

Regulatory Analysis
LSA Document #24-378**I. Description of Rule**

This rule amends [170 IAC 1-6](#) which is the Indiana Utility Regulatory Commission's ("IURC" or "Commission") rule governing the simplified filing process for non-controversial changes in a utility's tariff, which is the schedule of rates and charges a regulated utility is authorized to charge. This shortened filing process is referred to as a "30-Day Filing." Regulated utilities routinely use the 30-Day Filing process and the new rule changes are designed with the goals of clarifying and simplifying the rule while easing unnecessary regulatory compliance.

a. History and Background of the Rule – [170 IAC 1-6](#) serves as an expedited way for utilities to submit certain non-controversial administrative filings to change a tariff. The IURC must hold a hearing in "controversial" cases under [IC 8-1-1-5\(a\)](#). This is done through the Commission's formal, docketed proceeding process. When a utility wishes to increase the rates it charges its customers or make other significant changes in its tariff, it will typically file a petition and go through the Commission's full docketed proceeding process, including a hearing. Such cases are controversial and involve hundreds of pages of written testimony and exhibits, as each cost or point of data submitted by the utility will be scrutinized by adverse parties. It is not uncommon for such cases to cost the regulated utility half a million dollars or more. In contrast, [170 IAC 1-6](#) allows utilities to submit certain non-controversial administrative changes to their tariffs without needing to go through a hearing and a docketed proceeding. As a result, the costs for these filings are much lower than the cost for a typical docketed proceeding. The non-controversial administrative filing process in [170 IAC 1-6](#) is used routinely by IURC-regulated utilities. The 30 days refers to the minimum amount of time between the date the utility makes a filing under this rule and the date the IURC may issue an order. See Ind. Code § 8-1-2-42(a).

In March of 2022, the IURC recognized there was a need to update and clarify [170 IAC 1-6](#) to create a less ambiguous and even more streamlined filing process, which is what prompted this rulemaking. The move to electronic filing also prompted needed updates. A strawman draft of the proposed rule was, therefore, developed by IURC staff.

On April 26, 2023, the strawman draft proposed rule was sent to external stakeholders for the first informal comment period. Stakeholders included all members of the Indiana State Bar Association's Utility Law Section, industry associations, the Office of Consumer Counselor, and various distribution lists that are maintained by the IURC technical divisions and used to communicate important updates to interested parties. It is roughly estimated that more than three hundred and fifty stakeholders were asked to provide comments. These stakeholders were given until June 16, 2023, to submit written comments.

The IURC received two written comments; one comment came from the Office of Utility Consumer Counselor and the second from the Indiana Rural Broadband Association. Commission staff also received and answered questions telephonically from two parties, AT&T and TDS Telecom. Commission staff reviewed and evaluated the stakeholder feedback and finalized a draft proposed rule. The draft proposed rule was sent to the same lists of stakeholders for a second opportunity for comments on January 3, 2024, with a deadline to submit comments of February 7, 2024. The Commission received no additional comments.

b. Scope of the Rule – The proposed rule will clarify and simplify certain portions of the non-controversial administrative filing process. Some examples include: requiring that an objection must be a valid objection, allowing a decrease in a utility rate to be an allowable non-controversial filing, including rules for intrastate access tariffs which were already in effect from a previous IURC order, and clarifying rules regarding objections. It is the agency's intent that the rule changes will provide a cleaner and less ambiguous filing process.

c. Statement of Need – The proposed rule was not created to address a federal or state statutory requirement, court order, audit finding, or operational issue. Instead, the IURC's policy rationale behind revising [170 IAC 1-6](#) is to provide stakeholders a clearer and easier way to file and object to certain non-controversial administrative filings.

d. Statutory Authority for the Proposed Rule – The IURC has general rulemaking authority under [IC 8-](#)

[1-1-3\(g\)](#) to formulate rules necessary or appropriate to carry out its duties and specific authority under [IC 8-1-2-42\(a\)](#) to approve changes made in a utility's schedule after a minimum period of 30 days.

e. Fees, Fines, and Civil Penalties – The proposed rule will not impose fees, fines, or civil penalties or increase existing fees, fines, or civil penalties.

