

# **TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

## **COST-BENEFIT ANALYSIS**

### **LSA Document #12-462**

#### **I. Statement of Need.**

##### **A. Intention of rule.**

This rule is intended to serve a public need by improving a government process. Specifically, the proposed rule amends the 30 day administrative filing rule of the Indiana Utility Regulatory Commission (“IURC” or “Commission”) to provide an alternative, less expensive method of fulfilling the rule’s notice requirement for intrastate access tariff filings.

##### **B. Estimated number affected.**

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

1. Individuals: None.
2. Businesses: 31.

##### **C. Policy or goal of rule.**

The proposed rule amends 170 IAC 1-6-3 to specifically allow intrastate access tariff filings to be filed under the Commission’s thirty day administrative filing rule (these filings are currently allowed under a Commission order), and amends 170 IAC 1-6-6 to provide an alternative means for utilities filing intrastate access tariff changes to provide the required notice. Intrastate access tariffs are what telecommunications providers charge each other for access to their systems. These charges are between utilities, many of which are located outside of the State of Indiana, and are not charges to retail customers. Under the current rule, utilities are required to publish notice “in at least one (1) newspaper of general circulation that has a circulation encompassing the highest number of the utility’s customers affected by the filing.” 170 IAC 1-6-6(a)(2). However, for intrastate access tariff filings, the notification via newspaper publication may not reach the affected customers, which are other telecommunications service providers, including many that are located in other states. This proposed rule adds an alternative (and less costly) method of providing notice regarding intrastate access tariffs.

##### **1. Conduct the rule is designed to change.**

Under the existing rule, notification via newspaper publication is required before any filing made under the Commission’s thirty day administrative filing rule. The notice is required to be published in the newspaper with a circulation encompassing the highest number of the utility’s customers. Intrastate access tariffs are concerning charges between telecommunications providers that are widely spread both in and out of

Indiana. As a result, the newspaper publication requirement is an unnecessary requirement for intrastate access tariff filings.

**2. Harm resulting from the conduct above.**

The harm that results from requiring notification by newspaper publication for intrastate access tariff filings is that the notification does not reach the intended customers and that the expense of newspaper publication is, therefore, an unnecessary expense. By providing an alternative method of providing notice, the proposed rule lessens the expense and regulatory burden of the thirty day administrative filing rule, while at the same time providing a better method of notice for this kind of filing. Without the rule change, this unnecessary expense and regulatory burden will continue to occur.

**3. Involvement of the regulated entities in rule development.**

The proposed rule was developed based on requests from the regulated utilities. Commission staff also reached out to other affected telecommunications service providers, who expressed that they supported the rule change and asked that the Commission proceed with the change as soon as possible. The Commission is doing an emergency rule that will make these changes (expected effective date is August 8, 2012, for 90 days, with a subsequent emergency rule for another 90 days). The current rulemaking, of which the proposed rule is a part, will make these changes final.

**4. Commission methodology.**

The above determinations are based on multiple requests received by the affected regulated utilities (telecommunications service providers), the analysis of the technical staff of the Communications Division of the Commission, review by the Commission's General Counsel's Office, and communication with additional telecommunications service providers.

**II. Evaluation of Costs and Benefits.**

The agency shall provide a comprehensive enumeration of the costs and benefits of the rule, including tangible and intangible costs and benefits. If costs and benefits cannot be monetized or quantified, the agency should explain why and include a thorough description of the non-quantifiable costs and benefits as well as a determination whether such costs and benefits will be significant.

Will the benefits likely exceed the costs? Yes.

**A. Estimated primary and direct benefits.**

Under the alternative method of providing notice in the proposed rule, customers affected by the intrastate access tariff filings will receive actual notice of the filing.

The alternative method of providing notice is not only more effective at providing notice to the affected customers, but it is also a lower cost alternative to notification by newspaper publication, which is a requirement in the existing rule. In the context of intrastate access tariff filing, notification by newspaper publication imposed significant costs on the affected regulated utilities, without providing adequate notice to customers. Depending on the length of the notice to be published, the publication costs can be hundreds to thousands of dollars annually for each regulated entity. The proposed rule would save these costs by providing a more efficient, less expensive alternative.

**B. Estimated secondary or indirect benefits.**

Under the existing rule, the affected utilities had difficulty determining what newspaper they should use to publish notice. Significant IURC staff time has been spent contacting the utilities making the intrastate access tariff filings, explaining the requirements of the existing rule, and assisting the utilities in complying with the existing rule. The proposed rule amends the existing rule and provides an alternative means of notice for intrastate access tariff filings, which will greatly reduce the regulatory burden, not only on the regulated entities, but also the time and resource commitment of IURC staff.

**C. Estimated compliance costs for regulated entities.**

The proposed rule does not impose any costs on regulated entities. Instead, it relieves a regulatory burden and reduces costs for regulated entities.

**D. Estimated administrative expenses.**

The proposed rule reduces administrative expenses both for the regulated utilities and for the Commission.

**E. Estimated cost savings to regulated entities.**

Regulated entities that choose to use the alternative method of providing notice that is allowed in the proposed rule will no longer have the costs of publishing notice in a newspaper. Depending on the size of the notice and the tariff filing and the number of tariff filings, this could mean a savings of hundreds to thousands of dollars per year for each regulated entity. These savings are from a change to an existing requirement.

**F. Sources consulted and methodology used.**

The above determinations are based on discussions with the affected regulated utilities (telecommunications service providers), the analysis of the technical staff of the Communications Division of the Commission, review by the Commission's General Counsel's Office, and communication with additional telecommunications service providers.

### **III. Examination of Alternatives.**

#### **A. Alternatives defined by statute.**

No alternatives are defined by statute. The proposed rule is consistent with and clearly within the Commission's statutory discretion.

#### **B. The feasibility of market oriented approaches.**

The market cannot eventually remedy the alleged harm the rule is intended to regulate, rather than direct controls.

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

The only measure that can improve the availability of information, as an alternative to regulation, is the one that is in the proposed rule, as the alternative method of providing notice will result more customers receiving actual notice.

#### **D. Various enforcement methods.**

Not applicable.

#### **E. Performance standards rather than design standards.**

Not applicable.

#### **F. Different requirements for different sized regulated entities.**

All of the regulated entities have the same requirement. There is no savings to be gained by varying the requirements depending on the size of the regulated entity.

#### **G. Establish a baseline.**

Without the proposed rule, the regulated entities will continue to be required to provide notice via newspaper publication, resulting in less effective notice and the continued payment of costs incurred for such publication.

#### **H. Different compliance dates.**

Difference compliance dates would not reduce costs or increase benefits to the regulated entities

#### **I. Redundancy.**

The proposed rule does not duplicate standards already found in state or federal law.

### **IV. Total Estimated Impact.**

The proposed rule has a positive impact and will result in a cost savings of hundreds to thousands of dollars per year per regulated entity.

The total estimated impact is NOT greater than \$500,000 on all regulated persons.