“STRAWMAN” DRAFT FOR
SUB-BILLING PRE-RULEMAKING WORKSHOP

TITLE 170 INDIANA UTILITY REGULATORY
COMMISSION

Proposed Rule
LSA Document #08-_______

DIGEST

Adds 170 IAC 6-6-1 through 170 IAC 6-6-6 and 170 IAC 8.5-5-1 through 170 IAC 8.5-5-6 establishing sub-billing procedures for the provision of water or sewage disposal service. Effective 30 days after filing with the Publisher.

170 IAC 6-6-1
170 IAC 6-6-2
170 IAC 6-6-3
170 IAC 6-6-4
170 IAC 6-6-5
170 IAC 6-6-6
170 IAC 8.5-5-1
170 IAC 8.5-5-2
170 IAC 8.5-5-3
170 IAC 8.5-5-4
170 IAC 8.5-5-5
170 IAC 8.5-5-6
"STRAWMAN" DRAFT FOR

SUB-BILLING PRE-RULEMAKING WORKSHOP

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

Rule 6. Sub-billing

170 IAC 6-6-1 Definitions
Sec. 1. (a) Where applicable, the definitions in this section, except where otherwise defined, and, where applicable, set forth in I.C. 8-1-2-1 and I.C. 8-1-2-1.2 shall be applied to this rule, apply throughout this article.
(b) "Commission" means the Indiana utility regulatory commission.
(c) " Dwelling Unit" means a building or property, or portion thereof, used for a room or rooms suitable for residential occupancy containing kitchen and bath facilities, or a mobile home park lot or similar multi-user installation, excluding...including...but not including mobile home parks and single family, two family and multi-family dwellings, but not including...hotels, lodging houses, sheltered care group homes or similar multi-user transient lodging.
(d) "Initial Set-Up Fee" means the landlord's actual administrative cost.
(e) "Insufficient Funds Fee" means the fee a landlord charges a tenant to process insufficient funds of a payment not to exceed any actual fee assessed to the landlord by a financial institution resulting from insufficient funds of an instrument received from tenant in payment of charges for water service.
(f) "Landlord" means the owner of a dwelling unit which is rented or leased to an individual, or an agent acting on the behalf of the owner.
(g) "Landlord’s usage" means any water consumed by landlord for personal use, business use, or any other common purpose; and any water consumed in common areas, including but not limited to water used in a club house, laundry facility, bath house, swimming pool, hot tub, irrigation sprinkler system, fire protection sprinkler system, or for grounds keeping, flushing the mains, or any other common purpose.
(h) " Master-meter" means the use of a meter device to measure, for billing purposes, the amount of water consumed by a landlord who distributes such water to tenants by meter device.
(i) "Sub-bill" means a landlord's request of payment from a tenant for the distribution of water service, which service is provided to the landlord by a public utility or municipally owned utility.
(j) "Sub-meter" means the use of a meter device to measure the amount of water consumed within an individual dwelling unit for the purpose of sub-billing. "Sub-meter" also refers to the meter used to measure the amount of water provided to individual dwelling units.
(k) "Tenant" means any occupant of a dwelling unit who agrees to pay for water service distributed by a landlord.
(l) "Total net charge for water service" means the charge the water utility imposes on Landlord for water service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges.
(na) "Utility" means the public or municipally owned utility that provides water service to landlord for distribution to dwelling unit.

SECTION 2. 170 IAC 6-6-2 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-2 Records
Sec. 2. (a) Landlord shall retain all bills received from utility for a period of not less than twenty-four (24) months, and shall make all such bills available for inspection by any tenant, or person who was a tenant during the billing period in question, at reasonable hours of business and without charge.
(b) Landlord shall provide a copy of records under this section within three (3) business days of request by tenant. Landlord may charge tenant a nominal fee can be charged if landlord provides a to recover the cost of copying of any bills under this section.

SECTION 3. 170 IAC 6-6-3 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-3 Charges
Sec. 3. (a) A tenant’s bill shall be calculated in the following manner:
“STRAWMAN” DRAFT FOR

SUB-BILLING PRE-RULEMAKING WORKSHOP

(1) If the utility charges the landlord for usage measured by a master meter, upon receipt of utility’s water bill, landlord shall divide the total net charges for water consumption plus applicable tax, by the total amount of water master-metered to obtain an average cost per unit volume. The average water cost per unit volume shall then be multiplied by the estimated or actual unit volume consumed by each dwelling unit. In no event shall landlord charge tenants more than the total net charge for water service.

(b) A landlord may not charge a tenant for any water reasonably attributed to the landlord’s usage.

(c) In addition to the charges in section (a), landlord may charge tenant only the following costs for the provision of water service:

(1) A reasonable initial set up fee for any tenant that is not currently sub-billed by the landlord as of January 1, 2009;
(2) A reasonable administrative fee not to exceed the current statutory limit; and
(3) A reasonable insufficient funds fee not to exceed the amount, if any, that the utility charges its customers for insufficient funds.

(d) Nothing herein should be construed to eliminate or diminish any contractual right a tenant may have with respect to the provision of water or sewer service.

SECTION 4. 170 IAC 6-6-4 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-4 Standards of Billing

Sec. 4. (a) Landlord shall render bills to tenant with the same frequency that bills are rendered to landlord by the utility. Landlord shall bill tenant for the same period for which landlord has been billed by the utility.

(b) Bills shall be rendered to tenant separately from rent.

(c) Bills rendered to tenant shall show at least the following information:

(1) The billing date;
(2) If tenant’s usage is not sub-metered, the dates and meter readings of the master meter at the beginning and end of the period for which the bill is rendered, and the gallon amount that is attributed to landlord’s usage;
(3) If tenant’s usage is sub-metered, the dates and meter readings of tenant’s sub-meter at the beginning and end of the period for which the bill is rendered;
(4) The billing rate charged;
(5) The previous balance, if any;
(6) The amount of the bill;
(7) If a first bill, a reasonable amount of an initial set up fee, if any;
(8) A reasonable administrative fee, if any, not to exceed the statutory limit;
(9) Amount of any reasonable insufficient funds fee, if any;
(10) The date on which the bill is due;
(11) If an estimated bill, a clear and conspicuous coding or other indication identifying the bill as an estimated bill;
(12) An explanation, which can be readily understood, of all codes and/or symbols shown on the bill;
(13) The name and telephone number of a person for tenant to contact about billing matters;
(14) The name and telephone number of a person for the tenant to contact about water service matters, and
(15) The following statement, “If you believe you are being charged in violation of state law, you have a right to file a complaint with the Indiana Utility Regulatory at (insert phone number for the tenant to contact the commission) or (insert website for the tenant to contact the commission.).”

SECTION 5. 170 IAC 6-6-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-5 Notice

Sec. 5. A landlord shall provide written notice to tenants pursuant to the disclosure requirements in IC 8-1-2-1.2(3).

SECTION 6. 170 IAC 6-6-6 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-6 Filing a complaint
Sec. 6. A tenant may file a complaint against the landlord with the commission’s division of consumer affairs for violations of this rule by following the commission’s complaint procedures found at 170 IAC 1-1.1. [The new Consumer Affairs rule may include a statement that for purposes of filing a complaint, a tenant will be considered a customer and a landlord will be considered a utility.]

170 IAC 6-6-7 Action on Complaint
Sec. 7. If after review of the information provided under this rule, the commission determines that the landlord has failed to comply with the requirements of I.C. 8-1-2-1.2 or this rule, the commission shall require the landlord to refund any overcharges to the known date of error or for a period of one year, whichever is less, and adjust its billing practices prospectively.