

ARTICLE 7. TELEPHONE UTILITIES

Rule 1. Standards of Service (Repealed)

(Repealed by Indiana Utility Regulatory Commission; No. 32928: Standards of Service for Telephone Utilities; filed May 31, 1979, 2:31 pm: 2 IR 811)

Rule 1.1. Standards of Service

170 IAC 7-1.1-1 Applicability of standards; variances; scope; severability (Repealed)

Sec. 1. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-2 Definitions (Repealed)

Sec. 2. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-3 Records and reports (Repealed)

Sec. 3. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-4 Applications for service; held applications; records and reports (Repealed)

Sec. 4. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-5 Tariffs; maps of service areas (Repealed)

Sec. 5. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-6 Design and construction of plant and facilities; safety standards (Repealed)

Sec. 6. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-7 Operator services (Repealed)

Sec. 7. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-8 Commission staff inquiries; response time (Repealed)

Sec. 8. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-9 Directories (Repealed)

Sec. 9. (Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)

170 IAC 7-1.1-10 Classification of telephone exchanges; scope and application (Repealed)

Sec. 10. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-11 Service standards (Repealed)

Sec. 11. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-12 Bills for utility service (Repealed)

Sec. 12. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-13 Billing adjustments (Repealed)

Sec. 13. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-14 "Customer" and "applicant" defined (Repealed)

Sec. 14. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-15 Creditworthiness of customer; deposit; refund (Repealed)

Sec. 15. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-16 Disconnection of service; prohibited disconnections; reconnection (Repealed)

Sec. 16. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-17 Customer complaints (Repealed)

Sec. 17. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-18 Informational pamphlets; explanation of available service; notice of proposed rate change (Repealed)

Sec. 18. *(Repealed by Indiana Utility Regulatory Commission; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4074, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later)*

170 IAC 7-1.1-19 Unauthorized switching of telecommunications providers; billing for telecommunications or other services added without customer's consent

Authority: IC 8-1-1-3; IC 8-1-29

Affected: IC 8-1-2-4

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Sec. 19. (a) For purposes of this rule, the following definitions apply:

- (1) "Electronic letter of agency" or "ELOA" means an electronically signed written statement that:
 - (A) authorizes a change to the customer's primary interexchange carrier or primary local exchange carrier; and
 - (B) includes the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).
- (2) "Express authorization" means an express, affirmative act by the customer clearly agreeing to the change in PIC or LEC in the form of:
 - (A) a written authorization;
 - (B) a customer-initiated call to the prospective IXC or LEC;
 - (C) an oral authorization verified and recorded by an independent third party;
 - (D) a recorded electronic authorization;
 - (E) some other form of recorded authorization, such as personal identification numbers (PINs) or passwords; or
 - (F) an electronic authorization.
- (3) "Letter of agency" or "LOA" means a written statement that the customer signs that authorizes a change to that customer's primary interexchange carrier or primary local exchange carrier.
- (4) "Local exchange carrier" or "LEC" means a provider of switched telecommunications service that carries calls originating and terminating within the local calling area.
- (5) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.
- (6) "Primary interexchange carrier" or "PIC" means a provider of presubscribed inter-LATA or intra-LATA long distance telecommunications services. The term includes the following:
 - (A) Presubscribed facilities-based carriers of long distance service.
 - (B) Resellers of long distance service.
 - (C) Local exchange carriers providing long distance service.

In those local exchanges where intra-LATA equal access is available, customers may receive presubscribed long distance service from more than one (1) PIC (one (1) for inter-LATA and one (1) for intra-LATA toll) or may select a single PIC that provides both inter-LATA and intra-LATA toll service.

- (7) "Primary local exchange carrier" or "PLEC" means a carrier to which a customer has presubscribed for local exchange service.
- (8) "Properly disputed" means the filing of a complaint, either verbally or in writing, with the commission.
- (9) "Telemarketing" means the use of telecommunications in marketing campaigns to reach prospective purchasers and sell them goods or services.
 - (b) No prospective PIC shall submit to a LEC a PIC change order generated by telemarketing unless the prospective PIC has first obtained express authorization from the customer. No prospective LEC shall submit a PLEC change order generated by telemarketing unless the prospective LEC has first obtained express authorization from the customer.
 - (c) The prospective PIC or prospective LEC shall confirm such express authorization through one (1) of the following three (3) procedures:
 - (1) The prospective PIC or prospective LEC shall obtain the customer's written or electronic authorization in a form that meets the requirements of subsections (e) through (n).
 - (2) The prospective PIC or prospective LEC shall obtain the customer's electronic authorization, placed from the telephone number or numbers on which the PIC or PLEC is to be changed, to submit a PIC or PLEC change order. The authorization shall include the information described in subsection (i). Prospective PICs or prospective LECs electing to confirm sales electronically shall establish one (1) or more toll-free telephone numbers exclusively for that purpose. A call to the number or numbers will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC or PLEC change, including automatically recording the automatic number identification (ANI).
 - (3) An appropriately qualified and independent third party shall obtain the customer's oral authorization to submit the PIC or PLEC change order. Such authorization shall confirm and include appropriate verification data, for example, the customer's date of birth, mother's maiden name, or Social Security number or part thereof. Such authorization is valid only if the entity that obtained the authorization:
 - (A) is independent of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC;

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(B) complies with this section regarding changes to telecommunications carriers;
(C) has a written policy regarding customer complaints and abides by that policy;
(D) has a written policy requiring the maintenance and storage of recorded electronic authorizations for a minimum period of one (1) year and abides by that policy;
(E) has a written script that it uses when obtaining verifications, and the script provides clear and unambiguous notice to the customer:

- (i) that the customer is authorizing a change in primary interexchange or primary local exchange carrier;
- (ii) of the identity of the new primary interexchange or primary local exchange carrier;
- (iii) of a toll-free or local number of the LEC that the customer can call to verify whether the change has occurred;
- (iv) that, for any one (1) telephone number:

- (AA) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

- (BB) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

- (CC) only one (1) intrastate primary LEC may be designated as the subscriber's primary LEC; and

- (v) that the PIC change will automatically apply to both inter-LATA and intra-LATA long distance service offerings unless the customer directs otherwise; and

(F) is in a location that is physically separate from that of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC.

(d) A PIC or PLEC change made in violation of any of the requirements of this section is invalid. A prospective PIC or PLEC must provide all information regarding disputed carrier changes and services billings to the commission within thirty (30) days of a commission request for said information.

(e) If the prospective PIC or prospective LEC utilizes the authorization procedure in subsection (c)(1), the prospective PIC or LEC shall obtain any necessary written authorization from a subscriber for a PIC or PLEC change by using a letter of agency or electronic letter of agency as specified in subsections (f) through (n). Any letter of agency or electronic letter of agency that does not conform to those subsections is invalid.

(f) The letter of agency or electronic letter of agency shall be a separate document (or an easily separable document) or located on a separate screen or Web page containing only the authorizing language described in subsection (i), whose sole purpose is to authorize a prospective PIC or LEC to initiate a primary interexchange carrier or PLEC change. The letter of agency must be signed and dated by the subscriber to the telephone line or lines requesting the primary interexchange carrier or PLEC change. The subscriber (or authorized agent in the case of a business customer) whose name appears on bills for local and interexchange service shall be the only party authorized to execute a letter of agency.

(g) The letter of agency shall not be combined with inducements of any kind on the same document, screen, or Web page.

(h) Notwithstanding subsections (f) and (g), the letter of agency may be combined with checks that contain only the required letter of agency language prescribed in subsection (i) and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain, in easily readable, bold-face type on the front of the check, a notice that the consumer is authorizing a primary interexchange carrier or PLEC change by signing the check. The letter of agency language shall also be placed near the signature line on the back of the check.

