



February 22, 2010

**ENGROSSED  
SENATE BILL No. 313**

DIGEST OF SB 313 (Updated February 18, 2010 9:51 am - DI 75)

**Citations Affected:** IC 8-1; noncode.

**Synopsis:** Net metering; renewable electricity standard. Requires the utility regulatory commission (IURC) to adopt emergency rules amending the IURC's net metering and interconnection rules for electric utilities. Provides that the amended rules must: (1) make net metering available to all customer classes; (2) 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 a customer's electric load; (3) allow a net metering customer to interconnect a generating facility that makes use of specified technologies; and (4) allow for customer meter aggregation. Provides that a rule adopted by  
(Continued next page)

**Effective:** Upon passage; July 1, 2010.

**Merritt, Gard, Charbonneau,  
Young R, Errington, Stutzman,  
Breaux**

(HOUSE SPONSORS — DVORAK, LUTZ, KOCH, BARNES)

January 11, 2010, read first time and referred to Committee on Utilities & Technology.  
January 25, 2010, amended, reported favorably — Do Pass.  
January 28, 2010, read second time, amended, ordered engrossed.  
January 29, 2010, engrossed.  
February 2, 2010, read third time, passed. Yeas 49, nays 0.  
HOUSE ACTION  
February 8, 2010, read first time and referred to Committee on Commerce, Energy, Technology and Utilities.  
February 22, 2010, amended, reported — Do Pass.

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Digest Continued

the IURC to amend the IURC's net metering and interconnection rules may not make the net metering and interconnection rules apply to a cooperatively owned power supplier or a municipally owned utility. Provides that the existing rules are void to the extent they do not comply with the requirements for the amended rules. Requires the IURC to report to the regulatory flexibility committee on the IURC's progress in adopting the amended rules. Requires the IURC to include certain information in its annual report to the regulatory flexibility committee regarding the number of net metering customers, any safety incidents, and the cross subsidy impact of net metering to other ratepayers of each electric utility. Renewable electricity standard. Requires an electricity supplier to supply at least 4% of its electricity generated through wind power not later than December 31, 2014. Establishes the renewable energy resources fund to receive penalties paid by electricity suppliers that fail to supply electricity from renewable energy resources. Appropriates money in the fund.

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February 22, 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 SENATE BILL No. 313



A BILL FOR AN ACT to amend the Indiana Code concerning utilities and to make an appropriation.

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

- 1 SECTION 1. IC 8-1-2-36.7 IS ADDED TO THE INDIANA CODE
- 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2010]: **Sec. 36.7. The commission's annual report to the**
- 4 **regulatory flexibility committee under IC 8-1-2.6-4 must include**
- 5 **the following information relating to net metering:**
- 6 (1) For each electric utility, the number of net metering
- 7 customers by customer class and nameplate capacity.
- 8 (2) A description of each safety incident that occurred during
- 9 the year covered by the report, including the outcome of the
- 10 incident and any remedial measures taken in response to the
- 11 incident.
- 12 (3) A description of each grid reliability incident that
- 13 occurred during the year covered by the report, including the
- 14 outcome of the incident and any remedial measures taken in
- 15 response to the incident.
- 16 (4) An estimate of the cross subsidy impact of net metering to
- 17 other ratepayers of each electric utility.

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1 SECTION 2. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 35. Renewable Electricity Standard**

5 **Sec. 1. As used in this chapter, "electricity supplier" means a**  
6 **public utility (as defined in IC 8-1-2-1) that furnishes retail electric**  
7 **service to the public. The term does not include a public utility that**  
8 **is any of the following:**

9 (1) A corporation organized under IC 8-1-13.

10 (2) A corporation organized under IC 23-17-1 that is an  
11 electric cooperative and that has at least one (1) member that  
12 is a corporation organized under IC 8-1-13.

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

14 **Sec. 2. As used in this chapter, "fund" refers to the renewable**  
15 **energy resources fund established by section 9 of this chapter.**

16 **Sec. 3. As used in this chapter, "regional transmission**  
17 **organization" refers to a regional transmission organization**  
18 **approved by the Federal Energy Regulatory Commission that**  
19 **serves a region that includes all or part of Indiana.**

20 **Sec. 4. As used in this chapter, "renewable energy credit" or**  
21 **"REC" means a tradable commodity equivalent to one (1)**  
22 **megawatt hour of electricity generated by renewable energy**  
23 **resources.**

24 **Sec. 5. As used in this chapter, "renewable energy resources"**  
25 **refers to the production of electricity by wind power.**

26 **Sec. 6. Each electricity supplier shall supply electricity**  
27 **generated by renewable energy resources to Indiana customers as**  
28 **a percentage of the total electricity supplied by the electricity**  
29 **supplier to Indiana customers as follows:**

30 (1) Not later than December 31, 2012, at least two percent  
31 (2%).

