
HOUSE BILL No. 1254

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1.

Synopsis: Notification of utility rate increases. Provides that not later than January 1, 2012, the utility regulatory commission (IURC) shall develop a communications system to enable the following: (1) A customer of a gas, electric, water, or sewer utility to request to receive notification from the IURC whenever the IURC receives a petition from the utility for an increase in the utility's retail rates and charges. (2) The IURC to generate and send, transmit, or otherwise communicate to each requesting customer notices of the filing of the petition and of the IURC's issuance of a final order in the case. Specifies certain information that each required notice must include, including instructions on how the customer may opt out of receiving further communications concerning the case. Provides that the required communications system may include any of the following means of communication: (1) Electronic means. (2) Telephonic means. (3) Any other technologically and economically feasible means, as determined by the commission in considering the technological, staffing, and budgetary resources available to the commission. Allows the IURC to adopt rules, including emergency rules, to implement these requirements. Makes conforming amendments.

Effective: Upon passage.

Crouch, Battles

January 12, 2011, read first time and referred to Committee on Utilities and Energy.

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Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1254



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 8-1-1-8 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) Notwithstanding any
3 other statute relative to the publication of notice of hearings to be held
4 by the utility regulatory commission, publication of notice of hearings
5 to be held by the commission shall be made only in accordance with
6 this chapter.

7 (b) Whenever the utility regulatory commission shall order a hearing
8 in any proceeding instituted by or against any public utility, notice of
9 the hearing shall be given by one (1) publication appearing not less
10 than ten (10) days prior to the date fixed for the hearing in two (2)
11 newspapers of general circulation published in one (1) county wherein
12 reside patrons or customers of the public utility who might be affected
13 by an order made by the commission pursuant to the hearing. If two (2)
14 newspapers of general circulation are not published in the county, then
15 one (1) publication appearing not less than ten (10) days prior to the
16 date fixed for the hearing in one (1) newspaper of general circulation
17 published in the county shall be sufficient. If no newspaper of general



1 circulation is published in the county, then the commission shall cause
2 notice of the hearing to be given by one (1) publication appearing not
3 less than ten (10) days prior to the date fixed for the hearing in two (2)
4 newspapers of general circulation published in a county adjoining the
5 county wherein reside patrons or customers of the public utility who
6 might be affected by the order.

7 (c) Whenever the department of state revenue orders a hearing in
8 any proceeding instituted by or against a motor vehicle carrier, notice
9 of such hearing shall be given by one (1) publication appearing not less
10 than ten (10) days prior to the date fixed for such hearing in two (2)
11 newspapers of general circulation published in the county where such
12 motor vehicle carrier has its principal office or place of business. If two
13 (2) newspapers of general circulation are not published in such county,
14 then one (1) publication appearing not less than ten (10) days prior to
15 the date fixed for such hearing in one (1) newspaper of general
16 circulation published in such county shall be sufficient. If no
17 newspaper of general circulation is published in the county, the
18 department of state revenue shall cause notice of such hearing to be
19 given by one (1) publication appearing not less than ten (10) days prior
20 to the date fixed for such hearing in two (2) newspapers of general
21 circulation published in a county adjoining the county where such
22 motor vehicle carrier has its principal office or place of business. If the
23 motor vehicle carrier has no office or place of business in Indiana, then
24 such notice shall be given by one (1) publication appearing not less
25 than ten (10) days prior to the date fixed for the hearing in two (2)
26 newspapers of general circulation published in Marion County.

27 (d) In addition to ~~the published~~ **publishing notice of a hearing as**
28 **prescribed in subsection (b)**, the commission shall **do the following:**

29 (1) Mail notice of the hearing and notice of the filing of
30 applications or proceedings to persons, firms, limited liability
31 companies, or corporations having competitive interests involved
32 and to the representatives of any city or town affected by the
33 hearing, application, or proceeding. Failure to mail the notices
34 **under this subdivision** shall not be deemed to be jurisdictional,
35 but may be ground for rehearing.

