

ARTICLE 14. SMALL UTILITIES

Rule 1. Rate Changes and Financing Approval

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 blank not filled in or an interrogatory 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 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 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 jurisdiction of the commission that:

(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 may be revised from time to time as circumstances dictate. 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. (*Indiana Utility Regulatory Commission; 170 IAC 14-1-1; 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 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 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 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) A complete small utility rate change application form in its current version, which form is available from the commission.

(4) 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) 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.

(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 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 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 by filing a written signed request with the secretary of the commission. Written requests for a formal public hearing must be received by the commission within forty (40) 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 an across-the-board increase, then the approximate percentage increase to each class of customers must be described along with other information that fairly 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, the amount of financing authority sought by the utility.

(F) The full 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 is an incomplete application, the commission staff shall file, within twenty (20) days of the date of the filing of the initial application, a report with the secretary of the commission. 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 date an incomplete application was originally filed, but shall be counted from the 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 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 report with the secretary of the commission on the application making such recommendations as the OUCC deems appropriate. By order of the commission, the time for filing of the report may be extended if so requested by the OUCC.

(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 not later than fifteen (15) days following the date that the OUCC staff report was filed.

(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 with the secretary of the commission within forty (40) 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.

(d) In the event a formal public hearing is held, under this section, the small utility may elect to designate its application 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 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) 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 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*)

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