

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF INDIANA MICHIGAN
POWER COMPANY FOR APPROVAL OF A
TARIFF RATE AND ACCOMPANYING
TARIFF TERMS AND CONDITIONS FOR
THE PROCUREMENT OF EXCESS
DISTRIBUTED GENERATION PURSUANT
TO IND. CODE CH. 8-1-40**

CAUSE NO. 45506

**ATTACHMENTS TO THE
DIRECT TESTIMONY OF BENJAMIN D. INSKEEP**

**ON BEHALF OF
INDIANA DISTRIBUTED ENERGY ALLIANCE**

JULY 13, 2021

ATTACHMENT BDI-1

Attachment BDI-1: *Curriculum Vitae* of Benjamin D. Inskeep

Benjamin D. Inskeep

binskeep@eq-research.com

EDUCATION

School of Public and Environmental Affairs (SPEA), Indiana University, Bloomington, IN

M.S. in Environmental Science, 2012, Top GPA Award

Master of Public Affairs, 2012, Top GPA Award, Concentration: Environmental Policy

“IU at Oxford,” University of Oxford, Oxford, United Kingdom

Six-week graduate school program on climate change governance and environmental regulation, 2011

Indiana University, Bloomington, IN

B.S., Psychology, 2009, with *Highest Distinction*, Honors Notation, and Phi Beta Kappa honors Certificate, Liberal Arts and Management Program (honors-level interdisciplinary business program)

EXPERIENCE

Principal Energy Policy Analyst, February 2020 – Present

Senior Energy Policy Analyst, January 2019 - Present

Energy Analyst, May 2018 – December 2018

Independent Contractor, July 2017-April 2018

Research Analyst, March 2016 – June 2017

EQ Research LLC, Cary, North Carolina

- Lead EQ Research’s CCA services focused on regulatory monitoring, compliance reporting, and customized research and analysis.
- Develop expert witness testimony, clean energy legislation, policy memos, regulatory public comments, policy reports, and market analyses with an emphasis on clean energy policy.
- Research, track, and analyze renewable energy legislation, regulatory proceedings, and stakeholder opportunities to participate in policymaking for client-facing policy tracking services.
- Manage EQ Research’s services on U.S. electric utility rate cases including reviewing and summarizing all rate cases, researching and tracking anticipated rate cases and providing bi-weekly updates to clients on utility rate developments.
- Support and collaborate with a diverse regulatory team, including attorneys, policy analysts, businesses and environmental advocates, in ongoing regulatory proceedings.

Researcher, August 2017 – January 2018

Earth Island Institute, Indianapolis, Indiana

- Developed more than 100 wiki pages on existing and planned coal, LNG terminals and oil and gas pipelines for the CoalSwarm and FrackSwarm projects, which provide clearinghouses addressing the impacts of coal and fracking and moving to cleaner sources of energy.

Policy Analyst, June 2014 – March 2016

North Carolina Clean Energy Technology Center, N.C. State University, Raleigh, North Carolina

- Co-creator, lead author, and editor for *The 50 States of Solar*, a quarterly report series that comprehensively tracks state regulatory and legislative distributed solar policy developments.
- Created an internal database for tracking distributed solar regulatory and legislative policy proposals, and queried and analyzed the data to answer policy questions, identify trends, and develop reports.

- Tracked and updated summaries of more than 500 utility, local, state, and federal policies and incentives for the *Database of State Incentives for Renewables and Efficiency* (DSIRE).
- Led solar workshops and provided technical assistance to local governments, including solar financial and policy analysis, reports, case studies, fact sheets, and customer-facing solar guides as part of the U.S. Department of Energy SunShot Solar Outreach Partnership.

Doctoral Research Assistant, August 2012 – December 2013

SPEA, Indiana University, Bloomington, Indiana

- Completed three semesters of Ph.D. coursework, attaining a 4.0/4.0 GPA.
- Collaborated with Professor Shahzeen Attari in academic research projects on the psychology of energy and water use and conservation.
- Lead-authored peer-reviewed research on the most effective actions households can take to curb water use.

Climate Corps Fellow, June 2012 – August 2012

Environmental Defense Fund, Cary, North Carolina

- Quantitatively benchmarked the energy efficiency of 90+ North Carolina fire stations and authored case studies highlighting the most effective local fire station energy efficiency initiatives.
- Evaluated the cost-effectiveness of various local government energy efficiency measures to demonstrate the financial value of sustainability.

Sustainability Intern, October 2011 – April 2012

Office of Sustainability, Indiana University, Bloomington, Indiana

- Analyzed data on Indiana University's energy use to determine greenhouse gas emission trends.
- Collected and analyzed quantitative and qualitative sustainability metrics for sustainability ratings.
- Benchmarked the university's sustainability relative to peer institutions.

Research Intern, February 2010 – May 2010

The Nature Conservancy, Indianapolis, Indiana

- Synthesized research on the economic benefits of community green space as part of a white paper.

PUBLICATIONS

- Inskeep, B. **Pollinator-Friendly Solar in Indiana.** May 2020. Published by EQ Research.
- Inskeep, B. **Four Flavors of Grid Modernization in the Midwest.** April 12, 2019. Published by EQ Research.
- Inskeep, B. **States Charting Paths to 100% Targets.** March 15, 2019. Published by EQ Research.
- Makhoun, M. and B. Inskeep. **Ten Things to Know about CCAs in California.** February 13, 2019. Published by EQ Research.
- Inskeep, B. **EQ Research's Q4 2018 GRC [General Rate Case] Update.** January 15, 2019. Published by EQ Research.
- Inskeep, B. **EQ Research's Q3 2018 GRC Update.** October 16, 2018. Published by EQ Research.

- Argetsinger, B. and B. Inskip. **Standards and Requirements for Solar Equipment, Installation, and Licensing and Certification**. January 2017. Published by the Clean Energy States Alliance.
- Barnes, C., J. Barnes, B. Elder, and B. Inskip. **Comparing Utility Interconnection Timelines for Small-Scale Solar PV, 2nd Edition**. October 2016. Published by EQ Research.
- Barnes, J., B. Inskip, and C. Barnes [with Synapse Energy Economics]. **Envisioning Pennsylvania's Energy Future**. October 2016. Published by the Delaware Riverkeeper Network.
- Inskip, B., et al. **The 50 States of Solar**. February 2015, April 2015, August 2015, November 2015, February 2016. Lead author & editor for five quarterly editions. Published by the NC Clean Energy Technology Center.
- Inskip, B., et al. **Utility Ownership of Rooftop Solar PV**. November 2015. Published by U.S. DOE SunShot Solar Outreach Partnership.
- Inskip, B., and A. Proudlove. **Renewable Cities: Case Studies**. Published by U.S. DOE SunShot Solar Outreach Partnership, October 2015.
- Inskip, B., K. Daniel, and A. Proudlove. **Delaware Goes Solar: A Guide for Residential Customers**. June 2015. Published by U.S. DOE SunShot Solar Outreach Partnership.
- Inskip, B., and A. Proudlove. **Homeowner's Guide to the Federal Investment Tax Credit for Solar PV**. Published by U.S. DOE SunShot Solar Outreach Partnership, March 2015.
- Inskip, B., and A. Proudlove. **Commercial Guide to the Federal Investment Tax Credit for Solar PV**. Published by U.S. DOE SunShot Solar Outreach Partnership, March 2015.
- Daniel, K., B. Inskip, and A. Proudlove. **Understanding Sales Tax Incentives for Solar Energy Systems**. Published by U.S. DOE SunShot Solar Outreach Partnership, March 2015.
- Inskip, B. and A. Shrestha. **Comparing Subsidies for Conventional and Renewable Energy**. Published by NC Clean Energy Technology Center, March 2015.
- Inskip, B., K. Daniel, and A. Proudlove. **Solar on Multi-Unit Buildings: Policy and Financing Options to Address Split Incentives**. Published by U.S. DOE SunShot Solar Outreach Partnership, February 2015.
- Daniel, K., B. Inskip, et al. **In-State RPS Requirements**. Published by NC Clean Energy Technology Center, November 2014.
- Inskip, B. and S. Attari. **The Water Short List: The Most Effective Actions U.S. Households Can Take to Curb Water Use**. *Environment: Science and Policy for Sustainable Development* 56, No. 4, 2014: 4-15.

PARTICIPATION AT PUBLIC UTILITY COMMISSIONS

- **Kentucky Public Service Commission, March 2021**, Provided direct testimony on behalf of Kentucky Solar Energy Industries on Louisville Gas & Electric's net metering proposal, Case No. 2020-00350.
- **Kentucky Public Service Commission, March 2021**, Provided direct testimony on behalf of Kentucky Solar Energy Industries on Kentucky Utilities's net metering proposal, Case No. 2020-00349.

- **Kentucky Public Service Commission**, *October 2020, February 2021, March 2021*, Provided direct, supplemental, and rebuttal testimony on behalf of Kentucky Solar Energy Industries on Kentucky Power Company's net metering proposal, Case No. 2020-00174.
- **Kentucky Public Service Commission**, *November 2019*, Provided comments on behalf of Kentucky Solar Energy Industries on the implementation of the Net Metering Act, Case No. 2019-00256.
- **Indiana Utility Regulatory Commission**, *September 2019*, Provided public comments as a ratepayer at Public Hearing against Indianapolis Power and Light's (IPL) proposed \$1.2 billion grid modernization plan that would raise customer bills by \$10.50.
- **Indiana Utility Regulatory Commission**, *May 2018*, Provided public comments as a ratepayer at Public Hearing against IPL's proposal in its rate case to increase its fixed customer charge from \$17 to \$27, which would have been the highest fixed charge among investor-owned utilities in the nation.

PRESENTATIONS

- **Indiana's Energy Transition**, November 2020
Presentation at Hoosier Environmental Council's "Greening the Statehouse"
- **Energy Storage in Integrated Resource Planning**, September 2020
Panelist on webinar hosted by the Energy Storage Association
- **DERs [Distributed Energy Resources] in the Midwest**
Moderated panel at Solar and Storage Midwest, November 2019
- **Planning for the Solar Revolution**
Poster presentation at Solar Power International, Salt Lake City, Utah, September 2019
- **Policy Considerations for Accelerating the U.S. Clean Energy Transition**
Invited by Prof. Sanya Carley to give lecture to graduate energy economics class at Indiana University School of Public and Environmental Affairs, Bloomington, Indiana, March 2019.
- **Solar Equipment, Installation, and Licensing & Certification: A Guide for States and Municipalities**
Webinar presentation on report findings sponsored by the Clean Energy States Alliance, February 2017.
- **Distributed Solar PV Trends in Net Metering and Rate Design**
Invited to give presentation at Solar Asset Management Conference, San Francisco, California, March 2016.
- **Solar Powering Your Community: Addressing Soft Costs and Barriers**
Led all-day local government solar workshop at Kerr-Tar Councils of Government, Henderson, North Carolina, November 20, 2015.
- **Solar Powering Your Community: Addressing Soft Costs and Barriers**
Led all-day local government solar workshop at NC Clean Energy Technology Center, Raleigh, North Carolina, November 19, 2015.
- **North Carolina in Context: Regional and National Trends.**
Panel presentation at University of North Carolina Clean Energy Forum, Chapel Hill, North Carolina, September 2015.
- **Net Metering Updates.**

Panel presentation at Solar Power International, Anaheim, California, September 2015.

- **The 50 States of Solar: Trends in Net Metering Policies and Rate Design.**
Poster presentation at Solar Power International, Anaheim, California, September 2015.
- **Net Metering and Rate Design Trends.**
Panel presentation at Intersolar North America, San Francisco, California, July 2015.
- **Distributed Disruption: The Economics and Policy Behind the Distributed Solar PV Boom.**
Invited by Prof. Sanya Carley to give lecture to graduate energy economics class at Indiana University School of Public and Environmental Affairs, Bloomington, Indiana, April 2015.
- **Solar Powering Your Community: Addressing Soft Costs and Barriers**
Led all-day local government solar workshop at Grand Valley State University's Michigan Alternative and Renewable Energy Center, Muskegon, Michigan, May 5, 2015.
- **The Water Short List: The Most Effective Actions to Reduce Household Water Consumption**
Poster presentation at the International School on Energy Systems, Seon, Germany, September 2014.
- **More Than a Drop in the Bucket: How U.S. Households Can Reduce Water Consumption by 70%**
Presentation at the 13th Annual Association for SPEA Ph.D. Students Conference, Bloomington, IN, March, 2013.

AWARDS & HONORS

- 2012 Top GPA Award, M.S. in Environmental Science
- 2012 Top GPA Award, Masters in Public Affairs
- 2011 SPEA Merit Award
- 2005-2009 Indiana University Honors Recognition Scholarship

VOLUNTEER SERVICE

Citizens Action Coalition, Indiana, February 2019 – present
Board Member

Solar Power International, 2014 – 2016
Education Committee Member for the largest solar conference in America

SPEA, Prof. Evan Ringquist Research Team, Bloomington, Indiana, 2011
Volunteer Researcher on Environmental Justice Research Project

ATTACHMENT BDI-2

SENATE BILL No. 309

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Distributed generation. Requires: (1) the utility regulatory commission (IURC) to post a summary of the results of the IURC's most recent periodic review of the basic rates and charges of an electricity supplier on the IURC's Internet web site; and (2) the electricity supplier subject to the review to provide a link on the electricity supplier's Internet web site to the IURC's posted summary. Amends the statute concerning alternate energy production, cogeneration, and small hydro facilities to: (1) include in the definition of a "private generation project" certain cogeneration facilities that: (A) are located on the same site as the host operation; or (B) are located on or contiguous to the site of the host operation and are directly integrated with the host operation; and (2) define an "eligible facility" for purposes of the statute. Specifies that an electric utility or a steam utility is not required to distribute, transmit, deliver, or wheel electricity from a private generation project. Requires the IURC to: (1) review the rates charged by electric utilities for backup power to eligible facilities and for purchases of power from eligible facilities; (2) identify the extent to which the rates meet specified criteria; and (3) report the IURC's findings to the interim study committee on energy, utilities, and telecommunications; not later than November 1, 2018. Provides that a public utility that: (1) installs a wind or solar project with a nameplate capacity of not more than 50,000 kilowatts; and (2) uses for the project a contractor that is: (A) subject to Indiana unemployment taxes; and (B) selected by the public utility through a competitive procurement process; is not required to obtain a certificate of public convenience and necessity for the project from the IURC. Provides that a net
(Continued next page)

Effective: July 1, 2017.

Hershman

January 9, 2017, read first time and referred to Committee on Utilities.



Digest Continued

metering tariff of an electricity supplier must remain available to the electricity supplier's customers until the first calendar year after the aggregate amount of net metering facility nameplate capacity under the tariff equals at least 1% of the electricity supplier's most recent summer peak load. Provides that after June 30, 2027: (1) an electricity supplier may not make a net metering tariff available to customers; and (2) the terms and conditions of any net metering tariff offered by an electricity supplier before July 1, 2027, expire and are unenforceable. Provides that not later than March 1, 2026, an electricity supplier shall file with the IURC a petition requesting a rate for the electricity supplier's purchase of distributed generation from customers. Provides that the IURC shall approve a rate submitted by an electricity supplier if the rate equals either: (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; or (2) the direct costs of generating or purchasing electricity that the electricity supplier will avoid by purchasing distributed generation. Establishes protections for customers producing distributed generation.



Introduced

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 309

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 8-1-2-42.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42.5. (a) The
3 commission shall by rule or order, consistent with the resources of the
4 commission and the office of the utility consumer counselor, require
5 that the basic rates and charges of all public, municipally owned, and
6 cooperatively owned utilities (except those utilities described in
7 ~~IC 8-1-2-61.5~~ **section 61.5 of this chapter**) are subject to a regularly
8 scheduled periodic review and revision by the commission. However,
9 the commission shall conduct the periodic review at least once every
10 four (4) years and may not authorize a filing for an increase in basic
11 rates and charges more frequently than is permitted by operation of
12 section 42(a) of this chapter.

13 (b) **The commission shall make the results of the commission's**
14 **most recent periodic review of the basic rates and charges of an**
15 **electricity supplier (as defined in IC 8-1-2.3-2(b)) available for**

2017

IN 309—LS 7072/DI 101



1 **public inspection by posting a summary of the results on the**
 2 **commission's Internet web site. An electricity supplier whose basic**
 3 **rates and charges are reviewed under this section shall provide a**
 4 **link on the electricity supplier's Internet web site to the summary**
 5 **of the results posted on the commission's Internet web site.**

6 SECTION 2. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2017]: Sec. 2. (a) The definitions in this section apply
 9 throughout this chapter.

10 (b) "Alternate energy production facility" means:

- 11 (1) a solar, wind turbine, waste management, resource recovery,
 12 refuse-derived fuel, or wood burning facility;
 13 (2) any land, system, building, or improvement that is located at
 14 the project site and is necessary or convenient to the construction,
 15 completion, or operation of the facility; and
 16 (3) the transmission or distribution facilities necessary to conduct
 17 the energy produced by the facility to users located at or near the
 18 project site.

19 (c) "Cogeneration facility" means:

- 20 (1) a facility that:
 21 (A) simultaneously generates electricity and useful thermal
 22 energy; and
 23 (B) meets the energy efficiency standards established for
 24 cogeneration facilities by the Federal Energy Regulatory
 25 Commission under 16 U.S.C. 824a-3;
 26 (2) any land, system, building, or improvement that is located at
 27 the project site and is necessary or convenient to the construction,
 28 completion, or operation of the facility; and
 29 (3) the transmission or distribution facilities necessary to conduct
 30 the energy produced by the facility to users located at or near the
 31 project site.

32 (d) "Electric utility" means any public utility or municipally owned
 33 utility that owns, operates, or manages any electric plant.

34 (e) "Small hydro facility" means:

- 35 (1) a hydroelectric facility at a dam;
 36 (2) any land, system, building, or improvement that is located at
 37 the project site and is necessary or convenient to the construction,
 38 completion, or operation of the facility; and
 39 (3) the transmission or distribution facilities necessary to conduct
 40 the energy produced by the facility to users located at or near the
 41 project site.

42 (f) "Steam utility" means any public utility or municipally owned



1 utility that owns, operates, or manages a steam plant.

2 (g) "Private generation project" means a cogeneration facility that
3 has an electric generating capacity of eighty (80) megawatts or more
4 and is:

5 (1) primarily used by its owner for the owner's industrial,
6 commercial, heating, or cooling purposes; or

7 (2) a qualifying facility for purposes of the Public Utility
8 Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1,~~
9 ~~2014; and (B)~~ produces electricity and useful thermal energy that
10 is primarily used by a **single** host operation for industrial,
11 commercial, heating, or cooling purposes **and is:**

12 **(A) located on the same site as the host operation; or**

13 **(B) determined by the commission to be a facility that:**

14 **(i) satisfies the requirements of this chapter;**

15 **(ii) is located on or contiguous to the property on which
16 the host operation is sited; and**

17 **(iii) is directly integrated with the host operation.**

18 **(h) "Eligible facility" means an alternate energy production
19 facility, a cogeneration facility, or a small hydro facility that is:**

20 **(1) described in section 5 of this chapter; and**

21 **(2) either:**

22 **(A) located on the same site as a single host operation; or**

23 **(B) determined by the commission to be a facility that:**

24 **(i) satisfies the requirements of this chapter;**

25 **(ii) is located on or contiguous to the property on which
26 the host operation is sited; and**

27 **(iii) is directly integrated with the host operation.**

28 **The term includes the consuming elements of a host operation
29 using the associated energy output for industrial, commercial,
30 heating, or cooling purposes.**

31 SECTION 3. IC 8-1-2.4-4 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Subject to section
33 5 of this chapter, the commission shall require electric utilities and
34 steam utilities to enter into long term contracts to:

35 (1) purchase or wheel electricity or useful thermal energy from
36 ~~alternate energy production facilities; cogeneration facilities; or~~
37 ~~small hydro eligible~~ facilities located in the utility's service
38 territory, under the terms and conditions that the commission
39 finds:

40 (A) are just and economically reasonable to the corporation's
41 ratepayers;

42 (B) are nondiscriminatory to alternate energy producers,



- 1 cogenerators, and small hydro producers; and
 2 (C) will further the policy stated in section 1 of this chapter;
 3 and
 4 (2) provide for the availability of supplemental or backup power
 5 to ~~alternate energy production facilities; cogeneration facilities; or~~
 6 **small hydro eligible** facilities on a nondiscriminatory basis and at
 7 just and reasonable rates.
- 8 (b) Upon application by the owner or operator of any ~~alternate~~
 9 ~~energy production facility; cogeneration facility; or small hydro eligible~~
 10 facility or any interested party, the commission shall establish for the
 11 affected utility just and economically reasonable rates for electricity
 12 purchased under subsection (a)(1). The rates shall be established at
 13 levels sufficient to stimulate the development of ~~alternate energy~~
 14 ~~production; cogeneration; and small hydro eligible~~ facilities in Indiana,
 15 and to encourage the continuation of existing capacity from those
 16 facilities.
- 17 (c) The commission shall base the rates for new facilities or new
 18 capacity from existing facilities on the following factors:
- 19 (1) The estimated capital cost of the next generating plant,
 20 including related transmission facilities, to be placed in service by
 21 the utility.
 22 (2) The term of the contract between the utility and the seller.
 23 (3) A levelized annual carrying charge based upon the term of the
 24 contract and determined in a manner consistent with both the
 25 methods and the current interest or return requirements associated
 26 with the utility's new construction program.
 27 (4) The utility's annual energy costs, including current fuel costs,
 28 related operation and maintenance costs, and any other
 29 energy-related costs considered appropriate by the commission.
- 30 ~~Until July 1, 1986, the rate for a new facility may not exceed eight~~
 31 ~~cents (\$.08) per kilowatt hour.~~
- 32 (d) The commission shall base the rates for existing facilities on the
 33 factors listed in subsection (c). However, the commission shall also
 34 consider the original cost less depreciation of existing facilities and
 35 may establish a rate for existing facilities that is less than the rate
 36 established for new facilities.
- 37 (e) In the case of a utility that purchases all or substantially all of its
 38 electricity requirements, the rates established under this section must
 39 be equal to the current cost to the utility of similar types and quantities
 40 of electrical service.
- 41 (f) In lieu of the other procedures provided by this section, a utility
 42 and an owner or operator of an ~~alternate energy production facility;~~



1 ~~cogeneration facility, or small hydro eligible~~ facility may enter into a
 2 long term contract in accordance with subsection (a) and may agree to
 3 rates for purchase and sale transactions. A contract entered into under
 4 this subsection must be filed with the commission in the manner
 5 provided by IC 8-1-2-42.

6 (g) This section does not require an electric utility or steam utility
 7 to:

8 (1) construct any additional facilities unless those facilities are
 9 paid for by the owner or operator of the affected ~~alternate energy~~
 10 ~~production facility, cogeneration facility, or small hydro eligible~~
 11 ~~facility; or~~

12 (2) **distribute, transmit, deliver, or wheel electricity from a**
 13 **private generation project.**

14 (h) **The commission shall do the following not later than**
 15 **November 1, 2018:**

16 (1) **Review the rates charged by electric utilities under**
 17 **subsections (a)(2) and (e).**

18 (2) **Identify the extent to which the rates offered by electric**
 19 **utilities under subsections (a)(2) and (e):**

20 (A) **are cost based;**

21 (B) **are nondiscriminatory; and**

22 (C) **do not result in the subsidization of costs within or**
 23 **among customer classes.**

24 (3) **Report the commission's findings under subdivisions (1)**
 25 **and (2) to the interim study committee on energy, utilities, and**
 26 **telecommunications established by IC 2-5-1.3-4(8).**

27 **This subsection expires November 2, 2018.**

28 SECTION 4. IC 8-1-8.5-7, AS AMENDED BY P.L.168-2013,
 29 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2017]: Sec. 7. The certification requirements of this chapter
 31 do not apply to ~~persons who:~~ **a person that:**

32 (1) ~~construct~~ **constructs** an electric generating facility primarily
 33 for that person's own use and not for the primary purpose of
 34 producing electricity, heat, or steam for sale to or for the public
 35 for compensation;

36 (2) ~~construct~~ **constructs** an ~~alternate energy production facility,~~
 37 ~~cogeneration facility, or a small hydro eligible~~ facility that
 38 complies with the limitations set forth in IC 8-1-2.4-5; ~~or~~

39 (3) ~~are~~ **is** a municipal utility, including a joint agency created
 40 under IC 8-1-2.2-8, and ~~install~~ **installs** an electric generating
 41 facility that has a capacity of ten thousand (10,000) kilowatts or
 42 less; **or**



1 **(4) is a public utility and:**

2 **(A) installs a clean energy project described in**
 3 **IC 8-1-8.8-2(2) that is approved by the commission and**
 4 **that:**

5 **(i) uses a clean energy resource described in**
 6 **IC 8-1-37-4(a)(1) or IC 8-1-37-4(a)(2); and**

7 **(ii) has a nameplate capacity of not more than fifty**
 8 **thousand (50,000) kilowatts; and**

9 **(B) uses a contractor that:**

10 **(i) is subject to Indiana unemployment taxes; and**

11 **(ii) is selected by the public utility through bids solicited**
 12 **in a competitive procurement process;**

13 **in the engineering, procurement, or construction of the**
 14 **project.**

15 However, those persons a person described in this section shall,
 16 nevertheless, be required to report to the commission the proposed
 17 construction of such a facility before beginning construction of the
 18 facility.

