

ORIGINAL

**GENERAL ADMINISTRATIVE ORDER  
OF THE INDIANA UTILITY REGULATORY COMMISSION  
2017-2**

WHEREAS, the mission of the Consumer Affairs Division of the Indiana Utility Regulatory Commission (“Commission”) is to ensure utility and customer compliance with the Commission’s rules and regulations through reasonable and timely determinations; and, to that end, the Consumer Affairs Division provides dispute resolution services for customers of jurisdictional utilities; and

WHEREAS, Senate Enrolled Act 309 was enacted on May 2, 2017 (P.L. 264-2017), and created Indiana Code chapter 8-1-40 to be effective on July 1, 2017; and

WHEREAS, Indiana Code section 8-1-40-14 provides that, for a customer who installs a net metering facility before January 1, 2018, and is participating in an electricity supplier’s net metering tariff on December 31, 2017, and does not remove the net metering facility, the net metering facility continues under the terms and conditions of the net metering tariff until July 1, 2047; and

WHEREAS, the Commission was made aware of possible questions and concerns regarding the near-term implementation of Indiana Code chapter 8-1-40; and

WHEREAS, the Commission provided public notice of a Technical Conference to be held on July 20, 2017, on possible questions and concerns regarding Indiana Code chapter 8-1-40 and the Commission’s interconnection rule, 170 IAC 4-4.3; and

WHEREAS, the Commission requested that interested parties provide their questions, concerns, and comments in writing by June 28, 2017; and

WHEREAS, the Commission received written questions and comments, which are posted on the Commission’s website and which it used to develop an agenda for the Technical Conference; and

WHEREAS, the Commission held a Technical Conference on July 20, 2017, from 2:00 p.m. to 5:05 p.m. Eastern Daylight Time, and said Technical Conference was open to the public, live-streamed on-line, and recorded by the Commission’s court reporters; and

WHEREAS, the Commission respects the authority granted to it by statute through the Indiana General Assembly (including the authority to adopt rules), and any actions the Commission takes must be within that statutory authority; and

WHEREAS, the Commission adopted its interconnection rule, 170 IAC 4-4.3, over eleven years ago in 2006, in order to provide procedures and timelines for the interconnection of customer generation in a safe and reliable manner; and

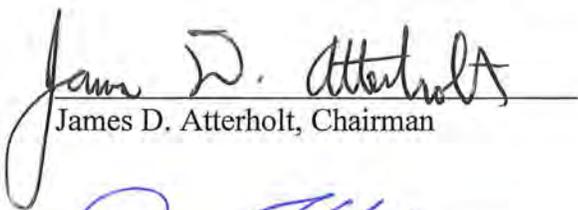
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WHEREAS, the continued safe and reliable operation of electric distribution systems is necessary for public safety and to prevent interconnecting facilities from adversely affecting their neighbors; and

WHEREAS, the Commission's Consumer Affairs Division may receive complaints regarding compliance with the Commission's net metering rule (170 IAC 4-4.2) and interconnection rule (170 IAC 4-4.3); and

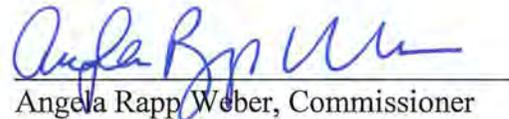
WHEREAS, it appears appropriate to provide guidance to customers and their installers, utilities, and the Commission's Consumer Affairs Division regarding Indiana Code § 8-1-40-14;

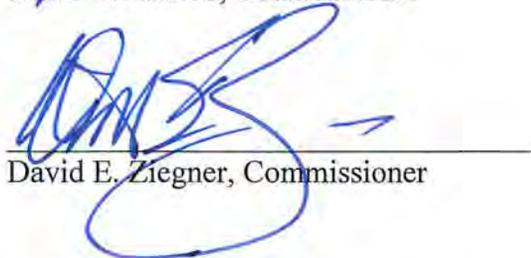
NOW, THEREFORE, BE IT RESOLVED AND ORDERED that to this General Administrative Order and the "Guidance regarding the Indiana Code § 8-1-40-14 and Commission Rules," which is attached hereto as Appendix A, is adopted by this Commission.

