

**Document:** Proposed Rule

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**TITLE 170 INDIANA UTILITY REGULATORY  
COMMISSION**

**Proposed Rule**  
LSA Document #00-213

**DIGEST**

Adds 170 IAC 7-1.3 concerning telecommunications customer service rights. Repeals 170 IAC 7-1.1-1, 170 IAC 7-1.1-2, 170 IAC 7-1.1-12, 170 IAC 7-1.1-13, 170 IAC 7-1.1-14, 170 IAC 7-1.1-15, 170 IAC 7-1.1-16, 170 IAC 7-1.1-17, and 170 IAC 7-1.1-18. Effective 30 days after filing with the secretary of state.

<b>170 IAC 7-1.1-1</b>	<b>170 IAC 7-1.1-15</b>
<b>170 IAC 7-1.1-2</b>	<b>170 IAC 7-1.1-16</b>
<b>170 IAC 7-1.1-12</b>	<b>170 IAC 7-1.1-17</b>
<b>170 IAC 7-1.1-13</b>	<b>170 IAC 7-1.1-18</b>
<b>170 IAC 7-1.1-14</b>	<b>170 IAC 7-1.3</b>

SECTION 1. 170 IAC 7-1.3 IS ADDED TO READ AS FOLLOWS:

**Rule 1.3. Telecommunications Customer Service Rights**

**170 IAC 7-1.3-1 Purpose and scope**

**Authority:** IC 8-1-1-3

**Affected:** IC 8-1-2-1; IC 8-1-5-10

**Sec. 1. (a) This rule applies to any utility that is now, or may hereafter be, engaged in the business of rendering telephone services to the public under the jurisdiction of the commission. This rule is intended to result in the provision of reasonable quality telephone services to the public, and to establish the obligations of both the utility and the customer.**

**(b) This rule replaces 170 IAC 7-1.1-1, 170 IAC 7-1.1-2, and 170 IAC 7-1.1-12 through 170 IAC 7-1.1-18.**

**(c) No utility shall discriminate against or penalize a customer for exercising any right granted by this rule. If a utility's tariff on file with the commission contains provisions that deny or restrict customers' rights protected by this rule, this rule supersedes any conflicting tariff provisions that deny or restrict any of those rights.**

**(d) The adoption of this rule shall in no way preclude the commission, upon complaint by a customer, upon its own motion or upon the application of any utility, after notice and hearing, from taking any of the following actions:**

**(1) Altering or amending this rule in whole or in part.**

**(2) Requiring any other or additional service, equipment, facility, or standard.**

**(3) Making such modifications with respect to the application of this rule as may be found necessary to meet exceptional conditions.**

**(e) The adoption of this rule shall not in any way relieve any utility from any of its duties under the laws of this state.**

**(f) If any provision of this rule is determined by competent authority to be prohibited or unenforceable, such provision shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.**

**(g) This rule shall be effective on and after January 1, 2002. (Indiana Utility Regulatory Commission; 170 IAC 7-1.3-1)**

## 170 IAC 7-1.3-2 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1.5-1-10

Sec. 2. The following definitions apply throughout this rule:

- (1) "Alternative local exchange carrier" or "ALEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and does not qualify as an incumbent local exchange carrier under subdivision (9).
- (2) "Applicant" means any person, company, or designated agent who seeks to become a customer for basic residential or small business telephone services.
- (3) "Basic local service" means the provision to a customer of an access line that transmits two-way interactive switched voice or data communication within a local calling area.
- (4) "Business days" means all days other than a:
  - (A) Saturday;
  - (B) Sunday;
  - (C) legal holiday as defined by statute; or
  - (D) day that the utility (or service provider) office is closed during regular business hours.
- (5) "Clear and conspicuous notification" means notice that would be apparent to a reasonable consumer.
- (6) "Commission" means the Indiana utility regulatory commission.
- (7) "Customer" means the following:
  - (A) Any person that requests and obtains telephone service and is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
  - (B) Any business or institutional entity, whether an individual, partnership, corporation, association, or other business or institutional form that:
    - (i) does or will operate with twenty-five (25) or fewer access lines in a building;
    - (ii) requests and obtains telephone service for occupational, professional, or institutional purposes; and
    - (iii) is responsible for the payment of charges, compliance with filed tariffs, and rules of the utility.
  - (C) Any customer whose service has been temporarily disconnected shall continue to be a customer for purposes of this rule until such time as service is permanently disconnected and the customer must reapply for new service.
- (8) "Deniable charges" means charges for basic local service. Delinquency in payment of deniable charges may result in disconnection of basic local service.
- (9) "Incumbent local exchange carrier" or "ILEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange and that:
  - (A) on February 8, 1996, provided telephone exchange service in such area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b); or
  - (B) is a person or entity that on or after February 8, 1996, became a successor or assign of a member described in clause (A).
- (10) "Local exchange carrier" or "LEC" means a local serving telephone utility that provides telephone service to customers in the geographic territory served by the local exchange.
- (11) "Long distance service" or "toll service" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis.
- (12) "New service provider" means a service provider that did not bill the customer for service during the service provider's last billing cycle. The term includes only providers that have continuing relationships with the customer that will result in periodic charges on the customer's bill unless the service is subsequently canceled.
- (13) "Nondeniable charges" means charges for toll service and other telephone services. Delinquency in payment of nondeniable charges shall not result in disconnection of basic local service.
- (14) "Other telephone services" means all telephone services except local exchange and long distance services provided, billed, or collected by a telephone company.
- (15) "Temporary disconnection" means a disconnection that has not yet resulted in the customer's account being permanently removed from the telephone provider's network.
- (16) "Utility" means any public utility (as defined in IC 8-1-2-1) or municipal utility (as defined in IC 8-1.5-1-10) that furnishes telephone service to the public under the jurisdiction of the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-2)*

