



April 5, 2019

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**ENGROSSED**  
**SENATE BILL No. 472**

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DIGEST OF SB 472 (Updated April 3, 2019 5:37 pm - DI 101)

**Citations Affected:** IC 2-5; IC 8-1; IC 8-1.5; noncode.

**Synopsis:** Utility matters. Establishes the 15 member 21st century energy policy development task force (task force). Requires the task force to: (1) examine and evaluate specified aspects of the state's policies concerning electric generation portfolios; (2) develop recommendations for the general assembly and the governor concerning any identified challenges with respect to Indiana's electric generation portfolios; and (3) issue a report setting forth the task force's recommendations not later than December 1, 2020. Requires the utility regulatory commission (IURC) to conduct, before July 1, 2020, a comprehensive study of the statewide impacts of: (1) transitions in the fuel sources and other resources used to generate electricity by electric utilities; and (2) new and emerging technologies for the generation of  
(Continued next page)

**Effective:** Upon passage; July 1, 2019.

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**Koch, Garten, Charbonneau,  
Merritt, Houchin, Zay,  
Randolph Lonnie M, Kruse, Doriot,  
Ruckelshaus**

(HOUSE SPONSORS — SOLIDAY, HAMILTON, FRYE R)

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January 14, 2019, read first time and referred to Committee on Utilities.  
February 14, 2019, amended, reported favorably — Do Pass.  
February 18, 2019, read second time, ordered engrossed. Engrossed.  
February 19, 2019, read third time, passed. Yeas 36, nays 4.

HOUSE ACTION

March 5, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.  
April 4, 2019, amended, reported — Do Pass.

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electricity; on electric generation capacity, system reliability, system resilience, and the cost of electric utility service. Requires the IURC to provide a final report on its study to the governor, the legislative council, and the 21st century energy policy development task force not later than July 1, 2020. Provides that after April 30, 2019, and before January 1, 2021, the IURC may not issue a final order in any matter or proceeding that: (1) requests approval of a certificate of public convenience and necessity or a purchased power agreement; (2) the IURC determines would have an impact on the generation capacity, system reliability, or system resilience of electric utility service on a statewide basis; and (3) is pending as of, or filed on or after, May 1, 2019. Provides that this prohibition does not apply in any individual matter or proceeding involving less than 250 megawatts of generating capacity. Provides that the prohibition does apply in any individual matter or proceeding, regardless of the number of megawatts of generating capacity involved, once the total number of megawatts of generating capacity approved by the IURC after April 30, 2019, and before January 1, 2021, in all matters or proceedings exceeds 10,000 megawatts on a statewide basis. Provides for an expedited proceeding, not to exceed 90 days, in which the IURC may grant emergency relief and issue a final order in a matter if the certain conditions are met. Provides that an order affecting rates of service may be entered by the IURC without a formal public hearing in the case of any public or municipally owned utility that either: (1) serves less than 5,000 customers; or (2) has initiated a rate case on behalf of a single division of the utility and that division: (A) serves less than 5,000 customers; and (B) has an IURC-approved schedule of rates and charges that is separate and independent from that of any other division of the utility. (Current law permits the IURC to enter a service rate order without a public hearing only in the case of a utility that itself serves less than 5,000 customers.) Changes the term "distressed utility" to "offered utility" for purposes of provisions regarding acquisition of water or wastewater utilities. Makes the following changes for purposes of provisions under which a utility that acquires property from another utility at a cost differential may petition the IURC to include the cost differential in the acquiring utility's rate base: (1) Provides conditions for applicability of the rebuttable presumption that the cost differential is reasonable. (2) Amends the findings the IURC must make in order to approve the petition. (3) Provides that notice of the filing of the petition may be provided to customers of the acquiring utility company in a billing insert. Provides, for purposes of the requirement that a municipality that plans to sell or dispose of nonsurplus municipally owned utility property must appoint appraisers in a writing that is a public record, that a written contract with the appraisers or the appraisers' firms satisfies this requirement. Provides that the municipality must hold a public hearing regarding the appraisal and proposed sale not later than 180 days (rather than 90 days, under current law) after the appraisal is complete. Amends the factors the IURC must consider in deciding whether the sale or disposition is in the public interest. Urges the legislative council to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.



April 5, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

## ENGROSSED SENATE BILL No. 472

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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 2-5-45 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 45. 21st Century Energy Policy Development Task**  
5 **Force**

6 **Sec. 1. As used in this chapter, "task force" refers to the 21st**  
7 **century energy policy development task force established by**  
8 **section 2 of this chapter.**

9 **Sec. 2. The 21st century energy policy development task force is**  
10 **established.**

11 **Sec. 3. The task force consists of the following fifteen (15)**  
12 **members:**

13 **(1) Four (4) members of the senate, appointed as follows:**  
14 **(A) Two (2) members appointed by the president pro**  
15 **tempore, one (1) of whom shall serve as co-chair of the task**

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- 1 force.
- 2 (B) Two (2) members appointed by the minority leader.
- 3 (2) Four (4) members of the house of representatives,
- 4 appointed as follows:
- 5 (A) Two (2) members appointed by the speaker, one (1) of
- 6 whom shall serve as co-chair of the task force.
- 7 (B) Two (2) members appointed by the minority leader.
- 8 (3) One (1) member who has broad experience in electric
- 9 utility policy and who is appointed by the legislative council
- 10 to represent residential ratepayers.
- 11 (4) One (1) member who has broad experience in electric
- 12 utility policy and who is appointed by the legislative council
- 13 to represent commercial ratepayers.
- 14 (5) One (1) member who has broad experience in electric
- 15 utility policy and who is appointed by the legislative council
- 16 to represent industrial ratepayers.
- 17 (6) One (1) member who has expertise with respect to the
- 18 generation, transmission, and distribution of electricity and
- 19 who is appointed by the legislative council.
- 20 (7) One (1) member who has expertise in advanced energy
- 21 research and development and who is appointed by the
- 22 governor.
- 23 (8) One (1) member who has expertise in renewable energy
- 24 technology and deployment and who is appointed by the
- 25 governor.
- 26 (9) One (1) member who has broad experience in both
- 27 economic development and energy policy and who is
- 28 appointed by the governor.
- 29 Sec. 4. (a) Eight (8) members of the task force constitute a
- 30 quorum.
- 31 (b) The affirmative vote of at least a majority of the members at
- 32 a meeting at which a quorum is present is necessary for the task
- 33 force to take official action other than to meet and take testimony.
- 34 (c) The task force shall meet at the call of the co-chairs.
- 35 Sec. 5. All meetings of the task force shall be open to the public
- 36 in accordance with and subject to IC 5-14-1.5. All records of the
- 37 task force shall be subject to the requirements of IC 5-14-3.
- 38 Sec. 6. The task force shall do the following:
- 39 (1) Examine the state's existing policies regulating electric
- 40 generation portfolios.
- 41 (2) Examine how possible shifts in electric generation
- 42 portfolios may impact the reliability, system resilience, and



