

**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION
170 IAC 15**

**Revised Strawman Draft Rule
LSA Document #22-XXX**

DIGEST

Amends 170 IAC 15-1-1, 170 IAC 15-1-2, 170 IAC 15-1-3, 170 IAC 15-1-4, 170 IAC 15-1-5, 170 IAC 15-1-6, 170 IAC 15-1-7, 170 IAC 15-1-8, 170 IAC 15-1-9, 170 IAC 15-1-10, 170 IAC 15-1-11, 170 IAC 15-1-13, 170 IAC 15-2-1, 170 IAC 15-2-2, 170 IAC 15-2-3, 170 IAC 15-2-4, 170 IAC 15-3-1, 170 IAC 15-3-2, and 170 IAC 15-3-3 to revise rules in accordance with 2019 amendments to IC § 8-1-2-1.2, and to update conflicting provisions.

Adds 170 IAC 15-1-0.5, 170 IAC 15-1-1.5, 170 IAC 15-1-1.6, 170 IAC 15-1-7.1, to add new definitions; and 170 IAC 15-2-0.5, 170 IAC 15-2-5 regarding sub-billing requirements.

Repeals 170 IAC 15-1-12 to remove an unneeded definition.

Effective 30 days after filing with the Publisher.

SECTION 1. 170 IAC 15-0.5-1 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-1-0.5 Applicability

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1; IC 8-1-2-1.2

Sec. 1 (a) A landlord and association may sub-bill only under this article.

(b) Under IC 8-1-2-1.2(k), a landlord or association that sub-bills is not a public utility if the landlord or association complies with:

(1) IC 8-1-2-1.2(k)(1); or

(2) IC 8-1-2-1.2(k)(2), (l), and (m).

(c) This article does not apply to the following:

(1) A landlord or an association that distributes water or sewage disposal service using a flat fee qualifying under IC 8-1-2-1.2(k)(1).

(2) a landlord that bills a tenant for water or sewage disposal service if:

(A) the tenant resides in building with only one dwelling unit; and

(B) the dwelling unit is metered by the water or sewer utility.

(2) The sub-billing of electric service under 170 IAC 4-5.

(3) The sub-billing of natural gas service when allowed by commission orders.

(Indiana Utility Regulatory Commission; 170 IAC 15-0.5-1)

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SECTION 2. 170 IAC 15-1-1.5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-1 Definitions

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 1. The definitions in ~~IC 8-1-2-1, IC 8-1-2-1.2,~~ and this and this rule apply throughout this article.

(Indiana Utility Regulatory Commission; 170 IAC 15-1-1; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 3. 170 IAC 15-1-1.5 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-1-1.5 “Association” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 1.5. “**Association**” has the same meaning as set forth in **IC 8-1-2-1.2(a)**. *(Indiana Utility Regulatory Commission; 170 IAC 15-1-1.5)*

SECTION 4. 170 IAC 15-1-1.6 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-1-1.6 “Co-Owner” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 1.6 “Co-owner” has the same meaning as set forth in IC 32-25-2-11. *(Indiana Utility Regulatory Commission; 170 IAC 15-1-1.6)*

SECTION 5. 170 IAC 15-1-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-2 “Dwelling unit” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 2. “Dwelling unit” ~~means a room or rooms suitable for residential occupancy containing water or sewage disposal service plumbing, or a mobile home park lot or similar multi-user installation, excluding hotels, motels, or other similar transient lodging.~~ **has the same meaning**

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as set forth in IC 8-1-2-1.2(f). (*Indiana Utility Regulatory Commission; 170 IAC 15-1-2; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 6. 170 IAC 15-1-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-3 “Initial set-up fee” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 3. “Initial set-up fee” means the fee:

(1) a landlord charges a tenant; or

(2) an association charges a

(A) member; or

(B) co-owner

to establish a new account for a dwelling unit, not to exceed the landlord’s **or association’s** actual administrative cost. (*Indiana Utility Regulatory Commission; 170 IAC 15-1-3; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 7. 170 IAC 15-1-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-4 “Insufficient funds fee” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 4. **(a)** “Insufficient funds fee” means the fee:

(1) a landlord charges a tenant; or

(2) an association charges a member or co-owner,

to process insufficient funds of a payment.

