

SENATE BILL No. 254

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Water and wastewater utilities. Amends the law on the infrastructure improvement charges of utilities to provide that a provision prohibiting the utility regulatory commission (commission), under certain circumstances, from approving a petition to allow an adjustment of an eligible utility's basic rates and charges or to change an eligible utility's initial adjustment amount does not apply to infrastructure improvement costs associated with eligible infrastructure improvements that are placed in service due to the construction, reconstruction, or improvement of a highway, street, or road. Amends the law on customer owned lead service lines, which allows a public utility to seek to include customer lead service line improvements as eligible infrastructure improvements for purposes of the statute concerning infrastructure improvement charges for water and wastewater utilities, to make that law apply to municipally owned utilities as well as to public utilities. Establishes a procedure under which a public utility, municipally owned utility, or not-for-profit utility that provides water or wastewater service to the public and is under the jurisdiction of the commission for the approval of rates and charges may seek to recover, through a periodic rate adjustment, the cost of certain utility plant or equipment expenditures that are related to compliance with environmental requirements or made for health, safety, or environmental protection purposes.

Effective: July 1, 2020.

Charbonneau, Koch, Glick

January 9, 2020, read first time and referred to Committee on Utilities.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

SENATE BILL No. 254

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 8-1-31-13, AS AMENDED BY P.L.212-2015,
2 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 13. (a) The commission may not approve a
4 petition filed under section 8 or 10 of this chapter to the extent it would
5 produce total adjustment revenues exceeding ten percent (10%) of the
6 eligible utility's base revenue level approved by the commission in the
7 eligible utility's most recent general rate proceeding.

8 (b) **Subsection (a) does not apply to infrastructure improvement**
9 **costs associated with eligible infrastructure improvements that are**
10 **placed in service due to the construction, reconstruction, or**
11 **improvement of a highway, street, or road (as defined in**
12 **IC 8-23-1-23).**

13 SECTION 2. IC 8-1-31.6-4, AS ADDED BY P.L.91-2017,
14 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2020]: Sec. 4. As used in this chapter, "water utility" means:

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



1 that provides water service to the public.

2 SECTION 3. IC 8-1-31.6-5, AS ADDED BY P.L.91-2017,
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]: Sec. 5. (a) Before a water utility may seek to include
5 customer lead service line improvements as eligible infrastructure
6 improvements:

7 (1) for purposes of IC 8-1-31, **for public utilities; or**

8 (2) **for purpose of this chapter, for municipally owned**
9 **utilities;**

10 the water utility must first obtain approval from the commission of the
11 water utility's plan for the customer lead service line improvements. To
12 seek approval of the water utility's plan for the customer lead service
13 line improvements, the water utility shall file with the commission a
14 petition and a case-in-chief, including the information set forth in
15 section 6 of this chapter.

16 (b) After holding a properly noticed public hearing, the commission
17 shall approve the water utility's plan under this section if the
18 commission makes the required findings under section 6 of this
19 chapter.

20 (c) The commission shall issue the commission's final order on the
21 water utility's petition not later than two hundred ten (210) days after
22 the filing of the water utility's case-in-chief.

23 SECTION 4. IC 8-1-31.6-6, AS ADDED BY P.L.91-2017,
24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2020]: Sec. 6. (a) Before a water utility is authorized to
26 include customer lead service line improvements as eligible
27 infrastructure improvements for purposes of IC 8-1-31, **for a public**
28 **utility, or for purposes of this chapter, for a municipally owned**
29 **utility**, the commission must first approve the water utility's plan for
30 the replacement of the customer owned portion of the lead service lines
31 within or connected to the water utility's system. The water utility's plan
32 must address the following:

33 (1) The availability of grants or low interest loans and how the
34 water utility plans to use available grants or low interest loans to
35 help the water utility finance or reduce the cost of the customer
36 lead service line improvements for the water utility and the water
37 utility's customers, including any arrangements for the customer
38 to receive available grants or financing directly.

