

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

INVESTIGATION BY THE INDIANA UTILITY )  
REGULATORY COMMISSION, UNDER IC §§ )  
8-1-2-58 AND 59, TO INVESTIGATE )  
ELECTRIC UTILITY TREE-TRIMMING )  
PRACTICES AND TARIFFS RELATING TO )  
SERVICE QUALITY IN THE STATE OF )  
INDIANA )

CAUSE NO. 43663

RESPONDENTS: )  
ALL INDIANA JURISDICTIONAL )  
ELECTRIC UTILITIES )

**PETITIONER'S SUBMISSION OF ANNUAL  
VEGETATION MANAGEMENT REPORT**

Indianapolis Power & Light Company d/b/a AES Indiana ("AES Indiana" or "IPL"), by counsel, hereby submits its Annual Vegetation Management Report as required by the Commission's November 30, 2010, Order in this Cause. This report also includes outage investigation information showing the number of outages caused by vegetation and the text of 170 IAC 4-9, as agreed to in the Stipulation and Settlement Agreement in IPL's most recent rate case, Cause No. 45029.

Respectfully submitted,



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on behalf of Teresa Morton Nyhart

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Dated this 31st day of March, 2022.



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Jeffrey M. Peabody

**AES Indiana  
Annual Vegetation  
Management Report  
Cause No. 43663<sup>1</sup>  
Calendar Year 2021**

**I. Vegetation Management Expenditures**

<b>2021</b>	<b>Budget</b>	<b>Actual</b>	<b>Storm Expenditures</b>	<b>Non-storm Expenditures</b>
<b>Line Clearing Services</b>	\$13,325,230	\$15,270,050	\$2,609,161	\$12,660,889

**II. Customer Complaints Related to Tree Trimming**

AES Indiana uses a multi-step notification process to provide advance notice to Customers of routine vegetation management on their premises. This process is outlined in AES Indiana's Vegetation Management Program. The initial steps of this process occur two to three months prior to the scheduled pruning.<sup>2</sup> The final steps occur during the three-week period leading up to the planned vegetation management. This process permits customer inquiries to be addressed in advance of the planned vegetation management and includes an opportunity for customers to meet with an AES Indiana representative on-site to discuss the vegetation management. AES Indiana also has a process in place to address customer questions that arise on the day of pruning or thereafter. AES Indiana has successfully used its advance notification and customer inquiry procedures to avoid the escalation of customer contacts into actual complaints. The majority of tree related inquiries made to AES Indiana's Line Clearing Office are inquiries seeking information or clarifications on AES Indiana's vegetation management operations. If follow up by an AES Indiana representative (either from AES Indiana's Line Clearing Department or AES Indiana's Customer Advocate) is unsuccessful in addressing or answering customer inquiries, then the matter is forwarded to AES Indiana's Legal Department for handling via an internal complaint resolution process to ensure tracking and appropriate treatment. In 2021, no tree related matters were forwarded to this internal complaint resolution process. During this period, 16 customers made complaints to the Commission's Consumer Affairs Division, all of which were determined by the Commission to be unsubstantiated. Further information regarding these matters is included in the attached Exhibit A. Customer satisfaction is important to AES Indiana, as is the continued provision of safe, reliable, and economic electric service. To this end, AES

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<sup>1</sup> The IURC Order dated November 30, 2010 (at 106) found that "utilities shall file a separate report by March 31, under this Cause, which outlines the utility's vegetation management budget and actual expenditures for the prior calendar year; the number of customer complaints related to tree trimming and the manner in which those complaints were addressed or resolved; and the tree-related outages as a percentage of total outages. Utilities shall also file their Vegetation Management Program (VMP) with the Commission, and any changes to that plan going forward." The Order did not establish a uniform standard for this report.

<sup>2</sup> As a result of the multi-step process, the initial steps of the advance notification process may have been made in 2021 for pruning scheduled to occur in 2022. When customer inquiries are received well in advance of the actual pruning, AES Indiana responds to the customer but discussions regarding the proposed pruning at the customer's premises may occur closer to the proposed pruning date so that discussions may better reflect actual work plans for the specified location.

Indiana tracks data on customer inquiries to AES Indiana's Line Clearing Department. Information regarding 2021 inquiries is included on Exhibit A as supplemental background information.

**I. Tree Related Outages as a Percentage of Total Outages (SAIFI)**

Tree (vegetation) related outages as a percent of total SAIFI in 2021 were 29.50% Total (including MED) for a total vegetation incident count of 3,582. Tree (vegetation) related outages as a percent of total SAIFI in 2021 were 25.02% without Major Events (excluding MED) for a vegetation incident count of 2,699. There were 20 declared storms and eight Major Event Days (MED) in 2021.

**II. Vegetation Management Program**

The most recent version of AES Indiana's Vegetation Management Program is attached as Exhibit B. One change was made in 2021 to Section 5 of the document, adding a note that AES Indiana has switched to circuit trimming in April of 2021 and no longer will be trimming by Map Section. AES Indiana has attached the text of 170 IAC 4-9 for reference as Exhibit C.

