



Reprinted
March 4, 2014

ENGROSSED HOUSE BILL No. 1423

DIGEST OF HB 1423 (Updated March 3, 2014 8:20 pm - DI 44)

Citations Affected: IC 8-1.

Synopsis: Provides that a customer of an electricity supplier that has a maximum demand of at least five megawatts is eligible to apply for a temporary discount to the customer's rates and charges for electricity. (Current law requires a maximum demand of at least 10 megawatts.) Authorizes a prospective customer of an electricity supplier to apply for a temporary discount to the prospective customer's rates and charges for electricity. Allows the owner of a private generation project to sell excess electric output generated by the project to an electric utility. Provides that the electric utility may recover the purchase price through a fuel adjustment charge. Requires an electric utility to provide, upon request, back up, maintenance, and supplementary power to a private generation project.

Effective: Upon passage; July 1, 2014.

Koch, VanNatter, Battles, Hale

(SENATE SPONSORS — MERRITT, LEISING)

January 21, 2014, read first time and referred to Committee on Rules and Legislative Procedures. Reassigned to Committee on Utilities.

January 28, 2014, amended, reported — Do Pass.

January 30, 2014, read second time, ordered engrossed, engrossed.

February 3, 2014, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 10, 2014, read first time and referred to Committee on Utilities.

February 27, 2014, reported favorably — Do Pass.

March 3, 2014, read second time, amended, ordered engrossed.

EH 1423—LS 6422/DI 44



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Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1423

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

1 SECTION 1. IC 8-1-2-24, AS AMENDED BY P.L.133-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 24. (a) Nothing in this chapter shall be taken
4 to prohibit a public utility from entering into any reasonable
5 arrangement with its customers or consumers, or with its employees, or
6 with any municipality in which any of its property is located, for the
7 division or distribution of its surplus profits, or providing for a sliding
8 scale of charges or other financial device that may be practicable and
9 advantageous to the parties interested. No such arrangement or device
10 shall be lawful until it shall be found by the commission, after
11 investigation, to be reasonable and just and not inconsistent with the
12 purpose of this chapter. Such arrangement shall be under the
13 supervision and regulation of the commission.
14 (b) A customer of an electricity supplier (as defined in IC 8-1-2.3-2)
15 that is a public utility that is under the jurisdiction of the commission
16 for the approval of rates and charges may apply to the commission for

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1 a temporary discount to the demand component of the rates and charges
 2 contained in the electricity supplier's applicable standard tariff for
 3 service to a single facility of the customer that is located in Indiana if
 4 the customer:

5 (1) has or will have a maximum demand for electricity of at least
 6 ~~ten (10)~~ **five (5)** megawatts at the facility;

7 (2) employs **or will employ** more than fifty (50) full-time
 8 employees at the facility;

9 (3) demonstrates that the temporary discount is necessary and
 10 essential for the customer to **locate a facility in Indiana or to**
 11 attract or create additional jobs or retain existing jobs at the
 12 facility;

13 (4) demonstrates that the customer's demand for electricity at the
 14 facility will:

15 **(A) for an existing customer**, increase by at least one (1)
 16 megawatt as a result of the jobs created or retained under
 17 subdivision (3); **or**

18 **(B) for a prospective customer, equal at least five (5)**
 19 **megawatts as a result of locating the facility in Indiana;**
 20 and

21 (5) has applied for and received from the Indiana economic
 22 development corporation approval for the requested temporary
 23 discount amount.

24 (c) Upon receiving an application from a customer of an electricity
 25 supplier under subsection (b), the commission may approve a
 26 temporary discount to the demand component of the rates and charges
 27 contained in the electricity supplier's applicable standard tariff if the
 28 commission finds that the discount is just and reasonable and
 29 consistent with the circumstances described by the customer under
 30 subsection (b), as follows:

31 (1) For circumstances not described in subdivision (2) or (3), a
 32 discount up to ten percent (10%).

33 (2) For circumstances involving a redevelopment project in which
 34 the customer is involved, a discount up to fifteen percent (15%).

35 (3) For circumstances involving a brownfield project in which the
 36 customer is involved, a discount up to twenty percent (20%).

