



## INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

October 15, 2008

**VIA ELECTRONIC DELIVERY**

Erin Peters, Commission Counsel  
Indiana Utility Regulatory Commission  
101 W. Washington St., Suite 1500 E  
Indianapolis, IN 46204

**Re: Sub-billing Pre-rulemaking Workgroup**  
**Comments to Proposed Rule 6. (Sub-billing)**

Dear Ms. Peters

Please find the OUCC's recommended changes and additions to the IURC's strawman for sub-metering. I have attached the strawman with the OUCC's redlined additions and an explanation of the proposed changes.

Thank you for the opportunity to participate in this process.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Le Vay".

Dan Le Vay  
Assistant Consumer Counselor

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## OUCC's Explanation of Proposed Changes to the Strawman

The following includes explanation of the OUCC's recommended changes to the Strawman. Proposed additional language is indicated with underlining (e.g. additional) and proposed deletions are indicated by strikethrough. (e.g. ~~striketthrough~~).

### **170 IAC 6-6-1      Definitions**

Comment:    The definitions of "sub-bill," "Tenant" and "Utility" should be expanded to include sewer service, which is within the scope of the authorizing statute.

(i) "Sub-bill" means a landlord's request of payment from a tenant for the distribution of water or sewer service, which service is provided to the landlord by a public utility or municipally owned utility.

(k) "Tenant" means any occupant of a dwelling unit who agrees to pay for water or sewer service distributed by a landlord.

(n) "Utility" means the public or municipally owned utility that provides water service or sewer service to landlord for distribution to dwelling unit.

Comment:    The OUCC's proposed changes expand the rule to include sewer as well as water service. Therefore, the OUCC proposes that this rule not be placed in Article 6, which relates only to water utilities but that it be placed in its own section. (e.g. 170 IAC 15-1-1 et al.)

Comment:    The definition of "sub-meter" should be expanded to include as an alternative definition the meter used to measure the amount of water distributed to a dwelling unit.

(j) "Sub-meter" means the use of a meter device to measure the amount of water consumed within an individual dwelling unit for the purpose of sub-billing. "Sub-meter" also refers to the meter used to measure the amount of water provided to individual dwelling units.

Comment:    The definitions of "Total net charge for water service" and (l) "Total net charge for sewer service" have been added to give greater guidance to these terms, which the OUCC proposes to use in section 3.

(l) "Total net charge for water service" means the charge the water utility imposes on Landlord for water service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges.

(m) "Total net charge for sewer service" means the charge the sewer utility imposes on Landlord for sewer service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges.

## 170 IAC 6-6-2Records

Comment: While the proposed rule would permit a tenant to inspect bills and authorizes the Landlord to charge a nominal fee for copies, it does not actually require the Landlord to provide a copy to the tenant. Therefore, the OUCC proposes the straw man at section 2 be revised to require the Landlord to provide a copy of any bills retained by the Landlord. The Landlord would continue to have the ability to charge a nominal fee to cover its operating costs.

Sec. 2. (a) Landlord shall retain all bills received from utility for a period of not less than twenty-four (24) months, and shall make all such bills available for inspection by any tenant, or person who was a tenant during the billing period in question, at reasonable hours and without charge. (b) Upon request by tenant, landlord shall provide a copy of retained bills. Landlord may charge tenant a nominal fee to recover the cost of copying the bills.

## 170 IAC 6-6-3Charges

Comment: With respect to water from a master meter, the OUCC proposes that the following be added:

“In no event shall Landlord charge tenants in total more than the total net charge for water service.”

Also, “Total net charges for water consumption” was changed to “Total net charges for water service.”

Comment: The OUCC proposes language to describe how water service should be sub-billed when there is no master meter.

(2) If the utility charges the landlord for usage that is not measured by a master meter, Landlord shall employ an appropriate method to determine what portion of the total net charge for water service should be attributed to each tenant. An appropriate method means a method that reasonably allocates to each tenant a portion of the total net charge for water service less the Landlord’s own use. Reasonable allocations may be based on a charge per dwelling unit, actual volume of water distributed to each tenant or estimated volume of water distributed to each tenant. In no event shall Landlord charge tenants in total more than the total net charge for water service.

Comment: The OUCC proposes language to describe how *sewer service* should be sub-billed.

(b) A tenant’s sewer bill shall be calculated in the following manner: Landlord shall employ an appropriate method to determine what portion of the total net charge for sewer service should be attributed to each tenant. An appropriate method means a method that reasonably allocates to each tenant a portion of the total net charge for sewer service less the Landlord’s own use. Reasonable allocations may be based on a charge per dwelling unit, actual volume of wastewater collected from each dwelling unit, estimated volume of wastewater collected from each dwelling unit or other equitable method. In no event shall Landlord charge tenants in total more than the total net charge for sewer service.