19 SECTION 5. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS
 20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2017]:

22 **Chapter 40. Distributed Generation**

23 **Sec. 1. As used in this chapter, "commission" refers to the**
 24 **Indiana utility regulatory commission created by IC 8-1-1-2.**

25 **Sec. 2. As used in this chapter, "customer" means a person that**
 26 **receives retail electric service from an electricity supplier.**

27 **Sec. 3. (a) As used in this chapter, "distributed generation"**
 28 **means electricity produced by a generator or other device that is:**

29 **(1) located on the customer's premises;**

30 **(2) owned by the customer;**

31 **(3) sized at a nameplate capacity of the lesser of:**

32 **(A) not more than one (1) megawatt; or**

33 **(B) the customer's average annual consumption of energy**
 34 **on the premises; and**

35 **(4) interconnected and operated in parallel with the electricity**
 36 **supplier's facilities in accordance with the commission's**
 37 **approved interconnection standards.**

38 **(b) The term does not include electricity produced by the**
 39 **following:**

40 **(1) An electric generator used exclusively for emergency**
 41 **purposes.**

42 **(2) A net metering facility (as defined in 170 IAC 4-4.2-1(k))**



- 1 operating under a net metering tariff.
- 2 **Sec. 4.** As used in this chapter, "electricity supplier" has the
3 meaning set forth in IC 8-1-2.3-2(b).
- 4 **Sec. 5.** As used in this chapter, "marginal price of electricity"
5 means the hourly market price for electricity as determined by a
6 regional transmission organization of which the electricity supplier
7 serving a customer is a member.
- 8 **Sec. 6.** As used in this chapter, "net metering tariff" means a
9 tariff that:
- 10 (1) an electricity supplier offers for net metering under 170
11 IAC 4-4.2; and
12 (2) is in effect on January 1, 2017.
- 13 **Sec. 7.** As used in this chapter, "premises" means a single tract
14 of land on which a customer consumes electricity for residential,
15 business, or other purposes.
- 16 **Sec. 8.** As used in this chapter, "regional transmission
17 organization" has the meaning set forth in IC 8-1-37-9.
- 18 **Sec. 9.** Subject to section 10 of this chapter, a net metering tariff
19 of an electricity supplier must remain available to the electricity
20 supplier's customers until January 1 of the first calendar year after
21 the calendar year in which the aggregate amount of net metering
22 facility nameplate capacity under the electricity supplier's net
23 metering tariff equals at least one percent (1%) of the most recent
24 summer peak load of the electricity supplier. If, at any point in a
25 calendar year, an electricity supplier reasonably anticipates that
26 the aggregate amount of net metering facility nameplate capacity
27 under the electricity supplier's net metering tariff will equal at
28 least one percent (1%) of the most recent summer peak load of the
29 electricity supplier, the electricity supplier shall, in accordance
30 with section 12 of this chapter, petition the commission for
31 approval of a rate for the purchase of distributed generation.
- 32 **Sec. 10. (a)** Before July 1, 2027:
- 33 (1) an electricity supplier may not seek to change the terms
34 and conditions of the electricity supplier's net metering tariff;
35 and
36 (2) the commission may not approve changes to an electricity
37 supplier's net metering tariff.
- 38 **(b)** After June 30, 2027:
- 39 (1) an electricity supplier may not make a net metering tariff
40 available to customers; and
41 (2) the terms and conditions of a net metering tariff offered by
42 an electricity supplier before July 1, 2027, expire and are



- 1 un enforceable.
- 2 **Sec. 11.** An electricity supplier shall purchase the distributed
3 generation produced by a customer at a rate approved by the
4 commission under section 13 of this chapter. Amounts paid by an
5 electricity supplier for distributed generation shall be recognized
6 in the electricity supplier's fuel adjustment proceedings under
7 IC 8-1-2-42.
- 8 **Sec. 12.** Not later than March 1, 2026, an electricity supplier
9 shall file with the commission a petition requesting a rate for the
10 purchase of distributed generation by the electricity supplier. After
11 an electricity supplier's initial rate for distributed generation is
12 approved by the commission under section 13 of this chapter, the
13 electricity supplier shall submit on an annual basis, not later than
14 March 1 of each year, an updated rate for distributed generation
15 in accordance with the methodology set forth in section 13 of this
16 chapter.
- 17 **Sec. 13.** The commission shall review a petition filed under
18 section 12 of this chapter by an electricity supplier and, after notice
19 and a public hearing, shall approve a rate to be paid by the
20 electricity supplier for distributed generation. The rate to be paid
21 by the electricity supplier must equal one (1) of the following, as
22 submitted by the electricity supplier in the electricity supplier's
23 petition, and as approved by the commission:
- 24 (1) The average marginal price of electricity paid by the
25 electricity supplier during the most recent calendar year.
- 26 (2) The direct costs of generating or purchasing electricity
27 that the electricity supplier will avoid by purchasing
28 distributed generation.
- 29 **Sec. 14.** An electricity supplier shall compensate a customer
30 from whom the electricity supplier purchases distributed
31 generation (at the rate approved by the commission under section
32 13 of this chapter) through either of the following means:
- 33 (1) A credit on the customer's monthly bill.
- 34 (2) A direct payment to the customer for the amount owed.
- 35 If the electricity supplier elects to provide a credit on the
36 customer's monthly bill as described in subdivision (1), any credit
37 that exceeds the amount that is billed to the customer in
38 accordance with section 15 of this chapter shall be carried forward
39 and credited against future charges to the customer for as long as
40 the customer receives retail electric service from the electricity
41 supplier at the premises.
- 42 **Sec. 15.** To ensure that a customer is properly charged for the



1 costs of the electricity delivery system through which an electricity
2 supplier provides retail electric service to the customer:

- 3 (1) all distributed generation produced by the customer shall
4 be purchased by the electricity supplier at the rate approved
5 by the commission under section 13 of this chapter; and
6 (2) all electricity consumed by the customer at the premises
7 shall be considered electricity supplied by the electricity
8 supplier and is subject to the applicable retail rate schedule.

9 Sec. 16. (a) An electricity supplier shall provide and maintain
10 the metering equipment necessary to carry out the purchase of
11 distributed generation from customers in accordance with this
12 chapter.

13 (b) The commission shall recognize in the electricity supplier's
14 basic rates and charges an electricity supplier's reasonable costs
15 for the metering equipment required under subsection (a).

16 Sec. 17. (a) Subject to subsection (b) and sections 9 and 10 of this
17 chapter, after June 30, 2017, the commission's rules and standards:

- 18 (1) concerning interconnection; and
19 (2) set forth in 170 IAC 4-4.2 (concerning net metering) and
20 170 IAC 4-4.3 (concerning interconnection);

21 remain in effect and apply to net metering under an electricity
22 supplier's net metering tariff and to distributed generation under
23 this chapter.

24 (b) After June 30, 2017, the commission may adopt changes
25 under IC 4-22-2, including emergency rules in the manner
26 provided by IC 4-22-2-37.1, to the rules and standards described
27 in subsection (a) only as necessary to:

- 28 (1) update fees or charges;
29 (2) adopt revisions necessitated by new technologies; or
30 (3) reflect changes in safety, performance, or reliability
31 standards.

32 Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by
33 the commission under this subsection and in the manner provided
34 by IC 4-22-2-37.1 expires on the date on which a rule that
35 supersedes the emergency rule is adopted by the commission under
36 IC 4-22-2-24 through IC 4-22-2-36.

37 Sec. 18. A customer that produces distributed generation shall
38 comply with applicable safety, performance, and reliability
39 standards established by the following:

- 40 (1) The commission.
41 (2) An electricity supplier, subject to approval by the
42 commission.



- 1 **(3) The National Electric Code.**
- 2 **(4) The National Electrical Safety Code.**
- 3 **(5) The Institute of Electrical and Electronics Engineers.**
- 4 **(6) Underwriters Laboratories.**
- 5 **(7) The Federal Energy Regulatory Commission.**
- 6 **(8) Local regulatory authorities.**
- 7 **Sec. 19. (a) A customer that produces distributed generation has**
- 8 **the following rights regarding the installation and ownership of**
- 9 **distributed generation equipment:**
- 10 **(1) The right to know that the attorney general is authorized**
- 11 **to enforce this section, including by receiving complaints**
- 12 **concerning the installation and ownership of distributed**
- 13 **generation equipment.**
- 14 **(2) The right to know the expected amount of electricity that**
- 15 **will be produced by the distributed generation equipment that**
- 16 **the customer is purchasing.**
- 17 **(3) The right to know all costs associated with installing**
- 18 **distributed generation equipment, including any taxes for**
- 19 **which the customer is liable.**
- 20 **(4) The right to know the value of all federal, state, or local**
- 21 **tax credits, electricity supplier rate credits, or other incentives**
- 22 **or rebates that the customer may receive.**
- 23 **(5) The right to know the rate at which the customer will be**
- 24 **credited for electricity produced by the customer's distributed**
- 25 **generation equipment and delivered to an electricity supplier.**
- 26 **(6) The right to know if a provider of distributed generation**
- 27 **equipment insures the distributed generation equipment**
- 28 **against damage or loss and, if applicable, any circumstances**
- 29 **under which the provider does not insure against or otherwise**
- 30 **cover damage to or loss of the distributed generation**
- 31 **equipment.**
- 32 **(7) The right to know the responsibilities of a provider of**
- 33 **distributed generation equipment with respect to installing or**
- 34 **removing distributed generation equipment.**
- 35 **(b) The attorney general, in consultation with the commission,**
- 36 **shall adopt rules under IC 4-22-2 that the attorney general**
- 37 **considers necessary to implement and enforce this section,**
- 38 **including a rule requiring written disclosure of the rights set forth**
- 39 **in subsection (a) by a provider of distributed generation to a**
- 40 **customer. In adopting the rules required by this subsection, the**
- 41 **attorney general may adopt emergency rules in the manner**
- 42 **provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an**



1 **emergency rule adopted by the attorney general under this**
2 **subsection and in the manner provided by IC 4-22-2-37.1 expires**
3 **on the date on which a rule that supersedes the emergency rule is**
4 **adopted by the attorney general under IC 4-22-2-24 through**
5 **IC 4-22-2-36.**



ATTACHMENT BDI-3



February 21, 2017

SENATE BILL No. 309

DIGEST OF SB 309 (Updated February 16, 2017 1:22 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Distributed generation. Requires: (1) the utility regulatory commission (IURC) to post a summary of the results of the IURC's most recent periodic review of the basic rates and charges of an electricity supplier on the IURC's Internet web site; and (2) the electricity supplier subject to the review to provide a link on the electricity supplier's Internet web site to the IURC's posted summary. Amends the statute concerning alternate energy production, cogeneration, and small hydro facilities to: (1) include in the definition of a "private generation project" certain cogeneration facilities that: (A) are located on the same site as the host operation; or (B) are located on or contiguous to the site of the host operation and are directly integrated with the host operation; (2) define an "eligible facility" for purposes of the statute; and (3) include organic waste biomass facilities within the definition of an "alternative energy production facility". Specifies that an electric utility or a steam utility is not required to distribute, transmit, deliver, or wheel electricity from a private generation project. Requires the IURC to: (1) review the rates charged by electric utilities for backup power to eligible facilities and for purchases of power from eligible facilities; (2) identify the extent to which the rates meet specified criteria; and (3) report the IURC's findings to the interim study committee on energy, utilities, and telecommunications; not later than November 1, 2018.
(Continued next page)

Effective: July 1, 2017.

Hershman

January 9, 2017, read first time and referred to Committee on Utilities.
February 20, 2017, amended, reported favorably — Do Pass.

SB 309—LS 7072/DI 101



Provides that before granting a certificate of public convenience and necessity for the construction of an electric facility with a generating capacity of more than 80 megawatts, the utility regulatory commission (IURC) must find that the applicant allowed third parties to submit firm and binding bids for the construction of the proposed facility. Provides that a public utility that: (1) installs a wind, a solar, or an organic waste biomass project with a nameplate capacity of not more than 50,000 kilowatts; and (2) uses for the project a contractor that is: (A) subject to Indiana unemployment taxes; and (B) selected by the public utility through a competitive procurement process; is not required to obtain a certificate of public convenience and necessity for the project from the IURC. Provides that a net metering tariff of an electricity supplier (other than a municipally owned utility or a rural electric membership corporation) must remain available to the electricity supplier's customers until: (1) the aggregate amount of net metering facility nameplate capacity under the tariff equals at least 1.5% of the electricity supplier's most recent summer peak load; or (2) July 1, 2022; whichever occurs earlier. Requires the IURC to amend its net metering rule, and an electricity supplier to amend its net metering tariff, to: (1) increase the limit on the aggregate amount of net metering capacity under the tariff to 1.5% of the electricity supplier's most recent summer peak load; and (2) reserve 40% of the capacity under the tariff for residential customers and 15% of the capacity for customers that install an organic waste biomass facility. Provides that a customer that installs a net metering facility on the customer's premises after June 30, 2017, and before the date on which the net metering tariff of the customer's electricity supplier terminates under the bill, shall continue to be served under the net metering tariff until: (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility is located; or (2) July 1, 2032; whichever occurs earlier. Provides that a customer that installs a net metering facility on the customer's premises before July 1, 2017, and that is participating in an electricity supplier's net metering tariff on July 1, 2017, shall continue to be served under the terms and conditions of the net metering tariff until: (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility is located; or (2) July 1, 2047; whichever occurs earlier. Provides that an electricity supplier shall procure only the excess distributed generation produced by a customer. Provides that the rate for excess distributed generation procured by an electricity supplier must equal the product of: (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by (2) 1.25. Provides that: (1) an electricity supplier may request that the rate for excess distributed generation be set by the IURC at a rate equal to the average marginal price of electricity during the most recent calendar year; and (2) the IURC shall approve such a rate if the IURC determines that the breakeven cost of distributed generation effectively competes with the cost of generation produced by the electricity supplier. Provides that an electricity supplier shall compensate a customer for excess distributed generation through a credit on the customer's monthly bill. Provides that the IURC may approve an electricity supplier's request to recover energy delivery costs from customers producing distributed generation if the IURC finds that the request: (1) is reasonable; and (2) does not result in a double recovery of energy delivery costs from customers producing distributed generation.



February 21, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 309

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 8-1-2-42.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42.5. (a) The
3 commission shall by rule or order, consistent with the resources of the
4 commission and the office of the utility consumer counselor, require
5 that the basic rates and charges of all public, municipally owned, and
6 cooperatively owned utilities (except those utilities described in
7 ~~IC 8-1-2-61.5~~ **section 61.5 of this chapter**) are subject to a regularly
8 scheduled periodic review and revision by the commission. However,
9 the commission shall conduct the periodic review at least once every
10 four (4) years and may not authorize a filing for an increase in basic
11 rates and charges more frequently than is permitted by operation of
12 section 42(a) of this chapter.

13 (b) **The commission shall make the results of the commission's**
14 **most recent periodic review of the basic rates and charges of an**
15 **electricity supplier (as defined in IC 8-1-2.3-2(b)) available for**

SB 309—LS 7072/DI 101



1 **public inspection by posting a summary of the results on the**
 2 **commission's Internet web site. If an electricity supplier whose**
 3 **basic rates and charges are reviewed under this section maintains**
 4 **a publicly accessible Internet web site, the electricity supplier shall**
 5 **provide a link on the electricity supplier's Internet web site to the**
 6 **summary of the results posted on the commission's Internet web**
 7 **site.**

8 SECTION 2. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2017]: Sec. 2. (a) The definitions in this section apply
 11 throughout this chapter.

12 (b) "Alternate energy production facility" means:

13 (1) a **any** solar, wind turbine, waste management, resource
 14 recovery, refuse-derived fuel, **organic waste biomass**, or wood
 15 burning facility;

16 (2) any land, system, building, or improvement that is located at
 17 the project site and is necessary or convenient to the construction,
 18 completion, or operation of the facility; and

19 (3) the transmission or distribution facilities necessary to conduct
 20 the energy produced by the facility to users located at or near the
 21 project site.

22 (c) "Cogeneration facility" means:

23 (1) a facility that:

24 (A) simultaneously generates electricity and useful thermal
 25 energy; and

26 (B) meets the energy efficiency standards established for
 27 cogeneration facilities by the Federal Energy Regulatory
 28 Commission under 16 U.S.C. 824a-3;

29 (2) any land, system, building, or improvement that is located at
 30 the project site and is necessary or convenient to the construction,
 31 completion, or operation of the facility; and

32 (3) the transmission or distribution facilities necessary to conduct
 33 the energy produced by the facility to users located at or near the
 34 project site.

35 (d) "Electric utility" means any public utility or municipally owned
 36 utility that owns, operates, or manages any electric plant.

37 (e) "Small hydro facility" means:

38 (1) a hydroelectric facility at a dam;

39 (2) any land, system, building, or improvement that is located at
 40 the project site and is necessary or convenient to the construction,
 41 completion, or operation of the facility; and

42 (3) the transmission or distribution facilities necessary to conduct



1 the energy produced by the facility to users located at or near the
2 project site.

3 (f) "Steam utility" means any public utility or municipally owned
4 utility that owns, operates, or manages a steam plant.

5 (g) "Private generation project" means a cogeneration facility that
6 has an electric generating capacity of eighty (80) megawatts or more
7 and is:

8 (1) primarily used by its owner for the owner's industrial,
9 commercial, heating, or cooling purposes; or

10 (2) a qualifying facility for purposes of the Public Utility
11 Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1,~~
12 ~~2014; and (B)~~ produces electricity and useful thermal energy that
13 is primarily used by a **single** host operation for industrial,
14 commercial, heating, or cooling purposes **and is:**

15 **(A) located on the same site as the host operation; or**

16 **(B) determined by the commission to be a facility that:**

17 **(i) satisfies the requirements of this chapter;**

18 **(ii) is located on or contiguous to the property on which**
19 **the host operation is sited; and**

20 **(iii) is directly integrated with the host operation.**

21 **(h) "Eligible facility" means an alternate energy production**
22 **facility, a cogeneration facility, or a small hydro facility that is:**

23 **(1) described in section 5 of this chapter; and**

24 **(2) either:**

25 **(A) located on the same site as a single host operation; or**

26 **(B) determined by the commission to be a facility that:**

27 **(i) satisfies the requirements of this chapter;**

28 **(ii) is located on or contiguous to the property on which**
29 **the host operation is sited; and**

30 **(iii) is directly integrated with the host operation.**

31 **The term includes the consuming elements of a host operation**
32 **using the associated energy output for industrial, commercial,**
33 **heating, or cooling purposes.**

34 SECTION 3. IC 8-1-2.4-4 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Subject to section
36 5 of this chapter, the commission shall require electric utilities and
37 steam utilities to enter into long term contracts to:

38 (1) purchase or wheel electricity or useful thermal energy from
39 ~~alternate energy production facilities; cogeneration facilities; or~~
40 ~~small hydro~~ **eligible** facilities located in the utility's service
41 territory, under the terms and conditions that the commission
42 finds:



- 1 (A) are just and economically reasonable to the corporation's
 2 ratepayers;
- 3 (B) are nondiscriminatory to alternate energy producers,
 4 cogenerators, and small hydro producers; and
- 5 (C) will further the policy stated in section 1 of this chapter;
 6 and
- 7 (2) provide for the availability of supplemental or backup power
 8 to ~~alternate energy production facilities, cogeneration facilities, or~~
 9 ~~small hydro eligible~~ facilities on a nondiscriminatory basis and at
 10 just and reasonable rates.
- 11 (b) Upon application by the owner or operator of any ~~alternate~~
 12 ~~energy production facility, cogeneration facility, or small hydro eligible~~
 13 facility or any interested party, the commission shall establish for the
 14 affected utility just and economically reasonable rates for electricity
 15 purchased under subsection (a)(1). The rates shall be established at
 16 levels sufficient to stimulate the development of ~~alternate energy~~
 17 ~~production, cogeneration, and small hydro eligible~~ facilities in Indiana,
 18 and to encourage the continuation of existing capacity from those
 19 facilities.
- 20 (c) The commission shall base the rates for new facilities or new
 21 capacity from existing facilities on the following factors:
- 22 (1) The estimated capital cost of the next generating plant,
 23 including related transmission facilities, to be placed in service by
 24 the utility.
- 25 (2) The term of the contract between the utility and the seller.
- 26 (3) A levelized annual carrying charge based upon the term of the
 27 contract and determined in a manner consistent with both the
 28 methods and the current interest or return requirements associated
 29 with the utility's new construction program.
- 30 (4) The utility's annual energy costs, including current fuel costs,
 31 related operation and maintenance costs, and any other
 32 energy-related costs considered appropriate by the commission.
- 33 ~~Until July 1, 1986, the rate for a new facility may not exceed eight~~
 34 ~~cents (\$.08) per kilowatt hour.~~
- 35 (d) The commission shall base the rates for existing facilities on the
 36 factors listed in subsection (c). However, the commission shall also
 37 consider the original cost less depreciation of existing facilities and
 38 may establish a rate for existing facilities that is less than the rate
 39 established for new facilities.
- 40 (e) In the case of a utility that purchases all or substantially all of its
 41 electricity requirements, the rates established under this section must
 42 be equal to the current cost to the utility of similar types and quantities



1 of electrical service.

2 (f) In lieu of the other procedures provided by this section, a utility
3 and an owner or operator of an ~~alternate energy production facility,~~
4 ~~cogeneration facility,~~ or **small hydro eligible** facility may enter into a
5 long term contract in accordance with subsection (a) and may agree to
6 rates for purchase and sale transactions. A contract entered into under
7 this subsection must be filed with the commission in the manner
8 provided by IC 8-1-2-42.

9 (g) This section does not require an electric utility or steam utility
10 to:

11 (1) construct any additional facilities unless those facilities are
12 paid for by the owner or operator of the affected ~~alternate energy~~
13 ~~production facility,~~ ~~cogeneration facility,~~ or **small hydro eligible**
14 facility; or

15 (2) **distribute, transmit, deliver, or wheel electricity from a**
16 **private generation project.**

17 (h) **The commission shall do the following not later than**
18 **November 1, 2018:**

19 (1) **Review the rates charged by electric utilities under**
20 **subsection (a)(2) and section 6(e) of this chapter.**

21 (2) **Identify the extent to which the rates offered by electric**
22 **utilities under subsection (a)(2) and section 6(e) of this**
23 **chapter:**

24 (A) **are cost based;**

25 (B) **are nondiscriminatory; and**

26 (C) **do not result in the subsidization of costs within or**
27 **among customer classes.**

28 (3) **Report the commission's findings under subdivisions (1)**
29 **and (2) to the interim study committee on energy, utilities, and**
30 **telecommunications established by IC 2-5-1.3-4(8).**

31 **This subsection expires November 2, 2018.**

32 SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate
35 required under section 2 of this chapter, the applicant shall file an
36 estimate of construction, purchase, or lease costs in such detail as the
37 commission may require.

38 (b) The commission shall hold a public hearing on each such
39 application. The commission may consider all relevant information
40 related to construction, purchase, or lease costs. A certificate shall be
41 granted only if the commission has:

42 (1) made a finding as to the best estimate of construction,



1 purchase, or lease costs based on the evidence of record;

2 (2) made a finding that either:

3 (A) the construction, purchase, or lease will be consistent with
4 the commission's analysis (or such part of the analysis as may
5 then be developed, if any) for expansion of electric generating
6 capacity; or

7 (B) the construction, purchase, or lease is consistent with a
8 utility specific proposal submitted under section 3(e)(1) of this
9 chapter and approved under subsection (d). However, if the
10 commission has developed, in whole or in part, an analysis for
11 the expansion of electric generating capacity and the applicant
12 has filed and the commission has approved under subsection
13 (d) a utility specific proposal submitted under section 3(e)(1)
14 of this chapter, the commission shall make a finding under this
15 clause that the construction, purchase, or lease is consistent
16 with the commission's analysis, to the extent developed, and
17 that the construction, purchase, or lease is consistent with the
18 applicant's plan under section 3(e)(1) of this chapter, to the
19 extent the plan was approved by the commission;

20 (3) made a finding that the public convenience and necessity
21 require or will require the construction, purchase, or lease of the
22 facility;

23 (4) made a finding that the facility, if it is a coal-consuming
24 facility, utilizes Indiana coal or is justified, because of economic
25 considerations or governmental requirements, in using
26 non-Indiana coal; and

27 (5) made the findings under subsection (e), if applicable.

28 (c) If:

29 (1) the commission grants a certificate under this chapter based
30 upon a finding under subsection (b)(2) that the construction,
31 purchase, or lease of a generating facility is consistent with the
32 commission's analysis for the expansion of electric generating
33 capacity; and

34 (2) a court finally determines that the commission analysis is
35 invalid;

36 the certificate shall remain in full force and effect if the certificate was
37 also based upon a finding under subsection (b)(2) that the construction,
38 purchase, or lease of the facility was consistent with a utility specific
39 plan submitted under section 3(e)(1) of this chapter and approved
40 under subsection (d).