(i) At a minimum, the letter of agency must be printed with a typeface of sufficient size and clarity to be clearly legible and must contain clear and unambiguous language that confirms:

- (1) the subscriber's billing name and address and each telephone number to be covered by the primary interexchange carrier or PLEC change order;

- (2) the subscriber's decision to change the primary interexchange carrier or PLEC from the current interexchange carrier or LEC to the prospective interexchange carrier or prospective LEC;

- (3) that the subscriber designates the prospective interexchange carrier or prospective LEC to act as the subscriber's agent for the primary interexchange carrier or PLEC change;

- (4) that the subscriber understands that, for any one (1) telephone number:

- (A) only one (1) prospective PIC may be designated as the subscriber's inter-LATA primary interexchange carrier;

- (B) only one (1) prospective PIC may be designated as the subscriber's intra-LATA primary interexchange carrier; and

- (C) only one (1) intrastate primary LEC may be designated as the subscriber's intrastate primary LEC;

(5) that the subscriber understands that any change in primary interexchange carrier or primary LEC may result in a charge to the subscriber; and

(6) the LEC's toll-free or local number that the customer can call to verify whether the change has occurred.

(j) To the extent a customer selects separate carriers for inter-LATA, intra-LATA, and LEC services, the letter of agency must contain separate statements regarding those choices. Any carrier designated as a primary interexchange carrier for inter-LATA service must be the carrier directly setting the inter-LATA service rates for the subscriber. Any carrier designated as a primary interexchange carrier for intra-LATA services must be the carrier directly setting the intra-LATA service rates for the subscriber. Any carrier designated as a primary local exchange carrier must be the LEC directly setting the local exchange service rates for the subscriber. One (1) interexchange carrier can be both a subscriber's inter-LATA primary interexchange carrier and a subscriber's intra-LATA primary interexchange carrier.

(k) Letters of agency shall not suggest or require that a subscriber take some action in order to retain the subscriber's current interexchange carrier or LEC.

(l) If any portion of a letter of agency is translated into a language other than English, then all portions of the letter of agency must be translated into that language. Every letter of agency must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the letter of agency.

(m) The letter of agency shall provide the toll-free telephone number and mailing address of the consumer affairs division of the Indiana utility regulatory commission and shall inform the customer of his or her right to file a complaint with that division.

(n) Letters of agency submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).

(o) Upon request of the customer, offers to provide telecommunications interexchange or local exchange services shall be sent to the customer in written form describing the terms and conditions of service.

(p) Except for tariff-regulated, customer-initiated, one-time use products, such as collect calling services, optional pay-per-use services (including automatic callback, repeat dialing, and three-way calling), no PIC or LEC or any billing agent acting for said PIC or LEC shall bill a customer for any service unless the PIC, LEC, or billing agent possesses written or electronic documentation that shows:

(1) the name of the customer requesting the service;

(2) a description of the service requested by the customer;

(3) the date on which the customer requested the service;

(4) the means by which the customer requested the service; and

(5) the name, address, and telephone number of all sales agents involved.

(q) No PIC, LEC, or billing agent for any PIC or LEC shall be entitled to any compensation from a customer for services rendered in violation of this rule.

(r) The customer's local exchange company shall not disconnect the customer's phone service for nonpayment where the customer has properly disputed a carrier change or service billing.

(s) A telecommunications carrier shall submit a preferred carrier change order on behalf of a subscriber within no more than sixty (60) days of obtaining a written or electronically signed letter of agency. However, letters of agency for multiline and/or multilocation business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term agreement shall be valid for the period specified in the term agreement.

(t) This rule shall apply only to the extent not preempted by federal law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.1-19; filed Jan 18, 1999, 1:18 p.m.: 22 IR 1938; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; filed Mar 4, 2002, 2:57 p.m.: 25 IR 2209; filed Jul 14, 2004, 9:45 a.m.: 27 IR 3872; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA*)

Rule 1.2. Obligations of Eligible Telecommunications Carriers; Local Exchange Carriers; Communications Service Providers

170 IAC 7-1.2-1 Applicability and scope

Authority: IC 8-1

Affected: IC 8-1

Sec. 1. (a) This rule applies to any ETC that is now, or may hereafter be, designated as such by the commission, as further defined by this title. This rule is intended to result in the provision of safe and adequate telecommunications services to the public

and to establish the obligations of the ETC and the customer.

(b) This rule applies to all CSPs not listed in subsection (a) to the extent necessary to comply with IC 8-1-32.5 and IC 8-1-2.6-13.

(c) An ETC that fails to provide reasonable service shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet applicable federal or state law regarding an ETC.

(d) Upon the filing of a verified complaint filed by ten (10) or more customers, the utility consumer counselor, or any class satisfying the standing requirements of IC 8-1-2-54, alleging that a service over which the commission has jurisdiction is unsafe, unjustly discriminatory, or inadequate, or that any service cannot be obtained, the commission may conduct an investigation on an expedited basis and, after notice and an opportunity for hearing, take any actions in accordance with applicable federal and state law, including those enumerated in IC 8-1-29.5-6(b). (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-1; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4053, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-2 Definitions

Authority: IC 8-1

Affected: IC 8-1

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

(1) "Business days" means all days other than a:

- (A) Saturday;
- (B) Sunday; or
- (C) legal holiday.

(2) "Call" means an attempted or completed telephone message.

(3) "Certificate of territorial authority" or "CTA" means a CSP's authorization, as granted by the commission in compliance with IC 8-1-32.5, to provide service within a designated area.

(4) "Commercial mobile radio services" or "CMRS" means a mobile service that is, pursuant to 47 CFR 20.3*.

(5) "Commission" means the Indiana utility regulatory commission.

(6) "Communications service" has the meaning set forth in IC 8-1-32.5-3.

(7) "Communications service provider" or "CSP" has the meaning set forth in IC 8-1-32.5-4.

(8) "Consumer affairs division" means the commission's division that reviews and issues dispositions on informal complaints submitted to the commission by customers under IC 8-1-2-34.5.

(9) "Customer" means any:

- (A) person;
- (B) firm;
- (C) partnership;
- (D) corporation;
- (E) municipality;
- (F) governmental agency;
- (G) limited liability company; or
- (H) other entity;

provided with LEC telecommunications service and may also be referred to as "end user".

(10) "Eligible telecommunications carrier" or "ETC" means an ILEC or a common carrier designated as an ETC by the commission.

(11) "Exchange" means a geographic service area established by an ILEC and approved by the commission, usually embracing a city, town, or village and designated surrounding or adjacent area, that typically encompasses one (1) or more central offices, together with the associated plant used in furnishing telecommunications service to the general public.

(12) "Facility" means any one (1) or all of the elements of physical plant used to provide telecommunications services, sometimes used synonymously with "transmission path", including all of the physical cables and equipment associated with that path.

(13) "Incumbent local exchange carrier" or "ILEC" means a local service LEC that provides telephone service to customers

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in the geographic territory served by the local exchange and that:

(A) on February 8, 1996, provided telephone exchange service in the area and was deemed to be a member of the exchange carrier association under 47 CFR 69.601(b), 60 FR 19530 (April 19, 1995)*; 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).

(14) "Legal holiday" means the following:

(A) New Year's day.

(B) Dr. Martin Luther King, Jr. day.

(C) Memorial day.

(D) Independence day.

(E) Labor day.

(F) Veteran's day.

(G) Thanksgiving day.

(H) Christmas day.

(I) Any other day appointed as a federal holiday by the President or the Congress of the United States or a state holiday by the governor of the state of Indiana.

(15) "Local exchange carrier" or "LEC" has the meaning set forth in 47 U.S.C. 153(26)* that provides telephone service to customers in the geographic territory served by the local exchange described in the CTA for the LEC on file with the commission and excluding those services provided pursuant to a CTA issued for a radio common carrier or CMRS. The agents of an LEC are deemed to be the LEC for purposes of this rule.

