

Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1111

AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 14. **(a) As used in this section, "committee" refers to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).**

~~(a)~~ **(b)** The chairman of the commission shall prepare an annual report and file it with the governor and the chairman of the legislative council before October 1 of each year. **The commission shall present the annual report to the committee before October 1 of each year.** A report filed under this subsection with the chairman of the legislative council must be in an electronic format under IC 5-14-6. The chairman shall include in the **annual** report information for the fiscal year ending June 30 of the year in which the report is due.

~~(b)~~ **(c)** The annual report required under subsection ~~(a)~~ **(b)** must include the following:

(1) ~~A statement of the commission's revenues by source and expenditures by purpose.~~ **(2) An update on the operations of the commission, including the following:**

(A) Statistics relevant to the workload and operations of the commission.

(B) **A statement of the commission's revenues by source and expenditures by purpose.**

~~(3)~~ **(C)** A description of the commission's goals, legal

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responsibilities, and accomplishments.

(4) **(D)** Comments on the state of the commission and the various kinds of utilities that it regulates.

(E) Any other matters that the commission wishes to bring to the attention of the governor and the general assembly.

(5) Suggestions for new legislation and the rationale for any proposals:

(6) Any other matters that the chairman wishes to bring to the attention of the governor and the general assembly:

(7) Any comments or proposals that any member of the commission gives to the chairman for inclusion in the annual report:

(2) Information concerning changes or emerging trends in the energy utility industry, and the effects of those changes or trends on service and on the pricing of all energy utility services under the jurisdiction of the commission. The information reported under this subdivision must include the following:

(A) The effects of competition or changes in the energy utility industry, including the impact on customer rates.

(B) The status of modernization of the energy utility facilities in Indiana and the incentives in place to further enhance this infrastructure.

(C) The effects on economic development of the modernization described in clause (B).

(D) Changes in Indiana's electricity generation mix.

(E) Any other energy utility matters the commission considers appropriate.

(3) Information concerning changes or emerging trends in the water and wastewater utility industries, and the effects of those changes or trends on service and on the pricing of all water and wastewater utility services under the jurisdiction of the commission. The information reported under this subdivision must include the following:

(A) The effects of changes in the water and wastewater utility industries, including the impact on customer rates.

(B) The status of water and wastewater utility infrastructure in Indiana and the incentives in place to further enhance this infrastructure.

(C) An update on:

(i) acquisitions under IC 8-1-30.3;

(ii) consolidations;



- (iii) regionalization; and
- (iv) service territory disputes;
involving water and wastewater utilities.
- (D) The nature and extent of the jurisdiction of the commission and other state agencies over various types of water and wastewater utilities.
- (E) Any other water or wastewater utility matters the commission considers appropriate.
- (4) Information concerning the communications services industry, including the following:
 - (A) The type and availability of communications service provided to Indiana customers, including the provision of video service (as defined in IC 8-1-34-14).
 - (B) Details on the status of the Indiana universal service fund.
 - (C) The status of eligible telecommunications carriers for purposes of receiving:
 - (i) Lifeline reimbursement from the federal universal service fund;
 - (ii) support to serve rural and high cost areas; and
 - (iii) other monetary support from the federal universal service fund;
 through the administrator designated by the Federal Communications Commission.
 - (D) A summary of the video franchise fee reports submitted under IC 8-1-34-24.5.
 - (E) Any other matters concerning the communications services industry the commission considers appropriate.
- (5) Information concerning Indiana's pipeline safety program, including the following:
 - (A) An update on the activities of the commission's pipeline safety division established by IC 8-1-22.5-2.
 - (B) An update on activities under IC 8-1-26.
 - (C) An update on the underground plant protection account established by IC 8-1-26-24.
 - (D) Any other matters concerning pipeline safety the commission considers appropriate.

SECTION 2. IC 8-1-2.5-9, AS AMENDED BY P.L.53-2014, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. (a) As used in this section, "committee" means the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4.