39 (2) A description of how the replacement of customer owned lead
40 service lines will be accomplished in conjunction with
41 distribution system infrastructure replacement projects.

42 (3) The estimated savings in costs per service line that would be



- 1 realized by the water utility replacing the customer owned portion
 2 of the lead service lines versus the anticipated replacement costs
 3 if customers were required to replace the customer owned portion
 4 of the lead service lines.
- 5 (4) The number of lead mains and lead service lines estimated to
 6 be part of the water utility's system.
- 7 (5) A range for the number of customer owned lead service lines
 8 estimated to be replaced annually.
- 9 (6) A range for the total feet of lead mains estimated to be
 10 replaced annually.
- 11 (7) The water utility's proposal for addressing the costs of unusual
 12 site restoration work necessitated by structures or improvements
 13 located above the customer owned portion of the lead service
 14 lines.
- 15 (8) The water utility's proposal for:
- 16 (A) communicating with the customer the availability of the
 17 water utility's plan to replace the customer owned portion of
 18 the lead service line in conjunction with the water utility's
 19 replacement of the utility owned portion of the lead service
 20 line; and
- 21 (B) documenting the customer's consent or lack of consent to
 22 replace the customer owned portion of the lead service line.
- 23 (9) The water utility's proposal concerning whether the water
 24 utility or the customer will be responsible for future replacement
 25 or repair of the portion of the new service line corresponding to
 26 the previous customer owned lead service line.
- 27 (10) The estimated total cost to replace all customer owned
 28 portions of the lead service lines within or connected to the water
 29 utility's system and an estimated range for the annual cost to be
 30 incurred by the water utility under the water utility's plan.
- 31 (b) The commission shall approve a water utility's plan if the
 32 commission finds the plan to be reasonable and in the public interest.
 33 Subject to subsection (c), in general rate cases following the approval
 34 of a **water public** utility's plan, the commission shall for ratemaking
 35 purposes add to the value of the **water public** utility's property for
 36 purposes of IC 8-1-2-6 the actual costs incurred by the **water public**
 37 utility in replacing the customer owned portion of the lead service lines
 38 and in removing customer owned lead service lines from service in
 39 accordance with the water utility's plan, notwithstanding the continued
 40 ownership of the service line by the customer.
- 41 (c) To the extent a water utility incurs an annual cost under the
 42 water utility's plan in excess of the range set forth in subsection (a)(10)



1 and approved by the commission under subsection (b), the additional
2 costs are not eligible for the ratemaking treatment provided for in this
3 section or in section 7 of this chapter.

4 SECTION 5. IC 8-1-31.6-7, AS ADDED BY P.L.91-2017,
5 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
6 JULY 1, 2020]: Sec. 7. Subject to section 6(c) of this chapter, upon the
7 commission's approval of a **water public** utility's plan under section 6
8 of this chapter, the water utility may include the actual costs incurred
9 by the **water public** utility in connection with completing customer lead
10 service line improvements that:

- 11 (1) have been placed in service; and
- 12 (2) have not been included in the **water public** utility's rate base
13 in the **water public** utility's most recent general rate case;

14 as eligible infrastructure improvements for purposes of IC 8-1-31. For
15 purposes of the revenue limitation calculation under IC 8-1-31-13,
16 infrastructure improvement costs associated with customer lead service
17 line improvements shall not be counted as adjustment revenues in
18 determining whether the water utility's total adjustment revenues
19 exceed ten percent (10%) of the water utility's base revenue level
20 approved in the water utility's most recent general rate case.

