

HOUSE BILL No. 1382

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Retirement of electric generating units. Amends the descriptions of "reliability" and "resiliency" as attributes of electric utility service in the Indiana Code section that sets forth state policy concerning Indiana's electric generation resource mix, energy infrastructure, and electric service ratemaking constructs. Repeals the Indiana Code section concerning the retirement, sale, or transfer of electric generation facilities. Adds new language that does the following: (1) Defines an "electric generating unit" as one or more fossil fuel fired: (A) combustion; or (B) steam; generating sources that are used for generating electricity and that deliver all or part of the electricity generated to the electric grid for sale. (2) Provides that the Indiana utility regulatory commission (IURC) has the authority to approve or deny the retirement of an electric generating unit (unit). (3) Provides that before retiring a unit, a public utility must apply to the IURC for an order approving the retirement. (4) Provides that in an application to retire a unit, a public utility must: (A) provide evidence regarding the costs of retiring the unit; and (B) demonstrate that the retirement will result in a cost savings to customers. (5) Requires the IURC to issue an order: (A) approving; (B) approving with conditions; or (C) denying; an application to retire a unit not later than 180 days after receiving the application. (6) Provides that there is a rebuttable presumption against the retirement of a unit. (7) Prohibits the IURC from: (A) approving the retirement of unit; (B) authorizing a surcharge in connection with the retirement of a unit; or (C) authorizing or allowing for the recovery of costs in connection with the retirement of a unit; unless the IURC makes certain findings. Requires the IURC to
(Continued next page)

Effective: July 1, 2024.

Ledbetter

January 11, 2024, read first time and referred to Committee on Utilities, Energy and Telecommunications.



Digest Continued

include in its annual report certain information about the retirement of electric generating units with respect to the state fiscal year covered by the report. Authorizes the IURC to: (1) issue a general administrative order; or (2) adopt administrative rules; to implement the bill's provisions. Makes corresponding changes to the Indiana Code section concerning public utilities' depreciation rates.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1382



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 8-1-2-0.6, AS ADDED BY P.L.55-2023, SECTION
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2024]: Sec. 0.6. The general assembly declares that it is the continuing
4 policy of the state that decisions concerning Indiana's electric
5 generation resource mix, energy infrastructure, and electric service
6 ratemaking constructs must consider each of the following attributes of
7 electric utility service:
8 (1) Reliability, including
9 (A) the adequacy of electric utility service, including the
10 ability of the electric system to supply the aggregate electrical
11 demand and energy requirements of end use customers at all
12 times, taking into account:
13 (i) scheduled; and
14 (ii) reasonably expected unscheduled;
15 outages of system elements; and



- 1 (B) the operating reliability of the electric system; including
 2 the ability of the electric system to withstand sudden
 3 disturbances such as electric short circuits or unanticipated
 4 loss of system components: **having adequate electric**
 5 **generation capacity to safely deliver electric energy in the**
 6 **quantity, with the quality, and at a time that customers**
 7 **demand.**
- 8 (2) Affordability, including ratemaking constructs that result in
 9 retail electric utility service that is affordable and competitive
 10 across residential, commercial, and industrial customer classes.
- 11 (3) Resiliency, including the ability of the electric system ~~or its~~
 12 ~~components to~~
 13 (A) ~~adapt to changing conditions; and~~
 14 (B) ~~withstand and rapidly recover from disruptions or~~
 15 ~~off-nominal events: quickly and effectively respond to and~~
 16 **recover from events that compromise grid reliability.**
- 17 (4) Stability, including the ability of the electric system to:
 18 (A) maintain a state of equilibrium during:
 19 (i) normal and abnormal conditions; or
 20 (ii) disturbances; and
 21 (B) deliver a stable source of electricity, in which frequency
 22 and voltage are maintained within defined parameters,
 23 consistent with industry standards.
- 24 (5) Environmental sustainability, including:
 25 (A) the impact of environmental regulations on the cost of
 26 providing electric utility service; and
 27 (B) demand from consumers for environmentally sustainable
 28 sources of electric generation.
- 29 SECTION 2. IC 8-1-2-19, AS AMENDED BY P.L.170-2023,
 30 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2024]: Sec. 19. (a) Every public utility shall carry a separate,
 32 proper and adequate depreciation account whenever the commission,
 33 after investigation, shall determine that such depreciation account
 34 reasonably can be required.
- 35 (b) The commission, from time to time, shall ascertain and
 36 determine the proper and adequate rates of depreciation of the several
 37 classes of property of each public utility. **Subject to the required**
 38 **findings by the commission under IC 8-1-8.5-2.2(g)**, depreciation
 39 rates under this subsection shall be calculated to recover a reasonable
 40 estimate of the future cost of removing retired assets of the public
 41 utility.
- 42 (c) A public utility's rates, tolls and charges shall be such as will