# EXHIBIT A

## IURC Cause No. 43663

### Complaints to the IURC Consumer Affairs Division - 2021

	Number of Inquiries or Complaints	Number per Resolution Category	Resolution Category
Debris left after recent outage restoration	4	4	AES Indiana informed customer of vegetation management standards and debris from storms/outages are the customer's responsibility.
Customer did not want trees removed	1	1	Customer did not want trees removed for improvement projects
Customer dissatisfied with trimming process	1	1	Customer reached out to us prior to an outage to advise tree limb on service line. We advised customer responsibility but we will take down line for safety.
Customer Reported Tree Limb on Line	5	5	We trimmed two. Two were regarding telecom lines. One had already fallen and taken down service drop. Customer wanted removal faster than our estimated repair time.
Other	5	5	Debris related. One trimming was mislabeled as storm debris. It was corrected and debris picked up. One was normal trimming, and we picked up. Others involved debris most likely not related to aes Indiana trimming/we picked up as a courtesy.
Total complaints or inquiries received by IURC	16	16	

### Customer Inquiries Received by AES Indiana Line Clearing Department - 2021

	Number of Inquiries	Number per Category	Resolution Category
Brush Left	28	21	Brush left from production trimming -picked up by contractor within 48 hrs of trimming, advised customer of policy that brush may be left up to 48 hrs.
		1	Debris left by others: 1 = Debris left by AES Indiana line crew, not tree trimming contractor - service dispatch sent crew to clean up
		6	Storm Debris - storm debris policy explained - not cleaned up
Crews left ruts in yard	13	3	Ruts not from contractor - fixed by AES Indiana line department
		1	Nothing found
		9	Ruts left from AES Contractors
Customer claimed property damage by crew	42	27	Contractor was onsite at time and fixed the issue
		5	AES Indiana Line Crews caused Damage
		3	Storm Debris - storm debris policy explained - not cleaned up
		7	Damage not caused by AES Indiana contractor
Customer claimed the tree had poor shape or died after trimming	10	8	Resolved by Forester (explain that some trees die from being diseased or maturity of tree)
		2	AES Indiana Removed the tree
Customer requested no more trimming	18	18	Trimming stopped, AES Indiana resolved
Customer requested removal of debris following storm restoration and/or emergency work	75	75	AES Indiana advised customer that storm and emergency debris is not removed by utility
No Pre-notification	4	2	City Tree- City was notified not adjacent property owner
		2	Property was notified before trimming.
Other:	3	3	Not AES Indiana, Other utilities
Total Inquiries Received by AES Indiana	193	193	

# EXHIBIT A

## Customer Inquiries Indicating Customer Does Not Want Trimming ("Refusals") - 2021

Distribution -Reason for Refusal	Number of Inquiries	Number per Category	Resolution Category
Customer wanted self trim	23	21	AES Indiana did not trim (could not resolve, customer not responding, etc.)
			Tree(s) did not need trimmed
			Customer already had tree trimmed by private contractor prior to AES Indiana meet
		2	AES Indiana trimmed after meeting with customer
Customer wanted trees removed-not trimmed			AES Indiana trimmed tree (did not remove) after meeting with customer
Customer wanted to know what was going to be trimmed			AES Indiana trimmed after meeting with customer
Customer concerned because of previous experience	9	2	AES Indiana trimmed after meeting with customer
		7	Tree(s) did not need trimmed
Customer concerned about aesthetics	8	6	AES Indiana did not trim (could not resolve, customer not responding, etc.)
		2	AES Indiana trimmed after meeting with customer
Customer claimed nothing to trim on property	11	10	AES Indiana confirmed nothing for AES Indiana to trim on property (neighbors trees - do not enter property)
			Customer already had tree trimmed by private contractor
			Could not resolve - Nothing Done/ would not return AES Indiana's call
		1	AES Indiana trimmed after meeting with customer
Customer concerned about landscaping (garden/flowers/ non-tree vegetation) or property damage(fence/driveway/swings, etc.)			AES Indiana removed/trimmed after meeting with customer
Other(non tree issue, no reason given)	15	1	AES Indiana trimmed after meeting with customer
			Tree(s) did not need trimmed
		14	AES Indiana did not trim (could not resolve, customer not responding, etc.)
Customer refused to allow AES Indiana on "private property"	5	1	AES Indiana trimmed after meeting with customer
		4	AES Indiana did not finish trimming (could not resolve)
Customer stopped trimming (not a refusal during notification process)	5	4	AES Indiana did not finish trimming (could not resolve)
		1	AES Indiana trimmed after meeting with customer
Total Inquiries Received by AES Indiana concerning REFUSALS	76	76	

Exhibit B

**AES Indiana Distribution Vegetation Management  
Program (DVMP)  
ISSUED: March 31, 2021  
Version 3.4**

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## 1.0 Introduction

AES Indiana's vegetation management program ("VMP"), commonly called line clearance, strives to balance safety, reliability, shareholder value, environmental stewardship, and customer satisfaction. The Line Clearing Department has the objective of meeting this mission by controlling the growth of vegetation near electrical lines using best management practices ("BMP's") while remaining compliant with federal, state, and local laws, regulations, and ordinances.

In general, AES Indiana's VMP is separated into distribution voltage vegetation management and transmission voltage vegetation management. This document's primary focus is the management of vegetation near distribution voltage electrical lines; however, transmission line voltages between 34.5kV and 138kV will be briefly mentioned in this document. Vegetation management for transmission lines of 345kV is detailed in a separate document called the "Transmission Vegetation Management Program ("TVMP")".

AES Indiana's objective is to perform routine vegetation management near distribution lines on a four (4) year rotation or cycle. To manage incompatible vegetation near electrical lines, AES Indiana uses qualified contractors to monitor and control vegetation. Control practices will vary depending on multiple factors such as accessibility, property owner concerns, local ordinances, etc. The standards in this document will define the most common situations and methods used to control vegetation.

All contractors shall adhere to these standards to the extent included in written contracts.

## 2.0 Definitions

Action Threshold – the maximum acceptable levels of plant density and height that initiates implementation of a control method

ANSI A300 Standard – The performance parameters established by industry consensus as a rule for the measure of extent, quality, quantity, value or weight used to write specifications (TCIA, 2008).

ANSI Z133- Safety requirements for Arboricultural Operations

Brush – woody vegetation with stems less than six (6) inches diameter at approximately 4.5 ft. from ground-line.

Integrated Vegetation Management (IVM) – A system of managing plant communities in which compatible and incompatible vegetation is identified, action thresholds are considered, control methods are evaluated, and selected control(s) are implemented to achieve a specific objective (TCIA, 2006).