Comment: The OUCC proposes language to clarify that the rule cannot be used by a Landlord to change terms to which it has previously agreed.

(d) Nothing herein should be construed to eliminate or diminish any contractual right a tenant may have with respect to the provision of water or sewer service.

### **170 IAC 6-6-4 Standards of Billing**

Comment: The OUCC proposes that it be required that Landlord must bill tenants for the same period for which Landlord has been billed by the utility.

Sec. 4. (a) Landlord shall render bills to tenant with the same frequency that bills are rendered to landlord by the utility. Landlord shall bill tenant for the same period for which Landlord has been billed by the utility.

This will avoid confusion and make it easier to verify that the Landlord has not charged tenants in total more than what it paid to the utility for basic water or sewer service.

Comment: At 170 IAC 6-6-4 (c) (2), the OUCC proposes removing the phrase “If tenant’s usage is not sub-metered.” The date and readings of the master meter and the gallon amount that is attributed to Landlord’s usage is relevant with or without the use of a sub-meter.

~~(2) If tenant’s usage is not sub-metered;~~ The dates and meter readings of the master meter at the beginning and end of the period for which the bill is rendered, and the gallon amount that is attributed to landlord’s usage;

"STRAWMAN" DRAFT FOR  
SUB-BILLING PRE-RULEMAKING WORKSHOP

TITLE 170 INDIANA UTILITY REGULATORY  
COMMISSION

Proposed Rule

LSA Document #08-\_\_\_\_\_

DIGEST

Adds 170 IAC 6-6-1 through 170 IAC 6-6-6 and 170 IAC 8.5-5-1 through 170 IAC 8.5-5-6 establishing sub-billing procedures for the provision of water or sewage disposal service. Effective 30 days after filing with the Publisher.

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170 IAC 6-6-1

170 IAC 6-6-2

170 IAC 6-6-3

170 IAC 6-6-4

170 IAC 6-6-5

170 IAC 6-6-6

170 IAC 8.5-5-1

170 IAC 8.5-5-2

170 IAC 8.5-5-3

170 IAC 8.5-5-4

170 IAC 8.5-5-5

170 IAC 8.5-5-6

“STRAWMAN” DRAFT FOR

SUB-BILLING PRE-RULEMAKING WORKSHOP

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

Rule 6. Sub-billing

170 IAC 6-6-1 Definitions

Sec. 1. (a) The definitions in this section, except where otherwise defined, and, where applicable, in IC 8-1-2-1 and IC 8-1-2-1.2, apply throughout this article.

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

(c) "Dwelling Unit" means a building or property, or portion thereof, used for residential occupancy, including but not limited to mobile home parks and single-family, two-family and multi-family dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes.

(d) "Initial Set-Up Fee" means the landlord's actual administrative cost to establish a new account for a dwelling unit.

(e) "Insufficient Funds Fee" means the landlord's actual administrative cost to process insufficient funds of a payment and any actual fee assessed to the landlord by a financial institution resulting from insufficient funds of an instrument received in payment of charges for water service.

(f) "Landlord" means the owner of a dwelling unit which is rented or leased to an individual, or an agent acting on the behalf of the owner.

(g) "Landlord's usage" means any water consumed by landlord for personal use or business use and any water consumed in common areas including but not limited to water used in a club house, laundry facility, bath house, swimming pool, hot tub, irrigation sprinkler system, fire protection sprinkler system, or for grounds keeping, flushing the mains, or any other common purpose.

(h) "Master -meter" the use of a meter device to measure the amount of water consumed by a landlord who distributes such water to tenants by meter device.

(i) "Sub-bill" means a landlord's request of payment from a tenant for the distribution of water or sewer service, which service is provided to the landlord by a public utility or municipally owned utility.

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(j) "Sub-meter" means the use of a meter device to measure the amount of water consumed within an individual dwelling unit for the purpose of sub-billing. "Sub-meter" also refers to the meter used to measure the amount of water provided to individual dwelling units.

(k) "Tenant" means any occupant of a dwelling unit who agrees to pay for water or sewer service distributed by a landlord.

(l) "Total net charge for water service" means the charge the water utility imposes on Landlord for water service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges.

(m) "Total net charge for sewer service" means the charge the sewer utility imposes on Landlord for sewer service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges.

(n) "Utility" means the public or municipally owned utility that provides water service or sewer service to landlord for distribution to dwelling unit.

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SECTION 2. 170 IAC 6-6-2 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-2 Records

Sec. 2. (a) Landlord shall retain all bills received from utility for a period of not less than twenty-four (24) months, and shall make all such bills available for inspection by any tenant, or person who was a tenant during the billing period in question, at reasonable hours and without charge.

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(b) Upon request by tenant, landlord shall provide a copy of retained bills. Landlord may charge tenant a nominal fee to recover the cost of copying the bills.

