

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.

## SENATE ENROLLED ACT No. 298

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AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-31-8, AS AMENDED BY P.L.91-2017, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Except as provided in subsection (d), an eligible utility may file with the commission a petition setting forth rate schedules establishing an amount that will allow the adjustment of the eligible utility's basic rates and charges to provide for recovery of infrastructure improvement costs. The adjustment:

(1) shall be calculated as a monthly fixed charge based upon meter size;

(2) shall not include recovery of any infrastructure improvement costs recovered by the eligible utility through contributions in aid of construction (as defined in IC 8-1-2-101.6); and

(3) in the case of a municipally owned utility or a not-for-profit utility, shall be recovered over a twelve (12) month period, regardless of the amount of time over which the infrastructure improvement costs were incurred.

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

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

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(d) An eligible utility may not file a petition under this section in the same calendar year in which the eligible utility has filed a request for a general increase in the basic rates and charges of the eligible utility.

SECTION 2. IC 8-1-31-9, AS AMENDED BY P.L.104-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) When a petition is filed under section 8 of this chapter, the commission shall conduct a hearing.

(b) The office of the utility consumer counselor may **do the following:**

(1) Examine information of the eligible utility, ~~to confirm:~~ **limited to confirmation of the following:**

(A) That the infrastructure improvements are in accordance with section 5 of this chapter. ~~and~~

(B) Proper calculation of the adjustment amount proposed under section 8(a) of this chapter. ~~and~~

(2) Submit a report, **limited to confirmation of the information described in subdivision (1)**, to the commission not later than thirty (30) days after the petition is filed.

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

(d) If the commission finds that a petition filed under section 8 of this chapter complies with the requirements of this chapter, the commission shall enter an order approving the petition. **If the commission finds that the adjustment amount has not been calculated correctly, the commission shall:**

**(1) provide the correct calculation of the adjustment amount; and**

**(2) allow the eligible utility to implement the corrected adjustment amount.**

SECTION 3. IC 8-1-31-11.5, AS AMENDED BY P.L.61-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. In determining the amount of allowable recovery of infrastructure improvement costs for a municipally owned utility, the commission may consider the following factors:

(1) Adequate money for making extensions and replacements of eligible infrastructure improvements, to the extent not provided for through depreciation, as provided in IC 8-1.5-3-8(c).

(2) Debt service on funds borrowed to pay for eligible infrastructure improvements.

(3) Depreciation expenses on eligible infrastructure improvements based on the same rate or rates of depreciation approved by the commission for the calculation of depreciation in



the utility's most recent rate case.

(4) Other ~~components~~ **expenses** that the commission considers appropriate, **including money for the payment of any taxes that may be assessed against the municipally owned utility.**

SECTION 4. IC 8-1-31-11.6, AS AMENDED BY P.L.61-2022, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.6. In determining the amount of allowable recovery of infrastructure improvement costs for a not-for-profit utility, the commission may consider the following factors:

- (1) Adequate money for making extensions and replacements of eligible infrastructure improvements.
- (2) Debt service on funds borrowed to pay for eligible infrastructure improvements.
- (3) Other ~~components~~ **expenses** that the commission considers appropriate, **including money for the payment of any taxes that may be assessed against the not-for-profit utility or its property.**

SECTION 5. IC 8-1-31-13, AS AMENDED BY P.L.61-2022, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. (a) The commission may not approve a petition filed under section 8 or 10 of this chapter to the extent it would:

- (1) **for a public utility, produce total adjustment revenues exceeding ten percent (10%) of the eligible utility's base revenue level approved by the commission in the eligible utility's most recent general rate proceeding; or**
- (2) **for a municipally owned or not-for-profit utility, produce total adjustment revenues exceeding over the course of each twelve (12) month recovery period that exceed ten percent (10%) of the eligible utility's base revenue level approved by the commission in the eligible utility's most recent general rate proceeding.**

(b) Subsection (a) does not apply to:

- (1) infrastructure improvement costs associated with eligible infrastructure improvements that are placed in service due to the construction, reconstruction, or improvement of a highway, street, or road (as defined in IC 8-23-1-23), including projects under IC 8-25; or
- (2) property taxes associated with eligible infrastructure improvements.

SECTION 6. IC 8-1-31-14, AS AMENDED BY P.L.61-2022, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 14. An adjustment amount proposed under section 8 of this chapter may be calculated based on a reasonable estimate of meter size in the period in which the charge will be in effect. At the end of each twelve (12) month **recovery** period following the date on which the commission initially approves an adjustment amount for an eligible utility following the eligible utility's most recent general rate case, and using procedures approved by the commission, the eligible utility shall reconcile the difference between adjustment revenues and infrastructure improvement costs during ~~that the~~ **recovery** period and recover or refund the difference, as appropriate, through additional adjustments. **In the case of an eligible utility that is a municipally owned utility or a not-for-profit utility, the adjustment amount shall be reset to zero (0) after all previously approved infrastructure improvement costs have been collected, with the exception of any amount necessary to reconcile the difference between adjustment revenues and infrastructure improvement costs.**

SECTION 7. IC 8-1-31-15.5, AS ADDED BY P.L.61-2022, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15.5. (a) This section applies only to an eligible utility that is:

- (1) a municipally owned utility; or
- (2) a not-for-profit utility.

(b) An eligible utility's adjustment amount approved under section 8 or 10 of this chapter shall be reset to zero (0) upon the approval of new basic rates and charges for the eligible utility by the commission in a general rate case that results in the inclusion of eligible infrastructure improvements in the eligible utility's basic rates and charges. **However, an adjustment amount approved under this chapter shall not be reset to zero (0) to the extent infrastructure improvement costs approved previously by the commission have not been fully collected.**

SECTION 8. **An emergency is declared for this act.**



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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