
SENATE BILL No. 427

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2.

Synopsis: Utility deposits. Prohibits a utility from terminating residential gas or electric service during the heating season if the customer is eligible for and has applied for emergency energy assistance through: (1) the division of family and children (division); or (2) any program that bases eligibility on a household income of 200% of the federal poverty level or less. Requires, during the heating season, a utility to offer a deferred payment plan for past due amounts and a level payment plan for past due and future charges. Limits the amount of a deposit a utility may charge an applicant for service who has not shown creditworthiness. Bases the limit on the lesser of: (1) the estimated charges for providing service, if the applicant has not been a utility customer in the past two years; or (2) the applicant's average charges for the same service provided by another utility during the past two years. Limits the amount of a deposit charged to an existing customer to the lesser of: (1) 50% of past due charges; or (2) two times the customer's average monthly charges. For a customer who receives a disconnect notice for a month during the heating season, limits the deposit to the lesser of: (1) 10% of past due charges; or (2) two times the customer's average monthly charges; if the customer has entered a deferred payment plan. Subject to the rules of the division or other program providing energy assistance, allows a customer's assistance payment to be applied to: (1) past due amounts; and (2) deposits.

Effective: Upon passage; July 1, 2004.

Broden

January 12, 2004, read first time and referred to Committee on Utility and Regulatory Affairs.

C
o
p
y



Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

C
o
p
y

SENATE BILL No. 427



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 8-1-2-34.5 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 34.5. (a) The
- 3 commission shall establish reasonable rules and regulations to govern
- 4 the relations between public utilities and any or all classes of their
- 5 customers. Those rules and regulations shall cover the following
- 6 subjects:
- 7 (1) extension of service;
- 8 (2) extension of credit;
- 9 (3) **subject to section 122.5 of this chapter**, deposits, including
- 10 interest thereon;
- 11 (4) billing procedures;
- 12 (5) **subject to sections 121 and 122 of this chapter**, termination
- 13 of service;
- 14 (6) complaints; and
- 15 (7) information and notice to customers of their rights under the
- 16 rules.
- 17 (b) Notwithstanding IC 8-1-2-54, the commission may investigate



1 and enter orders on complaints filed by individual customers arising
 2 under this section. The commission may establish an appeals division
 3 to act on its own behalf regarding individual customer complaints. The
 4 decision of the division shall be binding on all parties to the complaint.
 5 The commission shall review decisions of the appeals division upon
 6 timely request by an affected party.

7 (c) This section does not invalidate any rule or regulation adopted
 8 by the commission before July 1, 1979, to govern the relations between
 9 public utilities and their consumers if the rule or regulation is
 10 consistent with this section.

11 SECTION 2. IC 8-1-2-121 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 121. (a)
 13 Notwithstanding any other provision of law, from December 1 **of any**
 14 **year** through March 15 of ~~any~~ **the immediately following** year, ~~no~~ **an**
 15 electric **utility** or a gas utility, including a municipally owned, privately
 16 owned, or cooperatively owned utility, ~~shall~~ **may not** terminate
 17 residential electric or gas service for persons who are eligible for and
 18 have applied for assistance under IC 12-14-11 **or through any public**
 19 **or private energy assistance program for which an eligibility**
 20 **requirement is a household income that does not exceed two**
 21 **hundred percent (200%) of the monthly federal income poverty**
 22 **level for a household.** The commission shall implement procedures to
 23 ensure that electric or gas utility service is continued while eligibility
 24 for such persons is being determined.