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(b) The committee shall monitor changes and competition in the energy utility industry.

~~(c)~~ The commission shall before August 15 of each year prepare for presentation to the committee an analysis of the effects of competition or changes in the energy utility industry on service and on the pricing of all energy utility services under the jurisdiction of the commission.

~~(d)~~ **(c)** In addition to reviewing the ~~commission~~ **commission's** annual report prepared under ~~subsection (c)~~; **IC 8-1-1-14**, the committee shall also issue a report and recommendations to the legislative council before November 1 of each year that are based on a review of the following issues:

(1) The effects of competition or changes in the energy utility industry and the impact of the competition or changes on ~~the~~ residential rates.

(2) The status of modernization of the energy utility facilities in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development of this modernization.

(4) The traditional method of regulating energy utilities and the method's effectiveness.

(5) The economic and social effectiveness of traditional energy utility service pricing.

(6) The effects of legislation enacted by the United States Congress.

(7) All other energy utility issues the committee considers appropriate; however, it is not the intent of this section to provide for the review of the statutes cited in section 11 of this chapter.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

~~(e)~~ **(d)** This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995;

(2) does not give the committee the authority to order a party to a collective bargaining agreement to cancel, terminate, amend, or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the committee in a way that would give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995.

~~(f)~~ **(e)** The committee shall, with the approval of the commission, retain independent consultants the committee considers appropriate to

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assist the committee in the review and study. The expenses for the consultants shall be paid with funds from the public utility fees assessed under IC 8-1-6.

SECTION 3. IC 8-1-2.6-4, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2022 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:
Sec. 4. (a) As used in this section, "committee" means the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4.

(b) The commission shall, by July 1 of each year, report to the committee in an electronic format under IC 5-14-6 on the following:

(1) The effects of competition and technological change on universal service and on pricing of all telecommunications services offered in Indiana:

(2) The status of competition and technological change in the provision of video service (as defined in IC 8-1-34-14) available to Indiana customers, as including the following information:

(A) The number of multichannel video programming distributors offering video service to Indiana customers:

(B) The technologies used to provide video service to Indiana customers:

(C) The advertised programming and pricing options offered by video service providers to Indiana customers:

(3) Best practices concerning vertical location of underground facilities for purposes of IC 8-1-26. A report under this subdivision must address the viability and economic feasibility of technologies used to vertically locate underground facilities.

(c) (b) In addition to reviewing the ~~commission~~ **commission's annual** report prepared under ~~subsection (b)~~, **IC 8-1-1-14**, the committee may also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).

(4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.

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(5) The economic and social effectiveness of current telecommunications service pricing.

(6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

~~(d)~~ (c) The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 4. IC 8-1-2.6-13, AS AMENDED BY P.L.177-2021, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 13. (a) As used in this section, "communications service" has the meaning set forth in IC 8-1-32.5-3.

(b) As used in this section, "communications service provider" means a person or an entity that offers communications service to customers in Indiana, without regard to the technology or medium used by the person or entity to provide the communications service. The term includes a provider of commercial mobile service (as defined in 47 U.S.C. 332).

(c) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the commission may do the following, except as otherwise provided in this subsection:

- (1) Enforce the terms of a settlement agreement approved by the commission before July 29, 2004. The commission's authority under this subdivision continues for the duration of the settlement agreement.
- (2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to deaf, hard of hearing, and speech impaired persons in Indiana.
- (3) Fulfill the commission's responsibilities under IC 8-1-29 to adopt and enforce rules to ensure that a customer of a telecommunications provider is not:
 - (A) switched to another telecommunications provider unless the customer authorizes the switch; or
 - (B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.
- (4) Fulfill the commission's obligations under:
 - (A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and
 - (B) IC 20-20-16;

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concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform any of the functions described in section 1.5(b) of this chapter.

(6) Perform the commission's responsibilities under IC 8-1-32.5 to:

(A) issue; and

(B) maintain records of;

certificates of territorial authority for communications service providers offering communications service to customers in Indiana.