(b) ~~not to exceed any~~**The insufficient funds fee shall not exceed the** actual fee assessed to the landlord **or association** by a financial institution resulting from insufficient funds of an instrument received from the:

(1) tenant,

(2) member, or

(3) co-owner

in payment of charges for water or sewage disposal service. (*Indiana Utility Regulatory Commission; 170 IAC 15-1-4; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

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SECTION 8. 170 IAC 15-1-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-5 “Landlord” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 5. “Landlord” ~~means the owner of a dwelling unit that is rented or leased to an individual, or a person acting on a landlord’s behalf.~~ **has the same meaning as set forth in IC 8-1-2-1.2(h).** *(Indiana Utility Regulatory Commission; 170 IAC 15-1-5; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)*

SECTION 9. 170 IAC 15-1-6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-6 “Landlord’s usage” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 6. (a) ~~For water service,~~ “Landlord’s usage” means **any water or sewage disposal service consumed or utilized** by the landlord for:

- (1) personal use,
- (2) business use, **or**
- (3) ~~any water consumed usage~~ in common areas, including, but not limited to: ~~water used in-~~
 - (A) a club house,
 - (B) laundry facility,
 - (C) bath house,
 - (D) community restroom,
 - (E) swimming pool,
 - (F) hot tub,
 - (G) irrigation sprinkler system, ~~or-~~
 - (H) fire protection sprinkler system, ~~or for-~~
 - (I) grounds keeping,
 - (J) flushing the mains, or
 - (K) any other common purpose.

The term shall also include ~~any~~ water lost to water leaks in common areas.

(b) ~~For sewage disposal service, “landlord’s usage” means any sewage disposal service resulting from the landlord for personal use, business use, any sewage disposal service resulting from common areas, including, but not limited to, a club house, laundry facility, bath house, swimming pool, hot tub, or community restrooms or any other common purpose.~~ *(Indiana Utility Regulatory Commission; 170 IAC 15-1-6; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)*

SECTION 10. 170 IAC 15-1-7 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-7 “Master meter” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 7. “Master meter” means the use of a meter device to measure, for billing purposes, the amount of water consumed by:

- (1) a landlord who distributes the water to tenants; or
- (2) **an association who distributes the water to:**
 - (A) members, or
 - (B) co-owners.

(Indiana Utility Regulatory Commission; 170 IAC 15-1-7; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 11. 170 IAC 15-1-7.1 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-1-7.1 “Member” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 7.1 “Member” has the same meaning as set forth in IC 8-1-2-1.2(i). *(Indiana Utility Regulatory Commission; 170 IAC 15-1-7.1)*

SECTION 12. 170 IAC 15-1-8 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-8 “Sub-bill” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 8. “Sub-bill” means:

- (1) a landlord’s request ~~of~~ **for** payment from a tenant, or
- (2) **an association’s request of payment from a member or co-owner,**

for the distribution of water or sewage disposal service **under IC 8-1-2-1.2(k)(2)**, which service is provided to the landlord **or association** by a ~~public utility or municipally owned utility~~ **water or sewer utility**. The term does not include instances in which a ~~lease agreement clearly indicates that water or sewage disposal, or both, service is included in a lease payment that is assessed at regular intervals and does not vary throughout the lease period based on the amount of water or sewage disposal, or both, usage~~ **landlord or an association distributes water or sewage disposal**

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service under IC 8-1-2-1.2(k)(1). (*Indiana Utility Regulatory Commission; 170 IAC 15-1-8; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 13. 170 IAC 15-1-9 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-9 “Sub-meter” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 9. “Sub-meter” ~~means~~**refers to** the use of a meter device to measure the amount of water consumed within an individual dwelling unit for the purpose of sub-billing. The term also refers to the meter used to measure the amount of water provided to individual dwelling units. (*Indiana Utility Regulatory Commission; 170 IAC 15-1-9; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 14. 170 IAC 15-1-10 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-10 “Tenant” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 10. “Tenant” means ~~any a person who rents or leases~~**occupant of** a dwelling unit ~~that is provided water or sewage disposal service distributed by~~**from** a landlord. (*Indiana Utility Regulatory Commission; 170 IAC 15-1-10; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 15. 170 IAC 15-1-11 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-11 “Total net charge for water or sewage disposal service” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 11. “Total net charge” for **water or** sewage disposal service means the charge the **water or sewer** ~~sewer disposal service~~utility imposes on the landlord **or association** for **water or** sewage disposal service for a given billing period inclusive of applicable taxes but exclusive of late fees and other incidental or extraordinary fees and charges. (*Indiana Utility Regulatory Commission; 170 IAC 15-1-11; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

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SECTION 16. 170 IAC 15-1-12 IS REPEALED.

