**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

Strawman Rule

LSA Document #24-\_\_\_\_\_

DIGEST

Adds 170 IAC 7-1.3-8.2 to set forth the penalty considerations for assessing penalties under IC 8-1-29-7.5 regarding slamming and cramming.

Adds 170 IAC 7-8-1 to set forth the penalty considerations for assessing penalties under IC 8-1-29.5 regarding unsafe and unjust practices by telecommunications providers and video service providers.

Adds 170 IAC 7-8-2 to set forth the penalty considerations for assessing penalties under IC 8-1-32.6-7 regarding limiting competing communication service providers from providing services.

Adds 170 IAC 7-8-3 to set forth the application fees for certificates of video franchise authority under IC § 8-1-34-16(d).

 Adds 170 IAC 7-8-4 to set forth the process for the Commission to set the universal service fund surcharge.

Adds 170 IAC 7-8-5 to set forth the process for the Commission to set the hearing-impaired services surcharge.

Effective 30 days after filing with the publisher.

**170 IAC 7-1.3-8.2; 170 IAC 7-8-1; 170 IAC 7-8-2; 170 IAC 7-8-3; 170 IAC 7-8-2; 170 IAC 7-8-3**

SECTION 1. 170 IAC 7-1-8.2 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-1.3-8.2 Penalty Considerations for Unauthorized Switching of Telecommunications Providers or Billing for Unauthorized Charges**

  Authority:  IC 8-1-29-5.5, IC 8-1-29-6, IC 8-1-29-7.5

Affected: IC 8-1-29

  Sec. 8.2. (**a) When imposing a civil penalty under IC 8-1-29-7.5, the commission shall impose a civil penalty of $2,500 per violation unless it finds one or more of the considerations in subsection (b) applies.**

**(b) The commission may impose a penalty in a lesser amount than specified in sub-section (a) if it makes findings as to one or more of the following:**

**(1) the conduct was limited to single or small group of customers;**

**(2) the telecommunications provider voluntarily made restitution to the customers;**

**(3) the telecommunications provider did not have a history of previous violations; or**

**(4) the commission determines other facts are present that warrant a lesser penalty.**

(Indiana Utility Regulatory Commission; 170 IAC 7-1.3-8.2)

SECTION 2. 170 IAC 7-8-1 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-1 Penalties for Unjust and Unsafe Practices**

Authority: IC 8-1-29.5

Affected: IC 8-1-29.5

**Sec. 1. In imposing a civil penalty under IC 8-1-29.5-6(b)(4), the commission shall consider the following factors:**

**(1) The duration and gravity of the offense, including the number of customers affected.**

**(2) Economic benefits accrued by the provider or certificate holder as a result of the offense.**

**(3) The amount of a civil penalty that will deter future offenses by the provider or certificate holder.**

**(4) The market share of the provider or certificate holder in the affected service areas.**

**(5) Good faith of the provider or certificate holder in attempting to remedy the offense after receiving notification of the offense.**

(Indiana Utility Regulatory Commission; 170 IAC 7-8-1)

SECTION 3. 170 IAC 7-8-2 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-2 Penalty Considerations for Limitations on Competition**

  Authority:  IC 8-1-32.6

Affected: IC 8-1-32.6

  Sec. 3. (**a) When imposing a civil penalty under IC 8-1-32.6-7, the commission shall impose a civil penalty of $500 per violation for each day the violation remains in effect, unless it finds one or more of the considerations in subsection (b) applies.**

**(b) The commission may impose a penalty in a lesser amount than specified in sub-section (a) if it makes findings as to one or more of the following:**

**(1) the conduct was limited in scope;**

**(2) the communications service provider voluntarily ceased engaging in the violation and made appropriate restitution;**

**(3) the telecommunications provider did not have a history of previous violations; or**

**(4) the commission determines other facts are present that warrant a lesser penalty.**

(Indiana Utility Regulatory Commission; 170 IAC 7-8-2)

SECTION 4. 170 IAC 7-8-3 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-3 Application Fees for Certificate of Video Franchise**

**Authority**

Authority:  IC § 8-1-34-16(d)

Affected:  IC § 8-1-34-16(d)

**Sec. 4. An application fee for a certificate of franchise authority by a video service provider shall be eight hundred and thirty-two dollars ($832.00) and shall be payable by applicant at the time applicant submits its application for certificate of franchise authority and in a manner prescribed by the commission.**

(Indiana Utility Regulatory Commission; 170 IAC 7-8-3)

SECTION 5. 170 IAC 7-8-4 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-4 Universal Service Fund Surcharge**

**Authority**

Authority:   IC § 8-1-2.6-13

Affected:  IC § 8-1-2.6-13

**Sec. 4. The commission shall set the Indiana universal service fund surcharge in compliance with the order issued on March 17, 2004, in commission cause number 42144 and the order issued on February 22, 2012 in cause number 42144-S3. The surcharge percentage shall be set in cause number 42144-S3 not more than twice per year after considering the recommendation of the oversight committee and any other information submitted in that cause. The commission may open a new subdocket for this purpose, if necessary.**

(Indiana Utility Regulatory Commission; 170 IAC 7-8-4)

 SECTION 6. 170 IAC 7-8-5 IS ADDED TO READ AS FOLLOWS:

**170 IAC 7-8-5 Surcharge for Hearing Impaired Telecommunications Services**

**Authority**

Authority:  IC § 8-1-2.8-11

Affected: IC § 8-1-2.8-11

**Sec. 4. The commission shall set the surcharge for hearing impaired services under IC 8-1-2.8-11 and may adjust the surcharge under IC 8-1-2.8-12 based on information received from InTRAC, as defined by IC 8-1-2.8-6, in a commission proceeding in cause number 39880 INTRAC X.**

(Indiana Utility Regulatory Commission; 170 IAC 7-8-5)