Minimum allowable clearance – distance from limb to conductor at the end of trimming work

Risk – likelihood of a conflict or tree failure occurring and affecting a target and the severity of the associated consequences, e.g. personal injury, disruption of electrical service

### 3.0 Federal, State, Local Laws

Contractors shall follow all of AES Indiana's safety rules, AES Indiana's vegetation management standards, OSHA regulations, ANSI A300 and ANSI Z133 standards, as well as remain compliant with all federal, state, county, and municipal laws, ordinances, and regulations while performing line clearing activities for AES Indiana.

Governing bodies include but are not limited to:

Indiana Utility Regulatory Commission (IURC)

Office of Indiana State Chemist (OISC)

Marion County DPW/Code Enforcement

American National Standards Institute (ANSI)

Occupational Health and Safety Administration (OSHA)

Indiana Department of Environmental Management (IDEM)

## 4.0 Service Territory (Distribution)

Overall, the distribution system consists of approximately 3,646 circuit miles covering AES Indiana's service territory of Marion County and parts of Boone, Hamilton, Hancock, Hendricks, Johnson, Morgan, Owen, Putnam, and Shelby counties. There are 424 circuits within the service territory.

## 5.0 Routine Maintenance (Cycle)

AES Indiana's contractors attempt to control vegetation on each circuit on a four-year cycle. Approximately a fourth of the system, or 912 circuit miles, will be trimmed per year. The production plan is determined by AES Indiana and will be determined by:

- Prioritizing circuits with reliability concerns and time since last trim.
- Rural circuits – scheduled to reduce exposure to driving in inclement weather.
- Grouping circuits together by substation.
- Annual plan is from April 1 to March 31 of following year.

Line Clearing staff and contractors shall follow this plan annually.

\*In 2021 AES Indiana switched from section trimming to circuit trimming

## 6.0 Notification

All cycle work is subject to the rules outlined in IURC rule 170 IAC 4-9. AES Indiana and contractors conform to this by providing the following notifications:

1. Homeowner Association packet – *three months* prior to work being performed, a packet of information regarding the upcoming vegetation management work will be provided.
2. Bill attachment – *two months* prior to vegetation management work, a notice will be attached to the affected customer's monthly bill statement.
3. Individual letter – *one month* prior to vegetation management work a separate letter will be sent to all homes on a circuit, notifying the resident of upcoming tree trimming.
4. Public notice – *one month* prior to work a public notice is posted in the Indianapolis Star describing the boundaries where tree work will be performed during the month.
5. In-person visit #1 – *a minimum of two weeks* prior to vegetation management a contractor forester will visit homes that will be affected by vegetation management activities. If no one is present at time of the visit, a light green door hanger will be left with contact information and a brief description of work to be performed in the

area. A record will be kept in the current vegetation management system of the time and date notification was given.

6. In-person visit #2 – *Day of work*, a tree trimming contractor will knock on door to notify the resident of their presence and work to be performed.

At times, special requests are made to notify the owner/resident 24 hours prior to being on the property for such reasons to unlock a gate or because of dogs. It is the responsibility of the contractor foreman to contact the person making these requests.

## 7.0 Trimming Clearances

Trimming will be performed per ANSI A300 standards. If a tree cannot be trimmed to ANSI standards, the homeowner is made aware during the in-person notification process to obtain consent. If the homeowner does not agree to the trimming, removal at AES Indiana's cost is offered; otherwise, this is considered a refusal and the dispute resolution process will begin as outlined in IURC rule 170 IAC 4-9.

AES Indiana's standards for routine maintenance, by line rating, are as follows:

### 7.1 138kV Transmission

- Minimum allowable clearance of 20 feet on side and under line.
- No overhang.
- With distribution under-build- these will be planned and trimmed during distribution cycle work

### 7.2 34.5kV Sub-transmission

- Minimum allowable clearance of 15 feet on side and under line.
- No overhang.
- With distribution under-build- these will be planned and trimmed during distribution cycle work
- If determined idle, no work will be done

### 7.3 Three phase primary lines

- Side clearance will be a minimum of 15 feet clearance *plus* proper lateral as defined by ANSI A300 standards. Minimum allowable clearance should be 3 feet. Established trunks within 15 feet of the conductor will not be removed unless a safety or reliability concern exists and written permission is obtained.
- Overhang clearance a minimum of 15 feet. More than 15 feet of clearance may be taken based on species and branch structure. Additionally, dead or dying branches overhanging the conductor should be removed when possible. Homeowners shall

be notified of additional (>15 feet) overhang removal and work will be completed unless an objection is registered by the homeowner.

- Ash trees shall be trimmed, if possible, so failing parts of tree will miss conductors.
- Equipment poles – a minimum of three feet will be cleared around pole with hardware (transformer, switch, fuse, etc.).

#### 7.4 Two-phase Primary

- Side clearance will be a minimum of 15 feet clearance *plus* proper lateral as defined by ANSI A300 standards. Minimum allowable clearance should be 3 feet. Established trunks within 15 feet of the conductor will not be removed unless a safety or reliability concern exists and written permission is obtained.
- Overhang clearance a minimum of 15 feet. More than 15 feet of clearance may be taken based on species and branch structure. Additionally, dead or dying branches overhanging the conductor should be removed when possible. Homeowners shall be notified of additional (>15 feet) overhang removal and work will be completed unless an objection is registered by the homeowner.
- Ash trees shall be trimmed, if possible, so failing parts of tree will miss conductors.
- Equipment poles – a minimum of three feet will be cleared around pole with hardware (transformer, switch, fuse, etc.).

#### 7.5 Single phase primary

- Side clearance will be a minimum of 15 feet clearance *plus* proper lateral as defined by ANSI A300 standards. Minimum allowable clearance should be 3 feet. Established trunks within 15 feet of the conductor will not be removed unless a safety or reliability concern exists and written permission is obtained.
- Overhang clearance a minimum of 15 feet. More than 15 feet of clearance may be taken based on species and branch structure. Additionally, dead or dying branches overhanging the conductor should be removed when possible. Homeowners shall be notified of additional (>15) overhang removal and work will be completed unless an objection is registered by the homeowner.
- Ash trees shall be trimmed, if possible, so failing parts of tree will miss conductors.
- Equipment poles – a minimum of three feet will be cleared around pole with hardware (transformer, switch, fuse, etc.).

