TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Final Rule
LSA Document #12-97(F)

DIGEST

Amends 170 IAC 1-6-1 through 170 IAC 1-6-3 to allow a clean energy resource to request approval of an alternative equation under the commission's thirty-day administrative filing rule. Adds 170 IAC 17.1 to establish the Indiana voluntary clean energy portfolio standard program, superseding the emergency rule currently in place. Repeals 170 IAC 17. Effective 30 days after filing with the Publisher.

170 IAC 1-6-1; 170 IAC 1-6-2; 170 IAC 1-6-3; 170 IAC 17; 170 IAC 17.1

SECTION 1. 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.

~~(c)~~ **(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 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.

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

~~(e)~~ **(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)

SECTION 2. 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).
~~(1)~~ **(4)** "Commission" means the Indiana utility regulatory commission.
~~(2)~~ **(5)** "Commission division" means the technical division of the commission for the industry to which the utility making the filing under this rule belongs.
~~(3)~~ **(6)** "Conference" means the official regularly scheduled meeting of the commission at which orders and utility articles are presented for approval.
~~(4)~~ **(7)** "Customer" means any:
(A) person;
(B) firm;
(C) corporation;
(D) municipality;
(E) government agency; or
(F) ~~any~~ other entity;
that has agreed, orally or otherwise, to pay for service received from a utility.
~~(5)~~ **(8)** "Filing date" means the date a filing under this rule is received and file stamped by the secretary of the commission.
~~(6)~~ **(9)** "New rate" means a rate or charge for utility service not currently encompassed by the utility's tariffs.
~~(7)~~ **(10)** "Noncontroversial filing" means any filing regarding which no person or entity has filed an objection as provided under section 7 of this rule.
~~(8)~~ **(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 shall include, but not be limited to, the following:
(A) Customer deposits.
(B) Customer checks returned to the utility due to insufficient funds.
(C) Connect fees.
(D) Reconnect fees.
(E) Tap fees.
~~(9)~~ **(12)** "OUCC" means the Indiana office of utility consumer counselor.
~~(10)~~ **(13)** "Rate" means base rates and charges incident to the provision of usual and customary utility service on a month-to-month basis.
~~(11)~~ **(14)** "System development charge" or "SDC" means a one (1) time fee assessed to new customers of water or sewer utilities to help finance development of utility systems, mainly those dealing with facilities for production, treatment, or storage necessary to serve those new customers. The term includes the following:
(A) Impact fee.
(B) Availability fee.
(C) Capacity fee.
(15) "Utility", only for the 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.
~~(12)~~ **(16)** "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)

SECTION 3. 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 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.
~~(6)~~ **(7)** A filing for which the commission has already approved or accepted the procedure for the change.
~~(7)~~ **(8)** 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)

SECTION 4. 170 IAC 17.1 IS ADDED TO READ AS FOLLOWS:

ARTICLE 17.1. INDIANA VOLUNTARY CLEAN ENERGY PORTFOLIO STANDARD PROGRAM

Rule 1. Applicability

170 IAC 17.1-1-1 Applicability under IC 8-1-37

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-6

Sec. 1. This article is applicable to all Indiana electricity suppliers as defined in IC 8-1-37-6.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-1-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-1-2 No change in public utility status

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

Sec. 2. This article does not change the:
(1) owner;
(2) operator; or
(3) manager;
of a clean energy resource as defined in IC 8-1-37-4 into a public utility under the jurisdiction of the commission, if the entity is not a public utility under IC 8-1-2-1.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-1-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-1-3 No change to other commission processes

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 3. This article does not replace other commission processes, including, but not limited to:
(1) a proceeding requesting a certificate of public convenience and necessity; and
(2) the commission's rules regarding integrated resource planning.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-1-3; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

Rule 2. Definitions

170 IAC 17.1-2-1 Applicability

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 1. The definitions in IC 8-1-37 and this rule apply throughout this article.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-2 "Application completion date" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 2. "Application completion date" means the date the commission through its presiding officers notifies the parties of a proceeding under this article that the application submitted by the electricity supplier is complete.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-3 "CHOICE" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 3. "CHOICE" means the comprehensive Hoosier option to incentivize cleaner energy.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-3; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-4 "CHOICE incentive" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-13

Sec. 4. "CHOICE incentive" means the adder to an electricity supplier's return on equity of up to fifty (50) basis points pursuant to IC 8-1-37-13.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-4; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-5 "Clean energy" defined

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

Sec. 5. In addition to the definition in IC 8-1-37-2, and consistent with the definition of clean energy resource in IC 8-1-37-4, "clean energy" means electricity that is conserved by a clean energy resource.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-5; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-6 "Clean energy resource" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-4

Sec. 6. "Clean energy resource" means, in addition to the definition as given in IC 8-1-37-4(a), the generation of electricity using methane recovered from landfills. For the purposes of determining the percentage of clean energy resources that qualify for the goal under IC 8-1-37-12(g), this definition shall be considered part of the statutory list as IC 8-1-37-4(a)(15)(A).