(7) Perform the commission's responsibilities under IC 8-1-34 concerning the issuance of certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Subject to subsection (f), require a communications service provider, other than a provider of commercial mobile service (as defined in 47 U.S.C. 332), to report to the commission on an annual basis, or more frequently at the option of the provider, any information needed by the commission to prepare the commission's **annual** report to the ~~interim study committee on energy, utilities, and telecommunications~~ under ~~section 4 of this chapter~~. **IC 8-1-1-14(c)(4).**

(9) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the extent of the authority delegated to the commission under federal law to perform those duties.

(10) Collect and maintain from a communications service provider the following information:

(A) The address of the provider's Internet web site.

(B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

(C) An address and other contact information for the provider, including any telephone number not described in clause (B).

The commission shall make any information submitted by a provider under this subdivision available on the commission's Internet web site. The commission may also make available on the commission's Internet web site contact information for the Federal Communications Commission and the Cellular Telephone Industry Association.

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(11) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(d) The commission does not have jurisdiction over any of the following with respect to a communications service provider:

(1) Rates and charges for communications service provided by the communications service provider, including the filing of schedules or tariffs setting forth the provider's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the communications service provider.

(3) Quality of service provided by the communications service provider.

(4) Long term financing arrangements or other obligations of the communications service provider.

(5) Except as provided in subsection (c), any other aspect regulated by the commission under this title before July 1, 2009.

(e) The commission has jurisdiction over a communications service provider only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

(A) a state or federal statute;

(B) a lawful order or regulation of the Federal Communications Commission; or

(C) an order or a ruling of a state or federal court having jurisdiction; or

(2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

(f) Except as specifically required under state or federal law, or except as required to respond to consumer complaints or information requests from the general assembly, the commission may not require a communications service provider:

(1) to file a tariff; or

(2) except for purposes of a petition or request filed or submitted to the commission by the communications service provider, to report to the commission any information that is:

(A) available to the public on the communications service provider's Internet web site;

(B) filed with the Federal Communications Commission; or

(C) otherwise available to the public in any form or at any level of detail;

including the communications service provider's rates, terms, and conditions of service.

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SECTION 5. IC 8-1-30.3-7 IS REPEALED [EFFECTIVE JULY 1, 2022]. ~~Sec. 7. Not later than October 1 of each year, the commission shall submit, in an electronic format under IC 5-14-6 to the interim study committee on energy, utilities, and telecommunications, a report concerning acquisitions under this chapter.~~

SECTION 6. IC 8-1-32.5-6, AS AMENDED BY P.L.73-2020, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) Except as provided in subsection (c), before a communications service provider may offer communications service to customers in Indiana, the communications service provider must apply to the commission for a certificate of territorial authority. A communications service provider that seeks a certificate under this chapter shall submit an application on a form prescribed by the commission. Subject to subsection (e), the form prescribed by the commission must require the communications service provider to report the following information:

- (1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.
- (2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.
- (3) The legal name, address, and telephone number of the provider's parent company, if any.
- (4) A description of each service area in Indiana in which the provider proposes to offer communications service.
- (5) For each service area identified under subdivision (4), a description of each type of communications service that the provider proposes to offer in the service area.
- (6) For each communications service identified under subdivision (5), whether the communications service will be offered to residential customers or business customers, or both.
- (7) The expected date of deployment for each communications service identified under subdivision (5) in each service area identified in subdivision (4).
- (8) A list of other states in which the provider offers communications service, including the type of communications service offered.
- (9) Any other information the commission considers necessary to:
 - (A) monitor the type and availability of communications service provided to Indiana customers; and
 - (B) prepare ~~under IC 8-1-2.6-4~~, the commission's annual report

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to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6. **under IC 8-1-1-14(c)(4).**

The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 8 of this chapter.

