



Reprinted  
February 26, 2014

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## ENGROSSED SENATE BILL No. 340

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DIGEST OF SB 340 (Updated February 25, 2014 2:29 pm - DI 103)

**Citations Affected:** IC 8-1.

**Synopsis:** Demand side management programs. Provides that industrial customers of an electricity supplier may opt out of participating in an energy efficiency program implemented by the electricity supplier 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 electricity suppliers and industrial customers. Provides that certain energy efficiency programs may not be renewed after December 31, 2014. Provides that, after December 31, 2014, an electricity supplier may offer an energy efficiency program and, if authorized by the IURC, recover associated costs. 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:** Upon passage.

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### Merritt, Kruse, Leising

(HOUSE SPONSORS — KOCH, VANNATTER, HAMM)

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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.  
February 25, 2014, read second time, amended, ordered engrossed.

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ES 340—LS 6631/DI 103





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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 SENATE BILL No. 340

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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**  
3 **UPON PASSAGE]: Sec. 9. (a) For purposes of this section, "DSM**  
4 **order" refers to an order of the commission that establishes or**  
5 **approves:**  
6           **(1) energy efficiency targets or goals for electricity suppliers;**  
7           **or**  
8           **(2) an energy efficiency program sponsored by an electricity**  
9           **supplier.**  
10 **The term includes the December 9, 2009, order of the commission**  
11 **concerning demand side management programs.**  
12           **(b) For purposes of this section, "electricity supplier" has the**  
13 **meaning set forth in IC 8-1-2.3-2(b).**  
14           **(c) For purposes of this section, "energy efficiency program"**  
15 **means a program that is:**  
16           **(1) sponsored by an electricity supplier or a third party**

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1 administrator; and

2 (2) designed to implement energy efficiency improvements (as  
3 defined in 170 IAC 4-8-1(j)) for customers.

4 The term does not include a program designed primarily to reduce  
5 demand.

6 (d) For purposes of this section, "energy efficiency program  
7 costs" include:

8 (1) program costs;

9 (2) lost revenues; and

10 (3) incentives approved by the commission.

11 (e) For purposes of this section, "industrial customer" means a  
12 person that receives services at a single site constituting more than  
13 one (1) megawatt of electric capacity from an electricity supplier.

14 (f) An industrial customer may, before July 1, 2019, opt out of  
15 participating in an energy efficiency program that is established by  
16 an electricity supplier in response to a DSM order by providing  
17 notice to the electricity supplier. An industrial customer may not  
18 opt out of participating in an energy efficiency program after June  
19 30, 2019. Except as provided in subsection (g), an electricity  
20 supplier may not charge an industrial customer that opts out rates  
21 that include energy efficiency program costs that accrue or are  
22 incurred after the date on which the industrial customer opts out.  
23 However, an industrial customer remains liable for rates that  
24 include energy efficiency program costs that accrued or were  
25 incurred, or related to investments made, before the date on which  
26 the industrial customer opts out, regardless of the date on which  
27 the rates are actually assessed against the industrial customer.

28 (g) An industrial customer that opts out of participating in an  
29 energy efficiency program may subsequently opt to participate in  
30 the same or a different energy efficiency program. The industrial  
31 customer must participate in the subsequent energy efficiency  
32 program for at least three (3) years after the date on which the  
33 industrial customer opts in. If the industrial customer terminates  
34 participation in the subsequent energy efficiency program during  
35 the three (3) year period described in this subsection, the industrial  
36 customer shall continue paying energy efficiency program rates,  
37 including costs described in subsection (f), for the remainder of the  
38 three (3) year period.

39 (h) Energy efficiency targets or goals that are approved or  
40 mandated by the commission in a DSM order must be calculated  
41 to exclude all load from an industrial customer that opts out under  
42 subsection (f).



1 (i) The commission may adopt:

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

3 (2) guidelines;

4 to assist electricity suppliers and industrial customers in complying  
5 with this section.