41 (d) The commission shall consider and approve, in whole or in part,
42 or disapprove a utility specific proposal or an amendment thereto



1 jointly with an application for a certificate under this chapter. However,
 2 such an approval or disapproval shall be solely for the purpose of
 3 acting upon the pending certificate for the construction, purchase, or
 4 lease of a facility for the generation of electricity.

5 (e) This subsection applies if an applicant proposes to construct a
 6 facility with a generating capacity of more than eighty (80) megawatts.
 7 Before granting a certificate to the applicant, the commission:

8 (1) must, in addition to the findings required under subsection (b),
 9 find that:

10 (A) the estimated costs of the proposed facility are, to the
 11 extent commercially practicable, the result of competitively
 12 bid engineering, procurement, or construction contracts, as
 13 applicable; and

14 (B) **the applicant allowed third parties to submit firm and**
 15 **binding bids for the construction of the proposed facility**
 16 **on behalf of the applicant that met all of the technical,**
 17 **commercial, and other specifications required by the**
 18 **applicant for the proposed facility so as to enable**
 19 **ownership of the proposed facility to vest with the**
 20 **applicant not later than the date on which the proposed**
 21 **facility becomes commercially available; and**

22 (2) shall also consider the following factors:

23 (A) Reliability.

24 (B) Solicitation by the applicant of competitive bids to obtain
 25 purchased power capacity and energy from alternative
 26 suppliers.

27 The applicant, including an affiliate of the applicant, may participate
 28 in competitive bidding described in this subsection.

29 SECTION 5. IC 8-1-8.5-7, AS AMENDED BY P.L.168-2013,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 7. The certification requirements of this chapter
 32 do not apply to ~~persons who:~~ **a person that:**

33 (1) ~~construct constructs~~ an electric generating facility primarily
 34 for that person's own use and not for the primary purpose of
 35 producing electricity, heat, or steam for sale to or for the public
 36 for compensation;

37 (2) ~~construct constructs~~ an ~~alternate energy production facility;~~
 38 ~~cogeneration facility;~~ ~~or a small hydro eligible~~ facility that
 39 complies with the limitations set forth in IC 8-1-2.4-5; ~~or~~

40 (3) ~~are is~~ a municipal utility, including a joint agency created
 41 under IC 8-1-2.2-8, and ~~install installs~~ an electric generating
 42 facility that has a capacity of ten thousand (10,000) kilowatts or



1 less; or

2 **(4) is a public utility and:**

3 **(A) installs a clean energy project described in**
 4 **IC 8-1-8.8-2(2) that is approved by the commission and**
 5 **that:**

6 **(i) uses a clean energy resource described in**
 7 **IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**
 8 **and**

9 **(ii) has a nameplate capacity of not more than fifty**
 10 **thousand (50,000) kilowatts; and**

11 **(B) uses a contractor that:**

12 **(i) is subject to Indiana unemployment taxes; and**

13 **(ii) is selected by the public utility through bids solicited**
 14 **in a competitive procurement process;**

15 **in the engineering, procurement, or construction of the**
 16 **project.**

17 However, ~~those persons~~ **a person described in this section** shall,
 18 nevertheless, be required to report to the commission the proposed
 19 construction of such a facility before beginning construction of the
 20 facility.

21 SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS
 22 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2017]:

24 **Chapter 40. Distributed Generation**

25 **Sec. 1. As used in this chapter, "commission" refers to the**
 26 **Indiana utility regulatory commission created by IC 8-1-1-2.**

27 **Sec. 2. As used in this chapter, "customer" means a person that**
 28 **receives retail electric service from an electricity supplier.**

29 **Sec. 3. (a) As used in this chapter, "distributed generation"**
 30 **means electricity produced by a generator or other device that is:**

31 **(1) located on the customer's premises;**

32 **(2) owned by the customer;**

33 **(3) sized at a nameplate capacity of the lesser of:**

34 **(A) not more than one (1) megawatt; or**

35 **(B) the customer's average annual consumption of**
 36 **electricity on the premises; and**

37 **(4) interconnected and operated in parallel with the electricity**
 38 **supplier's facilities in accordance with the commission's**
 39 **approved interconnection standards.**

40 **(b) The term does not include electricity produced by the**
 41 **following:**

42 **(1) An electric generator used exclusively for emergency**



- 1 purposes.
- 2 (2) A net metering facility (as defined in 170 IAC 4-4.2-1(k))
- 3 operating under a net metering tariff.
- 4 Sec. 4. (a) As used in this chapter, "electricity supplier" means
- 5 a public utility (as defined in IC 8-1-2-1) that furnishes retail
- 6 electric service to customers in Indiana.
- 7 (b) The term does not include a utility that is:
- 8 (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- 9 (2) a corporation organized under IC 8-1-13; or
- 10 (3) a corporation organized under IC 23-17 that is an electric
- 11 cooperative and that has at least one (1) member that is a
- 12 corporation organized under IC 8-1-13.
- 13 Sec. 5. As used in this chapter, "excess distributed generation"
- 14 means the difference between:
- 15 (1) the electricity that is supplied by an electricity supplier to
- 16 a customer that produces distributed generation; and
- 17 (2) the electricity that is supplied back to the electricity
- 18 supplier by the customer.
- 19 Sec. 6. As used in this chapter, "marginal price of electricity"
- 20 means the hourly market price for electricity as determined by a
- 21 regional transmission organization of which the electricity supplier
- 22 serving a customer is a member.
- 23 Sec. 7. As used in this chapter, "net metering tariff" means a
- 24 tariff that:
- 25 (1) an electricity supplier offers for net metering under 170
- 26 IAC 4-4.2; and
- 27 (2) is in effect on January 1, 2017.
- 28 Sec. 8. As used in this chapter, "premises" means a single tract
- 29 of land on which a customer consumes electricity for residential,
- 30 business, or other purposes.
- 31 Sec. 9. As used in this chapter, "regional transmission
- 32 organization" has the meaning set forth in IC 8-1-37-9.
- 33 Sec. 10. Subject to sections 13 and 14 of this chapter, a net
- 34 metering tariff of an electricity supplier must remain available to
- 35 the electricity supplier's customers until the earlier of the
- 36 following:
- 37 (1) January 1 of the first calendar year after the calendar year
- 38 in which the aggregate amount of net metering facility
- 39 nameplate capacity under the electricity supplier's net
- 40 metering tariff equals at least one and one-half percent (1.5%)
- 41 of the most recent summer peak load of the electricity
- 42 supplier.



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

Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

- (1) an electricity supplier may not seek to change the terms and conditions of the electricity supplier's net metering tariff; and
- (2) the commission may not approve changes to an electricity supplier's net metering tariff.

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:

- (1) an electricity supplier may not make a net metering tariff available to customers; and
- (2) the terms and conditions of a net metering tariff offered by an electricity supplier before July 1, 2022, expire and are unenforceable.

Sec. 12. (a) Before January 1, 2018, the commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

- (1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.
- (2) Modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:
 - (A) forty percent (40%) of the capacity for participation by residential customers; and
 - (B) fifteen percent (15%) of the capacity for participation by customers that install a net metering facility that uses a renewable energy resource described in IC 8-1-37-4(a)(5).

(b) In amending 170 IAC 4-4.2-4, as required by subsection (a), the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an



1 emergency rule adopted by the commission under this section and
 2 in the manner provided by IC 4-22-2-37.1 expires on the date on
 3 which a rule that supersedes the emergency rule is adopted by the
 4 commission under IC 4-22-2-24 through IC 4-22-2-36.

5 Sec. 13. (a) This section applies to a customer that installs a net
 6 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 7 customer's premises:

8 (1) after June 30, 2017; and

9 (2) before the date on which the net metering tariff of the
 10 customer's electricity supplier terminates under section 10(1)
 11 or 10(2) of this chapter.

12 (b) A customer that is participating in an electricity supplier's
 13 net metering tariff on the date on which the electricity supplier's
 14 net metering tariff terminates under section 10(1) or 10(2) of this
 15 chapter shall continue to be served under the terms and conditions
 16 of the net metering tariff until:

17 (1) the customer no longer owns, occupies, or resides at the
 18 premises on which the net metering facility (as defined in 170
 19 IAC 4-4.2-1(k)) is located; or

20 (2) July 1, 2032;

21 whichever occurs earlier.

22 Sec. 14. (a) This section applies to a customer that installs a net
 23 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 24 customer's premises before July 1, 2017.

25 (b) A customer that is participating in an electricity supplier's
 26 net metering tariff on July 1, 2017, shall continue to be served
 27 under the terms and conditions of the net metering tariff until:

28 (1) the customer no longer owns, occupies, or resides at the
 29 premises on which the net metering facility (as defined in 170
 30 IAC 4-4.2-1(k)) is located; or

31 (2) July 1, 2047;

32 whichever occurs earlier.

33 Sec. 15. An electricity supplier shall procure the excess
 34 distributed generation produced by a customer at a rate approved
 35 by the commission under section 17 of this chapter. Amounts
 36 credited to a customer by an electricity supplier for excess
 37 distributed generation shall be recognized in the electricity
 38 supplier's fuel adjustment proceedings under IC 8-1-2-42.

39 Sec. 16. Not later than March 1, 2021, an electricity supplier
 40 shall file with the commission a petition requesting a rate for the
 41 procurement of excess distributed generation by the electricity
 42 supplier. After an electricity supplier's initial rate for excess



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

6 Sec. 17. (a) Subject to subsection (b), the commission shall
 7 review a petition filed under section 16 of this chapter by an
 8 electricity supplier and, after notice and a public hearing, shall
 9 approve a rate to be credited to participating customers by the
 10 electricity supplier for excess distributed generation if the
 11 commission finds that the rate requested by the electricity supplier
 12 was accurately calculated and equals the product of:

13 (1) the average marginal price of electricity paid by the
 14 electricity supplier during the most recent calendar year;
 15 multiplied by

16 (2) one and twenty-five hundredths (1.25).

17 (b) In a petition filed under section 16 of this chapter, an
 18 electricity supplier may request that the rate to be credited to a
 19 customer for excess distributed generation be set by the
 20 commission at a rate equal to the average marginal price of
 21 electricity during the most recent calendar year. The commission
 22 shall approve a rate requested under this subsection if the
 23 commission determines that the break even cost of excess
 24 distributed generation effectively competes with the cost of
 25 generation produced by the electricity supplier.

26 Sec. 18. An electricity supplier shall compensate a customer
 27 from whom the electricity supplier procures excess distributed
 28 generation (at the rate approved by the commission under section
 29 17 of this chapter) through a credit on the customer's monthly bill.
 30 Any excess credit shall be carried forward and applied against
 31 future charges to the customer for as long as the customer receives
 32 retail electric service from the electricity supplier at the premises.

33 Sec. 19. (a) To ensure that customers that produce distributed
 34 generation are properly charged for the costs of the electricity
 35 delivery system through which an electricity supplier:

36 (1) provides retail electric service to those customers; and

37 (2) procures excess distributed generation from those
 38 customers;

39 the electricity supplier may request approval by the commission of
 40 the recovery of energy delivery costs attributable to serving
 41 customers that produce distributed generation.

42 (b) The commission may approve a request for cost recovery



1 submitted by an electricity supplier under subsection (a) if the
2 commission finds that the request:

3 (1) is reasonable; and

4 (2) does not result in a double recovery of energy delivery
5 costs from customers that produce distributed generation.

6 **Sec. 20. (a)** An electricity supplier shall provide and maintain
7 the metering equipment necessary to carry out the procurement of
8 excess distributed generation from customers in accordance with
9 this chapter.

10 (b) The commission shall recognize in the electricity supplier's
11 basic rates and charges an electricity supplier's reasonable costs
12 for the metering equipment required under subsection (a).

13 **Sec. 21. (a)** Subject to subsection (b) and sections 10 and 11 of
14 this chapter, after June 30, 2017, the commission's rules and
15 standards set forth in:

16 (1) 170 IAC 4-4.2 (concerning net metering); and

17 (2) 170 IAC 4-4.3 (concerning interconnection);

18 remain in effect and apply to net metering under an electricity
19 supplier's net metering tariff and to distributed generation under
20 this chapter.

21 (b) After June 30, 2017, the commission may adopt changes
22 under IC 4-22-2, including emergency rules in the manner provided
23 by IC 4-22-2-37.1, to the rules and standards described
24 in subsection (a) only as necessary to:

25 (1) update fees or charges;

26 (2) adopt revisions necessitated by new technologies; or

27 (3) reflect changes in safety, performance, or reliability
28 standards.

29 Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by
30 the commission under this subsection and in the manner provided
31 by IC 4-22-2-37.1 expires on the date on which a rule that
32 supersedes the emergency rule is adopted by the commission under
33 IC 4-22-2-24 through IC 4-22-2-36.

34 **Sec. 22.** A customer that produces distributed generation shall
35 comply with applicable safety, performance, and reliability
36 standards established by the following:

37 (1) The commission.

38 (2) An electricity supplier, subject to approval by the
39 commission.

40 (3) The National Electric Code.

41 (4) The National Electrical Safety Code.

42 (5) The Institute of Electrical and Electronics Engineers.



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- (6) Underwriters Laboratories.**
 - (7) The Federal Energy Regulatory Commission.**
 - (8) Local regulatory authorities.**
- Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:**
- (1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.**
 - (2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.**
 - (3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.**
 - (4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.**
 - (5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).**
 - (6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.**
 - (7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.**
- (b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires**



1 **on the date on which a rule that supersedes the emergency rule is**
2 **adopted by the attorney general under IC 4-22-2-24 through**
3 **IC 4-22-2-36.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 309, 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 2, line 2, delete "An" and insert "**If an**".

Page 2, line 3, after "section" insert "**maintains a publicly accessible Internet web site, the electricity supplier**".

Page 2, line 11, strike "a" and insert "**any**".

Page 2, line 12, after "fuel," insert "**organic waste biomass**".

Page 5, line 17, delete "subsections (a)(2) and (e)." and insert "**subsection (a)(2) and section 6(e) of this chapter**".

Page 5, line 19, delete "subsections (a)(2) and (e):" and insert "**subsection (a)(2) and section 6(e) of this chapter**:".

Page 5, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate required under section 2 of this chapter, the applicant shall file an estimate of construction, purchase, or lease costs in such detail as the commission may require.

(b) The commission shall hold a public hearing on each such application. The commission may consider all relevant information related to construction, purchase, or lease costs. A certificate shall be granted only if the commission has:

(1) made a finding as to the best estimate of construction, purchase, or lease costs based on the evidence of record;

(2) made a finding that either:

(A) the construction, purchase, or lease will be consistent with the commission's analysis (or such part of the analysis as may then be developed, if any) for expansion of electric generating capacity; or

(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e)(1) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, an analysis for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e)(1) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent



with the commission's analysis, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e)(1) of this chapter, to the extent the plan was approved by the commission;

(3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility;

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; and

(5) made the findings under subsection (e), if applicable.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's analysis for the expansion of electric generating capacity; and

(2) a court finally determines that the commission analysis is invalid;

the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e)(1) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) This subsection applies if an applicant proposes to construct a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the commission:

(1) must, in addition to the findings required under subsection (b), find that:

(A) the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable; and

(B) the applicant allowed third parties to submit firm and binding bids for the construction of the proposed facility



on behalf of the applicant that met all of the technical, commercial, and other specifications required by the applicant for the proposed facility so as to enable ownership of the proposed facility to vest with the applicant not later than the date on which the proposed facility becomes commercially available; and

(2) shall also consider the following factors:

(A) Reliability.

(B) Solicitation by the applicant of competitive bids to obtain purchased power capacity and energy from alternative suppliers.

The applicant, including an affiliate of the applicant, may participate in competitive bidding described in this subsection."

Page 6, line 6, delete "IC 8-1-37-4(a)(1) or IC 8-1-37-4(a)(2);" and insert "**IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**".

Page 6, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 40. Distributed Generation

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "customer" means a person that receives retail electric service from an electricity supplier.

Sec. 3. (a) As used in this chapter, "distributed generation" means electricity produced by a generator or other device that is:

(1) located on the customer's premises;

(2) owned by the customer;

(3) sized at a nameplate capacity of the lesser of:

(A) not more than one (1) megawatt; or

(B) the customer's average annual consumption of electricity on the premises; and

(4) interconnected and operated in parallel with the electricity supplier's facilities in accordance with the commission's approved interconnection standards.

(b) The term does not include electricity produced by the following:

(1) An electric generator used exclusively for emergency purposes.

(2) A net metering facility (as defined in 170 IAC 4-4.2-1(k)) operating under a net metering tariff.



Sec. 4. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana.

(b) The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));**
- (2) a corporation organized under IC 8-1-13; or**
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

Sec. 5. As used in this chapter, "excess distributed generation" means the difference between:

- (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation; and**
- (2) the electricity that is supplied back to the electricity supplier by the customer.**

Sec. 6. As used in this chapter, "marginal price of electricity" means the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member.

Sec. 7. As used in this chapter, "net metering tariff" means a tariff that:

- (1) an electricity supplier offers for net metering under 170 IAC 4-4.2; and**
- (2) is in effect on January 1, 2017.**

Sec. 8. As used in this chapter, "premises" means a single tract of land on which a customer consumes electricity for residential, business, or other purposes.

Sec. 9. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-37-9.

Sec. 10. Subject to sections 13 and 14 of this chapter, a net metering tariff of an electricity supplier must remain available to the electricity supplier's customers until the earlier of the following:

- (1) 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 one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.**
- (2) July 1, 2022.**

Before July 1, 2022, if an electricity supplier reasonably anticipates, at any point in a calendar year, that the aggregate



amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff will equal at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, the electricity supplier shall, in accordance with section 16 of this chapter, petition the commission for approval of a rate for the procurement of excess distributed generation.

Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

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

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

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:

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

(2) the terms and conditions of a net metering tariff offered by an electricity supplier before July 1, 2022, expire and are unenforceable.

Sec. 12. (a) Before January 1, 2018, the commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

(1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.

(2) Modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:

(A) forty percent (40%) of the capacity for participation by residential customers; and

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

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



commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 13. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

- (1) after June 30, 2017; and
- (2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section 10(1) or 10(2) of this chapter.

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

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2032;

whichever occurs earlier.

Sec. 14. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before July 1, 2017.

(b) A customer that is participating in an electricity supplier's net metering tariff on July 1, 2017, shall continue to be served under the terms and conditions of the net metering tariff until:

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2047;

whichever occurs earlier.

Sec. 15. An electricity supplier shall procure the excess distributed generation produced by a customer at a rate approved by the commission under section 17 of this chapter. Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier's fuel adjustment proceedings under IC 8-1-2-42.

Sec. 16. Not later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the procurement of excess distributed generation by the electricity supplier. After an electricity supplier's initial rate for excess distributed generation is approved by the commission under section 17 of this chapter, the electricity supplier shall submit on an annual basis, not later than March 1 of each year, an updated rate



for excess distributed generation in accordance with the methodology set forth in section 17 of this chapter.

Sec. 17. (a) Subject to subsection (b), the commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

- (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by
- (2) one and twenty-five hundredths (1.25).

(b) In a petition filed under section 16 of this chapter, an electricity supplier may request that the rate to be credited to a customer for excess distributed generation be set by the commission at a rate equal to the average marginal price of electricity during the most recent calendar year. The commission shall approve a rate requested under this subsection if the commission determines that the break even cost of excess distributed generation effectively competes with the cost of generation produced by the electricity supplier.

Sec. 18. An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer's monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

Sec. 19. (a) To ensure that customers that produce distributed generation are properly charged for the costs of the electricity delivery system through which an electricity supplier:

- (1) provides retail electric service to those customers; and
- (2) procures excess distributed generation from those customers;

the electricity supplier may request approval by the commission of the recovery of energy delivery costs attributable to serving customers that produce distributed generation.

(b) The commission may approve a request for cost recovery submitted by an electricity supplier under subsection (a) if the commission finds that the request:

- (1) is reasonable; and



(2) does not result in a double recovery of energy delivery costs from customers that produce distributed generation.

Sec. 20. (a) An electricity supplier shall provide and maintain the metering equipment necessary to carry out the procurement of excess distributed generation from customers in accordance with this chapter.

(b) The commission shall recognize in the electricity supplier's basic rates and charges an electricity supplier's reasonable costs for the metering equipment required under subsection (a).

Sec. 21. (a) Subject to subsection (b) and sections 10 and 11 of this chapter, after June 30, 2017, the commission's rules and standards set forth in:

(1) 170 IAC 4-4.2 (concerning net metering); and

(2) 170 IAC 4-4.3 (concerning interconnection);

remain in effect and apply to net metering under an electricity supplier's net metering tariff and to distributed generation under this chapter.

(b) After June 30, 2017, the commission may adopt changes under IC 4-22-2, including emergency rules in the manner provided by IC 4-22-2-37.1, to the rules and standards described in subsection (a) only as necessary to:

(1) update fees or charges;

(2) adopt revisions necessitated by new technologies; or

(3) reflect changes in safety, performance, or reliability standards.

Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 22. A customer that produces distributed generation shall comply with applicable safety, performance, and reliability standards established by the following:

(1) The commission.

(2) An electricity supplier, subject to approval by the commission.

(3) The National Electric Code.

(4) The National Electrical Safety Code.

(5) The Institute of Electrical and Electronics Engineers.

(6) Underwriters Laboratories.

(7) The Federal Energy Regulatory Commission.

(8) Local regulatory authorities.



Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

- (1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.**
- (2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.**
- (3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.**
- (4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.**
- (5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).**
- (6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.**
- (7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.**

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the attorney general under IC 4-22-2-24 through IC 4-22-2-36."



Delete pages 7 through 11.
Renumber all SECTIONS consecutively.
and when so amended that said bill do pass.
(Reference is to SB 309 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 2.



ATTACHMENT BDI-4



Reprinted
February 24, 2017

SENATE BILL No. 309

DIGEST OF SB 309 (Updated February 23, 2017 3:25 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Distributed generation. Requires: (1) the utility regulatory commission (IURC) to post a summary of the results of the IURC's most recent periodic review of the basic rates and charges of an electricity supplier on the IURC's Internet web site; and (2) the electricity supplier subject to the review to provide a link on the electricity supplier's Internet web site to the IURC's posted summary. Amends the statute concerning alternate energy production, cogeneration, and small hydro facilities to: (1) include in the definition of a "private generation project" certain cogeneration facilities that: (A) are located on the same site as the host operation; or (B) are located on or contiguous to the site of the host operation and are directly integrated with the host operation; (2) define an "eligible facility" for purposes of the statute; and (3) include organic waste biomass facilities within the definition of an "alternative energy production facility".
(Continued next page)

Effective: July 1, 2017.

Hershman

January 9, 2017, read first time and referred to Committee on Utilities.
February 20, 2017, amended, reported favorably — Do Pass.
February 23, 2017, read second time, amended, ordered engrossed.

SB 309—LS 7072/DI 101



Specifies that an electric utility or a steam utility is not required to distribute, transmit, deliver, or wheel electricity from a private generation project. Requires the IURC to: (1) review the rates charged by electric utilities for backup power to eligible facilities and for purchases of power from eligible facilities; (2) identify the extent to which the rates meet specified criteria; and (3) report the IURC's findings to the interim study committee on energy, utilities, and telecommunications; not later than November 1, 2018. Provides that before granting a certificate of public convenience and necessity for the construction of an electric facility with a generating capacity of more than 80 megawatts, the utility regulatory commission (IURC) must find that the applicant allowed or will allow third parties to submit firm and binding bids for the construction of the proposed facility. Provides that a public utility that: (1) installs a wind, a solar, or an organic waste biomass project with a nameplate capacity of not more than 50,000 kilowatts; and (2) uses for the project a contractor that is: (A) subject to Indiana unemployment taxes; and (B) selected by the public utility through a competitive procurement process; is not required to obtain a certificate of public convenience and necessity for the project from the IURC. Provides that a net metering tariff of an electricity supplier (other than a municipally owned utility or a rural electric membership corporation) must remain available to the electricity supplier's customers until: (1) the aggregate amount of net metering facility nameplate capacity under the tariff equals at least 1.5% of the electricity supplier's most recent summer peak load; or (2) July 1, 2022; whichever occurs earlier. Requires the IURC to amend its net metering rule, and an electricity supplier to amend its net metering tariff, to: (1) increase the limit on the aggregate amount of net metering capacity under the tariff to 1.5% of the electricity supplier's most recent summer peak load; and (2) reserve 40% of the capacity under the tariff for residential customers and 15% of the capacity for customers that install an organic waste biomass facility. Provides that a customer that installs a net metering facility on the customer's premises after June 30, 2017, and before the date on which the net metering tariff of the customer's electricity supplier terminates under the bill, shall continue to be served under the net metering tariff until: (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility is located; or (2) July 1, 2032; whichever occurs earlier. Provides that a customer that installs a net metering facility on the customer's premises before July 1, 2017, and that is participating in an electricity supplier's net metering tariff on July 1, 2017, shall continue to be served under the terms and conditions of the net metering tariff until: (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility is located; or (2) July 1, 2047; whichever occurs earlier. Provides that an electricity supplier shall procure only the excess distributed generation produced by a customer. Provides that the rate for excess distributed generation procured by an electricity supplier must equal the product of: (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by (2) 1.25. Provides that: (1) an electricity supplier may request that the rate for excess distributed generation be set by the IURC at a rate equal to the average marginal price of electricity during the most recent calendar year; and (2) the IURC shall approve such a rate if the IURC determines that the breakeven cost of distributed generation effectively competes with the cost of generation produced by the electricity supplier. Provides that an electricity supplier shall compensate a customer for excess distributed generation through a credit on the customer's monthly bill. Provides that the IURC may approve an electricity supplier's request to recover energy delivery costs from customers producing distributed generation if the IURC finds that the request: (1) is reasonable; and (2) does not result in a double recovery of energy delivery costs from customers producing distributed generation.



