

FILED
July 28, 2021
**INDIANA UTILITY
REGULATORY COMMISSION**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF NORTHERN
INDIANA PUBLIC SERVICE COMPANY
LLC FOR APPROVAL OF RIDER 889 –
EXCESS DISTRIBUTED GENERATION
RIDER FOR THE PROCUREMENT OF
EXCESS DISTRIBUTED GENERATION
PURSUANT TO IND. CODE CH. 8-1-40**

CAUSE NO. 45505

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

**ON BEHALF OF
INDIANA DISTRIBUTED ENERGY ALLIANCE**

JULY 27, 2021

ATTACHMENT BDI-1

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

Benjamin D. Inskeep

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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. Inskeep. **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. Inskeep. **Comparing Utility Interconnection Timelines for Small-Scale Solar PV, 2nd Edition**. October 2016. Published by EQ Research.
- Barnes, J., B. Inskeep, and C. Barnes [with Synapse Energy Economics]. **Envisioning Pennsylvania's Energy Future**. October 2016. Published by the Delaware Riverkeeper Network.
- Inskeep, 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.
- Inskeep, B., et al. **Utility Ownership of Rooftop Solar PV**. November 2015. Published by U.S. DOE SunShot Solar Outreach Partnership.
- Inskeep, B., and A. Proudlove. **Renewable Cities: Case Studies**. Published by U.S. DOE SunShot Solar Outreach Partnership, October 2015.
- Inskeep, 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.
- Inskeep, 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.
- Inskeep, 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. Inskeep, and A. Proudlove. **Understanding Sales Tax Incentives for Solar Energy Systems**. Published by U.S. DOE SunShot Solar Outreach Partnership, March 2015.
- Inskeep, B. and A. Shrestha. **Comparing Subsidies for Conventional and Renewable Energy**. Published by NC Clean Energy Technology Center, March 2015.
- Inskeep, 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. Inskeep, et al. **In-State RPS Requirements**. Published by NC Clean Energy Technology Center, November 2014.
- Inskeep, 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.



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**



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 unenforceable.

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.



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



25

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.

SB 309—LS 7072/DI 101



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.

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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.

SB 309—LS 7072/DI 101



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**

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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 **(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

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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."



25

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

SB 309—LS 7072/DI 101



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)



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.



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.**



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



25

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

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

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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

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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

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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"

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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:

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- (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

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

Published 4:50 p.m. ET Feb. 23, 2017 | Updated 12:22 p.m. ET Mar. 7, 2017

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

Exhibit 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

Exhibit 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>

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

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Citizens Action Coalition of Indiana, Inc. Data Request Set No. 1

CAC Request 1-003:

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.

Customer identification is not requested and may be redacted if necessary.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request seeks documents or information that are beyond the scope of this proceeding and are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing. NIPSCO notes that this Request seeks some information that NIPSCO has in its possession, but it seeks other information that NIPSCO does not possess.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Citizens Action Coalition of Indiana, Inc. Data Request Set No. 1

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request is unduly burdensome and calls for the compilation and production of voluminous materials.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO does not have in its possession and does not track information responsive to the following sub-parts:

- 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;
- 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.

NIPSCO does have in its possession information responsive to the following sub-parts, which is attached hereto as CAC Request 1-003 Confidential Attachment A:

- a. Month and year of interconnection;
- b. Customer class, Rate code;
- c. Generator type (without delineation of tracking or fixed);
- f. Alternating current capacity of the customer generating system only.

See CAC Request 1-003 Confidential Attachment B for the 8760 hours of load data for 12 Net Metering customers (all commercial) that it has available.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Citizens Action Coalition of Indiana, Inc. Data Request Set No. 1

CAC Request 1-004:

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

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent this Request solicits information not in NIPSCO's possession.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO does not have this information in its possession, as NIPSCO's metering technology does not capture hourly data, and NIPSCO would therefore not be able to match hourly data with company coincident peak demand.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 2

Indiana DG Request 2-008:

For calendar year 2020: a) what was the total monthly kWh amount of net metering customers' by class excess energy credit carry over into the next subsequent months, i.e. the earned EDG credit carried ahead for each of the individual 12 months and then totaled? b) Also what would be the monthly dollar value of each customer classes EDG credit based on the rate and all riders in effect for each of the 12 months?

Objections:

NIPSCO objects to sub-part b) of this Request on the grounds and to the extent that it solicits an analysis, calculation, or compilation which has not already been performed and NIPSCO objects to performing.

Response:

Please see Indiana DG Request 2-008 Attachment A.

- a) For 2020 the total monthly kWh excess energy credit carry over into the subsequent month was 5,468,498 kWh as shown in the table below.