II. Fiscal Impact Analysis

a. Anticipated Effective Date of the Rule

- The Commission anticipates receiving approval from the Office of Management and Budget and State Budget Agency within forty-five (45) days.
- Assume fourteen (14) days for the Commission to approve the proposed rule.
- Assume fourteen (14) days for the Legislative Services Agency (LSA) to publish the Notice of First Public Comment Period and Notice of Public Hearing in the Indiana Register.
- Assume thirty (30) days for the first public comment period and public hearing.
- Assume 14 days for staff to review the comments from the first public comment period.
- If needed, assume fourteen (14) days for the Legislative Services Agency (LSA) to publish the Notice of Second Public Comment Period and Notice of Public Hearing in the Indiana Register.
- If needed, assume 30 days for the second public comment period and second public hearing.
- If needed, assume 14 days for staff to review the comments from the second public comment period.
- Assume 14 days for staff to assemble the rule packet.
- Assume fourteen (14) days for the Commission to approve the final rule.
- The Attorney General has forty-five (45) days to review the packet.
- The Governor's office has up to thirty (30) days to review the packet.
- The rule is effective thirty (30) days from the date the Legislative Services Agency accepts the rule for filing.

Therefore, with added time for uncertainty, based on the facts and timeline above, the Commission anticipates the rule could be fully promulgated and effective by February 28, 2025.

b. Estimated Fiscal Impact on State and Local Government – The proposed rule would not substantially impact expenditures and revenues of State agencies or local government. However, IURC staff believes municipal utilities will see cost savings when the rule changes are implemented. Municipal utilities routinely use the 30-Day Filing process and IURC believes the new rule changes will reduce administrative costs for our municipal utilities. The IURC staff does not believe the rule amendments will cause more non-controversial filings to be made, and, therefore, the time and resources of the IURC will not need to be expanded.

c. Sources of Expenditures or Revenues Affected by the Rule – The proposed rule would not impact expenditures or revenues of State agencies or local governments.

III. Impacted Parties

The proposed rule will impact all stakeholders who use the non-controversial filing process. The most common groups of stakeholders will be all regulated utilities and the Office of Utility Consumer Counselor. However, theoretically but unlikely, any citizen of Indiana may be a stakeholder due to having the ability to file an objection. Commission staff does not anticipate that the proposed changes will create additional monetary costs, but instead expects the proposed changes will reduce costs and the administrative burden for all stakeholders. The estimated number of regulated entities affected is 117. And all citizens in Indiana could theoretically be affected if the individual chooses to file an objection.

IV. Changes in Proposed Rule

The changes in the proposed rule include:

- [170 IAC 1-6-2](#) Definitions
 - [170 IAC 1-6-2\(10\)](#) – adds that an objection to a non-controversial filing must be a valid objection as determined by the Commission.
 - [170 IAC 1-6-2\(14\)](#) – removes definition of System Development Charges.
- [170 IAC 1-6-3](#) Allowable filings
 - [170 IAC 1-6-3\(6\)](#) – adds a decrease in a rate, charge, or rates as an allowable filing option.
- [170 IAC 1-6-4](#) Prohibited filings
 - [170 IAC 1-6-4\(5\)](#) – removes System Development Charges ("SDCs") as a prohibited filing option.
- [170 IAC 1-6-5](#) Filing requirements

