



January 22, 2014

SENATE BILL No. 96

DIGEST OF SB 96 (Updated January 21, 2014 11:58 am - DI ck)

Citations Affected: IC 8-1; noncode.

Synopsis: Utility system improvement program. Provides that a public utility that provides water service or wastewater service may establish a utility system improvement program (USIP) to recover costs for eligible utility system improvements. (Current law provides for the establishment of a distribution system improvement charge (DSIC), and provides that a DSIC can be established only by a public utility that provides water service.) Specifies that eligible utility system improvements for purposes of a USIP may be, but are not required to be, projects: (1) to replace an existing utility system plant that is aged; or (2) that otherwise constitute a replacement plant. Provides that for purposes of a USIP, a public utility's pretax return includes revenues necessary to pay state utility receipts taxes associated with USIP revenues. Provides that before filing a petition with the utility regulatory commission (IURC) for approval of a USIP, a public utility shall petition the IURC for approval of the public utility's five year plan for eligible utility system improvements. Provides that a public utility that implements a USIP shall, before the expiration of the public
(Continued next page)

Effective: Upon passage.

Merritt

January 7, 2014, read first time and referred to Committee on Rules and Legislative Procedure.

January 21, 2014, amended; reassigned to Committee on Utilities.

SB 96—LS 6143/DI 13



Digest Continued

utility's approved five year plan, petition the IURC for review and approval of the public utility's basic rates and charges. Provides that the IURC may not approve a USIP to the extent it would produce total USIP revenues exceeding 10% (versus 5% under current law for DSIC revenues) of the public utility's base revenue level approved by IURC in the public utility's most recent general rate proceeding. Requires a public utility to annually reconcile the difference between its USIP revenues and costs. Repeals definitions related to DSICs and makes conforming amendments. Specifies the applicability of these amendments to a public utility that has a DSIC in effect at the time of these amendments.

SB 96—LS 6143/DI 13



January 22, 2014

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.

SENATE BILL No. 96

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

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

1 SECTION 1. IC 8-1-31-2 IS REPEALED [EFFECTIVE UPON
2 PASSAGE]. Sec. 2: As used in this chapter, "DSIC" refers to
3 ~~distribution system improvement charge~~.

4 SECTION 2. IC 8-1-31-3 IS REPEALED [EFFECTIVE UPON
5 PASSAGE]. Sec. 3: As used in this chapter, "DSIC costs" means
6 ~~depreciation expenses and pretax return associated with eligible~~
7 ~~distribution system improvements~~.

8 SECTION 3. IC 8-1-31-4 IS REPEALED [EFFECTIVE UPON
9 PASSAGE]. Sec. 4: As used in this chapter, "DSIC revenues" means
10 ~~revenues produced through a DSIC exclusive of revenues from all other~~
11 ~~rates and charges~~.

12 SECTION 4. IC 8-1-31-5 IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter,
14 "eligible ~~distribution utility~~ system improvements" means new used
15 and useful water **or wastewater** utility plant projects that:

16 (1) do not increase revenues by connecting the ~~distribution~~ system

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1 to new customers;

2 ~~(2) are will be~~ in service **not later than twelve (12) months after**
 3 **the effective date of the applicable USIP; and**

4 (3) were not included in the public utility's rate base in its most
 5 recent general rate case;

6 **(4) may be, but are not required to be, projects:**

7 **(A) to replace an existing utility system plant that is aged;**

8 **or**

9 **(B) that otherwise constitute a replacement plant;**
 10 **subject to section 7.8(b)(1) of this chapter; and**

11 **(5) were designated in the public utility's five (5) year plan**
 12 **and approved by the commission under section 7.8 of this**
 13 **chapter as eligible for USIP treatment.**

14 SECTION 5. IC 8-1-31-6 IS AMENDED TO READ AS FOLLOWS
 15 [EFFECTIVE UPON PASSAGE]: Sec. 6. As used in this chapter,
 16 "pretax return" means the revenues necessary to:

