

SENATE BILL No. 249

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-40.

Synopsis: Net metering for electricity generation. Amends the statute concerning distributed electricity generation as follows: (1) Provides that an electricity supplier's net metering tariff must be made and remain available to customers until the earlier of: (A) January 1 of the first calendar year after the calendar year in which the aggregate amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff equals at least 5% (versus 1.5% under current law) of the electricity supplier's most recent summer peak load; or (B) July 1, 2024 (versus July 1, 2022, under current law). (2) Provides that before July 1, 2021, each electricity supplier shall petition the utility regulatory commission (IURC) for approval of an amended or a new net metering tariff to do the following: (A) Establish as the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff an amount equal to at least 5% (versus 1.5% under current law) of the most recent summer peak load of the electricity supplier. (B) Establish a required reservation of capacity under the nameplate capacity limit to require the reservation of: (i) 30% (versus 40% under current law) of the capacity for participation by residential customers; and (ii) 5% (versus 15% under current law) of the capacity for participation by customers that install a net metering facility that uses organic waste biomass. (3) Makes conforming amendments. Adds a noncode provision staying the implementation of a rate for the procurement of excess distributed generation for which an electricity supplier has applied or received approval from the IURC under current law, until such time as the conditions for the expiration of the electricity supplier's net metering tariff, as set forth in the bill, apply to the electricity supplier.

Effective: Upon passage.

Alting

January 11, 2021, read first time and referred to Committee on Utilities.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

SENATE BILL No. 249

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 8-1-40-7, AS ADDED BY P.L.264-2017,
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 7. As used in this chapter, "net metering
4 tariff" means a tariff that
5 (†) an electricity supplier offers for net metering under 170
6 IAC 4-4.2. ~~and~~
7 (‡) ~~is in effect on January 1, 2017.~~
8 SECTION 2. IC 8-1-40-10, AS ADDED BY P.L.264-2017,
9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 UPON PASSAGE]: Sec. 10. (a) Subject to sections 13 and 14 of this
11 chapter, a net metering tariff of an electricity supplier must **be made**
12 **and** remain available to the electricity supplier's customers until the
13 earlier of the following:
14 (1) January 1 of the first calendar year after the calendar year in
15 which the aggregate amount of net metering facility nameplate
16 capacity under the electricity supplier's net metering tariff equals
17 at least ~~one and one-half~~ **five percent (5%)** of the most



1 recent summer peak load of the electricity supplier.

2 (2) July 1, ~~2022~~; **2024**.

3 **(b) Before July 1, 2021, each electricity supplier shall petition**
 4 **the commission for approval of an amended or a new net metering**
 5 **tariff that:**

6 **(1) complies with this section and section 12(a) of this chapter;**
 7 **and**

8 **(2) does not include any other substantive changes to the**
 9 **terms and conditions of the existing net metering tariff being**
 10 **amended or replaced.**

11 **Not later than thirty (30) days after receipt of a petition under this**
 12 **subsection, the commission shall review the petition and, if the**
 13 **petition complies with subdivisions (1) and (2), shall approve the**
 14 **electricity supplier's new or amended net metering tariff. If the**
 15 **commission determines that the petition does not comply with**
 16 **subdivisions (1) and (2), the commission shall notify the electricity**
 17 **supplier of the defect and shall require the electricity supplier to**
 18 **remedy the defect not later than a date set forth by the commission**
 19 **in its notice to the electricity supplier under this subsection.**

20 **(c) Before July 1, ~~2022~~; 2024, if an electricity supplier reasonably**
 21 **anticipates, at any point in a calendar year, that the aggregate amount**
 22 **of net metering facility nameplate capacity under the electricity**
 23 **supplier's net metering tariff will equal at least ~~one and one-half~~ five**
 24 **percent (~~1.5%~~) (5%) of the most recent summer peak load of the**
 25 **electricity supplier, the electricity supplier shall, in accordance with**
 26 **section 16 of this chapter, petition the commission for approval of a**
 27 **rate for the procurement of excess distributed generation.**

28 SECTION 3. IC 8-1-40-11, AS ADDED BY P.L.264-2017,
 29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 11. (a) Except as provided in sections **10(b)**,
 31 **12, and 21(b) of this chapter, before July 1, ~~2047~~; 2049:**

