

Adopted	Rejected
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COMMITTEE REPORT

YES:	6
NO:	3

MR. SPEAKER:

*Your Committee on Utilities and Energy, to which was referred Senate Bill 251, 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:*

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
- 2 "SECTION 1. IC 8-1-8.4 IS ADDED TO THE INDIANA CODE AS
- 3 A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON**
- 4 **PASSAGE]:**
- 5 **Chapter 8.4. Federally Mandated Requirements for Energy**
- 6 **Utilities**
- 7 **Sec. 1. As used in this chapter, "certificate" refers to a**
- 8 **certificate of public convenience and necessity issued by the**
- 9 **commission under section 7(b) of this chapter.**
- 10 **Sec. 2. (a) As used in this chapter, "compliance project" means**
- 11 **a project that is:**
- 12 **(1) undertaken by an energy utility; and**
- 13 **(2) related to the direct or indirect compliance by the energy**
- 14 **utility with one (1) or more federally mandated requirements.**
- 15 **(b) The term includes:**
- 16 **(1) an addition; or**

1 **(2) an integrity, enhancement, or a replacement project;**
 2 **undertaken by an energy utility to comply with a federally**
 3 **mandated requirement described in section 5(5) of this chapter.**

4 **Sec. 3. As used in this chapter, "energy utility" has the meaning**
 5 **set forth in IC 8-1-2.5-2.**

6 **Sec. 4. (a) As used in this chapter, "federally mandated costs"**
 7 **means costs that an energy utility incurs in connection with a**
 8 **compliance project, including capital, operating, maintenance,**
 9 **depreciation, tax, or financing costs.**

10 **(b) The term does not include fines or penalties assessed against**
 11 **or imposed on an energy utility for violating laws, regulations, or**
 12 **consent decrees related to a federally mandated requirement.**

13 **Sec. 5. As used in this chapter, "federally mandated**
 14 **requirement" means a requirement that the commission**
 15 **determines is imposed on an energy utility by the federal**
 16 **government in connection with any of the following:**

17 **(1) The federal Clean Air Act (42 U.S.C. 7401 et seq.).**

18 **(2) The federal Water Pollution Control Act (33 U.S.C. 1251**
 19 **et seq.).**

20 **(3) The federal Resource Conservation and Recovery Act (42**
 21 **U.S.C. 6901 et seq.).**

22 **(4) The federal Toxic Substances Control Act (15 U.S.C. 2601**
 23 **et seq.).**

24 **(5) Standards or regulations concerning the integrity, safety,**
 25 **or reliable operation of:**

26 **(A) transmission; or**

27 **(B) distribution;**

28 **pipeline facilities.**

29 **(6) Requirements relating to a license issued by the United**
 30 **States Nuclear Regulatory Commission to operate a nuclear**
 31 **energy production or generating facility (as defined in**
 32 **IC 8-1-8.8-8.5).**

33 **(7) Any other law, order, or regulation administered or issued**
 34 **by the United States Environmental Protection Agency, the**
 35 **United States Department of Transportation, the Federal**
 36 **Energy Regulatory Commission, or the United States**
 37 **Department of Energy.**

38 **Sec. 6. (a) Except as provided in subsection (c), or unless an**

1 energy utility has elected to file for:

- 2 (1) a certificate of public convenience and necessity; or
3 (2) the recovery of costs;

4 under another statute, an energy utility that seeks to recover
5 federally mandated costs under section 7(c) of this chapter must
6 obtain from the commission a certificate that states that public
7 convenience and necessity will be served by a compliance project
8 proposed by the energy utility.

9 (b) The commission shall issue a certificate of public
10 convenience and necessity under section 7(b) of this chapter if the
11 commission finds that the proposed compliance project will allow
12 the energy utility to comply directly or indirectly with one (1) or
13 more federally mandated requirements. In determining whether to
14 grant a certificate under this section, the commission shall examine
15 the following factors:

16 (1) The following, which must be set forth in the energy
17 utility's application for the certificate sought, in accordance
18 with section 7(a) of this chapter:

19 (A) A description of the federally mandated requirements,
20 including any consent decrees related to the federally
21 mandated requirements, that the energy utility seeks to
22 comply with through the proposed compliance project.