(16) "Local service area" means the area within which telephone service is furnished to customers under a specific schedule of exchange rates and without toll charges, which may include one (1) or more exchange areas or portions of exchange areas.

(17) "Outage" has the meaning set forth in 47 CFR 4.5*.

(18) "Utility" means any public utility as defined in IC 8-1-2-1.

(19) "Utility consumer counselor" means the office established under IC 8-1-1.1-2.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500E, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-2; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4054, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-3 Records and reports

Authority: IC 8-1

Affected: IC 8-1-2-52

Sec. 3. (a) The ETC shall timely furnish the commission with any information concerning the ETC's facilities or operations that the commission may request and require.

(b) Where an ETC is operated with another business that is not regulated by the commission, data and records of the ETC shall be separate such that the results of the ETC's intrastate telephone operations may be determined at any time at the level of detail prescribed under applicable state and federal law. The requirements of this section shall not apply if the commission order designating the carrier as an ETC specifies alternative requirements for maintaining the ETC's data and records.

(c) Each ETC shall maintain suitable maps and records to show the location and description of its network and facilities and the extent of area served by the ETC.

(d) Any ETC that receives high cost universal service support shall report how many requests for service from potential customers were unfulfilled for the past year and the number of complaints per one thousand (1,000) handsets or lines on forms prescribed by the commission.

(e) Each ETC shall:

(1) provide notice to the commission's consumer affairs division and the utility consumer counselor of outages as required by 47 CFR 4.9* for all outages meeting that criteria and affecting at least ten percent (10%) of the end users served in a designated service area or a 911 special facility as that term is defined in 47 CFR 4.5(e)* within one hundred twenty (120) minutes during normal work hours of the business day after the ETC becomes aware of the interruption to service; and

(2) notify the consumer affairs division and the utility consumer counselor when service has been restored.

(f) The commission may require that data be reported by the ETCs in order to determine whether the ETC is providing service consistent with this rule.

(g) Each ETC shall maintain records reasonably sufficient to show the extent of its compliance with this rule as set forth in 47 CFR 54.202.

*This document is incorporated by reference. Copies may be obtained from the Government Printing Office, Washington, D.C. 20402 or are available for copying at the Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500E, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-3; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4055, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-4 Rate for local exchange service; maps of service areas

Authority: IC 8-1

Affected: IC 8-1-2-38; IC 8-1-2-39

Sec. 4. Each ETC shall do the following:

(1) Report annually its current rate for local exchange service to the commission. The report may be made by providing the commission with a specific link to the rate on an ETC's website. For providers that are required to be recertified annually to receive high cost support, this submission may be made as part of the recertification process.

(2) Submit to the commission maps depicting the ETC's local exchange service areas. The maps shall:

(A) cover all territory included in the ETC's designated service area; and

(B) delineate the local exchange service area boundaries in sufficient detail to permit the boundaries to be located in the field.

For ETCs that are providers of last resort, the maps shall be maintained on a current basis, with signatures of concurrence from duly accredited representatives of each affected ILEC for abutting exchanges, where necessary.

(*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-4; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4057, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-5 Safety standards (Repealed)

Sec. 5. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-6 Operator services (Repealed)

Sec. 6. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-7 Response to commission staff inquiries

Authority: IC 8-1

Affected: IC 8-1-2-53

Sec. 7. Each CSP, other than providers of commercial mobile service, shall fully and promptly answer all inquiries received from the commission staff concerning services over which the commission has jurisdiction, as provided by the statute. Each CSP shall fully and promptly answer the requests, at the earliest possible date, or as requested by staff. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.2-7; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4058, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-8 Telephone directories; white pages (Repealed)

Sec. 8. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.2-9 Availability of service

Authority: IC 8-1
Affected: IC 8-1-2-4

Sec. 9. Each ETC shall provide at a minimum the supported services outlined at 47 CFR 54.101* or as outlined in the commission order designating the carrier as an ETC throughout its designated service area to all prospective customers who make a reasonable request for service. An ETC that is a provider of last resort is required to offer local exchange service as defined at 47 U.S.C. 153(47)* throughout its designated service area. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-9; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4059, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:36 p.m.: 26 IR 382; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-10 Extension of facilities (Repealed)

Sec. 10. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-11 Grade of service (Repealed)

Sec. 11. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-12 Maintenance of plant equipment (Repealed)

Sec. 12. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-13 Trouble reports (Repealed)

Sec. 13. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-14 Adequacy of service (Repealed)

Sec. 14. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-15 Transmission requirements (Repealed)

Sec. 15. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-16 Answering times (Repealed)

Sec. 16. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-17 Intercept service (Repealed)

Sec. 17. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.2-18 Emergency operation

Authority: IC 8-1-1-3; IC 8-1-2.6-13
Affected: IC 8-1-2-4

Sec. 18. (a) Each ETC shall do the following:

(1) Make reasonable provisions to meet emergencies resulting from commercial electrical failure and sudden, prolonged increases in traffic due to extraordinary circumstances.

(2) Instruct employees on procedures to be followed in the event of such emergencies in order to prevent or mitigate interruption or impairment of supported services.

(b) All existing switching offices or functional equivalent shall maintain the following:

(1) Switching offices or equivalent with installed emergency power generating equipment will have a minimum of three (3) hours battery capacity.

(2) Switching offices or equivalent without installed emergency power generating equipment shall have a minimum battery capacity of five (5) hours. Facilities needed to connect a portable generator shall also be readily available.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.2-18; filed Aug 7, 2002, 10:09 a.m.: 25 IR 4065, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:05 a.m.: 20091028-IR-170090573RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

Rule 1.3. Communications Customer Service Rights and Responsibilities

170 IAC 7-1.3-1 Purpose and scope

Authority: IC 8-1-1-3

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

Sec. 1. (a) This rule applies to any CSP that is now, or may hereafter be, engaged in the business of rendering communications services to the public under the jurisdiction of the commission.

(b) No CSP shall discriminate against or penalize a customer for exercising any right granted by this rule.

(c) Any CSP subject to the customer service rights and responsibilities set forth in this rule that fails to meet the standards shall be subject to all legal remedies provided by law. Upon complaint or its own motion and after notice and a hearing, the commission may order lawful enforcement mechanisms against a carrier that fails to meet the requirements or standards established in this rule. Nothing in this rule shall prevent the commission from exercising any authority it may have under applicable law to enforce this rule in the event any CSP fails to comply.

(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 petition of any utility or the office of the utility consumer counselor, after notice and hearing, from taking any of the following actions:

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

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

(3) At its sole discretion, grant, in whole or in part, permanent or temporary waivers from this rule on an expedited basis.

(e) The adoption of this rule shall not in any way relieve any CSP 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, the provision shall be ineffective to the extent of the prohibition or unenforceability without invalidating the remaining provisions hereof. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-1; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Oct 8, 2002, 12:54 p.m.: 26 IR 382; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

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) "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.

(2) "Clear and conspicuous notification" means notice that would be apparent to a reasonable consumer.

(3) "Commercial mobile radio services" or "CMRS" has the meaning set forth in 47 CFR 20.3.