SECTION 17. 170 IAC 15-1-13 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-1-13 “Water or Sewer Utility” defined

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 13. **“Water or Sewer Utility”** ~~means the public or municipally owned utility that provides water or sewage disposal service to the landlord for distribution to dwelling unit.~~ **has the same meaning as set forth in IC 8-1-2-1.2(j).** (*Indiana Utility Regulatory Commission; 170 IAC 15-1-13; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

Rule 2. Sub-Billing

SECTION 18. 170 IAC 15-2-0.5 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-2-0.5 Requirements of a Sub-Bill

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 0.5 (a) A landlord or association that sub-bills shall:

(1) Sub-bill tenants, co-owners, or members with the same frequency and for the same period that bills are rendered to the landlord or association by the water or sewer utility.

(2) Include on sub-bills the information required in section 3 of this rule.

(3) Timely remit payment to the water or sewer utility for the total net charges that will be sub-billed.

(4) Provide a period of at least seventeen (17) days from the date the landlord or association sends a sub-bill for the tenant, co-owner, or member to remit payment.

(b) Sub-bills may charge for only the following maximum allowable amounts:

(1) Water or sewage service usage charges calculated under section 2 of this rule.

(2) The optional fees and costs permitted by IC 8-1-2-1.2(1)(4).

(Indiana Utility Regulatory Commission; 170 IAC 15-2-0.5)

SECTION 19. 170 IAC 15-2-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-2-1 Availability of Records

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 1.(a)TheA landlord or association that sub-bills shall:

(1) retain all bills received from the utility and all sub-bills from the landlord to tenants, or the association to members or co-owners, for a period of not less than one (1) year;

(2) make all such bills and sub-bills available for inspection by any tenant, member, or co-owner, or person who was a tenant, member or co-owner, during the billing period in question, during regular business hours; and

(3) provide a copy of records under this section within three (3) business days of request by a tenant, member or co-owner.

(4) provide a copy of records under this section to the commission's consumer affairs division upon request.

(b) The landlord or association may charge tenant, member, or co-owner a nominal fee to recover the cost of copying records. (Indiana Utility Regulatory Commission; 170 IAC 15-2-1; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 20. 170 IAC 15-2-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-2-2 Charges for Water or Sewage Service Usage

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 2. (a) ~~A tenant's sub-bill~~ **A landlord or an association shall calculate** ~~shall calculate~~ **the water and sewage service usage portion of a sub-bill using the one of the** following manner ~~methods~~:

(1) For water service, as follows:

(A) ~~If the utility charges the landlord for usage measured by a master meter, upon receipt of a utility's water bill,~~ **Measurement by Optional usage calculation using sub-meter data.**

(i) ~~The landlord or association shall divide the total net charges~~ **charge** for water service, plus applicable tax, by the total amount of water master metered to obtain an average cost per unit volume.

(ii) ~~The average water cost per unit volume shall be multiplied by the estimated or actual unit volume consumed by each dwelling unit as measured by a sub-meter.~~

~~(iii) In no event shall a landlord charge its tenants more than the total net charge for water service.~~

(B) **Optional usage calculation using other data not measured by sub-meter.**

(i) ~~If the utility charges~~ **The landlord or association** for usage that is not measured by a master meter, the 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, co-owner, or member a portion of the total net charge for water service.~~

(ii) **For landlords sub-billing tenants, the landlord shall deduct less the landlord's own use usage.**

(iii) ~~Reasonable allocations may be based on~~ **include, for example, a charge per dwelling unit, or allocated pro-rata based on:**

(AA) **square footage;**

(BB) **type of dwelling unit;**

(CC) **number of actual individuals residing in the dwelling unit;** ~~volume of water distributed to each tenant, or~~

(DD) **estimated volume of water distributed to each tenant dwelling unit.**

~~(iii) In no event shall the landlord charge its tenants in total more than the total net charge for water service.~~

(2) For sewage disposal service, ~~the landlord shall employ an appropriate method to determine what portion of the total net charge for sewage disposal service should be attributed to each tenant as follows:~~

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~~(A) If the utility charges a flat sewage disposal service rate, “an appropriate method” means a method that reasonably allocates to each tenant,~~
member or co-owner a portion of the total net charge for sewage disposal service.