36 (2) **In a case involving a petition by a utility (as defined in**
37 **IC 8-1-1.6-5) for the commission's approval of an increase in**
38 **the utility's retail rates and charges, provide any notices**
39 **required by IC 8-1-1.6.**

40 SECTION 2. IC 8-1-1.6 IS ADDED TO THE INDIANA CODE AS
41 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
42 PASSAGE]:

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Chapter 1.6. Notification to Customers of Utility Rate Increases

Sec. 1. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 2. As used in this chapter, "communications system" means a system developed by the commission under section 6 of this chapter that allows the commission to communicate to customers, and customers to access or request information from the commission, with respect to a rate case to which this chapter applies, through one (1) or a combination of any of the following means:

- (1) An electronic means, including electronic mail or an interactive feature on the commission's Internet web site.**
- (2) Telephonic means, including:**
 - (A) the transmission of voice communications or data; and**
 - (B) communications made through automated dialing or recorded message devices.**
- (3) Any other technologically and economically feasible means, as determined by the commission in considering the technological, staffing, and budgetary resources available to the commission.**

Sec. 3. As used in this chapter, "customer" means any:

- (1) person;**
- (2) firm;**
- (3) corporation;**
- (4) municipality;**
- (5) government agency; or**
- (6) any other entity;**

that has agreed, orally or otherwise, to pay for retail utility service received from a utility.

Sec. 4. For purposes of this chapter, "increase in a utility's retail rates and charges" does not include:

- (1) changes in the utility's retail rates and charges related solely to the cost of fuel or to the cost of purchased gas or purchased electricity; or**
- (2) adjustments to the utility's retail rates and charges made in accordance with tracking provisions approved by the commission.**

Sec. 5. As used in this chapter, "utility" means a utility that:

- (1) is a public utility, a municipally owned utility, or a cooperatively owned utility;**
- (2) provides retail:**
 - (A) gas;**

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1 **(B) electric;**
 2 **(C) water; or**
 3 **(D) sewer;**
 4 **service to the public; and**
 5 **(3) is under the jurisdiction of the commission for the**
 6 **approval of rates and charges.**
 7 **Sec. 6. (a) Not later than January 1, 2012, the commission shall**
 8 **develop a communications system to enable the following:**
 9 **(1) A customer of a utility to request to receive notification**
 10 **from the commission whenever the commission receives a**
 11 **petition from the utility for approval of an increase in the**
 12 **utility's retail rates and charges.**
 13 **(2) The commission to generate and send, transmit, or**
 14 **otherwise communicate to each customer that requests to**
 15 **receive notification under subdivision (1) the following**
 16 **notices:**
 17 **(A) A notice that informs the customer that the utility has**
 18 **filed a petition with the commission for approval of an**
 19 **increase in the utility's retail rates and charges. The notice**
 20 **required by this clause must include the following:**
 21 **(i) The date the petition was filed with the commission**
 22 **and the cause number or docket number assigned to the**
 23 **case by the commission.**
 24 **(ii) At the discretion of the commission, a summary of**
 25 **any information contained in the utility's petition that**
 26 **may be helpful to customers in understanding the**
 27 **utility's request.**
 28 **(iii) Instructions on how the customer may access**
 29 **additional information about the case, including**
 30 **information that is available on the commission's**
 31 **Internet web site.**
 32 **(iv) Instructions on how the customer may unsubscribe**
 33 **from, or otherwise opt out of, further communications**
 34 **concerning the case.**
 35 **(v) Instructions on how the customer may communicate**
 36 **the customer's opinions or objections with respect to the**
 37 **utility's request, or otherwise participate in the case's**
 38 **proceedings.**
 39 **(vi) An address, toll free telephone number, and**
 40 **electronic mail address for the consumer affairs division**
 41 **of the commission, or for another appropriate division of**
 42 **the commission, that the customer may contact with**

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questions about the case.

(vii) An address, toll free telephone number, and electronic mail address for the office of utility consumer counselor that the customer may contact with questions about the case.

(viii) Any other information concerning the case, or the customer's rights with respect to the case, that the commission determines to be appropriate and in the public interest to include in the notice required by this clause.

The notice required by this clause shall be generated and sent, transmitted, or otherwise communicated by the commission not later than ten (10) business days after the date the commission formally assigns the case to the presiding officer for the case. If a customer's request under subdivision (1) is received by the commission after the presiding officer is assigned in the case, the notice required by this clause shall be generated and sent, transmitted, or otherwise communicated by the commission not later than five (5) business days after the commission receives the customer's request under subdivision (1).

(B) When the commission issues a final order in the case, or otherwise renders a final decision in the case, a notice that informs the customer that the commission has made a final determination concerning the utility's request for approval of an increase in the utility's retail rates and charges. The notice required by this clause must include the following:

(i) A statement that summarizes the commission's decision in the case.