6 (j) Not later than August 15, 2014, the commission shall prepare  
7 a status report on all energy efficiency programs implemented  
8 under the DSM order issued by the commission on December 9,  
9 2009. The commission shall provide the status report in an  
10 electronic format under IC 5-14-6 to the regulatory flexibility  
11 committee and legislative council. The status report must consider  
12 the following:

13 (1) The status and effectiveness of all energy efficiency  
14 programs, including whether efficiency gains attributable to  
15 a federal conservation program are being measured as part  
16 of an energy efficiency program implemented under the 2009  
17 DSM order.

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

20 (3) Program costs to date.

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

23 (5) The actual impact of program costs on all customer rates  
24 and the projected impact of program costs on all customer  
25 rates upon full implementation of the 2009 DSM order.

26 (6) Current and projected costs and benefits of current and  
27 anticipated energy efficiency programs, including costs and  
28 benefits associated with third party administrators and  
29 evaluation, measurement, and verification contractors.

30 (7) The effectiveness of energy efficiency programs in  
31 reducing energy consumption and demand.

32 (8) Methods by which the cost effectiveness and long term  
33 resource value of energy efficiency programs may be  
34 measured to assess the effect on rates and charges for all  
35 customers.

36 (9) Methods by which the interests of customers and  
37 electricity suppliers may be better aligned.

38 (10) Any additional information or recommendations the  
39 commission determines is necessary.

40 This subsection expires December 31, 2014.

41 (k) The commission may not:

42 (1) extend, renew, or require the establishment of an energy



1 efficiency program under; or

2 (2) after December 31, 2014, require an electricity supplier to  
3 meet a goal or target established in;

4 the DSM order issued by the commission on December 9, 2009. An  
5 electricity supplier may not renew or extend an existing contract  
6 or enter into a new contract with a statewide third party  
7 administrator for an energy efficiency program established or  
8 approved by the DSM order issued by the commission on  
9 December 9, 2009.

10 (l) After December 31, 2014, an electricity supplier may  
11 continue to timely recover energy efficiency program costs that:

12 (1) accrued or were incurred under or relate to an energy  
13 efficiency program implemented under the DSM order issued  
14 by the commission on December 9, 2009; and

15 (2) are approved by the commission for recovery.

16 (m) After December 31, 2014, an electricity supplier may offer  
17 a cost effective portfolio of energy efficiency programs to  
18 customers. An electricity supplier may submit a proposed energy  
19 efficiency program to the commission for review. If an electricity  
20 supplier submits a proposed energy efficiency program for review  
21 and the commission determines that the portfolio included in the  
22 proposed energy efficiency program is reasonable and cost  
23 effective, the electricity supplier may recover energy efficiency  
24 program costs in the same manner as energy efficiency program  
25 costs were recoverable under the DSM order issued by the  
26 commission on December 9, 2009. The commission may not:

27 (1) require an energy efficiency program to be implemented  
28 by a third party administrator; or

29 (2) in making its determination, consider whether a third  
30 party administrator implements the energy efficiency  
31 program.

32 (n) This section does not affect:

33 (1) an energy efficiency program offered by an energy utility  
34 (as defined in IC 8-1-2.5-2) that is not an electricity supplier;  
35 or

36 (2) the manner in or means by which an energy utility  
37 described in subdivision (1) may recover costs associated with  
38 an energy efficiency program described in subdivision (1).

39 SECTION 2. An emergency is declared for this act.



## 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.

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#### HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 340 be amended to read as follows:

Page 1, line 2, delete "JULY" and insert "UPON PASSAGE]:".

Page 1, line 3, delete ", 2014]:".

Page 1, line 5, delete "public utilities;" and insert "**electricity suppliers;**".

Page 1, line 6, delete "a public utility." and insert "**an electricity supplier.**".