(b) A communications service provider shall also submit, along with the application required by subsection (a), the following documents:

- (1) A certification from the secretary of state authorizing the provider to do business in Indiana.
- (2) Information demonstrating the provider's financial, managerial, and technical ability to provide each communications service identified in the provider's application under subsection (a)(5) in each service area identified under subsection (a)(4).
- (3) A statement, signed under penalty of perjury by an officer or another person authorized to bind the provider, that affirms the following:
 - (A) That the provider has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering communications service in Indiana.
 - (B) That the provider agrees to comply with any customer notification requirements imposed by the commission under section 11(b) of this chapter.
 - (C) That the provider agrees to update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 12 of this chapter.
 - (D) That the provider agrees to notify the commission when the provider commences offering communications service in each service area identified in the provider's application under subsection (a)(4).
 - (E) That the provider agrees to pay any lawful rate or charge for switched and special access services, as required under any:
 - (i) applicable interconnection agreement; or
 - (ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.
 - (F) That the provider agrees to report, at the times required by the commission, any information required by the commission under IC 8-1-2.6-13(c)(8).

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(c) If:

(1) a communications service provider has been issued a:

(A) certificate of territorial authority; or

(B) certificate of public convenience and necessity;

by the commission before July 1, 2009; and

(2) the certificate described in subdivision (1) is in effect on July 1, 2009;

the communications service provider is not required to submit an application under this section for as long as the certificate described in subdivision (1) remains in effect. For purposes of this subsection, if a corporation organized under IC 8-1-13 (or a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13) holds a certificate of public convenience and necessity issued by the commission before, on, or after July 1, 2009, that certificate may serve as the certificate required under this chapter with respect to any communications service offered by the corporation, subject to the commission's right to require the corporation to provide any information that an applicant is otherwise required to submit under subsection (a) or that a holder is required to report under IC 8-1-2.6-13(c)(8).

(d) This section does not empower the commission to require an applicant for a certificate under this chapter to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(e) The form prescribed for a communications service provider that offers only a service described in IC 8-1-2.6-1.1 must require the communications service provider to report and certify the accuracy of only the information required under subsection (a)(1) and (a)(2).

SECTION 7. IC 8-1-34-16, AS AMENDED BY P.L.177-2021, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 16. (a) Except as provided in section 21 of this chapter, after June 30, 2006:

(1) the commission is the sole franchising authority (as defined in 47 U.S.C. 522(10)) for the provision of video service in Indiana; and

(2) a unit may not:

(A) require a provider to obtain a separate franchise;

(B) impose any fee, gross receipt tax, licensing requirement, rate regulation, or build-out requirement on a provider;

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- (C) regulate a holder or provider; or
- (D) establish, fund, or otherwise designate an agency, a board, or another subordinate entity to monitor, supervise, evaluate, or regulate the holder or provider;

except as authorized by this chapter.

(b) Except as provided in section 21 of this chapter, a person who seeks to provide video service in Indiana after June 30, 2006, shall file with the commission an application for a franchise. The application shall be made on a form prescribed by the commission and must include the following:

(1) A sworn affidavit, signed by an officer or another person authorized to bind the applicant, that affirms the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering video service in Indiana.

(B) That the applicant agrees to comply with all federal and state statutes, rules, and regulations applicable to the operation of the applicant's video service system.

(C) That the applicant agrees to:

(i) comply with any local ordinance or regulation governing the use of public rights-of-way in the delivery of video service; and

(ii) recognize the police powers of a unit to enforce the ordinance or regulation.

(D) If the applicant will terminate an existing local franchise under section 21 of this chapter, that the applicant agrees to perform any obligations owed to any private person, as required by section 22 of this chapter.

(2) The applicant's legal name and any name under which the applicant does or will do business in Indiana, as authorized by the secretary of state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of each service area in Indiana to be served by the applicant. A service area described under this subdivision may include an unincorporated area in Indiana.

(7) The expected date for the deployment of video service in each

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of the areas identified in subdivision (6).

(8) A list of other states in which the applicant provides video service.

(9) If the applicant will terminate an existing local franchise under section 21(b) of this chapter, a copy of the written notice sent to the municipality under section 21(c) of this chapter.