## 170 IAC 7-1.3-3 Creditworthiness of customer; deposit; refund

**Authority: IC 8-1-1-3**

**Affected: IC 8-1-2-4; IC 8-1-2-88; IC 32-9-1.5-20**

**Sec. 3. (a) Each LEC shall determine the creditworthiness of applicants or customers in an equitable and nondiscriminatory manner:**

**(1) without regard to the race, sex, national origin, or marital status of the applicant or customer, or the economic character of the area wherein the applicant or customer resides or operates; and**

**(2) solely upon the credit risk of the applicant or customer without regard to the collective credit reputation of the area in which the applicant or customer resides or operates.**

**(b) Each new applicant for telephone service shall be deemed creditworthy and shall not be required to make a cash deposit as a condition of receiving basic local service if the applicant satisfies either of the following criteria:**

**(1) The applicant has been a customer of a public or municipal utility in the United States within the last two (2) years, and the applicant:**

**(A) owes no outstanding bills for service rendered within the past four (4) years by such utility;**

**(B) during the last twelve (12) consecutive months that the service was provided, did not have more than two (2) bills that were delinquent to such utility or, if service was rendered for a period for less than twelve (12) months, did not have more than one (1) delinquent bill in such period; and**

**(C) within the last two (2) years did not have a service disconnected by such utility for nonpayment of a bill for services rendered by that utility.**

**(2) The applicant has not been a customer of a utility during the previous two (2) years, and any of the following criteria are met:**

**(A) The applicant either has been employed by:**

**(i) his or her present employer for two (2) years;**

**(ii) his or her present employer for less than two (2) years, but has been employed by only one (1) other employer during the past two (2) years; or**

**(iii) the present employer for less than two (2) years and has no previous employment due to recently:**

**(AA) graduating from a school, university, or vocational program; or**

**(BB) being discharged from military service.**

**(B) The applicant either:**

**(i) owns or is buying his or her home; or**

**(ii) is renting a home or an apartment and has occupied the premises for more than two (2) years.**

**(c) If the applicant fails to establish that he or she is creditworthy under subsection (b), the applicant may be required to make a reasonable initial cash deposit. Such initial deposit shall not exceed one-sixth ( $1/6$ ) of the estimated annual billings for basic local service to the applicant and shall be paid in full before installation of service. Such initial deposit shall be subject to reevaluation upon the request of either the LEC or the customer, based upon actual charges for services rendered, at any time after service has been provided.**

**(d) The utility may elect to accept a written guarantee, signed by a third party guarantor acceptable to the utility, of payment for all telephone service rendered or to be rendered to the applicant. The guarantor may terminate the guarantee upon thirty (30) days' prior written notice. Said guarantee shall be in full force and effect up to and including the date the guarantee shall terminate, and the guarantor shall be obligated, as provided in the written guarantee, respecting the payment of the amount of the applicant's bill on the date of termination. A guarantee shall terminate when the customer submits satisfactory payment for a period of either:**

**(1) nine (9) consecutive months; or**

**(2) ten (10) out of any twelve (12) consecutive months.**

**(e) If the utility requires a cash deposit or a written guarantee as a condition of providing service, it should advise the applicant of the reason upon which it bases its decision and provide the applicant with an opportunity to rebut such facts and show other facts demonstrating creditworthiness.**

