, however, prohibits a 30-day filing that increases any existing rates. While Harrison has fashioned this tariff as a "new" optional pilot Residential Time of Use Tariff, Harrison already has a TOU rate that is currently closed to new customers. Harrison's Basic Service Charges under rates R-1 and R-2 (Residential and Farm Service), as well as T-1 and T-2 (Residential and Farm Service Time of Use) are $20. Harrison proposes to increase its minimum billing charge under this Optional Time of Use Rate Schedule to $35. Rather than reopen its current time of use tariff to additional customers, Harrison has instead fashioned a "new" tariff that allows it to circumvent this rule and increase the current rates and charges for its time of use ratepayers. This concern is further compounded by Harrison's failure to provide any evidence to justify this increase.

Harrison's 30-Day Filing Should Be Denied as Incomplete.

An objection to a 30-day filing may be submitted pursuant to 170 IAC 1-6-7(b)(2)(C) for any filing that is incomplete. In addition to the lack of support for increasing the minimum charge identified above, Harrison also fails to provide evidence for several key aspects of its proposed pilot.

The proposed Optional Residential Time of Use Rate Schedule states, "This PILOT rate is available to no more than 500 customers who meet certain qualifications* in the territory served by the Corporation as an optional rate for Farm and Home use subject to the Corporation's Service Rules and Regulations. Existing customers or new customers requesting this rate will be evaluated on a case by case basis for availability." Harrison has approximately 20,600 customers, so this limits the time of use rate to about 2.4% of its total customers.

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Harrison provided no explanation as to how it determined the appropriateness of a 500 customer limit.

Harrison has also failed to clarify those "certain qualifications" that will need to be met in order to participate. The Commission, as well as ratepayers, should be provided those qualifications prior to approval of this rate. In addition, Harrison is unclear as to what it means when it states, "Existing customers or new customers requesting this rate will be evaluated on a case by case basis for availability." Again, there are no criteria for making such a determination. Finally, Harrison has provided several spreadsheets, but has not identified the assumptions it made to support its claim that this rate is revenue neutral.

Harrison's 30-Day Filing Should Be Denied Due to its Complex Nature.

The Commission's 30-day filing rule recognizes that "[a]dditional time may be required for . . . complex filings."[1] Time of use rates provide an incentive to ratepayers to shift usage to a specified time period when electricity costs are typically lower for the utility (off peak times) in return for lower rates during that period. On the other hand, ratepayers that choose to consume electricity during time periods where electricity demand is highest (on peak hours) pay higher rates. As currently proposed, Harrison also includes a shoulder period (low peak hours).

As ratepayers are encouraged to shift usage to those off-peak periods, care must be taken to ensure that the rates charged are appropriate to promote the desired shift, the time frames are convenient to ratepayers and do not unduly inconvenience those that would be willing to shift usage, and that the differential between the various hourly rates do not unfairly burden ratepayers that cannot adequately shift usage to offset any increases. Failure to resolve these issues prior to implementation may sour ratepayers on future time of use offerings.

[1] *See* 170 IAC 1-6-1(c)(4).

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The OUCC has been involved in several recent Commission proceedings and recognizes the difficulty in developing such rates. While Harrison promotes this rate design as revenue neutral, it fails to account for the likelihood that in order to be revenue neutral, there will necessarily be winners and losers among its ratepayers. This is an important consideration given that customers will not only have to shift load to off peak times in order to offset the price differential between the periods, but must also attempt to offset the additional $15 increase to Harrison's fixed charge just to break even. Furthermore, Harrison has not set forth any reason to require ratepayers to remain on the TOU rate for a minimum of 12 months. Such a requirement only ensures that the "losers" will compound those losses over the course of a year.

This 30-day filing has significant public policy implications for the implementation of time of use rates. These public policy implications demonstrate that this proposal is too complex for an expedited 30-day filing process and support the need for a more thorough review than otherwise available under a 30-day filing.

Harrison's Request is Best Resolved Via a Fully Docketed Proceeding.

A docketed proceeding, as has been used by many other utilities requesting approval for time of use rates, would allow time for other interested parties to issue data requests, perform their own evaluation of Harrison's proposal, and offer testimony. The limited nature of a 30-day filing process does not allow sufficient time to conduct this review and Harrison has not yet established that its request demands such expedited relief.

The Commission Determines What Is Processed Under the 30-Day Filing Rule.

170 IAC 1-6-4 prohibits the filing of "any rates, charges, rules, conditions of service, or changes thereto that the Commission in its discretion determines should not be processed under the 30-day filing rule." Given the complex and evolving nature of time of use rates, as well as

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the significant public policy concerns surrounding the implementation of time of use rates, the Commission should use its discretion and not approve the relief requested in this 30-day filing.

The OUCC's Objection Makes the 30-Day Filing Controversial.

Pursuant to 170 IAC 1-6-1(b), ". . . only noncontroversial filings may be approved under this rule [170 IAC 1-6-1, *et seq.*]." A "noncontroversial filing" is defined by 170 IAC 1-6-2(7) as "any filing regarding which no person or entity has filed an objection as provided under section 7 of this rule [170 IAC 1-6-7]." Upon the submission of this objection to the Secretary of the Commission, Harrison's 30-day filing is no longer a "noncontroversial filing" and may not be approved under the Commission's 30-day filing process, 170 IAC 1-6-1, *et seq*.

Conclusion and Prayer for Relief

Harrison County has proposed a novel approach to encourage ratepayers to shift usage to a lower cost time period. While the concept is not new, care must be taken to ensure the rates are appropriately designed so that ratepayers are not unfairly disadvantaged. Harrison has not provided enough information to make this determination. Furthermore, such information is best considered through a fully-docketed proceeding which will ensure all stakeholders have an opportunity to comment on an appropriate rate design.

WHEREFORE, the OUCC respectfully requests the Commission find the OUCC's objection complies with 170 IAC 1-6-7(b)(2)(C)(i) and (ii), determine Harrison's 30-day filing is "controversial" and prohibited by 170 IAC 1-6-1(b), and order this matter not be presented to the full Commission for consideration or approval under the 30-day administrative filing rule.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing **Objection** has been served upon the following party in the captioned proceeding by electronic service, with paper copies available upon request, on October 7, 2011.

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