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- (4) "Commission" means the Indiana utility regulatory commission.
- (5) "Customer" means the following:
- (A) Any person that requests and obtains telephone service and is responsible for the payment of charges and compliance with 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 four (4) or fewer single access lines;
 - (ii) requests and obtains telephone service for occupational, professional, or institutional purposes; and
 - (iii) is responsible for the payment of charges and compliance with 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:
 - (i) service is permanently disconnected; and
 - (ii) the customer must reapply for new service.
- (6) "Electronic letter of agency" or "ELOA" means an electronically signed written statement that:
- (A) authorizes a change to the customer's PIC or PLEC; and
 - (B) includes the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).
- (7) "Express authorization" means an express, affirmative act by the customer clearly agreeing to the change in PIC or LEC in the form of:
- (A) a written authorization;
 - (B) a customer-initiated call to the prospective IXC or LEC;
 - (C) an oral authorization verified and recorded by an independent third party;
 - (D) a recorded electronic authorization;
 - (E) some other form of recorded authorization, such as personal identification numbers (PINs) or passwords; or
 - (F) an electronic authorization.
- (8) "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 the 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 assignee of a member described in clause (A).
- (9) "Interexchange carrier" or "IXC" means a telecommunications service provider that is authorized to provide long distance telephone service in or between LATAs.
- (10) "Letter of agency" or "LOA" means a written statement that the customer signs that authorizes a change to that customer's PIC or PLEC.
- (11) "Local access transport area" or "LATA" has the meaning set forth in 47 U.S.C. 153(25).
- (12) "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, and excluding those services provided pursuant to a CTA issued for a radio common carrier or CMRS.
- (13) "Local exchange service" means the provision to a customer of an access line or equivalent that transmits two-way interactive switched voice or communication within a local calling area.
- (14) "Long distance telecommunications service" means service that carries calls to exchanges that are not within the local calling area of the originating number.
- (15) "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.
- (16) "Primary interexchange carrier" or "PIC" means a provider of presubscribed inter-LATA or intra-LATA long distance telecommunications services. The term includes the following:
- (A) Presubscribed facilities-based carriers of long distance service.
 - (B) Resellers of long distance service.
 - (C) LECs providing long distance service.

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In those local exchanges where intra-LATA equal access is available, customers may receive presubscribed long distance service from more than one (1) PIC (one (1) for inter-LATA and one (1) for intra-LATA toll) or may select a single PIC that provides both inter-LATA and intra-LATA toll service.

(17) "Primary local exchange carrier" or "PLEC" means a carrier to which a customer has presubscribed for local exchange service.

(18) "Properly disputed" means the filing of a complaint, either verbally or in writing, with the commission.

(19) "Telemarketing" means the use of telecommunications in marketing campaigns to reach prospective purchasers and sell them goods or services.

(20) "Temporary disconnection" means a disconnection that has not yet resulted in the customer's account being permanently removed from the telephone provider's network.

(21) "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 telecommunications service to the public under the jurisdiction of the commission.

(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-2; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4066, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata, 26 IR 1565; errata, 26 IR 2375; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

170 IAC 7-1.3-3 Creditworthiness of residential customer; deposit; refund (Repealed)

Sec. 3. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-4 Rejection of application for service (Repealed)

Sec. 4. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-5 Notice of proposed rate change

Authority: IC 8-1-1-3; IC 8-1-32.5-11

Affected: IC 8-1-2-40

Sec. 5. (a) This section shall apply to all CSPs with the exception of CMRS providers.

(b) Each CSP shall furnish advance notice of rate increases to its affected customers that fairly summarizes the nature and extent of the increase. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-5; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-6 Bills for utility service

Authority: IC 8-1

Affected: IC 8-1-2-4

Sec. 6. (a) Bills rendered periodically to customers for telecommunication services, excluding CMRS, shall be clearly organized and must include the following required information:

(1) The name for the service provider associated with each charge shall be clearly identified.

(2) 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 shall describe the nature of the relationship with the customer, including a description of whether the new service provider is the presubscribed:

(A) LEC;

(B) intra-LATA IXC; or

(C) inter-LATA IXC.

(3) 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.
- (4) 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 carrier may list a toll free number for a billing agent, clearinghouse, or other third party, provided that the party:
 - (i) possesses sufficient information to answer questions concerning the customer's account; and
 - (ii) 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 website address. Each carrier shall make a business address available upon request from a customer.

(b) The billing requirements of subsection (a)(1) through (a)(3) may be waived for business customers if those customers consent in writing to the waiver.

(c) The LEC may only change a monthly billing cycle to another periodic form of billing if the customer agrees in writing to such change. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-6; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4069, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-7 Billing adjustments

Authority: IC 8-1

Affected: IC 8-1-2-34.5

Sec. 7. A billing error may be adjusted:

- (1) to the known date of error; or
- (2) for a period of eighteen (18) months;

whichever period is shorter. *(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-7; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4070, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-8 Customer complaints to the utility (Repealed)

Sec. 8. *(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)*

170 IAC 7-1.3-8.1 Unauthorized switching of telecommunications providers; billing for telecommunications or other services added without customer's consent

Authority: IC 8-1

Affected: IC 8-1-2-4

Sec. 8.1. (a) The definitions in 170 IAC 7-1.3-2 apply to this rule.

(b) No prospective PIC shall submit to a LEC a PIC change order generated by telemarketing unless the prospective PIC has first obtained express authorization from the customer. No prospective LEC shall submit a PLEC change order generated by telemarketing unless the prospective LEC has first obtained express authorization from the customer.

(c) The prospective PIC or prospective LEC shall confirm the express authorization through one (1) of the following procedures:

(1) The prospective PIC or prospective LEC shall obtain the customer's written or electronic authorization in a form that meets the requirements of subsections (e) through (n).

(2) The prospective PIC or prospective LEC shall obtain the customer's electronic authorization, placed from the telephone

number or numbers on which the PIC or PLEC is to be changed, to submit a PIC or PLEC change order. The authorization shall include the information described in subsection (i). Prospective PICs or prospective LECs electing to confirm sales electronically shall establish one (1) or more toll free telephone numbers exclusively for that purpose. A call to the number or numbers will connect a customer to a voice response unit, or similar mechanism, that records the required information regarding the PIC or PLEC change, including automatically recording the automatic number identification (ANI).

(3) An appropriately qualified and independent third party shall obtain the customer's oral authorization to submit the PIC or PLEC change order. The authorization shall confirm and include appropriate verification data, for example, the customer's date of birth, mother's maiden name, or Social Security number or part thereof. The authorization is valid only if the entity that obtained the authorization:

(A) is independent of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC;

(B) complies with this section regarding changes to telecommunications carriers;

(C) has a written policy regarding customer complaints and abides by that policy;

(D) has a written policy requiring the maintenance and storage of recorded electronic authorizations for a minimum period of one (1) year and abides by that policy;

(E) has a written script that it uses when obtaining verifications, and the script provides clear and unambiguous notice to the customer:

(i) that the customer is authorizing a change in PIC or PLEC;

(ii) of the identity of the new PIC or PLEC;

(iii) of a toll free or local number of the LEC that the customer can call to verify whether the change has occurred;

(iv) that, for any one (1) telephone number:

(AA) only one (1) prospective PIC may be designated as the subscriber's inter-LATA PIC;

(BB) only one (1) prospective PIC may be designated as the subscriber's intra-LATA PIC; and

(CC) only one (1) intrastate PLEC may be designated as the subscriber's PLEC;

(v) that the PIC change will automatically apply to both inter-LATA and intra-LATA long distance service offerings unless the customer directs otherwise; and

(vi) that the carrier change can be effectuated once the verification has been completed in full, even when the consumer has additional questions for the sales representative after the verification process;

(F) is in a location that is physically separate from that of the prospective PIC or prospective LEC or the telemarketing representative of the prospective PIC or prospective LEC; and

(G) records the date of verification at the time of the verification such that it is readily identifiable by parties that review the verification at a later date.

(d) A PIC or PLEC change made in violation of any of the requirements of this section is invalid. A prospective PIC or PLEC must provide all information regarding disputed carrier changes and services billings to the commission within thirty (30) days of a commission request for the information.

