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# SENATE BILL No. 37

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2-83.

**Synopsis:** Utility acquisition costs. Provides that the costs a public utility incurs in the acquisition of: (1) another public utility or a controlling interest in another public utility; or (2) an interest in a partnership, limited liability company, corporation, or any other person; may not be included in the rates charged to the public utility's customers.

**Effective:** July 1, 2005.

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### Antich-Carr

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January 4, 2005, read first time and referred to Committee on Homeland Security, Utilities, and Public Policy.

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First Regular Session 114th General Assembly (2005)

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 2004 Regular Session of the General Assembly.

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**SENATE BILL No. 37**



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

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

1 SECTION 1. IC 8-1-2-83 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2005]: Sec. 83. (a) ~~No~~ A public utility, as  
3 defined in section 1 of this chapter, ~~shall~~ **may not** sell, assign, transfer,  
4 lease, or encumber its franchise, works, or system to any other person,  
5 partnership, limited liability company, or corporation, or contract for  
6 the operation of any part of its works or system by any other person,  
7 partnership, limited liability company, or corporation, without the  
8 approval of the commission after hearing. ~~And no such~~  
9 (b) A public utility **may not**, except temporarily or in case of  
10 emergency and for a period of not exceeding thirty (30) days, ~~shall~~  
11 make any special contract at rates other than those prescribed in its  
12 schedule of rates ~~therebefore~~ **previously** filed with the commission, and  
13 in force, with any other utility for rendering any service to or procuring  
14 any service from such other utility, without the approval of the  
15 commission. ~~It shall be lawful~~; However, ~~for any a public utility to~~  
16 **may** make a contract for service to or from another utility at rates  
17 previously filed with and approved by the commission and in force.



1            ~~(b)~~ (c) The approval of the commission of the sale, assignment,  
2 transfer, lease, or encumbrance of a franchise or any part ~~thereof of a~~  
3 **franchise** under this section ~~shall does~~ not revive or validate any  
4 lapsed or invalid franchise, or enlarge or add to the powers and  
5 privileges contained in the grant of any franchise or waive any  
6 forfeiture. ~~No such~~

7            (d) A public utility ~~shall may not~~ directly or indirectly purchase,  
8 acquire, or become the owner of any of the property, stock, or bonds of  
9 any other public utility authorized to engage or engaged in the same or  
10 a similar business, or operating or purporting to operate under a  
11 franchise from the same or any other municipality or under an  
12 indeterminate permit unless authorized so to do by the commission.

13            ~~(c)~~ ~~Nothing contained in (e)~~ This section ~~shall does not~~ prevent the  
14 holding of stock lawfully acquired before May 1, 1913, or prohibit,  
15 upon the surrender or exchange of ~~said~~ stock ~~pursuant to under~~ a  
16 reorganization plan, the purchase, acquisition, taking, or holding by the  
17 owner of a proportionate amount of the stock of any new corporation  
18 organized to take over at foreclosure or other sale, the property of the  
19 corporation whose stock has been thus surrendered or exchanged.

20            ~~(d)~~ (f) Every contract by any public utility for the purchase,  
21 acquisition, assignment, or transfer to it of any of the stock of any other  
22 public utility by or through any person, partnership, limited liability  
23 company, or corporation without the approval of the commission ~~shall~~  
24 ~~be is~~ void, ~~and of no effect~~; and ~~no such a~~ transfer or assignment of  
25 such stock upon the books of the corporation ~~pursuant to under~~ any  
26 such contract ~~shall be is not~~ effective for any purpose.

27            (g) **The costs that a public utility incurs in the acquisition of:**  
28            (1) **another public utility or a controlling interest in another**  
29            **public utility; or**  
30            (2) **an interest in a partnership, limited liability company,**  
31            **corporation, or any other person;**  
32 **may not be included in the rates charged to the public utility's**  
33 **customers.**

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