

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

Notice of First Public Comment Period

LSA Document #24-90

COST SECURITIZATION FOR RETIRED ELECTRIC UTILITY ASSETS

PURPOSE OF NOTICE:

The Indiana Utility Regulatory Commission (IURC) is soliciting public comment on amending rules at 170 IAC 4-10 concerning cost securitization for retired electric utility assets. The IURC seeks comment on the affected citations listed and any other provisions of Title 170 that may be affected by this rulemaking.

CITATIONS AFFECTED: 170 IAC 4-10

AUTHORITY: IC 8-1-1-3; IC 8-1-40.5-19; IC 8-1.5-3-8.3

OVERVIEW

Basic Purpose and Background

Amends 170 IAC 4-10 regarding procedures and guidelines for cost securitization of certain electric utility assets.

For purposes of IC 4-22-2-28.1, small businesses affected by this rulemaking may contact the Small Business Regulatory Coordinator:

Beth E. Heline
General Counsel
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 E
Indianapolis, IN 46204
(317) 232-2092
bheline@urc.in.gov

For purposes of IC 4-22-2-28.1, the Small Business Ombudsman designated by IC 5-28-17-6 is:

Matthew Jaworowski
Small Business Ombudsman
Indiana Economic Development Corporation
One North Capitol, Suite 700
Indianapolis, IN 46204
(317) 650-0126
majaworowski@iedc.in.gov

Resources available to regulated entities through the small business ombudsman include the ombudsman's duties stated in IC 5-28-17-6, specifically IC 5-28-17-6(9), investigating and attempting to resolve any matter regarding compliance by a small business with a law, rule, or policy administered by a state agency, either as a party to a proceeding or as a mediator.

REQUEST FOR PUBLIC COMMENTS

The IURC is soliciting public comments on the proposed rule. Comments may be submitted in one of the following ways:

(1) By mail or common carrier to the following address:

LSA Document #24-90
Beth Heline
General Counsel
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 E
Indianapolis, IN 46204

(2) By electronic mail to urccomments@urc.in.gov. To confirm timely delivery of submitted comments, please request a document receipt when sending the electronic mail. **PLEASE NOTE: Electronic mail comments will not be considered part of the official written comment period unless they are sent to the address indicated in this notice.**

(3) Attend scheduled public hearing.

COMMENT PERIOD DEADLINE

All comments must be postmarked or time stamped not later than April 24, 2024.

The rule, Regulatory Analysis, appendices referenced in the Regulatory Analysis, and materials incorporated by reference (if applicable) are on file at the Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500 E, Indianapolis, Indiana and are available for public inspection. Copies of the rule, Regulatory Analysis, and appendices referenced in the Regulatory Analysis are available at the office of the Indiana Utility Regulatory Commission and on the IURC website at <https://www.in.gov/iurc/rulemakings/rulemakings-pending-and-effective/rm-23-02-regarding-170-iac-4-10/>.

If the IURC does not receive substantive comments during the public comment period or public hearing, the rule may be adopted with text that is the same as or does not substantially differ from the text of the proposed rule published in this notice.

ADDITIONAL DOCUMENTS

Regulatory Analysis: 20240320-IR-170240090RAA

Notice of Public Hearing: 20240320-IR-170240090PHA

PROPOSED RULE

SECTION 1. 170 IAC 4-10-1 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-1 Policy and scope

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 1. This rule is intended to establish procedures and guidelines for cost securitization for ~~qualified costs~~ **retired electric utility assets** under IC 8-1-40.5. (*Indiana Utility Regulatory Commission; 170 IAC 4-10-1; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022*)

SECTION 2. 170 IAC 4-10-2 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-2 Applicability under IC 8-1-40.5

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5-3; IC 8-1-40.5-10

Sec. 2. This rule applies to ~~any an~~ **an** electric utility, as defined under IC 8-1-40.5-3, ~~that meets~~ **meeting** the threshold for qualified costs ~~pursuant to~~ **under** IC 8-1-40.5-10(a). (*Indiana Utility Regulatory Commission; 170 IAC 4-10-2; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022*)

SECTION 3. 170 IAC 4-10-3 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-3 No change to other commission processes

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-40.5

Sec. 3. This rule does not replace other commission requirements, including: ~~but not limited to:~~

(1) a proceeding requesting a certificate of public convenience and necessity; and

(2) the commission's rule, 170 IAC 4-7, regarding integrated resource planning **by an electric utility**.