(e) If the prospective PIC or prospective LEC utilizes the authorization procedure in subsection (c)(1), the prospective PIC or LEC shall obtain any necessary written authorization from a subscriber for a PIC or PLEC change by using an LOA or ELOA as specified in subsections (f) through (n). Any LOA or ELOA that does not conform to those subsections is invalid.

(f) The LOA or ELOA shall be a separate document (or an easily separable document) or located on a separate screen or webpage containing only the authorizing language described in subsection (i), whose sole purpose is to authorize a prospective PIC or LEC to initiate a PIC or PLEC change. The LOA must be signed and dated by the subscriber to the telephone line or lines requesting the PIC or PLEC change. The subscriber (or authorized agent in the case of a business customer) whose name appears on bills for local and interexchange service shall be the only party authorized to execute an LOA.

(g) The LOA shall not be combined with inducements of any kind on the same document, screen, or webpage.

(h) Notwithstanding subsections (f) and (g), the LOA may be combined with checks that contain only the required LOA language prescribed in subsection (i) and the necessary information to make the check a negotiable instrument. The LOA check shall not contain any promotional language or material. The LOA check shall contain, in easily readable, boldface type on the front of the check, a notice that the consumer is authorizing a PIC or PLEC change by signing the check. The LOA language shall also be placed near the signature line on the back of the check.

(i) At a minimum, the LOA must be printed with a typeface of sufficient size and clarity to be clearly legible and must contain clear and unambiguous language that confirms:

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- (1) the subscriber's billing name and address and each telephone number to be covered by the PIC or PLEC change order;
- (2) the subscriber's decision to change the PIC or PLEC from the current IXC or LEC to the prospective IXC or prospective LEC;
- (3) that the subscriber designates the prospective IXC or prospective LEC to act as the subscriber's agent for the PIC or PLEC change;
- (4) that the subscriber understands that, for any one (1) telephone number:
 - (A) only one (1) prospective PIC may be designated as the subscriber's inter-LATA PIC;
 - (B) only one (1) prospective PIC may be designated as the subscriber's intra-LATA PIC; and
 - (C) only one (1) intrastate PLEC may be designated as the subscriber's intrastate PLEC;
- (5) that the subscriber understands that any change in PIC or PLEC may result in a charge to the subscriber; and
- (6) the LEC's toll free or local number that the customer can call to verify whether the change has occurred.
- (j) To the extent a customer selects separate carriers for inter-LATA, intra-LATA, and LEC services, the LOA must contain separate statements regarding those choices. Any carrier designated as a PIC for inter-LATA service must be the carrier directly setting the inter-LATA service rates for the subscriber. Any carrier designated as a PIC for intra-LATA services must be the carrier directly setting the intra-LATA service rates for the subscriber. Any carrier designated as a PLEC must be the LEC directly setting the local exchange service rates for the subscriber. One (1) IXC can be both a subscriber's inter-LATA PIC and a subscriber's intra-LATA PIC.
- (k) LOAs shall not suggest or require that a subscriber take some action in order to retain the subscriber's current IXC or LEC.
- (l) If any portion of an LOA is translated into a language other than English, then all portions of the LOA must be translated into that language. Every LOA must be translated into the same language as any promotional materials, oral descriptions, or instructions provided with the LOA.
- (m) The LOA shall:
 - (1) provide the toll free telephone number and mailing address of the consumer affairs division of the commission; and
 - (2) inform the customer of his or her right to file a complaint with that division.
- (n) LOAs submitted with an electronically signed authorization must include the consumer disclosures required by Section 101(c) of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001(c).
- (o) Upon request of the customer, offers to provide telecommunications interexchange or local exchange services shall be sent to the customer in written form describing the terms and conditions of service.
- (p) Except for customer-initiated or one-time use products, such as collect calling services, optional pay-per-use services (including automatic callback, repeat dialing, and three-way calling), no PIC or LEC or any billing agent acting for the PIC or LEC shall bill a customer for any service unless the PIC, LEC, or billing agent possesses written or electronic documentation that shows:
 - (1) the name of the customer requesting the service;
 - (2) a description of the service requested by the customer;
 - (3) the date on which the customer requested the service;
 - (4) the means by which the customer requested the service; and
 - (5) the name, address, and telephone number of all sales agents involved.
- (q) No PIC, LEC, or billing agent for any PIC or LEC shall be entitled to any compensation from a customer for services rendered in violation of this rule.
- (r) The customer's local exchange company shall not disconnect the customer's phone service for nonpayment where the customer has properly disputed a carrier change or service billing.
- (s) A telecommunications carrier shall submit a preferred carrier change order on behalf of a subscriber within sixty (60) days of obtaining a written or electronically signed LOA. However, LOAs for multiline or multilocation, or both, business customers that have entered into negotiated agreements with carriers to add presubscribed lines to their business locations during the course of a term agreement shall be valid for the period specified in the term agreement.
- (t) A telecommunications carrier may acquire, through a sale or transfer, either part or all of another telecommunications carrier's subscriber base without obtaining each subscriber's express authorization provided that the acquiring carrier complies with the following streamlined procedures:
 - (1) No later than thirty (30) days before the planned transfer of the affected subscribers from the selling or transferring carrier to the acquiring carrier, the acquiring carrier shall file notice with the commission providing:
 - (A) the names of the parties to the transaction;
 - (B) the types of telecommunication service to be provided to the affected subscribers;

(C) the date of transfer of the subscriber base to the acquiring carrier; and

(D) certification that the acquiring carrier shall comply with the requirement to provide advance consumer notice in accordance with 47 CFR 64.1120(e)(3).

(u) This rule shall apply only to the extent not preempted by federal law. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8.1; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

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

Authority: IC 8-1

Affected: IC 8-1-2-34.5

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. The complaints may be made:

- (1) in person;
- (2) by telephone;
- (3) in writing; or
- (4) 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) References to CSP in this section exclude:

- (1) radio common carriers;
- (2) CMRS providers; and
- (3) information service providers.

(c) Without the customer's permission, the CSP shall not disconnect, remove, or restrict any service that is the subject matter of the complaint while any commission review or investigation of the complaint is pending. The customer shall continue to pay all undisputed charges. In those instances when the customer and CSP 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.

(d) If the customer is dissatisfied with a CSP's notice of its proposed disposition of the complaint, the customer may, within seven (7) days after the postmark date of the notice, file a consumer complaint with the commission's consumer affairs division.

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

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

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

(1) The customer or the CSP may make a written request that a decision made under subsection (d) be reviewed informally by the consumer affairs director or designee. The written request shall be made within seven (7) days of the decision. The records of the commission relating to the 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:

- (A) consist of not less than a prompt and thorough investigation of the dispute; and
- (B) result in a written decision to be mailed to the customer and the CSP 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.

(g) The customer may make a written request that the commission investigate the disposition of the informal review. The written request shall be made within seven (7) 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 CSP notice and an opportunity to be heard.

(h) Without the customer's permission, the CSP shall not disconnect, remove, or restrict any disputed service until at least twenty-one (21) days have elapsed from the date of the consumer affairs division's disposition, or the commission's order upon

investigation, if any. (*Indiana Utility Regulatory Commission; 170 IAC 7-1.3-9; filed Aug 7, 2002, 10:05 a.m.: 25 IR 4071, eff one hundred eighty (180) days after filing with the secretary of state or January 1, 2003, whichever is later; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA; readopted filed Oct 2, 2009, 11:04 a.m.: 20091028-IR-170090574RFA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.3-10 Customer payments (Repealed)

Sec. 10. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.3-11 Disconnection and prohibited disconnections (Repealed)

Sec. 11. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.3-12 Reconnection (Repealed)

Sec. 12. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

Rule 1.4. Customer Notification Required When a Telecommunications Service Provider Communicates with a Residential Customer about Changing from Basic to Nonbasic Telecommunications Services

170 IAC 7-1.4-1 Policy and scope (Repealed)

Sec. 1. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.4-2 Definitions (Repealed)

Sec. 2. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

170 IAC 7-1.4-3 Notice to customers (Repealed)

Sec. 3. (*Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA*)

Rule 2. Classification of Accounts for Class A, B, and C Telephone Companies (Repealed)

(*Repealed by Indiana Utility Regulatory Commission; No. 33105: Classification of Accounts for Class A, B and C Telephone Companies; filed Jul 17, 1979, 10:30 am: 2 IR 1199*) NOTE: The repealer which appeared at 2 IR 1199 incorrectly cited No. 17690 promulgated Nov 8, 1945 as the repealed item.

