



February 9, 2023

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## HOUSE BILL No. 1417

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DIGEST OF HB 1417 (Updated February 7, 2023 3:21 pm - DI 101)

**Citations Affected:** IC 8-1.

**Synopsis:** Utility deferred costs and accounting practices. Amends the Indiana Code provision concerning a system of accounting for public utilities to provide the following: (1) That a public utility, municipally owned utility, or not-for-profit utility may defer for consideration by the Indiana utility regulatory commission (IURC) and for future recovery costs incurred or to be incurred in a regulatory asset, to the extent that the specific costs are incremental and are not otherwise already included for recovery in the utility's rates. (2) That preapproval of the IURC is not required for the creation of a regulatory asset. (3) That a public utility, municipally owned utility, or not-for-profit utility shall recover through the utility's rates over a reasonable period, as determined by the IURC, costs that are: (A) deferred under these provisions; and (B) found to be reasonable and prudent by the IURC. Amends the Indiana Code provision concerning a public utility's depreciation account and depreciation rates to provide the following: (1) That depreciation rates shall be calculated to recover a reasonable estimate of the future cost of removing retired assets of the public utility. (2) That in a proceeding in which the costs of a capital asset are being recognized for ratemaking purposes, a public utility may account for any asset retirement obligations and recover, through rates charged to customers, reasonably and prudently incurred costs associated with asset retirement obligations, to the extent the specific asset retirement obligation costs are incremental and have not been included in  
(Continued next page)

**Effective:** Upon passage.

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### Soliday, Frye R

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January 17, 2023, read first time and referred to Committee on Utilities, Energy and Telecommunications.  
February 9, 2023, amended, reported — Do Pass.

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Digest Continued

depreciation rates. (3) That the IURC shall make changes in a public utility's depreciation rates as necessary to reflect changes in: (A) the public utility's estimated asset retirement costs, including all reasonable and prudent costs of removing retired assets; and (B) the estimated retirement dates of the public utility's assets. Amends the Indiana Code chapter concerning federally mandated requirements for energy utilities to specify that recovery of the 80% of IURC-approved federally mandated costs that an energy utility may recover through a rate adjustment mechanism must commence no earlier than: (A) the date of a final agency action regarding the federally mandated requirement; or (B) in the absence of a final agency action, the date on which the federally mandated requirement becomes effective.



February 9, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## HOUSE BILL No. 1417

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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 8-1-2-10 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** Every public utility shall  
3 keep and render to the commission, in the manner and form prescribed  
4 by the commission, uniform accounts of all business transacted. In  
5 formulating a system of accounting for any class of public utilities, the  
6 commission shall consider any system of accounting established by any  
7 federal law, commission, or department and any system authorized by  
8 a national association of such utilities.  
9           **(b) A public utility, municipally owned utility, or not-for-profit**  
10 **utility, including any utility owned, operated, or held in trust by a**  
11 **consolidated city, may defer for consideration by the commission**  
12 **and for future recovery costs incurred or to be incurred in a**  
13 **regulatory asset consistent with the accounting rules that concern**  
14 **the recognition of regulatory assets and that are in effect at the**  
15 **time the deferral decision is made by the utility, including any of**

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1 the following costs, to the extent those specific costs are  
 2 incremental and are not otherwise already included for recovery  
 3 in the utility's rates:

- 4 (1) Financing costs.  
 5 (2) Depreciation expenses.  
 6 (3) Asset retirement obligations.  
 7 (4) Operation and maintenance costs.  
 8 (5) Capital costs.  
 9 (6) Tax costs.  
 10 (7) Tax credits.  
 11 (8) Incurred costs that are directly related to the preparation  
 12 and conduct of a regulatory proceeding.

13 (c) Commission preapproval for the creation of a regulatory  
 14 asset is not required.

15 (d) Notwithstanding section 68 of this chapter or any other  
 16 provision of this title, a utility described in subsection (b) shall  
 17 recover through the utility's rates over a reasonable period, as  
 18 determined by the commission, costs that are:

- 19 (1) deferred under this section; and  
 20 (2) found to be reasonable and prudent by the commission.

21 SECTION 2. IC 8-1-2-19 IS AMENDED TO READ AS FOLLOWS  
 22 [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) Every public utility shall  
 23 carry a separate, proper and adequate depreciation account whenever  
 24 the commission, after investigation, shall determine that such  
 25 depreciation account reasonably can be required.