23 (B) A description of the projected federally mandated costs
24 associated with the proposed compliance project, including
25 costs that are allocated to the energy utility:

26 (i) in connection with regional transmission expansion
27 planning and construction; or

28 (ii) under a Federal Energy Regulatory Commission
29 approved tariff, rate schedule, or agreement.

30 (C) A description of how the proposed compliance project
31 allows the energy utility to comply with the federally
32 mandated requirements described by the energy utility
33 under clause (A).

34 (D) Alternative plans that demonstrate that the proposed
35 compliance project is reasonable and necessary.

36 (E) Information as to whether the proposed compliance
37 project will extend the useful life of an existing energy
38 utility facility and, if so, the value of that extension.

- 1 **(2) Any other factors the commission considers relevant.**
- 2 **(c) An energy utility is not required to obtain a certificate under**
3 **this section for a project that constitutes a research and**
4 **development project.**
- 5 **Sec. 7. (a) As a condition for receiving the certificate required**
6 **under section 6 of this chapter, an energy utility must file with the**
7 **commission an application that sets forth the information**
8 **described in section 6(b) of this chapter, supported with technical**
9 **information in as much detail as the commission requires.**
- 10 **(b) The commission shall hold a properly noticed public hearing**
11 **on each application and grant a certificate only if the commission**
12 **has:**
- 13 **(1) made a finding that the public convenience and necessity**
14 **will be served by the proposed compliance project;**
- 15 **(2) approved the projected federally mandated costs**
16 **associated with the proposed compliance project; and**
- 17 **(3) made a finding on each of the factors set forth in section**
18 **6(b) of this chapter.**
- 19 **(c) If the commission approves under subsection (b) a proposed**
20 **compliance project and the projected federally mandated costs**
21 **associated with the proposed compliance project, the following**
22 **apply:**
- 23 **(1) Eighty percent (80%) of the approved federally mandated**
24 **costs shall be recovered by the energy utility through a**
25 **periodic retail rate adjustment mechanism that allows the**
26 **timely recovery of the approved federally mandated costs.**
27 **The commission shall adjust the energy utility's authorized**
28 **net operating income to reflect any approved earnings for**
29 **purposes of IC 8-1-2-42(d)(3) and IC 8-1-2-42(g)(3).**
- 30 **(2) Twenty percent (20%) of the approved federally mandated**
31 **costs, including depreciation, allowance for funds used during**
32 **construction, and post in service carrying costs, based on the**
33 **overall cost of capital most recently approved by the**
34 **commission, shall be deferred and recovered by the energy**
35 **utility as part of the next general rate case filed by the energy**
36 **utility with the commission.**
- 37 **(3) Actual costs that exceed the projected federally mandated**
38 **costs of the approved compliance project by more than**

1 **twenty-five percent (25%) shall require specific justification**
 2 **by the energy utility and specific approval by the commission**
 3 **before being authorized in the next general rate case filed by**
 4 **the energy utility with the commission."**

5 Page 2, delete lines 1 through 30.

6 Page 3, line 19, delete "construction," and insert "**development**,"

7 Page 3, line 36, delete "construction," and insert "**development**,"

8 Page 3, delete lines 41 through 42, begin a new paragraph and
 9 insert:

10 "SECTION 3. IC 8-1-8.8-2, AS AMENDED BY P.L.175-2007,
 11 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2011]: Sec. 2. As used in this chapter, "clean ~~coal and~~ energy
 13 projects" means any of the following:

14 (1) Any of the following projects:

15 (A) Projects at new energy production or generating facilities
 16 that employ the use of clean coal technology and that produce
 17 energy, including substitute natural gas, primarily from coal,
 18 or gases derived from coal, from the geological formation
 19 known as the Illinois Basin.

20 (B) Projects to provide advanced technologies that reduce
 21 regulated air emissions from **or increase the efficiency of**
 22 existing energy production or generating plants that are fueled
 23 primarily by coal or gases from coal from the geological
 24 formation known as the Illinois Basin, such as flue gas
 25 desulfurization and selective catalytic reduction equipment.