	Rate 811	Rate 821	Rate 823	Rate 824	Total
Row Labels	Sum of BANKED KWH	Sum of BANKED KWH	Sum of BANKED KWH	Sum of BANKED KWH	Sum of Banked KWH
2020-01	2568	76666	0	0	79,234
2020-02	1015	150803	0	0	151,818
2020-03	17778	164802	12720	0	195,300
2020-04	35330	379540	26625	0	441,495
2020-05	97486	597114	167887	0	862,487
2020-06	110623	798409	176719	0	1,085,751
2020-07	92730	794999	79719	0	967,448
2020-08	70726	448727	88034	38400	645,887
2020-09	76083	301670	24429	31200	433,382
2020-10	62024	149283	30238	0	241,545
2020-11	20002	137824	8720	0	166,546
2020-12	31631	157254	8720	0	197,605
Grand Total	617996	4157091	623811	69600	5,468,498

- b) NIPSCO has not calculated the rate and all riders that would be in effect for each month of 2020, and NIPSCO objects to doing so. The EDG credit for 2020 using the KWh from the outbound channel from the meters using the proposed Marginal DG Price of \$0.026450/kwh would be \$478,050 as shows in the table below.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 2

	Rate 811	Rate 821	Rate 823	Rate 824	
Row Labels	EDGKwh	EDGKwh	EDGKwh	EDGKwh	Total kwh
2020-01	\$ 2,183.35	\$ 15,125.03	\$ 107.15	\$ 698.29	\$ 18,113.82
2020-02	\$ 2,025.17	\$ 12,810.73	\$ 572.36	\$ 190.44	\$ 15,598.71
2020-03	\$ 4,474.53	\$ 27,383.32	\$ 3,806.74	\$ 444.37	\$ 36,108.96
2020-04	\$ 5,654.74	\$ 31,435.26	\$ 3,159.92	\$ 782.08	\$ 41,032.00
2020-05	\$ 7,578.59	\$ 35,145.90	\$ 6,590.32	\$ 586.56	\$ 49,901.37
2020-06	\$ 8,610.04	\$ 39,479.69	\$ 6,873.66	\$ 2,242.14	\$ 57,205.53
2020-07	\$ 8,907.16	\$ 42,637.25	\$ 4,217.01	\$ 2,798.24	\$ 58,559.66
2020-08	\$ 7,738.00	\$ 36,923.28	\$ 4,272.10	\$ 3,184.20	\$ 52,117.59
2020-09	\$ 8,072.73	\$ 35,802.71	\$ 2,460.23	\$ 3,115.64	\$ 49,451.32
2020-10	\$ 7,158.45	\$ 26,879.23	\$ 2,747.66	\$ 1,211.22	\$ 37,996.56
2020-11	\$ 5,005.63	\$ 22,769.45	\$ 2,187.79	\$ 571.33	\$ 30,534.20
2020-12	\$ 5,326.97	\$ 23,344.67	\$ 2,187.79	\$ 571.33	\$ 31,430.76
Grand Total	\$ 72,735.36	\$ 349,736.54	\$ 39,182.73	\$ 16,395.84	\$ 478,050.47

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 2

Indiana DG Request 2-010:

Has NIPSCO performed an estimate of the financial impact that customer owned solar will have on I&M revenues in any future years? Please provide all of NIPSCO's analysis of the financial impact customer owned solar is estimated to have in future years.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information related to a different utility. For purposes of this response, NIPSCO assumes the Request was intended to refer to NIPSCO, not I&M.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request seeks documents or information that are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence. The impact on NIPSCO's future revenues is not relevant to the reasonableness of NIPSCO's proposed EDG Tariff filed in compliance with the EDG Statute and the Indiana Utility Regulatory Commission's interpretation of the EDG Statute in Cause No. 45378 ("EDG Order") which is the subject matter of this proceeding.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

Please see Indiana DG Request 2-010 Confidential Attachment A for an analysis of various solar customer adoption rates and the resulting projected margin shortfall difference between monthly netting and instantaneous netting each year from 2022 through 2026. Please note, this analysis does not consider the total margin loss from solar adoption, but is the difference between instantaneous and monthly netting options. In addition, the results would only be valid until NIPSCO's next base rate case. A summary of the output is shown in the table below.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 3

Indiana DG Request 3-001:

For each NIPSCO customer class, as applicable, identify the cost to serve a distributed generation customer in NIPSCO's service territory and provide executable versions of associated workpapers demonstrating how this was calculated.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO has not calculated a cost to serve distributed generation customers, either generally or by customer class.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 3

Indiana DG Request 3-002:

Has NIPSCO 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.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO has not specifically performed such analysis, but see NIPSCO's Response to Indiana DG Request 2-010, including Confidential Attachment A.