1           **affordability of electric utility service.**

2           **(3) Evaluate whether state regulators have the appropriate**  
 3           **authority and statutory flexibility to consider the statewide**  
 4           **impact of the changes described in subdivision (2), while still**  
 5           **protecting ratepayer interests.**

6           **Sec. 7. The task force shall develop recommendations for the**  
 7           **general assembly and the governor concerning the following:**

8           **(1) Outcomes that must be achieved in order to overcome any**  
 9           **identified challenges concerning Indiana's electric generation**  
 10           **portfolios, along with a timeline for achieving those outcomes.**

11           **(2) Whether existing state policy and statutes enable state**  
 12           **regulators to properly consider the statewide impact of**  
 13           **changing electric generation portfolios and, if not, the best**  
 14           **approaches to enable state regulators to consider those**  
 15           **impacts.**

16           **(3) How to maintain reliable, resilient, and affordable electric**  
 17           **service for all electric utility consumers, while encouraging**  
 18           **the adoption and deployment of advanced energy**  
 19           **technologies.**

20           **Sec. 8. The task force shall:**

21           **(1) issue a report setting forth the recommendations required**  
 22           **by section 7 of this chapter; and**

23           **(2) not later than December 1, 2020, submit the report to the**  
 24           **following:**

25           **(A) The executive director of the legislative services agency**  
 26           **for distribution to the members of the general assembly.**  
 27           **The report submitted to the executive director of the**  
 28           **legislative services agency under this clause must be in an**  
 29           **electronic format under IC 5-14-6.**

30           **(B) The governor.**

31           **(C) The chair of the Indiana utility regulatory commission.**

32           **(D) The utility consumer counselor.**

33           **Sec. 9. The legislative services agency shall provide staff support**  
 34           **to the task force.**

35           **Sec. 10. This chapter expires December 2, 2020.**

36           SECTION 2. IC 8-1-2-61.5 IS AMENDED TO READ AS  
 37           FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 61.5. (a) An order  
 38           affecting rates of service may be entered by the commission without a  
 39           formal public hearing in the case of any public or municipally owned  
 40           utility that:

41           **(1) either:**

42           **(A) serves less than five thousand (5,000) customers; or**



- 1           **(B) has initiated a rate case on behalf of a single division of**  
 2           **the utility and that division:**  
 3           **(i) serves less than five thousand (5,000) customers;**  
 4           **(ii) has a commission-approved schedule of rates and**  
 5           **charges that is separate and independent from that of**  
 6           **any other division of the utility; and**  
 7           **(iii) itself satisfies subdivisions (2) and (3);**  
 8           (2) primarily provides retail service to customers; and  
 9           (3) does not serve extensively another utility.
- 10           (b) The commission may require a formal public hearing on any  
 11           petition or complaint filed under this section concerning a rate change  
 12           request by a utility upon ~~its~~ **the commission's** own motion or upon  
 13           motion of any of the following:  
 14           (1) The utility consumer counselor.  
 15           (2) A public or municipal corporation.  
 16           (3) Ten (10) individuals, firms, limited liability companies,  
 17           corporations, or associations.  
 18           (4) Ten (10) complainants of any class described in this  
 19           subsection.
- 20           (c) A not-for-profit water utility or a not-for-profit sewer utility must  
 21           include in its petition a statement as to whether it has an outstanding  
 22           indebtedness to the federal government. When an indebtedness is  
 23           shown to exist, the commission shall require a formal hearing, unless  
 24           the utility also has included in its filing written consent from the agency  
 25           of the federal government with which the utility has outstanding  
 26           indebtedness for the utility to obtain an order affecting its rates from  
 27           the commission without a formal hearing.
- 28           (d) Notwithstanding any other provision of this chapter, the  
 29           commission may:  
 30           (1) on ~~its~~ **the commission's** own motion; or  
 31           (2) at the request of:  
 32           (A) the utility consumer counselor;  
 33           (B) a water or sewer utility described in subsection (a);  
 34           (C) ten (10) individuals, firms, limited liability companies,  
 35           corporations, or associations; or  
 36           (D) ten (10) complainants of any class described in this  
 37           subsection;
- 38           adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,  
 39           providing for the development, investigation, testing, and use of  
 40           regulatory procedures or generic standards with respect to water or  
 41           sewer utilities described in subsection (a) or their services.
- 42           (e) The commission may adopt a rule or enter an order under



1 subsection (d) only if it finds, after notice and hearing, that the  
 2 proposed regulatory procedures or standards are in the public interest  
 3 and promote at least one (1) of the following:

- 4 (1) Utility cost minimalization to the extent that a utility's quality  
 5 of service or facilities are not diminished.  
 6 (2) A more accurate evaluation by the commission of a utility's  
 7 physical or financial conditions or needs.  
 8 (3) A less costly regulatory procedure for a utility, its consumers,  
 9 or the commission.  
 10 (4) Increased utility management efficiency that is beneficial to  
 11 consumers.

12 SECTION 3. IC 8-1-8.5-3.1 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: **Sec. 3.1. (a) As used in this section, "electric  
 15 utility" means a:**

- 16 (1) public, municipally owned, or cooperatively owned utility;  
 17 or  
 18 (2) joint agency created under IC 8-1-2.2;

19 that owns, operates, or manages any electric generation facility in  
 20 Indiana for the provision of electric utility service to Indiana  
 21 customers.

22 (b) Before July 1, 2020, the commission shall conduct a  
 23 comprehensive study of the statewide impacts, both in the near  
 24 term and on a long term basis, of:

- 25 (1) transitions in the fuel sources and other resources used to  
 26 generate electricity by electric utilities; and  
 27 (2) new and emerging technologies for the generation of  
 28 electricity, including the potential impact of such technologies  
 29 on local grids or distribution infrastructure;

30 on electric generation capacity, system reliability, system  
 31 resilience, and the cost of electric utility service for consumers. In  
 32 conducting the study required by this subsection, the commission  
 33 shall consider the likely timelines for the transitions in fuel sources  
 34 and other resources described in subdivision (1) and for the  
 35 implementation of new and emerging technologies described in  
 36 subdivision (2).

37 (c) During the 2019 legislative interim, the commission shall  
 38 provide a progress report on the commission's work in conducting  
 39 the study required by subsection (b) to the interim study committee  
 40 on energy, utilities, and telecommunications established by  
 41 IC 2-5-1.3-4(8).

