

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

COST-BENEFIT ANALYSIS LSA Document #19-410

I. Statement of Need.

A. Intention of rule.

These repeals are intended to do the following: Reduce regulatory burden and impact, and otherwise serve a public need by repealing one outdated rule and two outdated articles, specifically, 170 IAC 6-3, titled *Central Station Hot Water Heating Utilities*, 170 IAC 9, titled *Rural Electrification Administration*, and 170 IAC 12, titled *Residential Conservation Service Program*. These repeals are expected to reduce time and resources spent by users of the rules and to eliminate confusion among users of the rules as to the applicability of the directives and compliance within them.

B. Estimated number affected.

The Commission estimates the following will be affected by the rule:

1. Individuals: Any individual practicing utility law in the State of Indiana.
2. Businesses: Any law firm that represents parties in matters before the Commission, and any utility regulated by the Commission.

C. Policy or goal of rule.

In reviewing the IURC rules for 2019 readoptions, Indiana Utility Regulatory Commission staff opined that one of its rules and two of its articles were outdated and no longer applicable to any of our regulated utilities. The goal underlying these repeals is to lessen the regulatory impact and avoid user confusion by cleaning-up Title 170.

170 IAC 6-3, titled *Central Station Hot Water Heating Utilities*, is a relic from an era when certain Indiana utilities provided heat in the form of hot water from central boiler houses to consumers. The Commission is not aware of any such utility operating under its jurisdiction in Indiana. As such, the rule is no longer necessary.

170 IAC 9, titled *Rural Electrification Administration*, adopted the federal regulations governing accounting system requirements for telephone company borrowers and electric borrowers of the Rural Electrification Administration (1935-94). The rules govern the accounting practices of rural phone and electric companies (RLECs and REMCs) as they relate to infrastructure loans made to them by the former USDA agency. The Commission currently has no RLECs or REMCs under its jurisdiction for rates and charges and thus has no role in the administration or oversight of these loans. Moreover, Commission staff is of the opinion that relative federal borrowing agreements and the rules underlying those agreements are sufficient and are appropriately enforced by the federal agency(s) charged with

administering those loans. Further, the Rural Electrification Administration was abolished in 1994. The Rural Utilities Service acquired the administration of electricity and telephone loan programs from the former Rural Electrification Administration. Thus 170 IAC 9 is outdated and no longer needed.

170 IAC 12, titled *Residential Conservation Service Program*, governed accounting and recordkeeping practices regarding the administration of the Indiana Residential Conservation Service Program, adopted pursuant to 10 CFR 456. The purpose of the Residential Conservation Service Program was to encourage the installation of energy conservation measures, including renewable resource measures in existing houses by residential customers of gas and electric utilities as well as home heating suppliers. The Office of the Lieutenant Governor's *Indiana Residential Conservation Service Program* rules (16 IAC 2) expired effective January 1, 2009, under IC 4-22-2.5. The authorizing statute, IC 4-4-3, was repealed by *P.L.4-2005, SECTION 148*, effective February 9, 2005. Thus, there is no longer a need for this outdated Article.

1. Conduct the rule is designed to change.

Repeal of 170 IAC Rule 6-3 and of Articles 9 and 12 are designed to reduce the regulatory impact of anyone referencing Title 170 by eliminating the need for review of outdated and otherwise inapplicable directives.

2. Harm resulting from the conduct above.

Outdated and otherwise inapplicable rules can result in confusion and the unnecessary expenditure of time and resources spent reviewing these directives.

3. Involvement of the regulated entities in rule development.

The Commission's Office of the General Counsel circulated an informational letter, together with the proposed rule repeals, to the Commission's regulated entities and other interested stakeholders on March 6, 2019, explaining its intent to repeal 170 IAC Rule 6-3 and Articles 9 and 12, and inviting feedback including whether any party believes there would be a fiscal impact resulting from these repeals.

Those documents, together with other relevant information, were published on the Commission's website on March 12, 2019.¹ In addition, the informational letter inviting stakeholder feedback was subsequently published in the *Indiana Utility Report*, Vol. 38, No. 10, on March 9, 2019. None of the Commission's regulated utilities, or any other interested party, provided feedback on these proposed repeals.

4. Commission methodology.

The Commission's Office of the General Counsel met with Commission

¹ <https://www.in.gov/iurc/3138.htm>

division directors and other key staff and considered the history and present applicability of these rules and determined that repealing them was the appropriate action. The Commission's Office of the General Counsel then invited stakeholders and other interested parties to provide feedback regarding the proposed repeals.