Cause No. 45505
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Distributed Energy Alliance's Data Request Set No. 3

Indiana DG Request 3-003:

Has NIPSCO estimated or calculated the financial impact of EDG rate service on its non-EDG customers, or estimated or calculated potential cross-subsidies in existing rates between EDG metering customers and non-EDG 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.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO has not specifically performed such analysis, but see NIPSCO's Response to Indiana DG Request 2-010, including Confidential Attachment A.

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Indiana DG Request 3-004:

Does NIPSCO have an 8760-hour load profile representative of one or more customer 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.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

No. NIPSCO does not have load profile information for any customer class. The meter information used for Net Metering customers utilizes a dual channel meter that records activity of the net of generation and consumption by the customer. As an example, if the customer had internal consumption of 1 kw at an instant in time and at the same moment the customer generation solar array produced exactly 1 kw at the same moment, then the meter information NIPSCO would record is 0 kw on each channel. The meter information is only collected monthly and, therefore, NIPSCO does not have an 8760-hour load profile that would be representative for any customer classes.

However, please see NIPSCO's Response to CAC Request 1-002, including Confidential Attachments A, B, and C where NIPSCO provides the 8760-hour load profile information that it has in its possession for residential customers and CAC Request 1-003, Confidential Attachment B which includes 12 Net Metering customers (all commercial customers). These are customers where a special meter has been installed for load research purposes.

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<u>Indiana DG Request 3-005:</u>
Explain how the output from customer-sited DG would affect the allocators used in the Company's cost of service studies.
<u>Objections:</u>
<p>NIPSCO objects to this Request on the grounds and to the extent the Request calls for speculation.</p> <p>NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request seeks documents or information that are beyond the scope of this proceeding and are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence.</p>
<u>Response:</u>
Please see NIPSCO's objections.

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Indiana DG Request 3-006:

[a] Identify NIPSCO's Indiana annual peak load for the past 5 years (2016-2020) and the hour and date on which it occurred. (b) Provide NIPSCO's forecasted peak load for the next 10 years (2021-2030) and identify for each when during the year (e.g., date and time) NIPSCO is forecasting that the peak will occur.

Objections:

NIPSCO objects to this Request on the grounds and to the extent the Request calls for speculation.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO notes that Rate 831 became effective on January 1, 2020, which reduced the firm load NIPSCO was responsible to serve. Indiana DG Request 3-006 Confidential Attachment A provides the historical and forecasted peak load for NIPSCO's internal load (exclusive of the load of IMPA and WVPA).

- a) See Indiana DG Request 3-006 Confidential Attachment A.
- b) NIPSCO's forecast of peak load only identifies the month in which its peak is expected to occur. See Indiana DG Request 3-006 Confidential Attachment A, which identifies the month and expected MWh of peak load for 2021-2030.

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Indiana DG Request 3-007:

Provide the number of customers by customer class NIPSCO had in Indiana as of December 31, 2020. For each customer class, identify the annual kWh sales and the annual peak demand (MW) and day of peak demand.

Objections:

Response:

Attached is Indiana DG Request 3-007 Attachment A which is FERC Form 1 information that shows the 2020 annual kWh sales by customer class. NIPSCO does not have 2020 information for annual peak demand (MW) by day of peak demand by customer class.