42 (d) Not later than July 1, 2020, the commission shall issue to:



- 1           (1) the governor;  
 2           (2) the legislative council; and  
 3           (3) the 21st century energy policy development task force  
 4           established by IC 2-5-45-2;

5 a final report containing the commission's findings and  
 6 recommendations on the topics outlined in subsection (b). The  
 7 report to the legislative council under this subsection must be in an  
 8 electronic format under IC 5-14-6.

9           (e) Subject to subsections (f) through (i), after April 30, 2019,  
 10 and before January 1, 2021, the commission may not issue a final  
 11 order in any matter or proceeding that:

- 12           (1) requests approval of:  
 13               (A) a certificate of public convenience and necessity; or  
 14               (B) a purchased power agreement;  
 15           (2) the commission determines would have an impact on the  
 16 generation capacity, system reliability, or system resilience of  
 17 electric utility service on a statewide basis, whether in the  
 18 near term or on a long term basis; and  
 19           (3) is:  
 20               (A) pending as of; or  
 21               (B) filed on or after;

22           May 1, 2019.

23           This subsection does not apply to a general rate case or to an  
 24 electric utility's request for the approval of a retail rate adjustment  
 25 mechanism.

26           (f) Except as provided in subsection (g), subsection (e) does not  
 27 apply in any individual matter or proceeding concerning a  
 28 proposed:

- 29           (1) electric generation facility;  
 30           (2) change in fuel source or other resource used to generate  
 31 electricity; or  
 32           (3) purchased power agreement;

33 involving less than two hundred fifty (250) megawatts of  
 34 generating capacity.

35           (g) Subject to subsections (h) and (i), after April 30, 2019, and  
 36 before January 1, 2021, the commission may not issue a final order  
 37 in any individual matter or proceeding concerning a proposed:

- 38           (1) electric generation facility;  
 39           (2) change in fuel source or other resource used to generate  
 40 electricity; or  
 41           (3) purchased power agreement;

42 regardless of the number of megawatts of generating capacity





1 involved in the individual matter or proceeding, once the total  
2 number of megawatts of generating capacity approved by the  
3 commission after April 30, 2019, and before January 1, 2021, in all  
4 matters or proceedings described in subdivisions (1) through (3)  
5 exceeds ten thousand (10,000) megawatts on a statewide basis.

6 (h) If the commission determines under subsection (e) or (g) that  
7 a final order may not be issued in a particular matter or  
8 proceeding, the commission may, in an expedited proceeding not  
9 to exceed ninety (90) days, grant relief from the commission's  
10 determination and issue a final emergency order in the particular  
11 matter if the following conditions are met:

12 (1) The electric utility involved in the matter or proceeding  
13 files with the commission a petition seeking emergency relief  
14 from the commission's determination.

15 (2) The commission determines after:

16 (A) conducting a public hearing on the necessity for the  
17 relief sought by the electric utility; and

18 (B) receiving public testimony from the appropriate  
19 regional transmission organizations;

20 that an emergency exists, or that delaying or denying the  
21 issuance of an order in the matter would present significant  
22 adverse risks to the statewide or regional electric generation  
23 capacity, system reliability, or system resilience.

24 (i) Subsections (e) and (g) do not prohibit any of the following  
25 after April 30, 2019, and before January 1, 2021:

26 (1) An electric utility from filing a petition for approval of:

27 (A) a certificate of public convenience and necessity; or

28 (B) a purchased power agreement.

29 (2) The commission, electric utilities, parties, or intervenors  
30 from conducting any procedural matters preceding a final  
31 order in a pending proceeding, including establishing  
32 procedural schedules, filing testimony and exhibits, holding  
33 hearings, conducting conferences, and taking such other  
34 actions necessary for the commission's final determination in  
35 the matter.

36 (3) The commission from issuing a final order denying all or  
37 part of an electric utility's petition for approval of:

38 (A) a certificate of public convenience and necessity; or

39 (B) a purchased power agreement;

40 if the denial of all or part of the petition would not have an  
41 impact on the generation capacity, system reliability, or  
42 system resilience of electric utility service on a statewide basis.



1 **(j) This section expires January 2, 2021.**

2 SECTION 4. IC 8-1-30.3-1, AS ADDED BY P.L.189-2015,  
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2019]: Sec. 1. As used in this chapter, "cost differential"  
5 means the difference between:

6 (1) the cost to a utility company that acquires utility property from  
7 a ~~distressed~~ **an offered** utility, including the purchase price,  
8 incidental expenses, and other costs of acquisition; minus

9 (2) the difference between:

10 (A) the cost of the utility property when originally put into  
11 service by the ~~distressed~~ **offered** utility; minus

12 (B) contributions or advances in aid of construction plus  
13 applicable accrued depreciation.

14 SECTION 5. IC 8-1-30.3-2 IS REPEALED [EFFECTIVE JULY 1,  
15 2019]. Sec. 2: As used in this chapter, "distressed utility" refers to a  
16 utility company whose property is the subject of an acquisition  
17 described in section 5(a) of this chapter.

18 SECTION 6. IC 8-1-30.3-2.6 IS ADDED TO THE INDIANA  
19 CODE AS A NEW SECTION TO READ AS FOLLOWS  
20 [EFFECTIVE JULY 1, 2019]: Sec. 2.6. As used in this chapter,  
21 "**offered utility**" means a utility company whose property is the  
22 **subject of an acquisition described in section 5(a) of this chapter.**

23 SECTION 7. IC 8-1-30.3-5, AS AMENDED BY P.L.64-2018,  
24 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
25 JULY 1, 2019]: Sec. 5. (a) This section applies if:

26 (1) a utility company acquires property from ~~another~~ **an offered**  
27 utility company at a ~~cost differential~~ in a transaction involving a  
28 willing buyer and a willing seller; and

29 (2) at least one (1) utility company described in subdivision (1) is  
30 subject to the jurisdiction of the commission under this article.

31 (b) **Subject to subsection (c)**, there is a rebuttable presumption that  
32 a cost differential is reasonable.