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-6; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-7 "Commission" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 7. "Commission" means the Indiana utility regulatory commission.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-7; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-8 "CPS goal period" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-12

Sec. 8. "CPS goal period" is the period of time outlined in IC 8-1-37-12(a) in which an electricity supplier must meet a particular goal under this article.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-8; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-9 "Effective date" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 9. "Effective date" of the Indiana voluntary clean energy portfolio standard program is January 1, 2012.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-9; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-10 "Incentive application date" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 10. "Incentive application date" means the date on which a participating electricity supplier files its incentive application and work papers with the commission.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-10; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-11 "Integrated resource plan", "integrated resource planning", or "IRP" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 11. "Integrated resource plan", "integrated resource planning", or "IRP" means a utility's assessment of a variety of demand-side and supply-side resources to cost effectively meet customer electricity service needs.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-11; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-12 "OUCC" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 12. "OUCC" means the Indiana office of utility consumer counselor.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-12; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-13 "Program application date" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 13. "Program application date" means the date on which the electricity supplier files its program application and working papers with the commission.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-13; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-2-14 "Regional transmission organization" defined

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-9

Sec. 14. In addition to the definition in IC 8-1-37-9, as applicable to electricity suppliers in the state of Indiana, "regional transmission organization" means:
(1) the Midwest Independent Transmission System Operator, Inc.; or
(2) the PJM Interconnection, L.L.C.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-2-14; filed Jul 9, 2012, 3:01 p.m.:

20120808-IR-170120097FRA)

Rule 3. Establishment of the Indiana Voluntary Clean Energy Portfolio Standard Program

170 IAC 17.1-3-1 Indiana voluntary clean energy portfolio standard program

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 1. The Indiana voluntary clean energy portfolio standard program is hereby established by this article.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-3-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-3-2 Comprehensive Hoosier option to incentivize cleaner energy program

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-27

Sec. 2. The Indiana voluntary clean energy portfolio standard program shall also be known as the comprehensive Hoosier option to incentivize cleaner energy program or CHOICE program.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-3-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-3-3 Goals under the CHOICE program

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 3. The goals under the CHOICE program are as follows:
(1) CPS goal period I: For the six (6) calendar years beginning January 1, 2013, and ending December 31, 2018, an average of at least four percent (4%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.
(2) CPS goal period II: For the six (6) calendar years beginning January 1, 2019, and ending December 31, 2024, an average of at least seven percent (7%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.
(3) CPS goal period III: In the calendar year ending December 31, 2025, at least ten percent (10%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-3-3; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-3-4 Requirements necessary to meet a CHOICE program goal

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-3; IC 8-1-37-4

Sec. 4. (a) In order to meet any of the goals set forth in section 3 of this rule, a participating electricity supplier must:
(1) obtain during the goal period through:

(A) clean energy resources as defined in IC 8-1-37-4; or
(B) clean energy credits as defined in IC 8-1-37-3 that are generated by a facility located in a control area that is part of a regional transmission organization;
an amount of megawatt hours at least equal to the percentage amount set forth in the goal;
(2) use clean energy resources located in Indiana for at least fifty percent (50%) of the clean energy obtained to meet the goal; and
(3) not satisfy more than thirty percent (30%) of the goal using any combination of clean energy resources described in IC 8-1-37-4(a)(17) through IC 8-1-37-4(a)(21).

(b) A participating electricity supplier may apply the amount of:
(1) megawatt hours of clean energy; or
(2) clean energy credits;
that exceed the requirements of a particular goal period to the immediately succeeding goal period.

(c) Except as provided for in IC 8-1-37-4(a)(16) and IC 8-1-37-4(a)(21), clean energy resources that have been:
(1) in service;
(2) purchased; or
(3) contracted for;
before the effective date of the CHOICE program may apply to the goals.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-3-4; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-3-5 Useful thermal energy conversion to clean energy credits

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 5. (a) For clean energy resources that provide thermal energy, one (1) clean energy credit shall be earned for every three million four hundred twelve thousand (3,412,000) British thermal units (Btus) of useful thermal energy produced.