21 SECTION 6. IC 8-1-31.6-8 IS ADDED TO THE INDIANA CODE
22 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
23 1, 2020]: **Sec. 8. Subject to section 6(c) of this chapter, upon the**
24 **commission's approval of the utility's plan under section 6 of this**
25 **chapter, a municipally owned utility may include the costs for**
26 **customer lead service line improvements that:**

- 27 (1) are made, or are to be made, by a municipally owned
28 utility;
- 29 (2) do not increase revenues by connecting to new customers,
30 even though the plant or equipment may provide the
31 municipally owned utility with greater available capacity;
- 32 (3) are or will be an extension or replacement consistent with
33 section 9 of this chapter; and
- 34 (4) were not included on the utility's balance sheet as plant in
35 service in the utility's most recent general rate case.

36 SECTION 7. IC 8-1-31.6-9 IS ADDED TO THE INDIANA CODE
37 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
38 1, 2020]: **Sec. 9. For a municipally owned utility, customer lead**
39 **service line improvement costs include the following:**

- 40 (1) **Depreciation expenses.**
- 41 (2) **Extensions and replacements for customer lead service line**
42 **improvements, to the extent that the extensions and**



1 replacements are not provided for through depreciation, in
2 the manner provided for in IC 8-1.5-3-8.

3 **(3) Debt service on funds borrowed to pay for customer lead
4 service line improvements.**

5 **(4) Property taxes to be paid by the utility based upon the first
6 assessment date following the placement in service of the
7 customer lead service line improvements.**

8 SECTION 8. IC 8-1-31.6-10 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2020]: **Sec. 10. (a) Except as provided in subsection (d), a
11 municipally owned utility may file with the commission a petition
12 setting forth rate schedules establishing an amount that will allow
13 the adjustment of the utility's basic rates and charges to provide
14 for recovery of customer lead service line improvement costs. The
15 adjustment shall be calculated as a monthly fixed charge based
16 upon meter size.**

17 **(b) The municipally owned utility shall serve upon the office of
18 the utility consumer counselor a copy of its filing at the time of its
19 filing with the commission.**

20 **(c) Publication of notice of the filing is not required.**

21 **(d) A municipally owned utility may not file a petition under this
22 section in the same calendar year in which the utility has filed a
23 request for a general increase in the basic rates and charges of the
24 municipally owned utility.**

25 SECTION 9. IC 8-1-31.6-11 IS ADDED TO THE INDIANA CODE
26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
27 1, 2020]: **Sec. 11. (a) When a petition is filed under section 10 of this
28 chapter, the commission shall conduct a hearing.**

29 **(b) The office of the utility consumer counselor may:**

30 **(1) examine information of the municipally owned utility to
31 confirm:**

32 **(A) that the customer lead service line improvements made
33 or to be made are in accordance with section 9 of this
34 chapter; and**

35 **(B) proper calculation of the adjustment amount proposed
36 under section 10(a) of this chapter; and**

37 **(2) submit a report to the commission not later than thirty**

38 **(30) days after the petition is filed.**

39 **(c) The commission shall hold the hearing and issue its order not
40 later than sixty (60) days after the petition is filed.**

41 **(d) If the commission finds that a petition filed under section 10
42 of this chapter complies with the requirements of this chapter, the**



1 **commission shall enter an order approving the petition.**

2 SECTION 10. IC 8-1-31.6-12 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2020]: **Sec. 12. (a) Except as provided in**
5 **subsection (b), a municipally owned utility may, but is not required**
6 **to, file a petition for a change in its initial adjustment amount not**
7 **more often than one (1) time every twelve (12) months. Section 10**
8 **of this chapter applies to a petition to change an adjustment rider.**

9 **(b) Except as provided in section 15 of this chapter, a**
10 **municipally owned utility may not file a petition described in**
11 **subsection (a) in the same calendar year in which the utility has**
12 **filed a request for a general increase in the basic rates and charges**
13 **of the utility.**

14 SECTION 11. IC 8-1-31.6-13 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2020]: **Sec. 13. In determining the amount of**
17 **allowable recovery of customer lead service line improvement costs**
18 **for a municipally owned utility, the commission may consider the**
19 **following factors:**