Reprinted
February 24, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 309

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 8-1-2-42.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42.5. (a) The
3 commission shall by rule or order, consistent with the resources of the
4 commission and the office of the utility consumer counselor, require
5 that the basic rates and charges of all public, municipally owned, and
6 cooperatively owned utilities (except those utilities described in
7 ~~IC 8-1-2-61.5~~ **section 61.5 of this chapter**) are subject to a regularly
8 scheduled periodic review and revision by the commission. However,
9 the commission shall conduct the periodic review at least once every
10 four (4) years and may not authorize a filing for an increase in basic
11 rates and charges more frequently than is permitted by operation of
12 section 42(a) of this chapter.

13 (b) **The commission shall make the results of the commission's**
14 **most recent periodic review of the basic rates and charges of an**
15 **electricity supplier (as defined in IC 8-1-2.3-2(b)) available for**

SB 309—LS 7072/DI 101



1 **public inspection by posting a summary of the results on the**
 2 **commission's Internet web site. If an electricity supplier whose**
 3 **basic rates and charges are reviewed under this section maintains**
 4 **a publicly accessible Internet web site, the electricity supplier shall**
 5 **provide a link on the electricity supplier's Internet web site to the**
 6 **summary of the results posted on the commission's Internet web**
 7 **site.**

8 SECTION 2. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2017]: Sec. 2. (a) The definitions in this section apply
 11 throughout this chapter.

12 (b) "Alternate energy production facility" means:

13 (1) a **any** solar, wind turbine, waste management, resource
 14 recovery, refuse-derived fuel, **organic waste biomass**, or wood
 15 burning facility;

16 (2) any land, system, building, or improvement that is located at
 17 the project site and is necessary or convenient to the construction,
 18 completion, or operation of the facility; and

19 (3) the transmission or distribution facilities necessary to conduct
 20 the energy produced by the facility to users located at or near the
 21 project site.

22 (c) "Cogeneration facility" means:

23 (1) a facility that:

24 (A) simultaneously generates electricity and useful thermal
 25 energy; and

26 (B) meets the energy efficiency standards established for
 27 cogeneration facilities by the Federal Energy Regulatory
 28 Commission under 16 U.S.C. 824a-3;

29 (2) any land, system, building, or improvement that is located at
 30 the project site and is necessary or convenient to the construction,
 31 completion, or operation of the facility; and

32 (3) the transmission or distribution facilities necessary to conduct
 33 the energy produced by the facility to users located at or near the
 34 project site.

35 (d) "Electric utility" means any public utility or municipally owned
 36 utility that owns, operates, or manages any electric plant.

37 (e) "Small hydro facility" means:

38 (1) a hydroelectric facility at a dam;

39 (2) any land, system, building, or improvement that is located at
 40 the project site and is necessary or convenient to the construction,
 41 completion, or operation of the facility; and

42 (3) the transmission or distribution facilities necessary to conduct



1 the energy produced by the facility to users located at or near the
2 project site.

3 (f) "Steam utility" means any public utility or municipally owned
4 utility that owns, operates, or manages a steam plant.

5 (g) "Private generation project" means a cogeneration facility that
6 has an electric generating capacity of eighty (80) megawatts or more
7 and is:

8 (1) primarily used by its owner for the owner's industrial,
9 commercial, heating, or cooling purposes; or

10 (2) a qualifying facility for purposes of the Public Utility
11 Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1,~~
12 ~~2014; and (B)~~ produces electricity and useful thermal energy that
13 is primarily used by a **single** host operation for industrial,
14 commercial, heating, or cooling purposes **and is:**

15 **(A) located on the same site as the host operation; or**

16 **(B) determined by the commission to be a facility that:**

17 **(i) satisfies the requirements of this chapter;**

18 **(ii) is located on or contiguous to the property on which**
19 **the host operation is sited; and**

20 **(iii) is directly integrated with the host operation.**

21 **(h) "Eligible facility" means an alternate energy production**
22 **facility, a cogeneration facility, or a small hydro facility that is:**

23 **(1) described in section 5 of this chapter; and**

24 **(2) either:**

25 **(A) located on the same site as a single host operation; or**

26 **(B) determined by the commission to be a facility that:**

27 **(i) satisfies the requirements of this chapter;**

28 **(ii) is located on or contiguous to the property on which**
29 **the host operation is sited; and**

30 **(iii) is directly integrated with the host operation.**

31 **The term includes the consuming elements of a host operation**
32 **using the associated energy output for industrial, commercial,**
33 **heating, or cooling purposes.**

34 SECTION 3. IC 8-1-2.4-4 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Subject to section
36 5 of this chapter, the commission shall require electric utilities and
37 steam utilities to enter into long term contracts to:

38 (1) purchase or wheel electricity or useful thermal energy from
39 ~~alternate energy production facilities; cogeneration facilities; or~~
40 ~~small hydro~~ **eligible** facilities located in the utility's service
41 territory, under the terms and conditions that the commission
42 finds:



- 1 (A) are just and economically reasonable to the corporation's
 2 ratepayers;
- 3 (B) are nondiscriminatory to alternate energy producers,
 4 cogenerators, and small hydro producers; and
- 5 (C) will further the policy stated in section 1 of this chapter;
 6 and
- 7 (2) provide for the availability of supplemental or backup power
 8 to ~~alternate energy production facilities, cogeneration facilities, or~~
 9 ~~small hydro eligible~~ facilities on a nondiscriminatory basis and at
 10 just and reasonable rates.
- 11 (b) Upon application by the owner or operator of any ~~alternate~~
 12 ~~energy production facility, cogeneration facility, or small hydro eligible~~
 13 facility or any interested party, the commission shall establish for the
 14 affected utility just and economically reasonable rates for electricity
 15 purchased under subsection (a)(1). The rates shall be established at
 16 levels sufficient to stimulate the development of ~~alternate energy~~
 17 ~~production, cogeneration, and small hydro eligible~~ facilities in Indiana,
 18 and to encourage the continuation of existing capacity from those
 19 facilities.
- 20 (c) The commission shall base the rates for new facilities or new
 21 capacity from existing facilities on the following factors:
- 22 (1) The estimated capital cost of the next generating plant,
 23 including related transmission facilities, to be placed in service by
 24 the utility.
- 25 (2) The term of the contract between the utility and the seller.
- 26 (3) A levelized annual carrying charge based upon the term of the
 27 contract and determined in a manner consistent with both the
 28 methods and the current interest or return requirements associated
 29 with the utility's new construction program.
- 30 (4) The utility's annual energy costs, including current fuel costs,
 31 related operation and maintenance costs, and any other
 32 energy-related costs considered appropriate by the commission.
- 33 ~~Until July 1, 1986, the rate for a new facility may not exceed eight~~
 34 ~~cents (\$.08) per kilowatt hour.~~
- 35 (d) The commission shall base the rates for existing facilities on the
 36 factors listed in subsection (c). However, the commission shall also
 37 consider the original cost less depreciation of existing facilities and
 38 may establish a rate for existing facilities that is less than the rate
 39 established for new facilities.
- 40 (e) In the case of a utility that purchases all or substantially all of its
 41 electricity requirements, the rates established under this section must
 42 be equal to the current cost to the utility of similar types and quantities



1 of electrical service.

2 (f) In lieu of the other procedures provided by this section, a utility
3 and an owner or operator of an ~~alternate energy production facility,~~
4 ~~cogeneration facility,~~ or **small hydro eligible** facility may enter into a
5 long term contract in accordance with subsection (a) and may agree to
6 rates for purchase and sale transactions. A contract entered into under
7 this subsection must be filed with the commission in the manner
8 provided by IC 8-1-2-42.

9 (g) This section does not require an electric utility or steam utility
10 to:

11 (1) construct any additional facilities unless those facilities are
12 paid for by the owner or operator of the affected ~~alternate energy~~
13 ~~production facility, cogeneration facility, or small hydro eligible~~
14 ~~facility; or~~

15 (2) **distribute, transmit, deliver, or wheel electricity from a**
16 **private generation project.**

17 (h) **The commission shall do the following not later than**
18 **November 1, 2018:**

19 (1) **Review the rates charged by electric utilities under**
20 **subsection (a)(2) and section 6(e) of this chapter.**

21 (2) **Identify the extent to which the rates offered by electric**
22 **utilities under subsection (a)(2) and section 6(e) of this**
23 **chapter:**

24 (A) **are cost based;**

25 (B) **are nondiscriminatory; and**

26 (C) **do not result in the subsidization of costs within or**
27 **among customer classes.**

28 (3) **Report the commission's findings under subdivisions (1)**
29 **and (2) to the interim study committee on energy, utilities, and**
30 **telecommunications established by IC 2-5-1.3-4(8).**

31 **This subsection expires November 2, 2018.**

32 SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate
35 required under section 2 of this chapter, the applicant shall file an
36 estimate of construction, purchase, or lease costs in such detail as the
37 commission may require.

38 (b) The commission shall hold a public hearing on each such
39 application. The commission may consider all relevant information
40 related to construction, purchase, or lease costs. A certificate shall be
41 granted only if the commission has:

42 (1) made a finding as to the best estimate of construction,



1 purchase, or lease costs based on the evidence of record;

2 (2) made a finding that either:

3 (A) the construction, purchase, or lease will be consistent with
4 the commission's analysis (or such part of the analysis as may
5 then be developed, if any) for expansion of electric generating
6 capacity; or

7 (B) the construction, purchase, or lease is consistent with a
8 utility specific proposal submitted under section 3(e)(1) of this
9 chapter and approved under subsection (d). However, if the
10 commission has developed, in whole or in part, an analysis for
11 the expansion of electric generating capacity and the applicant
12 has filed and the commission has approved under subsection
13 (d) a utility specific proposal submitted under section 3(e)(1)
14 of this chapter, the commission shall make a finding under this
15 clause that the construction, purchase, or lease is consistent
16 with the commission's analysis, to the extent developed, and
17 that the construction, purchase, or lease is consistent with the
18 applicant's plan under section 3(e)(1) of this chapter, to the
19 extent the plan was approved by the commission;

20 (3) made a finding that the public convenience and necessity
21 require or will require the construction, purchase, or lease of the
22 facility;

23 (4) made a finding that the facility, if it is a coal-consuming
24 facility, utilizes Indiana coal or is justified, because of economic
25 considerations or governmental requirements, in using
26 non-Indiana coal; and

27 (5) made the findings under subsection (e), if applicable.

28 (c) If:

29 (1) the commission grants a certificate under this chapter based
30 upon a finding under subsection (b)(2) that the construction,
31 purchase, or lease of a generating facility is consistent with the
32 commission's analysis for the expansion of electric generating
33 capacity; and

34 (2) a court finally determines that the commission analysis is
35 invalid;

36 the certificate shall remain in full force and effect if the certificate was
37 also based upon a finding under subsection (b)(2) that the construction,
38 purchase, or lease of the facility was consistent with a utility specific
39 plan submitted under section 3(e)(1) of this chapter and approved
40 under subsection (d).

41 (d) The commission shall consider and approve, in whole or in part,
42 or disapprove a utility specific proposal or an amendment thereto



1 jointly with an application for a certificate under this chapter. However,
 2 such an approval or disapproval shall be solely for the purpose of
 3 acting upon the pending certificate for the construction, purchase, or
 4 lease of a facility for the generation of electricity.

5 (e) This subsection applies if an applicant proposes to construct a
 6 facility with a generating capacity of more than eighty (80) megawatts.
 7 Before granting a certificate to the applicant, the commission:

8 (1) must, in addition to the findings required under subsection (b),
 9 find that:

10 (A) the estimated costs of the proposed facility are, to the
 11 extent commercially practicable, the result of competitively
 12 bid engineering, procurement, or construction contracts, as
 13 applicable; and

14 (B) **the applicant allowed or will allow third parties to**
 15 **submit firm and binding bids for the construction of the**
 16 **proposed facility on behalf of the applicant that met or**
 17 **meet all of the technical, commercial, and other**
 18 **specifications required by the applicant for the proposed**
 19 **facility so as to enable ownership of the proposed facility**
 20 **to vest with the applicant not later than the date on which**
 21 **the proposed facility becomes commercially available; and**

22 (2) shall also consider the following factors:

23 (A) Reliability.

24 (B) Solicitation by the applicant of competitive bids to obtain
 25 purchased power capacity and energy from alternative
 26 suppliers.

27 The applicant, including an affiliate of the applicant, may participate
 28 in competitive bidding described in this subsection.

29 SECTION 5. IC 8-1-8.5-7, AS AMENDED BY P.L.168-2013,
 30 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 7. The certification requirements of this chapter
 32 do not apply to ~~persons who:~~ **a person that:**

33 (1) ~~construct constructs~~ an electric generating facility primarily
 34 for that person's own use and not for the primary purpose of
 35 producing electricity, heat, or steam for sale to or for the public
 36 for compensation;

37 (2) ~~construct constructs~~ an ~~alternate energy production facility;~~
 38 ~~cogeneration facility;~~ **or a small hydro eligible** facility that
 39 complies with the limitations set forth in IC 8-1-2.4-5; ~~or~~

40 (3) ~~are is~~ a municipal utility, including a joint agency created
 41 under IC 8-1-2.2-8, and ~~install installs~~ an electric generating
 42 facility that has a capacity of ten thousand (10,000) kilowatts or



1 less; or

2 **(4) is a public utility and:**

3 **(A) installs a clean energy project described in**
 4 **IC 8-1-8.8-2(2) that is approved by the commission and**
 5 **that:**

6 **(i) uses a clean energy resource described in**
 7 **IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**
 8 **and**

9 **(ii) has a nameplate capacity of not more than fifty**
 10 **thousand (50,000) kilowatts; and**

11 **(B) uses a contractor that:**

12 **(i) is subject to Indiana unemployment taxes; and**

13 **(ii) is selected by the public utility through bids solicited**
 14 **in a competitive procurement process;**

15 **in the engineering, procurement, or construction of the**
 16 **project.**

17 However, ~~those persons~~ **a person described in this section** shall,
 18 nevertheless, be required to report to the commission the proposed
 19 construction of such a facility before beginning construction of the
 20 facility.

21 SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS
 22 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2017]:

24 **Chapter 40. Distributed Generation**

25 **Sec. 1. As used in this chapter, "commission" refers to the**
 26 **Indiana utility regulatory commission created by IC 8-1-1-2.**

27 **Sec. 2. As used in this chapter, "customer" means a person that**
 28 **receives retail electric service from an electricity supplier.**

29 **Sec. 3. (a) As used in this chapter, "distributed generation"**
 30 **means electricity produced by a generator or other device that is:**

31 **(1) located on the customer's premises;**

32 **(2) owned by the customer;**

33 **(3) sized at a nameplate capacity of the lesser of:**

34 **(A) not more than one (1) megawatt; or**

35 **(B) the customer's average annual consumption of**
 36 **electricity on the premises; and**

37 **(4) interconnected and operated in parallel with the electricity**
 38 **supplier's facilities in accordance with the commission's**
 39 **approved interconnection standards.**

40 **(b) The term does not include electricity produced by the**
 41 **following:**

42 **(1) An electric generator used exclusively for emergency**



1 purposes.

2 (2) A net metering facility (as defined in 170 IAC 4-4.2-1(k))
3 operating under a net metering tariff.

4 Sec. 4. (a) As used in this chapter, "electricity supplier" means
5 a public utility (as defined in IC 8-1-2-1) that furnishes retail
6 electric service to customers in Indiana.

7 (b) The term does not include a utility that is:

8 (1) a municipally owned utility (as defined in IC 8-1-2-1(h));

9 (2) a corporation organized under IC 8-1-13; or

10 (3) a corporation organized under IC 23-17 that is an electric
11 cooperative and that has at least one (1) member that is a
12 corporation organized under IC 8-1-13.

13 Sec. 5. As used in this chapter, "excess distributed generation"
14 means the difference between:

15 (1) the electricity that is supplied by an electricity supplier to
16 a customer that produces distributed generation; and

17 (2) the electricity that is supplied back to the electricity
18 supplier by the customer.

19 Sec. 6. As used in this chapter, "marginal price of electricity"
20 means the hourly market price for electricity as determined by a
21 regional transmission organization of which the electricity supplier
22 serving a customer is a member.

23 Sec. 7. As used in this chapter, "net metering tariff" means a
24 tariff that:

25 (1) an electricity supplier offers for net metering under 170
26 IAC 4-4.2; and

27 (2) is in effect on January 1, 2017.

28 Sec. 8. As used in this chapter, "premises" means a single tract
29 of land on which a customer consumes electricity for residential,
30 business, or other purposes.

31 Sec. 9. As used in this chapter, "regional transmission
32 organization" has the meaning set forth in IC 8-1-37-9.

33 Sec. 10. Subject to sections 13 and 14 of this chapter, a net
34 metering tariff of an electricity supplier must remain available to
35 the electricity supplier's customers until the earlier of the
36 following:

37 (1) January 1 of the first calendar year after the calendar year
38 in which the aggregate amount of net metering facility
39 nameplate capacity under the electricity supplier's net
40 metering tariff equals at least one and one-half percent (1.5%)
41 of the most recent summer peak load of the electricity
42 supplier.



1 (2) July 1, 2022.

2 Before July 1, 2022, if an electricity supplier reasonably
3 anticipates, at any point in a calendar year, that the aggregate
4 amount of net metering facility nameplate capacity under the
5 electricity supplier's net metering tariff will equal at least one and
6 one-half percent (1.5%) of the most recent summer peak load of
7 the electricity supplier, the electricity supplier shall, in accordance
8 with section 16 of this chapter, petition the commission for
9 approval of a rate for the procurement of excess distributed
10 generation.

11 Sec. 11. (a) Except as provided in sections 12 and 21(b) of this
12 chapter, before July 1, 2047:

13 (1) an electricity supplier may not seek to change the terms
14 and conditions of the electricity supplier's net metering tariff;
15 and

16 (2) the commission may not approve changes to an electricity
17 supplier's net metering tariff.

18 (b) Except as provided in sections 13 and 14 of this chapter,
19 after June 30, 2022:

20 (1) an electricity supplier may not make a net metering tariff
21 available to customers; and

22 (2) the terms and conditions of a net metering tariff offered by
23 an electricity supplier before July 1, 2022, expire and are
24 unenforceable.

25 Sec. 12. (a) Before January 1, 2018, the commission shall amend
26 170 IAC 4-4.2-4, and an electricity supplier shall amend the
27 electricity supplier's net metering tariff, to do the following:

28 (1) Increase the allowed limit on the aggregate amount of net
29 metering facility nameplate capacity under the net metering
30 tariff to one and one-half percent (1.5%) of the most recent
31 summer peak load of the electricity supplier.

32 (2) Modify the required reservation of capacity under the
33 limit described in subdivision (1) to require the reservation of:

34 (A) forty percent (40%) of the capacity for participation
35 by residential customers; and

36 (B) fifteen percent (15%) of the capacity for participation
37 by customers that install a net metering facility that uses
38 a renewable energy resource described in
39 IC 8-1-37-4(a)(5).

40 (b) In amending 170 IAC 4-4.2-4, as required by subsection (a),
41 the commission may adopt emergency rules in the manner
42 provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an



1 emergency rule adopted by the commission under this section and
 2 in the manner provided by IC 4-22-2-37.1 expires on the date on
 3 which a rule that supersedes the emergency rule is adopted by the
 4 commission under IC 4-22-2-24 through IC 4-22-2-36.

5 Sec. 13. (a) This section applies to a customer that installs a net
 6 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 7 customer's premises:

8 (1) after June 30, 2017; and

9 (2) before the date on which the net metering tariff of the
 10 customer's electricity supplier terminates under section 10(1)
 11 or 10(2) of this chapter.

12 (b) A customer that is participating in an electricity supplier's
 13 net metering tariff on the date on which the electricity supplier's
 14 net metering tariff terminates under section 10(1) or 10(2) of this
 15 chapter shall continue to be served under the terms and conditions
 16 of the net metering tariff until:

17 (1) the customer no longer owns, occupies, or resides at the
 18 premises on which the net metering facility (as defined in 170
 19 IAC 4-4.2-1(k)) is located; or

20 (2) July 1, 2032;

21 whichever occurs earlier.

22 Sec. 14. (a) This section applies to a customer that installs a net
 23 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 24 customer's premises before July 1, 2017.

25 (b) A customer that is participating in an electricity supplier's
 26 net metering tariff on July 1, 2017, shall continue to be served
 27 under the terms and conditions of the net metering tariff until:

28 (1) the customer no longer owns, occupies, or resides at the
 29 premises on which the net metering facility (as defined in 170
 30 IAC 4-4.2-1(k)) is located; or

31 (2) July 1, 2047;

32 whichever occurs earlier.

33 Sec. 15. An electricity supplier shall procure the excess
 34 distributed generation produced by a customer at a rate approved
 35 by the commission under section 17 of this chapter. Amounts
 36 credited to a customer by an electricity supplier for excess
 37 distributed generation shall be recognized in the electricity
 38 supplier's fuel adjustment proceedings under IC 8-1-2-42.

39 Sec. 16. Not later than March 1, 2021, an electricity supplier
 40 shall file with the commission a petition requesting a rate for the
 41 procurement of excess distributed generation by the electricity
 42 supplier. After an electricity supplier's initial rate for excess



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

6 Sec. 17. (a) Subject to subsection (b), the commission shall
 7 review a petition filed under section 16 of this chapter by an
 8 electricity supplier and, after notice and a public hearing, shall
 9 approve a rate to be credited to participating customers by the
 10 electricity supplier for excess distributed generation if the
 11 commission finds that the rate requested by the electricity supplier
 12 was accurately calculated and equals the product of:

13 (1) the average marginal price of electricity paid by the
 14 electricity supplier during the most recent calendar year;
 15 multiplied by

16 (2) one and twenty-five hundredths (1.25).

17 (b) In a petition filed under section 16 of this chapter, an
 18 electricity supplier may request that the rate to be credited to a
 19 customer for excess distributed generation be set by the
 20 commission at a rate equal to the average marginal price of
 21 electricity during the most recent calendar year. The commission
 22 shall approve a rate requested under this subsection if the
 23 commission determines that the break even cost of excess
 24 distributed generation effectively competes with the cost of
 25 generation produced by the electricity supplier.

26 Sec. 18. An electricity supplier shall compensate a customer
 27 from whom the electricity supplier procures excess distributed
 28 generation (at the rate approved by the commission under section
 29 17 of this chapter) through a credit on the customer's monthly bill.
 30 Any excess credit shall be carried forward and applied against
 31 future charges to the customer for as long as the customer receives
 32 retail electric service from the electricity supplier at the premises.

33 Sec. 19. (a) To ensure that customers that produce distributed
 34 generation are properly charged for the costs of the electricity
 35 delivery system through which an electricity supplier:

36 (1) provides retail electric service to those customers; and

37 (2) procures excess distributed generation from those
 38 customers;

39 the electricity supplier may request approval by the commission of
 40 the recovery of energy delivery costs attributable to serving
 41 customers that produce distributed generation.

42 (b) The commission may approve a request for cost recovery



1 submitted by an electricity supplier under subsection (a) if the
2 commission finds that the request:

3 (1) is reasonable; and

4 (2) does not result in a double recovery of energy delivery
5 costs from customers that produce distributed generation.

6 **Sec. 20. (a)** An electricity supplier shall provide and maintain
7 the metering equipment necessary to carry out the procurement of
8 excess distributed generation from customers in accordance with
9 this chapter.

10 (b) The commission shall recognize in the electricity supplier's
11 basic rates and charges an electricity supplier's reasonable costs
12 for the metering equipment required under subsection (a).

13 **Sec. 21. (a)** Subject to subsection (b) and sections 10 and 11 of
14 this chapter, after June 30, 2017, the commission's rules and
15 standards set forth in:

16 (1) 170 IAC 4-4.2 (concerning net metering); and

17 (2) 170 IAC 4-4.3 (concerning interconnection);

18 remain in effect and apply to net metering under an electricity
19 supplier's net metering tariff and to distributed generation under
20 this chapter.

