



February 23, 2010

**ENGROSSED
HOUSE BILL No. 1094**

DIGEST OF HB 1094 (Updated February 19, 2010 9:08 am - DI 103)

Citations Affected: IC 8-1.

Synopsis: Net metering. Requires the utility regulatory commission (IURC) to adopt emergency rules amending the IURC's net metering rules for electric utilities. Provides that the amended rules must: (1) allow certain net metering customers to interconnect facilities that generate energy from certain renewable energy resources; (2) make net metering available to all customer classes; (3) establish a maximum nameplate capacity for all customer classes; (4) require certain net metering customers to pay all interconnection costs; (5) establish certain billing requirements; and (6) permit an electric utility to establish in its proposed tariff net metering standards that exceed the standards set forth by the IURC. Provides that the amended rules do not apply to existing net metering agreements and may not permit meter aggregation. Requires the IURC to notify the publisher of the Indiana administrative code to the extent the existing rules do not comply with the requirements for the amended rules. Requires the IURC to report to the regulatory flexibility committee on: (1) the IURC's progress in adopting the amended rules; and (2) beginning not later than July 1, 2016, the impact of technological advances on the IURC's net metering rules.

Effective: Upon passage; July 1, 2010.

Dvorak, Culver, Koch

(SENATE SPONSORS — MERRITT, ERRINGTON, BREAUX)

January 5, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.

January 25, 2010, amended, reported — Do Pass.

February 1, 2010, read second time, amended, ordered engrossed.

February 2, 2010, engrossed. Read third time, passed. Yeas 78, nays 21.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Utilities and Technology.

February 23, 2010, amended, reported favorably — Do Pass.

EH 1094—LS 6849/DI 101+



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February 23, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

ENGROSSED HOUSE BILL No. 1094



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 8-1-1-16 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 16. (a) As used in this section, "electric**
4 **utility" refers to an investor owned electric utility (as defined in**
5 **170 IAC 4-4.2-1(g)).**

6 **(b) Subject to subsections (d) and (e) and not later than July 1,**
7 **2011, the commission shall adopt rules to amend the net metering**
8 **rules adopted by the commission and codified at 170 IAC 4-4.2.**
9 **The commission shall adopt the rules required by this subsection**
10 **in the same manner as emergency rules are adopted under**
11 **IC 4-22-2-37.1. The rules adopted by the commission under this**
12 **subsection must do the following:**

13 (1) **Require an electric utility to offer net metering to all**
14 **customer classes.**

15 (2) **Allow a net metering customer to interconnect a facility**
16 **that generates electricity from a renewable energy resource**
17 **(as defined in IC 8-1-8.8-10).**

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(3) Establish a maximum nameplate capacity for each net metering customer class for purposes of interconnecting a generating facility to an electric utility's distribution facility. In establishing the nameplate capacity for each customer class, the commission must consider the rate impact on, and potential subsidy by, the members of the customer class.

(4) Allow a net metering customer to interconnect to an electric utility's distribution facility a generating system that is sized to meet all or part of, but not to exceed, the customer's electric load.

(5) For net metering customers (other than residential customers that own and operate, and schools used for any grade from kindergarten through grade 12 that own and operate, a generating facility that has a nameplate capacity less than or equal to ten (10) kilowatts (kW)), require a net metering customer to pay all costs and fees associated with interconnecting the customer's net metering facility.

(6) For net metering customers (other than residential customers that own and operate, and schools used for any grade from kindergarten through grade 12 that own and operate, a generating facility that has a nameplate capacity less than or equal to ten (10) kilowatts (kW)) that own and operate a generating facility that has a nameplate capacity less than or equal to two hundred (200) kilowatts (kW), provide the following for billing purposes:

(A) Provide that if the amount of electricity generated during a billing cycle by the net metering customer and delivered to the electric utility exceeds the amount of electricity delivered during the same billing cycle by the electric utility to the net metering customer, the electric utility shall credit the difference between the amounts, measured in kilowatt hours, to the net metering customer in the next billing cycle.

