



February 1, 2019

HOUSE BILL No. 1470

DIGEST OF HB 1470 (Updated January 30, 2019 4:16 pm - DI 101)

Citations Affected: IC 8-1.

Synopsis: Utility transmission improvements and costs. Amends the statute concerning transmission, distribution, and storage system improvements charges (TDSIC) for electric and gas utilities to provide that for purposes of the statute, "eligible transmission, distribution, and storage system improvements" include: (1) projects that do not include specific locations or exact numbers; and (2) advanced technology investments. Provides that a public utility's required plan under the statute (defined under the new provisions as a "TDSIC plan") must cover a period of: (1) at least five years; and (2) not more than seven years. Requires a utility to update its TDSIC plan at least annually. Provides that an update to a TDSIC plan may include new projects or improvements. Specifies that a targeted economic development project may include a project related to the provision of electric service. Provides that a utility may: (1) terminate a TDSIC plan upon 60 days notice to the utility regulatory commission (IURC); and (2) petition the IURC for approval of a new TDSIC plan. Provides that a utility that terminates a TDSIC plan must petition the IURC for review and approval of the public utility's basic rates and charges with respect to the same type of utility service before the original expiration date of the terminated plan. Provides that eligible transmission, distribution, and storage improvements receiving TDSIC treatment before termination of the plan shall continue to receive TDSIC treatment after termination of the plan until a final order in the public utility's next general rate (Continued next page)

Effective: Upon passage.

Soliday

January 15, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.
 January 31, 2019, amended, reported — Do Pass.

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Digest Continued

case is issued. Provides that for purposes of the provision prohibiting the IURC from approving a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than 2% in a 12 month period, the IURC shall consider the combined 12 month revenue impact of the TDSIC approved under the terminated plan and the TDSIC approved under any new TDSIC plan. Changes the amount of time in which the IURC must hold a hearing and issue an order on a public utility's petition for a TDSIC from 90 days to 120 days. Sets forth required findings of the IURC in an order concerning new: (1) projects or improvements; or (2) targeted economic development projects; included in a utility's updated TDSIC plan.

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February 1, 2019

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

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1470

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 8-1-39-2, AS ADDED BY P.L.133-2013,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 2. **(a)** As used in this chapter, "eligible
4 transmission, distribution, and storage system improvements" means
5 new or replacement electric or gas transmission, distribution, or storage
6 utility projects that:
7 (1) a public utility undertakes for purposes of safety, reliability,
8 system modernization, or economic development, including the
9 extension of gas service to rural areas;
10 (2) were not included in the public utility's rate base in its most
11 recent general rate case; and
12 (3) either were:
13 (A) ~~designated described~~ in the public utility's ~~seven (7) year~~
14 **TDSIC** plan and approved by the commission under section
15 10 of this chapter as **eligible and authorized** for TDSIC
16 treatment; ~~or~~
17 **(B) described in the public utility's update to the public**

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1 utility's TDSIC plan under section 9 of this chapter and
 2 authorized for TDSIC treatment by the commission; or
 3 ~~(B)~~ (C) approved as a targeted economic development project
 4 under section 11 of this chapter.

5 **(b) The term includes:**

- 6 **(1) projects that do not include specific locations or an exact**
 7 **number of inspections, repairs, or replacements, including**
 8 **inspection based projects such as pole or pipe inspection**
 9 **projects, and pole or pipe replacement projects; and**
 10 **(2) projects involving advanced technology investments to**
 11 **support the modernization of a transmission, distribution, or**
 12 **storage system, such as advanced metering infrastructure,**
 13 **information technology systems, or distributed energy**
 14 **resource management systems.**

15 SECTION 2. IC 8-1-39-7.8 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 17 UPON PASSAGE]: Sec. 7.8. As used in this chapter, "TDSIC plan",
 18 or plan, means a public utility's plan for eligible transmission,
 19 distribution, and storage system improvements over the course of
 20 a period of:

- 21 **(1) at least five (5) years; and**
 22 **(2) not more than seven (7) years.**