20 **(1) Extensions and replacements, to the extent that the**
21 **extensions and replacements are not provided for through**
22 **depreciation, in the manner provided for in IC 8-1.5-3-8.**

23 **(2) Debt service on funds borrowed to pay for customer lead**
24 **service line improvements.**

25 **(3) Depreciation expenses on customer lead service line**
26 **improvements based on the same rate or rates of depreciation**
27 **approved by the commission for the calculation of**
28 **depreciation in the utility's most recent rate case.**

29 **(4) Other components that the commission considers**
30 **appropriate.**

31 SECTION 12. IC 8-1-31.6-14 IS ADDED TO THE INDIANA
32 CODE AS A NEW SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2020]: **Sec. 14. An adjustment amount**
34 **proposed under section 10 of this chapter may be calculated based**
35 **on a reasonable estimate of equivalent meters in the period in**
36 **which the charge will be in effect. At the end of each twelve (12)**
37 **month period following the date on which the commission initially**
38 **approves an adjustment amount for a municipally owned utility**
39 **following the utility's most recent general rate case, the**
40 **municipally owned utility, using procedures approved by the**
41 **commission, shall reconcile the difference between revenues under**
42 **the adjustment rider and customer lead service line improvement**



1 costs during that period and recover or refund the difference, as
 2 appropriate, through additional adjustments to the adjustment
 3 rider.

4 SECTION 13. IC 8-1-31.6-15 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2020]: **Sec. 15. A municipally owned utility's**
 7 **adjustment rider approved under sections 10 and 12 of this chapter**
 8 **shall be reset to zero (0) upon the approval of new basic rates and**
 9 **charges for the utility by the commission in a general rate case in**
 10 **which the customer lead service line improvements are included in**
 11 **the utility's rate base.**

12 SECTION 14. IC 8-1-31.6-16 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2020]: **Sec. 16. The commission shall adopt**
 15 **rules under IC 4-22-2 to implement this chapter.**

16 SECTION 15. IC 8-1-31.7 IS ADDED TO THE INDIANA CODE
 17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]:

19 **Chapter 31.7. Service Enhancement Improvement Projects for**
 20 **Water and Wastewater Utilities**

21 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**
 22 **chapter.**

23 **Sec. 2. As used in this chapter, "eligible addition" means any**
 24 **new utility plant or equipment:**

25 (1) that does not increase revenues by connecting to new
 26 customers, even though the plant or equipment may provide
 27 the eligible utility with greater available capacity; and

28 (2) that:

29 (A) for a public utility:

30 (i) is used and useful;

31 (ii) is procured, installed, or constructed by an eligible
 32 utility with expenditures that are service enhancement
 33 improvements; and

34 (iii) was not included in the public utility's rate base in its
 35 most recent general rate case; or

36 (B) for a municipally owned or not-for-profit utility:

37 (i) is or will be an extension or replacement, consistent
 38 with section 8 of this chapter; and

39 (ii) was not included on the utility's balance sheet as
 40 plant in service in the utility's most recent general rate
 41 case.

42 **Sec. 3. As used in this chapter, "eligible utility" means:**



- 1 (1) a public utility;
 2 (2) a municipally owned utility; or
 3 (3) a not-for-profit utility;

4 that provides water or wastewater service to the public and is
 5 under the jurisdiction of the commission for the approval of rates
 6 and charges.

7 Sec. 4. (a) As used in this chapter, "not-for-profit utility" has
 8 the meaning set forth in IC 8-1-2-125(a).

9 (b) The term includes a utility company that is owned, operated,
 10 or held in trust by a consolidated city.

11 Sec. 5. As used in this chapter, "pretax return" means the
 12 revenues necessary:

- 13 (1) to produce net operating income equal to a public utility's
 14 weighted cost of capital multiplied by the net original cost of
 15 the eligible addition; and
 16 (2) to pay state and federal income taxes applicable to the net
 17 operating income described in subdivision (1).