25 (b) Any electric or gas utility, including a municipally owned,
 26 privately owned, or cooperatively owned utility, shall provide any
 27 residential customer whose account is delinquent an opportunity to
 28 enter into a reasonable amortization agreement with such company to
 29 pay the delinquent account. Such an amortization agreement must
 30 provide the customer with adequate opportunity to apply for and
 31 receive the benefits of any available public assistance program. An
 32 amortization agreement is subject to amendment on the customer's
 33 request if there is a change in the customer's financial circumstances.
 34 **Subject to subsection (a), if a residential account is delinquent**
 35 **during the heating season (as defined in section 122(a)(3) of this**
 36 **chapter), the electric or gas utility shall provide the customer with:**

- 37 (1) the notice required by section 122 of this chapter, if the
 38 utility plans to terminate the customer's service; and
 39 (2) the opportunity to:
 40 (A) enter into a deferred payment plan or level payment
 41 plan; and
 42 (B) apply for:

C
o
p
y



1 **(i) assistance under IC 12-14-11; or**
 2 **(ii) other assistance that may be available to the**
 3 **customer through a public or private agency;**
 4 **as required under section 122 of this chapter.**

5 (c) The commission may establish a reasonable rate of interest
 6 which a utility may charge on the unpaid balance of a customer's
 7 delinquent bill that may not exceed the rate established by the
 8 commission under section 34.5 of this chapter.

9 (d) The commission shall adopt rules under IC 4-22-2 to carry out
 10 the provisions of this section.

11 (e) This section does not prohibit an electric or a gas utility from
 12 terminating residential utility service upon a request of a customer or
 13 under the following circumstances:

- 14 (1) If a condition dangerous or hazardous to life, physical safety,
 15 or property exists.
- 16 (2) Upon order by any court, the commission, or other duly
 17 authorized public authority.
- 18 (3) If fraudulent or unauthorized use of electricity or gas is
 19 detected and the utility has reasonable grounds to believe the
 20 affected customer is responsible for such use.
- 21 (4) If the utility's regulating or measuring equipment has been
 22 tampered with and the utility has reasonable grounds to believe
 23 that the affected customer is responsible for such tampering.

24 **SECTION 3. IC 8-1-2-122 IS AMENDED TO READ AS**
 25 **FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 122. (a) ~~As used in~~ The**
 26 **following definitions apply throughout this section:**

- 27 **(1) "Customer" means a residential customer of a utility or**
 28 **the owner of a master metered apartment building that**
 29 **receives service from a utility.**
- 30 **(2) "Dwelling" means an individual residence, including a mobile**
 31 **home or trailer, or a room or combination of rooms, or a master**
 32 **metered apartment building, with facilities for living for a**
 33 **single household.**
- 34 **(3) "Heating season" means the period beginning on November 1**
 35 **of any year and ending on the following April 1.**
- 36 **(4) "Utility" means a municipally owned, privately owned, or**
 37 **cooperatively owned utility that provides energy or fuel to an**
 38 **occupied dwelling.**

39 **(b) Subject to subsections (h) and (i) and section 121 of this**
 40 **chapter, a utility including a municipally owned utility, that provides**
 41 **energy or fuel to an occupied dwelling may not, during the heating**
 42 **season, terminate service to the dwelling because of the failure of the**

C
O
P
Y



1 customer to pay ~~his~~ **the customer's** energy or fuel bills until fourteen
2 (14) days after it serves notice upon the customer of its intent to
3 terminate service.

4 (c) A notice served under this section must be in language that is
5 clear, concise, and easily understandable to a ~~layman~~ **layperson**. It
6 must, in separately numbered paragraphs, **set forth the following:**

- 7 (1) ~~indicate~~ The date on which service will be terminated.
- 8 (2) ~~state~~ The reason and factual basis for the termination of
9 service.
- 10 (3) ~~list~~ The telephone number of the utility office that the
11 customer may call during regular business hours in order to
12 question the proposed termination of service or to seek
13 information concerning ~~his~~ **the customer's** rights. ~~and~~
- 14 (4) ~~state~~ **A statement** that the customer may refer to the pamphlet
15 furnished to ~~him~~ **the customer** under 170 IAC 4-1-18 for
16 information as to ~~his~~ **the customer's** rights.