33 (c) **If the acquisition is made under IC 8-1.5-2-6.1, and to the**  
34 **extent the purchase price does not exceed the appraised value as**  
35 **determined under IC 8-1.5-2-5, the purchase price is considered**  
36 **reasonable for purposes of subsection (d) and any resulting cost**  
37 **differential is considered reasonable.**

38 (c) (d) **Before closing on the acquisition**, the utility company that  
39 acquires the utility property may petition the commission to include ~~the~~  
40 **any cost differentials differential** as part of its rate base **in future rate**  
41 **cases.** The commission shall approve the petition if the commission  
42 finds the following:



- 1 (1) The utility property is used and useful **to the offered utility**  
 2 in providing water service, wastewater service, or both water and  
 3 wastewater service.
- 4 (2) The ~~distressed~~ **offered utility is too small to capture**  
 5 **economies of scale or has** failed to furnish or maintain adequate,  
 6 efficient, safe, and reasonable service and facilities.
- 7 (3) The utility company will **improve economies of scale or, if**  
 8 **otherwise needed**, make reasonable and prudent improvements  
 9 to **ensure the offered utility's plant, the offered utility's**  
 10 **operations, or both**, so that customers of the ~~distressed offered~~  
 11 utility will receive adequate, efficient, safe, and reasonable  
 12 service.
- 13 (4) The acquisition of the utility property is the result of a mutual  
 14 agreement made at arms length.
- 15 (5) The actual purchase price of the utility property is reasonable.
- 16 (6) The utility company and the ~~distressed offered~~ utility are not  
 17 affiliated and share no ownership interests.
- 18 (7) The rates charged by the utility company ~~before acquiring the~~  
 19 ~~utility property of the distressed utility~~ will not increase  
 20 unreasonably **in future general rate cases solely** as a result of  
 21 acquiring the utility property **from the offered utility. For**  
 22 **purposes of this subdivision, the rates and charges will not**  
 23 **increase unreasonably in future general rate cases so long as**  
 24 **the net original cost proposed to be recorded under subsection**  
 25 **(f) is not greater than two percent (2%) of the acquiring**  
 26 **utility's net original cost rate base as determined in the**  
 27 **acquiring utility's most recent general rate case. If the amount**  
 28 **proposed to be recorded under subsection (f) is greater than**  
 29 **two percent (2%) of the acquiring utility's net original cost**  
 30 **rate base as determined in the acquiring utility's most recent**  
 31 **general rate case, the commission shall proceed to determine**  
 32 **whether the rates charged by the utility company will increase**  
 33 **unreasonably in future general rate cases solely as a result of**  
 34 **acquiring the utility property from the offered utility and, in**  
 35 **making the determination, may consider evidence of:**
- 36 (A) the anticipated dollar value increase; and  
 37 (B) the increase as a percentage of the average bill.
- 38 (8) The cost differential will be added to the utility company's rate  
 39 base to be amortized as an addition to expense over a reasonable  
 40 time with corresponding reductions in the rate base.
- 41 ~~(d)~~ (e) A utility company may petition the commission in an  
 42 independent proceeding to approve a petition under subsection (c)



1 before the financial close of the transaction if the utility company  
 2 provides for **In connection with its petition under subsection (d), the**  
 3 **acquiring utility company shall provide** the following:  
 4 (1) Notice of the proposed acquisition and any proposed changes  
 5 in rates or charges to customers of the distressed utility.  
 6 (2) (1) Notice to customers of the **acquiring** utility company that  
 7 a petition has been filed with the commission under this chapter.  
 8 The notice provided under this subdivision must include the cause  
 9 number assigned to the petition. **Notice under this subdivision**  
 10 **may be provided to customers in a billing insert.**  
 11 (3) (2) Notice to the office of the utility consumer counselor.  
 12 (4) A plan for reasonable and prudent improvements to provide  
 13 adequate, efficient, safe, and reasonable service to customers of  
 14 the distressed utility.  
 15 (e) (f) In a proceeding under subsection (d), the commission shall  
 16 issue its final order not later than two hundred ten (210) days after the  
 17 filing of the petitioner's case in chief. If the commission grants the  
 18 petition, the commission's order shall authorize the acquiring utility  
 19 company to make accounting entries recording the acquisition and that  
 20 reflect:  
 21 (1) the full purchase price;  
 22 (2) incidental expenses; and  
 23 (3) other costs of acquisition;  
 24 as the **net** original cost of the utility plant in service assets being  
 25 acquired, allocated in a reasonable manner among appropriate utility  
 26 plant in service accounts.  
 27 SECTION 8. IC 8-1-30.3-6, AS AMENDED BY P.L.85-2017,  
 28 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2019]: Sec. 6. For purposes of section ~~5(e)(2)~~ **5(d)(2)** of this  
 30 chapter, a ~~distressed~~ **an offered** utility is **too small to capture**  
 31 **economies of scale or is** not furnishing or maintaining adequate,  
 32 efficient, safe, and reasonable service and facilities if the commission  
 33 finds one (1) or more of the following:  
 34 (1) The ~~distressed~~ **offered** utility violated one (1) or more state or  
 35 federal statutory or regulatory requirements in a manner that the  
 36 commission determines affects the safety, adequacy, efficiency,  
 37 or reasonableness of its services or facilities.  
 38 (2) The ~~distressed~~ **offered** utility has inadequate financial,  
 39 managerial, or technical ability or expertise.  
 40 (3) The ~~distressed~~ **offered** utility fails to provide water in  
 41 sufficient amounts, that is palatable, or at adequate volume or  
 42 pressure.



- 1 (4) The ~~distressed offered~~ utility, due to necessary improvements
- 2 to its plant or distribution or collection system or operations, is
- 3 unable to furnish and maintain adequate service to its customers
- 4 at rates equal to or less than those of the acquiring utility
- 5 company.
- 6 (5) The ~~distressed offered~~ utility
- 7 (A) ~~is municipally owned utility property of a municipally~~
- 8 ~~owned utility that serves fewer than five thousand (5,000)~~
- 9 ~~customers. and~~
- 10 (B) ~~is being sold under IC 8-1.5-2-6.1.~~
- 11 (6) Any other facts that the commission determines demonstrate
- 12 the ~~distressed offered~~ utility's inability to **capture economies of**
- 13 **scale or to** furnish or maintain adequate, efficient, safe, or
- 14 reasonable service or facilities.

15 SECTION 9. IC 8-1.5-2-4, AS AMENDED BY P.L.98-2016,  
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2019]: Sec. 4. Whenever the municipal legislative body or the  
 18 municipal executive determines to sell or otherwise dispose of  
 19 nonsurplus municipally owned utility property, it shall provide for the  
 20 following in a ~~written document writing~~ that shall be made available,  
 21 **upon request**, for inspection and copying at the offices of the  
 22 municipality's municipally owned utility in accordance with IC 5-14-3:

- 23 (1) The appointment, as follows, of three (3) residents of Indiana
- 24 to serve as appraisers:
- 25 (A) One (1) disinterested person who is an engineer licensed
- 26 under IC 25-31-1.
- 27 (B) One (1) disinterested appraiser licensed under IC 25-34.1.
- 28 (C) One disinterested person who is either:
- 29 (i) an engineer licensed under IC 25-31-1; or
- 30 (ii) an appraiser licensed under IC 25-34.1.
- 31 (2) The appraisal of the property.
- 32 (3) The time that the appraisal is due.

