



Reprinted
January 21, 2022

HOUSE BILL No. 1221

DIGEST OF HB 1221 (Updated January 20, 2022 1:41 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Electric vehicles and electricity pricing. Provides that a person that: (1) owns, operates, or leases electric vehicle (EV) supply equipment; and (2) makes the EV supply equipment available for use by the public for compensation; may charge the public for such use based in whole or in part on the kilowatt hours of electricity sold. Specifies that a person that makes EV supply equipment available for use by the public for compensation, regardless of whether the person charges the public for such use based on: (1) the kilowatt hours of electricity sold; (2) the amount of time spent by an EV at a designated charging space; or (3) a combination of both; is not a public utility solely by reason of engaging in this activity. Authorizes the utility regulatory commission (IURC) to approve: (1) time-varying price structures and tariffs; or (2) other alternative pricing structures and tariffs; for retail energy service. Defines a "public use electric vehicle" (public use EV) as any of the following electric vehicles that is used primarily to serve the public: (1) An electric school bus. (2) An electric transit bus. (3) An electric vehicle used by a public or private commercial enterprise primarily to deliver goods or services to the public. Authorizes an electric utility (defined as a public utility that is subject to the jurisdiction of the IURC) to request approval from the IURC to implement a public use EV pilot program (pilot program) to
(Continued next page)

Effective: Upon passage.

Soliday, Manning, Negele, Hamilton

January 6, 2022, read first time and referred to Committee on Utilities, Energy and Telecommunications.

January 18, 2022, amended, reported — Do Pass.

January 20, 2022, read second time, amended, ordered engrossed.

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Digest Continued

do any of the following: (1) Install, own, or operate charging infrastructure or make-ready infrastructure to support public use EVs. (2) Provide incentives or rebates to customers to encourage customer investment in public use EVs and in associated EV supply equipment. Sets forth certain required information that an electric utility's request for approval of a pilot program must include. Provides that an electric utility's request for approval of a pilot program may include a request for: (1) assurance of cost recovery for pilot program capital costs, up to the amount of an approved cost estimate; and (2) deferral of pilot program capital costs. Sets forth the processes by which an electric utility may request the IURC's approval of a pilot program. Provides that the IURC shall approve an electric utility's request for approval of a pilot program if the IURC determines that the proposed pilot program is reasonable, just, and in the public interest. Sets forth certain factors that the IURC must consider in making this determination. Specifies that an electric utility is not prohibited from: (1) installing, owning, or operating charging infrastructure or make-ready infrastructure for electric vehicles; and (2) seeking to include the associated capital costs in the electric utility's basic rates and charges by initiating a proceeding before the IURC. Provides that in such a case, the IURC shall approve the inclusion of the capital costs in the electric utility's basic rates and charges if the IURC finds that the capital costs incurred are reasonable, just, and in the public interest. Requires the IURC to adopt rules to implement these provisions.

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January 21, 2022

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 BILL No. 1221

A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

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

1 SECTION 1. IC 8-1-2-1.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 1.3. (a) As used in this section, "electric**
4 **vehicle", or "EV", means a vehicle that employs electrical energy**
5 **as a primary or secondary mode of propulsion. The term includes:**
6 **(1) all-electric vehicles; and**
7 **(2) plug-in hybrid electric vehicles.**
8 **(b) As used in this section, "electric vehicle supply equipment",**
9 **or "EV supply equipment", means a device or system designed and**
10 **used specifically to transfer electrical energy to an electric vehicle,**
11 **either as charge transferred by physical or wireless connection, by**
12 **loading a fully charged battery into the vehicle, or by other means.**
13 **(c) Subject to subsection (e), a person, including a joint agency**
14 **(as defined in IC 8-1-2.2-2), that:**
15 **(1) owns, operates, or leases EV supply equipment;**
16 **(2) makes the EV supply equipment available for use by the**
17 **public for compensation; and**