  
James D. Atterholt, Chairman

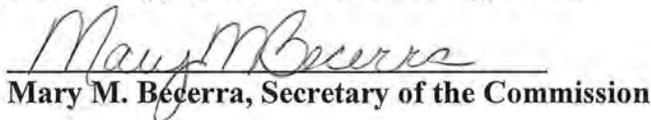
  
Sarah Freeman, Commissioner

  
James F. Huston, Commissioner

  
Angela Rapp Weber, Commissioner

  
David E. Ziegner, Commissioner

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

  
Mary M. Becerra, Secretary of the Commission

Date:     AUG 09 2017

APPENDIX A

**Guidance regarding Indiana Code § 8-1-40-14 and Commission Rules**

The Indiana Utility Regulatory Commission (“IURC” or “Commission”) provides the following guidance regarding Indiana Code § 8-1-40-14 and the Commission’s net metering rule (170 IAC 4-4.2 and interconnection rule (170 IAC 4-4.3). All interested parties should understand that:

- (1) The Commission cannot change a statute;
- (2) Indiana Code § 8-1-40-21 only allows certain changes to be made to the Commission’s rules; and
- (3) None of those allowed changes apply to Indiana Code § 8-1-40-14.

While it may interpret an authorizing statute, the Commission does not have the authority (nor does it desire the authority) to change the unambiguous meaning of a statute.

Throughout this document, the term “utility” (singular and plural) means a utility that qualifies as an electricity supplier under Indiana Code § 8-1-40-4.

**I. Expectations for Utilities Subject to Indiana Code Chapter 8-1-40**

The Commission expects utilities to do the following and notes that these expectations are consistent with the written comments submitted prior to the July 20<sup>th</sup> Technical Conference and the oral comments made at that Technical Conference by the Indiana Energy Association on behalf of its members, which include utilities subject to Indiana Code chapter 8-1-40:

- A. Utilities will, at a minimum, satisfy the existing timelines in the interconnection rule; however, utilities should process net metering applications in such a manner as to shorten timelines if it can be done safely.
- B. Utilities will take the necessary administrative and operational steps to be prepared for a surge in applicants before October 19, 2017, so the utilities can efficiently process more applications in a safe and timely manner.  
Note: The Commission’s Consumer Affairs Division has already taken steps to respond to this time sensitive issue by assigning specific staff members to manage complaints related to the Commission’s net metering and interconnection rules; preparing those staff to manage such complaints by providing a refresher on the rules and familiarizing them with investor owned utility interconnection applications and agreements; and preparing a listing of the specific information and documents that may be needed from a customer who contacts the Commission regarding the net metering or interconnection rules, for the purposes of expediting any customer or utility complaints on this issue as quickly as possible.

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- C. Utilities will work proactively with customers and the customers' installers to resolve any issues expeditiously. For example, if an application is submitted in good faith by a customer and the utility needs additional information to designate the application complete, instead of an outright denial, the utility should contact the customer in a timely manner to explain and/or gather the information required. The utilities should respond to in a timely manner to calls and written inquiries from customers and their installers. The utilities should provide appropriate utility contact information to customers and their installers, should they have any questions, comments, or complaints.
- D. For a utility that does not meet the timelines in the interconnection rule, the utility has the responsibility to extend the grandfather period for the affected customer(s) for the same number of days that the utility exceeded an interconnection rule timeline or failed to be appropriately responsive to the customer or the customer's installer. The Commission notes that the Indiana Energy Association, on behalf of its members, volunteered to toll the grandfathering deadline if a member utility causes a delay exceeding the timelines allowed in the interconnection rule.<sup>1</sup>

## II. Guidance for the Commission's Consumer Affairs Division

Under 170 IAC 4-4.2-10 for net metering issues and 170 IAC 4-4.3-12 for interconnection issues, a customer or utility may submit a complaint to the Commission's Consumer Affairs Division ("CAD") for a determination regarding issues about compliance with these rules. The procedural rule for CAD complaints is located at 170 IAC 16. Customers should make an attempt to resolve a complaint directly with the utility before filing a complaint with CAD. Pursuant to 170 IAC 16-1-5(e), CAD may refer a complaint to the Commission for review at any time, based on the complexity of issues or circumstances involved in the complaint, and will likely do so regarding cases involving Indiana Code § 8-1-40-14.