~~(B) For landlords sub-billing tenants, the landlord shall deduct the less the landlord’s own use usage.~~

~~(C) Reasonable allocations may be based on a charge per dwelling unit,~~ **allocated pro-rata based on:**

- (i) square footage;**
- (ii) type of dwelling unit;**
- (iii) number of individuals residing in the dwelling unit;**
- ~~(iv) or a charge based on estimated sewer flow; or~~
- (v) based on estimated or actual volume of water distributed to each dwelling unit.**

~~(D) In no event shall the landlord or association issue sub-bills totaling more recharging more for the usage portion of the water or sewage disposal service than the landlord or association paid for the same water or sewage disposal service.~~

~~(B) If the utility charges a sewage disposal service rate based on water usage, “an appropriate method” means a method that reasonably allocates to each tenant a portion of the total net charge for sewage disposal service less the landlord’s own use. Reasonable allocations may use the same percentage for sewage disposal service as calculated for water billing, using the actual volume of water distributed to each tenant or estimated volume of water distributed to each tenant. In no event shall the landlord charge its tenants in total more than the total net charge either for water or sewage disposal service.~~

(b) A landlord or association may calculate sub-bills using a method other than specified in subsection (a) if the calculation is:

- (1) fair and reasonable;**
- (2) results in sub-bills for each dwelling unit less than or equal to what would have been sub-billed to each dwelling unit under subsection (a); and**
- (3) does not total more for the usage portion of the water or sewage disposal service than the landlord or association paid for the same water or sewage disposal service.**

~~(b) A landlord may not charge a tenant for any water or sewage disposal service reasonably attributed to the landlord’s usage.~~

~~(e) In addition to the charges in subsection (a), a landlord may charge a tenant only the fees permitted by IC 8-1-2-1.2.~~

~~(d) A landlord satisfies the provisions in subsections (a) through (c) and the provisions of IC 8-1-2-1.2 if the landlord charges a flat rental fee, assessed at regular intervals, such as monthly or annually, that includes water and sewage disposal service, provided the following:~~

- ~~(1) The lease clearly indicates that water or sewage disposal, or both, service are included in the lease.~~
- ~~(2) The rent amount does not vary throughout the lease period based on water or sewage disposal usage.~~

~~(e)(c) Nothing herein should be construed to eliminate or diminish any contractual right a~~

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tenant, **co-owner, or member** may have with respect to the provision of water or sewage disposal service. (*Indiana Utility Regulatory Commission; 170 IAC 15-2-2; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA*)

SECTION 21. 170 IAC 15-2-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-2-3 Standards of Information contained in sub-billing

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 3. ~~(a) The landlord shall:~~

~~(1) render sub-bills to tenants with the same frequency that bills are rendered to the landlord by the utility; and~~

~~(2) sub-bill tenants for the same period for which the landlord or association has been billed by the utility;—~~

~~(b) The landlord sub-bills tenant separately from rent.~~

~~(c)~~**(a)** Sub-bills that are rendered to the tenant shall show at least the following information:

(1) The sub-billing date.

(2) The sub-billing rate charged.

(3) The previous balance, if any.

(4) The amount of the sub-bill.

~~(5) The amount of the tenant's, co-owner's, or member's usage, if applicable.~~

~~(5)~~**(6)** The amount of an initial setup fee, if due.

~~(6)~~**(7)** A reasonable administrative fee, if any, not to exceed the statutory limit in **IC 8-1-2-1.2(I)(4)(B)**.

~~(7)~~**(8)** The amount of any insufficient funds fee, if due.

~~(8)~~**(9)** The date on which the sub-bill is due.

~~(9)~~**(10)** If an estimated sub-bill, a clear and conspicuous coding or other indication identifying the sub-bill as an estimated sub-bill.

~~(10)~~**(11)** An explanation, which can be readily understood, of all codes or symbols, or both, shown on the sub-bill.

~~(11)~~**(12)** The name and telephone number of a person for tenants, **co-owners, or members** to contact about sub-billing matters.

~~(13) The beginning and end date of the period for which the sub-bill is rendered.~~

~~(14) The name and address of the tenant, co-owner, or member being billed.~~

~~(15) The address or other identifying information for the dwelling unit being billed.—~~

~~(12)~~**(16)** The following statement “If you believe you are being charged in violation of **IC 8-1-2-1.2, this disclosure or if you believe you are being billed in excess of the utility services provided to you as described in this disclosure you have a right under Indiana law to file a complaint with the Indiana Utility Regulatory Commission. You may contact the**

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Commission at ~~at~~ (800) 851-4268 or www.in.gov/iurc.”