26 (C) Projects to provide electric transmission facilities to serve
 27 a new energy production or generating facility **or a nuclear**
 28 **energy production or generating facility.**

29 (D) Projects that produce substitute natural gas from Indiana
 30 coal by construction and operation of a coal gasification
 31 facility.

32 **(E) Projects or potential projects that enhance the safe and**
 33 **reliable use of nuclear energy production or generating**
 34 **technologies to produce electricity.**

35 (2) Projects to develop alternative energy sources, including
 36 renewable energy projects ~~and~~ **or** coal gasification facilities.

37 (3) The purchase of fuels **or energy** produced by a coal
 38 gasification facility **or by a nuclear energy production or**

1 **generating facility.**

2 (4) Projects described in subdivisions (1) through ~~(3)~~ (2) that use
3 coal bed methane."

4 Page 4, delete lines 1 through 30.

5 Page 5, delete lines 35 through 42, begin a new paragraph and
6 insert:

7 "SECTION 7. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA CODE
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
9 1, 2011]: **Sec. 8.5. (a) As used in this chapter, "nuclear energy
10 production or generating facility" means an energy production or
11 generation facility that:**

- 12 **(1) uses a nuclear reactor as its heat source to provide steam
13 to a turbine generator to produce or generate electricity;**
14 **(2) supplies electricity to Indiana retail customers on July 1,
15 2011;**
16 **(3) is dedicated primarily to serving Indiana customers; and**
17 **(4) is undergoing a comprehensive life cycle management
18 project to enhance the safe and reliable operation of the
19 facility during the period the facility is licensed to operate by
20 the United States Nuclear Regulatory Commission.**

21 **(b) The term includes the transmission lines and other
22 associated equipment employed specifically to serve a nuclear
23 energy production or generating facility.**

24 SECTION 8. IC 8-1-8.8-8.7 IS ADDED TO THE INDIANA CODE
25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
26 1, 2011]: **Sec. 8.7. As used in this chapter, "qualified utility system
27 expenses" means the costs associated with the study, analysis, or
28 development of a life cycle management project for a nuclear
29 energy production or generating facility.**

30 SECTION 9. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007,
31 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2011]: **Sec. 9. As used in this chapter, "qualified utility system
33 property" means any:**

34 **(1) new energy production or generating or coal gasification
35 facility; or**

36 **(2) nuclear energy production or generating facility;**

37 used, or to be used, in whole or in part, by an energy utility to provide
38 retail energy service (as defined in IC 8-1-2.5-3) regardless of whether

1 that service is provided under IC 8-1-2.5 or another provision of this
2 article.".

3 Delete page 6.

4 Page 7, delete line 1.

5 Page 7, line 27, delete "IC 8-1-37-4(1) through (13)." and insert "**IC**
6 **8-1-37-4(a)(1) through IC 8-1-37-4(a)(16).**".

7 Page 7, delete lines 35 through 42, begin a new paragraph and
8 insert:

9 "SECTION 11. IC 8-1-8.8-11 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The commission
11 shall encourage clean ~~coal and~~ energy projects by creating the
12 following financial incentives for clean ~~coal and~~ energy projects, if the
13 projects are found to be reasonable and necessary:

14 (1) The timely recovery of costs **and expenses** incurred during
15 construction and operation of projects described in section 2(1) or
16 2(2) of this chapter.

17 (2) The authorization of up to three (3) percentage points on the
18 return on shareholder equity that would otherwise be allowed to
19 be earned on projects described in subdivision (1).

20 (3) Financial incentives for the purchase of fuels **or energy**
21 produced by a coal gasification facility **or by a nuclear energy**
22 **production or generating facility**, including cost recovery and
23 the incentive available under subdivision (2).

24 (4) Financial incentives for projects to develop alternative energy
25 sources, including renewable energy projects **or coal gasification**
26 **facilities**.

27 (5) Other financial incentives the commission considers
28 appropriate.