### *Complaints may be submitted verbally or in writing by contacting CAD at:*

Phone: 1-800-851-4268

Business Hours: 8:15 a.m. to 4:45 p.m. Eastern (Daylight/Standard) Time

Email: [IURCComplaints@urc.IN.gov](mailto:IURCComplaints@urc.IN.gov)

Online: <https://iurc.portal.in.gov/complaint/>

Address:

Indiana Utility Regulatory Commission – Consumer Affairs Division

PNC Center

101 W. Washington Street, Suite 1500E

Indianapolis, IN 46204

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<sup>1</sup> Transcript of July 20, 2017, Technical Conference, Volume A, page A-27, line 18 through page A-28, line 14, and page A-41, lines 13-19.

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The Commission provides the following information and guidance to assist in resolution of CAD complaints involving Indiana Code § 8-1-40-14:

### **A. Statute and Rule Provisions:**

#### **IC 8-1-40-4 “Electricity supplier”**

(a) As used in this chapter, “electricity supplier” means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana.

(b) The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- (2) a corporation organized under IC 8-1-13; or
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

#### **IC 8-1-40-8 “Premises”**

As used in this chapter, “premises” means a single tract of land on which a customer consumes electricity for residential, business, or other purposes.

#### **IC 8-1-40-14 Installations of net metering facilities before January 1, 2018; continued service under tariff; successors in interest**

(a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer’s premises before January 1, 2018.

(b) A customer that is participating in an electricity supplier’s net metering tariff on December 31, 2017, shall continue to be served under the terms and conditions of the net metering tariff until:

- (1) the customer removes from the customer’s premises or replaces the net metering facility (as defined in 170 IAC 4-4.2-1(k)); or
- (2) July 1, 2047;

whichever occurs earlier.

(c) A successor in interest to a customer’s premises on which is located a net metering facility (as defined in 170 IAC 4-4.2-1(k)) that was installed before January 1, 2018, may, if the successor in interest chooses, be served under the terms and conditions of the net metering tariff of the electricity supplier that provides retail electric service at the premises until:

- (1) the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is removed from the premises or is replaced; or
- (2) July 1, 2047;

whichever occurs earlier.

#### **170 IAC 4-4.2-1**

(i) “Net metering” means measurement of the difference between the electricity that is supplied by the investor-owned electric utility to a net metering customer and the electricity that is supplied back to the investor-owned electric utility by a net metering customer.

(j) “Net metering customer” means a customer in good standing that owns and operates an eligible net metering energy resource facility that:

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- (1) has a nameplate capacity less than or equal to one (1) megawatt (MW), or more at the investor-owned electric utility's sole discretion;
  - (2) is located on the net metering customer's premises; and
  - (3) is used primarily to offset all or part of the net metering customer's own annual electricity requirements.
- (k) "Net metering facility" means an arrangement of equipment for the production of electricity from an eligible net metering energy resource that is owned and operated by a net metering customer.

In addition to the above, the Commission's interconnection rule, 170 IAC 4-4.3, applies to a customer generation facility to be used for net metering.

### **B. Summary of Indiana Code § 8-1-40-14**

In summary, Indiana Code § 8-1-40-14 requires the customer to complete two items on or before December 31, 2017, in order to be under the net metering tariff until July 1, 2047:

- (1) Have the net metering facility installed; and
- (2) Be participating in the net metering tariff of the customer's electric utility.

Please see Section D below for the definitions of these terms.

### **C. Timeline under Interconnection Rule**

The Commission's interconnection rule, 170 IAC 4-4.3, provides the requirements for interconnecting all types of customer electric generation, including net metering facilities. As a result, some provisions of the interconnection rule may not apply to net metering facilities.

Net metering facilities may be up to one megawatt (1 MW or 1,000 kW). The Level 1 review under the interconnection rule generally applies to facilities up to ten kilowatts (10 kW). The Level 2 review applies to facilities up to two megawatts (2 MW), which by definition includes facilities that are larger than net metering facilities.

The Level 1 review and the Level 2 review both follow the same basic steps, but have different requirements for approval by the utility. The customer and the customer's installer should review and comply with the applicable requirements of 170 IAC 4-4.3-6(c)-(h) for Level 1 or 170 IAC 4-4.3-7(c)-(o) for Level 2, as well as the certification requirements of 170 IAC 4-4.3-5 for both.

