



February 24, 2020

ENGROSSED
SENATE BILL No. 254

DIGEST OF SB 254 (Updated February 19, 2020 2:32 pm - DI 135)

Citations Affected: IC 8-1.

Synopsis: Water and wastewater utilities. Amends the law allowing the adjustment of a water or wastewater utility's rates and charges to
(Continued next page)

Effective: July 1, 2020.

**Charbonneau, Koch, Glick,
Niezgodski, Stoops, Ford J.D.,
Randolph Lonnie M, Merritt,
Ruckelshaus**

(HOUSE SPONSORS — SOLIDAY, MANNING, HATFIELD, SHERMAN)

January 9, 2020, read first time and referred to Committee on Utilities.
January 16, 2020, amended, reported favorably — Do Pass.
January 21, 2020, read second time, ordered engrossed. Engrossed.
January 23, 2020, read third time, passed. Yeas 45, nays 1.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Utilities, Energy and Telecommunications.
February 24, 2020, reported — Do Pass.

ES 254—LS 6830/DI 55



Digest Continued

enable the utility to recover the cost of eligible infrastructure improvements, by providing that the general maximum limit on the revenues used in determining the adjustment does not apply to infrastructure improvement costs associated with the construction, reconstruction, or improvement of a highway, street, or road. Amends the law that allows a public water utility to treat the costs of replacing customer-owned lead service lines as eligible infrastructure improvements for which a utility's rates and charges may be adjusted, by providing that the law applies to municipally owned utilities as well as 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.

ES 254—LS 6830/DI 55



February 24, 2020

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.

ENGROSSED 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));**

ES 254—LS 6830/DI 55



1 that provides water service to the public, **and that is under the**
 2 **commission's authority with respect to rates and charges.**

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

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

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

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

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

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

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

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

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



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



1 water utility's plan in excess of the range set forth in subsection (a)(10)
 2 and approved by the commission under subsection (b), the additional
 3 costs are not eligible for the ratemaking treatment provided for in this
 4 section or in section 7 of this chapter.

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

12 (1) have been placed in service; and

13 (2) have not been included in the **water public** utility's rate base
 14 in the **water public** utility's most recent general rate case;

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

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

28 (1) are made, or are to be made, by a municipally owned
 29 utility;

30 (2) do not increase revenues by connecting to new customers,
 31 even though the plant or equipment may provide the
 32 municipally owned utility with available capacity greater than
 33 the available capacity provided to the customer before the line
 34 improvements;

35 (3) are or will be an extension or replacement consistent with
 36 section 9 of this chapter; and

37 (4) were not included on the utility's balance sheet as plant in
 38 service in the utility's most recent general rate case.

39 SECTION 7. IC 8-1-31.6-9 IS ADDED TO THE INDIANA CODE
 40 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2020]: **Sec. 9. For a municipally owned utility, customer lead**
 42 **service line improvement costs include the following:**



1 **(1) Depreciation expenses.**

2 **(2) Extensions and replacements for customer lead service line**
 3 **improvements, to the extent that the extensions and**
 4 **replacements are not provided for through depreciation, in**
 5 **the manner provided for in IC 8-1.5-3-8.**

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

8 **(4) As applicable, property taxes to be paid by the utility**
 9 **based upon the first assessment date following the placement**
 10 **in service of the customer lead service line improvements.**

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

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

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

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

28 SECTION 9. IC 8-1-31.6-11 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2020]: **Sec. 11. (a) When a petition is filed under section 10 of this**
 31 **chapter, the commission shall conduct a hearing.**

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

33 **(1) examine information of the municipally owned utility to**
 34 **confirm:**

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

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

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

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

42 **(c) The commission shall hold the hearing and issue its order not**



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

2 (d) If the commission finds that a petition filed under section 10
3 of this chapter complies with the requirements of this chapter, the
4 commission shall enter an order approving the petition.

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

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

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

23 (1) Extensions and replacements, to the extent that the
24 extensions and replacements are not provided for through
25 depreciation, in the manner provided for in IC 8-1.5-3-8.

26 (2) Debt service on funds borrowed to pay for customer lead
27 service line improvements.

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

32 (4) Other components that the commission considers
33 appropriate.

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



1 municipally owned utility, using procedures approved by the
 2 commission, shall reconcile the difference between revenues under
 3 the adjustment rider and customer lead service line improvement
 4 costs during that period and recover or refund the difference, as
 5 appropriate, through additional adjustments to the adjustment
 6 rider.

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

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

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

22 **Chapter 31.7. Service Enhancement Improvement Projects for**
 23 **Water and Wastewater Utilities**

24 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**
 25 **chapter.**

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

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

31 (2) that:

32 (A) for a public utility:

33 (i) is used and useful;

34 (ii) is procured, installed, or constructed by an eligible
 35 utility with expenditures that are service enhancement
 36 improvements; and

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

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

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

42 (ii) was not included on the utility's balance sheet as



1 plant in service in the utility's most recent general rate
2 case.

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

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

7 that provides water or wastewater service to the public and is
8 under the jurisdiction of the commission for the approval of rates
9 and charges.