(b) The useful thermal energy produced by a clean energy resource shall be the thermal energy used for the following:
(1) Heating.
(2) Cooling.
(3) Mechanical work.

(c) The useful thermal energy may be:
(1) measured directly by meter; or
(2) determined:
(A) by the default equation in this section; or
(B) through an alternative equation approved by the commission through its thirty-day administrative filing process in 170 IAC 1-6.

(d) The following default equation may be used to determine the quantity of clean energy credits generated:

$$CECs\ Generated = \frac{Q \times \Delta H}{3.412 \times 10^6} \times (1 - e_L)$$

Where:	**CECs Generated**	**=**	**Quantity of CECs generated (MWh)**
	Q	**=**	**Quantity of steam or hot water delivery (lbs)**
	#H	**=**	**Change in enthalpy from point of delivery to end of thermal energy use (Btu/lb)**

Default for steam = 830 Btu/lb
Default for hot water = 300 Btu/lb

e_L = Energy loss from point of delivery to point of use (fraction)
Default = 0.15

(Indiana Utility Regulatory Commission; 170 IAC 17.1-3-5; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

Rule 4. Application Process to Participate in the CHOICE program

170 IAC 17.1-4-1 Program application required

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 1. In order to participate in the CHOICE program, an electricity supplier must file a program application with the commission:
(1) pursuant to the commission's procedural rules; and
(2) pursuant to this article;
no later than two (2) years after the beginning of CPS goal period I or II.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-4-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-4-2 Program application contents

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 2. In order to be deemed complete by the commission, the program application submitted by the electricity supplier must contain at least the following:
(1) Contact information of the electricity supplier.
(2) Total electricity obtained by the electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.
(3) A CHOICE plan to obtain clean energy in an amount equal to at least ten percent (10%) of the total electricity supplied to its Indiana retail electric customers during the calendar year ending December 31, 2025, which may include the following:
(A) A detailed business plan with annual milestones to ensure a participating electricity supplier will meet the CPS goals.
(B) Identification of the:
(i) owner;
(ii) operator; or
(iii) manager;
of the clean energy resources to be utilized by the electricity supplier.
(C) The type of the clean energy resources to be utilized by the electricity supplier.
(D) Affirmation by the electricity supplier that its CHOICE plan contains not more than thirty percent (30%) of any combination of the clean energy resources listed in IC 8-1-37-4(a)(17) through IC 8-1-37-4(a)(21).
(E) The amount of clean energy anticipated to be produced by kilowatt-hour per resource type, including the clean energy credits that will be submitted as part of the plan.
(F) A description of any projects to be built under the CHOICE plan, including, to the extent known, the:
(i) scope;
(ii) cost; and
(iii) location;
of the project.
(G) Justification of the need for the generation through IRP modeling.

(H) If the electricity supplier chooses to use its last IRP model runs, it must demonstrate that there have been no changes in its load forecast or supply mix since the time of the IRP model run.
(I) Other generation options considered as alternatives to the final clean energy resources listed in the CHOICE plan.
(J) Justification that the resources listed in the CHOICE plan will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved.
(K) Analysis of ratepayer impact including the following types of information:
(i) An explanation on how the electricity supplier determined the impact on rates of the program application plan.
(ii) Documentation on the impact on rates if the application is approved.
(4) An explanation as to how this portfolio addition fits into the applicant's long-term generation plan.
(5) Identification of CHOICE incentive being requested for each CPS goal period if the electricity supplier meets the CPS goal for that period.
(6) Explanation of the basis for the amount of the CHOICE incentive being requested for each CPS goal period.
(7) Identification of incentives currently being received for any of the projects listed in the program application plan, including, but not limited to, the following:
(A) Federal, state, and local tax incentives.
(B) Federal, state, and local grants.
(C) Other incentives received by the supplier, including, but not limited to, the following:
(i) Shareholder incentives.
(ii) Lost margins.
(8) If the electricity supplier requests a periodic rate adjustment mechanism for the recovery of costs associated with the CHOICE program, a detailed explanation and supporting documentation of how the periodic rate adjustment mechanism would work.
(9) Work papers detailing all considerations and calculations in the program application and the program application plan. Each working paper must be:
(A) legible;
(B) paginated; and
(C) specifically identified.
(10) Any supporting written testimony, affidavits, and other evidence the electricity supplier wishes to submit in support of its application.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-4-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-4-3 Commission approval

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 3. (a) The commission shall approve an electricity supplier's participation in the CHOICE program if the commission finds that:
(1) the electricity supplier's program application is:
(A) complete; and
(B) reasonably complies with:
(i) this article; and
(ii) IC 8-1-37;
(2) the electricity supplier submitting the application has demonstrated that the electricity supplier has a reasonable expectation of meeting the goal for CPS goal period III, as provided in Rule 3, section 3 of this article *[sic]***; and**
(3) approving the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved.