21 (b) After June 30, 2017, the commission may adopt changes
22 under IC 4-22-2, including emergency rules in the manner provided
23 by IC 4-22-2-37.1, to the rules and standards described
24 in subsection (a) only as necessary to:

25 (1) update fees or charges;

26 (2) adopt revisions necessitated by new technologies; or

27 (3) reflect changes in safety, performance, or reliability
28 standards.

29 Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by
30 the commission under this subsection and in the manner provided
31 by IC 4-22-2-37.1 expires on the date on which a rule that
32 supersedes the emergency rule is adopted by the commission under
33 IC 4-22-2-24 through IC 4-22-2-36.

34 **Sec. 22.** A customer that produces distributed generation shall
35 comply with applicable safety, performance, and reliability
36 standards established by the following:

37 (1) The commission.

38 (2) An electricity supplier, subject to approval by the
39 commission.

40 (3) The National Electric Code.

41 (4) The National Electrical Safety Code.

42 (5) The Institute of Electrical and Electronics Engineers.



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(6) Underwriters Laboratories.

(7) The Federal Energy Regulatory Commission.

(8) Local regulatory authorities.

Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

(1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.

(2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.

(3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.

(4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.

(5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).

(6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.

(7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires



1 **on the date on which a rule that supersedes the emergency rule is**
2 **adopted by the attorney general under IC 4-22-2-24 through**
3 **IC 4-22-2-36.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 309, 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 2, line 2, delete "An" and insert "**If an**".

Page 2, line 3, after "section" insert "**maintains a publicly accessible Internet web site, the electricity supplier**".

Page 2, line 11, strike "a" and insert "**any**".

Page 2, line 12, after "fuel," insert "**organic waste biomass**".

Page 5, line 17, delete "subsections (a)(2) and (e)." and insert "**subsection (a)(2) and section 6(e) of this chapter**".

Page 5, line 19, delete "subsections (a)(2) and (e):" and insert "**subsection (a)(2) and section 6(e) of this chapter**:".

Page 5, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate required under section 2 of this chapter, the applicant shall file an estimate of construction, purchase, or lease costs in such detail as the commission may require.

(b) The commission shall hold a public hearing on each such application. The commission may consider all relevant information related to construction, purchase, or lease costs. A certificate shall be granted only if the commission has:

(1) made a finding as to the best estimate of construction, purchase, or lease costs based on the evidence of record;

(2) made a finding that either:

(A) the construction, purchase, or lease will be consistent with the commission's analysis (or such part of the analysis as may then be developed, if any) for expansion of electric generating capacity; or

(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e)(1) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, an analysis for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e)(1) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent



with the commission's analysis, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e)(1) of this chapter, to the extent the plan was approved by the commission;

(3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility;

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; and

(5) made the findings under subsection (e), if applicable.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's analysis for the expansion of electric generating capacity; and

(2) a court finally determines that the commission analysis is invalid;

the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e)(1) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) This subsection applies if an applicant proposes to construct a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the commission:

(1) must, in addition to the findings required under subsection (b), find that:

(A) the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable; and

(B) the applicant allowed third parties to submit firm and binding bids for the construction of the proposed facility



on behalf of the applicant that met all of the technical, commercial, and other specifications required by the applicant for the proposed facility so as to enable ownership of the proposed facility to vest with the applicant not later than the date on which the proposed facility becomes commercially available; and

(2) shall also consider the following factors:

(A) Reliability.

(B) Solicitation by the applicant of competitive bids to obtain purchased power capacity and energy from alternative suppliers.

The applicant, including an affiliate of the applicant, may participate in competitive bidding described in this subsection."

Page 6, line 6, delete "IC 8-1-37-4(a)(1) or IC 8-1-37-4(a)(2);" and insert "**IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**".

Page 6, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 40. Distributed Generation

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "customer" means a person that receives retail electric service from an electricity supplier.

Sec. 3. (a) As used in this chapter, "distributed generation" means electricity produced by a generator or other device that is:

(1) located on the customer's premises;

(2) owned by the customer;

(3) sized at a nameplate capacity of the lesser of:

(A) not more than one (1) megawatt; or

(B) the customer's average annual consumption of electricity on the premises; and

(4) interconnected and operated in parallel with the electricity supplier's facilities in accordance with the commission's approved interconnection standards.

(b) The term does not include electricity produced by the following:

(1) An electric generator used exclusively for emergency purposes.

(2) A net metering facility (as defined in 170 IAC 4-4.2-1(k)) operating under a net metering tariff.



Sec. 4. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana.

(b) The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));**
- (2) a corporation organized under IC 8-1-13; or**
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

Sec. 5. As used in this chapter, "excess distributed generation" means the difference between:

- (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation; and**
- (2) the electricity that is supplied back to the electricity supplier by the customer.**

Sec. 6. As used in this chapter, "marginal price of electricity" means the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member.

Sec. 7. As used in this chapter, "net metering tariff" means a tariff that:

- (1) an electricity supplier offers for net metering under 170 IAC 4-4.2; and**
- (2) is in effect on January 1, 2017.**

Sec. 8. As used in this chapter, "premises" means a single tract of land on which a customer consumes electricity for residential, business, or other purposes.

Sec. 9. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-37-9.

Sec. 10. Subject to sections 13 and 14 of this chapter, a net metering tariff of an electricity supplier must remain available to the electricity supplier's customers until the earlier of the following:

- (1) 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 one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.**
- (2) July 1, 2022.**

Before July 1, 2022, if an electricity supplier reasonably anticipates, at any point in a calendar year, that the aggregate



amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff will equal at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, the electricity supplier shall, in accordance with section 16 of this chapter, petition the commission for approval of a rate for the procurement of excess distributed generation.

Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

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

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

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:

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

(2) the terms and conditions of a net metering tariff offered by an electricity supplier before July 1, 2022, expire and are unenforceable.

Sec. 12. (a) Before January 1, 2018, the commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

(1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.

(2) Modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:

(A) forty percent (40%) of the capacity for participation by residential customers; and

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

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



commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 13. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

- (1) after June 30, 2017; and
- (2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section 10(1) or 10(2) of this chapter.

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

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2032;

whichever occurs earlier.

Sec. 14. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before July 1, 2017.

(b) A customer that is participating in an electricity supplier's net metering tariff on July 1, 2017, shall continue to be served under the terms and conditions of the net metering tariff until:

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2047;

whichever occurs earlier.

Sec. 15. An electricity supplier shall procure the excess distributed generation produced by a customer at a rate approved by the commission under section 17 of this chapter. Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier's fuel adjustment proceedings under IC 8-1-2-42.

Sec. 16. Not later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the procurement of excess distributed generation by the electricity supplier. After an electricity supplier's initial rate for excess distributed generation is approved by the commission under section 17 of this chapter, the electricity supplier shall submit on an annual basis, not later than March 1 of each year, an updated rate



for excess distributed generation in accordance with the methodology set forth in section 17 of this chapter.

Sec. 17. (a) Subject to subsection (b), the commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

- (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by
- (2) one and twenty-five hundredths (1.25).

(b) In a petition filed under section 16 of this chapter, an electricity supplier may request that the rate to be credited to a customer for excess distributed generation be set by the commission at a rate equal to the average marginal price of electricity during the most recent calendar year. The commission shall approve a rate requested under this subsection if the commission determines that the break even cost of excess distributed generation effectively competes with the cost of generation produced by the electricity supplier.

Sec. 18. An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer's monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

Sec. 19. (a) To ensure that customers that produce distributed generation are properly charged for the costs of the electricity delivery system through which an electricity supplier:

- (1) provides retail electric service to those customers; and
- (2) procures excess distributed generation from those customers;

the electricity supplier may request approval by the commission of the recovery of energy delivery costs attributable to serving customers that produce distributed generation.

(b) The commission may approve a request for cost recovery submitted by an electricity supplier under subsection (a) if the commission finds that the request:

- (1) is reasonable; and



(2) does not result in a double recovery of energy delivery costs from customers that produce distributed generation.

Sec. 20. (a) An electricity supplier shall provide and maintain the metering equipment necessary to carry out the procurement of excess distributed generation from customers in accordance with this chapter.

(b) The commission shall recognize in the electricity supplier's basic rates and charges an electricity supplier's reasonable costs for the metering equipment required under subsection (a).

Sec. 21. (a) Subject to subsection (b) and sections 10 and 11 of this chapter, after June 30, 2017, the commission's rules and standards set forth in:

(1) 170 IAC 4-4.2 (concerning net metering); and

(2) 170 IAC 4-4.3 (concerning interconnection);

remain in effect and apply to net metering under an electricity supplier's net metering tariff and to distributed generation under this chapter.

(b) After June 30, 2017, the commission may adopt changes under IC 4-22-2, including emergency rules in the manner provided by IC 4-22-2-37.1, to the rules and standards described in subsection (a) only as necessary to:

(1) update fees or charges;

(2) adopt revisions necessitated by new technologies; or

(3) reflect changes in safety, performance, or reliability standards.

Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 22. A customer that produces distributed generation shall comply with applicable safety, performance, and reliability standards established by the following:

(1) The commission.

(2) An electricity supplier, subject to approval by the commission.

(3) The National Electric Code.

(4) The National Electrical Safety Code.

(5) The Institute of Electrical and Electronics Engineers.

(6) Underwriters Laboratories.

(7) The Federal Energy Regulatory Commission.

(8) Local regulatory authorities.



Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

- (1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.**
- (2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.**
- (3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.**
- (4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.**
- (5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).**
- (6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.**
- (7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.**

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the attorney general under IC 4-22-2-24 through IC 4-22-2-36."



Delete pages 7 through 11.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 309 be amended to read as follows:

Page 7, line 14, after "allowed" insert "**or will allow**".

Page 7, line 16, after "met" insert "**or meet**".

(Reference is to SB 309 as printed February 21, 2017.)

HERSHMAN



ATTACHMENT BDI-5



March 31, 2017

ENGROSSED SENATE BILL No. 309

DIGEST OF SB 309 (Updated March 30, 2017 1:16 pm - DI 101)

Citations Affected: IC 8-1; noncode.

Synopsis: Distributed generation. Requires: (1) the utility regulatory commission (IURC) to post a summary of the results of the IURC's most recent periodic review of the basic rates and charges of an electricity supplier on the IURC's Internet web site; and (2) the electricity supplier subject to the review to provide a link on the electricity supplier's Internet web site to the IURC's posted summary. Amends the statute concerning alternate energy production, cogeneration, and small hydro facilities to: (1) include in the definition of a "private generation project" certain cogeneration facilities that: (A) are located on the same site as the host operation; or (B) are located on or contiguous to the site of the host operation and are directly
(Continued next page)

Effective: July 1, 2017.

Hershman, Merritt

(HOUSE SPONSORS — OBER, SOLIDAY)

January 9, 2017, read first time and referred to Committee on Utilities.
February 20, 2017, amended, reported favorably — Do Pass.
February 23, 2017, read second time, amended, ordered engrossed.
February 24, 2017, engrossed.
February 27, 2017, read third time, passed. Yeas 39, nays 9.

HOUSE ACTION

March 6, 2017, read first time and referred to Committee on Utilities, Energy and Telecommunications.
March 30, 2017, amended, reported — Do Pass.

ES 309—LS 7072/DI 101



integrated with the host operation; and (2) include organic waste biomass facilities within the definition of an "alternative energy production facility". Specifies that an electric utility or a steam utility is not required to distribute, transmit, deliver, or wheel electricity from a private generation project. Requires the IURC to: (1) review the rates charged by electric utilities for backup power to eligible facilities and for purchases of power from eligible facilities; (2) identify the extent to which the rates meet specified criteria; and (3) report the IURC's findings to the interim study committee on energy, utilities, and telecommunications; not later than November 1, 2018. Provides that before granting to an electricity supplier that is a public utility a certificate of public convenience and necessity for the construction of an electric facility with a generating capacity of more than 80 megawatts, the utility regulatory commission (IURC) must find that the electricity supplier allowed or will allow third parties to submit firm and binding bids for the construction of the proposed facility. Provides that a public utility that: (1) installs a wind, a solar, or an organic waste biomass project with a nameplate capacity of not more than 50,000 kilowatts; and (2) uses for the project a contractor that is: (A) subject to Indiana unemployment taxes; and (B) selected by the public utility through a competitive procurement process; is not required to obtain a certificate of public convenience and necessity for the project from the IURC. Provides that a net metering tariff of an electricity supplier (other than a municipally owned utility or a rural electric membership corporation) must remain available to the electricity supplier's customers until: (1) the aggregate amount of net metering facility nameplate capacity under the tariff equals at least 1.5% of the electricity supplier's most recent summer peak load; or (2) July 1, 2022; whichever occurs earlier. Requires the IURC to amend its net metering rule, and an electricity supplier to amend its net metering tariff, to: (1) increase the limit on the aggregate amount of net metering capacity under the tariff to 1.5% of the electricity supplier's most recent summer peak load; and (2) reserve 40% of the capacity under the tariff for residential customers and 15% of the capacity for customers that install an organic waste biomass facility. Provides that a customer that installs a net metering facility on the customer's premises after December 31, 2017, and before the date on which the net metering tariff of the customer's electricity supplier terminates under the bill, shall continue to be served under the net metering tariff until: (1) the customer removes from the customer's premises or replaces the net metering facility; or (2) July 1, 2032; whichever occurs earlier. Provides that a successor in interest to the premises on which a net metering facility was installed during the applicable period may, if the successor in interest chooses, be served under the terms and conditions of the net metering tariff of the electricity supplier serving the premises until: (1) the net metering facility is removed from the premises or is replaced; or (2) July 1, 2032; whichever occurs earlier. Provides that a customer that installs a net metering facility on the customer's premises before January 1, 2018, and that is participating in an electricity supplier's net metering tariff on December 31, 2017, shall continue to be served under the terms and conditions of the net metering tariff until: (1) the customer removes from the customer's premises or replaces the net metering facility; or (2) July 1, 2047; whichever occurs earlier. Provides that a successor in interest to the premises on which a net metering facility was installed before January 1, 2018, may, if the successor in interest chooses, be served under the terms and conditions of the net metering tariff of the electricity supplier serving the premises until: (1) the net metering facility is removed from the premises or is replaced; or (2) July 1, 2047; whichever occurs earlier. Provides that an electricity supplier shall procure only the excess distributed generation produced by a customer. Provides that the rate for excess distributed generation procured by an electricity supplier must equal

(Continued next page)



Digest Continued

the product of: (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by (2) 1.25. Provides that an electricity supplier shall compensate a customer for excess distributed generation through a credit on the customer's monthly bill. Provides that the IURC may approve an electricity supplier's request to recover energy delivery costs from customers producing distributed generation if the IURC finds that the request: (1) is reasonable; and (2) does not result in a double recovery of energy delivery costs from customers producing distributed generation. Urges the legislative council to assign to the interim study committee on energy, utilities, and telecommunications the topic of self-generation of electricity by school corporations.

ES 309—LS 7072/DI 101



March 31, 2017

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 309

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 8-1-2-42.5 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42.5. (a) The
3 commission shall by rule or order, consistent with the resources of the
4 commission and the office of the utility consumer counselor, require
5 that the basic rates and charges of all public, municipally owned, and
6 cooperatively owned utilities (except those utilities described in
7 ~~IC 8-1-2-61.5~~ **section 61.5 of this chapter**) are subject to a regularly
8 scheduled periodic review and revision by the commission. However,
9 the commission shall conduct the periodic review at least once every
10 four (4) years and may not authorize a filing for an increase in basic
11 rates and charges more frequently than is permitted by operation of
12 section 42(a) of this chapter.

13 (b) **The commission shall make the results of the commission's**
14 **most recent periodic review of the basic rates and charges of an**
15 **electricity supplier (as defined in IC 8-1-2.3-2(b)) available for**

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1 **public inspection by posting a summary of the results on the**
 2 **commission's Internet web site. If an electricity supplier whose**
 3 **basic rates and charges are reviewed under this section maintains**
 4 **a publicly accessible Internet web site, the electricity supplier shall**
 5 **provide a link on the electricity supplier's Internet web site to the**
 6 **summary of the results posted on the commission's Internet web**
 7 **site.**

8 SECTION 2. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014,
 9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2017]: Sec. 2. (a) The definitions in this section apply
 11 throughout this chapter.

12 (b) "Alternate energy production facility" means:

13 (1) a **any** solar, wind turbine, waste management, resource
 14 recovery, refuse-derived fuel, **organic waste biomass**, or wood
 15 burning facility;

16 (2) any land, system, building, or improvement that is located at
 17 the project site and is necessary or convenient to the construction,
 18 completion, or operation of the facility; and

19 (3) the transmission or distribution facilities necessary to conduct
 20 the energy produced by the facility to users located at or near the
 21 project site.

22 (c) "Cogeneration facility" means:

23 (1) a facility that:

24 (A) simultaneously generates electricity and useful thermal
 25 energy; and

26 (B) meets the energy efficiency standards established for
 27 cogeneration facilities by the Federal Energy Regulatory
 28 Commission under 16 U.S.C. 824a-3;

29 (2) any land, system, building, or improvement that is located at
 30 the project site and is necessary or convenient to the construction,
 31 completion, or operation of the facility; and

32 (3) the transmission or distribution facilities necessary to conduct
 33 the energy produced by the facility to users located at or near the
 34 project site.

35 (d) "Electric utility" means any public utility or municipally owned
 36 utility that owns, operates, or manages any electric plant.

37 (e) "Small hydro facility" means:

38 (1) a hydroelectric facility at a dam;

39 (2) any land, system, building, or improvement that is located at
 40 the project site and is necessary or convenient to the construction,
 41 completion, or operation of the facility; and

42 (3) the transmission or distribution facilities necessary to conduct



1 the energy produced by the facility to users located at or near the
2 project site.

3 (f) "Steam utility" means any public utility or municipally owned
4 utility that owns, operates, or manages a steam plant.

5 (g) "Private generation project" means a cogeneration facility that
6 has an electric generating capacity of eighty (80) megawatts or more
7 and is:

8 (1) primarily used by its owner for the owner's industrial,
9 commercial, heating, or cooling purposes; or

10 (2) a qualifying facility for purposes of the Public Utility
11 Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1,~~
12 ~~2014; and (B)~~ produces electricity and useful thermal energy that
13 is primarily used by a **single** host operation for industrial,
14 commercial, heating, or cooling purposes **and is:**

15 **(A) located on the same site as the host operation; or**

16 **(B) determined by the commission to be a facility that:**

17 **(i) satisfies the requirements of this chapter;**

18 **(ii) is located on or contiguous to the property on which**
19 **the host operation is sited; and**

20 **(iii) is directly integrated with the host operation.**

21 SECTION 3. IC 8-1-2.4-4 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Subject to section
23 5 of this chapter, the commission shall require electric utilities and
24 steam utilities to enter into long term contracts to:

25 (1) purchase or wheel electricity or useful thermal energy from
26 alternate energy production facilities, cogeneration facilities, or
27 small hydro facilities located in the utility's service territory,
28 under the terms and conditions that the commission finds:

29 (A) are just and economically reasonable to the corporation's
30 ratepayers;

31 (B) are nondiscriminatory to alternate energy producers,
32 cogenerators, and small hydro producers; and

33 (C) will further the policy stated in section 1 of this chapter;
34 and

35 (2) provide for the availability of supplemental or backup power
36 to alternate energy production facilities, cogeneration facilities, or
37 small hydro facilities on a nondiscriminatory basis and at just and
38 reasonable rates.

39 (b) Upon application by the owner or operator of any alternate
40 energy production facility, cogeneration facility, or small hydro facility
41 or any interested party, the commission shall establish for the affected
42 utility just and economically reasonable rates for electricity purchased



1 under subsection (a)(1). The rates shall be established at levels
 2 sufficient to stimulate the development of alternate energy production,
 3 cogeneration, and small hydro facilities in Indiana, and to encourage
 4 the continuation of existing capacity from those facilities.

5 (c) The commission shall base the rates for new facilities or new
 6 capacity from existing facilities on the following factors:

7 (1) The estimated capital cost of the next generating plant,
 8 including related transmission facilities, to be placed in service by
 9 the utility.

10 (2) The term of the contract between the utility and the seller.

11 (3) A levelized annual carrying charge based upon the term of the
 12 contract and determined in a manner consistent with both the
 13 methods and the current interest or return requirements associated
 14 with the utility's new construction program.

15 (4) The utility's annual energy costs, including current fuel costs,
 16 related operation and maintenance costs, and any other
 17 energy-related costs considered appropriate by the commission.

18 ~~Until July 1, 1986, the rate for a new facility may not exceed eight~~
 19 ~~cents (\$.08) per kilowatt hour.~~

20 (d) The commission shall base the rates for existing facilities on the
 21 factors listed in subsection (c). However, the commission shall also
 22 consider the original cost less depreciation of existing facilities and
 23 may establish a rate for existing facilities that is less than the rate
 24 established for new facilities.

25 (e) In the case of a utility that purchases all or substantially all of its
 26 electricity requirements, the rates established under this section must
 27 be equal to the current cost to the utility of similar types and quantities
 28 of electrical service.

29 (f) In lieu of the other procedures provided by this section, a utility
 30 and an owner or operator of an alternate energy production facility,
 31 cogeneration facility, or small hydro facility may enter into a long term
 32 contract in accordance with subsection (a) and may agree to rates for
 33 purchase and sale transactions. A contract entered into under this
 34 subsection must be filed with the commission in the manner provided
 35 by IC 8-1-2-42.

36 (g) This section does not require an electric utility or steam utility
 37 to:

38 (1) construct any additional facilities unless those facilities are
 39 paid for by the owner or operator of the affected alternate energy
 40 production facility, cogeneration facility, or small hydro facility;

41 **or**

42 (2) **distribute, transmit, deliver, or wheel electricity from a**



1 **private generation project.**

2 **(h) The commission shall do the following not later than**
 3 **November 1, 2018:**

4 **(1) Review the rates charged by electric utilities under**
 5 **subsection (a)(2) and section 6(e) of this chapter.**

6 **(2) Identify the extent to which the rates offered by electric**
 7 **utilities under subsection (a)(2) and section 6(e) of this**
 8 **chapter:**

9 **(A) are cost based;**

10 **(B) are nondiscriminatory; and**

11 **(C) do not result in the subsidization of costs within or**
 12 **among customer classes.**

13 **(3) Report the commission's findings under subdivisions (1)**
 14 **and (2) to the interim study committee on energy, utilities, and**
 15 **telecommunications established by IC 2-5-1.3-4(8).**

16 **This subsection expires November 2, 2018.**

17 SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015,
 18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate
 20 required under section 2 of this chapter, the applicant shall file an
 21 estimate of construction, purchase, or lease costs in such detail as the
 22 commission may require.

23 (b) The commission shall hold a public hearing on each such
 24 application. The commission may consider all relevant information
 25 related to construction, purchase, or lease costs. A certificate shall be
 26 granted only if the commission has:

27 (1) made a finding as to the best estimate of construction,
 28 purchase, or lease costs based on the evidence of record;

29 (2) made a finding that either:

30 (A) the construction, purchase, or lease will be consistent with
 31 the commission's analysis (or such part of the analysis as may
 32 then be developed, if any) for expansion of electric generating
 33 capacity; or

34 (B) the construction, purchase, or lease is consistent with a
 35 utility specific proposal submitted under section 3(e)(1) of this
 36 chapter and approved under subsection (d). However, if the
 37 commission has developed, in whole or in part, an analysis for
 38 the expansion of electric generating capacity and the applicant
 39 has filed and the commission has approved under subsection
 40 (d) a utility specific proposal submitted under section 3(e)(1)
 41 of this chapter, the commission shall make a finding under this
 42 clause that the construction, purchase, or lease is consistent



- 1 with the commission's analysis, to the extent developed, and
 2 that the construction, purchase, or lease is consistent with the
 3 applicant's plan under section 3(e)(1) of this chapter, to the
 4 extent the plan was approved by the commission;
- 5 (3) made a finding that the public convenience and necessity
 6 require or will require the construction, purchase, or lease of the
 7 facility;
- 8 (4) made a finding that the facility, if it is a coal-consuming
 9 facility, utilizes Indiana coal or is justified, because of economic
 10 considerations or governmental requirements, in using
 11 non-Indiana coal; and
- 12 (5) made the findings under subsection (e), if applicable.
- 13 (c) If:
- 14 (1) the commission grants a certificate under this chapter based
 15 upon a finding under subsection (b)(2) that the construction,
 16 purchase, or lease of a generating facility is consistent with the
 17 commission's analysis for the expansion of electric generating
 18 capacity; and
- 19 (2) a court finally determines that the commission analysis is
 20 invalid;
- 21 the certificate shall remain in full force and effect if the certificate was
 22 also based upon a finding under subsection (b)(2) that the construction,
 23 purchase, or lease of the facility was consistent with a utility specific
 24 plan submitted under section 3(e)(1) of this chapter and approved
 25 under subsection (d).
- 26 (d) The commission shall consider and approve, in whole or in part,
 27 or disapprove a utility specific proposal or an amendment thereto
 28 jointly with an application for a certificate under this chapter. However,
 29 such an approval or disapproval shall be solely for the purpose of
 30 acting upon the pending certificate for the construction, purchase, or
 31 lease of a facility for the generation of electricity.
- 32 (e) This subsection applies if an applicant proposes to construct a
 33 facility with a generating capacity of more than eighty (80) megawatts.
 34 Before granting a certificate to the applicant, the commission:
- 35 (1) must, in addition to the findings required under subsection (b),
 36 find that:
- 37 (A) the estimated costs of the proposed facility are, to the
 38 extent commercially practicable, the result of competitively
 39 bid engineering, procurement, or construction contracts, as
 40 applicable; and
- 41 (B) if the applicant is an electricity supplier (as defined in
 42 IC 8-1-37-6), the applicant allowed or will allow third



1 parties to submit firm and binding bids for the
 2 construction of the proposed facility on behalf of the
 3 applicant that met or meet all of the technical, commercial,
 4 and other specifications required by the applicant for the
 5 proposed facility so as to enable ownership of the proposed
 6 facility to vest with the applicant not later than the date on
 7 which the proposed facility becomes commercially
 8 available; and

9 (2) shall also consider the following factors:

10 (A) Reliability.