37 (d) A temporary discount authorized under subsection (c) expires
 38 three (3) years after the effective date of the discount. The cost of the
 39 temporary discount shall be included by the commission in the cost of
 40 service for the electricity supplier and shall be deferred for ratemaking
 41 purposes by the electricity supplier for subsequent recovery in
 42 connection with the electricity supplier's next general retail electric rate



- 1 case.
- 2 (e) A customer that receives a temporary discount under this section
- 3 for service to a facility may not:
- 4 (1) enter into a contract with the customer's electricity supplier for
- 5 electric utility service to the facility that provides for rates, terms,
- 6 or conditions that differ from the rates, terms, and conditions
- 7 contained in the electricity supplier's applicable standard tariff; or
- 8 (2) take electric utility service to the facility under a
- 9 commission-approved economic development tariff offered by the
- 10 electricity supplier.
- 11 (f) A temporary discount authorized under subsection (c) applies **as**
- 12 **follows:**
- 13 **(1) For an existing customer, only to the demand component of**
- 14 **the customer's rates and charges related to the increase in the**
- 15 **customer's load described in subsection ~~(b)(4)~~: **(b)(4)(A)**.**
- 16 **However, the commission may authorize the application of the**
- 17 **applicable temporary discount under subsection (c) to all or part**
- 18 **of the demand component of the customer's rates and charges**
- 19 **related to the entire facility if the commission determines that a**
- 20 **broader application is beneficial to all customers of the electricity**
- 21 **supplier.**
- 22 **(2) For a prospective customer, to the demand components of**
- 23 **the customer's rates and charges related to the entire load**
- 24 **described in subsection (b)(4)(B).**
- 25 **(g) As used in this section, and except where otherwise**
- 26 **indicated, "customer" includes a prospective customer of an**
- 27 **electricity supplier.**
- 28 SECTION 2. IC 8-1-2.4-2 IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The definitions
- 30 in this section apply throughout this chapter.
- 31 (b) "Alternate energy production facility" means:
- 32 (1) a solar, wind turbine, waste management, resource recovery,
- 33 refuse-derived fuel, or wood burning facility;
- 34 (2) any land, system, building, or improvement that is located at
- 35 the project site and is necessary or convenient to the construction,
- 36 completion, or operation of the facility; and
- 37 (3) the transmission or distribution facilities necessary to conduct
- 38 the energy produced by the facility to users located at or near the
- 39 project site.
- 40 (c) "Cogeneration facility" means:
- 41 (1) a facility that:
- 42 (A) simultaneously generates electricity and useful thermal



- 1 energy; and
 2 (B) meets the energy efficiency standards established for
 3 cogeneration facilities by the Federal Energy Regulatory
 4 Commission under 16 U.S.C. 824a-3;
 5 (2) any land, system, building, or improvement that is located at
 6 the project site and is necessary or convenient to the construction,
 7 completion, or operation of the facility; and
 8 (3) the transmission or distribution facilities necessary to conduct
 9 the energy produced by the facility to users located at or near the
 10 project site.
 11 (d) "Electric utility" means any public utility or municipally owned
 12 utility that owns, operates, or manages any electric plant.
 13 (e) "Small hydro facility" means:
 14 (1) a hydroelectric facility at a dam;
 15 (2) any land, system, building, or improvement that is located at
 16 the project site and is necessary or convenient to the construction,
 17 completion, or operation of the facility; and
 18 (3) the transmission or distribution facilities necessary to conduct
 19 the energy produced by the facility to users located at or near the
 20 project site.
 21 (f) "Steam utility" means any public utility or municipally owned
 22 utility that owns, operates, or manages a steam plant.
 23 (g) "**Private generation project**" means a cogeneration facility
 24 that has an electric generating capacity of eighty (80) megawatts or
 25 more and is:
 26 (1) primarily used by its owner for the owner's industrial,
 27 commercial, heating, or cooling purposes; or
 28 (2) a qualifying facility for purposes of the Public Utility
 29 Regulatory Policies Act of 1978 that:
 30 (A) is in existence on July 1, 2014; and
 31 (B) produces electricity and useful thermal energy that is
 32 primarily used by a host operation for industrial,
 33 commercial, heating, or cooling purposes.
 34 SECTION 3. IC 8-1-2.4-3 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The commission
 36 shall encourage the participation of utilities in alternate energy
 37 production facilities, cogeneration facilities, ~~and~~ small hydro facilities,
 38 **and private generation projects.**
 39 SECTION 4. IC 8-1-2.4-6 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2014]: **Sec. 6. (a) The owner of a private generation project may
 42 sell excess electric output generated by the private generation**



1 project to an electric utility as provided in subsection (b) to the
2 extent the sale is consistent with applicable federal and state laws,
3 rules, and regulations.

4 (b) An electric utility may purchase excess output described in
5 subsection (a) from a private generation project that is located
6 entirely in the assigned service area of the electric utility. The
7 terms of the purchase must be consistent with the integrated
8 resource plan filed with the commission by the electric utility
9 under 170 IAC 4-7, including avoided energy and capacity costs
10 determined in the integrated resource plan.

11 (c) An electric utility is entitled to recover costs associated with
12 the purchase of energy and capacity under subsection (b) under
13 IC 8-1-2-42(d).