(b) If the electricity supplier has requested CHOICE incentives for meeting one (1) or more CPS goals, the commission shall also determine, pursuant to IC 8-1-37-13(b):
(1) whether the CHOICE incentives should be approved; and
(2) if so, in what amount.

(c) In making the determinations in subsections (a) and (b), the commission may also consider other factors it deems relevant.

(d) In making the determination in subsection (b), the awarding of CHOICE incentives shall exclude the contribution toward reaching the CPS goals of clean energy resources:
(1) that were:
(A) in service;
(B) purchased; or
(C) contracted for;
prior to the effective date of the CHOICE program; or
(2) for which incentives have already been approved or granted by the commission.

(e) Upon approval of the electricity supplier's participation in the CHOICE program:
(1) if the electricity supplier has requested a periodic rate adjustment mechanism to recover the costs of participating in the CHOICE program, the commission shall approve recovery of costs through a periodic rate adjustment mechanism, the details of which shall be outlined in the commission's approval order and which mechanism shall start upon the date of the commission's approval order; and
(2) if the electricity supplier has requested a CHOICE incentive, the commission shall include in its approval order a determination regarding whether the commission is approving the CHOICE incentive and the amount of CHOICE incentive, which the participating electricity supplier shall receive upon:
(A) meeting a CPS goal; and
(B) approval of an incentive application with the commission that:
(i) is complete; and
(ii) contains sufficient supporting documentation.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-4-3; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

Rule 5. Status Following Approval of Participation in the CHOICE Program

170 IAC 17.1-5-1 Annual report to commission required

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-12

Sec. 1. Beginning in 2014, a participating electricity supplier shall report to the commission not later than March 1 of each year on the following:
(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year.
(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:
(A) The amount of clean energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:
(i) name and location;
(ii) total generating capacity;
(iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and
(iv) total amount of clean energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.
(B) The amount of clean energy purchased from other suppliers of clean energy. The participating electricity supplier shall identify:
(i) each supplier from whom clean energy was purchased;
(ii) the amount of clean energy purchased from each supplier;

(iii) the price paid by the participating electricity supplier for the clean energy purchased from each supplier; and
(iv) to the extent known, the name and location of each facility at which the clean energy purchased from each supplier was generated.
(3) The number of clean energy credits purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:
(A) each person from whom one (1) or more clean energy credits was purchased;
(B) the price paid to each person identified in clause (A) for the clean energy credits purchased;
(C) the number of clean energy credits applied, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year; and
(D) the number of clean energy credits, if any, that the participating electricity supplier plans to carry over to the next succeeding CPS goal period, as permitted by IC 8-1-37-12(f).
(4) The participating electricity supplier's plans for meeting the CPS goal applicable to the calendar year in which the report is submitted.
(5) Advances in clean energy technology that affect activities described in subdivisions (1) and (4).
(6) Any other information that the commission prescribes in rules adopted under IC 4-22-2.
For purposes of this section, amounts of clean energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection *[sic]* **terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2025.**

(Indiana Utility Regulatory Commission; 170 IAC 17.1-5-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-5-2 Status following approval of participation in CHOICE program

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 2. (a) After approval of its participation in the CHOICE program, the participating electricity supplier is required to follow its CHOICE plan in working toward meeting the CPS goals.

(b) If a participating electricity supplier decides to change part of its CHOICE plan in a manner that:
(1) does not impact whether the electricity supplier will meet the CPS goals; and
(2) does not increase the ratepayer impact of its CHOICE plan;
the electricity supplier shall file the changes with the commission through the commission's thirty-day administrative filing procedures and guidelines in 170 IAC 1-6.