(10) Any other information the commission considers necessary to:

(A) monitor the provision of video service to Indiana customers; and

(B) prepare ~~under IC 8-1-2.6-4~~, the commission's annual report to the interim study committee on energy, utilities, and telecommunications established by ~~IC 2-5-1.3-4~~ in an electronic format ~~under IC 5-14-6~~: **under IC 8-1-1-14(c)(4)**.

(c) This section does not empower the commission to require:

(1) an applicant to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information; or

(2) a provider to disclose more frequently than in each odd numbered year information regarding the areas in which an applicant has deployed, or plans to deploy, video services.

The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(d) The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 17 of this chapter.

(e) Nothing in this title may be construed to require an applicant or a provider to disclose information that identifies by census block, street address, or other similar level of specificity the areas in which the applicant or provider has deployed, or plans to deploy, video service in Indiana. The commission may not disclose, publish, or report by census block, street address, or other similar level of specificity any information identifying the areas in Indiana in which an applicant or a provider has deployed, or plans to deploy, video service.

(f) Nothing in this title may be construed to require an applicant or provider to provide the commission with information describing the applicant's or provider's programming, including the applicant's or provider's channel lineups or channel guides.

SECTION 8. IC 8-1-34-24.5, AS AMENDED BY P.L.53-2014, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 24.5. (a) This section applies to any unit that

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receives franchise fees paid to the unit under:

- (1) a certificate issued by the commission under this chapter; or
- (2) an unexpired local franchise issued by the unit before July 1, 2006;

with respect to a particular calendar year.

(b) For each calendar year, beginning with the calendar year ending December 31, 2012, each unit to which this section applies shall submit to the commission, on a form or in the manner prescribed by the commission, a report that includes the following information for each certificate or local franchise in effect in the unit during the calendar year for which the report is submitted:

- (1) The amount of franchise fees paid to the unit under the certificate or local franchise.
- (2) The account of the unit into which the franchise fees identified under subdivision (1) were deposited.
- (3) The purposes for which any franchise fees received by the unit during:
 - (A) the calendar year for which the report is submitted; or
 - (B) a previous calendar year;

were used or spent by the unit during the calendar year for which the report is submitted.

- (4) Any other information or data concerning the receipt and use of franchise fees that the commission considers appropriate.

(c) The commission shall prescribe the form of the report and the process, deadlines, and other requirements for submitting the report required under this section.

(d) Upon receiving the annual reports required under this section, the commission shall compile and organize the data and information contained in the reports. The commission shall include a summary of the data and information contained in the reports in the commission's annual report ~~on the communications industry provided, under IC 8-1-2.6-4, to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 in an electronic format under IC 5-14-6. IC 8-1-1-14(c)(4).~~ However, this subsection does not empower the commission to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(e) The commission may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section. An emergency rule adopted by the commission under IC 4-22-2-37.1

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expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36 and not ninety (90) days after the rule is accepted for filing as provided in IC 4-22-2-37.1(g). However, any emergency rules adopted by the commission under this subsection must take effect by a date that enables a unit subject to this section to comply with this section with respect to the calendar year ending December 31, 2012.

SECTION 9. IC 8-1-37-10, AS ADDED BY P.L.150-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 10. (a) Subject to subsection (d), the commission shall adopt rules under IC 4-22-2 to establish the Indiana voluntary clean energy portfolio standard program. The program established under this section must be a voluntary program that provides incentives to participating electricity suppliers that undertake to supply specified percentages of the total electricity supplied to their Indiana retail electric customers from clean energy.

(b) The rules adopted by the commission under this section to establish the program must:

(1) incorporate:

- (A) the CPS goals set forth in section 12(a) of this chapter;
- (B) methods for measuring and evaluating a participating electricity supplier's compliance with the CPS goals set forth in section 12(a) of this chapter; **and**
- (C) the financial incentives and periodic rate adjustment mechanisms set forth in section 13 of this chapter; **and**
- ~~(D) the reporting requirements set forth in section 14 of this chapter;~~

(2) require the commission to determine, before approving an application under section 11 of this chapter, that the approval of the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved;

(3) take effect not later than January 1, 2012; and

(4) be consistent with this chapter.