32 **(1) an electricity supplier may not seek to change the terms and**
 33 **conditions of the electricity supplier's net metering tariff; and**

34 **(2) the commission may not approve changes to an electricity**
 35 **supplier's net metering tariff.**

36 **(b) Except as provided in sections 13 and 14 of this chapter, after**
 37 **June 30, ~~2022~~; 2024:**

38 **(1) an electricity supplier may not make a net metering tariff**
 39 **available to customers; and**

40 **(2) the terms and conditions of a net metering tariff offered by an**
 41 **electricity supplier before July 1, ~~2022~~; 2024, expire and are**
 42 **unenforceable.**



1 SECTION 4. IC 8-1-40-12, AS ADDED BY P.L.264-2017,
 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 12. (a) Before ~~January~~ **July** 1, ~~2018~~, **2021**, the
 4 commission shall amend 170 IAC 4-4.2-4, and, **in accordance with**
 5 **section 10(b) of this chapter**, an electricity supplier shall amend the
 6 electricity supplier's net metering tariff, **or shall file a new net**
 7 **metering tariff**, to do the following:

8 (1) ~~Increase~~ **Establish as** the allowed limit on the aggregate
 9 amount of net metering facility nameplate capacity under the net
 10 metering tariff ~~to one and one-half~~ **an amount equal to at least**
 11 **five percent** (~~+1.5%~~) (**5%**) of the most recent summer peak load of
 12 the electricity supplier.

13 (2) ~~Modify the~~ **Establish a** required reservation of capacity under
 14 the limit described in subdivision (1) to require the reservation of:

15 (A) ~~forty~~ **thirty** percent (~~+40%~~) (**30%**) of the capacity for
 16 participation by residential customers; and

17 (B) ~~fifteen~~ **five** percent (~~+15%~~) (**5%**) of the capacity for
 18 participation by customers that install a net metering facility
 19 that uses a renewable energy resource described in
 20 IC 8-1-37-4(a)(5).

21 (b) In amending 170 IAC 4-4.2-4, as required by subsection (a), the
 22 commission may adopt emergency rules in the manner provided by
 23 IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule
 24 adopted by the commission under this section and in the manner
 25 provided by IC 4-22-2-37.1 expires on the date on which a rule that
 26 supersedes the emergency rule is adopted by the commission under
 27 IC 4-22-2-24 through IC 4-22-2-36.

28 SECTION 5. IC 8-1-40-13, AS ADDED BY P.L.264-2017,
 29 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 13. (a) This section applies to a customer that
 31 installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 32 customer's premises:

33 (1) after December 31, 2017; and

34 (2) before the date on which the net metering tariff of the
 35 customer's electricity supplier terminates under section ~~+0(+)~~
 36 **10(a)(1)** or ~~+0(+)~~ **10(a)(2)** of this chapter.

37 (b) A customer that is participating in an electricity supplier's net
 38 metering tariff on the date on which the electricity supplier's net
 39 metering tariff terminates under section ~~+0(+)~~ **10(a)(1)** or ~~+0(+)~~
 40 **10(a)(2)** of this chapter shall continue to be served under the terms and
 41 conditions of the net metering tariff until:

42 (1) the customer removes from the customer's premises or



1 replaces the net metering facility (as defined in 170
 2 IAC 4-4.2-1(k)); or
 3 (2) July 1, ~~2032~~; **2034**;
 4 whichever occurs earlier.

5 (c) A successor in interest to a customer's premises on which a net
 6 metering facility (as defined in 170 IAC 4-4.2-1(k)) that was installed
 7 during the period described in subsection (a) is located may, if the
 8 successor in interest chooses, be served under the terms and conditions
 9 of the net metering tariff of the electricity supplier that provides retail
 10 electric service at the premises until:

11 (1) the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is
 12 removed from the premises or is replaced; or

13 (2) July 1, ~~2032~~; **2034**;
 14 whichever occurs earlier.

15 SECTION 6. IC 8-1-40-14, AS ADDED BY P.L.264-2017,
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 14. (a) This section applies to a customer that
 18 installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 19 customer's premises before January 1, 2018.