Line No.	Number and Title of Rate schedule (a)	MWh Sold (b)	Average Number of Customers (d)	KWh of Sales Per Customer
1	RESIDENTIAL SALES			
2	811 Residential	3,475,876	417,327	8,329
3	850 Street Lighting	47	14	3,357
4	855 Traffic & Directive Lighting	4	2	2,000
5	860 Dusk to Dawn Area Lighting	8,036		
6	Total	3,483,963	417,343	8,348
7	COMMERCIAL SALES			
8	820 Commercial & General Service	8,653	180	48,072
9	821 General Service Small	1,352,885	52,429	25,804
10	822 Commercial Spaceheating	7,459	199	37,482
11	823 General Service Medium	818,989	2,961	276,592
12	824 General Service Large	657,745	285	2,307,877
13	826 Off-Peak Service	681,214	171	3,983,708
14	841 Municipal Power	14,104	299	47,171
15	842 Intermittent Wastewater Pumpi	342		
16	850 Street Lighting	2,253	688	3,275
17	855 Traffic & Directive Lighting	316	25	12,640
18	1750 Electric Guranteed Minimum			
19	860 Dusk to Dawn Area Lighting	6,065		
20	878 Purchaces from Cogen Facility			
21	Total	3,550,025	57,237	62,023
22	INDUSTRIAL SALES			
23	821 General Service Small	149,118	1,502	99,280
24	823 General Service Medium	175,180	335	522,925
25	824 General Service Large	779,785	210	3,713,262
26	825 Metal Melting Service	81,781	6	13,630,167
27	826 Off-Peak Service	778,618	70	11,123,114
28	831 Industrial Power Service Larg	4,968,009	6	828,001,500
29	832 Industrial Power Service Smal	158,187	5	31,637,400
30	833 Industrial Power Service Smal	389,104	4	97,276,000
31	734 Industrial Power Service			
32	841 Municipal Power	290	5	58,000
33	842 Intermittent Wastewater Pumpi	5		
34	850 Street Lighting	27	19	1,421
35	1750 Electric Guaranteed Minimum			
36	860 Dusk to Dawn Area Lighting	216		
37	876 Back-up & Maint Industrial Se			
38	865 Renewable Feed-in Tariff			
39	877 Economic Development Rider		4	
40	Total	7,480,320	2,166	3,453,518
41	TOTAL Billed	14,608,968	478,601	30,524
42	Total Unbilled Rev.(See Instr. 6)	11,337	0	0
43	TOTAL	14,620,305	478,601	30,548
1	PUBLIC STREET & HIGHWAY			
2	850 Street lighting	37,771	165	228,915
3	855 Traffic & Directive Lighting	6,520	115	56,696
4	860 Dusk to Dawn	208		
5	Total	44,499	280	158,925
6	OTHER SALES TO PUBLIC			
7	823 General Service Medium	802	2	401,000
8	841 Municipal Power	18,742	440	42,595
9	850 Street Lighting	9	1	9,000

10	860 Dusk to Dawn Area Lighting	18		
11	Total	19,571	443	44,178
12	844 Railroad Power Service	18,001	1	18,001,000
13	Total	18,001	1	18,001,000
14	Interdepartmental Sales	23,928		
15	Total	23,928		
16				
17				
18				
19				
20				
21				
22				
23				
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36				
37				
38				
39				
40				
41	TOTAL Billed	14,608,968	478,601	30,524
42	Total Unbilled Rev.(See Instr. 6)	11,337	0	0
43	TOTAL	14,620,305	478,601	30,548

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Indiana DG Request 3-010:

Reference NIPSCO response to Indiana DG Request 2-033, stating in pertinent part, "NIPSCO's position is that if a netting approach other than instantaneous netting is used to determine EDG, then the EDG customer is essentially allowed to store energy using NIPSCO's distribution system much like a battery, so that the customer's energy can then be used at a later time."

- a. Identify the battery energy storage systems on NIPSCO's distribution system that NIPSCO will use to store a distributed generation customer's excess generation so that the distributed generation customer's excess energy can then be used at a later time by the customer.
- b. If NIPSCO is not planning to store a distributed generation customer's excess generation, confirm or refute with full explanation that NIPSCO will sell all a distributed generation customer's instantaneous excess generation to NIPSCO's other retail customers at the time it is supplied by the distributed generation customer to NIPSCO, and that NIPSCO will charge those customers the applicable retail rate for such excess generation.

Objections:

Response:

- a. NIPSCO's Response to Indiana DG Request 2-003 does not state that EDG customers would *literally* be storing energy in a battery energy storage system. As quoted above, it stated that "the EDG customer is *essentially* allowed to store energy using NIPSCO's distribution system much *like* a battery, so that the customer's energy can then be used at a later time." (emphasis added)
- b. It is not accurate to say that "NIPSCO will sell all a distributed generation customer's instantaneous excess generation to NIPSCO's other retail customers at the time it is supplied by the distributed generation customer to NIPSCO, and that NIPSCO will charge those customers the applicable retail rate for such excess generation." NIPSCO will not buy generation from an EDG customer at one rate and then re-sell to other customers at a different rate. NIPSCO has an obligation to ensure it procures adequate capacity and energy to serve all of its customers. Generally speaking, NIPSCO offers all of its generation resources

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into the MISO market and receives compensation for its generation. NIPSCO then procures the needed energy to serve all its load through the day-ahead and real-time markets. The market is "settled" each day, accounting for both generation and load. Resources such as Net Metering or Excess Distributed Generation may reduce the expected load NIPSCO needs to procure in the market to serve all customers, but NIPSCO does not currently take that into account when forecasting.