32 (2) Not later than December 31, 2013, at least three percent  
33 (3%).

34 (3) Not later than December 31, 2014, at least four percent  
35 (4%).

36 **For purposes of this section, electricity is measured in megawatt**  
37 **hours.**

38 **Sec. 7. (a) An electricity supplier may own, generate, purchase,**  
39 **or trade RECs to comply with section 6 of this chapter.**

40 **(b) An electricity supplier is responsible for conducting**  
41 **sufficient advance planning to acquire its allotment of RECs.**

42 **(c) An electricity supplier that is required, and fails, to comply**

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with section 6 of this chapter shall deposit in the fund an amount equal to:

- (1) the number of megawatt hours of electricity generated by renewable energy resources that the electricity supplier was required to but failed to supply under section 6 of this chapter; multiplied by
- (2) fifty dollars (\$50).

**Sec. 8.** For purposes of calculating RECs to determine an electricity supplier's compliance with section 6 of this chapter, the following apply:

- (1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.
- (2) One (1) megawatt hour of electricity generated by a renewable energy resource in the territory of a regional transmission organization and imported into Indiana equals one-half (0.5) REC.

**Sec. 9. (a)** The renewable energy resources fund is established to provide funding for the following:

- (1) Renewable energy technology research at state supported colleges and universities.
- (2) Grants or other financial incentives for renewable energy manufacturing projects.

**(b)** The fund consists of the following:

- (1) Money deposited under section 7(c) of this chapter.
- (2) Money from any other source that is deposited in the fund.

**(c)** The Indiana economic development corporation shall administer the fund.

**(d)** The expenses of administering the fund shall be paid from money in the fund but may not exceed ten percent (10%) of the balance in the fund.

**(e)** The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

**(f)** Money in the fund at the end of a state fiscal year does not revert to the state general fund.

**(g)** Money in the fund is continuously appropriated for purposes of the fund.

**Sec. 10.** Not later than March 1, 2013, and each year thereafter, an electricity supplier shall file with the commission a report of the electricity supplier's compliance with this chapter for the

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1 preceding calendar year.

2 Sec. 11. The commission shall adopt rules under IC 4-22-2 to  
3 implement this chapter, including rules to establish a program for  
4 the certification and trading of RECs to comply with section 6 of  
5 this chapter.

6 Sec. 12. (a) Not later than April 1, 2015, the commission shall  
7 submit a report in an electronic format under IC 5-14-6 to the  
8 general assembly. A report submitted under this section must  
9 include:

- 10 (1) an analysis of; and
- 11 (2) any legislative proposals the commission believes would  
12 increase;

13 the effectiveness of and industry compliance with this chapter.

14 (b) This section expires January 1, 2016.

15 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this  
16 SECTION, "commission" refers to the Indiana utility regulatory  
17 commission created by IC 8-1-1-2.

18 (b) Subject to subsections (c) through (e) and not later than July  
19 1, 2010, the commission shall adopt rules to amend the net  
20 metering and interconnection rules adopted by the commission and  
21 codified at 170 IAC 4-4.2 and 170 IAC 4-4.3. The commission shall  
22 adopt the rules required by this subsection in the same manner as  
23 emergency rules are adopted under IC 4-22-2-37.1. The rules  
24 adopted by the commission under this subsection must do the  
25 following:

- 26 (1) Require an electric utility to offer net metering to all  
27 customer classes.
- 28 (2) Allow a net metering customer to interconnect to an  
29 electric utility's distribution facility a generating system that  
30 is sized to meet all or part of a customer's electric load.
- 31 (3) Allow a net metering customer to interconnect a facility  
32 that generates electricity through any of the following  
33 technologies:
  - 34 (A) Solar.
  - 35 (B) Wind.
  - 36 (C) Microhydroelectric facilities.
  - 37 (D) Hydroelectric facilities at dams existing before  
38 January 1, 2010.
  - 39 (E) Combustion technology using renewable fuels or  
40 natural gas.
  - 41 (F) Fuel cells using renewable fuels.
  - 42 (G) Biogas, including anaerobic digestion and algae