#### 7.6 Secondary conductors

- Secondary conductors with primary conductor over-build will have a minimum of three feet clearance.
- Stand-alone secondary (no primary over-build) will not be trimmed during routine maintenance.
- Uprooted trees or broken branches on secondary conductors should be removed.

- Open wire secondary conductors that are sagging or in poor condition which could lead to reliability issues shall be reported to AES Indiana Line Clearing staff. AES Indiana staff will then forward issue to Engineering.

## 7.7 Hazard Tree Mitigation

- Potential hazards are identified during the planning phase, by AES Indiana employees working throughout the territory, or by customer calls.
- Once the Line Clearing Department is notified of a potential hazard, a qualified AES Indiana employee or contractor will inspect the tree within 24 hours.
- A confirmed hazard tree will be mitigated in within 5 business days unless considered an Imminent Threat.
- Imminent Threat situations will be mitigated the same day
- A minimum of an in-person notification will be given. Permission is not necessary but if the homeowner refuses then no work will be done until resolved by AES Indiana.

## 7.8 Brush & Vines

- If brush needs to be trimmed, removal shall be pursued.
- 3-phase manual lines shall have a three (3) to four (4) foot path cut under conductors.
- Property owner notification and permission is necessary for removal unless deemed a reliability or safety issue.
- Vines on poles and guy wires shall be cut and treated to prevent regrowth.
- Landscape trees that are brush size shall not be cut unless signed permission is obtained.

## 7.9 Service Drops

- Trimming is not done on pole-to-pole or pole-to-house service drops.
- Homeowner should be informed AES Indiana will disconnect service so they or their contractor can maintain trees near these lines.

## 7.10 Street Light/APL Wires

- Street light wires and automatic protective lighting (APL) will not be trimmed unless authorized by AES Indiana Line Clearing staff.
- Street light wire vegetation concerns should be forwarded to the Mayor's Action Center (317-327-4622).
- APL's will be disconnected for the customer's convenience so their private contractor can perform the work. Owners of APL can call 317-261-8111 to request disconnection.

### 7.11 Debris

- Debris from routine maintenance will be removed within 48 hours. This debris shall not be left over the weekend or on holidays.
- Debris from storm damage or emergency situations will not be removed.
- Logs that cannot be chipped will be placed near the tree. Homeowner requests to pick up logs will be honored after two weeks.

## 8.0 Vegetation Control Methods

- Trimming - trimming shall be performed in accordance to ANSI A300 pruning standards. Trimming will be done from insulated aerial buckets when possible. When inaccessible from an aerial bucket truck, manual climbing of the tree(s) must be performed.
- Removals – under certain circumstances, whole tree removals may be preferred or necessary. AES Indiana Line Clearing staff will be notified and homeowner consent will be pursued in these cases. Stump removal is not offered by AES Indiana
- Mechanical removal of brush – certain areas may have dense areas of brush that may need removed to provide access. Mowing equipment may be used in these areas with IPL and property owner approval.
- Herbicides – the use of EPA registered and approved herbicides may be used to control regrowth of removed trees and brush. In some cases, the use of herbicide may replace hand cutting of brush and must be approved by AES Indiana Line Clearing staff.

## 9.0 Contractor Safety

Contractors must conform to the AES Global Safety Standard number AES-STD-OHS23: *Tree Trimming and Vegetation Safety Management*. Contractor will also review annually the AES Indiana Contractor Safety video. New contractor employees will be required to view this video prior to working on the system.

## 10.0 Staffing

The DVMP is overseen by AES' Director of Maintenance, Inspections, and Contract Management. Locally, AES Indiana's Line Clearing Department manages all aspects of the DVMP. Full-time Line Clearing employees include – One Manager and three Contractor Coordinators, where all employees have various certifications and levels of education qualifying them to hold their positions. The Manager manages the entire UVM process, budgets, personnel and contractor/contract management. Each Contractor Coordinator manages various aspects of the daily UVM processes, including overseeing the contract vegetation managers.

AES Indiana utilizes contract vegetation management service providers for inspection, notification, maintenance, and vegetation mitigation efforts. Contract terms vary from three years to five years, depending on contractor. Current contractors and responsibilities are:

- Asplundh Tree Experts\* (5-year contract) – Annual transmission maintenance and notification, distribution work orders (non-routine maintenance).
- Wright Tree Service (5-year contract)\* – Distribution Inspections, notification, routine maintenance, and mitigation efforts.
- CN Utility Consultants (3-year contract) – Distribution Inspections and notification.

\*2021 is a contract year and these are subject to change

## 11.0 Customer Satisfaction

### 11.1 Notification

*See section 6.0 for routine maintenance notification.*

Notification will be given to customers when any vegetation work will be performed on a property. For line upgrades, new construction, or any other line maintenance where tree trimming is needed, one notification will be given by a contractor forester at least two weeks prior to tree work beginning. For imminent risk trees, a minimum of a door hanger will be given the day of the work to inform the customer of the risk and why AES Indiana had to trim.

### 11.2 Complaint & Dispute Resolution

Complaints and trimming disputes will be resolved by established procedures in IURC rule 170 IAC 4-9.

### 11.3 Customer requests – Time & Material

Customer requests shall be reviewed and the customer contacted within two business days after receipt by AES Indiana Line Clearing. If Line Clearing determines tree work

cannot hold until the time of routine maintenance, the work will be done within five business days.

#### **11.4 Work Order – Time & Material**

Work order trimming shall begin two business days after the two-week notification waiting period outlined in IURC rule 170 IAC 4-9.

#### **11.5 Hours of Operation**

Five eight-hour days or four ten-hour days, Monday through Friday between the hours of 7:00 a.m. and 5:30 p.m.