29 (b) An eligible business must file an application to the commission
30 for approval of a clean ~~coal and~~ energy project under this section. This
31 chapter does not relieve an eligible business of the duty to obtain any
32 certificate required under IC 8-1-8.5 or IC 8-1-8.7. An eligible business
33 seeking a certificate under IC 8-1-8.5 or IC 8-1-8.7 and this chapter for
34 one (1) project may file a single application for all necessary
35 certificates. If a single application is filed, the commission shall
36 consider all necessary certificates at the same time.

37 (c) The commission shall promptly review an application filed
38 under this section for completeness. The commission may request

1 additional information the commission considers necessary to aid in its
2 review.

3 (d) The commission shall, after notice and hearing, issue a
4 determination of a project's eligibility for the financial incentives
5 described in subsection (a) not later than one hundred twenty (120)
6 days after the date of the application, unless the commission finds that
7 the applicant has not cooperated fully in the proceeding.

8 SECTION 12. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007,
9 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2011]: Sec. 12. (a) The commission shall provide financial
11 incentives to eligible businesses for:

12 (1) new energy ~~producing and~~ **production or** generating
13 facilities; **and**

14 (2) **nuclear energy production or generating facilities;**

15 in the form of timely recovery of the costs incurred in connection with
16 the **study, analysis, development, siting, design, licensing,**
17 **permitting,** construction, repowering, expansion, **life cycle**
18 **management,** operation, or maintenance of the facilities.

19 (b) An eligible business seeking authority to timely recover the costs
20 described in subsection (a) must apply to the commission for approval
21 of a rate adjustment mechanism in the manner determined by the
22 commission.

23 (c) An application must include the following:

24 (1) A schedule for the completion of construction, repowering,
25 **life cycle management,** or expansion of the ~~new energy~~
26 ~~generating or coal gasification~~ facility for which rate relief is
27 sought.

28 (2) Copies of the most recent integrated resource plan filed with
29 the commission, if applicable.

30 (3) The amount of capital investment by the eligible business in
31 the ~~new energy generating or coal gasification~~ facility.

32 (4) Other information the commission considers necessary.

33 (d) The commission shall allow an eligible business to recover:

34 (1) the costs associated with qualified utility system property; **and**

35 (2) **qualified utility system expenses;**

36 if the eligible business provides substantial documentation that the
37 expected costs ~~associated with qualified utility system property~~ and
38 **expenses and** the schedule for incurring those costs **and expenses** are

1 reasonable and necessary.

2 (e) The commission shall allow an eligible business to recover the
3 costs associated with the purchase of fuels **or energy** produced by a
4 coal gasification facility **or by a nuclear energy production or**
5 **generating facility** if the eligible business provides substantial
6 documentation that the costs associated with the purchase are
7 reasonable and necessary.

8 (f) A retail rate adjustment mechanism proposed by an eligible
9 business under this section may be based on actual or forecasted data.
10 If forecast data is used, the retail rate adjustment mechanism must
11 contain a reconciliation mechanism to correct for any variance between
12 the forecasted costs and the actual costs."

13 Delete page 8.

14 Page 9, delete lines 1 through 30.

15 Page 10, delete lines 3 through 21, begin a new paragraph and
16 insert:

17 "SECTION 15. IC 8-1-8.8-14, AS AMENDED BY P.L.71-2009,
18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2011]: Sec. 14. The group shall conduct an annual study on
20 the use, availability, and economics of using ~~renewable in Indiana~~ **the**
21 **clean energy resources in Indiana: listed in IC 8-1-37-4(a)(1) through**
22 **IC 8-1-37-4(a)(6). The commission may direct the group to study**
23 **additional clean energy resources as the commission considers**
24 **appropriate.** Each year, the group shall submit a report on the study
25 to the commission for inclusion in the commission's annual report to
26 the regulatory flexibility committee described in IC 8-1-2.5-9 and
27 IC 8-1-2.6-4. **The commission shall direct the group concerning the**
28 **appropriate level of detail for the report.** The report must include
29 suggestions from the group to encourage the development and use of
30 ~~renewable clean~~ **energy resources and technologies appropriate for use**
31 **in Indiana. In formulating the suggestions, the group shall evaluate**
32 **potential renewable energy generation opportunities from biomass and**
33 **algae production systems."**