**(f) The LEC may require a present customer to make a reasonable cash deposit, or an additional deposit in cases where a deposit has been made, when the customer has been mailed disconnect notices for two (2) consecutive months or any three (3) months within the preceding twelve (12) month period. In such cases, notice of the need for a deposit shall be in writing,**

and the customer shall be given ten (10) business days from the mailing date of the notice within which to make said deposit. When the service has been disconnected within the past four (4) years pursuant to section 11 of this rule, the deposit shall be provided before the service will be reconnected. The total amount of all deposits required for basic local service pursuant to this section may not exceed an amount equal to one-sixth ( $\frac{1}{6}$ ) of the annualized estimated billings for the customer at the address at which service is rendered.

(g) The LEC shall treat customers who have filed bankruptcy under federal law in accordance with the protective provisions of 11 U.S.C. 366.

(h) Requirements for interest upon a deposit shall be as follows:

- (1) A deposit held more than thirty (30) days shall earn interest from the date of deposit at a rate of six percent (6%) per annum, or at such a rate of interest as the commission may prescribe following a public hearing.
- (2) The deposit shall not earn interest after the date it is mailed or personally delivered to the customer, or otherwise lawfully disposed of as provided in subsection (i)(6).

(i) Requirements for refunds shall be as follows:

- (1) Any deposit and accrued interest shall be promptly refunded to the customer without the customer's request when the customer submits satisfactory payment ten (10) out of any twelve (12) consecutive months without late payment.
- (2) A statement of accounting for each transaction affecting the deposit and interest shall accompany refunds of deposits or accrued interest issued under this section.
- (3) Following a customer-requested termination of service, the LEC shall:
  - (A) apply the deposit, plus accrued interest, to the final bill; or
  - (B) upon specific request from the customer, refund the deposit, plus accrued interest, within fifteen (15) business days after payment of the final bill.
- (4) Each LEC shall maintain a record of each applicant or customer making a deposit that shows the following:
  - (A) The name of the customer.
  - (B) The current mailing address of the customer.
  - (C) The amount of the deposit.
  - (D) The date the deposit was made.
  - (E) A record of each transaction affecting such deposit.
- (5) Each customer shall be provided a written receipt from the LEC at the time the customer's deposit is paid in full or when the customer makes a cash partial payment. The LEC shall provide a reasonable method by which a customer, who is unable to locate his or her receipt, may establish that he or she is entitled to a refund of the deposit and payment of interest thereon.
- (6) Any deposit made by the applicant or customer to the LEC (less any lawful deductions to be refunded), or any sum the LEC is ordered to refund for telephone services that has remained unclaimed for one (1) year after the LEC has made a diligent effort to locate the customer who made such deposit or the heirs of such customer, shall be presumed abandoned and treated in accordance with IC 32-9-1.5-20(c)(10).
- (7) A deposit may be used by the LEC to cover any unpaid balances owed the LEC for basic local service and other telephone services following disconnection of any service under section 11 of this rule, provided, however, that any surplus be returned to the customer as provided in this subsection.
- (8) Establishment of credit by cash deposit shall not relieve a customer from complying with the commission's rules for prompt payment of bills.

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-3)*

#### **170 IAC 7-1.3-4 Rejection of application for service**

**Authority:** IC 8-1-1-3

**Affected:** IC 8-1-2-4; IC 8-1-2-88; IC 32-9-1.5-20

**Sec. 4. (a)** An application for telephone service may be temporarily rejected for any one (1) or more of the following reasons:

- (1) Misrepresentation of the customer's or applicant's identity for the purpose of obtaining telephone service.
- (2) Information provided by the applicant is materially false or materially misrepresentative of the applicant's true status.
- (3) Failure to pay a deposit if required under section 3 of this rule.

(b) In order to obtain service, a customer or applicant may be required to pay a deposit as provided in section 3 of this rule after disconnection of service for the reasons listed in section 11(b) of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-4*)

**170 IAC 7-1.3-5 Informational pamphlets; explanation of available service; notice of proposed rate change**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-40; IC 8-1-2-88

Sec. 5. (a) Each utility shall mail to each customer on an annual basis, without charge, a brief summary of the customer's rights and responsibilities contained in this rule. Each utility shall forward a copy to the commission annually to be kept on record with the commission's consumer affairs division.