26 (b) The commission, from time to time, shall ascertain and  
 27 determine the proper and adequate rates of depreciation of the several  
 28 classes of property of each public utility. ~~The Depreciation rates~~  
 29 ~~under this subsection shall be calculated to recover a reasonable~~  
 30 ~~estimate of the future cost of removing retired assets of the public~~  
 31 ~~utility.~~

32 (c) A public utility's rates, tolls and charges shall be such as will  
 33 provide the amounts required over and above the reasonable and  
 34 necessary operating expenses, to maintain such property in an  
 35 operating state of efficiency corresponding to the progress of the  
 36 industry. **In a proceeding in which the costs of a capital asset are**  
 37 **being recognized for ratemaking purposes, a public utility may**  
 38 **account for any asset retirement obligations and recover, through**  
 39 **rates charged to customers, reasonably and prudently incurred**  
 40 **costs associated with asset retirement obligations, to the extent the**  
 41 **specific asset retirement obligation costs are incremental and have**  
 42 **not otherwise been included in depreciation rates.** Each public



1 utility shall conform its depreciation accounts to ~~such~~ **the** rates so  
2 ascertained and determined by the commission.

3 **(d)** The commission shall make changes in ~~such~~ **a public utility's**  
4 rates of depreciation, from time to time, as ~~it may find~~ **the commission**  
5 **finds** necessary, **including as necessary to reflect changes in:**

6 **(1) the public utility's estimated asset retirement costs,**  
7 **including all reasonable and prudent costs of removing**  
8 **retired assets; and**

9 **(2) the estimated retirement dates of assets of the public**  
10 **utility.**

11 SECTION 3. IC 8-1-8.4-7, AS ADDED BY P.L.150-2011,  
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 UPON PASSAGE]: Sec. 7. (a) As a condition for receiving the  
14 certificate required under section 6 of this chapter, an energy utility  
15 must file with the commission an application that sets forth the  
16 information described in section 6(b) of this chapter, supported with  
17 technical information in as much detail as the commission requires.

18 **(b)** The commission shall hold a properly noticed public hearing on  
19 each application and grant a certificate only if the commission has:

20 **(1)** made a finding that the public convenience and necessity will  
21 be served by the proposed compliance project;

22 **(2)** approved the projected federally mandated costs associated  
23 with the proposed compliance project; and

24 **(3)** made a finding on each of the factors set forth in section 6(b)  
25 of this chapter.

26 **(c)** If the commission approves under subsection (b) a proposed  
27 compliance project and the projected federally mandated costs  
28 associated with the proposed compliance project, the following apply:

29 **(1)** Eighty percent (80%) of the approved federally mandated  
30 costs shall be recovered by the energy utility through a periodic  
31 retail rate adjustment mechanism that allows the timely recovery  
32 of the approved federally mandated costs, **with recovery**  
33 **commencing no earlier than:**

34 **(A) the date of a final agency action regarding the federally**  
35 **mandated requirement; or**

36 **(B) in the absence of a final agency action, the date on**  
37 **which the federally mandated requirement becomes**  
38 **effective.**

39 The commission shall adjust the energy utility's authorized net  
40 operating income to reflect any approved earnings for purposes of  
41 IC 8-1-2-42(d)(3) and IC 8-1-2-42(g)(3).

42 **(2)** Twenty percent (20%) of the approved federally mandated



1 costs, including depreciation, allowance for funds used during  
2 construction, and post in service carrying costs, based on the  
3 overall cost of capital most recently approved by the commission,  
4 shall be deferred and recovered by the energy utility as part of the  
5 next general rate case filed by the energy utility with the  
6 commission.  
7 (3) Actual costs that exceed the projected federally mandated  
8 costs of the approved compliance project by more than  
9 twenty-five percent (25%) shall require specific justification by  
10 the energy utility and specific approval by the commission before  
11 being authorized in the next general rate case filed by the energy  
12 utility with the commission.  
13 **SECTION 4. An emergency is declared for this act.**



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1417, 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:

Replace the effective dates in SECTIONS 1 through 3 with "[EFFECTIVE UPON PASSAGE]".

Page 1, line 11, delete "future recovery" and insert "**consideration by the commission and for future recovery**".

Page 1, line 15, delete "as long as the costs are" and insert "**to the extent those specific costs are incremental and are not otherwise already included for recovery in the utility's rates:**".

Page 2, line 1, delete "reasonable:".

Page 2, line 9, delete "Costs incurred in planning, seeking approval of, or" and insert "**Incurred costs that are directly related to the preparation and conduct of a regulatory proceeding.**".

Page 2, delete lines 10 through 14.

Page 2, line 19, delete "period" and insert "**period, as determined by the commission,**".

Page 2, line 38, delete "A" and insert "**In a proceeding in which the costs of a capital asset are being recognized for ratemaking purposes, a**".

Page 2, line 40, after "reasonably" insert "**and prudently**".

Page 2, line 41, delete "asset retirement obligation costs" and insert "**specific asset retirement obligation costs are incremental and**".

Page 2, line 42, after "not" insert "**otherwise**".

Page 3, line 7, after "all" insert "**reasonable and prudent**".

Page 4, after line 11, begin a new paragraph and insert:

"SECTION 4. **An emergency is declared for this act.**".

and when so amended that said bill do pass.

(Reference is to HB 1417 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 4.