33 **It is sufficient for purposes of this section that the municipal**  
 34 **legislative body or municipal executive provides for the**  
 35 **appointment in written contracts with the appraisers or the firms**  
 36 **with whom the appraisers are employed.**

37 SECTION 10. IC 8-1.5-2-5, AS AMENDED BY P.L.98-2016,  
 38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 39 JULY 1, 2019]: Sec. 5. (a) Each appraiser appointed as provided by  
 40 section 4 of this chapter must:

- 41 (1) by education and experience, have such expert and technical
- 42 knowledge and qualifications as to make a proper appraisal and



- 1 valuation of the property of the type and nature involved in the  
 2 sale;  
 3 (2) be a disinterested person; and  
 4 (3) not be a resident or taxpayer of the municipality.  
 5 (b) The appraisers shall:  
 6 (1) be sworn to make a just and true valuation of the property; and  
 7 (2) return their appraisal, in writing, to the:  
 8 (A) municipal legislative body; or  
 9 (B) municipal executive;  
 10 that appointed them within the time fixed in the ~~written document~~  
 11 **writing** appointing them under section 4 of this chapter.  
 12 (c) If all three (3) appraisers cannot agree as to the appraised value,  
 13 the appraisal, when signed by two (2) of the appraisers, constitutes a  
 14 good and valid appraisal.  
 15 (d) If, after the return of the appraisal by the appraisers, the  
 16 legislative body and the municipal executive decide to proceed with the  
 17 sale or disposition of the nonsurplus municipally owned utility  
 18 property, the legislative body shall, not earlier than the thirty (30) day  
 19 period described in subsection (e) and not later than ~~ninety (90) one~~  
 20 **hundred eighty (180)** days after the return of the appraisal, hold a  
 21 public hearing to do the following:  
 22 (1) Review and explain the appraisal.  
 23 (2) Receive public comment on the proposed sale or disposition  
 24 of the nonsurplus municipally owned utility property.  
 25 Not less than thirty (30) days or more than sixty (60) days after the date  
 26 of a hearing under this section, the legislative body may adopt an  
 27 ordinance providing for the sale or disposition of the nonsurplus  
 28 municipally owned utility property, subject to subsections (f) and (g)  
 29 and, in the case of an ordinance adopted under this subsection after  
 30 March 28, 2016, subject to section 6.1 of this chapter. The legislative  
 31 body is not required to adopt an ordinance providing for the sale or  
 32 disposition of the nonsurplus municipally owned utility property if,  
 33 after the hearing, the legislative body determines it is not in the interest  
 34 of the municipality to proceed with the sale or disposition. Notice of a  
 35 hearing under this section shall be published in the manner prescribed  
 36 by IC 5-3-1.  
 37 (e) The hearing on the proposed sale or disposition of the  
 38 nonsurplus municipally owned utility property may not be held less  
 39 than thirty (30) days after notice of the hearing is given as required by  
 40 subsection (d).  
 41 (f) Subject to subsection (j), an ordinance adopted under subsection  
 42 (d) does not take effect until the latest of the following:



- 1 (1) The expiration of the thirty (30) day period described in  
 2 subsection (g), if the question as to whether the sale or disposition  
 3 should be made is not submitted to the voters of the municipality  
 4 under subsection (g).  
 5 (2) If:  
 6 (A) the question as to whether the sale or disposition shall be  
 7 made is submitted to the voters of the municipality under  
 8 subsection (g); and  
 9 (B) a majority of the voters voting on the question vote for the  
 10 sale or disposition;  
 11 at such time that the vote is determined to be final.  
 12 (3) The effective date specified by the legislative body in the  
 13 ordinance.  
 14 (g) Subject to subsection (m) and to section 6.1 of this chapter in the  
 15 case of an ordinance adopted under subsection (d) after March 28,  
 16 2016, if:  
 17 (1) the legislative body adopts an ordinance under subsection (d);  
 18 and  
 19 (2) not later than thirty (30) days after the date the ordinance is  
 20 adopted at least the number of the registered voters of the  
 21 municipality set forth in subsection (h) sign and present a petition  
 22 to the legislative body opposing the sale or disposition;  
 23 the legislative body shall submit the question as to whether the sale or  
 24 disposition shall be made to the voters of the municipality at a special  
 25 or general election. In submitting the public question to the voters, the  
 26 legislative body shall certify within the time set forth in IC 3-10-9-3, if  
 27 applicable, the question to the county election board of the county  
 28 containing the greatest percentage of population of the municipality.  
 29 The county election board shall adopt a resolution setting forth the text  
 30 of the public question and shall submit the question as to whether the  
 31 sale or disposition shall be made to the voters of the municipality at a  
 32 special or general election on a date specified by the municipal  
 33 legislative body. Pending the results of an election under this  
 34 subsection, the municipality may not take further action to sell or  
 35 dispose of the property as provided in the ordinance.  
 36 (h) Subject to subsection (m) and to section 6.1 of this chapter in the  
 37 case of an ordinance adopted under subsection (d) after March 28,  
 38 2016, the number of signatures required on a petition opposing the sale  
 39 or disposition under subsection (g) is as follows:  
 40 (1) In a municipality with not more than one thousand (1,000)  
 41 registered voters, thirty percent (30%) of the registered voters.  
 42 (2) In a municipality with at least one thousand one (1,001)



1 registered voters and not more than five thousand (5,000)  
 2 registered voters, fifteen percent (15%) of the registered voters.

3 (3) In a municipality with at least five thousand one (5,001)  
 4 registered voters and not more than twenty-five thousand (25,000)  
 5 registered voters, ten percent (10%) of the registered voters.

6 (4) In a municipality with at least twenty-five thousand one  
 7 (25,001) registered voters, five percent (5%) of the registered  
 8 voters.

9 (i) If a majority of the voters voting on the question vote for the sale  
 10 or disposition, the legislative body shall proceed to sell or dispose of  
 11 the property as provided in the ordinance, subject to subsection (m) and  
 12 to section 6.1 of this chapter in the case of an ordinance adopted under  
 13 subsection (d) after March 28, 2016.

14 (j) If a majority of the voters voting on the question vote against the  
 15 sale or disposition, the ordinance adopted under subsection (d) does not  
 16 take effect and the sale or disposition may not be made, subject to  
 17 subsection (m) and to section 6.1 of this chapter in the case of an  
 18 ordinance adopted under subsection (d) after March 28, 2016.