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

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

14 **Sec. 5. As used in this chapter, "pretax return" means the**
15 **revenues necessary:**

16 (1) to produce net operating income equal to a public utility's
17 weighted cost of capital multiplied by the net original cost of
18 the eligible addition; and

19 (2) to pay state and federal income taxes applicable to the net
20 operating income described in subdivision (1).

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

26 (1) The federal Water Pollution Control Act (33 U.S.C. 1251
27 et seq.).

28 (2) The federal Safe Drinking Water Act (42 U.S.C. 300f et
29 seq.).

30 (3) Any other law, order, or regulation administered by the
31 United States Environmental Protection Agency, the United
32 States Army Corps of Engineers, the United States
33 Department of Transportation, the Indiana department of
34 transportation, the Indiana department of environmental
35 management, or the department of natural resources.

36 (4) Regulation imposed by local government under
37 IC 8-1-2-101, IC 36-9-2-14, IC 36-9-2-15, or IC 36-9-2-16.

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

- 40 (1) Made, or to be made, by an eligible utility and related to:
41 (A) direct or indirect compliance with one (1) or more
42 requirements; or



1 **(B) installation of a new plant or equipment:**

- 2 (i) that is not a replacement plant or equipment; and
 3 (ii) that the commission determines is reasonable and
 4 appropriate to further health, safety, or environmental
 5 protection for the eligible utility's customers, employees,
 6 or the public.

7 **(2) Replacement of a plant or equipment to maintain existing**
 8 **health, safety, or environmental protection for the eligible**
 9 **utility's customers, employees, or the public.**

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

13 **(1) Depreciation expenses.**

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

18 **(3) For a municipally owned utility or a not-for-profit utility,**
 19 **debt service on funds borrowed to pay for the eligible**
 20 **addition.**

21 **(4) Property taxes to be paid by the eligible utility based upon**
 22 **the first assessment date following the placement in service of**
 23 **the eligible addition.**

24 **(5) Pretax return for a public utility.**

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

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

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



1 commission makes the required finding under section 7(1)(B)(ii) of
2 this chapter.

3 (c) The commission shall issue its final order on the petition not
4 later than two hundred ten (210) days after the filing of the eligible
5 utility's case in chief.

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

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

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

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

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

30 (3) Actual costs that exceed by more than twenty-five percent
31 (25%) the projected costs set forth in the eligible utility's plan
32 approved under this section require specific justification by
33 the eligible utility and specific approval by the commission
34 before being authorized in the next general rate case filed by
35 the eligible utility with the commission.

36 Sec. 10. If the plan is for a service enhancement improvement
37 described in section 7(1)(A) of this chapter, the commission shall
38 approve the plan if the commission finds that the public
39 convenience and necessity require the proposed service
40 enhancement improvement to allow the eligible utility to comply
41 directly or indirectly with one (1) or more requirements. The
42 commission shall examine the following:



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

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

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

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

(C) A description of how the proposed service enhancement improvement allows the eligible utility to comply with the requirements described by the eligible utility under clause (A).

(D) Alternative plans for compliance.

(2) Any other factors the commission considers relevant.

Sec. 11. If the plan is for a service enhancement improvement described in section 7(1)(A) of this chapter related to a requirement described in section 6(4) of this chapter, the eligible utility shall provide a copy of the unit or municipal corporation ordinance or other determination setting forth the requirement and shall provide the eligible utility's estimated cost to comply with the requirement. The commission shall review the reasonableness of the requirement under IC 8-1-2-101(a). Unless the commission finds the requirement to be unreasonable, the commission shall approve the plan for the service enhancement improvement. The unit or municipal corporation that has adopted the requirement shall be provided notice of the proceedings.

Sec. 12. (a) If the commission approves an eligible utility's plan under section 9 of this chapter, or if commission approval of the plan is otherwise not required, the eligible utility may file a petition to establish or adjust an adjustment rider to its rate schedules under this section so as to allow timely recovery of the eligible utility's service enhancement improvement costs. The following shall apply:

(1) The adjustment rider shall be calculated as a fixed charge based upon equivalent meter size.

(2) Publication of notice of the filing is not required.

(b) The adjustment rider shall provide for the timely recovery of eighty percent (80%) of the service enhancement improvement costs. The remaining twenty percent (20%) of the service enhancement improvement costs shall be deferred under section