(b) When a utility representative takes an order for new telephone service, the representative shall describe to the applicant the least expensive telephone service available. Such description shall include lifeline/link-up services for eligible customers.

(c) Each utility shall have a copy of this rule in all of its business offices that shall be available for inspection by applicants and customers.

(d) Each utility shall furnish notice of rate increases to its affected customers that fairly summarizes the nature and extent of the increase within forty-five (45) days of such request and prior to the date of the initial public hearing. If the rate change is one that does not require a hearing, then notice should be included in the first bill where the change is effective. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-5*)

**170 IAC 7-1.3-6 Bills for utility service**

Authority: IC 8-1-1-3

Affected: IC 8-1-2-4; IC 8-1-2-88

Sec. 6. (a) Bills rendered periodically to customers for telephone service shall show at least the following information:

- (1) The customer's name, billing address, telephone number, and date of bill.
- (2) For measured service, details shall include the number of additional local calls, rate, and total amount of charges.
- (3) Itemization of toll calls and charges.
- (4) State and federal taxes.
- (5) Previous balance.
- (6) Explanation of codes and abbreviations.
- (7) The past due date or the date on which the bill becomes delinquent.
- (8) The total amount of bill.
- (9) The name for the service provider associated with each charge shall be clearly identified.
- (10) Where charges for two (2) or more telephone carriers appear on the same telephone bill, the charges shall be separated by service provider, and the billing entity shall provide clear and conspicuous notification of any change in service provider, including notification to the customer that a new service provider has begun providing service. The notification should describe the nature of the relationship with the customer, including a description of whether the new service provider is the presubscribed:
  - (A) local exchange carrier;
  - (B) intra-LATA interexchange carrier; or
  - (C) inter-LATA interexchange carrier.
- (11) Charges contained on telephone bills shall be accompanied by a brief, clear, nonmisleading, plain language description of the individual service or services rendered. The description shall be sufficiently clear in presentation and specific enough in content so that:
  - (A) a customer can accurately assess that the services for which he or she is billed correspond to those that he or she has requested and received; and
  - (B) the costs assessed for those services conform to the customer's understanding of the price charged.
- (12) Telephone bills shall contain clear and conspicuous disclosure of any information that the customer may need to make inquiries about, or contest charges, on the bill. The bill shall contain a clear and conspicuous notice that the customer may dispute charges on the bill prior to payment, including, but not limited to, the following:
  - (A) A prominent display on each bill of a toll free number of the carrier by which a customer may inquire or dispute any

charge contained on the bill.

(B) A prominent statement that reads, "If after making a service or billing complaint you are dissatisfied with (telephone company's) resolution, you may contact the Indiana Utility Regulatory Commission at (317) 232-2712 or toll-free at (800) 851-4268."

(C) A carrier may list a toll free number for a billing agent, clearinghouse, or other third party, provided that such party possesses sufficient information to answer questions concerning the customer's account and is fully authorized to resolve consumer complaints on the carrier's behalf. Where the customer does not receive a paper copy of his or her telephone bill, but instead accesses that bill only by e-mail or internet, the carrier may comply with this subdivision by providing on the bill an e-mail or Web site address. Each carrier shall make a business address available upon request from a customer.

(b) The billing requirements of subsection (a)(9) through (a)(11) may be waived for business customers if those customers consent in writing to such waiver.

(c) A utility service bill, which has remained unpaid for a period of more than seventeen (17) days following the mailing of the bill, shall be a delinquent bill. A utility service bill shall be rendered as a net bill. If the net bill is not paid within seventeen (17) days after the bill is mailed, it shall become a delinquent bill and a late payment charge may be added in the amount of ten percent (10%) of the first three dollars (\$3) and three percent (3%) of the excess of three dollars (\$3).

(d) The LEC may only change a monthly billing cycle to another periodic form of billing if the customer agrees in writing to such change.

(e) Where a bill contains charges for basic local service in addition to charges for toll service and other telephone services, the bill shall distinguish between deniable and nondeniable charges. The carrier shall:

- (1) explain the distinction between nondeniable and deniable charges to the customer; and
- (2) clearly and conspicuously identify on the bill those charges for which nonpayment will result in disconnection of basic local service.