#### **11.6 Inclement Weather**

Crew personnel will be paid up to two hours per day for inclement weather. After two hours of inclement weather, and if it is determined crews cannot safely or productively continue working, the Company and the Contractor will mutually agree on the number of crews to be held or released. Crews will be allowed to make up time missed (due to inclement weather) between the hours of 7:00 a.m. and 5:30 p.m., Monday through Friday, provided sufficient daylight is available. If four or more hours have been missed due to inclement weather during the week, and the Company and the Contractor mutually agree, crews will be allowed to make up time on Saturday. Both Production and Time and Material crews will follow the outlined inclement weather policy.

## INDIANA UTILITY REGULATORY COMMISSION

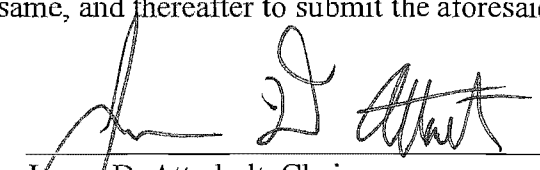
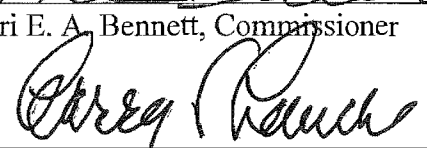
## Final Rulemaking

IURC RM #10-04LSA #12-42(F)

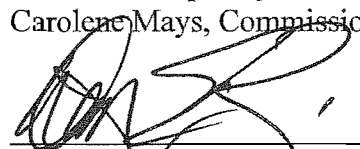
Adds 170 IAC 4-9 regarding vegetation management standards for electric utilities to implement the commission's order in cause number 43663, approved on November 30, 2010, and the commission's order on reconsideration in the cause, approved July 7, 2011.

Upon prior publication of notice, a public hearing was held on May 24, 2012, at 6:00 p.m. Eastern Daylight Time, at the PNC Center, 101 West Washington Street, IURC Conference Center, Judicial Courtroom 222, Indianapolis, Indiana, as required by the provisions of I.C. 4-22-2-1, *et seq.* On July 11, 2012, at 2:00 p.m. Eastern Daylight Time in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana, a majority of members of the Indiana Utility Regulatory Commission was present and adopted the Final Rule. On August 24, 2012, the Commission recalled the rule and made changes to comply with form and legality. On August 29, 2012, at 2:00 p.m. Eastern Daylight Time in Judicial Courtroom 222, PNC Center, Indianapolis, Indiana, a majority of members of said Commission were present and adopted the foregoing Revised Rule.


The Secretary is hereby directed to submit the aforesaid 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.

  
James D. Atterholt, Chairman  
Kari E. A. Bennett, Commissioner  
Larry S. Landis, Commissioner

Not Participating  
Carolene Mays, Commissioner

  
David E. Ziegner, Commissioner

ATTEST:

  
Brenda A. Howe, Secretary to the Commission

Date: AUG 29 2012

# Rule Signature Page

Rule #: LSA #12-42(F)  
Agency: Indiana Utility Regulatory Commission  
Subject: Adds 170 IAC 4-9 regarding vegetation management standards for electric utilities to implement the commission's order in cause number 43663, approved on November 30, 2010, and the commission's order on reconsideration in the cause, approved July 7, 2011.

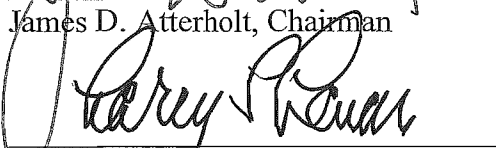
## ADOPTED:

By the Indiana Utility Regulatory Commission


Date: 'AUG 29 2012

  
James D. Atterholt, Chairman

  
Kari A. E. Bennett, Commissioner

  
Larry S. Landis, Commissioner

Not Participating  
Carolene Mays, Commissioner

  
David E. Ziegner, Commissioner

## APPROVED AS TO FORM AND LEGALITY:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Gregory F. Zoeller  
Attorney General, State of Indiana

## APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Mitchell E. Daniels, Jr.  
Governor, State of Indiana

## ACCEPTED FOR FILING:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Indiana Register  
Legislative Services Agency

# **TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

## **Final Rule**

LSA Document #12-42(f)

## **DIGEST**

Adds 170 IAC 4-9 regarding vegetation management standards for electric utilities to implement the commission's order in cause number 43663, approved on November 30, 2010, and the commission's order on reconsideration in the cause, approved July 7, 2011. Effective 30 days after filing with the Publisher.

### **170 IAC 4-9**

#### **SECTION 1. 170 IAC 4-9 IS ADDED TO READ AS FOLLOWS:**

#### **Rule 9. Vegetation Management Standards**

**170 IAC 4-9-1 Applicability; incorporation by reference of commission order**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

Sec. 1. (a) This rule applies to an electrical public utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act, IC 8-1-2, that is financed by the sale of securities and whose business operations are overseen by a board representing their shareholders. This rule does not apply to an electric public utility subject to the jurisdiction of the commission that is organized as a rural electric membership corporation under IC 8-1-13 or a nonprofit corporation organized under IC 23-1-17.