~~(13)~~**(17)** In addition, water sub-bills shall include the following:

(A) If ~~tenant’s~~**the dwelling unit’s** usage is sub-metered, the dates and meter readings of the ~~tenant’s~~**dwelling unit’s** sub-meter at the beginning and end of the period for which the sub-bill is rendered.

(B) The name and telephone number of a person for tenants, **co-owners, or members** to contact about water service matters.

~~(14)~~ In addition, sewage disposal service sub-bills shall include the following:

(A) The beginning and end dates of the period for which the sub-bill is rendered.

(B) The name and telephone number of a person for tenants to contact about sewage disposal service matters.

(Indiana Utility Regulatory Commission; 170 IAC 15-2-3; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 22. 170 IAC 15-2-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-2-4 Notice Unpaid Sub-bills

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 4. A landlord ~~shall provide written notice to tenants pursuant to the disclosure requirements in IC 8-1-2-1.2(b)(3).~~ **or an association that fails to bill in compliance with these rules shall not disconnect water or sewage disposal service for delinquent water or sewer sub-bills, but a landlord and association may collect unpaid sub-bills through the same method otherwise allowed under applicable law to collect other unpaid rent or association dues or fees.***(Indiana Utility Regulatory Commission; 170 IAC 15-2-4; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)*

SECTION 23. 170 IAC 15-2-5 IS ADDED TO READ AS FOLLOWS:

170 IAC 15-2-5 Adjustment of Bills

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 5. (a) A landlord or an association shall adjust billing errors that are in the tenant’s, member’s, or co-owner’s favor to the known date of error or for a period of one year, whichever period is shorter. Adjustments shall be made within 30 days of knowledge of the error, and use one of the following methods:

(1) add the amount as a credit on the next sub-bill;

(2) refund the amount to the tenant or member; or

(3) with the tenant or member's written consent, credit the amount to rental or association fees due.

(b) A landlord or an association may adjust billing errors that are in its favor back to the known date of error or for a period of one year, whichever is shorter, by including the adjustment in its next sub-bill.

(Indiana Utility Regulatory Commission; 170 IAC 15-2-4)

Rule 3. Complaints

SECTION 24. 170 IAC 15-3-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-3-1 Filing a complaint

Authority: IC 8-1-1-3, IC 8-1-2-34.5

Affected: IC 8-1-2-1.2

Sec. 1. (a) **Regardless of whether a tenant, member, or co-owner is a customer as defined in 170 IAC 16-2(3), a tenant, member or co-owner may file a complaint against the landlord or association with the commission's consumer affairs division under IC 8-1-2-34.5 for violations of this rule by following the commission's informal complaint procedures found at 170 IAC 1-1.1-5. The complaint process shall be governed by 170 IAC 16.**

(b) **For purposes of this article, when a complaint is made under 170 IAC 16, "utility" as defined in 170 IAC 16-1-2(4) shall refer to an association or landlord.**

(Indiana Utility Regulatory Commission; 170 IAC 15-3-1; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 25. 170 IAC 15-3-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-3-2 Information required to investigate a complaint

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 2. Upon the receipt of a complaint **from a tenant, member, or co-owner that a landlord may be acting as a public utility in violation of IC 8-1-2-1.2, and when the commission's consumer affairs division shall receives a complaint under 170 IAC 16 and provides it to the landlord or association** require the complainant to provide the factual basis for the complaint and the commission shall require the landlord or association the landlord's agent to **shall** provide the complainant and the **commission's consumer affairs division** with sufficient information to investigate the complaint, including, but not limited to, the following information:

(1) (4) For the dates in dispute, each sub-bill rendered to the tenant, **member or co-owner** for

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water or sewage disposal service, including

(A) a statement indicating the period for which each sub-bill was rendered.

(B) The name and address of the tenant, member or co-owner billed.

(C) The address or other identifying information for the dwelling unit billed.

(2) If an estimated sub-bill, a clear and conspicuous coding or other indication identifying the sub-bill as an estimated sub-bill.

(3) If a ~~tenant's~~ **dwelling unit's** water usage is not sub-metered, the following:

(A) A verified statement by the landlord **or association** that contains the amount due the utility by the landlord **or association** for all amounts consumed at the property for the dates in dispute.

(B) The dates and meter readings of the master meter at the beginning and end of the period for which each sub-bill in dispute was rendered.

(C) The actual or estimated amount that is attributed to landlord's usage.

(D) An explanation of how the landlord **or association** calculated the ~~charges to the~~ **tenant sub-bill** for water service.