11 (B) Solicitation by the applicant of competitive bids to obtain
 12 purchased power capacity and energy from alternative
 13 suppliers.

14 The applicant, including an affiliate of the applicant, may participate
 15 in competitive bidding described in this subsection.

16 SECTION 5. IC 8-1-8.5-7, AS AMENDED BY P.L.168-2013,
 17 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2017]: Sec. 7. The certification requirements of this chapter
 19 do not apply to ~~persons who:~~ **a person that:**

20 (1) ~~construct constructs~~ an electric generating facility primarily
 21 for that person's own use and not for the primary purpose of
 22 producing electricity, heat, or steam for sale to or for the public
 23 for compensation;

24 (2) ~~construct constructs~~ an alternate energy production facility,
 25 cogeneration facility, or a small hydro facility that complies with
 26 the limitations set forth in IC 8-1-2.4-5; ~~or~~

27 (3) ~~are is~~ a municipal utility, including a joint agency created
 28 under IC 8-1-2.2-8, and ~~install installs~~ an electric generating
 29 facility that has a capacity of ten thousand (10,000) kilowatts or
 30 less; ~~or~~

31 (4) **is a public utility and:**

32 (A) **installs a clean energy project described in**
 33 **IC 8-1-8.8-2(2) that is approved by the commission and**
 34 **that:**

35 (i) **uses a clean energy resource described in**
 36 **IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**
 37 **and**

38 (ii) **has a nameplate capacity of not more than fifty**
 39 **thousand (50,000) kilowatts; and**

40 (B) **uses a contractor that:**

41 (i) **is subject to Indiana unemployment taxes; and**

42 (ii) **is selected by the public utility through bids solicited**



1 **in a competitive procurement process;**
 2 **in the engineering, procurement, or construction of the**
 3 **project.**

4 However, ~~those persons~~ **a person described in this section** shall,
 5 nevertheless, be required to report to the commission the proposed
 6 construction of such a facility before beginning construction of the
 7 facility.

8 SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS
 9 A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE JULY
 10 1, 2017]:

11 **Chapter 40. Distributed Generation**

12 **Sec. 1. As used in this chapter, "commission" refers to the**
 13 **Indiana utility regulatory commission created by IC 8-1-1-2.**

14 **Sec. 2. As used in this chapter, "customer" means a person that**
 15 **receives retail electric service from an electricity supplier.**

16 **Sec. 3. (a) As used in this chapter, "distributed generation"**
 17 **means electricity produced by a generator or other device that is:**

- 18 (1) **located on the customer's premises;**
- 19 (2) **owned by the customer;**
- 20 (3) **sized at a nameplate capacity of the lesser of:**
 - 21 (A) **not more than one (1) megawatt; or**
 - 22 (B) **the customer's average annual consumption of**
 - 23 **electricity on the premises; and**
 - 24 (4) **interconnected and operated in parallel with the electricity**
 - 25 **supplier's facilities in accordance with the commission's**
 - 26 **approved interconnection standards.**

27 **(b) The term does not include electricity produced by the**
 28 **following:**

- 29 (1) **An electric generator used exclusively for emergency**
 30 **purposes.**
- 31 (2) **A net metering facility (as defined in 170 IAC 4-4.2-1(k))**
 32 **operating under a net metering tariff.**

33 **Sec. 4. (a) As used in this chapter, "electricity supplier" means**
 34 **a public utility (as defined in IC 8-1-2-1) that furnishes retail**
 35 **electric service to customers in Indiana.**

- 36 **(b) The term does not include a utility that is:**
 - 37 (1) **a municipally owned utility (as defined in IC 8-1-2-1(h));**
 - 38 (2) **a corporation organized under IC 8-1-13; or**
 - 39 (3) **a corporation organized under IC 23-17 that is an electric**
 - 40 **cooperative and that has at least one (1) member that is a**
 - 41 **corporation organized under IC 8-1-13.**

42 **Sec. 5. As used in this chapter, "excess distributed generation"**



1 means the difference between:

- 2 (1) the electricity that is supplied by an electricity supplier to
 3 a customer that produces distributed generation; and
 4 (2) the electricity that is supplied back to the electricity
 5 supplier by the customer.

6 Sec. 6. As used in this chapter, "marginal price of electricity"
 7 means the hourly market price for electricity as determined by a
 8 regional transmission organization of which the electricity supplier
 9 serving a customer is a member.

10 Sec. 7. As used in this chapter, "net metering tariff" means a
 11 tariff that:

- 12 (1) an electricity supplier offers for net metering under 170
 13 IAC 4-4.2; and
 14 (2) is in effect on January 1, 2017.

15 Sec. 8. As used in this chapter, "premises" means a single tract
 16 of land on which a customer consumes electricity for residential,
 17 business, or other purposes.

18 Sec. 9. As used in this chapter, "regional transmission
 19 organization" has the meaning set forth in IC 8-1-37-9.

20 Sec. 10. Subject to sections 13 and 14 of this chapter, a net
 21 metering tariff of an electricity supplier must remain available to
 22 the electricity supplier's customers until the earlier of the
 23 following:

- 24 (1) January 1 of the first calendar year after the calendar year
 25 in which the aggregate amount of net metering facility
 26 nameplate capacity under the electricity supplier's net
 27 metering tariff equals at least one and one-half percent (1.5%)
 28 of the most recent summer peak load of the electricity
 29 supplier.
 30 (2) July 1, 2022.

31 Before July 1, 2022, if an electricity supplier reasonably
 32 anticipates, at any point in a calendar year, that the aggregate
 33 amount of net metering facility nameplate capacity under the
 34 electricity supplier's net metering tariff will equal at least one and
 35 one-half percent (1.5%) of the most recent summer peak load of
 36 the electricity supplier, the electricity supplier shall, in accordance
 37 with section 16 of this chapter, petition the commission for
 38 approval of a rate for the procurement of excess distributed
 39 generation.

40 Sec. 11. (a) Except as provided in sections 12 and 21(b) of this
 41 chapter, before July 1, 2047:

- 42 (1) an electricity supplier may not seek to change the terms



- 1 and conditions of the electricity supplier's net metering tariff;
 2 and
 3 (2) the commission may not approve changes to an electricity
 4 supplier's net metering tariff.
 5 (b) Except as provided in sections 13 and 14 of this chapter,
 6 after June 30, 2022:
 7 (1) an electricity supplier may not make a net metering tariff
 8 available to customers; and
 9 (2) the terms and conditions of a net metering tariff offered by
 10 an electricity supplier before July 1, 2022, expire and are
 11 unenforceable.
 12 Sec. 12. (a) Before January 1, 2018, the commission shall amend
 13 170 IAC 4-4.2-4, and an electricity supplier shall amend the
 14 electricity supplier's net metering tariff, to do the following:
 15 (1) Increase the allowed limit on the aggregate amount of net
 16 metering facility nameplate capacity under the net metering
 17 tariff to one and one-half percent (1.5%) of the most recent
 18 summer peak load of the electricity supplier.
 19 (2) Modify the required reservation of capacity under the
 20 limit described in subdivision (1) to require the reservation of:
 21 (A) forty percent (40%) of the capacity for participation
 22 by residential customers; and
 23 (B) fifteen percent (15%) of the capacity for participation
 24 by customers that install a net metering facility that uses
 25 a renewable energy resource described in
 26 IC 8-1-37-4(a)(5).
 27 (b) In amending 170 IAC 4-4.2-4, as required by subsection (a),
 28 the commission may adopt emergency rules in the manner
 29 provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an
 30 emergency rule adopted by the commission under this section and
 31 in the manner provided by IC 4-22-2-37.1 expires on the date on
 32 which a rule that supersedes the emergency rule is adopted by the
 33 commission under IC 4-22-2-24 through IC 4-22-2-36.
 34 Sec. 13. (a) This section applies to a customer that installs a net
 35 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 36 customer's premises:
 37 (1) after December 31, 2017; and
 38 (2) before the date on which the net metering tariff of the
 39 customer's electricity supplier terminates under section 10(1)
 40 or 10(2) of this chapter.
 41 (b) A customer that is participating in an electricity supplier's
 42 net metering tariff on the date on which the electricity supplier's



1 net metering tariff terminates under section 10(1) or 10(2) of this
 2 chapter shall continue to be served under the terms and conditions
 3 of the net metering tariff until:

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

7 (2) July 1, 2032;

8 whichever occurs earlier.

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

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

17 (2) July 1, 2032;

18 whichever occurs earlier.

19 Sec. 14. (a) This section applies to a customer that installs a net
 20 metering facility (as defined in 170 IAC 4-4.2-1(k)) on the
 21 customer's premises before January 1, 2018.

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

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

29 (2) July 1, 2047;

30 whichever occurs earlier.

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

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

39 (2) July 1, 2047;

40 whichever occurs earlier.

41 Sec. 15. An electricity supplier shall procure the excess
 42 distributed generation produced by a customer at a rate approved



1 by the commission under section 17 of this chapter. Amounts
2 credited to a customer by an electricity supplier for excess
3 distributed generation shall be recognized in the electricity
4 supplier's fuel adjustment proceedings under IC 8-1-2-42.

5 Sec. 16. Not later than March 1, 2021, an electricity supplier
6 shall file with the commission a petition requesting a rate for the
7 procurement of excess distributed generation by the electricity
8 supplier. After an electricity supplier's initial rate for excess
9 distributed generation is approved by the commission under
10 section 17 of this chapter, the electricity supplier shall submit on an
11 annual basis, not later than March 1 of each year, an updated rate
12 for excess distributed generation in accordance with the
13 methodology set forth in section 17 of this chapter.

14 Sec. 17. The commission shall review a petition filed under
15 section 16 of this chapter by an electricity supplier and, after notice
16 and a public hearing, shall approve a rate to be credited to
17 participating customers by the electricity supplier for excess
18 distributed generation if the commission finds that the rate
19 requested by the electricity supplier was accurately calculated and
20 equals the product of:

21 (1) the average marginal price of electricity paid by the
22 electricity supplier during the most recent calendar year;
23 multiplied by

24 (2) one and twenty-five hundredths (1.25).

25 Sec. 18. An electricity supplier shall compensate a customer
26 from whom the electricity supplier procures excess distributed
27 generation (at the rate approved by the commission under section
28 17 of this chapter) through a credit on the customer's monthly bill.
29 Any excess credit shall be carried forward and applied against
30 future charges to the customer for as long as the customer receives
31 retail electric service from the electricity supplier at the premises.

32 Sec. 19. (a) To ensure that customers that produce distributed
33 generation are properly charged for the costs of the electricity
34 delivery system through which an electricity supplier:

35 (1) provides retail electric service to those customers; and

36 (2) procures excess distributed generation from those
37 customers;

38 the electricity supplier may request approval by the commission of
39 the recovery of energy delivery costs attributable to serving
40 customers that produce distributed generation.

41 (b) The commission may approve a request for cost recovery
42 submitted by an electricity supplier under subsection (a) if the



1 **commission finds that the request:**

2 **(1) is reasonable; and**

3 **(2) does not result in a double recovery of energy delivery**
 4 **costs from customers that produce distributed generation.**

5 **Sec. 20. (a) An electricity supplier shall provide and maintain**
 6 **the metering equipment necessary to carry out the procurement of**
 7 **excess distributed generation from customers in accordance with**
 8 **this chapter.**

9 **(b) The commission shall recognize in the electricity supplier's**
 10 **basic rates and charges an electricity supplier's reasonable costs**
 11 **for the metering equipment required under subsection (a).**

12 **Sec. 21. (a) Subject to subsection (b) and sections 10 and 11 of**
 13 **this chapter, after June 30, 2017, the commission's rules and**
 14 **standards set forth in:**

15 **(1) 170 IAC 4-4.2 (concerning net metering); and**

16 **(2) 170 IAC 4-4.3 (concerning interconnection);**

17 **remain in effect and apply to net metering under an electricity**
 18 **supplier's net metering tariff and to distributed generation under**
 19 **this chapter.**

20 **(b) After June 30, 2017, the commission may adopt changes**
 21 **under IC 4-22-2, including emergency rules in the manner provided**
 22 **by IC 4-22-2-37.1, to the rules and standards described**
 23 **in subsection (a) only as necessary to:**

24 **(1) update fees or charges;**

25 **(2) adopt revisions necessitated by new technologies; or**

26 **(3) reflect changes in safety, performance, or reliability**
 27 **standards.**

28 **Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by**
 29 **the commission under this subsection and in the manner provided**
 30 **by IC 4-22-2-37.1 expires on the date on which a rule that**
 31 **supersedes the emergency rule is adopted by the commission under**
 32 **IC 4-22-2-24 through IC 4-22-2-36.**

33 **Sec. 22. A customer that produces distributed generation shall**
 34 **comply with applicable safety, performance, and reliability**
 35 **standards established by the following:**

36 **(1) The commission.**

37 **(2) An electricity supplier, subject to approval by the**
 38 **commission.**

39 **(3) The National Electric Code.**

40 **(4) The National Electrical Safety Code.**

41 **(5) The Institute of Electrical and Electronics Engineers.**

42 **(6) Underwriters Laboratories.**



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(7) The Federal Energy Regulatory Commission.

(8) Local regulatory authorities.

Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

(1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.

(2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.

(3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.

(4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.

(5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).

(6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.

(7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is



1 adopted by the attorney general under IC 4-22-2-24 through
2 IC 4-22-2-36.

3 SECTION 7. [EFFECTIVE JULY 1, 2017] (a) As used in this
4 SECTION, "legislative council" refers to the legislative council
5 established by IC 2-5-1.1-1.

6 (b) As used in this SECTION, "committee" refers to the interim
7 study committee on energy, utilities, and telecommunications
8 established by IC 2-5-1.3-4(8).

9 (c) The legislative council is urged to assign to the committee
10 during the 2017 legislative interim the topic of self-generation of
11 electricity by school corporations.

12 (d) If the topic described in subsection (c) is assigned to the
13 committee, the committee may:

14 (1) consider, as part of its study:

15 (A) use of self-generation of electricity by school
16 corporations;

17 (B) funding of self-generation of electricity by school
18 corporations; and

19 (C) any other matter concerning self-generation of
20 electricity by school corporations that the committee
21 considers appropriate; and

22 (2) request information from:

23 (A) the Indiana utility regulatory commission;

24 (B) school corporations; and

25 (C) any experts, stakeholders, or other interested parties;
26 concerning the issues set forth in subdivision (1).

27 (e) If the topic described in subsection (c) is assigned to the
28 committee, the committee shall issue a final report to the legislative
29 council containing the committee's findings and recommendations,
30 including any recommended legislation concerning the topic
31 described in subsection (c) or the specific issues described in
32 subsection (d)(1), in an electronic format under IC 5-14-6 not later
33 than November 1, 2017.

34 (f) This SECTION expires December 31, 2017.



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 309, 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 2, line 2, delete "An" and insert "**If an**".

Page 2, line 3, after "section" insert "**maintains a publicly accessible Internet web site, the electricity supplier**".

Page 2, line 11, strike "a" and insert "**any**".

Page 2, line 12, after "fuel," insert "**organic waste biomass**".

Page 5, line 17, delete "subsections (a)(2) and (e)." and insert "**subsection (a)(2) and section 6(e) of this chapter**".

Page 5, line 19, delete "subsections (a)(2) and (e):" and insert "**subsection (a)(2) and section 6(e) of this chapter**:".

Page 5, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate required under section 2 of this chapter, the applicant shall file an estimate of construction, purchase, or lease costs in such detail as the commission may require.

(b) The commission shall hold a public hearing on each such application. The commission may consider all relevant information related to construction, purchase, or lease costs. A certificate shall be granted only if the commission has:

(1) made a finding as to the best estimate of construction, purchase, or lease costs based on the evidence of record;

(2) made a finding that either:

(A) the construction, purchase, or lease will be consistent with the commission's analysis (or such part of the analysis as may then be developed, if any) for expansion of electric generating capacity; or

(B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e)(1) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, an analysis for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e)(1) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent



with the commission's analysis, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e)(1) of this chapter, to the extent the plan was approved by the commission;

(3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the facility;

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; and

(5) made the findings under subsection (e), if applicable.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's analysis for the expansion of electric generating capacity; and

(2) a court finally determines that the commission analysis is invalid;

the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e)(1) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) This subsection applies if an applicant proposes to construct a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the commission:

(1) must, in addition to the findings required under subsection (b), find that:

(A) the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable; and

(B) the applicant allowed third parties to submit firm and binding bids for the construction of the proposed facility



on behalf of the applicant that met all of the technical, commercial, and other specifications required by the applicant for the proposed facility so as to enable ownership of the proposed facility to vest with the applicant not later than the date on which the proposed facility becomes commercially available; and

(2) shall also consider the following factors:

(A) Reliability.

(B) Solicitation by the applicant of competitive bids to obtain purchased power capacity and energy from alternative suppliers.

The applicant, including an affiliate of the applicant, may participate in competitive bidding described in this subsection."

Page 6, line 6, delete "IC 8-1-37-4(a)(1) or IC 8-1-37-4(a)(2);" and insert "**IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5);**".

Page 6, delete lines 19 through 42, begin a new paragraph and insert:

"SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 40. Distributed Generation

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "customer" means a person that receives retail electric service from an electricity supplier.

Sec. 3. (a) As used in this chapter, "distributed generation" means electricity produced by a generator or other device that is:

(1) located on the customer's premises;

(2) owned by the customer;

(3) sized at a nameplate capacity of the lesser of:

(A) not more than one (1) megawatt; or

(B) the customer's average annual consumption of electricity on the premises; and

(4) interconnected and operated in parallel with the electricity supplier's facilities in accordance with the commission's approved interconnection standards.

(b) The term does not include electricity produced by the following:

(1) An electric generator used exclusively for emergency purposes.

(2) A net metering facility (as defined in 170 IAC 4-4.2-1(k)) operating under a net metering tariff.



Sec. 4. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana.

(b) The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));**
- (2) a corporation organized under IC 8-1-13; or**
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.**

Sec. 5. As used in this chapter, "excess distributed generation" means the difference between:

- (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation; and**
- (2) the electricity that is supplied back to the electricity supplier by the customer.**

Sec. 6. As used in this chapter, "marginal price of electricity" means the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member.

Sec. 7. As used in this chapter, "net metering tariff" means a tariff that:

- (1) an electricity supplier offers for net metering under 170 IAC 4-4.2; and**
- (2) is in effect on January 1, 2017.**

Sec. 8. As used in this chapter, "premises" means a single tract of land on which a customer consumes electricity for residential, business, or other purposes.

Sec. 9. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-37-9.

Sec. 10. Subject to sections 13 and 14 of this chapter, a net metering tariff of an electricity supplier must remain available to the electricity supplier's customers until the earlier of the following:

- (1) 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 one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.**
- (2) July 1, 2022.**

Before July 1, 2022, if an electricity supplier reasonably anticipates, at any point in a calendar year, that the aggregate



amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff will equal at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, the electricity supplier shall, in accordance with section 16 of this chapter, petition the commission for approval of a rate for the procurement of excess distributed generation.

Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

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

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

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:

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

(2) the terms and conditions of a net metering tariff offered by an electricity supplier before July 1, 2022, expire and are unenforceable.

Sec. 12. (a) Before January 1, 2018, the commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

(1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.

(2) Modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:

(A) forty percent (40%) of the capacity for participation by residential customers; and

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

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



commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 13. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

- (1) after June 30, 2017; and
- (2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section 10(1) or 10(2) of this chapter.

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

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2032;

whichever occurs earlier.

Sec. 14. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before July 1, 2017.

(b) A customer that is participating in an electricity supplier's net metering tariff on July 1, 2017, shall continue to be served under the terms and conditions of the net metering tariff until:

- (1) the customer no longer owns, occupies, or resides at the premises on which the net metering facility (as defined in 170 IAC 4-4.2-1(k)) is located; or
- (2) July 1, 2047;

whichever occurs earlier.

Sec. 15. An electricity supplier shall procure the excess distributed generation produced by a customer at a rate approved by the commission under section 17 of this chapter. Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier's fuel adjustment proceedings under IC 8-1-2-42.

Sec. 16. Not later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the procurement of excess distributed generation by the electricity supplier. After an electricity supplier's initial rate for excess distributed generation is approved by the commission under section 17 of this chapter, the electricity supplier shall submit on an annual basis, not later than March 1 of each year, an updated rate



for excess distributed generation in accordance with the methodology set forth in section 17 of this chapter.

Sec. 17. (a) Subject to subsection (b), the commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

- (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by
- (2) one and twenty-five hundredths (1.25).

(b) In a petition filed under section 16 of this chapter, an electricity supplier may request that the rate to be credited to a customer for excess distributed generation be set by the commission at a rate equal to the average marginal price of electricity during the most recent calendar year. The commission shall approve a rate requested under this subsection if the commission determines that the break even cost of excess distributed generation effectively competes with the cost of generation produced by the electricity supplier.

Sec. 18. An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer's monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

Sec. 19. (a) To ensure that customers that produce distributed generation are properly charged for the costs of the electricity delivery system through which an electricity supplier:

- (1) provides retail electric service to those customers; and
- (2) procures excess distributed generation from those customers;

the electricity supplier may request approval by the commission of the recovery of energy delivery costs attributable to serving customers that produce distributed generation.

(b) The commission may approve a request for cost recovery submitted by an electricity supplier under subsection (a) if the commission finds that the request:

- (1) is reasonable; and



(2) does not result in a double recovery of energy delivery costs from customers that produce distributed generation.

Sec. 20. (a) An electricity supplier shall provide and maintain the metering equipment necessary to carry out the procurement of excess distributed generation from customers in accordance with this chapter.

(b) The commission shall recognize in the electricity supplier's basic rates and charges an electricity supplier's reasonable costs for the metering equipment required under subsection (a).

Sec. 21. (a) Subject to subsection (b) and sections 10 and 11 of this chapter, after June 30, 2017, the commission's rules and standards set forth in:

(1) 170 IAC 4-4.2 (concerning net metering); and

(2) 170 IAC 4-4.3 (concerning interconnection);

remain in effect and apply to net metering under an electricity supplier's net metering tariff and to distributed generation under this chapter.

(b) After June 30, 2017, the commission may adopt changes under IC 4-22-2, including emergency rules in the manner provided by IC 4-22-2-37.1, to the rules and standards described in subsection (a) only as necessary to:

(1) update fees or charges;

(2) adopt revisions necessitated by new technologies; or

(3) reflect changes in safety, performance, or reliability standards.

Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 22. A customer that produces distributed generation shall comply with applicable safety, performance, and reliability standards established by the following:

(1) The commission.

(2) An electricity supplier, subject to approval by the commission.

(3) The National Electric Code.

(4) The National Electrical Safety Code.

(5) The Institute of Electrical and Electronics Engineers.

(6) Underwriters Laboratories.

(7) The Federal Energy Regulatory Commission.

(8) Local regulatory authorities.



Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

- (1) The right to know that the attorney general is authorized to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.**
- (2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.**
- (3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.**
- (4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.**
- (5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).**
- (6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.**
- (7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.**

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the attorney general under IC 4-22-2-24 through IC 4-22-2-36."



Delete pages 7 through 11.
Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 2.

SENATE MOTION

Madam President: I move that Senate Bill 309 be amended to read as follows:

Page 7, line 14, after "allowed" insert "**or will allow**".

Page 7, line 16, after "met" insert "**or meet**".

(Reference is to SB 309 as printed February 21, 2017.)

HERSHMAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 309, 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 3, delete lines 21 through 33.

Page 3, reset in roman line 39.

Page 3, line 40, reset in roman "small hydro".

Page 3, line 40, delete "eligible".

Page 4, line 8, reset in roman "alternate energy production facilities, cogeneration facilities, or".

Page 4, line 9, reset in roman "small hydro".

Page 4, line 9, delete "eligible".

Page 4, line 11, reset in roman "alternate".

Page 4, line 12, reset in roman "energy production facility, cogeneration facility, or small hydro".

Page 4, line 12, delete "eligible".

Page 4, line 16, reset in roman "alternate energy".

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Page 4, line 17, reset in roman "production, cogeneration, and small hydro".

Page 4, line 17, delete "eligible".