17 (1) produce net operating income equal to the public utility's
 18 weighted cost of capital multiplied by the ~~net~~ original cost of
 19 eligible ~~distribution utility~~ system improvements; **and**

20 (2) pay state and federal income taxes applicable to such income;
 21 **and**

22 **(3) pay state utility receipts taxes associated with USIP**
 23 **revenues.**

24 SECTION 6. IC 8-1-31-7.5 IS ADDED TO THE INDIANA CODE
 25 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 26 UPON PASSAGE]: **Sec. 7.5. As used in this chapter, "USIP" refers**
 27 **to a utility system improvement program.**

28 SECTION 7. IC 8-1-31-7.6 IS ADDED TO THE INDIANA CODE
 29 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: **Sec. 7.6. As used in this chapter, "USIP costs"**
 31 **means depreciation expenses, property taxes, and pretax return**
 32 **associated with eligible utility system improvements.**

33 SECTION 8. IC 8-1-31-7.7 IS ADDED TO THE INDIANA CODE
 34 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: **Sec. 7.7. As used in this chapter, "USIP**
 36 **revenues" means revenues produced through a USIP exclusive of**
 37 **revenues from all other rates and charges.**

38 SECTION 9. IC 8-1-31-7.8 IS ADDED TO THE INDIANA CODE
 39 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: **Sec. 7.8. (a) Before filing a petition under**
 41 **section 8 of this chapter, a public utility shall petition the**
 42 **commission for approval of the public utility's five (5) year plan for**



1 eligible utility system improvements.

2 (b) Following notice and hearing, and not more than two
3 hundred ten (210) days after the public utility petitions the
4 commission under subsection (a), the commission shall issue an
5 order on the petition. The order must include the following:

6 (1) A finding of the best estimate of the cost of the eligible
7 utility system improvements included in the plan. To the
8 extent that an eligible utility system improvement is a
9 replacement plant described in section 5(4) of this chapter, the
10 estimated retirement and removal of the existing plant shall
11 be accounted for under the National Association of Utility
12 Regulatory Commissioners Uniform System of Accounts and
13 included in the total net eligible utility system improvements.

14 (2) A determination whether public convenience and necessity
15 require or will require the eligible utility system
16 improvements included in the plan.

17 (3) A determination whether the estimated costs of the eligible
18 utility system improvements included in the plan are justified
19 by incremental benefits attributable to the plan.

20 If the commission determines that the public utility's five (5) year
21 plan is reasonable, the commission shall approve the plan and
22 designate the eligible utility system improvements included in the
23 plan as eligible for USIP treatment.

24 (c) A public utility that implements a USIP under this chapter
25 shall, before the expiration of the public utility's approved five (5)
26 year plan, petition the commission for review and approval of the
27 public utility's basic rates and charges with respect to the same
28 type of utility service.

29 SECTION 10. IC 8-1-31-8 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as
31 provided in subsection (d), **and upon approval of the public utility's**
32 **five (5) year plan under section 7.8 of this chapter**, a public utility
33 providing water **or wastewater** service, **or both water and**
34 **wastewater service**, may file with the commission rate schedules
35 establishing a ~~DSIC~~ **USIP** that will allow the automatic adjustment of
36 the public utility's basic rates and charges to provide for recovery of
37 ~~DSIC~~ **USIP** costs.

38 (b) The public utility shall serve the office of the utility consumer
39 counselor a copy of its filing at the time of its filing with the
40 commission.

41 (c) Publication of notice of the filing is not required.

42 (d) A public utility may not file a petition under this section in the



1 same calendar year in which the public utility has **already** filed a
 2 request for a general increase in the basic rates and charges of the
 3 public utility.

4 SECTION 11. IC 8-1-31-9 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) When a
 6 petition is filed under section 8 of this chapter, the commission shall
 7 conduct a hearing.

8 (b) The office of the utility consumer counselor may examine
 9 information of the public utility to confirm that the **utility** system
 10 improvements are in accordance with section 5 of this chapter, to
 11 confirm proper calculation of the proposed charge, and submit a report
 12 to the commission not later than thirty (30) days after the petition is
 13 filed.

