

HOUSE BILL No. 1421

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-40.

Synopsis: Net metering for tax supported power customers. Provides that, notwithstanding the law requiring an electricity supplier to include in its net metering tariff a limit on the aggregate amount of net metering facility nameplate capacity of 1.5% of the electricity supplier's most recent summer peak load, an electricity supplier may, at its own discretion, increase the aggregate amount of net metering facility nameplate capacity beyond the limit of 1.5% of the electricity supplier's most recent summer peak load. Defines "tax supported customer" as an electricity customer whose operations are directly funded with revenue from state or local taxes, such as public schools, public libraries, and units of local government. Provides that a tax supported customer that is participating in an electricity supplier's net metering tariff on July 1, 2019, shall continue to be served under the terms and conditions of the net metering tariff despite the provisions of the law under which the participation of other customers in the electricity supplier's net metering tariff may be ended. Provides that a tax supported customer participating in net metering shall be credited for the electricity supplied back to the electricity supplier at the rate that would apply to the tax supported customer's purchase of electricity if the tax supported customer were not participating in net metering.

Effective: July 1, 2019.

Bacon

January 14, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1421

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 8-1-40-6.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2019]: **Sec. 6.7. As used in this chapter, "nameplate capacity"**
4 **means the full-load continuous rating of all generators of an**
5 **electricity supplier under specified conditions as designated by the**
6 **manufacturers of the generators.**

7 SECTION 2. IC 8-1-40-7.5 IS ADDED TO THE INDIANA CODE
8 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2019]: **Sec. 7.5. As used in this chapter, "non-tax supported**
10 **customer" means a customer that is not a tax supported customer.**

11 SECTION 3. IC 8-1-40-9.5 IS ADDED TO THE INDIANA CODE
12 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2019]: **Sec. 9.5. (a) As used in this chapter, "tax supported**
14 **customer" means a customer that is an entity whose operations are**
15 **directly funded with revenue from state or local taxes.**

16 **(b) The term includes the following:**
17 **(1) A public school.**



(2) A public library.

(3) A county, city, town, or township government.

(4) An office, division, or unit of a county, city, town, or township government.

SECTION 4. IC 8-1-40-10, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) Subject to sections 13 and 14 of this chapter, a net metering tariff of an electricity supplier must remain available to the electricity supplier's **non-tax supported** customers until the earlier of the following:

(1) January 1 of the first calendar year after the calendar year in which the aggregate amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff equals at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.

(2) July 1, 2022.

(b) Before July 1, 2022, if an electricity supplier reasonably anticipates, at any point in a calendar year, that the aggregate amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff will equal at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, the electricity supplier shall, in accordance with section 16 of this chapter, petition the commission for approval of a rate for the procurement of excess distributed generation **for purposes of section 17(a) of this chapter.**

SECTION 5. IC 8-1-40-11, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

(1) an electricity supplier may not seek to change the terms and conditions of the electricity supplier's net metering tariff; and

(2) the commission may not approve changes to an electricity supplier's net metering tariff.

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:

(1) an electricity supplier may not make a net metering tariff available to **non-tax supported** customers; and

(2) the terms and conditions of a net metering tariff offered by an electricity supplier to **non-tax supported customers** before July 1, 2022, expire and are unenforceable.

SECTION 6. IC 8-1-40-12, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2019]: Sec. 12. (a) ~~Before January 1, 2018~~; The commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

(1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, **subject to subsection (c).**

(2) **Subject to subsection (d)**, modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:

(A) forty percent (40%) of the capacity for participation by residential customers; and

(B) fifteen percent (15%) of the capacity for participation by customers that install a net metering facility that uses a renewable energy resource described in IC 8-1-37-4(a)(5).

(b) In amending 170 IAC 4-4.2-4, as required by subsection (a), the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this section and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

(c) **Notwithstanding subsection (a), an electricity supplier may, at its own discretion, increase the aggregate amount of net metering facility nameplate capacity beyond the limit set forth in subsection (a)(1).**

(d) **Notwithstanding subsection (a), after July 1, 2019:**

(1) **a tax supported consumer's participation in an electricity supplier's net metering tariff is not affected by a limit on the aggregate amount of net metering facility nameplate capacity included in the electricity supplier's net metering tariff; and**

(2) **a reservation of capacity among categories of consumers under subsection (a)(2) does not:**

(A) **apply to tax supported consumers; or**

(B) **limit the participation of tax supported consumers in an electricity supplier's net metering tariff.**

SECTION 7. IC 8-1-40-13, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 13. (a) This section applies to a **non-tax supported** customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

(1) after December 31, 2017; and



(2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section ~~10(1)~~ **10(a)(1)** or ~~10(2)~~ **10(a)(2)** of this chapter.

(b) A **non-tax supported** customer that is participating in an electricity supplier's net metering tariff on the date on which the electricity supplier's net metering tariff terminates under section ~~10(1)~~ **10(a)(1)** or ~~10(2)~~ **10(a)(2)** of this chapter shall continue to be served under the terms and conditions of the net metering tariff until:

(1) the **non-tax supported** customer removes from the customer's premises or replaces the net metering facility (as defined in 170 IAC 4-4.2-1(k)); or

(2) July 1, 2032;

whichever occurs earlier.