(f) If a customer is delinquent in payment of nondeniable charges, the telephone carrier may remove or restrict those services for which there is a nondeniable charge from the customer's account without the customer's consent. If toll service or other telephone services are removed or restricted, the LEC may require a deposit pursuant to section 3 of this rule before restoring those services to the customer's account. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-6*)

#### 170 IAC 7-1.3-7 Billing adjustments

Authority: IC 8-1-1-3

Affected: IC 8-1-2-34.5

Sec. 7. (a) Whenever a service interruption exceeds twenty-four (24) hours, a customer will receive a pro rata adjustment applied against the customer's monthly bill (based on a thirty (30) day month), for any and all local services rendered inoperative during an interruption in service. Such adjustments will be based upon the LEC's tariffed rates.

(b) The length of a service interruption begins when the customer notifies the LEC of the interruption and shall be computed on a continuous basis, Saturdays, Sundays, and holidays included. This section does not apply if the service interruption:

- (1) occurs as a result of a negligent or willful act on the part of the customer;
- (2) occurs as a result of a malfunction of customer-owned telephone equipment; or
- (3) is extended by the company's inability to gain access to the customer's premises due to the customer missing a repair appointment previously scheduled with the customer.

Each LEC shall justify and document in its records each instance where it applied any of the exceptions listed in this subsection.

(c) Adjustment of a disputed nondeniable charge shall be made in accordance with sections 8 and 9 of this rule.

(d) For each instance where the LEC fails to meet a repair commitment previously scheduled with the customer, the company shall waive half of the basic local service charges for that month. A credit required by this subsection does not apply

if the LEC is unable to meet the scheduled installation or repair commitment due to an emergency when the:

- (1) LEC provides the customer twenty-four (24) hours' notice of its inability to meet the commitment; or
- (2) customer was notified in advance of the appointment that entry to the house is necessary and the customer was not present at the specified appointment day and time.

(e) A billing error, including an incorrect tariff application, may be adjusted to the known date of error or for a period of eighteen (18) months, whichever period is shorter.

(f) A billing adjustment shall be in the form of either a:

- (1) credit to the customer's account made within the next two (2) billing periods; or
- (2) direct payment to the customer made within the next two (2) billing periods if the:
  - (A) customer's account is current; and
  - (B) adjustment amount exceeds one (1) month's recurring charges.

A billing adjustment for a customer who has chosen an electronic billing option shall be in the form of an electronic funds transfer into the customer's account within five (5) business days of the customer notifying the utility of the disputed charge. If the customer notifies the utility of a disputed charge ten (10) days before the due date of the bill, the billing shall be adjusted so that the disputed charges shall not be withdrawn from the customer's account. After an investigation pursuant to sections 8 and 9 of this rule, the LEC may rebill the disputed charges during the next billing period if the charges are deemed appropriate. The customer shall be given the option of accepting the adjustment or filing a consumer complaint with the commission pursuant to section 9 of this rule (IC 8-1-2-34.5).

(g) If an ILEC providing telephone services to an ALEC does not comply with this section, and such noncompliance by the ILEC results in a direct payment to a customer or a credit of charges made by the ALEC as required by this section, then the ALEC shall have recourse to the ILEC for the amount of such credit or direct payment as required by applicable provisions of this section. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-7*)

#### 170 IAC 7-1.3-8 Customer complaints to the utility

Authority: IC 8-1-1-3

Affected: IC 8-1-2

Sec. 8. (a) A customer may complain at any time to a utility about any bill, security deposit, disconnection notice, or any other matter relating to installation or service and may request a conference with the utility thereon. Such complaints may be made in person, by telephone, in writing, or by completing a form available from the utility at its business offices. A complaint shall be considered filed upon receipt by the utility, except mailed complaints shall be considered filed as of the postmark date. In making a complaint or request for conference, the customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Upon receiving each such complaint or request for conference, the utility shall take the following actions:

- (1) Immediately notify a customer that any undisputed portion of a bill shall be paid by the date due in order to avoid disconnection of service in accordance section 11 of this rule.
- (2) Promptly, thoroughly, and completely investigate such complaint in good faith, attempt to confer with the customer when requested, and notify the customer of its proposed disposition of the complaint. During the investigation, no collection action shall be taken for items that are being disputed, and there shall be no negative impact on customer's credit rating.
- (3) Without the customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while investigating the complaint or making a good faith attempt to resolve the complaint.
- (4) Charges that are disputed by the customer shall be adjusted while an investigation is pending.
- (5) After investigation, the utility may rebill the disputed charges in the next billing cycle if the investigation determined that the charges were appropriate.
- (6) If the utility's proposed disposition is not in the customer's favor, the utility shall mail the customer written notice of such disposition. The written notification shall advise the customer or applicant that if he or she is dissatisfied with the telephone company's disposition, the customer or applicant may, within twenty-one (21) days of the postmark date of the notice, file a complaint with the commission's consumer affairs division (pursuant to section 9 of this rule). Such notification shall include contact information for the commission, including the commission's mailing address, toll free complaint number, and local telephone number.