It was the intent of the Commission to affirmatively repeal these directives as opposed to allowing them to sunset. In this way, the Commission was able to elicit feedback from interested parties and confirm that these directives are in fact outdated and no longer applicable to the Commission's regulated utilities.

II. Evaluation of Costs and Benefits.

There are no foreseen costs associated with the repeal of this rule and these two articles. Benefits include decreasing the regulatory impact and burden on users of the rules through the avoidance of unnecessary review of inapplicable directives, thereby increasing efficiencies and avoiding confusion. Less time spent reviewing rules for applicability equates to less time and resources being utilized.

Will the benefits likely exceed the costs? Yes.

A. Estimated primary and direct benefits.

The primary benefit will be the reduction in time and resources expended by users of the rules in reviewing outdated and otherwise inapplicable directives. This will generally decrease regulatory impact and increase efficiencies within our regulated utilities and for all those practicing law or conducting utility business in Indiana.

B. Estimated secondary or indirect benefits.

A secondary benefit of these proposed repeals is the avoidance of confusion by users of the rules as to applicability and compliance.

C. Estimated compliance costs for regulated entities.

The Commission does not expect that any regulated entities will incur compliance costs through the repeal of this rule and these articles, as they are outdated and no longer applicable to any Indiana regulated utility.

D. Estimated administrative expenses.

These proposed repeals do not impose any known administrative fees on any Indiana regulated utility.

E. Estimated cost savings to regulated entities.

The Commission received no direct feedback from its request for financial impact comments. However, the Commission is of the opinion that its regulated utilities will realize cost savings as a result of not having to review outdated, inapplicable directives.

F. Sources consulted and methodology used.

The Commission's Office of the General Counsel met with Commission division directors and other key staff and considered the history and applicability of these rules and determined that repealing them was the appropriate action. The Commission's Office of the General Counsel then invited stakeholders and other interested parties to provide feedback regarding the proposed repeals including whether any party believed there would be a fiscal impact resulting from these repeals.

It was the intent of the Commission to affirmatively repeal these directives as opposed to allowing them to sunset. In this way, the Commission has been able to elicit feedback from interested parties and confirm that these directives are in fact outdated and no longer applicable to the Commission's regulated utilities. The Commission received no feedback from its regulated utilities or from any other interested party.

III. Examination of Alternatives.

A. Alternatives defined by statute.

An alternative to repealing this rule and these two articles would be to allow them to sunset pursuant to Ind. Code §4-22-2.5-2. However, it was the intent of the Commission to affirmatively repeal these directives as opposed to allowing them to sunset. In this way, the Commission has been able to elicit feedback and confirm that these directives are in fact outdated and no longer applicable to the Commission's regulated utilities.

B. The feasibility of market oriented approaches.

N/A

C. Measures to improve the availability of information, as an alternative to regulation.

N/A

D. Various enforcement methods.

N/A

E. Performance standards rather than design standards.

N/A

F. Different requirements for different sized regulated entities.

N/A

G. Establish a baseline.

Absent these repeals, users of Title 170 would have the continued burden of having to discern the applicability of these directives to their particular organizations. Allowing this rule and these two articles to remain in Title 170 creates confusion

and preserves an unnecessary regulatory impact.

H. Different compliance dates.

I. Redundancy.

Per IC 4-22-2-19.5, the proposed repeals do not duplicate standards already found in state or federal law.

IV. Administrative Rules Oversight Committee Analysis, IC 4-22-2-28(i)

A. Steps to minimize expenses to regulated entities required to comply with the rule.

Repealing this rule and these two articles will aid in minimizing expenses to regulated utilities in that those entities will no longer need to consider the applicability of these directives to their organizations.

B. Justification of any requirement or cost that is imposed on a regulated entity under the rule.

There are no known costs imposed on regulated entities resulting from these proposed repeals.

C. Annual economic impact on of a rule on all small businesses after the rule is fully implemented.

None.

D. Review of alternative methods of achieving the purpose of the rule that are less costly or intrusive or would otherwise minimize the economic impact of the rule on small businesses.

Unnecessary, as there is no known economic impact on small businesses resulting from these proposed repeals.

E. Consideration of any other law to conduct an analysis of the cost, economic impact, or fiscal impact of a rule.

This statement considers all required fiscal analysis pursuant to IC 4-22.

V. Total Estimated Impact.

This analysis is based on Commission Staff's experience. The total estimated impact is **NOT** greater than \$500,000 on all regulated persons.