(c) If circumstances change and the costs of implementing the participating electricity supplier's CHOICE plan increase or are projected to increase to the point that the resulting rates and charges may no longer be just and reasonable, the participating electricity supplier shall file a petition with the commission requesting a commission determination that the cost of clean energy resources available to the electricity supplier would result in an increase in the rates and charges of the electricity supplier that would not be just and reasonable. The electricity supplier's petition shall include:
(1) a detailed listing of the participating electricity supplier's attempts to comply with its CHOICE plan;
(2) a detailed explanation of the change in circumstances giving rise to the electricity supplier's petition;
(3) a listing of the costs of the clean energy resources available to the electricity supplier; and
(4) the electricity supplier's calculation supporting the conclusion that the increase in rates and charges would not be just and reasonable.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-5-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

Rule 6. CHOICE Incentive Application Process

170 IAC 17.1-6-1 Incentive application required

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 1. In order to receive a CHOICE incentive under the CHOICE program, a participating electricity supplier must file an incentive application with the commission:
(1) pursuant to the commission's procedural rules; and
(2) pursuant to this article;
no later than six (6) months after the end of the CPS goal period for which the incentive is being sought.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-6-1; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-6-2 Incentive application contents

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37-4

Sec. 2. In order to be deemed complete, the incentive application of a participating electricity supplier must contain at least the following:
(1) Contact information of the electricity supplier.
(2) Total electricity measured in megawatt hours that was obtained by the electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.
(3) Number of megawatt hours obtained each year of the CPS goal period for which the CHOICE incentive was granted from:
(A) clean energy resources:
(i) listed in IC 8-1-37-4(a);
(ii) as defined in this article; and
(iii) as may be adopted by rule by the commission;
(B) clean energy credits;
(C) Indiana clean energy sources; and
(D) clean energy resources listed in IC 8-1-37-4(a)(16) through IC 8-1-37-4(a)(21).
(4) A copy of the commission order:
(A) approving the electricity suppliers' participating in the CHOICE program; and
(B) determining what CHOICE incentive (if any) the electricity supplier should receive upon attaining each goal.
(5) Detailed explanation and supporting documentation on how the participating electricity supplier met the goal at issue. Supporting documentation may include reports from a third party tracking and trading system.
(6) Detailed explanation and supporting documentation for any variances from the electricity supplier's application plan to complete the goal.
(7) Work papers detailing all considerations and calculations in the incentive application. Each working paper must be:
(A) legible;
(B) paginated; and
(C) specifically identified.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-6-2; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

170 IAC 17.1-6-3 Expedited incentive application proceeding

Authority: IC 8-1-1-3; IC 8-1-37
Affected: IC 8-1-37

Sec. 3. (a) The scope of the incentive application proceeding shall be limited to whether the electricity supplier has met the CPS goal.

(b) The time frame for the incentive application procedures shall be one hundred twenty (120) days from the application completion date, but may be extended upon:
(1) petition for good cause by the:
(A) electricity supplier;
(B) OUCC; or
(C) other intervening party; or
(2) notification by the commission.

(c) Within twenty (20) calendar days of the incentive application date, any party to the proceeding may file with the commission a notice of lack of completeness that the incentive application and work papers do not comply with this article, identifying:
(1) the alleged defect or defects; and
(2) the requirements necessary to cure the alleged defect or defects.
The notice shall be served upon the participating electricity supplier and all other parties to the proceeding.

(d) All filings by the electricity supplier to the commission under this rule shall also be served on the following:
(1) The OUCC on the same day as filed.
(2) Any other party to the proceeding that has filed a written request for the information:
(A) on the same day as filed; or
(B) within five (5) business days of the filing of the written request.

(e) The commission may request additional information it considers necessary:
(1) for the program application to be complete; and
(2) to aid in its review.

(f) The prehearing conference shall:
(1) if a notice of lack of completeness has been filed or the commission has requested additional information:
(A) resolve any issues regarding the completeness of the electricity supplier's incentive application and working papers; and
(B) set a date by which the electricity supplier shall cure any defects in its application and working papers;
(2) require that any objection (other than lack of completeness) to the incentive application and work papers be filed no later than forty-five (45) days after the application completion date; and
(3) set an evidentiary hearing date approximately sixty (60) days after the application completion date.

(g) If the incentive application is not complete by the prehearing conference, the commission through the presiding officers shall notify the parties when the incentive application is complete and make any necessary adjustments to the procedural schedule.

(Indiana Utility Regulatory Commission; 170 IAC 17.1-6-3; filed Jul 9, 2012, 3:01 p.m.: 20120808-IR-170120097FRA)

SECTION 5. 170 IAC 17 IS REPEALED.

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