(c) If at any time the customer files a complaint with the commission regarding a dispute with a utility, the procedures set forth in section 9 of this rule shall apply. Any disconnection of the customer's service shall be governed by section 11 of this rule.

(d) Each utility shall retain a written record of complaints and requests for conferences for at least eighteen (18) months after the complaint or request for conference is made. Such records shall be maintained at the office or branch office of the utility or in the respective department office thereof where such complaints were received or any conferences were subsequently held. Such written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the commission.

(e) Each utility shall annually submit a report to the commission that shall state and classify the number of complaints made to the utility pursuant to this rule, the general nature of the subject matter thereof, how the complaint was received, and whether a commission review was conducted thereon. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8*)

#### 170 IAC 7-1.3-9 Customer complaints to the commission

Authority: IC 8-1-1-3

Affected: IC 8-1-2-34.5; IC 8-1-2-88

Sec. 9. (a) An individual or entity may informally complain to the commission's consumer affairs division with respect to any matter within the jurisdiction of the commission. Such complaints may be made in person, by telephone, in writing, or by completing a form available from the consumer affairs division. A complaint shall be considered filed upon receipt by the commission, except mailed complaints shall be considered filed as of the postmark date. In making a complaint, the customer shall state, at a minimum, his or her name, service address, telephone number, and the general nature of his or her complaint.

(b) Without the customer's permission, the utility shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of such complaint is pending. The customer shall continue to pay all undisputed charges. In those instances when the customer and utility cannot agree as to what portion of a bill is undisputed, the customer shall pay on the disputed bill an amount equal to the customer's average bill for the twelve (12) months immediately preceding the disputed bill. In those cases where the customer has received fewer than twelve (12) bills, the customer shall pay an amount equal to one-twelfth ( $1/12$ ) of the estimated annual billing for service to be rendered to the customer.

(c) If the customer is dissatisfied with a utility's written notice of its proposed disposition of the complaint as provided in section 8 of this rule, the customer or applicant may, within twenty-one (21) days after the postmark date of the notice, file a consumer complaint with the commission's consumer affairs division.

(d) Upon receiving a consumer complaint, the following actions shall be taken:

- (1) The utility shall be notified that a complaint has been made.
- (2) The complaint shall be investigated.
- (3) The customer and the utility shall be notified of the decision made on the complaint in accordance with applicable law.

(e) Requirements for an informal review are as follows:

- (1) The customer or the utility may make a written request that a decision made pursuant to subsection (d) be reviewed informally by the consumer affairs director or designee. Such written request shall be made within fourteen (14) days of the decision. The records of the commission relating to such reviews shall be kept in a systematic order.
- (2) Upon receiving a request for an informal review, the consumer affairs director or designee shall provide an informal review within thirty (30) days. The review shall consist of not less than a prompt and thorough investigation of the dispute and shall result in a written decision to be mailed to the customer and the utility within thirty (30) days after its receipt of the customer's request. Upon request by either party or the consumer affairs director or designee, the parties shall be required to meet and confer to the extent and at such place as the consumer affairs director or designee may consider appropriate.

(e) The customer may make a written request that the commission investigate the disposition of the informal review. Such written request shall be made within fourteen (14) days of the consumer affairs division's notice of disposition. Prior to entering an order upon a commission investigation, the commission shall afford the customer and the utility notice and an



opportunity to be heard.

(f) Without the customer's permission, the utility shall not disconnect, remove, or restrict any disputed service until at least fourteen (14) days have elapsed from the postmark date of the consumer affair's division disposition, or the commission's order upon investigation, if any. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-9*)

#### **170 IAC 7-1.3-10 Customer payments**

**Authority:** IC 8-1-1-3

**Affected:** IC 8-1-2-4; IC 8-1-2-88

**Sec. 10. (a)** When a residential customer cannot pay an undisputed bill or the undisputed portions of a disputed bill in full, the LEC shall continue to serve the customer if the customer and the LEC agree on a reasonable portion of the outstanding bill to be paid immediately. The manner in which the balance of the outstanding bill will be paid in accordance with the following guidelines:

(1) If the customer shows just cause for his or her inability to pay deniable charges (financial hardship shall constitute just cause), and the customer pays a reasonable portion of such amount, not to exceed the greater of either twenty dollars (\$20) or twenty-five percent (25%) of all amounts due for deniable charges.