(c) Upon the effective date of the rules adopted by the commission under this section, an electricity supplier may apply to the commission under section 11 of this chapter for approval to participate in the program.

(d) The commission may adopt emergency rules under IC 4-22-2-37.1 to adopt the rules required by this section. An emergency rule adopted by the commission under IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted

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by the commission under IC 4-22-2-24 through IC 4-22-2-36.

SECTION 10. IC 8-1-37-14 IS REPEALED [EFFECTIVE JULY 1, 2022]. Sec. 14. (a) Beginning in 2014, each participating electricity supplier shall report to the commission not later than March 1 of each year on the following:

(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year.

(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:

(A) The amount of clean energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:

(i) name and location;

(ii) total generating capacity;

(iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and

(iv) total amount of clean energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.

(B) The amount of clean energy purchased from other suppliers of clean energy. The participating electricity supplier shall identify:

(i) each supplier from whom clean energy was purchased;

(ii) the amount of clean energy purchased from each supplier;

(iii) the price paid by the participating electricity supplier for the clean energy purchased from each supplier; and

(iv) to the extent known, the name and location of each facility at which the clean energy purchased from each supplier was generated.

(3) The number of CECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:

(A) each person from whom one (1) or more CECs was



- purchased;
- (B) the price paid to each person identified in clause (A) for the CECs purchased;
- (C) the number of CECs applied, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year; and
- (D) the number of CECs, if any, that the participating electricity supplier plans to carry over to the next succeeding CPS goal period, as permitted by section 12(f) of this chapter.
- (4) The participating electricity supplier's plans for meeting the CPS goal applicable to the calendar year in which the report is submitted.
- (5) Advances in clean energy technology that affect activities described in subdivisions (1) and (4).
- (6) Any other information that the commission prescribes in rules adopted under IC 4-22-2.

For purposes of this subsection, amounts of clean energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2025.

(b) Beginning in 2014, the commission's annual report, under IC 8-1-2.5-9(b), to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 must include a summary of the information provided by participating electricity suppliers under subsection (a) with respect to the most recently ended calendar year. The commission's duty to include the information specified in this subsection in its annual report to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4 terminates after the commission has submitted the information that applies to the calendar year ending December 31, 2025.

SECTION 11. IC 8-1-40.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 40.1. Rulemaking to Implement Federal Energy Regulatory Commission Order

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "distributed energy resource" means any resource located on the distribution system of an electricity supplier, on any subsystem of an electricity supplier, or



behind an electricity supplier's customer's meter, including any of the following:

- (1) Electric storage resources.
- (2) Intermittent generation.
- (3) Distributed generation.
- (4) Demand response.
- (5) Energy efficiency.
- (6) Thermal storage.
- (7) Electric vehicles and their supply equipment.

Sec. 3. As used in this chapter, "distributed energy resource aggregator" means a person that aggregates one (1) or more distributed energy resources for purposes of participating in one (1) or more of the capacity, energy, or ancillary service markets of a regional transmission organization.

Sec. 4. The commission shall adopt rules that the commission determines to be necessary to implement Federal Energy Regulatory Commission Order No. 2222 concerning distributed energy resources and distributed energy resource aggregators.

Sec. 5. Notwithstanding IC 8-1-40-21, in adopting rules under this chapter, the commission may amend the commission's rules and standards set forth in:

- (1) 170 IAC 4-4.2 (concerning net metering); and
- (2) 170 IAC 4-4.3 (concerning interconnection);

only as necessary to implement Federal Energy Regulatory Commission Order No. 2222 concerning distributed energy resources and distributed energy resource aggregators.

Sec. 6. In adopting rules under this chapter, the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this chapter and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

SECTION 12. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1111

