



October 31, 2016

Ms. DeAnna L. Poon
Assistant General Counsel
Indiana Utility Regulatory Commission
101 West Washington - Suite 1500 East
Indianapolis, Indiana 46204-3407

**Re: IURC Rulemaking RM#15-02 – IBTA Comments on Revisions to the Commission’s
Procedural Rules**

Dear Assistant General Counsel Poon:

The Indiana Broadband and Technology Association (“IBTA”), a non-profit trade association representing Indiana’s broadband and technology industries, respectfully submits its Comments in Rulemaking (“RM”) 15-02 - Revisions to the Commission’s Procedural Rules. Please direct any questions or comments regarding the IBTA’s Comments to Alan I. Matsumoto on (317) 531-0710 or alan.i.matsumoto@centurylink.com.

Respectfully submitted,

/s/ John Koppin

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STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

RULEMAKING RM#15-02

REVISIONS TO THE COMMISSION'S PROCEDURAL RULES

IBTA'S COMMENTS

The Indiana Broadband and Technology Association (“IBTA”), a non-profit trade association representing Indiana’s broadband and technology industries, appreciates the opportunity to provide its Comments in Rulemaking (“RM”) 15-02, regarding Revisions to the Commission’s Rules of Practice and Procedures. The IBTA commends the Commission and supports its efforts to expand and enhance the use of the new electronic filing system and to streamline the filing process. The IBTA’s members find great value in having the ability to electronically file documents remotely with 24 x 7 access. In addition, the ability to electronically search and retrieve Commission documents for free and on a 24 x 7 basis is indispensable to the IBTA.

The IBTA’s comments reference the Commission’s General Administrative Order (“GAO”) 2016-2 and propose amendments in tracked changes format to the Commission’s Rules of Practice and Procedure, as codified in 170 IAC 1-1.1-1 et. seq. The IBTA also provides comments on the user’s guide included in the Commission’s GAO 2016-2.

Comments on the Commission's Rules of Practice and Procedure

170 IAC 1-1.1-3 Filings and communications with the commission, copies, and computation of time

Sec. 3. (a) The filing of any communication, paper, or pleading with the commission shall be made through the electronic filing system. The transmission of a notice of ~~acceptance receipt~~ of the electronic filing from the commission, ~~not a notice that the electronic filing was received,~~ constitutes filing of the pleading, document or information for all purposes and constitutes entry of the filing on the commission's docket.

Comment: The notice that the electronic filing *was received* is sufficient to establish the entry of the filing on the commission's docket. The IBTA's proposed change would align this rule with page 4 of the user's guide included in the Commission's GAO 2016-2 that states: "Filings or submissions made through the EFS will receive an electronic file stamp with the time and date the document is filed. Filings made at or before 11:59:59 p.m. Eastern Time will be deemed filed on that date, unless otherwise ordered by the Presiding Officer(s)." This amendment would be consistent with the electronic filing process used by the FCC and the state/federal courts in Indiana.

170 IAC 1-1.1-3 Filings and communications with the commission, copies, and computation of time

(dg) All time periods within which to make filings with the commission are given in calendar days unless otherwise stated. The end of the commission's official business hours shall be considered the end of the day; filings ~~received after close of business made at or before 11:59:59 p.m. Eastern Time~~ shall be considered as filed ~~on that date the next calendar day~~.

Comment: As discussed in the IBTA's comment on 170 IAC 1-1.1-3 (a), above, the proposed change would align this rule with page 4 of the user's guide included in the Commission's GAO 2016-2 that states: "Filings or submissions made through the EFS will receive an electronic file stamp with the time and date the document is filed. Filings made at or before 11:59:59 p.m.

Eastern Time will be deemed filed on that date, unless otherwise ordered by the Presiding Officer(s).”