19 (k) If:

20 (1) the legislative body adopts an ordinance under subsection (d);  
 21 and

22 (2) after the expiration of the thirty (30) day period described in  
 23 subsection (g), a petition is not filed;

24 the municipal legislative body may proceed to sell the property as  
 25 provided in the ordinance, subject to subsection (m) and to section 6.1  
 26 of this chapter in the case of an ordinance adopted under subsection (d)  
 27 after March 28, 2016.

28 (l) Notwithstanding the procedures set forth in this section, if:

29 (1) before July 1, 2015, a municipality adopts an ordinance under  
 30 this section for the sale or disposition of nonsurplus municipally  
 31 owned utility property in accordance with the procedures set forth  
 32 in this section before its amendment on July 1, 2015; and

33 (2) the ordinance adopted takes effect before July 1, 2015, in  
 34 accordance with the procedures set forth in this section before its  
 35 amendment on July 1, 2015;

36 the ordinance is not subject to challenge under subsection (g) after June  
 37 30, 2015, regardless of whether the thirty (30) day period described in  
 38 subsection (g) expires after June 30, 2015. An ordinance described in  
 39 this subsection is effective for all purposes and is legalized and  
 40 validated.

41 (m) Subsections (g) through (k) do not apply to an ordinance  
 42 adopted under subsection (d) after March 28, 2016, if the commission





1 determines, in reviewing the proposed sale or disposition under section  
 2 6.1(h) of this chapter, that the factors set forth in ~~IC 8-1-30.3-5(e)~~  
 3 **IC 8-1-30.3-5(d)** are satisfied as applied to the proposed sale or  
 4 disposition.

5 SECTION 11. IC 8-1.5-2-6.1, AS AMENDED BY P.L.64-2018,  
 6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 JULY 1, 2019]: Sec. 6.1. (a) This section applies to a municipality that  
 8 adopts an ordinance under section 5(d) of this chapter after March 28,  
 9 2016.

10 (b) Before a municipality may proceed to sell or otherwise dispose  
 11 of all or part of its nonsurplus utility property under an ordinance  
 12 adopted under section 5(d) of this chapter, the municipality and the  
 13 prospective purchaser must obtain the approval of the commission  
 14 under this section.

15 (c) As part of the sale or disposition of the property, the  
 16 municipality and the prospective purchaser may include terms and  
 17 conditions that the municipality and the prospective purchaser consider  
 18 to be equitable to the existing utility customers of:

- 19 (1) the municipality's municipally owned utility; and
- 20 (2) the prospective purchaser;

21 as applicable.

22 (d) The commission shall approve the sale or disposition of the  
 23 property according to the terms and conditions proposed by the  
 24 municipality and the prospective purchaser if the commission finds that  
 25 the sale or disposition according to the terms and conditions proposed  
 26 is in the public interest. For purposes of this section, the purchase price  
 27 of the municipality's nonsurplus utility property shall be considered  
 28 reasonable if it does not exceed the appraised value set forth in the  
 29 appraisal required under section 5 of this chapter.

30 (e) The following apply to the commission's determination under  
 31 subsection (d) as to whether the proposed sale or disposition according  
 32 to the proposed terms and conditions is in the public interest:

33 (1) If:

34 (A) the ~~municipality's municipally owned utility~~ **prospective**  
 35 **purchaser** petitions the commission under IC 8-1-30.3-5(d);  
 36 and

37 (B) the commission approves the ~~municipality's municipally~~  
 38 ~~owned utility's~~ **prospective purchaser's** petition; ~~under~~  
 39 ~~IC 8-1-30.3-5(e);~~

40 the proposed sale or disposition is considered to be in the public  
 41 interest.

42 (2) If subdivision (1) does not apply and subject to subsection (h),



1 the commission shall consider the extent to which the proposed  
 2 terms and conditions of the proposed sale or disposition would  
 3 require the existing utility customers of either the prospective  
 4 purchaser or the municipality's municipally owned utility, as  
 5 applicable, to pay rates that would subsidize utility service to the  
 6 other party's existing customers. **For purposes of this**  
 7 **subdivision, the proposed terms and conditions will not result**  
 8 **in rates that would subsidize service to other customers if the**  
 9 **amount to be recorded as net original cost under subsection**  
 10 **(f) is not greater than two percent (2%) of the prospective**  
 11 **purchaser's net original cost rate base as determined in the**  
 12 **prospective purchaser's most recent general rate case. If the**  
 13 **amount to be recorded is greater than two percent (2%), the**  
 14 **commission determines that: shall proceed to determine**  
 15 **whether:**

16 (A) the proposed terms and conditions would result in a  
 17 subsidy described in this subdivision; and

18 (B) the subsidy would cause the proposed terms and  
 19 conditions of the proposed sale or disposition not to be in the  
 20 public interest.

21 The commission shall calculate the amount of the subsidy that  
 22 would result and shall set forth in an order under this section such  
 23 changes to the proposed terms and conditions as the commission  
 24 considers appropriate to address the subsidy. The prospective  
 25 purchaser and the municipality shall each have thirty (30) days  
 26 from the date of the commission's order setting forth the  
 27 commission's changes to either accept or reject the changes. If  
 28 either party rejects the commission's changes, the proposed sale  
 29 or disposition is considered not to be in the public interest.

30 (3) In reviewing the proposed terms and conditions of the  
 31 proposed sale or disposition under either subdivision (1) or (2),  
 32 the commission shall consider the financial, managerial, and  
 33 technical ability of the prospective purchaser to provide the utility  
 34 service required after the proposed sale or disposition.

35 (4) In reviewing the proposed terms and conditions of the  
 36 proposed sale or disposition under either subdivision (1) or (2),  
 37 the commission shall accept as reasonable the valuation of the  
 38 nonsurplus utility property determined through an appraisal and  
 39 review under section 5 of this chapter.

40 (f) As part of an order approving a sale or disposition of property  
 41 under this section, the commission shall, without regard to amounts  
 42 that may be recorded on the books and records of the municipality and



1 without regard to any grants or contributions previously received by the  
 2 municipality, provide that for ratemaking purposes, the prospective  
 3 purchaser shall record as the net original cost rate base an amount  
 4 equal to:

- 5 (1) the full purchase price;
- 6 (2) incidental expenses; and
- 7 (3) other costs of acquisition;

8 allocated in a reasonable manner among appropriate utility plant in  
 9 service accounts.

10 (g) The commission shall issue a final order under this section not  
 11 later than two hundred ten (210) days after the filing of the parties' case  
 12 in chief.