1 provide the amounts required over and above the reasonable and
 2 necessary operating expenses, to maintain such property in an
 3 operating state of efficiency corresponding to the progress of the
 4 industry. **Subject to the required findings by the commission under**
 5 **IC 8-1-8.5-2.2(g)**, in a proceeding in which the costs of a capital asset
 6 are being recognized for ratemaking purposes, a public utility may
 7 account for any asset retirement obligations and recover, through rates
 8 charged to customers, reasonably and prudently incurred costs
 9 associated with asset retirement obligations, to the extent the specific
 10 asset retirement obligation costs are incremental and have not
 11 otherwise been included in depreciation rates. Each public utility shall
 12 conform its depreciation accounts to the rates so ascertained and
 13 determined by the commission.

14 (d) Subject to ~~IC 8-1-8.5-2.1(d)~~, **the required findings by the**
 15 **commission under IC 8-1-8.5-2.2(g)**, the commission shall make
 16 changes in a public utility's rates of depreciation, from time to time, as
 17 the commission finds necessary, including as necessary to reflect
 18 changes in:

- 19 (1) the public utility's estimated asset retirement costs, including
- 20 all reasonable and prudent costs of removing retired assets; and
- 21 (2) the estimated retirement dates of assets of the public utility.

22 SECTION 3. IC 8-1-8.5-2.1 IS REPEALED [EFFECTIVE JULY 1,
 23 2024]. ~~Sec. 2.1: (a) This section does not apply to the retirement, sale,~~
 24 ~~or transfer of:~~

- 25 (1) a public utility's electric generation facility if the retirement,
- 26 sale, or transfer is necessary in order for the public utility to
- 27 comply with a federal consent decree; or
- 28 (2) an electric generation facility that generates electricity for sale
- 29 exclusively to the wholesale market.

30 (b) A public utility shall notify the commission if:

- 31 (1) the public utility intends or decides to retire, sell, or transfer
- 32 an electric generation facility with a capacity of at least eighty
- 33 (80) megawatts; and
- 34 (2) the retirement, sale, or transfer:
 - 35 (A) was not set forth in; or
 - 36 (B) is to take place on a date earlier than the date specified in;
 - 37 the public utility's short term action plan in the public utility's
 - 38 most recently filed integrated resource plan.

39 (c) Upon receiving notice from a public utility under subsection (b);
 40 the commission shall consider and may investigate, under IC 8-1-2-58
 41 through IC 8-1-2-60, the public utility's intention or decision to retire,
 42 sell, or transfer the electric generation facility. In considering the public



1 utility's intention or decision under this subsection; the commission
 2 shall examine the impact the retirement, sale, or transfer would have on
 3 the public utility's ability to meet:

4 (1) the public utility's planning reserve margin requirements or
 5 other federal reliability requirements that the public utility is
 6 obligated to meet, as described in section 13(i)(4) of this chapter;
 7 and

8 (2) the reliability adequacy metrics set forth in section 13(e) of
 9 this chapter.

10 (d) Before July 1, 2026; if:

11 (1) a public utility intends or decides to retire, sell, or transfer a
 12 electric generation facility with a capacity of at least eighty (80)
 13 megawatts; and

14 (2) the retirement, sale, or transfer:

15 (A) was not set forth in; or

16 (B) is to take place on a date earlier than the date specified in;
 17 the public utility's short term action plan in the public utility's
 18 most recently filed integrated resource plan;

19 the commission shall not permit the public utility's depreciation rates;
 20 as established under IC 8-1-2-19; to be amended to reflect the
 21 accelerated date for the retirement, sale, or transfer of the electric
 22 generation asset unless the commission finds that such an adjustment
 23 is necessary to ensure the ability of the public utility to provide reliable
 24 service to its customers; and that the unamended depreciation rates
 25 would cause an unjust and unreasonable impact on the public utility
 26 and its ratepayers:

27 (e) The commission may issue a general administrative order to
 28 implement this section:

29 (f) This section expires July 1, 2026.

30 SECTION 4. IC 8-1-8.5-2.2 IS ADDED TO THE INDIANA CODE
 31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 32 1, 2024]: **Sec. 2.2. (a) As used in this section, "electric generating
 33 unit" means one (1) or more fossil fuel fired:**

34 (1) combustion; or

35 (2) steam;

36 **generating sources that are used for generating electricity and that
 37 deliver all or part of the electricity generated to the electric grid
 38 for sale.**

39 (b) As used in this section, "reliability" has the meaning set
 40 forth in IC 8-1-2-0.6(1).

41 (c) As used in this section, "resiliency" has the meaning set forth
 42 in IC 8-1-2-0.6(3).



1 (d) As used in this section, "retirement", with respect to an
 2 electric generating unit, means the closure of, or the complete and
 3 permanent cessation of operations at, the electric generating unit.
 4 "Retire" has a corresponding meaning.