17 **(5) Information on how the customer may enter into a
18 deferred payment plan or level payment plan that the utility
19 must offer to customers under subsection (f).**

20 **(6) Information on how the customer may apply for assistance
21 under IC 12-14-11 and information on other assistance that
22 may be available to the customer through a public or private
23 agency.**

- 24 (d) Service of a notice under this section must be by:
 - 25 (1) mail addressed to the customer; or
 - 26 (2) personal delivery to the customer or to a responsible member
27 of ~~his~~ **the customer's** household;

28 at the address listed for the customer in the records of the utility.

29 (e) No notice may be served under this section before the date on
30 which the customer's account becomes delinquent.

31 **(f) A utility shall offer the following payment plans to a
32 customer whose account is delinquent at any time during the
33 heating season:**

34 **(1) Subject to subsection (g), a deferred payment plan
35 allowing for payment of past due amounts over a period of at
36 least four (4) months, beginning any time during or after the
37 heating season, but not to extend beyond October 31 of the
38 year in which the heating season ends.**

39 **(2) A level payment plan allowing for the payment of past due
40 or future charges in equal monthly installments.**

41 **The utility shall allow the customer to enter into both a deferred
42 payment plan described in subdivision (1) and a level payment plan**

C
o
p
y



1 described in subdivision (2) for the payment of past due amounts.
 2 (g) During the heating season, a utility may not refuse to offer
 3 a deferred payment plan to a customer because of the customer's
 4 default on a prior deferred payment plan with the utility during
 5 the previous twelve (12) months. However, a utility is not required
 6 to enter into more than one (1) deferred payment plan with a
 7 customer during a particular heating season.
 8 (h) Subject to section 121 of this chapter, and not earlier than
 9 fourteen (14) days after a utility has provided notice as required
 10 under subsection (c), the utility may terminate service to a dwelling
 11 because of nonpayment by the customer if the customer has not:
 12 (1) entered into a deferred payment plan or a level payment
 13 plan with the utility; or
 14 (2) provided evidence to the utility that the customer has
 15 applied for energy assistance under IC 12-14-11 or through
 16 any public or private energy assistance program for which an
 17 eligibility requirement is a household income that does not
 18 exceed two hundred percent (200%) of the monthly federal
 19 income poverty level for a household.
 20 (i) A utility may not terminate service to a customer during the
 21 heating season if the customer has entered into a deferred payment
 22 plan with the utility and has not defaulted on that plan.
 23 (j) Subject to any rules or policies of:
 24 (1) the division of family and children for providing assistance
 25 under IC 12-14-11; or
 26 (2) any other public or private energy assistance program for
 27 which an eligibility requirement is a household income that
 28 does not exceed two hundred percent (200%) of the monthly
 29 federal income poverty level for a household;
 30 a customer whose application for home energy assistance has been
 31 approved may request that the utility apply part or all of one (1) or
 32 more of the customer's energy assistance payments to past due
 33 amounts for which the customer has arranged to make payments
 34 under a deferred payment plan. If the customer's request is
 35 allowed by the entity described in subdivision (1) or (2), the utility
 36 shall apply the amount of the energy assistance payment against
 37 the customer's past due amounts.
 38 (k) Before November 1 of each year, a utility under the
 39 jurisdiction of the commission shall file with the commission a
 40 plan, on a form prescribed by the commission, for complying with
 41 the requirements of this section.
 42 (l) The commission may adopt rules under IC 4-22-2 to

COPY



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

implement this section.

SECTION 4. IC 8-1-2-122.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 122.5. (a) As used in this section, "applicant" means a person who applies to a utility for new residential utility service. The term does not include a customer that seeks reconnection of utility service following a disconnection of the service by the utility.

(b) As used in this section, "customer" means a residential customer of a utility.

(c) As used in this section, "disconnect notice" refers to a notice of service disconnection that a utility is authorized to issue under:

- (1) 170 IAC 4-1-16(e), in the case of an electric utility; or**
- (2) 170 IAC 5-1-16 (e), in the case of a gas utility;**

for a customer's nonpayment of a bill.