13 (h) In reviewing a proposed sale or disposition under subsection (e),  
 14 the commission shall determine whether the factors set forth in  
 15 ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)** are satisfied as applied to the  
 16 proposed sale or disposition of the municipality's nonsurplus  
 17 municipally owned utility property for purposes of section 5(m) of this  
 18 chapter. If the commission determines that the factors set forth in  
 19 ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)**:

- 20 (1) are satisfied as applied to the proposed sale or disposition,  
 21 section 5(g) through 5(k) of this chapter does not apply to the  
 22 municipality's ordinance adopted under section 5(d) of this  
 23 chapter; or
- 24 (2) are not satisfied as applied to the proposed sale or disposition:  
 25 (A) section 5(g) through 5(k) of this chapter applies to the  
 26 municipality's ordinance adopted under section 5(d) of this  
 27 chapter; and  
 28 (B) the question as to whether the sale or disposition should be  
 29 made must be submitted to the voters of the municipality at a  
 30 special or general election if at least the number of the  
 31 registered voters of the municipality set forth in section 5(h) of  
 32 this chapter sign and present a petition to the legislative body  
 33 opposing the sale or disposition, in accordance with section  
 34 5(g) through 5(k) of this chapter.

35 However, notwithstanding this subsection, in reviewing a proposed sale  
 36 or disposition under subsection (e)(2), the commission may not  
 37 condition its approval of the proposed sale or disposition on whether  
 38 the factors set forth in ~~IC 8-1-30.3-5(e)~~ **IC 8-1-30.3-5(d)** are satisfied  
 39 or on any other factors except those provided for in subsection (e)(2),  
 40 (e)(3), and (e)(4).

41 **SECTION 12. [EFFECTIVE UPON PASSAGE] (a) The legislative**  
 42 **council is urged to assign to an appropriate interim study**



1       **committee the task of studying the connection of unserved**  
2       **properties to sanitary sewer systems.**

3       **(b) This SECTION expires January 1, 2020.**

4       **SECTION 13. An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 472, 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:

Page 4, line 27, delete "one percent (1%)" and insert "**two percent (2%)**".

Page 4, line 29, after "case." insert "**If the amount proposed to be recorded under subsection (f) is greater than two percent (2%) of the acquiring utility's net original cost rate base as determined in the acquiring utility's most recent general rate case, the commission shall proceed to determine whether the rates charged by the utility company will increase unreasonably in future general rate cases solely as a result of acquiring the utility property from the offered utility and, in making the determination, may consider evidence of:**

**(A) the anticipated dollar value increase; and**

**(B) the increase as a percentage of the average bill."**

Page 11, line 2, delete "one percent (1%)" and insert "**two percent (2%)**".

Page 11, line 5, delete "one percent (1%)," and insert "**two percent (2%),**".

Page 12, after line 32, begin a new paragraph and insert:

"SECTION 10. IC 16-22-8-34, AS AMENDED BY P.L.134-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.

(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.

(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:

(A) To protect property owned or managed by the corporation.

(B) To determine, prevent, and abate public health nuisances.

(C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.

(D) To license, regulate, and establish minimum sanitary



standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:

- (i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and
- (ii) the animals' breeding places.

(F) **Subject to subsection (c)**, to require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

(N) To license and regulate the design, construction, and operation of public pools, spas, and beaches.

(O) To regulate the storage, containment, handling, use, and disposal of hazardous materials.

(P) To license and regulate tattoo and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To furnish health and nursing services to elementary and secondary schools within the county.

(6) To furnish medical care to insured and uninsured residents of



the county.

- (7) To furnish dental services to the insured and uninsured residents of the county.
- (8) To establish public health programs.
- (9) To adopt an annual budget ordinance and levy taxes.
- (10) To incur indebtedness in the name of the corporation.
- (11) To organize the corporation into divisions.
- (12) To acquire and dispose of property.
- (13) To receive charitable contributions and gifts as provided in 26 U.S.C. 170.
- (14) To make charitable contributions and gifts.
- (15) To establish a charitable foundation as provided in 26 U.S.C. 501.
- (16) To receive and distribute federal, state, local, or private grants.
- (17) To receive and distribute grants from charitable foundations.
- (18) To establish corporations and enter into partnerships and joint ventures to carry out the purposes of the corporation. This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.
- (19) To erect, improve, remodel, or repair corporation buildings.
- (20) To determine operating procedures.
- (21) To do the following:
  - (A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.
  - (B) Collect the charges from the patient, the patient's insurance company, or a government program.
  - (C) Require security for the payment of the charges.
- (22) To adopt a schedule of and to collect reasonable charges for medical and mental health services.
- (23) To enforce Indiana laws, administrative rules, ordinances, and the code of the health and hospital corporation of the county.
- (24) To purchase supplies, materials, and equipment.
- (25) To employ personnel and establish personnel policies.
- (26) To employ attorneys admitted to practice law in Indiana.
- (27) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.
- (28) To dispose of surplus property in accordance with a policy by the board.
- (29) To determine the duties of officers and division directors.
- (30) To fix the compensation of the officers and division directors.



(31) To carry out the purposes and object of the corporation.

(32) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.

(33) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.

(34) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

**(c) If a main sewer line is extended at the initiative and expense of one (1) owner of residential property to allow that owner's residential property to be connected to a sanitary sewer system, the board may not exercise its power under subsection (a)(3)(F) to require other residential properties to be connected to the extension of the main sewer line, regardless of the proximity of those other residential properties to the extension of the main sewer line.**

**SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.**

**(b) This SECTION expires January 1, 2020.**

**SECTION 12. An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 472 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.





## COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 472, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 45. 21st Century Energy Policy Development Task Force**

**Sec. 1. As used in this chapter, "task force" refers to the 21st century energy policy development task force established by section 2 of this chapter.**

**Sec. 2. The 21st century energy policy development task force is established.**

**Sec. 3. The task force consists of the following fifteen (15) members:**

**(1) Four (4) members of the senate, appointed as follows:**

**(A) Two (2) members appointed by the president pro tempore, one (1) of whom shall serve as co-chair of the task force.**

**(B) Two (2) members appointed by the minority leader.**

**(2) Four (4) members of the house of representatives, appointed as follows:**

**(A) Two (2) members appointed by the speaker, one (1) of whom shall serve as co-chair of the task force.**

**(B) Two (2) members appointed by the minority leader.**

**(3) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent residential ratepayers.**

**(4) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent commercial ratepayers.**

**(5) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent industrial ratepayers.**

**(6) One (1) member who has expertise with respect to the generation, transmission, and distribution of electricity and who is appointed by the legislative council.**



(7) One (1) member who has expertise in advanced energy research and development and who is appointed by the governor.