170 IAC 1-1.1-4 Confidential or privileged information

Sec. 4. (a) If a party desires to file with or submit to the commission any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that the party believes is confidential in accordance with IC 8-1-2-29 and IC 5-14-3, the party shall apply for a finding by the commission, ~~on or~~ **at least three (3) ~~ten (10)~~ days** before the date (if any) the information is required to be filed, that the information is confidential.

Comment: The IBTA believes requiring that an application for a finding supporting confidentiality be filed at least 10 days before the date the information is to be filed is too long. In some cases, it may be difficult if not impossible to make such a determination so far in advance of filing. The IBTA could support, at the most, a 3-day filing requirement. Furthermore, the IBTA does not believe that there is a 10 day requirement in Indiana Court Rules Administrative Rule 9(g) regarding confidentiality and access to court records.

170 IAC 1-1.1-13 Service

(c) Petitions instituting proceedings shall be served by the petitioner upon each named respondent and other individual or entity who is required to be named in the petition under section 10(a) [170 IAC 1-1.1-10(a)] of this rule 170 IAC 1-1.1-10(a). **~~Two (2) copies of a~~Any petition or complaint shall be served electronically on the utility consumer counselor on the same day the petition or complaint is filed with the commission.**

Comment: The IBTA’s proposed change would align this rule with page 15 of the user’s guide included in the Commission’s GAO 2016-2 that states: “Any document submitted electronically to the Commission, including 30-day filings, also must be sent electronically to the OUCC.” The IBTA supports the Commission’s efforts to promote its electronic filing system and requiring paper copies is unnecessary.

170 IAC 1-1.1-13 Service

(d) Service by parties. All pleadings, briefs, and other documents filed in proceedings pending before the commission shall be served on all parties in the proceeding on the same day the pleading, brief, or other document is filed with the commission, except as may be otherwise ordered by the commission.

(1) Service shall be made to each party by delivering in person or by mailing a copy by United States mail, properly addressed with postage prepaid, or as otherwise agreed to by the parties through the following means:

- (i) electronic mail;
- (ii) by United States mail, properly addressed with postage prepaid; or
- (iii) as agreed to by the parties.

(2) **Service by electronic mail shall be deemed complete upon transmission, except service by e-mail that occurs on**

- (i) **a Saturday,**
- (ii) **a Sunday,**
- (iii) **a legal holiday, or**
- (iv) **a day the commission is closed, ~~or~~**
- (v) ~~**after the end of the commission's official business hours**~~

shall be deemed complete the next business day.

Comment: As discussed previously in the IBTA's comments on 170 IAC 1-1.1-3, above, the proposed change would align this rule with the filing deadline in the user's guide included in the Commission's GAO 2016-2 that filings made at or before 11:59:59 p.m. Eastern Time will be deemed filed on that date.

Comments on the User's Guide

a. General Information About Filings

4. File Types

- PDF documents ~~should~~**must** be run through an optical character recognition program prior to uploading to the EFS.

Comment: The IBTA supports use of an Optical Character Recognition ("OCR") format for PDF documents. However, OCR format should be a recommendation and not a mandate. The IBTA's members do not want to be required to incur costs of additional software, if necessary, to convert PDF documents to OCR format.

b. Docketed Cases

4. Hard Copies

B. Regular Filings

Any party making an electronic filing that exceeds 30 pages in length shall also mail or deliver to the Commission 3 paper copies within 2 business days, unless otherwise ordered by the Presiding Officer(s).

Comment: The IBTA's members routinely make compliance filings that are sent to the FCC, the Universal Service Administrative Company ("USAC"), and this Commission. The filings are often voluminous and not part of a contested case. The IBTA recommends granting the Presiding Officers the discretion to waive the requirement to deliver paper copies. This recommendation is consistent with the Commission's efforts to advance electronic filing and away from paper filings.

Conclusion

The IBTA appreciates the opportunity to provide Comments on RM 15-02 and believes its perspectives will further the Commission's efforts. The IBTA is willing to work with Staff through workshops or other opportunities to facilitate effective use of the new electronic filing system and an efficient filing process.