23 SECTION 3. IC 8-1-39-9, AS ADDED BY P.L.133-2013,
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 9. (a) Subject to subsection ~~(c)~~; **(d)**, a public
 26 utility that provides electric or gas utility service may file with the
 27 commission rate schedules establishing a TDSIC that will allow the
 28 periodic automatic adjustment of the public utility's basic rates and
 29 charges to provide for timely recovery of eighty percent (80%) of
 30 approved capital expenditures and TDSIC costs. The petition must:

- 31 **(1) use the customer class revenue allocation factor based on firm**
 32 **load approved in the public utility's most recent retail base rate**
 33 **case order;**
 34 **(2) include the public utility's seven (7) year TDSIC plan for**
 35 **eligible transmission, distribution, and storage system**
 36 **improvements; and**
 37 **(3) identify projected effects of the plan described in subdivision**
 38 **(2) on retail rates and charges.**

39 The public utility shall provide a copy of the petition to the office of the
 40 utility consumer counselor when the petition is filed with the
 41 commission.

- 42 **(b) The public utility shall update the public utility's seven (7) year**



1 **TDSIC plan under subdivision (2) with each petition the public utility**
 2 **files under this section: subsection (a)(2) at least annually.** An update
 3 may include a petition for approval of:

4 **(1) a targeted economic development project under section 11 of**
 5 **this chapter; or**

6 **(2) transmission, distribution, and storage system**
 7 **improvements not described in the public utility's TDSIC plan**
 8 **most recently approved by the commission under section 10**
 9 **of this chapter.**

10 ~~(b)~~ **(c)** A public utility that recovers capital expenditures and TDSIC
 11 costs under subsection (a) shall defer the remaining twenty percent
 12 (20%) of approved capital expenditures and TDSIC costs, including
 13 depreciation, allowance for funds used during construction, and post in
 14 service carrying costs, and shall recover those capital expenditures and
 15 TDSIC costs as part of the next general rate case that the public utility
 16 files with the commission.

17 ~~(c)~~ **(d)** Except as provided in section 15 of this chapter, a public
 18 utility may not file a petition under subsection (a) within nine (9)
 19 months after the date on which the commission issues an order
 20 changing the public utility's basic rates and charges with respect to the
 21 same type of utility service.

22 ~~(d)~~ **(e)** A public utility that implements a TDSIC under this chapter
 23 shall, before the expiration of the public utility's approved ~~seven (7)~~
 24 **year TDSIC plan**, petition the commission for review and approval of
 25 the public utility's basic rates and charges with respect to the same type
 26 of utility service.

27 ~~(e)~~ **(f)** A public utility may file a petition under this section not more
 28 than one (1) time every six (6) months.

29 ~~(f)~~ **(g)** Actual capital expenditures and TDSIC costs that exceed the
 30 approved capital expenditures and TDSIC costs require specific
 31 justification by the public utility and specific approval by the
 32 commission before being authorized for recovery in customer rates.

33 SECTION 4. IC 8-1-39-10, AS ADDED BY P.L.133-2013,
 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 10. (a) A public utility shall petition the
 36 commission for approval of the public utility's ~~seven (7) year~~ **TDSIC**
 37 **plan for eligible transmission, distribution, and storage improvements.**
 38 A plan submitted under this subsection may include for approval a
 39 targeted economic development project described in section 11 of this
 40 chapter.

41 (b) Following notice and hearing, and not more than two hundred
 42 ten (210) days after the public utility petitions the commission under



1 subsection (a), the commission shall issue an order on the petition. The
2 order must include the following:

3 (1) A finding of the best estimate of the cost of the eligible
4 improvements included in the plan.

5 (2) A determination whether public convenience and necessity
6 require or will require the eligible improvements included in the
7 plan.

8 (3) A determination whether the estimated costs of the eligible
9 improvements included in the plan are justified by incremental
10 benefits attributable to the plan.