(8) One (1) member who has expertise in renewable energy technology and deployment and who is appointed by the governor.

(9) One (1) member who has broad experience in both economic development and energy policy and who is appointed by the governor.

Sec. 4. (a) Eight (8) members of the task force constitute a quorum.

(b) The affirmative vote of at least a majority of the members at a meeting at which a quorum is present is necessary for the task force to take official action other than to meet and take testimony.

(c) The task force shall meet at the call of the co-chairs.

Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.

Sec. 6. The task force shall do the following:

(1) Examine the state's existing policies regulating electric generation portfolios.

(2) Examine how possible shifts in electric generation portfolios may impact the reliability, system resilience, and affordability of electric utility service.

(3) Evaluate whether state regulators have the appropriate authority and statutory flexibility to consider the statewide impact of the changes described in subdivision (2), while still protecting ratepayer interests.

Sec. 7. The task force shall develop recommendations for the general assembly and the governor concerning the following:

(1) Outcomes that must be achieved in order to overcome any identified challenges concerning Indiana's electric generation portfolios, along with a timeline for achieving those outcomes.

(2) Whether existing state policy and statutes enable state regulators to properly consider the statewide impact of changing electric generation portfolios and, if not, the best approaches to enable state regulators to consider those impacts.

(3) How to maintain reliable, resilient, and affordable electric service for all electric utility consumers, while encouraging the adoption and deployment of advanced energy technologies.



**Sec. 8. The task force shall:**

- (1) issue a report setting forth the recommendations required by section 7 of this chapter; and**
- (2) not later than December 1, 2020, submit the report to the following:**
  - (A) The executive director of the legislative services agency for distribution to the members of the general assembly. The report submitted to the executive director of the legislative services agency under this clause must be in an electronic format under IC 5-14-6.**
  - (B) The governor.**
  - (C) The chair of the Indiana utility regulatory commission.**
  - (D) The utility consumer counselor.**

**Sec. 9. The legislative services agency shall provide staff support to the task force.**

**Sec. 10. This chapter expires December 2, 2020."**

Page 3, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 3. IC 8-1-8.5-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.1. (a) As used in this section, "electric utility" means a:**

- (1) public, municipally owned, or cooperatively owned utility;**
- or**
- (2) joint agency created under IC 8-1-2.2;**

**that owns, operates, or manages any electric generation facility in Indiana for the provision of electric utility service to Indiana customers.**

**(b) Before July 1, 2020, the commission shall conduct a comprehensive study of the statewide impacts, both in the near term and on a long term basis, of:**

- (1) transitions in the fuel sources and other resources used to generate electricity by electric utilities; and**
- (2) new and emerging technologies for the generation of electricity, including the potential impact of such technologies on local grids or distribution infrastructure;**

**on electric generation capacity, system reliability, system resilience, and the cost of electric utility service for consumers. In conducting the study required by this subsection, the commission shall consider the likely timelines for the transitions in fuel sources and other resources described in subdivision (1) and for the implementation of new and emerging technologies described in subdivision (2).**



(c) During the 2019 legislative interim, the commission shall provide a progress report on the commission's work in conducting the study required by subsection (b) to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

(d) Not later than July 1, 2020, the commission shall issue to:

- (1) the governor;
- (2) the legislative council; and
- (3) the 21st century energy policy development task force established by IC 2-5-45-2;

a final report containing the commission's findings and recommendations on the topics outlined in subsection (b). The report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) Subject to subsections (f) through (i), after April 30, 2019, and before January 1, 2021, the commission may not issue a final order in any matter or proceeding that:

- (1) requests approval of:
  - (A) a certificate of public convenience and necessity; or
  - (B) a purchased power agreement;
- (2) the commission determines would have an impact on the generation capacity, system reliability, or system resilience of electric utility service on a statewide basis, whether in the near term or on a long term basis; and
- (3) is:
  - (A) pending as of; or
  - (B) filed on or after;

May 1, 2019.

This subsection does not apply to a general rate case or to an electric utility's request for the approval of a retail rate adjustment mechanism.

(f) Except as provided in subsection (g), subsection (e) does not apply in any individual matter or proceeding concerning a proposed:

- (1) electric generation facility;
- (2) change in fuel source or other resource used to generate electricity; or
- (3) purchased power agreement;

involving less than two hundred fifty (250) megawatts of generating capacity.

(g) Subject to subsections (h) and (i), after April 30, 2019, and before January 1, 2021, the commission may not issue a final order



in any individual matter or proceeding concerning a proposed:

- (1) electric generation facility;
- (2) change in fuel source or other resource used to generate electricity; or
- (3) purchased power agreement;

regardless of the number of megawatts of generating capacity involved in the individual matter or proceeding, once the total number of megawatts of generating capacity approved by the commission after April 30, 2019, and before January 1, 2021, in all matters or proceedings described in subdivisions (1) through (3) exceeds ten thousand (10,000) megawatts on a statewide basis.

(h) If the commission determines under subsection (e) or (g) that a final order may not be issued in a particular matter or proceeding, the commission may, in an expedited proceeding not to exceed ninety (90) days, grant relief from the commission's determination and issue a final emergency order in the particular matter if the following conditions are met:

- (1) The electric utility involved in the matter or proceeding files with the commission a petition seeking emergency relief from the commission's determination.
- (2) The commission determines after:
  - (A) conducting a public hearing on the necessity for the relief sought by the electric utility; and
  - (B) receiving public testimony from the appropriate regional transmission organizations;

that an emergency exists, or that delaying or denying the issuance of an order in the matter would present significant adverse risks to the statewide or regional electric generation capacity, system reliability, or system resilience.

(i) Subsections (e) and (g) do not prohibit any of the following after April 30, 2019, and before January 1, 2021:

- (1) An electric utility from filing a petition for approval of:
  - (A) a certificate of public convenience and necessity; or
  - (B) a purchased power agreement.
- (2) The commission, electric utilities, parties, or intervenors from conducting any procedural matters preceding a final order in a pending proceeding, including establishing procedural schedules, filing testimony and exhibits, holding hearings, conducting conferences, and taking such other actions necessary for the commission's final determination in the matter.
- (3) The commission from issuing a final order denying all or



**part of an electric utility's petition for approval of:**

**(A) a certificate of public convenience and necessity; or**

**(B) a purchased power agreement;**

**if the denial of all or part of the petition would not have an impact on the generation capacity, system reliability, or system resilience of electric utility service on a statewide basis.**

**(j) This section expires January 2, 2021."**

Delete pages 13 through 14.

Page 15, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 472 as printed February 15, 2019.)

SOLIDAY

Committee Vote: yeas 8, nays 4.