18 Sec. 6. As used in this chapter, "requirement" means any
 19 decision or regulation imposed on an eligible utility by a unit (as
 20 defined in IC 36-1-2-23), a municipal corporation (as defined in
 21 IC 36-1-2-10), a state, or the federal government in connection with
 22 any of the following:

- 23 (1) The federal Water Pollution Control Act (33 U.S.C. 1251
 24 et seq.).
 25 (2) The federal Safe Drinking Water Act (42 U.S.C. 300f et
 26 seq.).
 27 (3) Any other law, order, or regulation administered by the
 28 United States Environmental Protection Agency, the United
 29 States Army Corps of Engineers, the United States
 30 Department of Transportation, the Indiana department of
 31 transportation, the Indiana department of environmental
 32 management, or the department of natural resources.
 33 (4) Regulation imposed by local government under
 34 IC 8-1-2-101, IC 36-9-2-14, IC 36-9-2-15, or IC 36-9-2-16.

35 Sec. 7. As used in this chapter, "service enhancement
 36 improvement" means an expenditure that is either of the following:

- 37 (1) Made, or to be made, by an eligible utility and related to:
 38 (A) direct or indirect compliance with one (1) or more
 39 requirements; or
 40 (B) installation of a new plant or equipment:
 41 (i) that is not a replacement plant or equipment; and
 42 (ii) that the commission determines is reasonable and



1 appropriate to further health, safety, or environmental
2 protection for the eligible utility's customers, employees,
3 or the public.

4 (2) Replacement of a plant or equipment to maintain existing
5 health, safety, or environmental protection for the eligible
6 utility's customers, employees, or the public.

7 Sec. 8. (a) As used in this chapter, "service enhancement
8 improvement costs" means costs that an eligible utility incurs in
9 connection with an eligible addition, including the following:

10 (1) Depreciation expenses.

11 (2) For a municipally owned utility or a not-for-profit utility,
12 extensions and replacements, to the extent that the extensions
13 and replacements are not provided for through depreciation,
14 in the manner provided for in IC 8-1.5-3-8 or IC 8-1-2-125.

15 (3) For a municipally owned utility or a not-for-profit utility,
16 debt service on funds borrowed to pay for the eligible
17 addition.

18 (4) Property taxes to be paid by the eligible utility based upon
19 the first assessment date following the placement in service of
20 the eligible addition.

21 (5) Pretax return for a public utility.

22 (b) The term does not include fines or penalties assessed against
23 or imposed on an eligible utility for violating laws, regulations, or
24 consent decrees related to a requirement.

25 Sec. 9. (a) Except as provided in subsection (e), before an eligible
26 utility may seek to recover its service enhancement improvement
27 costs through a periodic rate adjustment under section 12 of this
28 chapter, it must first obtain preapproval from the commission of
29 its plan for the proposed service enhancement improvement or
30 improvements. The eligible utility must file with the commission a
31 petition and a case in chief, including supporting information
32 described in section 10 or 11 of this chapter, as applicable.

33 (b) After holding a public hearing for which proper notice is
34 given under IC 8-1-1-8, the commission shall preapprove the
35 eligible utility's plan under this section if the commission makes the
36 required findings under section 10 or 11 of this chapter, as
37 applicable. If the service enhancement improvement is not
38 described in section 7(1)(A) of this chapter, the commission shall
39 preapprove the eligible utility's plan under this section if the
40 commission makes the required finding under section 7(1)(B)(ii) of
41 this chapter.

42 (c) The commission shall issue its final order on the petition not



1 later than two hundred ten (210) days after the filing of the eligible
2 utility's case in chief.

3 (d) An eligible utility may have more than one (1) plan, and an
4 eligible utility may file separate petitions for separate plans.

5 (e) An eligible utility is not required to seek preapproval of a
6 plan in order to seek recovery under section 12 of this chapter for
7 eligible additions that are described in section 7(2) of this chapter.