Rule 2.1. Classification of Accounts for Class A and B Telephone Companies

170 IAC 7-2.1-1 Uniform system of accounts for Class A and B companies; adoption by reference

Authority: IC 8-1-1-3; IC 8-1-2.6-13

Affected: IC 8-1-2

Sec. 1. (a) The rules and regulations governing the classification of accounts for Class A and B telephone companies operating within the state of Indiana as approved, prescribed, and promulgated by the Federal Communications Commission, as set out in Part 32, 51 Fed. Reg. 43498 (1986) and as amended by 53 Fed. Reg. 30058 (1988), FCC Rules and Regulations are adopted by reference.

(b) Copies of the Uniform System of Accounts prescribed for Class A and B telephone companies, as approved, prescribed, and promulgated by the Federal Communications Commission, as set out in Part 32, 51 Fed. Reg. 43498 (1986) and as amended by 53 Fed. Reg. 30058 (1988) FCC Rules and Regulations, are available for purchase from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (*Indiana Utility Regulatory Commission; No. 35628: Classification of*

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Accounts for Class A and B Telephone Companies; filed Jul 17, 1979, 10:30 a.m.: 2 IR 1199; filed Sep 7, 1989, 11:20 a.m.: 13 IR 269; readopted filed Jul 11, 2001, 4:30 p.m.: 24 IR 4233; readopted filed Apr 24, 2007, 8:21 a.m.: 20070509-IR-170070147RFA)

170 IAC 7-2.1-2 Amendments to uniform system of accounts for class A and B companies (Repealed)

Sec. 2. (Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

Rule 3. Classification of Accounts for Class D Telephone Companies (Repealed)

(Repealed by Indiana Utility Regulatory Commission; filed Sep 7, 1989, 11:20 a.m.: 13 IR 269)

Rule 4. Extended Area Telephone Service

170 IAC 7-4-1 Policy (Repealed)

Sec. 1. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-2 Definitions (Repealed)

Sec. 2. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-3 Petition for extended area service (Repealed)

Sec. 3. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-4 Calling usage studies; community of interest qualifications (Repealed)

Sec. 4. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-5 Determination of costs (Repealed)

Sec. 5. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-6 Assigned recovery of costs (Repealed)

Sec. 6. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-7 Customer survey (Repealed)

Sec. 7. (Repealed by Indiana Utility Regulatory Commission; filed Feb 25, 2000, 2:41 p.m.: 23 IR 1617)

170 IAC 7-4-8 Procedure for establishing extended area service (Expired)

Sec. 8. (Expired under IC 4-22-2.5, effective January 1, 2008.)

Rule 5. Small Local Exchange Carriers (Repealed)

(Repealed by Indiana Utility Regulatory Commission; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

Rule 6. Disconnection of a Local Exchange Carrier by Another Local Exchange Carrier; Notice of Bankruptcy; Relinquishment of Service; Revocation of Certificate of Territorial Authority

170 IAC 7-6-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-2-5; IC 8-1-2-34.5; IC 8-1-2.6-1.5; IC 8-1-32.4; IC 8-1-32.5
Affected: IC 8-1

Sec. 1. (a) This rule is intended to establish a procedure for providing notice to customers when a LEC:

- (1) is disconnected from another LEC;
- (2) files for bankruptcy; or
- (3) relinquishes all or part of its services or operating authority;

with special provisions for a LEC that is a provider of last resort.

(b) This rule supersedes any written contractual provisions that may exist pertaining to disconnection of service between LECs. *(Indiana Utility Regulatory Commission; 170 IAC 7-6-1; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA)*

170 IAC 7-6-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2-5; IC 8-1-2-34.5; IC 8-1-32.4; IC 8-1-32.5
Affected: IC 8-1

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

(1) "Local exchange carrier" or "LEC" means a local service telephone utility that provides telephone service to customers in the geographic territory served by the local exchange.

(2) "Provider of last resort" means a provider that:

- (A) holds a certificate of territorial authority issued by the commission; and
- (B) is required to offer local exchange service throughout a defined geographic area.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-2; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA)

170 IAC 7-6-3 Notice to the commission; notice to customers

Authority: IC 8-1
Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) When a LEC serves a notice of disconnection upon another LEC, the notice of disconnection shall be served simultaneously upon the following:

- (1) The communications division director of the commission via personal service or certified mail, return receipt requested.
- (2) The LEC that is subject to disconnection via certified mail, return receipt requested.

(b) Five (5) business days after the notice from the disconnecting LEC is mailed, the LEC that is subject to disconnection must provide the communications division director of the commission, in writing, with one (1) of the following:

- (1) Proof of payment.
- (2) The LEC's customer list, including each customer's:
 - (A) name;
 - (B) address; and
 - (C) telephone number.

Absent a showing to the contrary, the LEC's customer list shall be deemed confidential on a preliminary basis by the commission.

- (3) A copy of a complaint, regarding:
 - (A) reasonable grounds for nonpayment to the disconnecting LEC; or
 - (B) the subject of the disconnection notice;

filed with the commission under 170 IAC 7-7.

(c) If the LEC subject to disconnection fails to provide the commission with:

- (1) proof of payment under subsection (b)(1); or
- (2) a copy of a complaint under subsection (b)(3);

the LEC subject to disconnection must mail notice of disconnection to its customers within ten (10) calendar days after the

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disconnection notice is sent from the disconnecting LEC.

(d) The LEC subject to disconnection must provide proof of mailing the customer disconnection notice to the commission.

(e) The LEC's notice of disconnection to its customers must include the following:

(1) A statement that the customer must contact the communications service provider of his or her choice for new service.

(2) The last date of guaranteed service by the LEC.

(3) The address and toll free number of the:

(A) commission; and

(B) utility consumer counselor.

(4) A statement notifying the customer that if the customer fails to choose a new communications service provider on or before the date of disconnection from the LEC, the customer will be without telephone service.

(f) If the LEC subject to disconnection fails to notify its customers or show proof of mailing disconnection notices as required by subsections (c) through (e), the commission may do one (1) or more of the following:

(1) Initiate an investigation or other procedure in accordance with:

(A) IC 8-1-2-58;

(B) IC 8-1-2-69; or

(C) other related statutes.

(2) Request the disconnecting LEC to provide any customer identifying information it may have, which shall be treated as confidential on a preliminary basis by the commission.

(3) Initiate customer notification itself based on the information received in subsection (b)(2) and subdivision (2).

(g) A LEC may not disconnect another LEC until thirty (30) calendar days after the disconnection notice is sent under subsection (a).

(h) A LEC shall not be disconnected without adequate notice to its customers, either pursuant to the time frames in this rule or as otherwise determined by the commission.

(i) This rule shall not prohibit a LEC from rescinding its disconnection notice to customers after complying with subsections (c) through (e) if the LEC makes payment to the disconnecting LEC before its disconnection. The LEC shall notify the commission immediately if it has rescinded its customer disconnection notice.

(j) This rule shall not apply where the disconnecting LEC is without notice of either of the following:

(1) The provider being disconnected is reselling the retail services of the disconnecting LEC to third parties.