11 If the commission determines that the public utility's ~~seven (7) year~~
12 **TDSIC** plan is reasonable, the commission shall approve the plan and
13 ~~designate~~ **authorize TDSIC treatment** for the eligible transmission,
14 distribution, and storage improvements included in the plan. ~~as eligible~~
15 ~~for TDSIC treatment.~~

16 (c) A public utility that provides gas **or electric** service may petition
17 the commission to approve a targeted economic development project
18 as part of the public utility's ~~seven (7) year~~ **TDSIC** plan under
19 subsection (a). The commission shall review within sixty (60) days the
20 part of the petition concerning the targeted economic development
21 project and approve the inclusion of the project if the commission
22 determines that the inclusion of the project is consistent with the
23 requirements of this chapter.

24 (d) **A public utility may terminate an existing TDSIC plan**
25 **before the end of the original plan period by providing the**
26 **commission a notice of termination at least sixty (60) days before**
27 **the date on which the plan will terminate. Eligible transmission,**
28 **distribution, and storage improvements receiving TDSIC**
29 **treatment under section 9 of this chapter before termination of the**
30 **plan shall continue to receive TDSIC treatment under section 9 of**
31 **this chapter after termination of the plan until a final order in the**
32 **public utility's next general rate case is issued. A public utility that**
33 **terminates a plan:**

34 (1) **may petition the commission for approval of a new TDSIC**
35 **plan under this section; and**

36 (2) **must petition the commission for review and approval of**
37 **the public utility's basic rates and charges with respect to the**
38 **same type of utility service before the original expiration date**
39 **of the terminated plan.**

40 SECTION 5. IC 8-1-39-11, AS ADDED BY P.L.133-2013,
41 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 UPON PASSAGE]: Sec. 11. (a) The extension, construction, addition,



1 or improvement of the plant and equipment of a public utility that is
 2 installed to provide gas **or electric** service to a targeted economic
 3 development project is used and useful in the public service.

4 (b) A public utility shall apply to the Indiana economic development
 5 corporation for approval to treat costs associated with a targeted
 6 economic development project as TDSIC costs. Costs approved by the
 7 Indiana economic development corporation shall be treated as TDSIC
 8 costs and may be recovered through a TDSIC under section 12 of this
 9 chapter. The TDSIC revenues associated with a targeted economic
 10 development project shall not be included in a public utility's total
 11 retail revenues for purposes of determining an aggregate increase under
 12 section 14 of this chapter.

13 (c) Notwithstanding any law or rule governing extension of service,
 14 a public utility that provides gas service may, on a nondiscriminatory
 15 basis, extend service in rural areas without a deposit or other adequate
 16 assurance of performance from the customer, to the extent that the
 17 extension of service results in a positive contribution to the utility's
 18 overall cost of service over a twenty (20) year period. However, if the
 19 public utility determines that the extension of service to a targeted
 20 economic development project will not result in a positive contribution
 21 to the utility's overall cost of service over a twenty (20) year period, the
 22 public utility may require a deposit or other adequate assurance of
 23 performance from:

24 (1) the developer of the targeted economic development project;
 25 or

26 (2) a local, regional, or state economic development organization.

27 SECTION 6. IC 8-1-39-12, AS ADDED BY P.L.133-2013,
 28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 UPON PASSAGE]: Sec. 12. (a) Not more than ~~ninety (90)~~ **one**
 30 **hundred twenty (120)** days after a public utility files a petition under
 31 section 9 of this chapter, the commission shall conduct a hearing and
 32 issue an order on the petition.

33 (b) Not more than sixty (60) days after a public utility files a petition
 34 under section 9 of this chapter, the office of the utility consumer
 35 counselor and other intervenors, if any, may:

36 (1) examine the information of the public utility to confirm that
 37 the proposed transmission, distribution, and storage system
 38 improvements comply with this chapter; and

39 (2) report its findings to the commission.

40 (c) If the commission determines that the petition satisfies the
 41 requirements of this chapter and the capital expenditures and TDSIC
 42 costs are reasonable, the commission shall approve the petition,



1 including:

- 2 (1) capital expenditures;
 3 (2) timely recovery of TDSIC costs, including costs associated
 4 with a targeted economic development project, through a TDSIC;
 5 and
 6 (3) if requested, authority to defer TDSIC costs under section ~~9(b)~~
 7 **9(c)** of this chapter.

