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**TITLE 170 INDIANA UTILITY REGULATORY
COMMISSION**

Proposed Rule
LSA Document #04-268

DIGEST

Adds 170 IAC 6-1.1 to create new rules governing distribution system improvement charges (DSIC) allowed for water utilities under IC 8-1-31. Effective 30 days after filing with the secretary of state.

170 IAC 6-1.1

SECTION 1. 170 IAC 6-1.1 IS ADDED TO READ AS FOLLOWS:

Rule 1.1. Distribution System Improvement Charges (DSIC)

170 IAC 6-1.1-1 Definitions

Authority: IC 8-1-1-3; IC 8-1-31

Affected: IC 8-1-2; IC 8-1.5-3-8

Sec. 1. (a) The definitions in this section apply throughout this rule.

(b) “Commission” means the Indiana utility regulatory commission.

(c) “Distribution system” means:

- (1) distribution mains;**
- (2) valves;**
- (3) hydrants;**
- (4) service lines;**
- (5) meters;**
- (6) meter installation; and**
- (7) other appurtenances;**

necessary to transport treated water from the point it exits the treatment facility to the point at which it is delivered to the customer.

(d) “Distribution system improvement charges” or “DSIC” means a distribution system improvement charge approved under IC 8-1-31.

(e) “DSIC costs” means depreciation expenses and the pretax return associated with eligible distribution system improvements.

(f) “DSIC revenues” means utility revenues produced through a DSIC exclusive of revenues from all other rates and charges.

(g) “Eligible distribution system improvements” means new used and useful water utility plant projects that:

- (1) do not increase revenues by connecting the distribution system to new customers;**
- (2) are in service; and**
- (3) were not included in the public utility’s rate base in its most recent general rate case.**

(h) “Municipally owned utility” includes every utility owned or operated by a municipality.

(i) "Pretax return" means the following:

(1) For investor-owned utilities, the revenue necessary to:

(A) produce net operating income equal to the public utility's weighted cost of capital multiplied by the original cost of eligible distribution system improvements; and

(B) pay any state and federal income taxes applicable to such income.

(2) For a municipally-owned utility:

(A) the average annual debt service associated with the distribution system improvement; or

(B) the return on plant under IC 8-1.5-3-8 granted in its most recent rate case computed by multiplying the authorized return times the cost of eligible distribution system improvement.

(j) "Public utility" means every:

(1) corporation;

(2) company;

(3) partnership;

(4) limited liability company;

(5) individual; or

(6) association of individuals;

or their lessees, trustees, or receivers appointed by a court, that may own, operate, manage, or control any plant or equipment within the state for the production, delivery, or furnishing of water. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-1*)

170 IAC 6-1.1-2 Applicability and scope

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 2. (a) This rule applies to any public utility or municipal utility that may now or hereafter be engaged in providing water service, subject to the jurisdiction of the commission, as defined in section 1 of this rule.

(b) This rule shall in no way prohibit the recovery by a public utility or municipal utility of costs that meet the statutory criteria of IC 8-1-31 et seq., including costs not otherwise included under Accounts 331, 333, 334, or 335 of the National Association of Regulatory Utility Commissioners' Uniform System of Accounts for Water Utilities, provided that the costs for which recovery is requested were incurred in a project within the utility's existing distribution system and not in projects that connect to new customers. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-2*)

170 IAC 6-1.1-3 Exemption

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 3. A public utility or municipal utility may not file a petition under this section in the same calendar year in which the public utility has filed a request for a general increase in the basic rates and charges of the public utility. (*Indiana Utility Regulatory Commission; 170 IAC 6-1.1-3*)

170 IAC 6-1.1-4 Filing

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 4. (a) The public utility or municipal utility shall file with the commission rate schedules establishing a DSIC that will allow the automatic adjustment of the public utility's basic rates and charges to provide for recovery of DSIC costs. Any petition filed to initiate a DSIC proceeding, which shall be deemed the public utility's case-in-chief, shall include as attachments any:

(1) schedules;

(2) forms;

(3) testimony;

(4) exhibits; or

(5) other required supporting documentation;

as provided in section 5 of this rule.

(b) The public utility or municipal utility shall serve the office of the utility consumer counselor a copy of its filing at the time of its filing with the commission. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-4)*

170 IAC 6-1.1-5 Required supporting documentation

Authority: IC 8-1-31-8

Affected: IC 8-1-2-49; IC 8-1-31

Sec. 5. (a) The public utility or municipal utility shall submit the following supporting documentation for its petition to the commission:

- (1) A description of the DSIC project, an explanation of why the project is needed, the benefits resulting to the utility and its customers upon completion of the project, and the age of the plant that was retired.
- (2) A statement that the project is in service and was not included in the public utility's rate base in its most recent general rate case. Provide the cause number and date of the public utility's most recent rate order.
- (3) A statement that the project will not result in an increase in revenue resulting from the connection of new customers to the utility's distribution system.
- (4) A statement that all necessary local, state, and federal permits, approvals, and authorizations applicable to the DSIC project have been obtained.
- (5) A statement regarding whether any affiliate (as defined by IC 8-1-2-49) was directly or indirectly engaged by the public utility in connection with the installation of the infrastructure that is the subject of the proposed DSIC and a copy of any such affiliated interest contract.
- (6) A statement regarding whether the utility plans to replace other distribution infrastructure in the next five (5) years and a general outline of any such plans.
- (7) A new tariff reflecting the requested DSIC in the same format as the existing tariff on file with the commission, with clear denotations on all schedules where the DSIC rate is applicable.
- (8) A statement that the utility:
 - (A) has invoices and other cost support for every item included in the project cost form; and
 - (B) is prepared to file such invoices if required by the commission or requested by the office of utility consumer counselor.
- (9) An affidavit from an officer of the utility attesting to the veracity of the statements and information submitted under this subdivision.

(b) By submitting documentation in compliance with subsection (a), the public utility makes a prima facie case for the eligibility of the improvements and the reasonableness of the charges. *(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-5)*

170 IAC 6-1.1-6 Response

Authority: IC 8-1-31-8

Affected: IC 8-1-2; IC 8-1-31

Sec. 6. The office of utility consumer counselor or other intervening party may submit a report to the commission indicating its opposition to or support of each portion of the petition within thirty (30) days after the petition is filed. The office of utility consumer counselor may examine information of the public utility to determine whether:

- (1) the system improvements are in accordance with the requirements of section 1(g) of this rule; and
- (2) the public utility properly calculated the proposed charges.

(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-6)

170 IAC 6-1.1-7 Hearing and order

Authority: IC 8-1-31-9

Affected: IC 8-1-2; IC 8-1-31; IC 8-1.5-3-8

Sec. 7. (a) Except as provided in subsection (b) or for good cause shown, the commission shall hold the hearing and issue its order not later than sixty (60) days after the petition is filed.

(b) If, subsequent to the filing of its petition, the public utility files additional testimony or exhibits to supplement its case-in-chief, or for good cause shown, the commission may reset the sixty (60) day hearing deadline established in subsection (a).

(Indiana Utility Regulatory Commission; 170 IAC 6-1.1-7)

Notice of Public Hearing

Under IC 4-22-2-24, notice is hereby given that on March 2, 2005 at 9:30 a.m., at the Indiana Government Center-South, 302 West Washington Street, Room E306, Indianapolis, Indiana the Indiana Utility Regulatory Commission will hold a public hearing on a proposed new rule governing distribution system improvement charges (DSIC) allowed for water utilities under IC 8-1-31. 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