34 Page 12, between lines 9 and 10, begin a new line block indented
35 and insert:

36 **"(13) Industrial byproduct technologies that use fuel or energy**
37 **that is a byproduct of an industrial process.**

38 **(14) Waste heat recovery from capturing and reusing the**

- 1 **waste heat in industrial processes for heating or for**
 2 **generating mechanical or electrical work."**
- 3 Page 12, line 10, delete "(13)" and insert "**(15)**".
- 4 Page 12, line 13, delete "(14)" and insert "**(16)**".
- 5 Page 12, line 22, delete "(15)" and insert "**(17)**".
- 6 Page 12, line 23, delete "(16)" and insert "**(18)**".
- 7 Page 12, line 24, delete "(17)" and insert "**(19)**".
- 8 Page 12, line 33, delete "(18)" and insert "**(20)**".
- 9 Page 12, line 34, delete "(19)" and insert "**(21)**".
- 10 Page 12, delete lines 38 through 39.
- 11 Page 14, between lines 8 and 9, begin a new line block indented and
 12 insert:
- 13 **"(2) require the commission to determine, before approving**
 14 **an application under section 11 of this chapter, that the**
 15 **approval of the application will not result in an increase to the**
 16 **retail rates and charges of the electricity supplier above what**
 17 **could reasonably be expected if the application were not**
 18 **approved;".**
- 19 Page 14, line 9, delete "(2)" and insert "**(3)**".
- 20 Page 14, line 10, delete "(3)" and insert "**(4)**".
- 21 Page 14, line 35, after "chapter;" delete "and".
- 22 Page 15, line 2, after "chapter;" insert "**and**".
- 23 Page 15, between lines 2 and 3, begin a new line block indented and
 24 insert:
- 25 **"(3) approving the application will not result in an increase to**
 26 **the retail rates and charges of the electricity supplier above**
 27 **what could reasonably be expected if the application were not**
 28 **approved;".**
- 29 Page 15, line 34, delete "this subsection," and insert "**subsection**
 30 **(a),"**.
- 31 Page 15, line 38, after "Indiana" insert ",".
- 32 Page 15, line 41, after "Indiana" insert ", **and**".
- 33 Page 15, line 41, delete "4(1)" and insert "**4(a)(1)**".
- 34 Page 15, line 42, delete "4(13) of this chapter" and insert "**4(a)(16)**
 35 **of this chapter,"**.
- 36 Page 16, line 31, delete "4(15)" and insert "**4(a)(17)**".
- 37 Page 16, line 31, delete "4(20)" and insert "**4(a)(21)**".
- 38 Page 17, line 6, delete "4(1) through 4(13)" and insert "**4(a)(1)**

1 **through 4(a)(16)".**

2 Page 17, line 20, delete "permit the recovery, by means of a periodic
3 rate adjustment" and insert "**authorize the incentive described in
4 subsection (a) and the recovery of costs, by means of a periodic
5 rate adjustment mechanism, as described in subsection (c), based
6 on the following considerations:**".

7 Page 17, delete line 21.

8 Page 17, line 34, delete "measure" and insert "**measures**".

9 Page 17, line 39, delete "mechanism of all reasonable and
10 necessary" and insert "**mechanism, of all just, reasonable, and
11 necessary**".

12 Page 18, line 14, delete "one (1) or more" and insert "**an incentive**".

13 Page 18, line 15, delete "incentives".

14 Page 18, line 16, delete "periodic rate adjustment mechanisms" and
15 insert "**a periodic rate adjustment mechanism**".

16 Page 18, line 17, delete "(b) or".

17 Page 18, line 23, delete "incentives" and insert "**incentive**".

18 Page 18, line 24, delete "mechanisms" and insert "**mechanism**".

19 Page 18, line 31, delete "incentives or periodic rate adjustment
20 mechanisms" and insert "**incentive or periodic rate adjustment
21 mechanism**".