5 (e) Notwithstanding any other law, the commission has the
 6 authority to approve or deny the retirement of an electric
 7 generating unit owned or operated by a public utility. Before
 8 retiring an electric generating unit, a public utility must apply to
 9 the commission for an order approving the retirement. Before
 10 submitting an application to the commission under this subsection,
 11 the public utility must give the commission thirty (30) days
 12 advance notice that the public utility seeks to retire the electric
 13 generating unit. In an application submitted under this subsection,
 14 a public utility must, at a minimum:

- 15 (1) provide the commission with evidence of all known direct
 16 and indirect costs of retiring the electric generating unit; and
- 17 (2) demonstrate that the retirement of the electric generating
 18 unit will result in a cost savings to customers.

19 (f) Not later than one hundred eighty (180) days after receiving
 20 an administratively complete application from a public utility
 21 under subsection (e), and subject to subsection (g), the commission
 22 shall issue an order:

- 23 (1) approving;
- 24 (2) approving with conditions; or
- 25 (3) denying;

26 the application.

27 (g) There is a rebuttable presumption against the retirement of
 28 an electric generating unit. The commission shall not approve the
 29 retirement of an electric generating unit, authorize a surcharge in
 30 connection with the retirement of an electric generating unit, or
 31 take any other action that authorizes or allows for the recovery of
 32 costs in connection with the retirement of an electric generating
 33 unit, including the recovery of any costs associated with stranded
 34 assets, unless the presumption set forth in this subsection is
 35 rebutted by evidence sufficient for the commission to find the
 36 following:

- 37 (1) That the public utility will replace the capacity of the
 38 electric generating unit to be retired with capacity that:
 - 39 (A) is dispatchable by:
 - 40 (i) the public utility; or
 - 41 (ii) the appropriate regional transmission organization
 42 (as defined in section 13(b) of this chapter);



- 1 **(B) maintains or improves the reliability and resiliency of**
 2 **the electric transmission grid; and**
 3 **(C) allows the public utility to satisfy both:**
 4 **(i) its planning reserve margin requirement established**
 5 **by the appropriate regional transmission organization**
 6 **(as defined in section 13(b) of this chapter); and**
 7 **(ii) the reliability adequacy metrics set forth in section**
 8 **13(g) of this chapter.**
- 9 **(2) That the retirement of the electric generating unit will not**
 10 **harm the public utility's ratepayers by causing the public**
 11 **utility to incur any net incremental costs:**
 12 **(A) to be recovered through rates; and**
 13 **(B) that could be avoided by the continued operation of the**
 14 **electric generating unit in compliance with applicable law.**
- 15 **(3) That the public utility's decision to retire the electric**
 16 **generating unit is not the result of any financial incentives or**
 17 **benefits offered by any federal agency.**
- 18 **(h) The commission shall include in its annual report under**
 19 **IC 8-1-1-14 the following information for the state fiscal year**
 20 **covered by the report:**
- 21 **(1) The number of applications received by the commission**
 22 **under subsection (f).**
- 23 **(2) The nameplate capacity of each electric generating unit**
 24 **sought to be retired in the applications received.**
- 25 **(3) For each electric generating unit sought to be retired in the**
 26 **applications received, whether the commission:**
 27 **(A) approved;**
 28 **(B) approved with conditions; or**
 29 **(C) denied;**
- 30 **the retirement.**
- 31 **(4) For each retirement approved by the commission,**
 32 **including those retirements approved with conditions,**
 33 **information as to the impact of the retirement on the**
 34 **following, to the extent determinable:**
 35 **(A) Indiana's electric generation resource mix.**
 36 **(B) The ability of the public utility that retired the electric**
 37 **generating unit to satisfy both:**
 38 **(i) the public utility's planning reserve margin**
 39 **requirement established by the appropriate regional**
 40 **transmission organization (as defined in section 13(b) of**
 41 **this chapter); and**
 42 **(ii) the reliability adequacy metrics set forth in section**



- 1 **13(g) of this chapter.**
- 2 **(C) The need for capacity additions or expansions at new**
- 3 **or existing electric generating sites as a result of the**
- 4 **retirement.**
- 5 **(D) The need for additional power purchase agreements or**
- 6 **capacity reserve arrangements as a result of the**
- 7 **retirement.**
- 8 **(5) For each retirement approved by the commission,**
- 9 **including those retirements approved with conditions,**
- 10 **information as to whether the retirement resulted in stranded**
- 11 **costs that will be recovered by the public utility from**
- 12 **ratepayers through a surcharge or another separate charge**
- 13 **on customer bills.**
- 14 **(i) The commission may:**
- 15 **(1) issue a general administrative order; or**
- 16 **(2) adopt rules under IC 4-22-2;**
- 17 **to implement this section.**