8 (f) If the commission approves an eligible utility's plan under
9 this section, or if approval is otherwise not required, the
10 commission shall approve a rider authorizing timely recovery of
11 the eligible utility's service enhancement improvement costs under
12 section 12 of this chapter. The following apply to the utility's timely
13 recovery:

14 (1) Eighty percent (80%) of the eligible utility's service
15 enhancement improvement costs shall be recovered by the
16 eligible utility through a periodic rate adjustment mechanism
17 that allows the timely recovery of the approved service
18 enhancement improvement costs.

19 (2) Twenty percent (20%) of the eligible utility's service
20 enhancement improvement costs, including depreciation,
21 allowance for funds used during construction, and post in
22 service carrying costs, compounded monthly and based on the
23 overall cost of capital most recently approved by the
24 commission, shall be deferred and recovered by the eligible
25 utility as part of its next general rate case filed by the eligible
26 utility with the commission.

27 **Sec. 10.** If the plan is for a service enhancement improvement
28 described in section 7(1)(A) of this chapter, the commission must
29 find that the proposed service enhancement improvement will
30 allow the eligible utility to comply directly or indirectly with one
31 (1) or more requirements. The commission shall examine the
32 following:

33 (1) The following factors, which must be set forth in the
34 eligible utility's case in chief filed in accordance with section
35 9 of this chapter:

36 (A) A description of the requirements, including any
37 consent decrees related to the requirements, that the
38 eligible utility seeks to comply with through the proposed
39 service enhancement improvement.

40 (B) A description of the projected service enhancement
41 improvement costs associated with the proposed service
42 enhancement improvement.



- 1 (C) A description of how the proposed service
- 2 enhancement improvement allows the eligible utility to
- 3 comply with the requirements described by the eligible
- 4 utility under clause (A).
- 5 (2) Any other factors the commission considers relevant.
- 6 **Sec. 11.** If the plan is for a service enhancement improvement
- 7 described in section 7(1)(A) of this chapter related to a
- 8 requirement described in section 6(4) of this chapter, the eligible
- 9 utility shall provide a copy of the unit or municipal corporation
- 10 ordinance or other determination setting forth the requirement
- 11 and shall provide the eligible utility's estimated cost to comply with
- 12 the requirement. The commission shall review the reasonableness
- 13 of the requirement under IC 8-1-2-101(a). Unless the commission
- 14 finds the requirement to be unreasonable, the commission shall
- 15 approve the plan for the service enhancement improvement. The
- 16 unit or municipal corporation that has adopted the requirement
- 17 shall be provided notice of the proceedings.
- 18 **Sec. 12. (a)** If the commission approves an eligible utility's plan
- 19 under section 9 of this chapter, or if commission approval of the
- 20 plan is otherwise not required, the eligible utility may file a petition
- 21 to establish or adjust an adjustment rider to its rate schedules
- 22 under this section so as to allow timely recovery of the eligible
- 23 utility's service enhancement improvement costs. The following
- 24 shall apply:
- 25 (1) The adjustment rider shall be calculated as a fixed charge
- 26 based upon equivalent meter size.
- 27 (2) Publication of notice of the filing is not required.
- 28 **(b)** The adjustment rider shall provide for the timely recovery
- 29 of eighty percent (80%) of the service enhancement improvement
- 30 costs. The remaining twenty percent (20%) of the service
- 31 enhancement improvement costs shall be deferred under section
- 32 9(f)(2) of this chapter.
- 33 **(c)** The commission shall conduct a hearing.
- 34 **(d)** The office of the utility consumer counselor may:
- 35 (1) examine information of the eligible utility to confirm:
- 36 **(A)** that the eligible additions are in accordance with
- 37 sections 2 and 8 of this chapter; and
- 38 **(B)** the proper calculation of the adjustment amount
- 39 proposed under this section; and
- 40 (2) submit a report to the commission not later than thirty
- 41 (30) days after the petition is filed.
- 42 **(e)** The commission shall hold the hearing and issue its order not



1 later than sixty (60) days after the petition is filed.

