

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.

## HOUSE ENROLLED ACT No. 1423

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

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

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

**HEA 1423 — Concur**



- ~~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.**

SECTION 2. IC 8-1-2.4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

- (1) a solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or wood burning facility;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Cogeneration facility" means:

- (1) a facility that:
  - (A) simultaneously generates electricity and useful thermal energy; and
  - (B) meets the energy efficiency standards established for cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;
- (2) any land, system, building, or improvement that is located at



the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(d) "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

(e) "Small hydro facility" means:

(1) a hydroelectric facility at a dam;

(2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and

(3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(f) "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant.

**(g) "Private generation project" means a cogeneration facility that has an electric generating capacity of eighty (80) megawatts or more and is:**

**(1) primarily used by its owner for the owner's industrial, commercial, heating, or cooling purposes; or**

**(2) a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978 that:**

**(A) is in existence on July 1, 2014; and**

**(B) produces electricity and useful thermal energy that is primarily used by a host operation for industrial, commercial, heating, or cooling purposes.**

SECTION 3. IC 8-1-2.4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 3. The commission shall encourage the participation of utilities in alternate energy production facilities, cogeneration facilities, ~~and~~ small hydro facilities, **and private generation projects.**

SECTION 4. IC 8-1-2.4-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 6. **(a) The owner of a private generation project may sell excess electric output generated by the private generation project to an electric utility as provided in subsection (b) to the extent the sale is consistent with applicable federal and state laws, rules, and regulations.**

**(b) An electric utility may purchase excess output described in subsection (a) from a private generation project that is located**



entirely in the assigned service area of the electric utility. The terms of the purchase must be consistent with the integrated resource plan filed with the commission by the electric utility under 170 IAC 4-7, including avoided energy and capacity costs determined in the integrated resource plan.

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

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

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

- (1) are based on the electric utility's costs;
- (2) do not discriminate against:
  - (A) the private generation project; or
  - (B) other customers of the electric utility with load characteristics similar to the private generation project;and
- (3) do not create subsidies for:
  - (A) the private generation project; or
  - (B) retail customers of the electric utility.

SECTION 5. 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: \_\_\_\_\_

**HEA 1423 — Concur**