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- 1 **(3) resells electricity exclusively for the charging of plug-in**
 2 **electric vehicles;**
 3 **may charge the public for such use based in whole or in part on the**
 4 **kilowatt hours of electricity sold in a particular transaction.**
 5 **(d) Subject to subsections (c) and (e), a person, including a joint**
 6 **agency (as defined in IC 8-1-2.2-2), that:**
 7 **(1) owns, operates, or leases EV supply equipment; and**
 8 **(2) makes the EV supply equipment available for use by the**
 9 **public for compensation, regardless of whether the person**
 10 **charges the public for such use based on:**
 11 **(A) the kilowatt hours of electricity sold;**
 12 **(B) the amount of time spent by an electric vehicle at a**
 13 **designated charging space; or**
 14 **(C) a combination of both (A) and (B);**
 15 **is not a public utility solely by reason of engaging in any activity**
 16 **described in subdivisions (1) through (2).**
 17 **(e) This section does not:**
 18 **(1) apply to or prohibit the lawful use of:**
 19 **(A) an alternate energy production facility;**
 20 **(B) a cogeneration facility; or**
 21 **(C) a small hydro facility;**
 22 **within the scope of IC 8-1-2.4 by a retail electric customer for**
 23 **the private provision of electrical energy to EV supply**
 24 **equipment at the customer's location in connection with the**
 25 **charging of electric vehicles;**
 26 **(2) render:**
 27 **(A) the owner or operator of a facility described in**
 28 **subdivision (1)(A) through (1)(C) a public utility; or**
 29 **(B) the provision of electrical energy:**
 30 **(i) by a facility described in subdivision (1)(A) through**
 31 **(1)(C); and**
 32 **(ii) for the purpose described in subdivision (1);**
 33 **a public utility service;**
 34 **that is subject to regulation; or**
 35 **(3) except for the exclusive purpose set forth in subsection**
 36 **(c)(3), authorize the sale of retail electric service to the**
 37 **general public.**
 38 **SECTION 2. IC 8-1-2-61 IS AMENDED TO READ AS FOLLOWS**
 39 **[EFFECTIVE UPON PASSAGE]: Sec. 61. (a) Any public utility may**
 40 **make complaint as to any matter affecting its own rates or service. The**
 41 **petition or complaint must include a statement as to whether the utility,**
 42 **if a not-for-profit water utility or municipal utility, has any outstanding**



1 indebtedness to the federal government. The public utility shall publish
 2 a notice of the filing of such petition or complaint in a newspaper of
 3 general circulation published in any county in which the public utility
 4 renders service. An order affecting rates or service may be entered by
 5 the commission without a formal public hearing, if:

6 (1) the utility is a not-for-profit water utility or a municipal utility;
 7 and

8 (2) the utility has obtained written consent to obtain an order
 9 affecting its rates from the commission without a formal hearing
 10 from any agency of the federal government with which the utility
 11 has outstanding evidence of indebtedness to the federal
 12 government.

13 The commission may, however, on its own motion require a formal
 14 public hearing, and shall, upon a motion filed by the utility consumer
 15 counselor, by any public or municipal corporation, or by ten (10)
 16 individuals, firms, corporations, limited liability companies, or
 17 associations, or ten (10) complainants of all or any of these classes,
 18 hold a formal public hearing with respect to any such petition or
 19 complaint.

20 (b) In any general rate proceeding under subsection (a) which
 21 requires a public hearing and in which an increase in revenues is
 22 sought which exceeds the sum of two million five hundred thousand
 23 dollars (\$2,500,000), the commission shall conduct at least one (1)
 24 public hearing in the largest municipality located within such utility's
 25 service area.