(b) The commission through this rule implements the commission's order in cause number 43663, approved on November 30, 2010, and the commission's order on reconsideration in the cause, approved July 7, 2011. Copies of the orders are available for review and copying at the Indiana Utility Regulatory Commission, 101 West Washington Street, Suite 1500E, Indianapolis, Indiana 46204. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-1*)

#### **170 IAC 4-9-2 Definitions**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

Sec. 2. The following definitions apply throughout this rule:

- (1) "Brush" means vegetation with stems less than six (6) inches diameter at breast height.
- (2) "Business days" means days other than:
  - (A) Saturday;

- (B) Sunday; or
- (C) a legal holiday observed by the state of Indiana.
- (3) "Commission" means the Indiana utility regulatory commission.
- (4) "Customer" means the following:
  - (A) For purposes of notice, "customer" has the meaning set forth in 170 IAC 16-1-2(3) or may include the occupant of the property.
  - (B) For purposes of the disputes, "customer" has the meaning set forth in 170 IAC 16-1-2(3) but also includes the property owner.
- (5) "Emergency or storm event":
  - (A) means:
    - (i) a condition dangerous or hazardous to:
      - (AA) health;
      - (BB) life;
      - (CC) physical safety; or
      - (DD) property
 exists or is imminent;
    - (ii) an interruption of utility service; or
    - (iii) the need to immediately repair or clear utility facilities; and
  - (B) includes:
    - (i) circumstances that exist that make it impractical or impossible for a utility to comply with the provisions of the rule, including, but not limited to:
      - (AA) floods;
      - (BB) ice;
      - (CC) snow;
      - (DD) storms;
      - (EE) tornadoes;
      - (FF) winds; and
      - (GG) other acts of God;
    - (ii) falling trees;
    - (iii) trees causing outages; and
    - (iv) trees showing evidence of:
      - (AA) burning; or
      - (BB) otherwise having been in direct contact with electric conductors.
- (6) "Implied consent" means the property owner or customer has not contacted the utility to deny consent within two (2) weeks after receiving notice that tree trimming will occur.
- (7) "In person" means:
  - (A) person to person delivery of verbal or written notice by an authorized utility representative to a customer, or
  - (B) hand delivery of a door hanger or similar document accompanied by an attempt by the authorized utility representative to speak with the resident through actions including knocking on the door or ringing the door bell, with delivery documented in writing or

computerized entry by the authorized utility representative making the hand delivery.

(8) "Power line compatible vegetation" means a plant that at maturity will not reach a height greater than twelve (12) feet.

(9) "Public safety situation" means the following:

(A) The existence of a vegetation condition that could reasonably be expected to cause imminent physical harm to electrical equipment necessary for the provision of electric service, including the following:

(i) Trees that are unstable to the point of representing a danger to utility equipment, facilities, or personnel in the course of repairs to said equipment or facilities due to disease, damage, or soil erosion. Personnel may include, but is not limited to safety workers such as fire, police, emergency medical personnel, utility line and repair crews.

(ii) Trees that lean to a degree that they can touch power lines.

(iii) Trees that have burn marks or other indicators that they have previously touched a power line.

(B) A condition in vegetation unrelated to normal growth that would result in contact with power lines or high voltage equipment and cause imminent physical harm to the public if not immediately mitigated.

(10) "Telephone call" means:

(A) making an attempt to contact the customer via the telephone number the utility has on file; and

(i) making verbal telephone contact; or

(ii) leaving a message on

(AA) voicemail;

(BB) an answering machine; or

(CC) an answering service,

if available.

(C) If an attempt is unsuccessful in either making verbal telephone contact with the customer or leaving a telephonic message as described in clause (A), a second attempt must be made.

(11) "Utility" means an electrical public utility subject to the jurisdiction of the commission pursuant to the provisions of the Public Service Commission Act, IC 8-1-2, that is financed by the sale of securities and whose business operations are overseen by a board representing their shareholders.

(12) "Vegetation management" means the cutting or removal of vegetation or the prevention of vegetative growth to accomplish one (1) of the following:

(A) The maintenance of safe conditions around utility facilities.

(B) Ensuring reliable electric service.

(C) Preventing hazards caused by the encroachment of vegetation on utility facilities and to provide utility access to facilities.

(13) "Written notice" means notice sent from the utility to the customer in one (1) of the following manners:

(A) By electronic mail.

(B) By U.S. mail or another mail delivery system, including inside utility bills.

(C) By in person delivery of written notice to the customer's premises, including, but not limited to, a door hanger. *(Indiana Utility Regulatory Commission; 170 IAC 4-9-2)*

**170 IAC 4-9-3 Easements and right of way**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 3. (a)** This rule does not modify property rights. Utilities must have or obtain the following legal authority and must provide documentation in accordance with subsection (b):

- (1) easements;
- (2) rights of way;
- (3) statutory authority;
- (4) other legal authority; or
- (5) the express or implied consent of the property owner or customer;

prior to trimming vegetation. The utility's ability to secure a prescriptive easement may be presented to the customer to obtain consent, but is not independent legal authority.

**(b)** Upon request by the customer within five (5) business days of the customer's receipt of the notice required under section 4 of this rule, the utility will provide one (1) of the following prior to vegetation management:

- (1) A copy of the easement or public right of way document that gives the utility the legal right to enter the customer's property to perform vegetation management.
- (2) If an easement or public right of way document is not reasonably available, a copy of the authority that gives the utility the legal right to enter the customer's property to perform vegetation management. *(Indiana Utility Regulatory Commission; 170 IAC 4-9-3)*

**170 IAC 4-9-4 Notice requirements for routine vegetation management**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 4.(a)** At least two (2) calendar weeks prior to engaging in routine vegetation management, the utility must provide notice to customers and property owners whose vegetation will be subject to the vegetation management except under the following circumstances:

- (1) The utility has:
  - (A) a written easement;
  - (B) government permit;
  - (C) contractual agreement; or
  - (D) court order;

that expressly gives the utility the right to conduct vegetation management activities.

(2) An emergency or storm event occurs.

(b) A utility must provide notice to a customer in the following manner:

(1) At least one (1) attempt to contact must be:

(i) in person; or

(ii) via telephone call.

(2) At least one (1) attempt to contact must include written notice.

(c) Written and in person notice shall include, at minimum, the following information:

(1) The fact that vegetation management is scheduled to occur.

(2) An explanation of

(A) what vegetation management is; and

(B) why it is necessary for safe and reliable electric service.

(3) The fact that nonproperty owners living or working on the property who receive the notice are strongly encouraged to notify the property owner as soon as possible that vegetation management is scheduled to occur.