(2) In deciding on the reasonableness of a particular agreement, the LEC shall consider the following:

(A) The customer's ability to pay.

(B) The size of the unpaid balance.

(C) The customer's payment history and length of service.

(D) The amount of time and reasons why the debt is outstanding.

(E) The customer:

(i) agrees to pay the balance of all amounts due in equal monthly installments;

(ii) agrees to pay all undisputed future bills for local service as they become due; and

(iii) has not breached any similar agreement with the LEC made pursuant to this section in the last twelve (12) months.

The LEC may add to the outstanding bill a late payment charge not to exceed the amount set pursuant to section 6(d) of this rule.

(b) The terms of any payment arrangement made pursuant to this section shall be put in writing by the LEC and sent by certified mail to the customer.

(c) Only one (1) late payment charge may be assessed against the charges applicable to any given month.

(d) If the customer does not meet any of the conditions in subsection (a), the LEC may, but is not obligated to, enter into subsequent payment arrangements with the customer.

(e) If a customer makes a partial payment on a bill, the LEC shall first apply that payment to any deniable charges. A partial payment may only be applied to nondeniable charges when all deniable charges have been paid in full. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-10*)

#### **170 IAC 7-1.3-11 Disconnection and prohibited disconnections**

**Authority:** IC 8-1-1-3

**Affected:** IC 8-1-2-4; IC 8-1-2-88

**Sec. 11. (a)** Requirements for disconnection upon a customer's request are as follows:

(1) The customer shall notify the LEC at least three (3) business days in advance of the day disconnection is desired. The customer shall remain responsible for all service used and the billing therefore until the date the customer has requested disconnection pursuant to such notice.

(2) Upon request by a customer to an LEC to disconnect service, the LEC shall disconnect the service within three (3) business days of the requested disconnection date. The customer shall not be liable for any service rendered to such address after the expiration of three (3) such days.

(3) The customer shall not charge service or authorize the charging of service to any account that has been disconnected at the customer's request or otherwise. Subdivisions (1) and (2), to the contrary notwithstanding, a customer shall be responsible for any services he or she charges or authorizes charged to such account in violation of the prohibition in this

subdivision.

**(b) Requirement for disconnection without a customer's request are as follows:**

**(1) An LEC may disconnect service without request by the customer of the service and without prior notice only:**

**(A) if a condition dangerous or hazardous to life, physical safety, or property exists;**

**(B) upon order by any court, the commission or other duly authorized public authority;**

**(C) if fraudulent or unauthorized use of service is detected and the LEC has reasonable grounds to believe the affected customer is responsible for such use;**

**(D) if the LEC's equipment has been tampered with and the LEC has reasonable grounds to believe that the affected customer is responsible for such tampering; and**

**(E) if the LEC's equipment is used in a manner disruptive to the service of other customers.**

**(2) An LEC may place a toll restriction on a customer's line for nonpayment of toll charges. If the LEC initiates the toll restriction, there shall be no charge for that service.**

**(3) An LEC may disconnect service to a customer or applicant based on a delinquent account with the same class of service for that customer or applicant.**

**(4) If a customer files a complaint under section 8 or 9 of this rule, the LEC may disconnect only as provided in those sections.**

**(5) In all other instances, upon providing the customer with proper notice, as defined in subsection (e), an LEC may disconnect service subject to the other provisions of this section.**

**(c) Requirement for prohibited disconnections are as follows:**

**(1) Except as otherwise provided in subsections (a) and (b), an LEC shall postpone the disconnection of local service or the placing of a toll restriction for thirty (30) days if, prior to the disconnect date specified in the disconnect notice, the residential customer provides the LEC with a medical statement from a licensed physician or public health official that states that disconnection would be a serious and immediate threat to the health and safety of a designated person in the household of the customer. The postponement of disconnection shall be continued for one (1) additional ten (10) day period upon the provision of an additional such medical statement.**

**(2) An LEC may not disconnect service to the customer for any of the following reasons:**

**(A) For nonpayment of any toll charges or other telephone services.**

**(B) Upon the customer's failure to pay for services to a previous occupant of the premises being served unless the customer is attempting to defraud the LEC by using another name.**

**(C) On the basis of the delinquent character of an account of any other person, except if such customer is the guarantor of that other person's account for telephone service.**

**(D) If the customer makes a payment arrangement pursuant to section 10 of this rule.**

**(E) If a customer is unable to pay a bill that is unusually large due to prior incorrect billing, incorrect application of the rate schedule, or any human or mechanical error of the LEC, and the customer:**