Page 5, line 3, reset in roman "alternate energy production facility,".

Page 5, line 4, reset in roman "cogeneration facility, or small hydro".

Page 5, line 4, delete "eligible".

Page 5, line 12, reset in roman "alternate energy".

Page 5, line 13, reset in roman "production facility, cogeneration facility, or small hydro".

Page 5, line 13, delete "eligible".

Page 7, line 14, after "(B)" insert **"if the applicant is an electricity supplier (as defined in IC 8-1-37-6),"**.

Page 7, line 37, reset in roman "alternate energy production facility,".

Page 7, line 38, reset in roman "cogeneration facility, or a small hydro".

Page 7, line 38, delete "eligible".

Page 11, delete lines 5 through 32, begin a new paragraph and insert the following:

"Sec. 13. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

(1) after December 31, 2017; and

(2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section 10(1) or 10(2) of this chapter.

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

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

(2) July 1, 2032;

whichever occurs earlier.

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



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

(2) July 1, 2032;

whichever occurs earlier.

Sec. 14. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before January 1, 2018.

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

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

(2) July 1, 2047;

whichever occurs earlier.

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

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

(2) July 1, 2047;

whichever occurs earlier."

Page 12, line 6, delete "(a) Subject to subsection (b), the" and insert "The".

Page 12, delete lines 17 through 25.

Page 15, after line 3, begin a new paragraph and insert:

"SECTION 7. [EFFECTIVE JULY 1, 2017] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) As used in this SECTION, "committee" refers to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

(c) The legislative council is urged to assign to the committee during the 2017 legislative interim the topic of self-generation of electricity by school corporations.

(d) If the topic described in subsection (c) is assigned to the committee, the committee may:

(1) consider, as part of its study:



- (A) use of self-generation of electricity by school corporations;
 - (B) funding of self-generation of electricity by school corporations; and
 - (C) any other matter concerning self-generation of electricity by school corporations that the committee considers appropriate; and
- (2) request information from:
- (A) the Indiana utility regulatory commission;
 - (B) school corporations; and
 - (C) any experts, stakeholders, or other interested parties; concerning the issues set forth in subdivision (1).

(e) If the topic described in subsection (c) is assigned to the committee, the committee shall issue a final report to the legislative council containing the committee's findings and recommendations, including any recommended legislation concerning the topic described in subsection (c) or the specific issues described in subsection (d)(1), in an electronic format under IC 5-14-6 not later than November 1, 2017.

(f) This SECTION expires December 31, 2017."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 309 as reprinted February 24, 2017.)

OBER

Committee Vote: yeas 8, nays 5.



ATTACHMENT BDI-6

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 309

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-2-42.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 42.5. **(a)** The commission shall by rule or order, consistent with the resources of the commission and the office of the utility consumer counselor, require that the basic rates and charges of all public, municipally owned, and cooperatively owned utilities (except those utilities described in ~~IC 8-1-2-61.5~~ **section 61.5 of this chapter**) are subject to a regularly scheduled periodic review and revision by the commission. However, the commission shall conduct the periodic review at least once every four (4) years and may not authorize a filing for an increase in basic rates and charges more frequently than is permitted by operation of section 42(a) of this chapter.

(b) The commission shall make the results of the commission's most recent periodic review of the basic rates and charges of an electricity supplier (as defined in IC 8-1-2.3-2(b)) available for public inspection by posting a summary of the results on the commission's Internet web site. If an electricity supplier whose basic rates and charges are reviewed under this section maintains a publicly accessible Internet web site, the electricity supplier shall provide a link on the electricity supplier's Internet web site to the summary of the results posted on the commission's Internet web

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site.

SECTION 2. IC 8-1-2.4-2, AS AMENDED BY P.L.222-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

- (1) ~~a~~ **any** solar, wind turbine, waste management, resource recovery, refuse-derived fuel, **organic waste biomass**, or wood burning facility;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Cogeneration facility" means:

- (1) a facility that:
 - (A) simultaneously generates electricity and useful thermal energy; and
 - (B) meets the energy efficiency standards established for cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(d) "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

(e) "Small hydro facility" means:

- (1) a hydroelectric facility at a dam;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(f) "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant.

(g) "Private generation project" means a cogeneration facility that has an electric generating capacity of eighty (80) megawatts or more



and is:

- (1) primarily used by its owner for the owner's industrial, commercial, heating, or cooling purposes; or
- (2) a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978 that ~~(A) is in existence on July 1, 2014; and (B)~~ produces electricity and useful thermal energy that is primarily used by a **single** host operation for industrial, commercial, heating, or cooling purposes **and is:**
 - (A) located on the same site as the host operation; or**
 - (B) determined by the commission to be a facility that:**
 - (i) satisfies the requirements of this chapter;**
 - (ii) is located on or contiguous to the property on which the host operation is sited; and**
 - (iii) is directly integrated with the host operation.**

SECTION 3. IC 8-1-2.4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Subject to section 5 of this chapter, the commission shall require electric utilities and steam utilities to enter into long term contracts to:

- (1) purchase or wheel electricity or useful thermal energy from alternate energy production facilities, cogeneration facilities, or small hydro facilities located in the utility's service territory, under the terms and conditions that the commission finds:
 - (A) are just and economically reasonable to the corporation's ratepayers;
 - (B) are nondiscriminatory to alternate energy producers, cogenerators, and small hydro producers; and
 - (C) will further the policy stated in section 1 of this chapter; and
- (2) provide for the availability of supplemental or backup power to alternate energy production facilities, cogeneration facilities, or small hydro facilities on a nondiscriminatory basis and at just and reasonable rates.

(b) Upon application by the owner or operator of any alternate energy production facility, cogeneration facility, or small hydro facility or any interested party, the commission shall establish for the affected utility just and economically reasonable rates for electricity purchased under subsection (a)(1). The rates shall be established at levels sufficient to stimulate the development of alternate energy production, cogeneration, and small hydro facilities in Indiana, and to encourage the continuation of existing capacity from those facilities.

(c) The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:

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(1) The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the utility.

(2) The term of the contract between the utility and the seller.

(3) A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the utility's new construction program.

(4) The utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and any other energy-related costs considered appropriate by the commission.

Until July 1, 1986, the rate for a new facility may not exceed eight cents (\$.08) per kilowatt hour.

(d) The commission shall base the rates for existing facilities on the factors listed in subsection (c). However, the commission shall also consider the original cost less depreciation of existing facilities and may establish a rate for existing facilities that is less than the rate established for new facilities.

(e) In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the utility of similar types and quantities of electrical service.

(f) In lieu of the other procedures provided by this section, a utility and an owner or operator of an alternate energy production facility, cogeneration facility, or small hydro facility may enter into a long term contract in accordance with subsection (a) and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided by IC 8-1-2-42.

(g) This section does not require an electric utility or steam utility to:

(1) construct any additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility, cogeneration facility, or small hydro facility;

or

(2) distribute, transmit, deliver, or wheel electricity from a private generation project.

(h) The commission shall do the following not later than November 1, 2018:

(1) Review the rates charged by electric utilities under subsection (a)(2) and section 6(e) of this chapter.

(2) Identify the extent to which the rates offered by electric



utilities under subsection (a)(2) and section 6(e) of this chapter:

- (A) are cost based;
 - (B) are nondiscriminatory; and
 - (C) do not result in the subsidization of costs within or among customer classes.
- (3) Report the commission's findings under subdivisions (1) and (2) to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

This subsection expires November 2, 2018.

SECTION 4. IC 8-1-8.5-5, AS AMENDED BY P.L.246-2015, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) As a condition for receiving the certificate required under section 2 of this chapter, the applicant shall file an estimate of construction, purchase, or lease costs in such detail as the commission may require.

(b) The commission shall hold a public hearing on each such application. The commission may consider all relevant information related to construction, purchase, or lease costs. A certificate shall be granted only if the commission has:

- (1) made a finding as to the best estimate of construction, purchase, or lease costs based on the evidence of record;
- (2) made a finding that either:
 - (A) the construction, purchase, or lease will be consistent with the commission's analysis (or such part of the analysis as may then be developed, if any) for expansion of electric generating capacity; or
 - (B) the construction, purchase, or lease is consistent with a utility specific proposal submitted under section 3(e)(1) of this chapter and approved under subsection (d). However, if the commission has developed, in whole or in part, an analysis for the expansion of electric generating capacity and the applicant has filed and the commission has approved under subsection (d) a utility specific proposal submitted under section 3(e)(1) of this chapter, the commission shall make a finding under this clause that the construction, purchase, or lease is consistent with the commission's analysis, to the extent developed, and that the construction, purchase, or lease is consistent with the applicant's plan under section 3(e)(1) of this chapter, to the extent the plan was approved by the commission;
- (3) made a finding that the public convenience and necessity require or will require the construction, purchase, or lease of the



facility;

(4) made a finding that the facility, if it is a coal-consuming facility, utilizes Indiana coal or is justified, because of economic considerations or governmental requirements, in using non-Indiana coal; and

(5) made the findings under subsection (e), if applicable.

(c) If:

(1) the commission grants a certificate under this chapter based upon a finding under subsection (b)(2) that the construction, purchase, or lease of a generating facility is consistent with the commission's analysis for the expansion of electric generating capacity; and

(2) a court finally determines that the commission analysis is invalid;

the certificate shall remain in full force and effect if the certificate was also based upon a finding under subsection (b)(2) that the construction, purchase, or lease of the facility was consistent with a utility specific plan submitted under section 3(e)(1) of this chapter and approved under subsection (d).

(d) The commission shall consider and approve, in whole or in part, or disapprove a utility specific proposal or an amendment thereto jointly with an application for a certificate under this chapter. However, such an approval or disapproval shall be solely for the purpose of acting upon the pending certificate for the construction, purchase, or lease of a facility for the generation of electricity.

(e) This subsection applies if an applicant proposes to construct a facility with a generating capacity of more than eighty (80) megawatts. Before granting a certificate to the applicant, the commission:

(1) must, in addition to the findings required under subsection (b), find that:

(A) the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable; and

(B) if the applicant is an electricity supplier (as defined in IC 8-1-37-6), the applicant allowed or will allow third parties to submit firm and binding bids for the construction of the proposed facility on behalf of the applicant that met or meet all of the technical, commercial, and other specifications required by the applicant for the proposed facility so as to enable ownership of the proposed facility to vest with the applicant not later than the date on



which the proposed facility becomes commercially available; and

(2) shall also consider the following factors:

(A) Reliability.

(B) Solicitation by the applicant of competitive bids to obtain purchased power capacity and energy from alternative suppliers.

The applicant, including an affiliate of the applicant, may participate in competitive bidding described in this subsection.

SECTION 5. IC 8-1-8.5-7, AS AMENDED BY P.L.168-2013, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. The certification requirements of this chapter do not apply to ~~persons who:~~ **a person that:**

(1) ~~construct~~ **constructs** an electric generating facility primarily for that person's own use and not for the primary purpose of producing electricity, heat, or steam for sale to or for the public for compensation;

(2) ~~construct~~ **constructs** an alternate energy production facility, cogeneration facility, or a small hydro facility that complies with the limitations set forth in IC 8-1-2.4-5; ~~or~~

(3) ~~are~~ **is** a municipal utility, including a joint agency created under IC 8-1-2.2-8, and ~~install~~ **installs** an electric generating facility that has a capacity of ten thousand (10,000) kilowatts or less; ~~or~~

(4) is a public utility and:

(A) installs a clean energy project described in IC 8-1-8.8-2(2) that is approved by the commission and that:

(i) uses a clean energy resource described in IC 8-1-37-4(a)(1), IC 8-1-37-4(a)(2), or IC 8-1-37-4(a)(5); and

(ii) has a nameplate capacity of not more than fifty thousand (50,000) kilowatts; and

(B) uses a contractor that:

(i) is subject to Indiana unemployment taxes; and

(ii) is selected by the public utility through bids solicited in a competitive procurement process;

in the engineering, procurement, or construction of the project.

However, ~~those persons~~ **a person described in this section** shall, nevertheless, be required to report to the commission the proposed construction of such a facility before beginning construction of the



facility.

SECTION 6. IC 8-1-40 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 40. Distributed Generation

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "customer" means a person that receives retail electric service from an electricity supplier.

Sec. 3. (a) As used in this chapter, "distributed generation" means electricity produced by a generator or other device that is:

- (1) located on the customer's premises;
- (2) owned by the customer;
- (3) sized at a nameplate capacity of the lesser of:
 - (A) not more than one (1) megawatt; or
 - (B) the customer's average annual consumption of electricity on the premises; and
- (4) interconnected and operated in parallel with the electricity supplier's facilities in accordance with the commission's approved interconnection standards.

(b) The term does not include electricity produced by the following:

- (1) An electric generator used exclusively for emergency purposes.
- (2) A net metering facility (as defined in 170 IAC 4-4.2-1(k)) operating under a net metering tariff.

Sec. 4. (a) As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to customers in Indiana.

(b) The term does not include a utility that is:

- (1) a municipally owned utility (as defined in IC 8-1-2-1(h));
- (2) a corporation organized under IC 8-1-13; or
- (3) a corporation organized under IC 23-17 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 5. As used in this chapter, "excess distributed generation" means the difference between:

- (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation; and
- (2) the electricity that is supplied back to the electricity supplier by the customer.

Sec. 6. As used in this chapter, "marginal price of electricity"



means the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member.

Sec. 7. As used in this chapter, "net metering tariff" means a tariff that:

- (1) an electricity supplier offers for net metering under 170 IAC 4-4.2; and
- (2) is in effect on January 1, 2017.

Sec. 8. As used in this chapter, "premises" means a single tract of land on which a customer consumes electricity for residential, business, or other purposes.

Sec. 9. As used in this chapter, "regional transmission organization" has the meaning set forth in IC 8-1-37-9.

Sec. 10. Subject to sections 13 and 14 of this chapter, a net metering tariff of an electricity supplier must remain available to the electricity supplier's customers until the earlier of the following:

- (1) 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 one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.
- (2) July 1, 2022.

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

Sec. 11. (a) Except as provided in sections 12 and 21(b) of this chapter, before July 1, 2047:

- (1) an electricity supplier may not seek to change the terms and conditions of the electricity supplier's net metering tariff; and
- (2) the commission may not approve changes to an electricity supplier's net metering tariff.

(b) Except as provided in sections 13 and 14 of this chapter, after June 30, 2022:



- (1) an electricity supplier may not make a net metering tariff available to customers; and
- (2) the terms and conditions of a net metering tariff offered by an electricity supplier before July 1, 2022, expire and are unenforceable.

Sec. 12. (a) Before January 1, 2018, the commission shall amend 170 IAC 4-4.2-4, and an electricity supplier shall amend the electricity supplier's net metering tariff, to do the following:

- (1) Increase the allowed limit on the aggregate amount of net metering facility nameplate capacity under the net metering tariff to one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier.
- (2) Modify the required reservation of capacity under the limit described in subdivision (1) to require the reservation of:
 - (A) forty percent (40%) of the capacity for participation by residential customers; and
 - (B) fifteen percent (15%) of the capacity for participation by customers that install a net metering facility that uses a renewable energy resource described in IC 8-1-37-4(a)(5).

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

Sec. 13. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises:

- (1) after December 31, 2017; and
- (2) before the date on which the net metering tariff of the customer's electricity supplier terminates under section 10(1) or 10(2) of this chapter.

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

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



(2) July 1, 2032;
whichever occurs earlier.

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

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

(2) July 1, 2032;
whichever occurs earlier.

Sec. 14. (a) This section applies to a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k)) on the customer's premises before January 1, 2018.

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

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

(2) July 1, 2047;
whichever occurs earlier.

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

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

(2) July 1, 2047;
whichever occurs earlier.

Sec. 15. An electricity supplier shall procure the excess distributed generation produced by a customer at a rate approved by the commission under section 17 of this chapter. Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier's fuel adjustment proceedings under IC 8-1-2-42.

Sec. 16. Not later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the



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

Sec. 17. The commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

- (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by
- (2) one and twenty-five hundredths (1.25).

Sec. 18. An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer's monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

Sec. 19. (a) To ensure that customers that produce distributed generation are properly charged for the costs of the electricity delivery system through which an electricity supplier:

- (1) provides retail electric service to those customers; and
- (2) procures excess distributed generation from those customers;

the electricity supplier may request approval by the commission of the recovery of energy delivery costs attributable to serving customers that produce distributed generation.

(b) The commission may approve a request for cost recovery submitted by an electricity supplier under subsection (a) if the commission finds that the request:

- (1) is reasonable; and
- (2) does not result in a double recovery of energy delivery costs from customers that produce distributed generation.

Sec. 20. (a) An electricity supplier shall provide and maintain the metering equipment necessary to carry out the procurement of



excess distributed generation from customers in accordance with this chapter.

(b) The commission shall recognize in the electricity supplier's basic rates and charges an electricity supplier's reasonable costs for the metering equipment required under subsection (a).

Sec. 21. (a) Subject to subsection (b) and sections 10 and 11 of this chapter, after June 30, 2017, the commission's rules and standards set forth in:

- (1) 170 IAC 4-4.2 (concerning net metering); and
- (2) 170 IAC 4-4.3 (concerning interconnection);

remain in effect and apply to net metering under an electricity supplier's net metering tariff and to distributed generation under this chapter.

(b) After June 30, 2017, the commission may adopt changes under IC 4-22-2, including emergency rules in the manner provided by IC 4-22-2-37.1, to the rules and standards described in subsection (a) only as necessary to:

- (1) update fees or charges;
- (2) adopt revisions necessitated by new technologies; or
- (3) reflect changes in safety, performance, or reliability standards.

Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 22. A customer that produces distributed generation shall comply with applicable safety, performance, and reliability standards established by the following:

- (1) The commission.
- (2) An electricity supplier, subject to approval by the commission.
- (3) The National Electric Code.
- (4) The National Electrical Safety Code.
- (5) The Institute of Electrical and Electronics Engineers.
- (6) Underwriters Laboratories.
- (7) The Federal Energy Regulatory Commission.
- (8) Local regulatory authorities.

Sec. 23. (a) A customer that produces distributed generation has the following rights regarding the installation and ownership of distributed generation equipment:

- (1) The right to know that the attorney general is authorized



to enforce this section, including by receiving complaints concerning the installation and ownership of distributed generation equipment.

(2) The right to know the expected amount of electricity that will be produced by the distributed generation equipment that the customer is purchasing.

(3) The right to know all costs associated with installing distributed generation equipment, including any taxes for which the customer is liable.

(4) The right to know the value of all federal, state, or local tax credits or other incentives or rebates that the customer may receive.

(5) The right to know the rate at which the customer will be credited for electricity produced by the customer's distributed generation equipment and delivered to a public utility (as defined in IC 8-1-2-1).

(6) The right to know if a provider of distributed generation equipment insures the distributed generation equipment against damage or loss and, if applicable, any circumstances under which the provider does not insure against or otherwise cover damage to or loss of the distributed generation equipment.

(7) The right to know the responsibilities of a provider of distributed generation equipment with respect to installing or removing distributed generation equipment.

(b) The attorney general, in consultation with the commission, shall adopt rules under IC 4-22-2 that the attorney general considers necessary to implement and enforce this section, including a rule requiring written disclosure of the rights set forth in subsection (a) by a provider of distributed generation equipment to a customer. In adopting the rules required by this subsection, the attorney general may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the attorney general under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the attorney general under IC 4-22-2-24 through IC 4-22-2-36.

SECTION 7. [EFFECTIVE JULY 1, 2017] (a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.

(b) As used in this SECTION, "committee" refers to the interim



study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

(c) The legislative council is urged to assign to the committee during the 2017 legislative interim the topic of self-generation of electricity by school corporations.

(d) If the topic described in subsection (c) is assigned to the committee, the committee may:

(1) consider, as part of its study:

(A) use of self-generation of electricity by school corporations;

(B) funding of self-generation of electricity by school corporations; and

(C) any other matter concerning self-generation of electricity by school corporations that the committee considers appropriate; and

(2) request information from:

(A) the Indiana utility regulatory commission;

(B) school corporations; and

(C) any experts, stakeholders, or other interested parties; concerning the issues set forth in subdivision (1).

(e) If the topic described in subsection (c) is assigned to the committee, the committee shall issue a final report to the legislative council containing the committee's findings and recommendations, including any recommended legislation concerning the topic described in subsection (c) or the specific issues described in subsection (d)(1), in an electronic format under IC 5-14-6 not later than November 1, 2017.

(f) This SECTION expires December 31, 2017.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 309 — Concur



ATTACHMENT BDI-7

Star Press.

OPINION | Opinion *This piece expresses the views of its author(s), separate from those of this publication.*

Utility fairness for Hoosier customers

State Sen. Brandt Hershman

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This session, I've authored a measure to encourage renewable energy generation while bringing more fairness and market sensibility to the way privately owned solar panels and wind turbines are subsidized by other customers.

Let me first say that I support renewable energy and authored the original legislation to create solar tax incentives in Indiana.

Some critics are mischaracterizing Senate Bill 309 and focusing on earlier versions, but the proposal has already been amended to address many of these concerns.

The proposed bill would address "net metering," the practice of requiring electric utilities to purchase energy that is consumer-generated at full retail rates, which are approximately two to three times the actual value of the energy on the market. This practice was established years ago as an incentive to encourage investment in consumer-generated power, including solar and wind at a time when costs were much higher than they are today.

The federal government decided to phase down its incentives for residential renewables as the products become more affordable. Now, Indiana must also evaluate whether to allow the market to determine the appropriate incentives for self-generation.

SB 309 offers a long-range, common-sense approach. Anyone who owns net metering self-generation equipment or installs it by July 1 of this year would be grandfathered under the existing net metering rules for 30 years until 2047, and anyone who installs it in the next five years will be eligible for current rules until 2032.

Further, SB 309 does not stop anyone from self-generating in the future. Hoosiers could still sell the excess they produce back to the grid, receiving a credit based on the value of that same generation on the market, plus 25 percent.

For the first time, the proposal would establish the equivalent of a Bill of Rights for Hoosiers who want to generate energy using renewable power. One of the specific protections that

would be written into law includes the right to know all costs associated with installing self-generation equipment, including solar panels and wind turbines. Consumers would also have the right to be informed of the responsibilities of the person or company installing or removing the equipment and to know the rate at which the customer will be credited for electricity delivered to an electricity supplier.

Hoosiers would also have the ability to file complaints about their self-generation equipment with the Indiana attorney general, who would have the authority to enforce the protections.

Finally, SB 309 recognizes the importance in our state not only of residential and industrial self-generation, but also includes, for the first time, a clear recognition for agriculture-derived renewable generation like biomass.

SB 309 passed out of the Senate Committee on Utilities with a bipartisan vote of 8 to 2. Like all bills going through the legislature, it is subject to change at several more steps in the process. However, in its current form, the bill offers protections for those who generate energy they sell to the electric utility as well as more fairness for all of the utility's customers who are paying for the incentives of Hoosiers who net meter today.

State Sen. Brandt Hershman, is a Republican from Buck Creek.