- [170 IAC 1-6-5](#)(a)(2)(D) – removes the option to include a facsimile number for contact information.
- [170 IAC 1-6-5](#)(a)(4)-(5) – adds a new section on the procedure of filing intrastate access tariffs which were already in effect from a Commission order.
- [170 IAC 1-6-5](#)(a)(6) – clarifies requirements for tariffs other than intrastate access tariffs.
- [170 IAC 1-6-5](#)(a)(7) – includes the verified statement exception for utilities under [IC 8-1-2.6-1.5](#)(d).
- [170 IAC 1-6-5](#)(b) – clarifies required items for tariffs other than intrastate access tariffs.
- [170 IAC 1-6-5](#)(c) – requires filings to be submitted electronically and imposes deadline on electronic filing submissions.
- [170 IAC 1-6-5](#)(d) – removes that the filing must be addressed to the secretary of the Commission.
- [170 IAC 1-6-6](#) Notice requirements
 - [170 IAC 1-6-6](#)(a) – includes filing exemption from [IC 8-1-2.6-1.5](#)(d).
 - [170 IAC 1-6-6](#)(d) – removes directive that the Commission shall post filing on the electronic gateway as soon as possible on or after the filing date.
- [170 IAC 1-6-7](#) Objections
 - [170 IAC 1-6-7](#)(a) – removes the requirement that objections must be addressed to the Commission secretary and requires that all filings must be filed through the IURC's online filing system.
 - [170 IAC 1-6-7](#)(b)(4) – removes option that objections may be in writing and moves objection format requirement to [170 IAC 1-6-7](#)(b)(2).
 - [170 IAC 1-6-7](#)(b)(1) – adds a filing deadline of 15 business days.
 - [170 IAC 1-6-7](#)(b)(2) – moves section stating applicable filing categories to [170 IAC 1-6-7](#)(c)(2).
 - [170 IAC 1-6-7](#)(b)(2) – requires objection to be emailed to the utility.
 - [170 IAC 1-6-7](#)(e) – removes requirement that Commission will notify utility of any objection it receives.
 - [170 IAC 1-6-7](#)(c)(1) – requires objections to state how the filing, if approved, would adversely affect the objector.
 - [170 IAC 1-6-7](#)(c)(2) – requires objector to state the statute, IURC order, or rule which the filing violates.
 - [170 IAC 1-6-7](#)(d) – removes reference to the Commission notifying the utility of an objection and includes that an objection that is emailed to the utility must be submitted in the electronic filing system.
 - [170 IAC 1-6-7](#)(f) – replaces the old post objection consideration deadline with the new deadline from [170 IAC 1-6-7](#)(b)(1).
- [170 IAC 1-6-8](#) Commission approval
 - [170 IAC 1-6-8](#)(b) – removes option for the Commission to notify the denial of a utility filing by facsimile and clarifies that a utility which withdraws its filing must do so before the date the Commission intends to rule on the filing.
 - [170 IAC 1-6-8](#)(e) – adds a new section subjecting intrastate access tariffs to post filing review.

V. Benefit Analysis

The proposed rule is designed to streamline and clarify the non-controversial filing process. The IURC, the utilities, and all other stakeholders are expected to see monetary and non-monetary benefits such as: (1) saving time by reducing administrative tasks for IURC and stakeholder employees, (2) clarifying objection rules which will save time for the overall proceeding when an objection is raised, (3) making it easier for utilities to lower customer bills by including a decrease in rates as an allowable filing option, and (4) saving on paper and ink expenses by requiring electronically filing.

a. Estimate of Primary and Direct Benefits of the Rule –

Less restrictive administrative filing requirements and time savings to IURC and stakeholder employees are immediate direct benefits from the proposed rule. When a utility files its tariff changes through the 30-Day Filing process, it removes the need for requesting those changes in a traditional rate case. Filing and litigating rate cases is much more expensive than filing through the 30-Day Filing process. According to a Kentucky Public Service Commission study, the average cost of a traditional rate case is \$630,000 while the average cost of filing a 30-Day filing would be in the low thousands. Some direct and indirect cost savings and benefits to updating the rule are discussed in more detail below.

This rulemaking also provides a new filing option for system development charges to be filed in the non-controversial process. System development charges would necessarily be in adversarial and more expensive rate cases or other types of filings without this change. Expenses in adversarial filings are expected to be contested which includes a cost to utilities and adverse parties to draft testimony in support of or against the system development charge costs. Immediate cost savings will be realized due to allowing system development charges to be filed in non-controversial and less costly 30-day filings instead of as part of a traditional rate case. With the average cost for a traditional rate case estimated at \$630,000, at a

conservative estimate, the IURC estimates a net total of \$35,000 may be saved by removing system development charges from a traditional rate case and including them in a 30-Day Filing. System development charges are one of many allowable filing options and IURC staff believes the 30-Day Filing process has overall reduced the costs of regulatory compliance on our regulated utilities which translates into cost savings on customer utility bills.