26 **(c) In a proceeding brought by an energy utility (as defined in**
 27 **IC 8-1-2.5-2) under this section, the commission may approve:**

28 **(1) time-varying price structures and tariffs; or**

29 **(2) other alternative pricing structures and tariffs;**

30 **for retail energy service (as defined in IC 8-1-2.5-3), such as**
 31 **time-of-use or off-peak pricing, critical peak pricing, variable peak**
 32 **pricing, and real-time pricing.**

33 SECTION 3. IC 8-1-2.5-6 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a)
 35 Notwithstanding any other law or rule adopted by the commission,
 36 except those cited, or rules adopted that pertain to those cited, in
 37 section 11 of this chapter, in approving retail energy services or
 38 establishing just and reasonable rates and charges, or both for an
 39 energy utility electing to become subject to this section, the
 40 commission may do the following:

41 (1) Adopt alternative regulatory practices, procedures, and
 42 mechanisms, and establish rates and charges that:



- 1 (A) are in the public interest as determined by consideration of
 2 the factors described in section 5 of this chapter; and
 3 (B) enhance or maintain the value of the energy utility's retail
 4 energy services or property;
 5 including practices, procedures, and mechanisms focusing on the
 6 price, quality, reliability, and efficiency of the service provided by
 7 the energy utility.
- 8 (2) Establish rates and charges based on market or average prices,
 9 price caps, index based prices, and prices that:
- 10 (A) use performance based rewards or penalties, either related
 11 to or unrelated to the energy utility's return or property; and
 12 (B) are designed to promote efficiency in the rendering of
 13 retail energy services.
- 14 **(3) Approve:**
- 15 **(A) time-varying price structures and tariffs; or**
 16 **(B) other alternative pricing structures and tariffs;**
 17 **for retail energy service, such as time-of-use or off-peak**
 18 **pricing, critical peak pricing, variable peak pricing, and**
 19 **real-time pricing.**
- 20 (b) This section:
- 21 (1) does not give a party to a collective bargaining agreement any
 22 greater rights under the collective bargaining agreement than the
 23 party had before January 1, 1995;
- 24 (2) does not give the commission the authority to order a party to
 25 a collective bargaining agreement to cancel, terminate, amend or
 26 otherwise modify the collective bargaining agreement; and
- 27 (3) may not be implemented by the commission in a way that
 28 would give a party to a collective bargaining agreement any
 29 greater rights under the collective bargaining agreement than the
 30 party had before January 1, 1995.
- 31 (c) An energy utility electing to become subject to this section shall
 32 file with the commission an alternative regulatory plan proposing how
 33 the commission will approve retail energy services or just and
 34 reasonable rates and charges for the energy utility's retail energy
 35 service.
- 36 (d) The energy utility shall publish a notice of the filing of a petition
 37 under this section in a newspaper of general circulation published in
 38 any county in which the energy utility provides retail energy service.
- 39 (e) After notice and hearing, the commission may approve, reject,
 40 or modify the energy utility's proposed plan if the commission finds
 41 that such action is consistent with the public interest. However, the
 42 commission may not order that material modifications changing the



1 nature, scope or duration of the plan take effect without the agreement
 2 of the energy utility. The energy utility shall have twenty (20) days
 3 after the date of a commission order modifying the energy utility's
 4 proposed plan within which to, in writing, accept or reject the
 5 commission's order.

6 (f) An energy utility may withdraw a plan proposed under this
 7 section without prejudice before the commission's approval of the plan,
 8 or the energy utility may timely reject a commission order modifying
 9 its proposed plan under this section without prejudice. However, the
 10 energy utility may not file a petition for comparable relief under this
 11 section for a period of twelve (12) months after the date of the energy
 12 utility's withdrawal of its proposed plan or the date of the energy
 13 utility's rejection of the commission's order, whichever is applicable.