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Indiana DG Request 3-011:

Confirm or refute with explanation that all NIPSCO customers are currently able to access through an online portal, or through other means provided by NIPSCO, information on what the customer's instantaneous electricity usage, including what the customer's instantaneous purchases are from NIPSCO. If accessing such customer data is provided at a cost or charge(s) assessed on the customer, identify the charge(s). If all NIPSCO customers do not have this capability, explain how a customer installing distributed generation would be able to maximize self-consumption to avoid purchases from NIPSCO to avoid or minimize excess generation that would be credited at a substantially lower rate than the customer's retail rate under the Company's EDG tariff proposal.

Objections:

Response:

NIPSCO's residential customers are not "currently able to access through an online portal, or through other means provided by NIPSCO, information on what the customer's instantaneous electricity usage, including what the customer's instantaneous purchases are from NIPSCO." Some larger commercial and industrial customers may have such access, but it is uncommon because NIPSCO's automated meter reading technology is not capable of transmitting data on a real-time or near real-time basis, and therefore such data is not available for customers to access.

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Indiana DG Request 3-013:

[a] Provide the Company's forecast for distributed generation adoption in its Indiana service territory over the next 20 years including number of customers by class and their class DG kWh output, to the extent the Company has such a forecast for any or all of these years, in an executable format with formulae intact, and all variables clearly explained. (b) Explain how the forecast was created, the data sources used, the modeling method used, and the extent to which the Company's EDG tariff proposal is incorporated into its forecast. (c) If the Company's EDG tariff proposal has not been incorporated into its distributed generation forecast, describe how the EDG tariff would impact the Company's forecast if it were updated to include the EDG tariff.

Objections:

NIPSCO objects to this Request on the grounds and to the extent the Request calls for speculation.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request is unduly burdensome and calls for the compilation and production of voluminous materials.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

- a. See NIPSCO's Response to Indiana DG Request 2-010, including Confidential Attachment A thereto, which includes a forecast for the years 2022-2026. This is the only forecast of distributed generation adoption that NIPSCO has prepared.
- b. The forecast provided in Indiana DG Request 2-010 Attachment A was prepared as a scenario analysis to provide a high level impact for various levels of continued customer adoption between instantaneous netting and monthly netting calculations. The growth rates assumed for each scenario were:

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	Customer Additions per month			Cust per year
	Rate 811	Rate 821	Rate 823	Rate 824
Low	12	5	1	1
Medium	30	8	1	1
High	50	15	1	1

- c. NIPSCO created a High, Medium, and Low scenario which contemplates differing adoption rates for customer-owned generation; however, NIPSCO did not specifically account for "the Company's EDG tariff proposal" when performing the forecast estimates.

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Indiana DG Request 4-001:

Please provide an executable version (i.e., Excel format) of NIPSCO's 8760-hour representative load profile for its Residential customer class and for each additional customer class for which NIPSCO currently has one or more net metering customers taking service.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO only has granular 8760-hour data available for 125 residential and 12 commercial customers. The residential data has already been provided in CAC Request 1-002 Confidential Attachments A, B, and C, and the commercial data has already been provided in NIPSCO's response to CAC Request 1-003 Confidential Attachment B.

NIPSCO is also providing actual residential and commercial load for 2020 on a monthly basis, which is the most granular version of residential or commercial load available to NIPSCO. See Industrials Request 4-001 Confidential Attachment A. Additionally, NIPSCO is providing actual 8760-hour data for its FAC jurisdictional load. See Industrials Request 4-001 Confidential Attachment B. NIPSCO notes that this data does include Industrial firm load (at the actual level) and that it excludes load associated with serving IMPA and WVPA.

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Indiana DG Request 4-001:

Please provide an executable version (i.e., Excel format) of NIPSCO's 8760-hour representative load profile for its Residential customer class and for each additional customer class for which NIPSCO currently has one or more net metering customers taking service.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request solicits an analysis, calculation, or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO only has granular 8760-hour data available for 125 residential and 12 commercial customers. The residential data has already been provided in CAC Request 1-002 Confidential Attachments A, B, and C, and the commercial data has already been provided in NIPSCO's response to CAC Request 1-003 Confidential Attachment B.

NIPSCO is also providing actual residential and commercial load for 2020 on a monthly basis, which is the most granular version of residential or commercial load available to NIPSCO. See Industrials Request 4-001 Confidential Attachment A. Additionally, NIPSCO is providing actual 8760-hour data for its FAC jurisdictional load. See Industrials Request 4-001 Confidential Attachment B. NIPSCO notes that this data does include Industrial firm load (at the actual level) and that it excludes load associated with serving IMPA and WVPA.

Supplemental Response:

Please see Indiana DG Request 1-004 Supplemental Response Attachment A.