



February 14, 2014

**ENGROSSED
SENATE BILL No. 340**

DIGEST OF SB 340 (Updated February 13, 2014 9:04 am - DI 103)

Citations Affected: IC 8-1.

Synopsis: Demand side management programs. Requires a public utility to allow an industrial customer to opt out of participating in an energy efficiency program implemented by the public utility in response to an order of the utility regulatory commission (commission) concerning demand side management (DSM) programs. Provides that the commission may adopt rules or guidelines to assist public utilities and industrial customers in complying with the requirement. Requires the commission to provide a status report on energy efficiency programs implemented under DSM orders, including the effects on customer rates and charges, to the regulatory flexibility committee and the legislative council by August 15, 2014.

Effective: July 1, 2014.

Merritt, Kruse, Leising

(HOUSE SPONSOR — KOCH)

January 14, 2014, read first time and referred to Committee on Utilities.

January 24, 2014, amended, reported favorably — Do Pass.

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

January 31, 2014, engrossed.

February 3, 2014, read third time, passed. Yeas 37, nays 11.

HOUSE ACTION

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

February 13, 2014, amended, reported — Do Pass.

ES 340—LS 6631/DI 103



February 14, 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.

ENGROSSED SENATE BILL No. 340

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 8-1-8.5-9 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 9. (a) For purposes of this section, "DSM order"**
4 **refers to an order of the commission that establishes or approves:**
5 **(1) energy efficiency targets or goals for public utilities; or**
6 **(2) an energy efficiency program sponsored by a public utility.**
7 **The term includes the December 9, 2009, order of the commission**
8 **concerning demand side management programs.**
9 **(b) For purposes of this section, "energy efficiency program"**
10 **means a program that is:**
11 **(1) sponsored by a public utility or a third party**
12 **administrator; and**
13 **(2) designed to implement energy efficiency improvements (as**
14 **defined in 170 IAC 4-8-1(j)) for customers.**
15 **The term does not include a program designed primarily to reduce**
16 **demand.**

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1 (c) For purposes of this section, "industrial customer" means a
2 person that receives services at a single site constituting more than
3 one (1) megawatt of electric capacity from a public utility.

4 (d) An industrial customer may, before July 1, 2019, opt out of
5 participating in an energy efficiency program that is established by
6 a public utility in response to a DSM order by providing notice to
7 the public utility. An industrial customer may not opt out of
8 participating in an energy efficiency program after June 30, 2019.
9 Except as provided in subsection (e), a public utility may not
10 charge an industrial customer that opts out rates that include
11 energy efficiency program costs that accrue or are incurred after
12 the date on which the industrial customer opts out. For purposes
13 of this subsection, costs for an energy efficiency program include:

14 (1) program costs;

15 (2) lost revenues; and

16 (3) incentives approved by the commission.

17 However, an industrial customer remains liable for rates that
18 include energy efficiency program costs that accrued or were
19 incurred before the date on which the industrial customer opts out,
20 regardless of the date on which the rates are actually assessed
21 against the industrial customer.

22 (e) An industrial customer that opts out of participating in an
23 energy efficiency program may subsequently opt to participate in
24 the same or a different energy efficiency program. The industrial
25 customer must participate in the subsequent energy efficiency
26 program for at least three (3) years after the date on which the
27 industrial customer opts in. If the industrial customer terminates
28 participation in the subsequent energy efficiency program during
29 the three (3) year period described in this subsection, the industrial
30 customer shall continue paying energy efficiency program rates,
31 including costs described in subsection (d), for the remainder of the
32 three (3) year period.

33 (f) Energy efficiency targets or goals that are approved or
34 mandated by the commission in a DSM order must be calculated
35 to exclude all load from an industrial customer that opts out under
36 subsection (d).

37 (g) The commission may adopt:

38 (1) rules under IC 4-22-2; or

39 (2) guidelines;

40 to assist public utilities and industrial customers in complying with
41 this section.

42 (h) Not later than August 15, 2014, the commission shall prepare



1 a status report on all energy efficiency programs implemented
2 under the DSM order issued by the commission on December 9,
3 2009. The commission shall provide the status report in an
4 electronic format under IC 5-14-6 to the regulatory flexibility
5 committee and legislative council. The status report must consider
6 the following:

7 (1) The status and effectiveness of all energy efficiency
8 programs, including whether efficiency gains attributable to
9 a federal conservation program are being measured as part
10 of an energy efficiency program implemented under the 2009
11 DSM order.

12 (2) The degree to which energy efficiency program costs are
13 shifted among customer classes.

14 (3) Program costs to date.

15 (4) Program costs projected to be incurred in complying with
16 all DSM orders.

17 (5) The actual impact of program costs on all customer rates
18 and the projected impact of program costs on all customer
19 rates upon full implementation of the 2009 DSM order.

20 (6) Current and projected costs and benefits of current and
21 anticipated energy efficiency programs, including costs and
22 benefits associated with third party administrators and
23 evaluation, measurement, and verification contractors.

24 (7) The effectiveness of energy efficiency programs in
25 reducing energy consumption and demand.

26 (8) Methods by which a public utility may mitigate revenue
27 losses attributable to reduced energy consumption and
28 demand due to energy efficiency programs while maintaining
29 just and reasonable rates and charges for all customers.

30 (9) Any additional information or recommendations the
31 commission determines is necessary.

32 This subsection expires December 31, 2014.



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 340, 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 do pass.

(Reference is to SB 340 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 3.

SENATE MOTION

Madam President: I move that Senate Bill 340 be amended to read as follows:

Page 1, line 7, delete "29," and insert "9, "

Page 2, line 2, after "services" insert "**at a single site**".

Page 2, line 42, delete "29," and insert "9,".

(Reference is to SB 340 as printed January 24, 2014.)

MERRITT

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities and Energy, to which was referred Senate Bill 340, 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:

Page 2, line 4, after "may" insert "**, before July 1, 2019,**".

Page 2, line 6, after "utility." insert "**An industrial customer may not opt out of participating in an energy efficiency program after June 30, 2019.**".

Page 3, between lines 23 and 24, begin a new line block indented and insert:

"(8) Methods by which a public utility may mitigate revenue losses attributable to reduced energy consumption and



**demand due to energy efficiency programs while maintaining
just and reasonable rates and charges for all customers."**

Page 3, line 24, delete "(8)" and insert "(9)".

and when so amended that said bill do pass.

(Reference is to SB 340 as reprinted January 31, 2014.)

KOCH, Chair

Committee Vote: yeas 10, nays 2.