(B) Provide that any remaining credit determined under clause (A) reverts to the utility:

(i) in the billing cycle that begins twelve (12) months after the billing cycle in which the credit is originally determined; and

(ii) when the net metering customer becomes ineligible or otherwise stops participating in the electric utility's net metering tariff.

(7) For net metering customers that own and operate a

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1 generating facility that has a nameplate capacity greater than
2 two hundred (200) kilowatts (kW), provide that the kilowatt
3 hours generated by a net metering customer and delivered to
4 an electric utility may not exceed the kilowatt hours supplied
5 by the electric utility to the net metering customer during a
6 billing period.

7 (8) Allow an electric utility to establish in its proposed tariff
8 net metering standards that exceed the standards set forth in
9 the rules adopted under this subsection.

10 In adopting rules under this subsection, the commission shall
11 consider the impact of interconnecting a net metering facility to an
12 electric utility's distribution facility on the safe and reliable
13 operation of the electric utility's electric grid system and on the
14 safety of the electric utility's employees, agents, and contractors.

- 15 (c) Emergency rules adopted under subsection (b) may not:
 - 16 (1) apply to net metering agreements entered into before the
 - 17 effective date of this section; or
 - 18 (2) permit meter aggregation by a net metering customer.

- 19 (d) Rules adopted under subsection (b) expire on:
 - 20 (1) the date the rules are adopted by the commission under
 - 21 IC 4-22-2-24 through IC 4-22-2-36; or
 - 22 (2) January 1, 2013;
- 23 whichever is earlier.

- 24 (e) Not later than January 15, 2011, the commission shall:
 - 25 (1) evaluate the net metering rules adopted by the commission
 - 26 and codified at 170 IAC 4-4.2 for compliance with the
 - 27 requirements set forth in subsections (b) and (c); and
 - 28 (2) notify the publisher of the Indiana Administrative Code
 - 29 and Indiana Register of any rules codified at 170 IAC 4-4.2
 - 30 that do not comply with the requirements set forth in
 - 31 subsection (b) or (c).

32 The publisher shall remove the rules that do not comply with this
33 subsection from the Indiana Administrative Code.

- 34 (f) Not later than November 1, 2011, the commission shall report
35 to the regulatory flexibility committee established by IC 8-1-2.6-4
36 on the commission's progress under subsection (d)(1) in finally
37 adopting, under IC 4-22-2-24 through IC 4-22-2-36, the emergency
38 rules initially adopted by the commission under subsection (b).

39 (g) This section expires July 1, 2013.

40 SECTION 2. IC 8-1-2.6-4, AS AMENDED BY P.L.62-2009,
41 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2010]: Sec. 4. (a) A regulatory flexibility committee is

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1 established to monitor competition in the telecommunications industry.

2 (b) The committee is composed of the members of a house standing
3 committee selected by the speaker of the house of representatives and
4 a senate standing committee selected by the president pro tempore of
5 the senate. In selecting standing committees under this subsection, the
6 speaker and president pro tempore shall determine which standing
7 committee of the house of representatives and the senate, respectively,
8 has subject matter jurisdiction that most closely relates to the
9 electricity, gas, energy policy, and telecommunications jurisdiction of
10 the regulatory flexibility committee. The chairpersons of the standing
11 committees selected under this subsection shall co-chair the regulatory
12 flexibility committee.

13 (c) The commission shall, by July 1 of each year, prepare for
14 presentation to the regulatory flexibility committee a report that
15 includes the following:

16 (1) An analysis of the effects of competition and technological
17 change on universal service and on pricing of all
18 telecommunications services offered in Indiana.

19 (2) An analysis of the status of competition and technological
20 change in the provision of video service (as defined in
21 IC 8-1-34-14) to Indiana customers, as determined by the
22 commission in carrying out its duties under IC 8-1-34. The
23 commission's analysis under this subdivision must include a
24 description of:

25 (A) the number of multichannel video programming
26 distributors offering video service to Indiana customers;

27 (B) the technologies used to provide video service to Indiana
28 customers; and

29 (C) the effects of competition on the pricing and availability of
30 video service in Indiana.