20 (b) A customer that is participating in an electricity supplier's net
 21 metering tariff on December 31, 2017, shall continue to be served
 22 under the terms and conditions of the net metering tariff until:

23 (1) the customer removes from the customer's premises or
 24 replaces the net metering facility (as defined in 170
 25 IAC 4-4.2-1(k)); or

26 (2) July 1, ~~2047~~; **2049**;
 27 whichever occurs earlier.

28 (c) A successor in interest to a customer's premises on which is
 29 located a net metering facility (as defined in 170 IAC 4-4.2-1(k)) that
 30 was installed before January 1, 2018, may, if the successor in interest
 31 chooses, be served under the terms and conditions of the net metering
 32 tariff of the electricity supplier that provides retail electric service at
 33 the premises until:

34 (1) the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is
 35 removed from the premises or is replaced; or

36 (2) July 1, ~~2047~~; **2049**;
 37 whichever occurs earlier.

38 SECTION 7. IC 8-1-40-16, AS ADDED BY P.L.264-2017,
 39 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 40 UPON PASSAGE]: Sec. 16. Not later than March 1, ~~2021~~, **2023**, an
 41 electricity supplier shall file with the commission a petition requesting
 42 a rate for the procurement of excess distributed generation by the



1 electricity supplier. After an electricity supplier's initial rate for excess
 2 distributed generation is approved by the commission under section 17
 3 of this chapter, the electricity supplier shall submit on an annual basis,
 4 not later than March 1 of each year, an updated rate for excess
 5 distributed generation in accordance with the methodology set forth in
 6 section 17 of this chapter.

7 SECTION 8. [EFFECTIVE UPON PASSAGE] **(a) The definitions**
 8 **in IC 8-1-40, as amended by this act, apply throughout this**
 9 **SECTION.**

10 **(b) Notwithstanding IC 8-1-40, before its amendment by this act,**
 11 **an electricity supplier shall make a net metering tariff available to**
 12 **the electricity supplier's customers under IC 8-1-40, as amended by**
 13 **this act, regardless of whether, as of the effective date of this act:**

14 **(1) the aggregate amount of net metering facility nameplate**
 15 **capacity under the electricity supplier's net metering tariff**
 16 **equals at least one and one-half percent (1.5%) of the most**
 17 **recent summer peak load of the electricity supplier;**

18 **(2) the electricity supplier has filed a petition with the**
 19 **commission under IC 8-1-40-16, before its amendment by this**
 20 **act; or**

21 **(3) the commission has approved a rate for the electricity**
 22 **supplier under IC 8-1-40-17.**

23 **(c) If, before the effective date of this act, an electricity supplier**
 24 **has filed a petition with the commission under IC 8-1-40-16, before**
 25 **its amendment by this act, and the commission, as of the effective**
 26 **date of this act, has not approved a rate for the electricity supplier**
 27 **under IC 8-1-40-17, the commission:**

28 **(1) shall stay review of the petition until the conditions under**
 29 **IC 8-1-40-10, as amended by this act, apply to the electricity**
 30 **supplier; and**

31 **(2) may allow or require the electricity supplier to file an**
 32 **amended petition under IC 8-1-40-16, as amended by this act,**
 33 **when the conditions under IC 8-1-40-10, as amended by this**
 34 **act, apply to the electricity supplier.**

35 **(d) If, before the effective date of this act, the commission**
 36 **approved a rate for an electricity supplier under IC 8-1-40-17, the**
 37 **electricity supplier may not procure excess distributed generation**
 38 **produced by a customer at the rate unless:**

39 **(1) the conditions under IC 8-1-40-10, as amended by this act,**
 40 **apply to the electricity supplier;**

41 **(2) the electricity supplier files a petition with the commission**
 42 **requesting approval for the electricity supplier to procure**



1 **excess distributed generation produced by a customer at the**
2 **rate; and**
3 **(3) the commission approves the electricity supplier's petition**
4 **filed under subdivision (2).**
5 **(e) This SECTION expires January 1, 2025.**
6 **SECTION 9. An emergency is declared for this act.**