**(i) makes a payment arrangement in accordance with the guidelines set forth in section 10(a)(2)(E)(ii) and 10(a)(2)(E)(iii) of this rule; and**

**(ii) agrees to pay all undisputed future bills for basic local service as they become due, provided, however, that the LEC may not add to the outstanding bill any late fee and, provided further, that the payment arrangement agreement in item**

**(i) and this item shall be put in writing by the LEC and sent by certified mail to the customer.**

**(d) No LEC may disconnect service unless it is done between the hours of 8 a.m. and 3 p.m. Disconnections pursuant to subsections (a) and (b) are not subject to this limitation. The LEC may not disconnect service for nonpayment:**

**(1) on any Friday after noon;**

**(2) on any Saturday;**

**(3) on any Sunday;**

**(4) on any other day the commission or the LEC's offices are not open for business; or**

**(5) after noon on any day immediately before a day the commission or the LEC's office are not open for business.**

**(e) Requirements for notice required prior to involuntary disconnection are as follows:**

**(1) Except as otherwise provided in this section, service to any customer shall not be disconnected for a violation of any rule of the LEC or for nonpayment of a bill, except after seven (7) business days from the postmark date of a written notice sent to such customer at the address shown on the records of the LEC. No disconnect notice for nonpayment may be rendered prior to the date on which the account becomes delinquent.**

**(2) The disconnection notice shall be in language that is clear, concise, and easily understandable to a layman and shall state, in separately numbered large print paragraphs, the following information:**

**(A) The date of proposed disconnection.**

**(B) The specific reason for the proposed disconnection.**

**(C) The telephone number of the LEC office at which the customer may call during regular business hours to question the proposed disconnection or seek information concerning the customer's rights.**

**(D) The local and toll free telephone numbers and office hours of the commission.**

**(E) The customer may make a partial payment of a specified amount to cover deniable charges in order to avoid disconnection of basic local service.**

**(F) Information as to the customer's rights, pursuant to this rule, including, but not limited to, the following:**

**(i) That the customer may obtain a temporary waiver of disconnection for a serious illness or medical emergency pursuant to subsection (c).**

**(ii) That the customer may file a complaint with the utility or the commission pursuant to sections 8 and 9 of this rule.**

**(iii) That the customer may make payment arrangements pursuant to section 10 of this rule.**

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-11)*

#### **170 IAC 7-1.3-12 Reconnection**

**Authority: IC 8-1-1-3**

**Affected: IC 8-1-2-4; IC 8-1-2-88**

**Sec. 12. (a) An LEC may charge a reasonable reconnection charge, not to exceed the charge approved by the commission in the LEC's filed tariffs. An LEC shall inform its customers of such reconnection fee pursuant to section 5 of this rule.**

**(b) The LEC shall reconnect service to the customer as soon as reasonably possible after it is requested to do so if the customer has satisfied the requirements of this rule, not to exceed the following time frames:**

**(1) On the same day for disconnections that were not made pursuant to this rule.**

**(2) One (1) business day for temporary disconnections for nonpayment.**

**(3) For disconnections for nonpayment after customer has been removed from the network the rules for new installations in sections 3 and 4 of this rule will apply.**

*(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-12)*

#### **170 IAC 7-1.3-13 Limitations of liability**

**Authority: IC 8-1-1-3**

**Affected: IC 8-1-2-4; IC 8-1-2-88**

**Sec. 13. No utility shall limit its liability to its customers in a tariff for willful and wanton misconduct on the part of the utility or its employees. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-13)***

**SECTION 2. THE FOLLOWING ARE REPEALED: 170 IAC 7-1.1-1; 170 IAC 7-1.1-2; 170 IAC 7-1.1-12; 170 IAC 7-1.1-13; 170 IAC 7-1.1-14; 170 IAC 7-1.1-15; 170 IAC 7-1.1-16; 170 IAC 7-1.1-17; 170 IAC 7-1.1-18.**

#### ***Notice of Public Hearing***

*Under IC 4-22-2-24, notice is hereby given that on January 3, 2001 at 9:30 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room TC-10, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on proposed new rules concerning telecommunications customer service rights. Copies of these rules are now on file at the Indiana Government Center-South, 302 West Washington Street, Room E306 and Legislative Services Agency, One North Capitol, Suite 325, Indianapolis, Indiana and are open for public inspection.*

William D. McCarty  
Commission Chairman  
Indiana Utility Regulatory Commission