(c) A successor in interest to a **non-tax supported** customer's premises on which a net metering facility (as defined in 170 IAC 4-4.2-1(k)) that was installed during the period described in subsection (a) is located may, if the successor in interest chooses, be served under the terms and conditions of the net metering tariff of the electricity supplier that provides retail electric service at the premises until:

(1) the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is removed from the premises or is replaced; or

(2) July 1, 2032;

whichever occurs earlier.

SECTION 8. IC 8-1-40-14, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 14. (a) ~~This section applies~~ **Subsections (b) and (c) apply** to a **non-tax supported** customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before January 1, 2018.

(b) A **non-tax supported** customer that is participating in an electricity supplier's net metering tariff on December 31, 2017, shall continue to be served under the terms and conditions of the net metering tariff until:

(1) the **non-tax supported** customer removes from the customer's premises or replaces the net metering facility (as defined in 170 IAC 4-4.2-1(k)); or

(2) July 1, 2047;

whichever occurs earlier.

(c) A successor in interest to a **non-tax supported** customer's premises on which is located a net metering facility (as defined in 170 IAC 4-4.2-1(k)) that was installed before January 1, 2018, may, if the



successor in interest chooses, be served under the terms and conditions of the net metering tariff of the electricity supplier that provides retail electric service at the premises until:

- (1) the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is removed from the premises or is replaced; or
- (2) July 1, 2047;

whichever occurs earlier.

(d) A tax supported customer that is participating in an electricity supplier's net metering tariff on July 1, 2019, shall continue to be served under the terms and conditions of the net metering tariff notwithstanding subsections (b) and (c) and section 13 of this chapter.

SECTION 9. IC 8-1-40-15, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. An electricity supplier shall procure the excess distributed generation produced by a customer at a rate:

- (1) approved by the commission under section ~~17~~ 17(a) of this chapter, in the case of a non-tax supported customer; or**
- (2) set forth in section 17(b) of this chapter, in the case of a tax supported customer.**

Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier's fuel adjustment proceedings under IC 8-1-2-42.

SECTION 10. IC 8-1-40-16, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 16. Not later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the procurement of excess distributed generation by the electricity supplier. After an electricity supplier's initial rate for excess distributed generation is approved by the commission under section ~~17~~ 17(a) of this chapter, the electricity supplier shall submit on an annual basis, not later than March 1 of each year, an updated rate for excess distributed generation in accordance with the methodology set forth in section ~~17~~ 17(a) of this chapter.

SECTION 11. IC 8-1-40-17, AS ADDED BY P.L.264-2017, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 17. **(a)** The commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating **non-tax supported** customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and



1 equals the product of:

- 2 (1) the average marginal price of electricity paid by the electricity
3 supplier during the most recent calendar year; multiplied by
4 (2) one and twenty-five hundredths (1.25).

5 **(b) An electricity supplier shall determine the monthly bill of a**
6 **tax supported customer participating in net metering as follows:**

7 **(1) Charges, credits, rates, and adjustments shall be billed in**
8 **accordance with:**

9 **(A) the electricity supplier's tariff; and**

10 **(B) the administrative rules;**

11 **that would apply if the tax supported customer were not**
12 **participating in net metering.**

13 **(2) The electricity supplier shall measure the difference**
14 **between:**

15 **(A) the number of kilowatt hours of electricity delivered by**
16 **the electricity supplier to the tax supported customer; and**

17 **(B) the number of kilowatt hours of electricity generated**
18 **by the tax supported customer and delivered to the**
19 **electricity supplier;**

20 **during the billing period.**

21 **(3) If the number determined under subdivision (2)(A)**
22 **exceeds the number determined under subdivision (2)(B), the**
23 **tax supported customer shall be billed for the difference**
24 **between the numbers at the rate that would apply to the tax**
25 **supported customer if it were not participating in net**
26 **metering.**

27 **(4) If the number determined under subdivision (2)(B) exceeds**
28 **the number determined under subdivision (2)(A), the tax**
29 **supported customer shall be credited in the next billing cycle**
30 **for the difference between the numbers at the rate that would**
31 **apply to the tax supported customer's purchase of electricity**
32 **if the tax supported customer were not participating in net**
33 **metering.**

34 **SECTION 12. IC 8-1-40-18, AS ADDED BY P.L.264-2017,**
35 **SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
36 **JULY 1, 2019]: Sec. 18. (a) An electricity supplier shall compensate**
37 **a customer from whom the electricity supplier procures excess**
38 **distributed generation at the rate:**

39 **(1) approved by the commission under section ~~17~~ 17(a) of this**
40 **chapter; or**

41 **(2) set forth in section 17(b) of this chapter;**

42 **through a credit on the customer's monthly bill.**



- 1 **(b)** Any excess credit shall be carried forward and applied against
- 2 future charges to the customer for as long as the customer receives
- 3 retail electric service from the electricity supplier at the premises.