14 SECTION 4. IC 8-1-41 IS ADDED TO THE INDIANA CODE AS
 15 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 16 PASSAGE]:

17 **Chapter 41. Pilot Programs for Infrastructure for Public Use**
 18 **Electric Vehicles**

19 **Sec. 1. (a) As used in this chapter, "charging infrastructure"**
 20 **means:**

- 21 (1) structures;
- 22 (2) machinery;
- 23 (3) equipment;
- 24 (4) hardware;
- 25 (5) software; and
- 26 (6) other capital investments;

27 **installed to support and charge one (1) or more electric vehicles.**

28 **(b) The term includes Level 2 charging stations, direct-current**
 29 **fast charging stations, and battery exchange stations.**

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

32 **Sec. 3. As used in this chapter, "electric utility" means a public**
 33 **utility (as defined in IC 8-1-2-1(a)) that:**

- 34 (1) furnishes retail electric service to customers in Indiana;
- 35 and
- 36 (2) is under the jurisdiction of the commission for the
- 37 approval of rates and charges.

38 **Sec. 4. (a) As used in this chapter, "electric vehicle", or "EV",**
 39 **means a vehicle that employs electrical energy as a primary or**
 40 **secondary mode of propulsion.**

41 **(b) The term includes:**

- 42 (1) all-electric vehicles; and



- 1 (2) plug-in hybrid electric vehicles.
- 2 **Sec. 5. As used in this chapter, "make-ready infrastructure"**
 3 **means the:**
- 4 (1) structures;
- 5 (2) machinery;
- 6 (3) equipment;
- 7 (4) hardware;
- 8 (5) software;
- 9 (6) storage batteries; and
- 10 (7) other capital investments;
- 11 **installed to connect charging infrastructure to an electric utility's**
 12 **distribution system, including any necessary upgrades to the**
 13 **electric utility's distribution system.**
- 14 **Sec. 6. (a) As used in this chapter, "public use electric vehicle",**
 15 **or "public use EV", means any of the following electric vehicles**
 16 **that is used primarily to serve the public, regardless of whether the**
 17 **electric vehicle (or any associated charging infrastructure) is**
 18 **owned, leased, or operated by, or on behalf of, a governmental or**
 19 **private entity:**
- 20 (1) An electric school bus.
- 21 (2) An electric transit bus.
- 22 (3) An electric vehicle that is used by a public or private
 23 commercial enterprise primarily to deliver goods or services
 24 to the public.
- 25 **(b) The term does not include an electric vehicle that is used**
 26 **primarily for personal, family, or household purposes, or for**
 27 **commuting.**
- 28 **Sec. 7. As used in this chapter, "public use electric vehicle pilot**
 29 **program", or "pilot program", means a limited deployment of:**
- 30 (1) charging infrastructure; or
- 31 (2) make-ready infrastructure;
- 32 **that is designed to evaluate the feasibility and design, including the**
 33 **associated costs and benefits, of a larger scale deployment of such**
 34 **infrastructure necessary to support public use electric vehicles.**
- 35 **Sec. 8. (a) An electric utility may request approval from the**
 36 **commission to implement a public use electric vehicle pilot**
 37 **program to do any of the following:**
- 38 (1) Install, own, or operate charging infrastructure or
 39 make-ready infrastructure to support public use EVs.
- 40 (2) Provide incentives or rebates to customers to encourage
 41 customer investment in public use EVs and in associated EV
 42 supply equipment.



1 For purposes of this subsection, "EV supply equipment" means a
2 device or system designed and used specifically to transfer
3 electrical energy to an electric vehicle, either as charge transferred
4 via physical or wireless connection, by loading a fully charged
5 battery into the vehicle, or by other means.

6 (b) An electric utility's request for approval of a pilot program
7 under this chapter must include the following:

8 (1) A full description of the need for and goals of the pilot
9 program.

10 (2) A full description of objective evaluation criteria that will
11 be used to measure the success or usefulness of the pilot
12 program.

13 (3) An estimate of all costs of the pilot program, including an
14 estimate of the costs to be borne by participating customers of
15 the electric utility, nonparticipating customers of the electric
16 utility, and the general public, as applicable.

17 (4) A timeline for completion or termination of the pilot
18 program.

