

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 ENROLLED ACT No. 1417

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-2-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. **(a)** Every public utility shall keep and render to the commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for any class of public utilities, the commission shall consider any system of accounting established by any federal law, commission, or department and any system authorized by a national association of such utilities.

(b) A public utility, municipally owned utility, or not-for-profit utility, including any utility owned, operated, or held in trust by a consolidated city, may defer for consideration by the commission and for future recovery costs incurred or to be incurred in a regulatory asset consistent with the accounting rules that concern the recognition of regulatory assets and that are in effect at the time the deferral decision is made by the utility, including any of the following costs, to the extent those specific costs are incremental and are not otherwise already included for recovery in the utility's rates:

- (1) Financing costs.**
- (2) Depreciation expenses.**

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- (3) Asset retirement obligations.
- (4) Operation and maintenance costs.
- (5) Capital costs.
- (6) Tax costs.
- (7) Tax credits.
- (8) Incurred costs that are directly related to the preparation and conduct of a regulatory proceeding.

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

(d) Notwithstanding section 68 of this chapter, a utility described in subsection (b) may recover through the utility's rates over a reasonable period, as determined by the commission, costs that are:

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

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

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

(c) **A public utility's rates, tolls and charges shall be such as will provide the amounts required over and above the reasonable and necessary operating expenses, to maintain such property in an operating state of efficiency corresponding to the progress of the industry. 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 otherwise been included in depreciation rates.** Each public utility shall conform its depreciation accounts to ~~such~~ the rates so ascertained and determined by the commission.

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

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

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

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

- (1) made a finding that the public convenience and necessity will be served by the proposed compliance project;
- (2) approved the projected federally mandated costs associated with the proposed compliance project; and
- (3) made a finding on each of the factors set forth in section 6(b) of this chapter.

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

- (1) Eighty percent (80%) of the approved federally mandated costs shall be recovered by the energy utility through a periodic retail rate adjustment mechanism that allows the timely recovery of the approved federally mandated costs, **with recovery commencing 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.

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

- (2) Twenty percent (20%) of the approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the



commission.

(3) Actual costs that exceed the projected federally mandated costs of the approved compliance project by more than twenty-five percent (25%) shall require specific justification by the energy utility and specific approval by the commission before being authorized in the next general rate case filed by the energy utility with the commission.

SECTION 4. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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