



State of Indiana

Eric J. Holcomb, Governor



Office of Management and Budget
102 State House
Indianapolis, IN 46204

State Budget Agency
212 State House
Indianapolis, IN 46204

September 4, 2024

Jeremy Comeau
Assistant General Counsel
Indiana Utility Regulatory Commission
101 W. Washington St., Ste. 1500 East
Indianapolis, IN 46204

Dear Mr. Comeau,

Pursuant to the provisions of IC 4-22-2-22.8, the Office of Management and Budget and State Budget Agency have reviewed the proposed rule that adds 170 IAC 7-1-8.2 and 7-8 (OMB #2024-59R) which you submitted on August 1, 2024. After reviewing the proposed rule, the recommendation of OMB and SBA is that the rule changes be approved. Indiana Utility Regulatory Commission is authorized to commence the public comment period(s).

Furthermore, if you revise the proposed rule after this approval, you must resubmit the rule and obtain a new approval pursuant to IC 4-22-2-22.8(e).

IURC may proceed with the rule proposed in its submission.

Cristopher R. Johnston
OMB Director

Date: 8/22/2024

Joe Habig
Acting SBA Director

Date: 9/4/2024

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Proposed Rule
LSA Document #24-_____

DIGEST

Adds 170 IAC 7-1.3-8.2 to set forth the penalty factors 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 factors 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 factors 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 7-1.3-8.2 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-1.3-8.2 Penalty Factors 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 factors 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 considering whether to impose a penalty under IC 8-1-29.5 and the amount of the penalty, the commission shall consider the following factors:

- (1) Whether the pattern of conduct shows a willful disregard, as evidenced by a continuing pattern of conduct, by the provider or the certificate holder of its obligation to remedy the offense after the provider or the certificate holder becomes aware of the offense.**
- (2) Whether the conduct involves repeated errors in bills issued to one (1) or more customer classes, and if the errors:
 - (A) represent intentional misconduct or an act of fraud by the provider or the certificate holder or by any officer, accountant, or agent of the provider or the certificate holder; or**
 - (B) demonstrate, by a continuing pattern of conduct, a willful disregard by the provider or the certificate holder of its obligation to remedy the errors after the provider or the certificate holder becomes aware of the errors.****

(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 Factors for Limitations on Competition

Authority: IC 8-1-32.6

Affected: IC 8-1-32.6

Sec. 3. In determining the amount of penalty to be imposed under IC 8-1-32.6, the commission shall consider the following factors:

- (1) Whether the violation has a major or minor impact on the health, safety, or welfare of a person that owns or occupies the multitenant real property in question.**
 - (2) Whether the conduct was limited in scope.**
 - (3) Whether the communications service provider has a history of previous violations.**
 - (4) Whether the communications service provider voluntarily ceased engaging in the violation and made appropriate restitution.**
 - (5) Whether there is a need for deterrence of future violations.**
- (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: IC § 8-1-2.6-13

Affected: IC § 8-1-2.6-13

Sec. 4. (a) 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.

(b) In setting the Indiana universal service fund surcharge, the commission shall consider the reasonableness factors contained in the order issued on February 22, 2012, in cause number 42144-S3.

(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. (a) 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.

(b) In setting the surcharge for hearing impaired services, the commission shall consider the reasonableness factors contained in the order issued on March 23, 1994, in cause number 39880-INTRAC.

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