22 Page 19, line 7, delete "financial incentive" and insert "**periodic
23 rate adjustment mechanism**".

24 Page 21, between lines 4 and 5, begin a new paragraph and insert:

25 "SECTION 18. IC 14-37-10-5 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Money paid
27 into the fund shall be appropriated for the following purposes:

28 (1) To supplement the cost required to abandon a well that has
29 had a permit revoked under IC 14-37-13-1.

30 (2) To cover the costs of remedial plugging and repairing of wells
31 under IC 14-37-8, including the expenses of remedial action
32 under IC 14-37-8-15.

33 (3) To cover the cost to:

34 (A) mitigate environmental damage; or

35 (B) protect public safety against harm;

36 caused by a well regulated under this article.

37 **(4) Pipeline safety.**

38 (b) The director may make expenditures from the fund for

1 emergency purposes under section 6 of this chapter without the prior
 2 approval of the budget agency or the governor. An expenditure under
 3 this subsection may not exceed fifty thousand dollars (\$50,000).

4 (c) The director may establish a program to reimburse an applicant
 5 for the reasonable expenses of remedial action incurred under
 6 IC 14-37-8-15. The director may make expenditures from the fund for
 7 this purpose and may establish any necessary guidelines and
 8 procedures to administer the program.

9 SECTION 19. IC 14-39 IS ADDED TO THE INDIANA CODE AS
 10 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
 11 PASSAGE]:

12 **ARTICLE 39. CARBON DIOXIDE**

13 **Chapter 1. Eminent Domain for Transportation of Carbon**
 14 **Dioxide by Pipeline**

15 **Sec. 1. As used in this chapter, "carbon dioxide" means a fluid**
 16 **consisting of more than ninety percent (90%) carbon dioxide**
 17 **molecules compressed to a supercritical state.**

18 **Sec. 2. As used in this chapter, "carbon dioxide transmission**
 19 **pipeline" means the part of a pipeline in Indiana, including**
 20 **appurtenant facilities, property rights, and easements, that is used**
 21 **exclusively for the purpose of transporting carbon dioxide to a**
 22 **carbon management application, including sequestration,**
 23 **enhanced oil recovery, and deep saline injection, within or outside**
 24 **Indiana.**

25 **Sec. 3. Because the movement conducted for:**

26 **(1) a person's own use or account; or**

27 **(2) the use or account of another person or persons;**

28 **of carbon dioxide by pipeline in Indiana for carbon management**
 29 **applications can assist efforts to reduce carbon dioxide emissions**
 30 **from the manufacture of gas using coal and the generation of**
 31 **electricity, the use of carbon dioxide transmission pipelines,**
 32 **including their routing, construction, maintenance, and operation,**
 33 **is declared as a matter of legislative determination to be a public**
 34 **use and service, in the public interest, and a benefit to the welfare**
 35 **and people of Indiana.**

36 **Sec. 4. (a) A carbon dioxide transmission pipeline company may**
 37 **apply to the department for issuance of a carbon dioxide**
 38 **transmission pipeline certificate of authority. The department shall**

- 1 **prescribe the form of the application, which must:**
- 2 **(1) include a filing fee of one thousand dollars (\$1,000);**
- 3 **(2) be signed by a responsible officer of the company;**
- 4 **(3) include a statement verifying that the information**
- 5 **submitted is true, accurate, and complete to the best of that**
- 6 **responsible officer's knowledge and belief; and**
- 7 **(4) include all information necessary for the department to**
- 8 **find the following:**
- 9 **(A) That the applicant has the financial, managerial, and**
- 10 **technical ability to construct, operate, and maintain a**
- 11 **carbon dioxide transmission pipeline in Indiana.**
- 12 **(B) That the applicant has the requisite experience**
- 13 **constructing, operating, and maintaining a carbon dioxide**
- 14 **transmission pipeline.**
- 15 **(C) That the applicant has entered into a contract to**
- 16 **transport carbon dioxide by pipeline in Indiana with:**
- 17 **(i) at least one (1) producer of carbon dioxide located in**
- 18 **Indiana; and**
- 19 **(ii) unless all of the carbon dioxide to be transported in**
- 20 **the proposed carbon dioxide transmission pipeline is for**
- 21 **the applicant's own use or account, at least one (1) end**
- 22 **user of carbon dioxide.**
- 23 **(D) That the applicant has provided documentation to the**
- 24 **department showing the proposed length, diameter, and**
- 25 **location of the proposed carbon dioxide transmission**
- 26 **pipeline in Indiana.**
- 27 **(E) That the applicant will construct, operate, and**
- 28 **maintain the proposed carbon dioxide transmission**
- 29 **pipeline in accordance with applicable local, state, and**
- 30 **federal law, including federal and state safety regulations**
- 31 **and rules governing the construction, operation, and**
- 32 **maintenance of carbon dioxide transmission pipelines, and**
- 33 **related facilities and equipment, to ensure the safety of**
- 34 **pipeline employees and the public.**
- 35 **(F) That the applicant has:**
- 36 **(i) entered into an agreement with the Indiana utility**
- 37 **regulatory commission concerning the mitigation of**
- 38 **agricultural impacts associated with the construction of**