2 (f) To the extent the commission finds that a petition filed under
3 this section complies with the requirements of this chapter, the
4 commission shall enter an order approving the petition.

5 Sec. 13. In determining an appropriate pretax return for a
6 public utility, the commission may consider the following factors:

7 (1) The current state and federal income tax rates.

8 (2) The eligible utility's actual regulatory capital structure.

9 (3) The actual cost rates for the eligible utility's long term
10 debt and preferred stock.

11 (4) The eligible utility's cost of common equity.

12 (5) Other components that the commission considers
13 appropriate.

14 Sec. 14. (a) Except as provided in subsection (b), the cost of
15 common equity to be used in the calculation of the pretax return
16 under section 13 of this chapter shall be the most recent
17 determination by the commission in a general rate proceeding of
18 the eligible utility.

19 (b) If the commission finds that the most recent determination
20 described in subsection (a) is no longer representative of current
21 conditions, the commission may, after notice and hearing, make a
22 new determination of the common equity cost rate for use in
23 determining the charge. The most recent prior determination shall
24 be used pending any redetermination under this subsection.

25 Sec. 15. In determining the amount of allowable recovery of
26 service enhancement improvement costs for an eligible utility that
27 is a municipally owned utility, the commission may consider the
28 following factors:

29 (1) Extensions and replacements, to the extent that the
30 extension and replacements are not provided for through
31 depreciation, in the manner provided for in IC 8-1.5-3-8.

32 (2) Debt service on funds borrowed to pay for eligible service
33 enhancement improvement.

34 (3) Depreciation expenses on eligible service enhancement
35 improvements based on the same rate or rates of depreciation
36 approved by the commission for the calculation of
37 depreciation in the eligible utility's most recent rate case.

38 (4) Other components that the commission considers
39 appropriate.

40 Sec. 16. In determining the amount of allowable recovery of
41 service enhancement improvement costs for a not-for-profit utility,
42 the commission may consider the following factors:



- 1 **(1) Extensions and replacements, in the manner provided for**
- 2 **in IC 8-1-2-125.**
- 3 **(2) Debt service on funds borrowed to pay for eligible service**
- 4 **enhancement improvement.**
- 5 **(3) Other components that the commission considers**
- 6 **appropriate.**
- 7 **Sec. 17. An adjustment amount proposed under section 12 of**
- 8 **this chapter may be calculated based on a reasonable estimate of**
- 9 **equivalent meters in the period in which the charge will be in**
- 10 **effect. At the end of each twelve (12) month period following the**
- 11 **date on which the commission initially approves an adjustment**
- 12 **amount for an eligible utility following the eligible utility's most**
- 13 **recent general rate case, the eligible utility, using procedures**
- 14 **approved by the commission, shall reconcile the difference between**
- 15 **revenues under the adjustment rider and service enhancement**
- 16 **improvement costs during that period and recover or refund the**
- 17 **difference, as appropriate, through additional adjustments to the**
- 18 **adjustment rider.**
- 19 **Sec. 18. An eligible utility may, but is not required to, file a**
- 20 **petition for a change in its initial adjustment amount not more**
- 21 **than one (1) time in every twelve (12) months. Section 12 of this**
- 22 **chapter applies to a petition to change an adjustment rider.**
- 23 **Sec. 19. An eligible utility's adjustment rider approved under**
- 24 **sections 12 and 18 of this chapter shall be reset to zero (0) upon**
- 25 **approval of new basic rates and charges for the eligible utility by**
- 26 **the commission in a general rate case in which the eligible service**
- 27 **additions are included in the eligible utility's rate base.**
- 28 **Sec. 20. The commission shall adopt rules under IC 4-22-2 to**
- 29 **implement this chapter.**