- 1 9(f)(2) of this chapter.
- 2 (c) The commission shall conduct a hearing.
- 3 (d) The office of the utility consumer counselor may:
- 4 (1) examine information of the eligible utility to confirm:
- 5 (A) that the eligible additions are in accordance with
- 6 sections 2 and 8 of this chapter; and
- 7 (B) the proper calculation of the adjustment amount
- 8 proposed under this section; and
- 9 (2) submit a report to the commission not later than thirty
- 10 (30) days after the petition is filed.
- 11 (e) Except as provided in subsection (h), the commission shall
- 12 hold the hearing and issue its order not later than sixty (60) days
- 13 after the petition is filed.
- 14 (f) Except as provided in subsection (h), the commission shall
- 15 enter an order approving a petition filed under this section to the
- 16 extent the commission finds that the petition complies with the
- 17 requirements of this chapter.
- 18 (g) A petition filed under this section may combine one (1) or
- 19 more of the following:
- 20 (1) Service enhancement improvement costs associated with
- 21 one (1) or more plans approved under section 9 of this
- 22 chapter.
- 23 (2) Service enhancement improvement costs for which
- 24 approval of a plan is not required under this chapter.
- 25 (h) If a petition filed under this section seeks recovery of service
- 26 enhancement improvement costs associated with eligible additions
- 27 made in association with service enhancement improvements
- 28 described in section 7(2) of this chapter:
- 29 (1) the commission shall create a sub-docket to consider the
- 30 service enhancement improvement costs if the petition
- 31 combines the service enhancement improvement costs with
- 32 service enhancement improvement costs associated with
- 33 approved plans under section 7(1)(A) or 7(1)(B) of this
- 34 chapter;
- 35 (2) to approve recovery of the service enhancement
- 36 improvement costs associated with service enhancement
- 37 improvements described in section 7(2) of this chapter, the
- 38 commission must find that the service enhancement
- 39 improvements described in section 7(2) of this chapter are
- 40 reasonable and necessary; and
- 41 (3) the time period for issuance of an order under subsection
- 42 (e) is extended to one hundred twenty (120) days with respect



1 to the service enhancement improvement costs associated with
 2 service enhancement improvements described in section 7(2)
 3 of this chapter.

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

- 6 (1) The current state and federal income tax rates.
- 7 (2) The eligible utility's actual regulatory capital structure.
- 8 (3) The actual cost rates for the eligible utility's long term
 9 debt and preferred stock.
- 10 (4) The eligible utility's cost of common equity.
- 11 (5) Other components that the commission considers
 12 appropriate.

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

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

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

- 28 (1) Extensions and replacements, to the extent that the
 29 extension and replacements are not provided for through
 30 depreciation, in the manner provided for in IC 8-1.5-3-8.
- 31 (2) Debt service on funds borrowed to pay for eligible service
 32 enhancement improvement.
- 33 (3) Depreciation expenses on eligible service enhancement
 34 improvements based on the same rate or rates of depreciation
 35 approved by the commission for the calculation of
 36 depreciation in the eligible utility's most recent rate case.
- 37 (4) Other components that the commission considers
 38 appropriate.

39 **Sec. 16. In determining the amount of allowable recovery of**
 40 **service enhancement improvement costs for a not-for-profit utility,**
 41 **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.**



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 254, 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 1, delete "." and insert ", **and that is under the commission's authority with respect to rates and charges.**".

Page 4, line 25, after "include" insert "**in the utility's rates**".

Page 4, line 31, delete "greater available capacity;" and insert "**available capacity greater than the available capacity provided to the customer before the line improvements;**".

Page 5, line 5, delete "Property" and insert "**As applicable, property**".

Page 10, between lines 26 and 27, begin a new line block indented and insert:

"(3) Actual costs that exceed by more than twenty-five percent (25%) the projected costs set forth in the eligible utility's plan approved under this section require specific justification by the eligible utility and specific approval by the commission before being authorized in the next general rate case filed by the eligible utility with the commission."

Page 10, line 28, delete "must" and insert "**shall approve the plan if the commission finds that the public convenience and necessity require**".

Page 10, line 29, delete "find that".

Page 10, line 29, delete "will" and insert "**to**".

Page 11, between lines 4 and 5, begin a new line double block indented and insert:

"(D) Alternative plans for compliance."

Page 11, line 42, delete "The" and insert "**Except as provided in subsection (h), the**".

Page 12, delete lines 2 through 4, begin a new paragraph and insert:

"(f) Except as provided in subsection (h), the commission shall enter an order approving a petition filed under this section to the extent the commission finds that the petition complies with the requirements of this chapter.

(g) A petition filed under this section may combine one (1) or more of the following:

(1) Service enhancement improvement costs associated with one (1) or more plans approved under section 9 of this chapter.



(2) Service enhancement improvement costs for which approval of a plan is not required under this chapter.

(h) If a petition filed under this section seeks recovery of service enhancement improvement costs associated with eligible additions made in association with service enhancement improvements described in section 7(2) of this chapter:

(1) the commission shall create a sub-docket to consider the service enhancement improvement costs if the petition combines the service enhancement improvement costs with service enhancement improvement costs associated with approved plans under section 7(1)(A) or 7(1)(B) of this chapter;

(2) to approve recovery of the service enhancement improvement costs associated with service enhancement improvements described in section 7(2) of this chapter, the commission must find that the service enhancement improvements described in section 7(2) of this chapter are reasonable and necessary; and

(3) the time period for issuance of an order under subsection (e) is extended to one hundred twenty (120) days with respect to the service enhancement improvement costs associated with service enhancement improvements described in section 7(2) of this chapter."

and when so amended that said bill do pass.

(Reference is to SB 254 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 254, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 254 as printed January 17, 2020.)

SOLIDAY

Committee Vote: Yeas 12, Nays 0

ES 254—LS 6830/DI 55