1 the proposed carbon dioxide transmission pipeline; or
 2 (ii) signed a statement indicating that the applicant
 3 agrees to use, in connection with the construction of the
 4 proposed carbon dioxide transmission pipeline, the
 5 guidelines adopted under IC 8-1-22.6-8 by the pipeline
 6 safety division of the Indiana utility regulatory
 7 commission.

8 (b) The department shall review an application filed under
 9 subsection (a). Subject to subsection (f), if the department
 10 determines that the application is incomplete or inaccurate, or
 11 both, the department shall return the application to the applicant,
 12 informing the applicant in writing of the applicant's right to file a
 13 corrected application with the department. If the department
 14 determines that the application is complete and accurate, the
 15 department shall provide notice to the applicant of:

- 16 (1) that determination; and
 17 (2) the date, time, and location of the public information
 18 meeting to be held under subsection (d).

19 (c) The applicant shall:

- 20 (1) upon receipt of a notice under subsection (b):
 21 (A) place for public inspection a copy of the application in
 22 a public library located in each county in which the carbon
 23 dioxide transmission pipeline is proposed to be located;
 24 and

25 (B) publish notice, in the same manner that would be
 26 required if the applicant were subject to IC 5-3-1, in each
 27 county in which the carbon dioxide transmission pipeline
 28 is proposed to be located, of:

- 29 (i) the name and address of each library in which a copy
 30 of the application is placed under clause (A); and
 31 (ii) the date, time, and location of the public information
 32 meeting to be held under subsection (d);

33 (2) provide to the department proof of publication of notice
 34 under subdivision (1)(B); and

35 (3) have a representative present at the public information
 36 meeting held under subsection (d).

37 (d) The department shall:

- 38 (1) conduct a public information meeting in the county seat of

1 **one (1) of the counties, as determined by the department, in**
 2 **which the proposed carbon dioxide transmission pipeline will**
 3 **be located; and**

4 **(2) provide an opportunity at the meeting for members of the**
 5 **public to be briefed and to ask questions about the proposed**
 6 **carbon dioxide transmission pipeline.**

7 **(e) Not later than ninety (90) days after the public information**
 8 **meeting held under subsection (d), the department shall notify the**
 9 **applicant in writing that:**

10 **(1) the department:**

11 **(A) has made the findings described in subsection (a)(4);**
 12 **and**

13 **(B) has approved the application; or**

14 **(2) the department:**

15 **(A) has determined that the department is unable to make**
 16 **the findings described in subsection (a)(4); and**

17 **(B) has disapproved the application.**

18 **(f) The department shall process a corrected application that is**
 19 **filed as permitted under subsection (b) in the same manner the**
 20 **department processes an initially filed application under subsection**
 21 **(a).**

22 **(g) If the department fails to act under subsection (e) not later**
 23 **than ninety (90) days after the public information meeting held**
 24 **under subsection (d), the application is considered to be approved**
 25 **by the department.**

26 **(h) If:**

27 **(1) the department approves the application under subsection**
 28 **(e)(1); or**

29 **(2) the application is considered to be approved as described**
 30 **in subsection (g);**

31 **the department shall issue to the applicant a carbon dioxide**
 32 **transmission pipeline certificate of authority.**

33 **Sec. 5. (a) Except as provided in subsection (b), if a carbon**
 34 **dioxide transmission pipeline company files with the department**
 35 **a verified certificate stating the reasons that the designation of**
 36 **confidential information is necessary, the carbon dioxide**
 37 **transmission pipeline company may designate information that it**
 38 **submits in an application to the department, or in subsequent**

1 reports, as trade secret or confidential and proprietary
2 information.