(*Indiana Utility Regulatory Commission; 170 IAC 4-10-3; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022*)

SECTION 4. 170 IAC 4-10-4 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-4 Definitions

Authority: IC 8-1-1-3; IC 8-1-40.5-19

Affected: IC 8-1-1.1; IC 8-1-40.5

Sec. 4. (a) The definitions in IC 8-1-40.5 and this section apply throughout this rule.

(b) "Case-in-chief" means the evidence and documentation provided by the utility in support of its petition, including ~~but not limited to~~, those listed in ~~subsection 5(e) below~~ **section 5(c) of this rule.**

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

(d) "OUCC" means the Indiana office of utility consumer counselor established under IC 8-1-1.1.

(e) "Removal costs" ~~mean~~ **means** those costs:

- (1) incurred, or expected to be incurred, to physically remove retired utility generation facilities; and
- (2) that have not already been recovered from customers.

(f) "Restoration costs" ~~mean~~ **means** those costs found to be just and reasonable by the commission, which:

- (1) have not been recovered from customers; and
- (2) are incurred, or expected to be incurred, to restore the site of retired utility generation facilities to a reasonable state as determined by applicable law.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-4; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022)

SECTION 5. 170 IAC 4-10-5 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-5 Petition and case-in-chief

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1-40.5-10; IC 8-1-40.5-12; IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 5. (a) An electric utility seeking to securitize costs for retired electric utility generation assets shall file its petition and ~~its~~ case-in-chief on the same day. The **two hundred forty** (240) day timeline in IC 8-1-40.5-10(b) does not start until the case-in-chief is filed.

(b) The electric utility's petition shall contain at ~~a minimum,~~ **least** the following:

- (1) The best estimate of the amount and terms of the proposed securitization.
- (2) The best estimate of the proposed term in years of the securitization bonds.
- (3) The best estimate of the total jurisdictional rate base at time synchronized with the best estimate of qualified costs at time of bond issuance.
- (4) An executive summary of the request.

(c) The electric utility's case-in-chief shall contain at ~~a minimum,~~ **least** the following:

(1) An estimate of the electric utility's total proposed qualified costs, together with descriptions and schedules of the proposed qualified costs to be subject to the securitization, including linking or mapping the proposed qualified costs to the costs currently included in utility rates, as applicable. ~~Any~~ Excel worksheets ~~shall~~ **are** also ~~be~~ submitted with the formulas intact.

(2) ~~Schedule(s)~~ **The schedule or schedules** comparing the net present value of the total of the proposed securitization charges with the net present value of the recovery of the qualified costs through traditional ratemaking, over a period not ~~to exceed~~ **exceeding** twenty (20) years. ~~Such~~ **The** schedules shall:

- (A) identify the ~~assumption(s) utilized~~ **assumption or assumptions used** in the net present value analysis; and
- (B) include evidence supporting the ~~assumption(s)~~ **assumption or assumptions.**

~~Any~~ Excel worksheets ~~shall~~ **are** also ~~be~~ submitted with the formulas intact.

(3) Identification and list of the specific electric utility generation assets to be retired for which securitization is being requested, together with a calculation of the net original cost of the assets adjusted for depreciation to be incurred until the facility is retired.

(4) Proposed process to accomplish the requirements of IC 8-1-40.5-12(c), including a demonstration that the proposed securitization charges are expected to be ~~sufficient~~ **enough** to timely provide ~~all~~ payments on:

- (A) debt service; and
- (B) other required amounts and charges in connection with the securitization bonds.