14 (d) An electric utility shall interconnect with a private
15 generation project upon request, subject to reasonable
16 considerations of safety, reliability, and financial assurance. The
17 interconnection of a private generation project with an electric
18 utility's distribution system is governed by 170 IAC 4-4.3. The
19 interconnection of a private generation project with an electric
20 utility's transmission system is governed by federal law and
21 regulation, including orders, regulations, and transmission tariffs
22 approved by the Federal Energy Regulatory Commission.

23 (e) Upon the request of the owner of a private generation
24 project, an electric utility shall provide the private generation
25 project with back up, maintenance, and supplementary power. The
26 electric utility shall charge rates that:

27 (1) are based on the electric utility's costs;

28 (2) do not discriminate against:

29 (A) the private generation project; or

30 (B) other customers of the electric utility with load
31 characteristics similar to the private generation project;
32 and

33 (3) do not create subsidies for:

34 (A) the private generation project; or

35 (B) retail customers of the electric utility.

36 SECTION 5. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred House Bill 1423, 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 the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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 1423 as introduced.)

KOCH, Chair

Committee Vote: yeas 8, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred House Bill No. 1423, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to HB 1423 as printed January 28, 2014.)

Committee Vote: Yeas 8, Nays 1

Senator Merritt, Chairperson



SENATE MOTION

Madam President: I move that Engrossed House Bill 1423 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-24, AS AMENDED BY P.L.133-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Nothing in this chapter shall be taken to prohibit a public utility from entering into any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter. Such arrangement shall be under the supervision and regulation of the commission.

(b) A customer of an electricity supplier (as defined in IC 8-1-2.3-2) that is a public utility that is under the jurisdiction of the commission for the approval of rates and charges may apply to the commission for a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable standard tariff for service to a single facility of the customer that is located in Indiana if the customer:

- (1) has or will have a maximum demand for electricity of at least ~~ten (10)~~ **five (5)** megawatts at the facility;
- (2) employs **or will employ** more than fifty (50) full-time employees at the facility;
- (3) demonstrates that the temporary discount is necessary and essential for the customer to **locate a facility in Indiana or to** attract or create additional jobs or retain existing jobs at the facility;
- (4) demonstrates that the customer's demand for electricity at the facility will:
 - (A) for an existing customer**, increase by at least one (1) megawatt as a result of the jobs created or retained under subdivision (3); **or**
 - (B) for a prospective customer, equal at least five (5) megawatts as a result of locating the facility in Indiana;**
 and



(5) has applied for and received from the Indiana economic development corporation approval for the requested temporary discount amount.

(c) Upon receiving an application from a customer of an electricity supplier under subsection (b), the commission may approve a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable standard tariff if the commission finds that the discount is just and reasonable and consistent with the circumstances described by the customer under subsection (b), as follows:

(1) For circumstances not described in subdivision (2) or (3), a discount up to ten percent (10%).

(2) For circumstances involving a redevelopment project in which the customer is involved, a discount up to fifteen percent (15%).

(3) For circumstances involving a brownfield project in which the customer is involved, a discount up to twenty percent (20%).

(d) A temporary discount authorized under subsection (c) expires three (3) years after the effective date of the discount. The cost of the temporary discount shall be included by the commission in the cost of service for the electricity supplier and shall be deferred for ratemaking purposes by the electricity supplier for subsequent recovery in connection with the electricity supplier's next general retail electric rate case.

(e) A customer that receives a temporary discount under this section for service to a facility may not:

- (1) enter into a contract with the customer's electricity supplier for electric utility service to the facility that provides for rates, terms, or conditions that differ from the rates, terms, and conditions contained in the electricity supplier's applicable standard tariff; or
- (2) take electric utility service to the facility under a commission-approved economic development tariff offered by the electricity supplier.

(f) A temporary discount authorized under subsection (c) applies as follows:

(1) For an existing customer, only to the demand component of the customer's rates and charges related to the increase in the customer's load described in subsection ~~(b)(4)~~: **(b)(4)(A)**. However, the commission may authorize the application of the applicable temporary discount under subsection (c) to all or part of the demand component of the customer's rates and charges related to the entire facility if the commission determines that a broader application is beneficial to all customers of the electricity



supplier.

(2) For a prospective customer, to the demand components of the customer's rates and charges related to the entire load described in subsection (b)(4)(B).

(g) As used in this section, and except where otherwise indicated, "customer" includes a prospective customer of an electricity supplier."

Page 3, after line 34, begin a new paragraph and insert:
"SECTION 4. **An emergency is declared for this act.**".
Re-number all SECTIONS consecutively.

(Reference is to EHB 1423 as printed February 28, 2014.)

MERRITT