Deleted: A nominal fee can be charged if landlord provides a copy of any bill under this section

SECTION 3. 170 IAC 6-6-3 IS ADDED TO READ AS FOLLOWS:

170 IAC 6-6-3 Charges

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Sec. 3. (a) A tenant's water bill shall be calculated in the following manner:

(1) If the utility charges the landlord for usage measured by a master meter, upon receipt of utility's water bill, landlord shall divide the total net charges for water service by the total amount of water master-metered to obtain an average cost per unit volume. The average water cost per unit volume shall then be multiplied by the estimated or actual unit volume consumed by each dwelling unit. In no event shall Landlord charge tenants in total more than the total net charge for water service. A landlord may not charge a tenant for any water reasonably attributed to the landlord's usage.

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(b)

(2) If the utility charges the landlord for usage that is not measured by a master meter, Landlord shall employ an appropriate method to determine what portion of the total net charge for water service should be attributed to each tenant. An appropriate method means a method that reasonably allocates to each tenant a portion of the total net charge for water service less the Landlord's own use. Reasonable allocations may be based on a charge per dwelling unit, actual volume of water distributed to each tenant or estimated volume of water distributed to each tenant. In no event shall Landlord charge tenants in total more than the total net charge for water service.

(b) A tenant's sewer bill shall be calculated in the following manner:

Landlord shall employ an appropriate method to determine what portion of the total net charge for sewer service should be attributed to each tenant. An appropriate method means a method that reasonably allocates to each tenant a portion of the total net charge for sewer service less the Landlord's own use. Reasonable allocations may be based on a charge per dwelling unit, actual volume of wastewater collected from each dwelling unit, estimated volume of wastewater collected from each dwelling unit or other equitable method. In no event shall Landlord charge tenants in total more than the total net charge for sewer service.

(c) In addition to the charges in section (a) and (b), landlord may charge tenant only the following costs for the provision of water or sewer service:

- (1) A reasonable initial set up fee for any tenant that is not currently sub-billed by the landlord as of January 1, 2009;
- (2) A reasonable administrative fee not to exceed the current statutory limit; and
- (3) A reasonable insufficient funds fee.

(d) Nothing herein should be construed to eliminate or diminish any contractual right a tenant may have with respect to the provision of water or sewer service.

SECTION 4. 170 IAC 6-6-4 IS ADDED TO READ AS FOLLOWS:

**170 IAC 6-6-4 Standards of Billing**

Sec. 4. (a) Landlord shall render bills to tenant with the same frequency that bills are rendered to landlord by the utility. Landlord shall bill tenant for the same period for which Landlord has been billed by the utility.

(b) Bills shall be rendered to tenant separately from rent.

(c) Bills rendered to tenant shall show at least the following information:

- (1) The billing date;
- (2) ~~If tenant's usage is not sub-metered;~~ The dates and meter readings of the master meter at the beginning and end of the period for which the bill is rendered, and the gallon amount that is attributed to landlord's usage;
- (3) If tenant's usage is sub-metered, the dates and meter readings of tenant's sub-meter at the beginning and end of the period for which the bill is rendered;
- (4) The billing rate charged;
- (5) The previous balance, if any;
- (6) The amount of the bill;
- (7) If a first bill, a reasonable initial set up fee, if any;
- (8) A reasonable administrative fee, if any, not to exceed the statutory limit;
- (9) A reasonable insufficient funds fee, if due;
- (10) The date on which the bill is due;
- (11) If an estimated bill, a clear and conspicuous coding or other indication identifying the bill as an estimated bill;

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SUB-BILLING PRE-RULEMAKING WORKSHOP

- (12) An explanation, which can be readily understood, of all codes and/or symbols shown on the bill;
- (13) The name and telephone number of a person for tenant to contact about billing matters;
- (14) The name and telephone number of a person for the tenant to contact about water service matters, and
- (15) The following statement, "If you believe you are being charged in violation of state law, you have a right to file a complaint with the Indiana Utility Regulatory at (insert phone number for the tenant to contact the commission) or (insert website for the tenant to contact the commission)."

SECTION 5. 170 IAC 6-6-5 IS ADDED TO READ AS FOLLOWS:

**170 IAC 6-6-5 Notice**

Sec. 5. A landlord shall provide written notice to tenants pursuant to the disclosure requirements in IC 8-1-2-1.2(b)(3).

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

**170 IAC 6-6-6 Filing a complaint**

Sec. 6. A tenant may file a complaint against the landlord with the commission's division of consumer affairs for violations of this rule by following the commission's complaint procedures found at 170 IAC 1-1.1.

[The new Consumer Affairs rule may include a statement that for purposes of filing a complaint, a tenant will be considered a customer and a landlord will be considered a utility.]