Under the current rule, a utility may file their non-controversial filing in print form. Most utilities already elect to file electronically. However, removing the option to file by paper will remove an unnecessarily costly, but currently acceptable, submission option. Utility filings are often comprised of hundreds of pages and according to Staples.com, a ream (500 pages) of paper is \$8.29. It costs \$.089 cents and \$.055 cents to print one page of color or black ink respectively according to cartridgeworld.com. The estimated cost of one ream of paper printed in black ink (\$.055 cents multiplied by 500 plus \$8.29) would equal \$35.79 dollars and the estimated cost of one ream of paper printed in color ink (\$.089 cents multiplied by 500 plus \$8.29) would equal \$52.79 dollars. Assuming a filing constitutes a mixture of black ink and color pages, utilities and other stakeholders will save between \$35.79 - \$52.19 per ream of paper from the proposed rule. Stakeholder and IURC employees will also not have as many administrative tasks leading to more time to spend on other tasks due to the efficiencies of filing and proper organization when utilities file via the online system versus in print form. As reducing regulatory "red tape" is a stated goal of the proposed rule, these benefits will be immediate.

b. Estimate of Secondary or Indirect Benefits of the Rule –

By clarifying the non-controversial filing procedures, the proposed rule will likely reduce unnecessary filing errors that waste IURC and utility employee time. A party filing an objection now has more guidelines on what is a valid objection, which should reduce invalid objections and save time and resources for both the utility and the party objecting. Clearer instructions will have a trickle-down effect benefiting future proceedings, too. A reduced timeline in one utility proceeding leads to faster resolutions for the current parties, which would further lead to faster resolutions to future proceedings due to an ease in caseload. The Commission estimates that two hours of utility employee time is spent responding to unclear objections. With an estimate of \$65 dollars an hour of employee time, this change is estimated to save \$130 in each filing. The Commission received eighty-three (83) 30-Day Filings in 2023. With an estimated cost savings of \$130 in employee time per 30-Day Filing, IURC staff believes \$10,790 dollars in utility and IURC employee time can be reasonably saved through implementing the new rule changes.

c. Estimate of Any Cost Savings to Regulated Industries –

It is unclear the total cost savings to utilities from time gained by reducing administrative tasks; however, the new rule is expected to reduce paper and ink costs, which would have an estimated monetary benefit of between \$35.79 - \$52.19 per ream of paper. Utilities, other stakeholders, and non-regulated parties such as the Office of Consumer Counselor will reap these cost savings due to removing the option to file in print form.

VI. Cost and Benefit Analysis

a. Estimate of Compliance Costs and Cost Savings for Regulated Entities–

Rule Citation	Estimated Compliance Costs	Estimated Cost Savings
Proposed 170 IAC 1-6-2(10)	No additional costs based on definitional change.	Two hours of employee time are estimated to be spent on responding to unclear objections. Cost savings to utilities by clarifying valid objection criteria. Commission staff estimates two hours of utility staff time per case will be saved. With an estimate of \$65 dollars an hour, this change is estimated to save \$130 in each 170 IAC 1-6 filing. Based on historical filing amounts, IURC believes \$10,790 dollars in utility and IURC employee time can be reasonably saved through implementing the new rule changes.
Proposed 170 IAC 1-6-2(14)	No additional costs based on definitional change.	No additional benefit based on definitional change.

Proposed 170 IAC 1-6-3 (6)	No additional costs due to allowing a decrease in rates as an allowable filing option.	No additional cost savings by allowing new filing option.
Proposed 170 IAC 1-6-4 (5)	No additional cost due to removing system development charges as a prohibited filing.	Immediate cost savings due to allowing system development charges to be filed in non-controversial and less costly 30-day filings instead of as part of a traditional rate case. Average cost for a traditional rate case is estimated at \$630,000 from a Kentucky Public Service Commission study. At a conservative estimate, the IURC estimates \$35,000 may be saved by removing system development charges from a traditional rate case.
Proposed 170 IAC 1-6-5 (a)(2)(d)	No additional cost due to removing filing by fax as a filing option.	No additional cost savings.
Proposed 170 IAC 1-6-5 (a)(4)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-5 (a)(5)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-5 (a)(6)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-5 (a)(7)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-5 (b)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-5 (c)	No additional cost from requiring utility to submit filing electronically.	Utilities and other stakeholders are estimated to save between \$35.79 - \$52.19 per ream of paper not printed from this requirement.
Proposed 170 IAC 1-6-5 (d)	No additional cost from clarifying the filing deadline and removing requirement that IURC staff will internally circulate filing to appropriate staff members.	No additional cost savings.
Proposed 170 IAC 1-6-6 (a)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.
Proposed 170 IAC 1-6-6 (d)	No additional costs.	No additional cost savings.
Proposed 170 IAC 1-6-7 (a)	No additional costs due to requiring filing through the online system.	Utilities and other stakeholders are estimated to save between \$35.79 - \$52.19 per ream of paper not printed from this requirement.
Proposed 170 IAC 1-6-7 (b)(1)-(2)	No additional costs from setting a deadline for objections, removing option to file objection by paper, and requiring objector to email their objection to the utility.	Two hours of employee time are estimated to be spent on responding to unclear objections. Cost savings to utilities by clarifying valid objection criteria. Commission estimates two hours of utility staff time per case will be saved. With an estimate of \$65 dollars an hour, this change is estimated to save \$130 in each 30-Day Filing.
Proposed 170 IAC 1-6-7 (c)(1)-(2)	No additional cost for requiring objector to specify how the filing if	Two hours of employee time are estimated to be spent on responding