(ii) A statement describing the impact of the decision on customers' utility bills, if such impact is determinable at the time the decision is issued. If the impact is not determinable, or not fully known at the time the decision is issued, a statement setting forth the time by which the utility is expected to file revised tariffs with the commission.

(iii) Instructions on how the customer may access the full text of the commission's order, including instructions for accessing the order through the commission's Internet web site, if applicable, along with a statement that the order is available for public inspection and copying at

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the offices of the commission, as required by IC 5-14-3.
(iv) An address, toll free telephone number, and electronic mail address for the consumer affairs division of the commission, or for another appropriate division of the commission, that the customer may contact with questions about the case.

(v) An address, toll free telephone number, and electronic mail address for the office of utility consumer counselor that the customer may contact with questions about the case.

(vi) Any other information concerning the case, or the customer's rights with respect to the case, that the commission determines to be appropriate and in the public interest to include in the notice required by this clause.

The notice required by this clause shall be generated and sent, transmitted, or otherwise communicated by the commission not later than three (3) business days after the date of the commission's final order. However, the notice required by this clause shall not be sent, transmitted, or otherwise communicated to any customer who, under clause (A)(iv), at any time before the date the notice required by this clause is generated, has unsubscribed from, or otherwise opted out of, receiving further communications concerning the case.

(b) In sending, transmitting, or otherwise communicating the notices described in this section, the commission shall use the contact information provided by the customer in the customer's request under subsection (a)(1) for receipt of the notices described in this section. A failure to provide any notice described in this section to a requesting customer (or a failure to provide the notice within the time specified by this section), or an error in any notice provided under this section to a requesting customer, does not invalidate any order issued by the commission in the case, regardless of whether the failure or error is the result of:

- (1) an act or omission by commission staff or by any outside consultant employed by the commission in connection with the communications system developed under this chapter; or
- (2) an operational interruption to, or failure in, the communications system developed under this chapter, including:
 - (A) an electrical failure;

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- 1 **(B) computer hardware or software failures;**
- 2 **(C) regularly scheduled maintenance of, or updates to,**
- 3 **computer systems, the commission's Internet web site, or**
- 4 **any other equipment or technologies used as part of the**
- 5 **communications system developed under this chapter;**
- 6 **(D) repairs to computer systems, the commission's Internet**
- 7 **web site, or any other equipment or technologies used as**
- 8 **part of the communications system developed under this**
- 9 **chapter; or**
- 10 **(E) other similar disruptions or malfunctions.**

11 **Sec. 7. The commission may adopt rules under IC 4-22-2,**
 12 **including emergency rules under IC 4-22-2-37.1, to implement this**
 13 **chapter. An emergency rule adopted by the commission under**
 14 **IC 4-22-2-37.1 expires on the date the rule is adopted by the**
 15 **commission under IC 4-22-2-24 through IC 4-22-2-36.**

16 SECTION 3. IC 8-1-2-61 IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 61. (a) Any public utility may
 18 make complaint as to any matter affecting its own rates or service. The
 19 petition or complaint must include a statement as to whether the utility,
 20 if a not-for-profit water utility or municipal utility, has any outstanding
 21 indebtedness to the federal government. The public utility shall publish
 22 a notice of the filing of such petition or complaint in a newspaper of
 23 general circulation published in any county in which the public utility
 24 renders service. **If the public utility's petition or complaint requests**
 25 **the commission's approval of an increase in the public utility's**
 26 **retail rates and charges, the commission shall provide any notices**
 27 **required by IC 8-1-1.6.**

28 **(b)** An order affecting rates or service may be entered by the
 29 commission without a formal public hearing, if:

- 30 (1) the utility is a not-for-profit water utility or a municipal utility;
- 31 and
- 32 (2) the utility has obtained written consent to obtain an order
 33 affecting its rates from the commission without a formal hearing
 34 from any agency of the federal government with which the utility
 35 has outstanding evidence of indebtedness to the federal
 36 government.

37 The commission may, however, on its own motion require a formal
 38 public hearing, and shall, upon a motion filed by the utility consumer
 39 counselor, by any public or municipal corporation, or by ten (10)
 40 individuals, firms, corporations, limited liability companies, or
 41 associations, or ten (10) complainants of all or any of these classes,
 42 hold a formal public hearing with respect to any such petition or

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1 complaint.