(4) The fact that receipt of this notice by the occupant initiates the two (2) week window for calculating implied consent by the customer.

(5) The estimated date that vegetation management is scheduled to occur.

(6) Contact information, including, at a minimum, a telephone number for an authorized utility representative who is able to answer customer inquiries related to vegetation management.

(d) Written notice will also include the following:

(1) The heading, "TREE TRIMMING NOTICE".

(2) The date the written notice was hand delivered or mailed.

(3) The website address of the commission's vegetation management administrative rule, this rule.

(4) The commission's website at <http://www.in.gov/iurc>.

(5) The utility's vegetation management website address.

(6) A reference to an educational resource for planting around electrical facilities, like the Arbor Day Foundation's right tree, right place program and the website address, if available.

(7) A website address and telephone number for customers to obtain the name of the contractor, if used by the utility, that will deliver the in person notice or conduct vegetation management.

(8) A statement that the utility's representative shall carry identification when delivering the in person notice or conducting vegetation management.

(e) The customer may, within three (3) calendar days of receiving the notice in subsection (a), request the utility provide the estimated day that vegetation management is expected to occur. The utility will then provide the estimated day at least three (3) business days prior to engaging in vegetation management. If the customer requests a more specific time, the supervisor shall endeavor to work with the customer to give a precise time.

(f) A utility must provide notice to a property owner by publishing notice in at least one (1) newspaper of general circulation in the county in which the property is located.

The notice must include the following:

- (1) The fact that vegetation management is scheduled to occur.
- (2) The area where vegetation management is scheduled to occur by listing at least one (1) of the following:
  - (i) The street name and block.
  - (ii) The name of the subdivision.
  - (iii) The intersecting roads bounding the area.
  - (iv) The specific address of each property.
- (4) The fact that publication of this notice initiates the two (2) week window for calculating implied consent by the property owner.
- (5) The estimated date that vegetation management is scheduled to occur.
- (6) Contact information, including, at a minimum, a telephone number for an authorized utility representative who is able to answer property owner inquiries related to vegetation management.

(g) The property owner who receives notice by publication may, within three (3) calendar days of the notice being published as outlined in subsection (f), request the utility provide the estimated day that vegetation management is expected to occur. The utility will then provide the estimated day at least three (3) business days prior to engaging in vegetation management. If the property owner requests a more specific time, the supervisor shall endeavor to work with the property owner to give a precise time. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-4*)

#### **170 IAC 4-9-5 Notice requirements for line upgrades**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 5.(a)** At least sixty (60) calendar days prior to a utility changing a distribution or transmission line to a higher voltage level, the utility must give notice to the affected customer if the change in the line will change the area in which vegetation management will be necessary as a result of safe clearance requirements.

(b) Notice shall be provided in the same manner as in section 4(b) of this rule.

(c) Notice shall include, at minimum, the following information:

- (1) The fact that line upgrades are scheduled to occur.
- (2) An explanation of what line upgrades are.
- (3) An explanation as to why line upgrades are necessary for safe and reliable electric service.
- (4) The fact that nonproperty owners living or working on the property and receiving the notice are strongly encouraged to notify the property owner as soon as possible that line upgrades are scheduled to occur.
- (5) The estimated date that line upgrades are scheduled to occur.
- (6) The estimated length of time construction will continue.
- (7) New vegetation restrictions on the property as a result of the line upgrades.

(8) Changes to the property owner's easement or right of way as a result of the line upgrades.

(9) Contact information, including, at a minimum, a telephone number for an authorized utility representative who is able to answer customer inquiries related to line upgrades. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-5*)

**170 IAC 4-9-6 Emergency or public safety trimming**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 6.** In cases of emergency or public safety, utilities may, without customer consent, remove more than twenty-five percent (25%) of a tree or trim beyond existing easement or right-of-way boundaries in order to remedy the emergency or public safety situation. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-6*)

**170 IAC 4-9-7 Vegetation management standards**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 7.** (a) Utilities, their agents, and contractors shall apply and adhere to the guidelines of:

- (1) American National Standards Institute ANSI A300;
- (2) the National Electric Safety Code;
- (3) the Shigo Guide; and
- (4) the International Society of Arboriculture Best Management Practices.

(b) There is not a uniform clearance requirement, but line clearances should take into consideration the:

- (1) characteristics of the locality;
- (2) electrical facility; and
- (3) health of the tree.

(c) Except in situations of emergency or public safety, if a tree would have more than twenty-five percent (25%) of its canopy removed, the utility or its agent or contractor shall do one (1) of the following actions:

- (1) Obtain consent from the property owner.
- (2) If the property owner and utility or its agent or contractor cannot mutually agree on how the tree can be trimmed to provide sufficient clearance in order to maintain reliable electric service, the utility or its agent or contractor shall take one (1) of the following actions:
  - (A) Remove the tree, at the utility's expense, as long as the utility has secured the requisite easements to allow its personnel onto the owner's property.
  - (B) Inform the customer that it will need to make non-ANSI standards cuts in order to provide clearance.

(d) Brush that is under or near a utility's electrical facilities may be removed by the utility without the consent of the customer only when its removal is necessary for safe and reliable service.

(e) Debris associated with routine maintenance, in a maintained area, absent intervening inclement weather that may pull crews from maintenance activities, shall be removed within three (3) calendar days or left on the property as agreed to in writing by the owner.

(f) Utilities and their agents and contractors are not required to clear debris caused by storms and other natural occurrences like tree failures.

(g) A utility shall file a separate report regarding tree-related outages by March 31 annually and whenever the utility makes a change to its vegetation management plan. The report shall include the following information:

- (1) The utility's vegetation management budget.
- (2) Actual expenditures for the prior calendar year.
- (3) The number of customer complaints related to tree trimming.
- (4) The manner in which complaints were addressed or resolved.
- (5) Tree-related outages as a percentage of total outages. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-7*)

#### **170 IAC 4-9-8 Dispute resolution process prior to vegetation management**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 8. (a)** To temporarily stay the proposed vegetation management on the customer's property or rental property, a customer must notify the utility of the customer's objection to the proposed vegetation management within five (5) business days of the customer's receipt of the notice required under section 4 of this rule. Questions or requests for information are not customer objections.