The following table outlines the basic steps and the maximum timelines in the interconnection rule for Level 1 and Level 2 reviews. Please note that these timelines assume that the customer

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submits a complete application and the customer's proposed net metering facility meets the applicable requirements of the rule.

<b>BASIC STEPS</b>	<b>2017 Timeline</b>
<b>Interconnection application submitted</b>	<b>October 19, 2017</b>
Utility notice that application is complete -- 10 business days after submission	November 2, 2017
Utility notice re whether facility is approved -- 15 business days after notice	November 28, 2017
Utility notice re inspection; agreement sent -- 10 business days after approval	December 12, 2017
Customer signs and returns agreement -- 10 business days before start date	December 14, 2017
<b>Installation complete</b>	<b>December 31, 2017</b>

**CUSTOMERS – In order to assure your net metering facility can be qualified to meet the December 31, 2017, deadline, you should have your completed application submitted to the utility by or before October 19, 2017.** It is advisable for customers to submit their applications as early as possible.

### D. Definitions

The following definitions are provided based on the written questions and comments provided before the July 20<sup>th</sup> Technical Conference and the discussion at the Technical Conference:

- (1) **“Installs”** means “to set up for use or service” according to the online version of the Merriam-Webster Dictionary. Therefore, a customer's net metering facility must be set up and ready to operate prior to January 1, 2018, in order to meet the requirement of Indiana Code § 8-1-40-14(a). “Set up and ready to operate” means that the system could be safely energized but for any metering or inspection requirements the utility has not yet performed.
- (2) **“Participating in an electricity supplier's net metering tariff”** means that both the customer and the utility have signed an interconnection agreement and the utility has received the signed document from the customer. Both the customer and the utility need to agree on the relevant and appropriate terms and conditions for the customer's net metering facility and the customer's participation in the utility's net metering tariff. The document that contains those terms and conditions is the interconnection agreement between the utility and the customer. An interconnection agreement that has been signed by both the utility and the customer is the affirmative evidence that both agree to the

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terms and conditions in that agreement, which are necessary for participation in the utility's net metering tariff.

- (3) **“Replaces”** means “to put something new in the place of” according to the online version of Meriam-Webster Dictionary. In terms of a net metering facility, the key equipment that allows net metering to happen is the inverter(s) and the key number is the alternating current (“AC”) output of the inverter(s) (i.e., the nameplate capacity). Repairs, updates, and upgrades to portions of the net metering facility that do not increase the nameplate capacity of the net metering facility will not be considered to be replacing the net metering facility.<sup>2</sup> The amount of nameplate capacity that will be considered to be participating in the net metering tariff is the amount of nameplate capacity that is in place prior to the deadlines in Indiana Code §§ 8-1-40-13 and 8-1-40-14.
- (4) **“Successor in interest”** means “one who follows another in ownership or control of property” according to Black’s Law Dictionary. Successors in interest to the customer’s premises may continue under the terms and conditions of the net metering tariff. See Indiana Code 8-1-40-14(c). The executed interconnection agreement contains the necessary information, including the nameplate capacity. The customer has the responsibility to retain this documentation and/or have the document recorded with the appropriate government agency, in order for future successors in interest to have this information.
- (5) **“Nameplate capacity”** means the full-load continuous rating of a generator under specified conditions as designated by the manufacturer. For an inverter-based net metering facility, name plate capacity means the aggregate output rating of all inverters in the facility, measured in kW AC.
- (6) **“Annual electricity requirements”** for net metering, 170 IAC 4-4.2-1(j)(3), or **“average annual consumption”** for distributed generation, Indiana Code § 8-1-40-3(a)(3)(B), is usually based on the 12 months prior to the submission of the customer’s interconnection application. However, if a customer will be using its electric generation to offset known changing use (such as the purchase of an electric car), the customer should provide that information to the utility so that the expected future use can be reflected in the sizing of the net metering or distributed generation facility.

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<sup>2</sup> The addition of an appropriately sized battery to an otherwise qualifying net metering facility, subject to this capacity condition, is to be considered a component of the net metering facility system.