19 (5) A plan demonstrating that the charging infrastructure to
20 be installed under the pilot program will be located in an
21 equitable manner that ensures that all customers within the
22 electric utility's service area have convenient access to the
23 charging infrastructure, including in areas that are:

24 (A) economically distressed; or

25 (B) racially or ethnically diverse.

26 (6) Supporting evidence as to why the pilot program is in the
27 public interest, including information as to how participating
28 customers of the electric utility, nonparticipating customers
29 of the electric utility, and the general public may be affected
30 by the pilot program.

31 (c) An electric utility's request for approval of a pilot program
32 under this chapter may include a request for:

33 (1) assurance of cost recovery for pilot program capital costs,
34 up to the amount of an approved cost estimate; and

35 (2) deferral of pilot program capital costs.

36 (d) Subject to subsection (f), an electric utility may request
37 approval of a pilot program under this chapter:

38 (1) through a proceeding initiated under IC 8-1-2-61, whether
39 as a standalone proposal or as part of a base rate case;

40 (2) as an alternative regulatory plan under IC 8-1-2.5; or

41 (3) through any other process prescribed by the commission.

42 (e) The commission shall approve an electric utility's request for



1 approval of a pilot program under this chapter if, after notice and
 2 an opportunity for hearing, the commission determines that the
 3 proposed pilot program is reasonable, just, and in the public
 4 interest. In making a determination under this subsection, the
 5 commission shall consider the following:

6 (1) The goals of the pilot program, including any data that
 7 will be measured or collected through the pilot program, such
 8 as data concerning customers' electric charging behavior, the
 9 electric utility's load management capabilities, or the impact
 10 of public use EVs on the electric utility's distribution system.

11 (2) Whether the pilot program includes objective evaluation
 12 criteria consisting of clearly defined metrics to be used in
 13 assessing the success of the pilot program.

14 (3) The extent to which the estimated costs of the proposed
 15 pilot program will be borne by:

16 (A) participating customers of the electric utility;

17 (B) nonparticipating customers of the electric utility; and

18 (C) the general public;

19 based on the evidence in the record of the proceeding.

20 (4) Information as to any benefits that may inure to:

21 (A) participating customers of the electric utility;

22 (B) nonparticipating customers of the electric utility; and

23 (C) the general public;

24 as a result of the pilot program, based on the evidence in the
 25 record of the proceeding.

26 (5) The reasonableness of the:

27 (A) scale; and

28 (B) duration;

29 of the pilot program in relation to the estimated costs and
 30 benefits of the program, the electric utility's total customer
 31 base and service area, and the stated goals of the program.

32 (6) Whether the electric utility's proposal includes a plan
 33 demonstrating that the charging infrastructure to be installed
 34 under the pilot program will be located in an equitable
 35 manner that ensures that all customers within the electric
 36 utility's service area have convenient access to the charging
 37 infrastructure, including in areas that are:

38 (A) economically distressed; or

39 (B) racially or ethnically diverse.

40 (7) Other factors the commission considers relevant in
 41 determining whether the proposed pilot program is
 42 reasonable, just, and in the public interest.



- 1 **(f) This chapter does not prohibit an electric utility from:**
2 **(1) installing, owning, or operating charging infrastructure or**
3 **make-ready infrastructure for electric vehicles; and**
4 **(2) seeking to include the associated capital costs in the**
5 **electric utility's basic rates and charges through a proceeding**
6 **initiated under IC 8-1-2-61.**

7 **The commission shall approve the inclusion of the capital costs**
8 **described in subdivision (2) in the electric utility's basic rates and**
9 **charges if the commission finds that the capital costs incurred are**
10 **reasonable, just, and in the public interest.**

11 **Sec. 9. The commission shall adopt rules under IC 4-22-2 to**
12 **implement this chapter. In adopting rules under this section, the**
13 **commission may adopt emergency rules in the manner provided by**
14 **IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency**
15 **rule adopted by the commission under this section and in the**
16 **manner provided by IC 4-22-2-37.1 expires on the date on which**
17 **a rule that supersedes the emergency rule is adopted by the**
18 **commission under IC 4-22-2-24 through IC 4-22-2-36.**

19 **SECTION 5. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1221, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "As used in this section, "division"".