(2) The provider being disconnected is using the retail facilities of the disconnecting LEC to serve customers.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-3; filed Nov 29, 1999, 1:57 p.m.: 23 IR 762; readopted filed Jun 29, 2005, 4:39 p.m.: 29 IR 144; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

170 IAC 7-6-4 Notice of bankruptcy

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-32.4; IC 8-1-32.5

Affected: IC 8-1

Sec. 4. (a) If a LEC, the utility holding company of a LEC, or the corporate parent of a LEC is the subject of a bankruptcy proceeding, the LEC shall provide the commission with written notice and a complete copy of the bankruptcy petition within sixty (60) calendar days of the date the bankruptcy petition is filed.

(b) Notice to the commission shall include at least the following:

(1) The number of customers the utility has in Indiana, which shall be deemed confidential on a preliminary basis by the commission.

(2) The types of services provided.

(3) The name, mailing address, e-mail address, and telephone number of any of the following:

(A) A bankruptcy trustee.

(B) An attorney representing the utility in bankruptcy.

(C) A designated contact person at any company proposing to acquire the assets of the utility.

(c) If the LEC seeking bankruptcy protection is a provider of last resort, the LEC must provide the commission and each affected customer and wholesale provider written notice a minimum of sixty (60) calendar days before filing a bankruptcy petition with a court. The written notice to the commission must be provided on the form prescribed by the commission. *(Indiana Utility*

Regulatory Commission; 170 IAC 7-6-4; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA)

170 IAC 7-6-5 Relinquishment of service by a LEC

Authority: IC 8-1

Affected: IC 8-1

Sec. 5. A LEC that intends to cease providing services in all or part of its operating area or relinquish some or all of its Indiana certificate of territorial authority shall provide the following:

(1) Written notice to the commission, the utility consumer counselor, and any LEC from which it purchases services for resale, unbundled network elements, or with whose network the LEC that is ceasing operations or relinquishing authority is interconnected, sent at least sixty (60) calendar days before the date of cessation of operations or relinquishment. The notice to the commission shall include a customer list, which shall be deemed confidential on a preliminary basis by the commission. If the LEC that is ceasing operations or relinquishing authority is a provider of last resort, the notice to the commission must be provided on the form prescribed by the commission.

(2) At least sixty (60) calendar days before the date of cessation of operations or relinquishment, a notice to affected customers, which must include the following:

(A) A statement that the customer must contact the communications service provider of his or her choice for new service.

(B) The last date of guaranteed service by the LEC.

(C) The address and toll free number of the:

(i) commission; and

(ii) utility consumer counselor.

(D) A statement notifying the customer that if the customer fails to choose a new communications service provider on or before the date of cessation of operations or relinquishment, the customer will be without telephone service.

(E) At least one (1) toll free customer service telephone number maintained by the LEC that is ceasing operations or relinquishing authority to facilitate the:

(i) continuation of service; and

(ii) transition of customers to other providers;

if the LEC that is ceasing operations or relinquishing authority is a provider of last resort.

(Indiana Utility Regulatory Commission; 170 IAC 7-6-5; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA; filed Oct 8, 2010, 10:35 a.m.: 20101103-IR-170090478FRA)

170 IAC 7-6-6 Revocation of certificate of territorial authority

Authority: IC 8-1-1-3; IC 8-1-2-34.5; IC 8-1-2.6-1.5; IC 8-1-32.4; IC 8-1-32.5

Affected: IC 8-1-2-113; IC 8-1-6

Sec. 6. (a) A LEC has an affirmative duty to provide the following:

(1) The commission with current contact information.

(2) Notice as required under this rule.

(b) The commission may, after notice and hearing, revoke the certificate of territorial authority of a LEC for the following:

(1) Failure to follow regulatory requirements, including, but not limited to, the following:

(A) Provide notice as required under this rule.

(B) Pay the public utility fee assessed under IC 8-1-6.

(C) Respond to the following:

(i) A commission request for information, including surveys and data requests.

(ii) Inquiries by the commission regarding relinquishment of service, cessation of operation, or service disconnection.

(2) Administrative dissolution of the LEC's corporate authority by the Indiana secretary of state.

(3) Dissolution in bankruptcy.

(4) Cessation of operations or relinquishment of services in Indiana.

(c) Revocation of a LEC's certificate of territorial authority under this section may be initiated by any of the following:

- (1) The commission on its own motion.
- (2) Upon the request of either of the following:
 - (A) The office of the utility consumer counselor.
 - (B) Any other carrier providing services to the LEC.
- (3) The voluntary application of the LEC.
- (4) The LEC may cure any of the items listed in subsection (b), which, at the commission's discretion, may result in the termination of the revocation proceeding.
- (e) In addition to revoking the LEC's certificate of territorial authority, the commission may issue any additional orders it deems necessary to protect the public interest under IC 8-1-2-113. (*Indiana Utility Regulatory Commission; 170 IAC 7-6-6; filed Jan 30, 2007, 9:40 a.m.: 20070221-IR-170060045FRA*)

Rule 7. Expedited Procedure for Resolving Interconnection Disputes Between Telecommunications Carriers

170 IAC 7-7-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-2.6-1.5
Affected: IC 8-1-2-54

Sec. 1. (a) This rule is intended to establish an expedited procedure for resolving interconnection disputes between telecommunications carriers that arise from the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq. Only those disputes that directly affect the ability of a party to provide uninterrupted service to its customers or preclude the provisioning of any service, functionality, or network element are entitled to expedited review.

(b) Expedited review pursuant to this rule shall not be used unless the parties have exhausted all dispute resolution procedures included in the commission approved interconnection agreement that is the subject of the dispute, if any. Any binding dispute resolution made pursuant to a commission approved interconnection agreement cannot be challenged under this rule.

(c) Expedited review pursuant to this rule shall be granted at the commission's sole discretion. An order dismissing a party's request for expedited review pursuant to this rule will be issued without prejudice for leave to file a formal complaint under IC 8-1-2-54 and related statutes.

(d) To the extent that this rule does not address issues of practice and procedure, 170 IAC 1-1.1 applies. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-1; filed Nov 27, 2000, 9:36 a.m.: 24 IR 949; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-2 Definitions

Authority: IC 8-1-1-3; IC 8-1-2.6-1.5
Affected: IC 8-1-2-4

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

(1) "Complainant" means any telecommunications utility that files a complaint seeking relief from the commission pursuant to this rule.

(2) "Interconnection agreement" means an agreement executed pursuant to 47 U.S.C. §§ 251 and 252, including interconnection agreements, resale agreements, agreements for the purchase or lease of unbundled network elements, or statements of generally available terms and conditions, whether those agreements were entered into through negotiation, settlement, arbitration, or adoption of a prior agreement.

(3) "Respondent" means any telecommunications utility against whom a complaint is filed pursuant to this rule.

(*Indiana Utility Regulatory Commission; 170 IAC 7-7-2; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-3 Notice

Authority: IC 8-1-1-3
Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 3. (a) At least ten (10) business days prior to filing a complaint with the commission, a complainant shall serve written

notice upon all parties to the dispute and to the commission's telecommunications division director that the complainant intends to file a complaint alleging a violation of a commission approved interconnection agreement or an interconnection-related commission order.

(b) The written notice to the respondent shall identify the provisions of the order or interconnection agreement that the complainant alleges have been violated by the respondent and the specific acts or omissions causing the violation. The written notice to respondent shall also identify the circumstances that directly affect the complainant's ability to provide uninterrupted service to its customers or preclude the provisioning of any service, functionality, or network element which entitle the dispute to expedited review.

(c) If the complainant fails to serve written notice of its intent to file a complaint as required in subsection (a), the presiding officer may extend any deadline imposed by this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-3; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-4 Complaint

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 4. (a) The complaint shall contain the following:

(1) A detailed statement of the facts supporting the complainant's position and demonstrating that despite good faith efforts, the complainant was unable to resolve its dispute with the respondent. The statement of facts must be:

(A) supported by testimony or affidavits; and

(B) made by persons with personal knowledge of the relevant facts.

