



January 24, 2020

HOUSE BILL No. 1414

DIGEST OF HB 1414 (Updated January 22, 2020 6:09 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Retirement of electric generation facilities. Provides that the utility regulatory commission (IURC) may authorize a public utility that operates a reliable capacity electricity generation resource that has: (1) an annual availability factor of at least 70%; and (2) an annual capacity factor of at least 50%; to receive additional basis points of return on the investment in the facility, as determined in the public utility's most recent base rate case. Prohibits a public utility from terminating a power agreement with a legacy generation resource in which the public utility has an ownership interest unless the public utility provides the IURC with at least three years advance notice of the termination. Provides that the IURC shall determine the reasonable costs incurred by the public utility under the power agreement and allow the public utility to recover those costs in a fuel adjustment charge proceeding. Provides that a public utility shall provide the IURC with at least six months advance notice of the public utility's intention to retire, sell, or transfer a reliable capacity resource with a capacity of at least 80 megawatts if such intention is not set forth in the public utility's most recent integrated resource plan. Provides that a public utility may not retire, sell, or transfer an electric generation facility having a capacity of at least 80 megawatts unless the public utility first obtains from the IURC a determination that the public convenience and necessity will be served by the planned retirement, sale, or transfer. Provides that if a public utility that seeks to retire, sell, or transfer an
(Continued next page)

Effective: Upon passage.

Soliday

January 15, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.
January 23, 2020, amended, reported — Do Pass.

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Digest Continued

electric generating facility cites a federal mandate as the basis, in whole or in part, for the planned retirement, sale, or transfer of the facility, the IURC may not consider the cited federal mandate in making a determination as to the planned action unless the cited federal mandate: (1) is in force; (2) has not expired or been revoked; and (3) is not merely anticipated to be enacted; at the time of the public utility's petition. Provides that a public utility is entitled to recover in a fuel adjustment charge proceeding the cost of not more than 90 days of reserve fuel supply, with up to 60 days of such reserve stored at any location that provides availability of the fuel supply upon not more than 48 hours notice. Provides that these provisions expire July 1, 2021.



January 24, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1414

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 8-1-8.5-11 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 11. (a) As used in this section, "annual**
4 **availability factor"**, with respect to a reliable capacity resource,
5 **means the number of hours the reliable capacity resource is able**
6 **to produce electricity in a calendar year divided by the number of**
7 **hours in the calendar year.**
8 **(b) As used in this section, "annual capacity factor"**, with
9 **respect to a reliable capacity resource, means the product of:**
10 **(1) the annual electric generation in megawatt hours of the**
11 **reliable capacity resource divided by the number of hours in**
12 **the calendar year; multiplied by**
13 **(2) the reliable capacity resource's nameplate capacity.**
14 **(c) As used in this section, "legacy generation resource" means**
15 **an electric generating facility owned directly or indirectly by a**
16 **corporation that was formed for the original purpose of providing**
17 **power to the federal government for use in the nation's defense or**

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1 in furtherance of national interests, including the Ohio Valley
2 Electric Corporation.

3 (d) As used in this section, "reliable capacity resource" means
4 an electric generating unit:

5 (1) that is located in Indiana;

6 (2) the capacity of which is valued by a regional transmission
7 organization at a minimum of eighty percent (80%) of the
8 unit's nameplate capacity; and

9 (3) that maintains an annual average onsite fuel inventory of
10 at least thirty (30) days of average fuel consumption.

11 (e) The general assembly finds that it is in the public interest to
12 support the reliability, availability, fuel security, and diversity of
13 electric generating capacity in Indiana for the purpose of providing
14 reliable and stable electric service to customers of public utilities.

15 (f) A public utility that owns and operates a reliable capacity
16 resource shall operate and maintain the unit in a manner
17 reasonably intended to secure the availability of the unit for
18 dispatch and for providing reliable service to customers of the
19 public utility.

20 (g) The commission may authorize a public utility that operates
21 during a given calendar year a reliable capacity resource with:

22 (1) an annual availability factor of at least seventy percent
23 (70%); and

24 (2) an annual capacity factor of at least fifty percent (50%);
25 to receive an additional one hundred (100) basis points of return on
26 the investment in the unit, as determined in the public utility's most
27 recent base rate case. The additional return on investment may be
28 requested by the public utility annually in a fuel adjustment charge
29 proceeding under IC 8-1-2-42 during the subsequent calendar year.
30 Any additional return on investment authorized under this
31 subsection shall be excluded from the calculation required under
32 IC 8-1-2-42(d)(3).

33 (h) A public utility may not terminate a power agreement with
34 a legacy generation resource in which the public utility has an
35 ownership interest unless the public utility provides the
36 commission with at least three (3) years advance notice of the
37 termination. The commission shall determine the reasonable costs
38 incurred by the public utility under the power agreement and allow
39 the public utility to recover those costs in a fuel adjustment charge
40 proceeding under IC 8-1-2-42. For purposes of this subsection, a
41 public utility's reasonable costs related to a legacy generation
42 resource means those costs, including deferred costs, allocated



1 under a power agreement approved by the Federal Energy
2 Regulatory Commission and relating to a legacy generation
3 resource.

4 (i) A public utility shall provide the commission with at least six
5 (6) months advance notice of the public utility's intention to retire,
6 sell, or transfer a reliable capacity resource with a capacity
7 exceeding eighty (80) megawatts if such intention is not set forth in
8 the public utility's most recent integrated resource plan. The public
9 utility shall provide the reasons for the proposed retirement, sale,
10 or transfer in the notice required under this subsection.

11 (j) A public utility may not retire, sell, or transfer an electric
12 generation facility having a capacity of at least eighty (80)
13 megawatts unless the public utility first obtains from the
14 commission a determination that the public convenience and
15 necessity will be served by the planned retirement, sale, or
16 transfer. The public utility may apply to the commission for a
17 determination under this subsection at any time before the planned
18 retirement, sale, or transfer. The commission shall issue its
19 determination under this subsection not later than one hundred
20 twenty (120) days after receipt of the public utility's request. If the
21 commission determines that the public convenience and necessity
22 will not be served by the planned action, the public utility may
23 submit a new request under this subsection not earlier than one
24 hundred eighty (180) days after the commission's most recent
25 determination under this subsection.

26 (k) If a public utility that seeks to retire, sell, or transfer an
27 electric generating facility under subsection (j) cites a federal
28 mandate as the basis, in whole or in part, for the planned
29 retirement, sale, or transfer of the facility, the commission may not
30 consider the cited federal mandate in making the commission's
31 required determination under subsection (j) unless the cited federal
32 mandate:

- 33 (1) is in force;
34 (2) has not expired or been revoked; and
35 (3) is not merely anticipated to be enacted;

36 at the time of the public utility's petition under subsection (j).

37 (l) A public utility is entitled to recover in a fuel adjustment
38 charge proceeding under IC 8-1-2-42 the cost of not more than
39 ninety (90) days of reserve fuel supply, with up to sixty (60) days of
40 such reserve stored at any location that provides availability of the
41 fuel supply upon not more than forty-eight (48) hours notice. Costs
42 associated with a reserve fuel supply described in this subsection



1 shall be considered reasonable by the commission, and are eligible
2 for recovery in the public utility's fuel charge, if the commission
3 finds that the public utility has otherwise made every reasonable
4 effort to acquire the reserve supply at the lowest cost reasonably
5 possible, giving due regard to considerations of fuel assurance, fuel
6 security, and reliability with respect to the electricity supplied by
7 the public utility to its customers and the wholesale market.

8 (m) This section expires July 1, 2021.

9 SECTION 2. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1414, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1414 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 4.