14 (c) The commission shall hold the hearing and issue its order not
 15 later than sixty (60) days after the petition is filed.

16 (d) If the commission finds that a ~~DSIC~~ **USIP** petition complies with
 17 the requirements of this chapter, the commission shall enter an order
 18 approving the petition.

19 SECTION 12. IC 8-1-31-10 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) Except as
 21 provided in subsection (b), a public utility may, but is not required to,
 22 file a petition for a change in its ~~DSIC~~ **USIP** not more often than one
 23 (1) time every twelve (12) months.

24 (b) Except as provided in section 15 of this chapter, a public utility
 25 may not file a petition for a change in its ~~DSIC~~ **USIP** in the same
 26 calendar year in which the public utility has **already** filed a request for
 27 a general increase in the basic rates and charges of the public utility.

28 SECTION 13. IC 8-1-31-13 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. The
 30 commission may not approve a ~~DSIC~~ **USIP** to the extent it would
 31 produce total ~~DSIC~~ **USIP** revenues exceeding ~~five~~ **ten** percent (~~5%~~
 32 **10%**) of the public utility's base revenue level approved by the
 33 commission in the public utility's most recent general rate proceeding.

34 SECTION 14. IC 8-1-31-14 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. The ~~DSIC~~
 36 **USIP** may be calculated based on a reasonable estimate of sales in the
 37 period in which the charge will be in effect. At the end of each twelve
 38 (12) month period the charge is in effect, and using procedures
 39 approved by the commission, the public utility shall reconcile the
 40 difference between ~~DSIC~~ **USIP** revenues **actually received** and ~~DSIC~~
 41 **the USIP costs, based on the public utility's actual investment in**
 42 **eligible utility system improvements**, during that period and recover



1 or refund the difference, as appropriate, through adjustment of the
2 charge.

3 SECTION 15. IC 8-1-31-15 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. Subject to
5 subsection (b), a public utility that has implemented a ~~DSIC~~ **USIP**
6 under this chapter shall file revised rate schedules resetting the charge
7 if new basic rates and charges become effective for the public utility
8 following a commission order authorizing a ~~general increase~~ **change**
9 in rates and charges that includes in the utility's rate base eligible
10 ~~distribution utility~~ system improvements reflected in the ~~DSIC~~ **USIP**.

11 SECTION 16. IC 8-1-31-16 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. For purposes
13 of IC 8-1-2-42(a), the filing of a ~~DSIC~~ **USIP** and a change in a ~~DSIC~~
14 **USIP** is not a general increase in basic rates and charges.

15 SECTION 17. IC 8-1-31-17 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. The
17 commission may adopt by rule under IC 4-22-2 or by order other
18 procedures not inconsistent with this chapter that the commission finds
19 reasonable or necessary to administer a ~~DSIC~~ **USIP**.

20 SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) This**
21 **SECTION applies to a public utility (as defined in IC 8-1-31-7) that**
22 **has a DSIC (as defined in IC 8-1-31-2 before its repeal by this act)**
23 **in effect at the time of the amendments to IC 8-1-31 made by this**
24 **act.**

25 **(b) As used in this SECTION, "commission" refers to the**
26 **Indiana utility regulatory commission created by IC 8-1-1-2.**

27 **(c) IC 8-1-31 before its amendment by this act shall continue to**
28 **apply to a public utility described in subsection (a) until the**
29 **commission issues an order:**

30 **(1) approving new basic rates and charges for the public**
31 **utility; and**

32 **(2) including in the public utility's rate base eligible utility**
33 **system improvements (as defined in IC 8-1-31-5, as amended**
34 **by this act).**

35 **Upon the issuance of an order described in this subsection,**
36 **IC 8-1-31 as amended by this act shall apply to the public utility.**

37 SECTION 19. An emergency is declared for this act.



COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 96, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Utilities.

(Reference is to SB 96 as introduced.)

LONG, Chairperson