(2) A statement of facts specifying each violation of the commission order or commission approved interconnection agreement committed by the respondent.

(3) A statement of applicable law, supported by appropriate citations.

(4) A statement indicating whether the remedy sought is consistent with the dispute resolution provisions of any interconnection agreement between the parties or other commission order, if applicable.

(5) An affirmation that the complainant provided the written notice required in section 3(a) of this rule.

(6) The name, address, and telephone number of the complainant's attorney, including local counsel.

(7) A copy of the interconnection agreement or the portion of the interconnection agreement that the complainant contends was or is being violated. If a copy of the entire interconnection agreement is provided, the complainant must specify the provisions at issue. If the interconnection agreement was adopted as a prior agreement or a portion of a prior agreement, the complaint must also indicate the provisions adopted in that agreement.

(b) The complainant may amend its complaint upon discovery of facts or circumstances unknown or unavailable to the complainant at the time the complaint was filed. Upon amendment of a complaint, the procedural schedule shall be adjusted at the discretion of the presiding officer.

(c) A complaint filed pursuant to this rule shall be assigned a cause number that corresponds to the interconnection agreement between the telecommunications carriers followed by the suffix "RD", and a sequential number to designate each dispute. For example, if the complaint involves the first dispute over an interconnection agreement that was approved by the commission in cause number 12345, the cause number for the dispute will be 12345-RD-01. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-4; filed Nov 27, 2000, 9:36 a.m.: 24 IR 950; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-5 Expedited procedural schedule

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 5. (a) Upon the filing of a complaint pursuant to this rule, the presiding officer shall immediately fix a procedural schedule that includes, but is not limited to, the following:

(1) Deadlines for the filing of all pleadings and briefs.

(2) The date for a settlement conference.

(3) The date for an evidentiary hearing.

(4) The deadline for the issuance of a commission order.

(b) A party may file a request for discovery with a complaint, answer, or motion to intervene. Discovery requests shall be reasonable and limited to matters directly at issue. Parties shall respond to discovery requests within forty-eight (48) hours, unless another time is set by the presiding officer. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-5; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; errata filed May 4, 2001, 11:09 a.m.: 24 IR 2709; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-6 Service of complaint

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 6. The complainant shall serve a copy of the complaint to the respondent, the respondent's authorized representative, attorney of record, or designated agent for service of process on the same day the complaint is filed with the commission. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-6; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-7 Answer

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 7. (a) An answer to the complaint shall be filed within ten (10) business days after service of the complaint.

(b) The answer shall contain the following:

(1) A response to each allegation in the complaint, setting forth any affirmative defenses.

(2) A statement of the facts supporting the respondent's position. The statement of facts must be:

(A) supported by testimony or affidavits; and

(B) made by persons with personal knowledge of the relevant facts.

(3) A statement of applicable law, supported by appropriate citations.

(4) The name, address, and telephone number of the respondent's attorney, including local counsel.

(c) A response to any motion filed by the complainant shall be filed as a separate document.

(d) The respondent may also file motions seeking affirmative relief.

(e) The respondent may file a motion subsequent to the filing of the answer based upon facts or circumstances unknown or unavailable to the respondent at the time the answer was filed.

(f) The respondent shall serve a copy of the answer and any other motions or responses on the complainant's attorney, as listed in the complaint, or the person who signed the complaint, if the complainant has no attorney. Service may be made by hand delivery or overnight mail.

(g) Service to all parties must be made on the same day the answer is filed with the commission.

(h) Any allegations raised in the complaint but not addressed in the answer shall be deemed admitted. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-7; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-8 Reply

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 8. (a) The complainant must reply to an answer that contains affirmative defenses.

(b) The reply must be filed with the commission no later than ten (10) business days after the answer is filed.

(c) The complainant shall serve the reply upon all parties on the same day the reply is filed with the commission.

(d) If the reply contains new facts or legal issues not raised in the complaint, the reply shall comply with section 4(a)(2) through 4(a)(4) of this rule. In addition, if the reply contains new facts or legal issues not raised in the original complaint, the presiding officer may set a new procedural schedule pursuant to section 5 of this rule. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-8; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-9 Settlement conference

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 9. (a) A settlement conference shall be held no later than ten (10) business days from the date the final pleading is filed.

(b) Representatives of all parties shall attend the settlement conference unless excused by the presiding officer. Parties should be fully prepared to discuss all matters involved in the proceedings, both procedural and substantive, and be fully authorized to make commitments with respect to settlement.

(c) Only the complainant and the respondent may participate in the settlement conference; however, at the discretion of the presiding officer, testimonial commission staff may be directed to attend and participate in the settlement conference and to file a report that contains recommendations for resolution of the dispute.

(d) The settlement conference shall be conducted as an informal meeting and will not be on the record. Settlement discussions are privileged and confidential and will not be subject to discovery and cross-examination nor be presented as evidence before the commission or any court of competent jurisdiction.

(e) If parties reach a settlement agreement in principle, the parties shall memorialize the agreement in writing before ending settlement discussions. If an agreement resolving the dispute is reached at the settlement conference, and if any party to the agreement desires a commission order approving the agreement, the parties are required to jointly file the written settlement agreement with the commission within ten (10) business days of the settlement conference. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-9; filed Nov 27, 2000, 9:36 a.m.: 24 IR 951; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670; errata filed Jul 21, 2009, 1:33 p.m.: 20090819-IR-170090571ACA*)

170 IAC 7-7-10 Evidentiary hearing

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 10. (a) If no settlement is reached, an evidentiary hearing will begin no later than forty-five (45) business days after the complaint is filed with the commission.

(b) The presiding officer has discretion to decide how a proceeding shall be conducted pursuant to this rule, including, but not limited to, the power to do the following:

(1) Limit the number of exhibits and witnesses and the time for their presentation.

(2) Limit the examination of witnesses.

(3) Require the parties to submit additional information necessary for a fair and expeditious resolution of the case.

(4) Require the parties to submit a joint statement listing what facts, if any, have been stipulated to, what facts remain in dispute, what legal issues are in dispute, and a brief summary of the position of the parties on each issue.

(5) Bifurcate the proceeding for more efficient consideration of the issues.

(6) Consolidate two (2) or more expedited review proceedings filed pursuant to this rule for more efficient consideration of the issues.

(7) Continue the evidentiary hearing for good cause shown.

(8) Permit other parties who have a direct interest in the interconnection dispute and the specific facts alleged in the complaint to intervene on a limited basis at the presiding officer's discretion. Petitions to intervene must be received by the commission within seven (7) business days of the filing of the complaint. Upon granting a request for intervention, the expedited procedural schedule may be modified at the presiding officer's discretion in accordance with section 5 of this rule to allow the intervenor to submit evidence and participate in the evidentiary hearing.

(*Indiana Utility Regulatory Commission; 170 IAC 7-7-10; filed Nov 27, 2000, 9:36 a.m.: 24 IR 952; errata filed May 4, 2001, 11:09 a.m.: 24 IR 2709; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

170 IAC 7-7-11 Order

Authority: IC 8-1-1-3

Affected: IC 8-1-2-58; IC 8-1-2-69

Sec. 11. The commission shall render a disposition on any complaint filed pursuant to this rule within sixty (60) business days

TELEPHONE UTILITIES

after the complaint is filed. The commission may extend this deadline for good cause. (*Indiana Utility Regulatory Commission; 170 IAC 7-7-11; filed Nov 27, 2000, 9:36 a.m.: 24 IR 952; readopted filed Apr 6, 2006, 11:00 a.m.: 29 IR 2670*)

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