Page 1, between lines 8 and 9, begin a new paragraph and insert:

**"(b) For purposes of this section, "electricity supplier" has the meaning set forth in IC 8-1-2.3-2(b)."**

Page 1, line 9, delete "(b)" and insert "**(c)**".

Page 1, line 11, delete "a public utility" and insert "**an electricity supplier**".

Page 1, after line 16, begin a new paragraph and insert:

**"(d) For purposes of this section, "energy efficiency program costs" include:**

**(1) program costs;**

**(2) lost revenues; and**

**(3) incentives approved by the commission."**

Page 2, line 1, delete "(c)" and insert "**(e)**".

Page 2, line 3, delete "a public utility." and insert "**an electricity supplier.**".

Page 2, line 4, delete "(d)" and insert "**(f)**".

Page 2, line 6, delete "a public utility" and insert "**an electricity supplier**".

Page 2, line 7, delete "public utility." and insert "**electricity supplier.**".





Page 2, line 9, delete "(e), a public utility" and insert "**(g), an electricity supplier**".

Page 2, line 12, delete "For purposes".

Page 2, delete lines 13 through 16.

Page 2, run in lines 12 through 17.

Page 2, line 19, after "incurred" insert "**, or related to investments made,**".

Page 2, line 22, delete "(e)" and insert "**(g)**".

Page 2, line 31, delete "(d)," and insert "**(f),**".

Page 2, line 33, delete "(f)" and insert "**(h)**".

Page 2, line 36, delete "(d)." and insert "**(f).**".

Page 2, line 37, delete "(g)" and insert "**(i)**".

Page 2, line 40, delete "public utilities" and insert "**electricity suppliers**".

Page 2, line 42, delete "(h)" and insert "**(j)**".

Page 3, delete lines 26 through 29, begin a new line block indented and insert:

**"(8) Methods by which the cost effectiveness and long term resource value of energy efficiency programs may be measured to assess the effect on rates and charges for all customers.**

**(9) Methods by which the interests of customers and electricity suppliers may be better aligned."**

Page 3, line 30, delete "(9)" and insert "**(10)**".

Page 3, after line 32, begin a new paragraph and insert:

**"(k) The commission may not:**

**(1) extend, renew, or require the establishment of an energy efficiency program under; or**

**(2) after December 31, 2014, require an electricity supplier to meet a goal or target established in;**

**the DSM order issued by the commission on December 9, 2009. An electricity supplier may not renew or extend an existing contract or enter into a new contract with a statewide third party administrator for an energy efficiency program established or approved by the DSM order issued by the commission on December 9, 2009.**

**(l) After December 31, 2014, an electricity supplier may continue to timely recover energy efficiency program costs that:**

**(1) accrued or were incurred under or relate to an energy efficiency program implemented under the DSM order issued by the commission on December 9, 2009; and**

**(2) are approved by the commission for recovery.**



**(m) After December 31, 2014, an electricity supplier may offer a cost effective portfolio of energy efficiency programs to customers. An electricity supplier may submit a proposed energy efficiency program to the commission for review. If an electricity supplier submits a proposed energy efficiency program for review and the commission determines that the portfolio included in the proposed energy efficiency program is reasonable and cost effective, the electricity supplier may recover energy efficiency program costs in the same manner as energy efficiency program costs were recoverable under the DSM order issued by the commission on December 9, 2009. The commission may not:**

- (1) require an energy efficiency program to be implemented by a third party administrator; or**
- (2) in making its determination, consider whether a third party administrator implements the energy efficiency program.**

**(n) This section does not affect:**

- (1) an energy efficiency program offered by an energy utility (as defined in IC 8-1-2.5-2) that is not an electricity supplier; or**
- (2) the manner in or means by which an energy utility described in subdivision (1) may recover costs associated with an energy efficiency program described in subdivision (1).**

**SECTION 2. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

(Reference is to ESB 340 as printed February 14, 2014.)

VANNATTER