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1                    **production systems.**  
 2                    **(H) Methane from landfills or other waste products.**  
 3                    **(I) Combined heat and power systems that achieve at least**  
 4                    **seventy percent (70%) overall efficiency.**  
 5                    **(4) Allow for customer meter aggregation.**  
 6                    **(c) A rule adopted by the commission under subsection (b) may**  
 7                    **not make the net metering and interconnection rules adopted by**  
 8                    **the commission and codified at 170 IAC 4-4.2 and 170 IAC 4-4.3**  
 9                    **apply to any of the following:**  
 10                    **(1) A cooperatively owned power supplier (as defined in**  
 11                    **IC 8-1-13.1-3).**  
 12                    **(2) A municipally owned utility (as defined in IC 8-1-2-1(h)).**  
 13                    **(d) Rules adopted under subsection (b) expire on the date the**  
 14                    **rules are adopted by the commission under IC 4-22-2-24 through**  
 15                    **IC 4-22-2-36.**  
 16                    **(e) Not later than June 1, 2010, the commission shall evaluate**  
 17                    **the net metering and interconnection rules adopted by the**  
 18                    **commission and codified at 170 IAC 4-4.2 and 170 IAC 4-4.3 for**  
 19                    **compliance with the requirements set forth in subsection (b). To**  
 20                    **the extent that any rules codified at 170 IAC 4-4.2 and 170**  
 21                    **IAC 4-4.3 do not meet the requirements set forth in subsection (b),**  
 22                    **the rules are void. Not later than June 15, 2010, the commission**  
 23                    **shall notify the publisher of the Indiana Administrative Code and**  
 24                    **Indiana Register of any rules codified at 170 IAC 4-4.2 and 170**  
 25                    **IAC 4-4.3 that are void under this subsection. The publisher shall**  
 26                    **remove the rules that are void under this subsection from the**  
 27                    **Indiana Administrative Code.**  
 28                    **(f) Not later than November 1, 2010, the commission shall report**  
 29                    **to the regulatory flexibility committee established by IC 8-1-2.6-4**  
 30                    **on the commission's progress under subsection (d) in finally**  
 31                    **adopting, under IC 4-22-2-24 through IC 4-22-2-36, the emergency**  
 32                    **rules initially adopted by the commission under subsection (b).**  
 33                    **(g) This SECTION expires January 1, 2012.**  
 34                    **SECTION 4. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 313, 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 SB 313 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 313 be amended to read as follows:

Page 1, between lines 14 and 15, begin a new line block indented and insert:

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

**(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."**

Page 1, line 15, delete "(2)" and insert "(4)".

Page 2, line 2, delete "(kW):" and insert "(kW)), **require a net metering customer to pay all costs and fees associated with interconnecting the customer's net metering facility.**"

Page 2, delete lines 3 through 17, begin a new line block indented and insert:

**"(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)) that own and operate a generating facility that has a nameplate capacity less than or equal to two hundred (200) kilowatts (kW),**



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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) at the end of each calendar year; and

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

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

Page 2, line 18, delete "(3)" and insert "(7)".

(Reference is to SB 313 as printed January 26, 2010).

MERRITT



COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 313, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and to make an appropriation.

Page 1, delete lines 1 through 17, 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 must include**

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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.

SECTION 2. IC 8-1-35 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

**Chapter 35. Renewable Electricity Standard**

**Sec. 1.** As used in this chapter, "electricity supplier" means a public utility (as defined in IC 8-1-2-1) that furnishes retail electric service to the public. The term does not include a public utility that is any of the following:

- (1) A corporation organized under IC 8-1-13.
- (2) A corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13.
- (3) A municipally owned utility (as defined in IC 8-1-2-1(h)).

**Sec. 2.** As used in this chapter, "fund" refers to the renewable energy resources fund established by section 9 of this chapter.

**Sec. 3.** As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission that serves a region that includes all or part of Indiana.

**Sec. 4.** As used in this chapter, "renewable energy credit" or "REC" means a tradable commodity equivalent to one (1) megawatt hour of electricity generated by renewable energy resources.

**Sec. 5.** As used in this chapter, "renewable energy resources" refers to the production of electricity by wind power.

**Sec. 6.** Each electricity supplier shall supply electricity generated by renewable energy resources to Indiana customers as a percentage of the total electricity supplied by the electricity supplier to Indiana customers as follows:

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- (1) Not later than December 31, 2012, at least two percent (2%).
- (2) Not later than December 31, 2013, at least three percent (3%).
- (3) Not later than December 31, 2014, at least four percent (4%).

For purposes of this section, electricity is measured in megawatt hours.

Sec. 7. (a) An electricity supplier may own, generate, purchase, or trade RECs to comply with section 6 of this chapter.