ATTACHMENT BDI-8

Attachment BDI-8

Rejected, Withdrawn, and Approved Investor-Owned Utility Fixed Fees on Solar DG Customers

No.	State	Utility	Proposal	Outcome	Docket Number	Decision Date
1	Arizona	Arizona Public Service	Mandatory demand rate for DG customers	Settlement: Mandatory TOU service; \$0.93/kW capacity charge for DG customers not taking demand rate service	E-01345A-16-0036	8/18/17
2	Arizona	Tucson Electric Power	Mandatory demand rate for DG customers	Rejected. Mandatory TOU rates adopted	E-01933A-15-0322	9/20/18
3	Arizona	Unisource Energy Services	Mandatory demand rate for DG customers	Rejected. Mandatory TOU rates adopted	E-04204A-15-0142	9/20/18
4	Kansas	Westar	Mandatory demand rate for DG customers	Adopted but later vacated by courts	18-WSEE-328-RTS	9/27/18 & 2/25/21
5	Idaho	Idaho Power Company	Higher fixed charge; mandatory demand rate for DG customers	Rejected	IPC-E-12-27	7/3/13
6	Georgia	Georgia Power	Mandatory demand rate for DG customers	Withdrawn	36989	12/23/13
7	Massachusetts	Eversource	Mandatory demand rate for DG customers	Adopted but later nullified by Legislature (producing a DPU suspension order)	17-05	01/05/2018 & 8/29/2018
8	Maine	Central Maine Power	Mandatory standby/demand rate for DG customers	Withdrawn	2013-00168	8/25/14
9	Michigan	Detroit Edison	System capacity charge on DG customers	Rejected	U-20162	5/8/20

No.	State	Utility	Proposal	Outcome	Docket Number	Decision Date
10	Michigan	Upper Peninsula Power Company	System capacity charge on DG customers	Withdrawn	U-20276	5/23/19
11	Montana	Montana-Dakota Utilities	Mandatory demand rate for DG customers	Withdrawn	2016.06.051	3/11/16
12	Montana	Northwestern Energy	Mandatory demand rate for DG customers	Rejected	2018.02.012	12/20/19
13	Nevada	NV Power Company	Mandatory demand rate for DG customers	Rejected. Higher fixed charge and reduced export credit adopted, but later nullified by Legislature	15-07041	12/23/15
14	New Hampshire	Eversource; Unutil	Mandatory demand rate for DG customers	Withdrawn	DE 16-576	6/23/17
15	New Mexico	Southwest Public Service	Existing standby charge (\$/kWh) of all system production for non-demand DG customers	Rejected. Existing standby charge eliminated	17-00255-UT	9/5/18
16	Oklahoma	Oklahoma Gas & Electric	Mandatory demand rate for DG customers	Rejected, but consideration transferred to rate case (PUD 201500273)	PUD 201500274	4/12/16
17	Oklahoma	Oklahoma Gas & Electric	Mandatory demand rate for DG customers	Withdrawn	PUD 201500273	3/20/17
18	Oklahoma	Public Service Oklahoma	Mandatory demand rate for DG customers	Withdrawn	PUD 201500478	12/29/16

No.	State	Utility	Proposal	Outcome	Docket Number	Decision Date
19	South Carolina	Dominion South Carolina	Increased fixed charge & system capacity charge on non-demand DG customers	Rejected. Mandatory TOU rates adopted	2020-229-E	4/28/21
20	South Dakota	Black Hills Power	Mandatory demand rate for DG customers	Withdrawn	EL14-026	4/17/15
21	Texas	Oncor	Additional minimum bill for DG customers based on historic demand or energy use	Withdrawn	46957	10/13/17
22	Texas	El Paso Electric	Higher fixed charge; mandatory demand rate for DG customers	Withdrawn	44941	8/25/16
23	Texas	El Paso Electric	Higher fixed charge; mandatory demand rate for DG customers	Settlement: \$30/month minimum bill for flat rate service and \$26.50/month minimum bill for energy-only TOU service	46831	12/18/17
24	Tennessee	Kingsport Power	Mandatory demand rate for DG customers	Withdrawn	1600001	10/19/16
25	Utah	Rocky Mountain Power	Higher fixed charge; mandatory demand rate for DG customers	Settlement: Reduced export rate.	14-035-114	9/29/17
26	Wisconsin	We Energies	System capacity charge on non-demand DG customers	Withdrawn	5-UR-109	12/19/19

No.	State	Utility	Proposal	Outcome	Docket Number	Decision Date
27	Wisconsin	We Energies	Higher fixed charge; system capacity charge on non-demand DG customers	Adopted but later vacated by courts	5-UR-107 (Dane County Circuit Court Case 2015CV000153)	12/23/14 & 10/30/15

ATTACHMENT BDI-9

Attachment BDI-9

Key Examples of Jurisdictions Studying and Investigating Net Metering (“NEM”)

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
Arizona (Arizona Public Service)	Distributed Renewable Energy Operating Impacts and Valuation Study (2009) ¹ The Benefits and Costs of Solar Distributed Generation for Arizona Public Service (2013 ² , 2016 ³)	E-01345A-13-0248 (2013 APS Lost Fixed Cost Recovery Charge) E-00000J-14-0023 (2014 Investigation into the Value of DG) E-01345A-16-0036 (2016 APS Rate Case) RE-00000A-17-0260 (2017 NEM Rulemaking)	Monthly netting retained, with a small monthly fee on APS NEM customers, through 2017. The Arizona Corporation Commission adopted an export credit rate policy for APS beginning in 2017.
California	The Impact of Rate Design and Net Metering on the Bill Savings from Distributed PV for Residential Customers in California (2010) ⁴ Evaluating the Benefits and Costs of Net Energy Metering in California (2013) ⁵ Net-Energy Metering 2.0 Look-Back Study (2021) ⁶	R.14-07-002 (2014 NEM “2.0” rulemaking) R.20-08-020 (2020 NEM successor tariff rulemaking)	Monthly netting (NEM 1.0) retained through 2017. NEM 2.0 in effect from 2017-2022 (est.). NEM 2.0 includes mandatory service under a TOD rate and monthly netting (minus non-bypassable charges). A new NEM Successor Tariff is now being developed in R.20-08-020 to take effect in 2022 (est.).

¹ <https://appsrv.pace.edu/VOSCOE/?do=DownloadFile&res=J8PAM033116121012>

² <https://www.seia.org/sites/default/files/resources/AZ-Distributed-Generation.pdf>

³ <https://images.edocket.azcc.gov/docketpdf/0000168554.pdf>

⁴ <https://emp.lbl.gov/publications/impact-rate-design-and-net-metering>

⁵ <https://www.growsolar.org/wp-content/uploads/2012/06/Crossborder-Energy-CA-Net-Metering-Cost-Benefit-Jan-2013-final.pdf>

⁶ <https://www.cpuc.ca.gov/WorkArea/DownloadAsset.aspx?id=6442467448>

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
Colorado	Costs and Benefits of Distributed Solar Generation on the Public Service Company of Colorado System (2013) ⁷	<p>14M-0235E (2014 DG Cost Benefit Investigation)</p> <p>16AL-0048E, 16A-0139E, 16A-0055E (2016 Cases Resulting in NEM Settlement)</p> <p>18AL-0097E (2018 Roll-over Provisions to Xcel's NEM Agreed to in Rate Case)</p> <p>19R-0096E (2019 Electric Rule Changes)</p>	<p>Monthly netting retained.</p> <p>A 2016 proposal by Xcel Energy to implement a Grid Usage Charge of up to \$44.79 on residential customers was withdrawn as part of a settlement, resulting in NEM customers retaining monthly netting.</p>
Connecticut	Value of Distributed Energy Resources (2020, Draft) ⁸	<p>15-09-03 (2015 Investigation into NEM kWh Banking)</p> <p>18-06-15 (2018 DG Tariff Development re Public Act 18-50)</p> <p>19-06-29 (2019 Value of Distributed Energy Resources Study)</p> <p>20-07-01 (2020 Development of Tariffs for Residential Renewable Energy re Public Act 19-35)</p>	<p>Retail rate NEM retained after multiple proceedings and despite legislation allowing for NEM changes.</p> <p>A 2018 law would have ended NEM but was revoked through a 2019 law.</p> <p>In February 2021, the Public Utilities Regulatory Authority (“PURA”) retained retail rate net metering under a new “Netting Tariff” option. (A Buy-All, Sell-All option was also created.) PURA determined monthly netting was appropriate, even though Public Act 19-35 granted PURA discretion to impose other intervals, including instantaneous netting.</p>

⁷ <https://bit.ly/2Zlhfet>
⁸ <https://bit.ly/3aQTbMS>

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
Iowa	PV Valuation Methodology (2016) ⁹	NOI-2014-0001 (2014 DG investigation) TF-2016-0321, TF-2016-0323 (2016 Alliant and MidAmerican NEM pilots) TF-2020-0235, TF-2020-0237 (2020 Alliant and MidAmerican DG Tariffs)	A 2014 DG investigation retained and expanded monthly netting, establishing utility NEM “pilots” for IOUs to study impacts of retail rate NEM over several years. SF 583 (2020) maintained monthly netting through 2027, after which a value of solar methodology will be used to determine compensation for exports.
Maryland	Value of Solar Report (2017) ¹⁰ Benefits and Cost of Utility Scale and Behind the Meter Solar Resources in Maryland (2018) ¹¹	RM 41 (2011 NEM Rulemaking) PC 40 (2015 Public Conference on Small DG Deployment) PC 44 (2016 Transforming Maryland's Distribution Systems) PC 48 (2017 Investigation re Costs and Benefits of DG for Electric Cooperatives)	Monthly netting retained after multiple proceedings and studies. 2018 Study found NEM benefits exceed costs.

⁹ <https://www.growsolar.org/wp-content/uploads/2016/03/PV-Valuation-in-Iowa.pdf>

¹⁰ <https://bit.ly/3aJXsS8>

¹¹ <https://cleantechnica.com/files/2018/11/MDVoSReportFinal11-2-2018.pdf>

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
Massachusetts	<p>Value of Distributed Generation: Solar PV in Massachusetts (2015)¹²</p> <p>Massachusetts Net Metering and Solar Task Force Final Report to the Legislature (2015)¹³</p>	<p>16-64 (2016 Transition to "Market Rate" NEM and a Minimum Monthly Reliability Contribution ("MMRC"))</p> <p>16-151 (2016 IOUs' Petition re Revised Model NEM Tariff)</p> <p>17-105; 17-146 (2017 Storage NEM Eligibility)</p> <p>18-150 (2018 National Grid Rate Case Proposing MMRC)</p> <p>19-24 (2019 IOUs' Revised Model NEM Tariff)</p>	<p>Near-retail rate monthly crediting retained for residential customers. A reduced credit rate applies to certain other categories of customers.</p> <p>IOU proposals to implement a demand-charge or fixed-charge based MMRC have been denied by regulators or overruled through subsequent legislative changes. (2016 legislation allowed utilities to propose an MMRC, and 2018 legislation amended those provisions.)</p>
New Hampshire	<p>Value of Distributed Energy Resources Study (Anticipated Q1 2022)¹⁴</p>	<p>DE 16-576 (2016 Investigation on Alternative NEM Tariff Development)</p> <p>DE 16-873, DE 16-864 (2016 Liberty Utilities Large NEM Methodology)</p> <p>DE 18-029 (2018 Until Alternative NEM Tariff)</p> <p>DRM 19-158 (2019 NEM Rulemaking)</p> <p>DE 20-136 (2020 Eversource NEM Cost Recovery)</p>	<p>Monthly netting retained for customers <100 kW, with reduction to the credit rate for monthly excess distributed generation. Non-bypassable charges assessed on gross grid consumption during a month and excluded from the monthly credit.</p> <p>Value of DER Study is ongoing and will provide detailed information regarding costs avoided by NEM under general conditions, as well as at specific times and at particular locations.</p>

¹² <https://acadiacenter.org/resource/value-of-solar-massachusetts/>

¹³ <https://www.mass.gov/doc/final-net-metering-and-solar-task-force-report/download>

¹⁴ See New Hampshire Public Utilities Commission, Docket No. DE 16-576.

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
New York	An Analysis of the Benefits and Costs of Increasing Generation From Photovoltaic Devices in New York (2012) ¹⁵	<p>14-M-0101 (2014 Reforming the Energy Vision)</p> <p>15-E-0703 (2015 NEM Cost-Benefit Study)</p> <p>15-E-0751 (2015 NEM Successor and Value of DER Phase I)</p> <p>15-E-0751 (2017 NEM Successor and Value of DER Phase II)</p> <p>17-01276 (2017 VDER Phase 2 Value Stack Working Group)</p> <p>17-01277 (2017 VDER Phase 2 Rate Design Working Group)</p>	<p>Monthly netting retained for residential, small commercial, and behind-the-meter systems. In 2022, a \$0.69/kW to \$1.09/kW customer benefit contribution charge will apply as a means of ensuring funding for public benefit programs, but monthly netting will continue.</p> <p>Value of DER (VDER) implemented for other customers. Gross exports accrue as a monetary credit at a utility-specific VDER rates composed of energy, generation capacity, distribution capacity (including possible local adder) and environmental value. System distribution capacity locked in for 3 years, local distribution capacity for 10 years, and environmental value for 25 years.</p>

¹⁵

<https://www.nyserda.ny.gov/About/Publications/Solar-Study>

State (Utility)	NEM Studies	Recent NEM Dockets	NEM Outcome(s)
Utah	Value of Solar in Utah (2014) ¹⁶	<p>14-035-114 (2014 RMP Net Metering Cost-Benefit Investigation)</p> <p>16-035-T14 (2016 RMP Temporary NEM Tariff)</p> <p>17-035-61 (2017 Credit Rate for DG Customer Energy Exports)</p>	<p>In 2015, the Utah Public Service Commission rejected Rocky Mountain Power’s (RMP) proposal that net metering customers be converted into a separate customer class but directed RMP to file a cost-of-service study on net metering customers in its next rate case.</p> <p>In September 2017, the PSC adopted a NEM “Transition Program” as a result of a settlement agreement. DG customers were compensated at fixed rates, which varied by rate schedule, and were equal to 90% of the average energy rate for residential customers and 92.5% for other customers, for any net kWh exports at the end of 15-minute increments, capped at 170 MW for residential customers and 70 MW for other customers.</p> <p>In October 2020, the PSC approved RMP’s request to lower the export credit rate.</p>

¹⁶

<https://pscdocs.utah.gov/electric/13docs/13035184/255147ExAWrightTest5-22-2014.pdf>

ATTACHMENT BDI-10

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
DATA REQUEST SET NO. 1
IURC CAUSE NO. 44506

DATA REQUEST NO. DG 1-03

REQUEST

Please state which of the netting methodologies I&M is proposing in this EDG case.

RESPONSE

I&M objects to this Request to the extent it seeks documents or information which are not relevant to the subject matter of this proceeding and which are not reasonably calculated to lead to the discovery of admissible evidence. Without waiving this objection, I&M states it is not proposing any netting in this EDG case. As stated on I&M proposed EDG tariff Original Sheet No. 50.2 under Monthly Charges, Credits and Billing:

“Energy charges under the customer’s standard tariff shall be applied to the total amount of energy delivered from the utility to the customer’s premises through the Company metering for the billing period. The meter register will record instances when the eligible onsite generation is producing more than what is being consumed at the premises (excess distributed generation) and the customer will be credited for the total of this excess generation on the customer’s current bill for the billing period.”

INDIANA MICHIGAN POWER COMPANY
CITIZENS ACTION COALITION OF INDIANA
DATA REQUEST SET NO. 1
IURC CAUSE NO. 44506

DATA REQUEST NO. CAC 1-03

REQUEST

For each net metering customer that takes service under the Company's current Net Metering Program, please provide the following in Excel with formulae intact:

- a. Month and year of interconnection;
- b. Customer class; Rate code;
- c. Generator type (and if solar, tracking or fixed);
- d. Type of meter installed, number of phases, size and voltage;
- e. Metered production in alternating current kilowatt-hours per hour (if available), per month and year, since the time of interconnection or for the past three years, whichever is less;
- f. Alternating current capacity of the customer generating system and, if solar, its orientation (azimuth tilt and angle);
- g. Hourly inflow to, outflow from and, if available, generation by the customer during each hour of 2018, 2019, and 2020;
- h. Energy consumption data of the host customer for the past three years, if available;
- i. If applicable, monthly and annual load factors or kW of billing demand of the host customers for the past three years; and
- j. Whether the customer has on-site electrical storage, such as batteries.

RESPONSE

I&M objects to this Request on the grounds that it seeks information not relevant to the subject matter of this proceeding and which is not reasonably calculated to lead to the discovery of admissible evidence. As such, this Request is unduly burdensome. I&M further objects to the extent this Request seeks confidential customer information as well as confidential, proprietary and competitively sensitive information. I&M also objects to this Request to the extent it seeks an analysis, calculation, or compilation which has not already been performed and which I&M objects to performing.

Without waiving these objections, please see "CAC 1-03 I&M Net Metering Usage Data IN 06232021.xlsx" which provides the following information:

- a. This requested information is provided.
- b. This requested information is provided.
- c. I&M does not have data on tracking/fixed differentiation for solar. The remaining requested information is provided.
- d. Requested information regarding system size and meter device code is provided. I&M does not have the remaining requested data.

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- e. True production is not available as generation metering is not required for DG interconnections. I&M has provided net outflow from the customer through the billing meter, which is production minus on-site customer consumption. The information provided is broken out into several categories to account for time of day accounts.
- f. Capacity information is provided. I&M does not have data for orientation.
- g. I&M does not have hourly data, but monthly data is provided.
- h. True production is not available as generation metering is not required for DG interconnections. The information provided only details cumulative in-flow to the customer from the utility, which represents instantaneous total consumption minus generation
- i. This requested information is provided.
- j. This requested information is provided.

INDIANA MICHIGAN POWER COMPANY
CITIZENS ACTION COALITION OF INDIANA
DATA REQUEST SET NO. 1
IURC CAUSE NO. 44506

DATA REQUEST NO. CAC 1-04

REQUEST

Please provide the average contribution of customers with distributed generation to the Company's 4 coincident peak (CP) demand. Please provide supporting workpapers with formulas intact.

RESPONSE

I&M objects to this Request to the extent it seeks an analysis, calculation, or compilation which has not already been performed and which I&M objects to performing.

DATA REQUEST NO. DG 1-09

REQUEST

For calendar year 2020 what was the gross kWh amount of net metering customers' monthly excess energy carry over into the next subsequent months, i.e. the earned EDG credit carried ahead for each of the 12 months and totaled?

RESPONSE

Please see I&M's response to DG 1-08.

SUPPLEMENTAL RESPONSE

Without waiving these objections, I&M provides the following estimate in response to this request.

- The total amount sent back to the utility during 2020 is:

- Residential: 3,152,009 kWh
- Commercial: 5,381,620 kWh
- Industrial: 1,242,616 kWh

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
DATA REQUEST SET NO. 2
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DATA REQUEST NO. DG 2-01

REQUEST

For each I&M customer class, as applicable, identify the cost to serve a distributed generation customer in I&M's Indiana service territory and provide executable versions of associated workpapers demonstrating how this was calculated.

RESPONSE

I&M objects to this Request on the grounds that it seeks documents and information that are not relevant to the subject matter of this proceeding and which are not reasonably calculated to lead to the discovery of admissible evidence. As such, this Request is unduly burdensome. I&M further objects to this Request to the extent that it seeks confidential, proprietary and competitively sensitive information. In addition, I&M objects to this Request to the extent it seeks an analysis, calculation, or compilation which has not already been performed and which I&M objects to performing. Without waiving these objections, I&M states that it does not perform a cost of service for distributed generation customers.

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
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DATA REQUEST NO. DG 2-02

REQUEST

Has I&M estimated or calculated the financial impact of net metering service on its non-net metered customers, or estimated or calculated potential cross-subsidies in existing rates between net metering customers and non-net metering customers? If yes, identify the cost and/or cross-subsidy, describe how the estimate(s) was developed, and identify all data sources used in developing the estimate.

RESPONSE

No.

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
DATA REQUEST SET NO. 2
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DATA REQUEST NO. DG 2-03

REQUEST

Does I&M have an 8760-hour load profile representative of one or more classes (e.g., Residential) of net metering customers? If yes, provide an executable version of all of the load profiles. If no, explain why not.

RESPONSE

I&M does not have net metering specific load profiles.

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
DATA REQUEST SET NO. 2
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DATA REQUEST NO. DG 2-06

REQUEST

Provide the number of customers by customer class I&M had in Indiana as of December 31, 2020. For each customer class, identify the annual kWh sales and the annual peak demand (MW).

RESPONSE

I&M objects to this Request on the grounds that it seeks information that is not relevant to the subject matter of this proceeding and which is not reasonably calculated to lead to the discovery of admissible evidence. As such, this Request is unduly burdensome. I&M further objects to this Request to the extent it seeks confidential, proprietary and competitively sensitive information.

Without waiving these objections, I&M states the annual peak by customer class is not available. In addition, please see "DG 2-06 2020 Indiana Customers and Sales.xlsx."

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
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DATA REQUEST NO. DG 2-07

REQUEST

Reference I&M's Tariff COGEN/SPP.

- a. Confirm or refute that residential customers installing a distributed generation facility sized to meet their annual energy consumption will be eligible to take service under I&M's Tariff COGEN/SPP Option 2, provided their distributed generation system would otherwise meet all requirements for participation under the EDG tariff.
- b. Reference Option 2, stating "The customer sells to the Company the energy and average on-peak capacity produced by the customer's qualifying COGEN/SPP facilities in excess of the customer's total load and purchases from the Company its net load requirements, as determined by appropriate meters located at one delivery point." Explain how the "energy and average on-peak capacity produced by the customer's qualifying COGEN/SPP facilities in excess of the customer's total load" will be calculated for a residential customer that installs a rooftop solar facility that elects service under Tariff COGEN/SPP, Option 2. Confirm such a customer would be eligible to receive the specified Capacity Credit, and identify how the monthly on-peak contract capacity would be determined for such a customer.
- c. Explain the basis for the Maintenance Service term that "Option 1 and Option 2 customers with COGEN/SPP facilities having a total design capacity of more than 10 kW shall be required to purchase backup service to replace energy from COGEN/SPP facilities during maintenance and unscheduled outages of its COGEN/SPP facilities. Contracts for such service shall be executed on a special contract form for a minimum term of one year."
- d. Explain the basis for the Supplemental Service term that "Option 1 and Option 2 customers with COGEN/SPP facilities having a total design capacity of more than 10 kW shall be served under demand-metered rate schedules."
- e. With respect to Metering Charges, reference the term stating "Where energy meters are required to measure the excess energy and average on-peak capacity purchased by the Company or the total energy and average on-peak capacity produced by the customer's COGEN/SPP facilities, the cost of the additional metering facilities shall be paid by the customer as part of the Local Facilities Charge." Explain whether this term would require a typical I&M Indiana residential customer to be provided with new or additional metering equipment beyond what a typical customer would have and identify the average and range of the cost of the additional metering facilities that such a customer could pay.
- f. With respect to the Local Facilities Charge, identify the average and the range of such charges that a typical residential customer of I&M would pay if they elect service under this tariff.
- g. Explain why the Company believes that distributed generation customers would be more likely to take service under I&M's proposed EDG rate than under the Company's Tariff COGEN/SPP beginning July 1, 2022, and provide all analysis the Company has

INDIANA MICHIGAN POWER COMPANY
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done in support of its position.

RESPONSE

I&M objects to this Request on the grounds that it seeks information that is not relevant to the subject matter of this proceeding and which is not reasonably calculated to lead to the discovery of admissible evidence. As such, this Request is unduly burdensome. I&M also objects on the ground that this Request is overly broad, vague, ambiguous and simply difficult to understand. Furthermore, I&M objects to this Request to the extent it seeks confidential, proprietary and competitively sensitive information.

a. Confirmed, see I&M Tariff Original Sheet 31.

b. Outflow energy would be metered and credited at the rate provided for in the CoGen Tariff. The capacity credit is billed at the lower of contracted capacity, metered on-peak kWh and dividing by 305, or the lowest on-peak average capacity metered during the previous two months to get to the kW value. The customer would be credited the rate provided for in the CoGen Tariff. It should also be noted that In the event the contract is terminated or the contract capacity is reduced prior to the end of the contract term, the qualifying COGEN/SPP facility shall refund to the Company the capacity payments in excess of those capacity payments which would have been made had all or the reduced capacity been subject to a capacity rate based on the actual term of delivery to the Company.

Except in the event of force majeure as defined in the contract, if within any 12-month period during the term of the contract ending on the anniversary date of the date of the qualifying COGEN/SPP facility first provided capacity to the Company under the contract the qualifying COGEN/SPP facility fails to provide the Company with the capacity specified in the contract, the capacity for which the qualifying COGEN/SPP facility shall be entitled to capacity payments during the subsequent 12-month period ("the probationary period") shall be reduced to the capacity provided during the prior 12-month period. If during the probationary period the qualifying COGEN/SPP facility provides the capacity specified in the contract, the Company, within 30 days following the end of the probationary period, shall reinstate the full capacity amount originally specified in the contract. If during the probationary period the qualifying COGEN/SPP facility again fails to provide the capacity specified in the contract, the Company may permanently reduce the capacity purchased from the qualifying COGEN/SPP facility for the remainder of the term of the contract. The Company may also require that the reduction in the capacity be subject to the refund provisions of the above paragraph.

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c. The Commission approved tariff speaks for itself and is explained in the Back-up and Maintenance Service section with the following statement:

Customers having cogeneration and/or small power production facilities that operate intermittently during all months (i.e. wind or solar) such that the customer's monthly billing demands under the demand-metered rate schedule will be based upon the customer's maximum monthly demand which will occur at a time when the cogeneration and/or small power production facility is not in operation will also not be considered as taking backup service.

d. The Company's rate schedules begin application of demand charges starting at demands above 10kW. When the DG facility is sized at more than 10kW, it follows that the rate schedule the customer must take service under is a demand metered rate schedule.

e. Yes, residential Cogen SPP customers will require additional metering to facilitate tariff administration and billing. The additional costs will be recovered from participating customers as determined by the Cogen SPP tariff.

f. This may differ by unique customer installation and as such the Company cannot provide an estimate.

g. I&M objects to this request to the extent it mischaracterizes I&M's testimony. The Company makes no such claim.

INDIANA MICHIGAN POWER COMPANY
INDIANA DISTRIBUTED ENERGY ALLIANCE
DATA REQUEST SET NO. 3
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DATA REQUEST NO. DG 3-03

REQUEST

Provide I&M's 8760-hour representative load profile for its Indiana Residential customers, General Service secondary customers, and for each additional customer class for which I&M currently has one or more net metering customer taking service.

RESPONSE

I&M objects to this Request on the grounds that it seeks information that is not relevant to the subject matter of this proceeding and is not reasonably calculated to lead to the discovery of admissible evidence. As such, this Request is unduly burdensome.

Without waiving these objections, I&M states, please see "DG 3-03 IN_profiles_classes_w_Netmtrs_2020.xlsx" for I&M's 8784-hour load profiles for Indiana customer classes with at least one or more net metering customers.