- (5) Evidence describing:
- (A) the use of the securitization bonds proceeds; and
 - (B) accounting entries;
- at receipt of bond proceeds.
- (6) Description of the proposed mechanism to reduce the electric utility's base rates and charges ~~upon assessment of~~ **after assessing** the securitization charges on customer bills ~~so as in order~~ to remove ~~any~~ costs associated with the qualified costs ~~that are~~ reflected in the electric utility's retail rates at the time the petition is filed.
- (7) Tariffs for:
- (A) securitization charges; and
 - (B) ~~any~~ credits or rate reductions required to remove qualified costs from existing rates.
- Work papers ~~utilized~~ **used** in determining ~~such these~~ tariffs ~~shall be~~ **are** submitted to the commission and provided to participating parties.
- (8) Description of:
- (A) current and anticipated market conditions; and
 - (B) expected bond structure, including a sensitivity analysis showing various bond rates and maturities, along with the corresponding estimated savings for ratepayers.
- (9) Evidence of the anticipated costs incurred to:
- (A) issue; and
 - (B) maintain;
- the securitization bonds.
- (10) Proposed plan for capital investment in Indiana, ~~with justification of any~~ **justifying** plan investment ~~that is~~ **investments** not identified as a clean energy resource.
- (11) Schedules and supporting documentation for estimated numbers relied ~~upon on~~ to support the case-in-chief, including assumptions used in ~~any~~ net present value ~~calculation~~ **calculations**.
- (12) A description of:
- (A) ~~any~~ debt or equity securities to be refinanced or retired; and
 - (B) estimated redemption premiums, if ~~any~~ **applicable**;
- including previously issued securitization bonds.
- (13) A copy of: ~~any~~:
- (A) ~~a~~ contract;
 - (B) ~~an~~ agreement; or
 - (C) ~~an~~ arrangement;
- ~~that is~~ proposed or has been made, or examples of ~~such those~~ documents, for the sale of the securitization bonds proposed to be issued.
- (14) Demonstration of the proposed process to be used to correct ~~any~~ over collections or under collections of securitization charges.
- (15) Proposed financing order.
- (16) Proposed issuance advice letter for securitization bonds, if the utility plans to use ~~such a~~ **that** letter.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-5; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022)

SECTION 6. 170 IAC 4-10-6 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-6 Notice to the commission, OUCC, and anticipated intervenors

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 6. (a) The electric utility shall provide notice at least **thirty** (30) days prior to filing its petition to the commission by sending a letter to the secretary of the commission.

(b) The electric utility is encouraged to, ~~prior to the~~ **before** filing ~~of~~ its petition, provide notice and meet with:

- (1) the OUCC; and
- (2) other anticipated intervenors.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-6; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022)

SECTION 7. 170 IAC 4-10-7 IS AMENDED TO READ AS FOLLOWS:

170 IAC 4-10-7 Notice to customers

Authority: IC 8-1-1-3; IC 8-1.5-3-8.3

Affected: IC 8-1.5-3-8.1; IC 8-1.5-3-8.3

Sec. 7. (a) ~~Ne~~ **Not** later than thirty (30) days after the filing of its petition, the electric utility shall provide notice to its customers by:

- (1) posting notice on the electric utility's website; and
- (2) publishing notice through an advertisement in a newspaper of general circulation in each county served by the electric utility.

(b) The notice shall state:

- (1) that the electric utility has filed with the commission a petition for a securitization financing order and the authority for a finance subsidiary to issue securitization bonds;
- (2) the estimated total amount of the securitization bonds requested;
- (3) the proposed securitization charges and the number of years the charges will be collected;
- (4) the estimated net impact on customer rates;
- (5) that interested persons may send comments to the OUCC; and
- (6) the mailing and website addresses and toll free telephone numbers for the OUCC and the commission.

(Indiana Utility Regulatory Commission; 170 IAC 4-10-7; emergency rule filed Dec 20, 2021, 9:30 a.m.: 20211229-IR-170210538ERA, eff Jan 1, 2022)