(b) An electricity supplier is responsible for conducting sufficient advance planning to acquire its allotment of RECs.

(c) An electricity supplier that is required, and fails, to comply with section 6 of this chapter shall deposit in the fund an amount equal to:

- (1) the number of megawatt hours of electricity generated by renewable energy resources that the electricity supplier was required to but failed to supply under section 6 of this chapter; multiplied by
- (2) fifty dollars (\$50).

Sec. 8. For purposes of calculating RECs to determine an electricity supplier's compliance with section 6 of this chapter, the following apply:

- (1) One (1) megawatt hour of electricity generated by renewable energy resources in an Indiana facility equals one (1) REC.
- (2) One (1) megawatt hour of electricity generated by a renewable energy resource in the territory of a regional transmission organization and imported into Indiana equals one-half (0.5) REC.

Sec. 9. (a) The renewable energy resources fund is established to provide funding for the following:

- (1) Renewable energy technology research at state supported colleges and universities.
- (2) Grants or other financial incentives for renewable energy manufacturing projects.

(b) The fund consists of the following:

- (1) Money deposited under section 7(c) of this chapter.
- (2) Money from any other source that is deposited in the fund.

(c) The Indiana economic development corporation shall administer the fund.

(d) The expenses of administering the fund shall be paid from

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money in the fund but may not exceed ten percent (10%) of the balance in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) Money in the fund is continuously appropriated for purposes of the fund.

Sec. 10. Not later than March 1, 2013, and each year thereafter, an electricity supplier shall file with the commission a report of the electricity supplier's compliance with this chapter for the preceding calendar year.

Sec. 11. The commission shall adopt rules under IC 4-22-2 to implement this chapter, including rules to establish a program for the certification and trading of RECs to comply with section 6 of this chapter.

Sec. 12. (a) Not later than April 1, 2015, the commission shall submit a report in an electronic format under IC 5-14-6 to the general assembly. A report submitted under this section must include:

- (1) an analysis of; and
- (2) any legislative proposals the commission believes would increase;

the effectiveness of and industry compliance with this chapter.

(b) This section expires January 1, 2016.

SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

(b) Subject to subsections (c) through (e) and not later than July 1, 2010, the commission shall adopt rules to amend the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2 and 170 IAC 4-4.3. The commission shall adopt the rules required by this subsection in the same manner as emergency rules are adopted under IC 4-22-2-37.1. The rules adopted by the commission under this subsection must do the following:

- (1) Require an electric utility to offer net metering to all customer classes.
- (2) Allow a net metering customer to interconnect to an electric utility's distribution facility a generating system that

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is sized to meet all or part of a customer's electric load.

(3) Allow a net metering customer to interconnect a facility that generates electricity through any of the following technologies:

- (A) Solar.
- (B) Wind.
- (C) Microhydroelectric facilities.
- (D) Hydroelectric facilities at dams existing before January 1, 2010.
- (E) Combustion technology using renewable fuels or natural gas.
- (F) Fuel cells using renewable fuels.
- (G) Biogas, including anaerobic digestion and algae production systems.
- (H) Methane from landfills or other waste products.
- (I) Combined heat and power systems that achieve at least seventy percent (70%) overall efficiency.

(4) Allow for customer meter aggregation.

(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)).

(d) Rules adopted under subsection (b) expire on the date the rules are adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

(e) Not later than June 1, 2010, the commission shall evaluate the net metering and interconnection rules adopted by the commission and codified at 170 IAC 4-4.2 and 170 IAC 4-4.3 for compliance with the requirements set forth in subsection (b). To the extent that any rules codified at 170 IAC 4-4.2 and 170 IAC 4-4.3 do not meet the requirements set forth in subsection (b), the rules are void. Not later than June 15, 2010, the commission shall notify the publisher of the Indiana Administrative Code and Indiana Register of any rules codified at 170 IAC 4-4.2 and 170 IAC 4-4.3 that are void under this subsection. The publisher shall remove the rules that are void under this subsection from the Indiana Administrative Code.

(f) Not later than November 1, 2010, the commission shall report to the regulatory flexibility committee established by IC 8-1-2.6-4

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**on the commission's progress under subsection (d) in finally adopting, under IC 4-22-2-24 through IC 4-22-2-36, the emergency rules initially adopted by the commission under subsection (b).**

**(g) This SECTION expires January 1, 2012."**

Delete pages 2 through 4.

Page 5, delete lines 1 through 23.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 313 as reprinted January 29, 2010.)

MOSES, Chair

Committee Vote: yeas 12, nays 0.

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