(4) If a ~~tenant's~~ **dwelling unit's** water usage is sub-metered, the dates and meter readings of ~~tenant's~~ **the** sub-meter at the beginning and end of the period for which the **sub-bill** is rendered, including the amount of usage for said period(s).

(5) For sewage disposal service, the following:

(A) A verified statement by the landlord **or association** that contains the amount due the utility by the landlord **or association** for all amounts collected at the property for the dates in dispute.

(B) The beginning and end dates of the period for which each sub-bill in dispute was rendered.

(C) The actual or estimated amount that is attributed to landlord's usage.

(D) An explanation of how the landlord **or association** calculated the ~~charges to the~~ **tenant sub-bill** for sewage disposal service.

(6) The sub-billing rate charged.

(7) The previous balance, if any.

(8) The amount of any initial setup fee charged.

(9) The amount of any administrative fee charged.

(10) The amount of any insufficient funds fee charged.

(11) The amount and description of any other fee charged.

(12) The date on which the sub-bill is due.

(Indiana Utility Regulatory Commission; 170 IAC 15-3-2; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

SECTION 26. 170 IAC 15-3-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 15-3-3 Action on complaint

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

Sec. 3. (a) If, after review of the information provided, ~~under this rule,~~ the commission's consumer affairs division determines that the landlord has failed to comply with the requirements of IC 8-1-2-1.2 or this rule, **the consumer affairs division and the commission may require one or more of the following remedies:**

(1) **Require the landlord or association to , whichever is less, and adjust its sub-billing practices prospectively.**

(2) **Require the landlord or association to refund, as outlined in 170 IAC 15-2-5, any payments in excess of what would have been sub-billed if the sub-bills had complied with IC 8-1-1.2 or this rule.**

(3) Prohibit the landlord or association from assessing rates and charges on tenants, members or owners unless the landlord or association

~~(b) A landlord or association may be regulated as a public utility under IC 8-1-2 if:~~

~~(1) The landlord or association has not provided the records and information necessary to determine compliance with this rule within a reasonable amount of time; or~~

~~(2) The landlord or association has failed to comply within a reasonable amount of time with a previous determination by the consumer affairs division.~~

~~A public utility is required to file its rates and charges under IC 8-1-2-38 and obtains commission approval of any changes to its rates and charges under IC 8-1-38 and IC 8-1-2-44(a); otherwise, such rates and charges are unlawful pursuant to IC 8-1-2-44 and may not be assessed on the landlord's tenants or the association's members or owners.~~

(b) If a landlord or association paid refunds under this section, the landlords and or associations is permitted to rebill tenants, members or co-owners who received refunds under (a)(3)(B) of this section for a maximum period of 12 months of prior usage if:

(1) **The new bills comply with this rule, and**

(2) **Are issued no later than thirty (30) days after**

(A) a final determination by the consumer affairs division; or

(B) the landlord or association has exhausted its administrative remedies.

(Indiana Utility Regulatory Commission; 170 IAC 15-3-3; filed Mar 31, 2010, 3:18 p.m.: 20100428-IR-170090790FRA; readopted filed Jul 12, 2016, 10:01 a.m.: 20160810-IR-170160168RFA)

170 IAC 15-3-4 Commission Investigations

Authority: IC 8-1-1-3

Affected: IC 8-1-2-1.2

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Sec. 4. Upon a petition by the Indiana Office of Utility Consumer Counselor or any entity with standing pursuant to Indiana Code 8-1-2-54 or 8-1-2-34.5, the Commission shall investigate compliance by a landlord or an association with these rules. During the pendency of said investigation, the utility shall not disconnect water or sewer service to the landlord or association without Commission authorization. Upon a finding that a landlord or an association has distributed water or sewer service pursuant to I.C. 8-1-2-1.2(k) and that:

- 1) A landlord or association has failed to comply with these rules or Indiana law;
- 2) A landlord or association has failed to timely pay its utility bill for two or more consecutive billing cycles and is eligible for disconnection in accordance with the utility's tariff and these rules; or
- 3) An emergency exists pursuant to I.C. 8-1-2-113

the Commission may order appropriate relief pursuant to Indiana Code 8-1-2-69. If the landlord or association has failed to timely pay its utility bill and the Commission orders the utility to separately meter and bill each dwelling unit, the landlord or association shall be obligated to pay applicable late charges and interest until the utility issues the first bill to the individual dwelling units following the installation of separate meters.

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