(d) As used in this section, "heating season" has the meaning set forth in section 122(a)(3) of this chapter.

(e) As used in this section, "utility" means:

- (1) an electric utility; or**
- (2) a gas utility;**

that is subject to the jurisdiction of the commission.

(f) If an applicant for utility service fails to establish creditworthiness under:

- (1) 170 IAC 4-1-15(b), in the case of an applicant for electric service; or**
- (2) 170 IAC 5-1-15(b), in the case of an applicant for gas service;**

the utility to which the applicant applies may require the applicant to make a cash deposit, in an amount described in subsection (g), as a condition of receiving service.

(g) For an applicant who has not been a customer of a utility providing the same service within the two (2) years ending with the date of the application, the amount of any deposit required under subsection (f) may not exceed one-sixth (1/6) of the estimated annual cost of service to be provided to the applicant. For an applicant who has been the customer of any utility providing the same service within the two (2) years ending with the date of the application, the amount of any deposit required under subsection (f) may not exceed the lesser of the following:

- (1) One-sixth (1/6) of the estimated annual cost of service to be provided to the applicant.**
- (2) Two (2) times the amount of the applicant's average monthly charges for services rendered by the utility that most**

**C
O
P
Y**



1 recently provided the same service. The average monthly
2 charges shall be calculated based on:

3 (A) the twelve (12) consecutive months ending with the
4 applicant's most recently completed monthly billing cycle
5 with that utility; or

6 (B) all the months the applicant received service from that
7 utility, if the applicant received service from that utility for
8 less than twelve (12) months.

9 If the amount of the deposit calculated under this subsection
10 exceeds seventy dollars (\$70), the utility shall allow the applicant
11 to pay the deposit in equal installment payments over a period of
12 at least eight (8) weeks. The utility shall connect service upon
13 receiving the first installment payment from the applicant.

14 (h) Subject to subsection (i), a utility may require an existing
15 customer to make a cash deposit under any of the following
16 circumstances:

17 (1) The utility has issued consecutive disconnect notices
18 during:

19 (A) the customer's most recently completed monthly billing
20 cycle; and

21 (B) the month immediately preceding the customer's most
22 recently completed monthly billing cycle.

23 (2) The utility has issued disconnect notices to the customer
24 for any three (3) months during the twelve (12) consecutive
25 months ending with the customer's most recently completed
26 monthly billing cycle.

27 (3) The customer's service has been disconnected by the utility
28 under 170 IAC 4-1-16 or 170 IAC 5-1-16 during any of the
29 forty-eight (48) months ending with the customer's most
30 recently completed monthly billing cycle.

31 (i) A utility shall not require a customer to make a deposit
32 under:

33 (1) subsection (h)(2), if the three (3) months described in
34 subsection (h)(2) include two (2) consecutive months, and the
35 customer is assessed a deposit under subsection (h)(1) for the
36 consecutive months; or

37 (2) subsection (h)(3), if the customer's service is disconnected
38 following the issuance of disconnect notices described in
39 subsection (h)(1) or (h)(2), and the customer is assessed a
40 deposit under subsection (h)(1) or (h)(2) in connection with
41 the disconnect notices.

42 (j) Except as provided in subsection (k), the amount of the

C
O
P
Y



1 deposit required by a utility under subsection (h) may not exceed
2 the lesser of the following:

3 (1) Fifty percent (50%) of the total amount of the customer's
4 past due charges.

5 (2) Two (2) times the amount of the customer's average
6 monthly charges for services rendered at the same location:

7 (A) during the twelve (12) consecutive months ending with
8 the customer's most recently completed monthly billing
9 cycle; or

10 (B) during all the months the customer has received service
11 at the location, if the customer has received service at the
12 same location for less than twelve (12) months.

13 If the amount of the deposit calculated under this subsection
14 exceeds seventy dollars (\$70), the utility shall allow the customer
15 to pay the deposit over a period of at least two (2) months.