3 (b) Subsection (a) does not apply to information referred to in
4 section 4(a)(4)(D) of this chapter.

5 (c) The department shall exercise all necessary caution to avoid
6 public disclosure of confidential information designated under
7 subsection (a).

8 Sec. 6. A certificate of authority issued by the department under
9 this chapter must include at least the following:

10 (1) A grant of authority to construct and operate a carbon
11 dioxide transmission pipeline as requested in the application.

12 (2) A grant of authority to use, occupy, and construct pipeline
13 facilities in any designated public right-of-way for the
14 construction and operation of the carbon dioxide transmission
15 pipeline.

16 (3) A grant of authority to take and acquire possession by
17 eminent domain of any property or interest in property for
18 the construction, maintenance, or operation of a carbon
19 dioxide transmission pipeline in the manner provided for the
20 exercise of the power of eminent domain under sections 7, 8,
21 and 9 of this chapter.

22 Sec. 7. If a carbon dioxide transmission pipeline company has
23 received a carbon dioxide transmission pipeline certificate of
24 authority from the department under this chapter and is not able
25 to reach an agreement with a property owner for the construction,
26 operation, and maintenance of the carbon dioxide transmission
27 pipeline on the owner's property, the company may proceed to
28 condemn a right-of-way or an easement necessary or useful for:

29 (1) constructing, maintaining, using, operating, and gaining
30 access to a carbon dioxide transmission pipeline and all
31 necessary machinery, equipment, pumping stations,
32 appliances, and fixtures for use in connection with the carbon
33 dioxide transmission pipeline; and

34 (2) obtaining all necessary rights of ingress and egress to
35 construct, examine, alter, repair, maintain, operate, or
36 remove a carbon dioxide transmission pipeline and all of its
37 component parts.

38 Sec. 8. Except as otherwise provided in this chapter, IC 32-24-1

1 applies to the condemnation of property under this chapter by a
2 carbon dioxide transmission pipeline company.

3 Sec. 9. A carbon dioxide transmission pipeline company that
4 exercises the authority set forth in section 7 of this chapter shall:

5 (1) compensate the property owner by making a payment to
6 the owner equal to:

7 (A) one hundred twenty-five percent (125%) of the fair
8 market value of the interest in the property acquired, if the
9 right-of-way or easement involves agricultural land; or

10 (B) one hundred fifty percent (150%) of the fair market
11 value of the interest in the property acquired, if the
12 right-of-way or easement involves a parcel of property
13 occupied by the owner as a residence; and

14 (2) pay to the property owner:

15 (A) any damages determined under IC 32-24-1; and

16 (B) any loss incurred in a trade or business;

17 that are attributable to the exercise of eminent domain.

18 Sec. 10. Not later than one hundred eighty (180) days after the
19 completion of a carbon dioxide transmission pipeline for which the
20 department has issued a certificate of authority under this chapter,
21 the carbon dioxide transmission pipeline company shall provide
22 maps and other documentation to the department showing the
23 actual route in Indiana of the carbon dioxide transmission pipeline.

24 Sec. 11. A determination of the department under section 4(e)(2)
25 of this chapter is subject to administrative review under IC 4-21.5.

26 Sec. 12. The department shall deposit fee revenue received
27 under section 4(a)(1) of this chapter in the oil and gas
28 environmental fund established by IC 14-37-10-2.

29 Sec. 13. This chapter expires July 1, 2021."

30 Renumber all SECTIONS consecutively.

(Reference is to SB 251 as reprinted February 18, 2011.)

and when so amended that said bill do pass.

Representative Lutz