8 **(d) If the public utility has requested approval of new targeted**
 9 **economic development projects or new transmission, distribution,**
 10 **and storage system improvements under section 9(b) of this**
 11 **chapter, the commission's order must include the following:**

- 12 **(1) A finding of the best estimate of the cost of the new**
 13 **projects or improvements.**
 14 **(2) A determination whether public convenience and necessity**
 15 **require or will require the new projects or improvements.**
 16 **(3) A determination whether the estimated costs of the new**
 17 **projects or improvements are justified by incremental**
 18 **benefits attributable to the new projects or improvements.**

19 **If the commission determines that the public utility's new projects**
 20 **or improvements are reasonable, the commission shall approve the**
 21 **new projects or improvements and authorize TDSIC treatment for**
 22 **the new projects or improvements.**

23 SECTION 7. IC 8-1-39-14, AS ADDED BY P.L.133-2013,
 24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 UPON PASSAGE]: Sec. 14. (a) The commission may not approve a
 26 TDSIC that would result in an average aggregate increase in a public
 27 utility's total retail revenues of more than two percent (2%) in a twelve
 28 (12) month period. For purposes of this subsection, a public utility's
 29 total retail revenues do not include TDSIC revenues associated with a
 30 targeted economic development project.

31 (b) If a public utility incurs TDSIC costs under the public utility's
 32 ~~seven (7) year capital expenditure~~ TDSIC plan that exceed the
 33 percentage increase in a TDSIC approved by the commission, the
 34 public utility shall defer recovery of the TDSIC costs as set forth in
 35 section ~~9(b)~~ **9(c)** of this chapter.

36 **(c) For purposes of subsection (a), in the case of a public utility**
 37 **that terminates a TDSIC plan under section 10(d) of this chapter,**
 38 **the commission shall consider the combined twelve (12) month**
 39 **revenue impact of the TDSIC approved under the terminated plan**
 40 **and the TDSIC approved under any new TDSIC plan.**

41 SECTION 8. IC 8-1-39-16, AS ADDED BY P.L.133-2013,
 42 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



- 1 UPON PASSAGE]: Sec. 16.(a) For purposes of this chapter, the
2 following are not a general increase in basic rates and charges under
3 IC 8-1-2-42(a):
- 4 (1) The filing of a TDSIC.
 - 5 (2) A change in a TDSIC.
 - 6 (3) The deferral of depreciation expenses, operation and
7 maintenance expenses, property taxes, or post in service
8 allowance for funds used during construction under section ~~9(b)~~
9 **9(c)** of this chapter.
- 10 (b) This chapter does not limit:
- 11 (1) a public utility's ability to recover eligible transmission,
12 distribution, and storage system improvements in a general retail
13 rate case; or
 - 14 (2) the commission's valuation of utility property under
15 IC 8-1-2-6.
- 16 **SECTION 9. An emergency is declared for this act.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred House Bill 1470, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 22, delete "nine (9)" and insert "**seven (7)**".

Page 4, delete lines 24 through 34, begin a new paragraph and insert:

"(d) A public utility may terminate an existing TDSIC plan before the end of the original plan period by providing the commission a notice of termination at least sixty (60) days before the date on which the plan will terminate. Eligible transmission, distribution, and storage improvements receiving TDSIC treatment under section 9 of this chapter before termination of the plan shall continue to receive TDSIC treatment under section 9 of this chapter after termination of the plan until a final order in the public utility's next general rate case is issued. A public utility that terminates a plan:

(1) may petition the commission for approval of a new TDSIC plan under this section; and

(2) must petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service before the original expiration date of the terminated plan."

Page 5, line 24, strike "ninety (90)" and insert "**one hundred twenty (120)**".

Page 6, between lines 29 and 30, begin a new paragraph and insert:

"(c) For purposes of subsection (a), in the case of a public utility that terminates a TDSIC plan under section 10(d) of this chapter, the commission shall consider the combined twelve (12) month revenue impact of the TDSIC approved under the terminated plan and the TDSIC approved under any new TDSIC plan."

and when so amended that said bill do pass.

(Reference is to HB 1470 as introduced.)

SOLIDAY

Committee Vote: yeas 9, nays 3.

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