31 (3) Beginning with the report due July 1, 2007, and in each report
32 due in an odd-numbered year after July 1, 2007:

33 (A) an identification of all telecommunications rules and
34 policies that are eliminated by the commission under section
35 4.1 of this chapter during the two (2) most recent state fiscal
36 years; and

37 (B) an explanation why the telecommunications rules and
38 policies identified under clause (A) are no longer in the public
39 interest or necessary to protect consumers.

40 (4) Beginning with the report due July 1, 2010, best practices
41 concerning vertical location of underground facilities for purposes
42 of IC 8-1-26. A report under this subdivision must address the

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viability and economic feasibility of technologies used to vertically locate underground facilities.

(5) Beginning with the report due July 1, 2016, and in each report due every five (5) years thereafter, an analysis of the impact of changes and advances in technology on the net metering rules adopted by the commission and codified at 170 IAC 4-4.2.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee shall also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

- (1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.
- (2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).
- (4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.
- (5) The economic and social effectiveness of current telecommunications service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

The report and recommendations issued under this subsection to the legislative council must be in an electronic format under IC 5-14-6.

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

SECTION 3. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred House Bill 1094, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 4, delete "and (d)" and insert "**through (e)**".

Page 1, line 15, delete "facility with" and insert "**system that is sized to meet all or part of a customer's electric load.**".

Page 1, delete lines 16 through 18.

Page 2, delete lines 1 through 14.

Page 2, line 23, delete "Microturbines" and insert "**Combustion technology**".

Page 2, line 23, delete "fuels." and insert "**fuels or natural gas.**".

Page 2, line 25, delete "digestion." and insert "**digestion and algae production systems.**".

Page 2, line 26, delete "landfills." and insert "**landfills or other waste products.**".

Page 2, between lines 26 and 27, begin a new line double block indented and insert:

"(I) Combined heat and power systems that achieve at least seventy percent (70%) overall efficiency.

(4) Allow for customer meter aggregation."

Page 2, between lines 26 and 27, begin a new paragraph and insert:

"(c) A rule adopted by the commission under subsection (b) may not make the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2 and 170 IAC 4-4.3 apply to any of the following:

(1) A cooperatively owned power supplier (as defined in IC 8-1-13.1-3).

(2) A municipally owned utility (as defined in IC 8-1-2-1(h))."

Page 2, line 27, delete "(c)" and insert "**(d)**".

Page 2, line 32, delete "(d)" and insert "**(e)**".

Page 3, line 2, delete "(e)" and insert "**(f)**".

Page 3, line 4, delete "(c)(1)" and insert "**(d)(1)**".

Page 3, line 8, delete "(f)" and insert "**(g)**".

and when so amended that said bill do pass.

(Reference is to HB 1094 as introduced.)

MOSES, Chair

Committee Vote: yeas 8, nays 4.

EH 1094—LS 6849/DI 101+



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HOUSE MOTION

Mr. Speaker: I move that House Bill 1094 be amended to read as follows:

Delete the title and insert the following:

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

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 8-1-2-36.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 36.7. The commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4 shall include the following information relating to net metering:**

- (1) For each electric utility, the number of net metering customers by customer class and nameplate capacity.**
- (2) A description of each safety incident that occurred during the year covered by the report, including the outcome of the incident and any remedial measures taken in response to the incident.**
- (3) A description of each grid reliability incident that occurred during the year covered by the report, including the outcome of the incident and any remedial measures taken in response to the incident.**
- (4) An estimate of the cross subsidy impact of net metering to other ratepayers of each electric utility."**

Re-number all SECTIONS consecutively.

(Reference is to HB 1094 as printed January 25, 2010.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred House Bill No. 1094, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to HB 1094 as reprinted February 2, 2010.)

MERRITT, Chairperson

Committee Vote: Yeas 10, Nays 0.

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