**(b)** A utility must respond to a customer's objection:

- (1) in person;
- (2) via telephone call; or
- (3) in writing;

**within three (3) business days.**

**(c)** If the initial utility representative cannot resolve the customer's objection regarding proposed vegetation management, at least one (1) additional authorized utility representative must attempt to resolve the objection. If the utility is unsuccessful in resolving the objection, the customer shall be provided with the following:

- (1) The website location of the commission's vegetation management administrative rule, this rule.
- (2) Contact information, including, at minimum, a telephone number, for the commission's consumer affairs division.

**(d)** No temporary stay of vegetation management shall be available when one (1) of the following occurs:

- (1) An emergency, storm event, or public safety situation exists.
- (2) The customer has withdrawn the objection or approved conditions under which cutting may resume, either in writing or during a recorded call.

(3) More than seven (7) calendar days have passed since the utility provided the proposed resolution referenced in the complaint process under 170 IAC 16-1-4(c)(5) and the customer failed to file an informal complaint to the commission as required by 170 IAC 16-1-5(a).

(4) A final disposition on an informal complaint has been rendered by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-8*)

**170 IAC 4-9-9 Dispute resolution process during vegetation management**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 9. (a)** Upon request of the customer, the utility shall temporarily stay vegetation management on the customer's premises during the vegetation management only if one (1) of the following occurs or is disputed:

(1) The utility failed to provide the notice required under section 4 of this rule.

(2) The utility is engaging in vegetation management outside the scope of a written or recorded agreement between the customer and the utility.

(3) The utility did not have authority to enter the customer's property.

(4) The utility did not exercise due diligence to secure an easement or right of way document in accordance with section 3(b)(2).

(b) At least one (1) member of the work crew must have the authority from the utility to discuss and attempt to resolve customer objections and must respond to the customer's inquiry or complaint. If the work crew cannot resolve the customer's objection regarding vegetation management, at least one (1) additional authorized utility representative must attempt to resolve the objection. If the utility is unsuccessful in resolving the objection, the utility shall provide to the customer the information required in 170 IAC 16-1-4(c)(5).

(c) A utility may proceed with the vegetation management where:

(1) an emergency exists;

(2) the customer has withdrawn the objection or approved conditions under which cutting may resume, either in writing or during a recorded call;

(3) more than seven (7) calendar days have passed since the utility provided the proposed resolution referenced in the complaint process under 170 IAC 16-1-4(c)(5) and the customer failed to file an informal complaint to the commission as required by 170 IAC 16-1-5(a);

(4) the customer failed to take timely action to seek further review of a decision of the commission's consumer affairs division or its director under 170 IAC 16-1-5(d) or 170 IAC 16-1-6(a); or

(5) a final disposition on an informal complaint has been rendered by the commission. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-9*)

**170 IAC 4-9-10 Dispute resolution process after vegetation management**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 10. (a) A customer may contact the utility regarding vegetation management on the customer's premises after the vegetation management occurred if one (1) of the following occurs:**

- (1) The utility failed to provide the notice required under section 4 of this rule.**
- (2) The utility engaged in vegetation management outside the scope of an agreement between the customer and the utility.**
- (3) The utility did not have authority to enter the customer's property.**
- (4) The utility failed to follow the vegetation management pruning standards required by the commission or by the utility's own vegetation management policy.**
- (5) Another reason permitted by law.**

**(b) A utility must respond within three (3) business days of receiving a customer's inquiry or dispute:**

- (1) in person;**
- (2) via telephone call; or**
- (3) in writing.**

**(c) If the initial utility representative cannot resolve the customer's dispute regarding vegetation management, at least one (1) additional authorized utility representative must attempt to resolve the dispute. If the utility is unsuccessful in resolving the dispute, the customer shall be provided the information required in 170 IAC 16-1-5 and will be informed that disputes over monetary damages can only be resolved by a civil court, not the commission. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-10*)**

#### **170 IAC 4-9-11 Customer education process**

**Authority: IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8**

**Affected: IC 8-1-2**

**Sec. 11. A utility shall develop and implement an education plan to inform and educate customers on the following:**

- (1) Tree and vegetation selection and placement around electric facilities.**
- (2) The public importance of vegetation management to avoid:**
  - (A) electric interruptions;**
  - (B) injuries; and**
  - (C) fatalities.**
- (3) The need for, and benefit of, preventing tree contact with power lines.**
- (4) The importance of cooperation between customers and their utility in accomplishing the essential public task of power line maintenance.**
- (5) The critical importance of the public service of vegetation management to:**
  - (A) protect electric service reliability; and**
  - (B) avoid injuries and fatalities from electrocution.**
- (6) Trimming cycles a utility chooses to implement, including how the chosen trim cycle impacts clearance distance and the extent to which a tree's appearance will be impacted based upon that chosen cycle. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-11*)**

**170 IAC 4-9-12 Tree replacement program**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 12.** Where a tree will be removed, a utility may offer to provide the customer with:

(1) a power line compatible vegetation;

(2) other replacement plant; or

(3) monetary compensation or credit at an amount agreed to by the parties;

provided that the customer agrees not to plant a tree that will encroach into the utility's facilities at a future date and consents to the removal by the utility if that kind of a tree is planted. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-12*)

**170 IAC 4-9-13 Utility representative identification**

**Authority:** IC 8-1-1-3; IC 8-1-2-4; IC 8-1.5-3-8

**Affected:** IC 8-1-2

**Sec. 13.** Employees or contractors performing:

(1) vegetation management; or

(2) in person notification for vegetation management;

on behalf of the utility shall carry identification and provide it for inspection by the customer upon request. (*Indiana Utility Regulatory Commission; 170 IAC 4-9-13*)