Page 1, delete lines 4 through 5.

Page 1, line 6, delete "(b)".

Page 1, run in lines 3 through 6.

Page 1, line 11, delete "(c)" and insert "**(b)**".

Page 1, line 15, delete "battery," and insert "**battery into the vehicle,**".

Page 1, line 16, delete "(d) A person" and insert "**(c) Subject to subsection (e), a person, including a joint agency (as defined in IC 8-1-2.2-2),**".

Page 1, line 17, delete "and".

Page 2, line 2, after "compensation;" insert "**and**".

Page 2, between lines 2 and 3, begin a new line blocked indented and insert:

"(3) resells electricity exclusively for the charging of plug-in electric vehicles;"

Page 2, line 4, delete "transaction," and insert "**transaction.**".

Page 2, delete lines 5 through 6.

Page 2, line 7, delete "(e) A person" and insert "**(d) Subject to subsections (c) and (e), a person, including a joint agency (as defined in IC 8-1-2.2-2),**".

Page 2, delete lines 18 through 41, begin a new paragraph and insert:

"(e) This section does not:

(1) apply to or prohibit the lawful use of:

(A) an alternate energy production facility;

(B) a cogeneration facility; or

(C) a small hydro facility;

within the scope of IC 8-1-2.4 by a retail electric customer for the private provision of electrical energy to EV supply equipment at the customer's location in connection with the charging of electric vehicles;

(2) render:

(A) the owner or operator of a facility described in subdivision (1)(A) through (1)(C) a public utility; or



(B) the provision of electrical energy:
(i) by a facility described in subdivision (1)(A) through (1)(C); and
(ii) for the purpose described in subdivision (1);
a public utility service;
that is subject to regulation; or
(3) except for the exclusive purpose set forth in subsection (c)(3), authorize the sale of retail electric service to the general public."

Page 7, line 9, delete "battery," and insert "**battery into the vehicle,**".

Page 7, line 30, after "program" insert "**capital**".

Page 7, line 32, after "program" insert "**capital**".

Page 8, line 16, delete "as identified by the electric utility in its proposal." and insert "**based on the evidence in the record of the proceeding.**".

Page 8, line 21, delete "program, as identified by the electric" and insert "**program, based on the evidence in the record of the proceeding.**".

Page 8, delete line 22.

Page 8, line 35, after "associated" insert "**capital**".

Page 8, line 38, after "of the" insert "**capital**".

Page 8, line 40, after "that the" insert "**capital**".

Page 9, delete lines 8 through 14.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1221 as introduced.)

SOLIDAY

Committee Vote: yeas 13, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1221 be amended to read as follows:

Page 7, between lines 18 and 19, begin a new line block indented and insert:

"(5) A plan demonstrating that the charging infrastructure to

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be installed under the pilot program will be located in an equitable manner that ensures that all customers within the electric utility's service area have convenient access to the charging infrastructure, including in areas that are:

- (A) economically distressed; or**
- (B) racially or ethnically diverse."**

Page 7, line 19, delete "(5)" and insert "(6)".

Page 8, between lines 24 and 25, begin a new line block indented and insert:

"(6) Whether the electric utility's proposal includes a plan demonstrating that the charging infrastructure to be installed under the pilot program will be located in an equitable manner that ensures that all customers within the electric utility's service area have convenient access to the charging infrastructure, including in areas that are:

- (A) economically distressed; or**
- (B) racially or ethnically diverse."**

Page 8, line 25, delete "(6)" and insert "(7)".

(Reference is to HB 1221 as printed January 18, 2022.)

PRYOR