	approved would adversely affect them.	to unclear objections. Cost savings to utilities by clarifying valid objection criteria. Commission estimates two hours of utility staff time per case will be saved. With an estimate of \$65 dollars an hour, this change is estimated to save \$130 in each 30-Day Filing.
Proposed 170 IAC 1-6-7(d)	No additional cost for specifying responses to objections must be filed electronically.	Utilities and other stakeholders are estimated to save between \$35.79 - \$52.19 per ream of paper not printed from this requirement.
Proposed 170 IAC 1-6-7(f)	No additional cost from allowing an untimely filed objection to be used as investigative information in a future proceeding.	No additional cost savings.
Proposed 170 IAC 1-6-8(b)	No additional cost for removing fax as an option to communicate to utilities when Commission staff has recommended denying approval of their filing. No additional cost for adding that a utility must withdraw its filing before the date the Commission will rule on the filing.	No additional cost savings.
Proposed 170 IAC 1-6-8(e)	No additional cost due to codifying requirements already in effect for intrastate access tariffs from an IURC order in formal rule.	No additional cost savings.

b. Estimate of Administrative Expenses Imposed by the Rules – The proposed rule is expected to decrease, rather than add, administrative expenses on stakeholders. Clarification of the rules is expected to allow a smoother, quicker, and less costly non-controversial filing process. Stakeholders are expected to save costs on office supplies and employee time. The new rule requirements are not complicated deviations from the existing rule and will not require additional stakeholder training or educational time to comply with the proposed rule.

c. The fees, fines, and civil penalties analysis required by [IC 4-22-2-19.6](#) – The proposed rule does not add or increase a fine, fee, or penalty.

d. Implementation costs – The combined implementation and compliance costs of the proposed rule do **not** exceed one million dollars (\$1,000,000) for businesses, units, and individuals over any two (2) year period.

VII. Sources of Information

This section should include a discussion of the sources of outside information utilized to calculate the cost and benefits for the rule.

a. Independent Verifications or Studies – Costs, Benefits, and Methods of Implementing Alternative Rate Mechanisms for Utility Ratemaking, Research Memorandum No. 531. Legislative Services Commission of Kentucky.

b. Sources Relied Upon in Determining and Calculating Costs and Benefits – The Commission staff relied on typical costs for office supplies from Staples.com, cartridgeworld.com, and good faith estimates based on staff knowledge and experience for costs, benefits, and the expense of employee time.

VIII. Regulatory Analysis

The proposed rule changes are designed to lessen the regulatory burden and reduce stakeholders' monetary and non-monetary costs. Commission staff believes the proposed rule will accomplish that objective. From the table above, Commission staff does not anticipate any additional costs or administrative burdens on stakeholders from the proposed rule. Commission staff could not determine additional costs from compliance of the rule changes and believes the benefits from a reduced administrative burden and cost savings from the proposed rule exceed any costs, if they can be identified.

IX. Contact Information of Staff to Answer Substantive Questions

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*Notice of First Public Comment Period with Proposed Rule: [20241009-IR-170240378FNA](#)
Notice of Determination Received: August 29, 2024*

*Posted: 10/09/2024 by Legislative Services Agency
An [html](#) version of this document.*