

ORIGINAL

INDIANA UTILITY REGULATORY COMMISSION

Final Rulemaking

LSA #24-392(F), IURC RM #24-03

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner			√

This Final Rulemaking 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; 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; 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; 170 IAC 7-8-3, to set forth the application fees for certificates of video franchise authority under IC § 8-1-34-16(d); 170 IAC 7-8-4 to set forth the process for the Commission to set the universal service fund surcharge; and 170 IAC 7-8-5 to set forth the process for the Commission to set the hearing-impaired services surcharge. The final rule is effective 30 days after filing with the publisher.

Upon prior publication of notice, a public hearing was held on November 26, 2024, at 9:30 a.m., local time in Judicial Courtroom 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana, as required by the provisions of I.C. 4-22-2-1, et seq.

The Indiana Utility Regulatory Commission previously adopted the proposed rule on September 25, 2024, at 10:00 a.m. local time in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana at which time a majority of members of said Commission were present.

The Secretary is hereby directed to submit the aforesaid final rule to the Attorney General and Governor of Indiana, for their approval of same, and thereafter to submit the aforesaid rule to the publisher, Indiana Register.

IT IS SO ORDERED.

HUSTON, FREEMAN, VELETA, AND BENNETT CONCUR; ZIEGNER ABSENT:

APPROVED: DEC 11 2024

**I hereby certify that the above is a true
and correct copy of the Rule as approved.**

_____ on behalf of
Dana Kosco
Secretary of the Commission

TITLE 170 INDIANA UTILITY REGULATORY COMMISSION

FINAL RULE LSA Document #24-392

SECTION 1. 170 IAC 7-1.3-8.2 IS ADDED TO READ AS FOLLOWS:

170 IAC 7-1.3-8.2 Penalty factors; unauthorized switching of telecommunications providers or charges billed

Authority: IC 8-1-29-5.5; IC 8-1-29-6; IC 8-1-29-7.5

Affected: IC 8-1-29-7.5

Sec. 8.2. (a) When imposing a civil penalty under IC 8-1-29-7.5, the commission shall impose a civil penalty of two thousand five hundred dollars (\$2,500) for each violation unless it finds at least one (1) of the factors in subsection (b) applies.

(b) The commission may impose a penalty in a lesser amount than specified in subsection (a) if it makes findings of at least one (1) of the following:

- (1)** The conduct was limited to a single customer or a 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.
- (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 IS ADDED TO READ AS FOLLOWS:

Rule 8. Fees and Penalties; Surcharges for Services

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 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 at least one (1) customer class, and if the errors:
 - (A)** represent intentional misconduct or an act of fraud by the provider or certificate holder, or by any officer, accountant, or agent of the provider or certificate holder; or
 - (B)** demonstrate, by a continuing pattern of conduct, a willful disregard by the provider or certificate holder of its obligation to remedy the errors after the provider or certificate holder becomes aware of the errors.

(Indiana Utility Regulatory Commission; 170 IAC 7-8-1)

170 IAC 7-8-2 Penalty factors for limitations on competition

Authority: IC 8-1-32.6-10

Affected: IC 8-1-32.6

Sec. 2. 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 stopped engaging in the violation and made appropriate restitution.

(5) Whether there is a need for deterring future violations.

(Indiana Utility Regulatory Commission; 170 IAC 7-8-2)

170 IAC 7-8-3 Application fees for certificate of video franchise

Authority: IC 8-1-34-16

Affected: IC 8-1-34-16

Sec. 3. The application fee for a certificate of franchise authority by a video service provider is eight hundred thirty-two dollars (\$832), payable by the applicant when the applicant submits its application, and in a manner prescribed by the commission. *(Indiana Utility Regulatory Commission; 170 IAC 7-8-3)*

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 March 17, 2004, in commission cause number 42144, and the order issued February 22, 2012, in cause number 42144-S3. The surcharge percentage shall be set in cause number 42144-S3 not more than twice a 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 needed.

(b) In setting the Indiana universal service fund surcharge, the commission shall consider the reasonableness factors contained in the order issued February 22, 2012, in cause number 42144-S3. *(Indiana Utility Regulatory Commission; 170 IAC 7-8-4)*

170 IAC 7-8-5 Surcharge for hearing impaired telecommunications services

Authority: IC 8-1-2.8-11

Affected: IC 8-1-2.8

Sec. 5. (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 March 23, 1994, in cause number 39880-INTRAC. (*Indiana Utility Regulatory Commission; 170 IAC 7-8-5*)

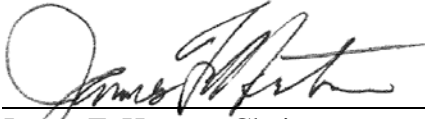
Rule Signature Page

Rule #: LSA #24-392(F)
Agency: Indiana Utility Regulatory Commission
Subject: Amends 170 IAC 7 regarding telecommunications fees and penalties.

ADOPTED:

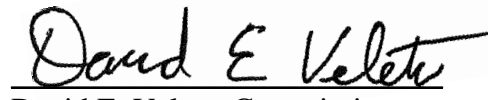
By the Indiana Utility Regulatory Commission

Date: DEC 11 2024


James F. Huston, Chairman


Wesley R. Bennett, Commissioner


Sarah E. Freeman, Commissioner


David E. Veleta, Commissioner

Absent

David E. Ziegner, Commissioner

APPROVED AS TO FORM AND LEGALITY:

By: _____

Date: _____

Todd Rokita
Attorney General, State of Indiana

APPROVED:

By: _____

Date: _____

Eric J. Holcomb
Governor, State of Indiana

ACCEPTED FOR FILING:

By: _____

Date: _____

Indiana Register
Legislative Services Agency