16 (k) This subsection applies if:

17 (1) the second consecutive disconnect notice described in
18 subsection (h)(1); or

19 (2) the third disconnect notice during the twelve (12) month
20 period described in subsection (h)(2);

21 is for nonpayment during a month that is part of the heating
22 season. If a deposit is required in a situation to which this
23 subsection applies, the utility may not require the customer to pay
24 a deposit that exceeds ten percent (10%) of the total amount of the
25 customer's past due charges, or the amount described in subsection
26 (j)(2), whichever is less, if the customer has entered into a deferred
27 payment plan under section 122(f)(1) of this chapter for payment
28 of past due charges. If the utility requires a down payment on a
29 deposit described in this subsection, the minimum down payment
30 amount required may not exceed twenty percent (20%) of the total
31 deposit amount. The utility shall allow the customer to pay any
32 remaining amount due on the deposit over a period of four (4)
33 months after the due date of the down payment.

34 (l) Subject to any rules or policies of:

35 (1) the division of family and children for providing assistance
36 under IC 12-14-11; or

37 (2) any other public or private energy assistance program for
38 which an eligibility requirement is a household income that
39 does not exceed two hundred percent (200%) of the monthly
40 federal income poverty level for a household;

41 a customer whose application for home energy assistance has been
42 approved may request that the utility apply all or part of one (1) or

C
O
P
Y



1 more of the customer's energy assistance payments to a deposit
2 described in subsection (k), if the customer has entered into a
3 deferred payment plan under section 122(f)(1) of this chapter for
4 payment of past due charges. If the customer's request is allowed
5 by the entity described in subdivision (1) or (2), the utility shall
6 apply the amount of the energy assistance payment requested
7 against the customer's deposit.

8 (m) Before November 1 of each year, a utility shall file with the
9 commission a plan, on a form prescribed by the commission, for
10 complying with the requirements of this section.

11 (n) This section is supplemental to the commission's rules under
12 170 IAC 4-1 and 170 IAC 5-1. However, if a provision of:

- 13 (1) 170 IAC 4-1 or 170 IAC 5-1;
- 14 (2) any amendment to 170 IAC 4-1 or 170 IAC 5-1; or
- 15 (3) any successor rule;

16 conflicts with this section, this section is controlling. A reference in
17 this section to a specific rule in 170 IAC 4-1 or 170 IAC 5-1 is a
18 reference to the rule as in effect on January 1, 2004.

19 (o) The commission may adopt rules under IC 4-22-2 to
20 implement this section.

21 SECTION 5. [EFFECTIVE JULY 1, 2004] 170 IAC 4-1-15(c), 170
22 IAC 4-1-15(e), 170 IAC 5-1-15(c), and 170 IAC 5-1-15(e) are void.
23 The publisher of the Indiana Administrative Code shall remove
24 170 IAC 4-1-15(c), 170 IAC 4-1-15(e), 170 IAC 5-1-15(c), and 170
25 IAC 5-1-15(e) from the Indiana Administrative Code.

26 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) As used in this
27 SECTION, "commission" refers to the Indiana utility regulatory
28 commission.

29 (b) Notwithstanding IC 8-1-2-122.5(o), as added by this act, the
30 commission shall adopt any rules to implement IC 8-1-2-122.5, as
31 added by this act, in the same manner as emergency rules are
32 adopted under IC 4-22-2-37.1. Any rules adopted under this
33 SECTION must be adopted not later than June 1, 2004. A rule
34 adopted under this SECTION expires on the earlier of:

- 35 (1) the date the rule is adopted by the commission under
36 IC 4-22-2-24 through IC 4-22-2-36 to implement
37 IC 8-1-2-122.5, as added by this act; or
- 38 (2) January 1, 2006.

39 (c) This SECTION expires January 1, 2006.

40 SECTION 7. An emergency is declared for this act.

C
o
p
y