2 ~~(b)~~ (c) In any general rate proceeding under subsection (a) which
3 requires a public hearing and in which an increase in revenues is
4 sought which exceeds the sum of two million five hundred thousand
5 dollars (\$2,500,000), the commission shall conduct at least one (1)
6 public hearing in the largest municipality located within such utility's
7 service area.

8 SECTION 4. IC 8-1-2-61.5 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 61.5. (a) **Subject**
10 **to the commission's duty to provide any notices required by**
11 **IC 8-1-1.6**, an order affecting rates of service may be entered by the
12 commission without a formal public hearing in the case of any public
13 or municipally owned utility that:

- 14 (1) serves less than five thousand (5,000) customers;
- 15 (2) primarily provides retail service to customers; and
- 16 (3) does not serve extensively another utility.

17 (b) The commission may require a formal public hearing on any
18 petition or complaint filed under this section concerning a rate change
19 request by a utility upon its own motion or upon motion of any of the
20 following:

- 21 (1) The utility consumer counselor.
- 22 (2) A public or municipal corporation.
- 23 (3) Ten (10) individuals, firms, limited liability companies,
24 corporations, or associations.
- 25 (4) Ten (10) complainants of any class described in this
26 subsection.

27 (c) A not-for-profit water utility or a not-for-profit sewer utility must
28 include in its petition a statement as to whether it has an outstanding
29 indebtedness to the federal government. When an indebtedness is
30 shown to exist, the commission shall require a formal hearing, unless
31 the utility also has included in its filing written consent from the agency
32 of the federal government with which the utility has outstanding
33 indebtedness for the utility to obtain an order affecting its rates from
34 the commission without a formal hearing.

35 (d) Notwithstanding any other provision of this chapter, the
36 commission may:

- 37 (1) on its own motion; or
- 38 (2) at the request of:
 - 39 (A) the utility consumer counselor;
 - 40 (B) a water or sewer utility described in subsection (a);
 - 41 (C) ten (10) individuals, firms, limited liability companies,
42 corporations, or associations; or

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1 (D) ten (10) complainants of any class described in this
2 subsection;
3 adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,
4 providing for the development, investigation, testing, and use of
5 regulatory procedures or generic standards with respect to water or
6 sewer utilities described in subsection (a) or their services.

7 (e) The commission may adopt a rule or enter an order under
8 subsection (d) only if it finds, after notice and hearing, that the
9 proposed regulatory procedures or standards are in the public interest
10 and promote at least one (1) of the following:

- 11 (1) Utility cost minimalization to the extent that a utility's quality
12 of service or facilities are not diminished.
- 13 (2) A more accurate evaluation by the commission of a utility's
14 physical or financial conditions or needs.
- 15 (3) A less costly regulatory procedure for a utility, its consumers,
16 or the commission.
- 17 (4) Increased utility management efficiency that is beneficial to
18 consumers.

19 SECTION 5. IC 8-1-2-89 IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE UPON PASSAGE]: Sec. 89. (a) As used in this section,
21 unless the context otherwise requires, the following terms have the
22 following meanings:

- 23 (1) "Sewage disposal service" means any public utility service
24 whereby liquid and solid waste, sewage, night soil, and industrial
25 waste of any single territorial area is collected, treated, purified,
26 and disposed of in a sanitary manner, and includes all sewage
27 treatment plant or plants, main sewers, submain sewers, local and
28 lateral sewers, intercepting sewers, outfall sewers, force mains,
29 pumping stations, ejector stations, and all other equipment and
30 appurtenances necessary or useful and convenient for the
31 rendition of such service.
- 32 (2) "Sewage disposal company" means any natural person, firm,
33 association, corporation, or partnership owning, leasing, or
34 operating any sewage disposal service within the rural areas of
35 this state, and all provisions of this chapter pertaining to a public
36 utility shall apply with equal force and effect to a sewage disposal
37 company, except insofar as said provisions may be inconsistent
38 with specific provisions of this section.
- 39 (3) "Rural area" means territory lying within the state of Indiana
40 and lying outside the corporate limits of a municipality.
- 41 (4) "Certificate of territorial authority" means a certificate of
42 convenience and necessity issued by the commission pursuant to

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this section, which said certificate shall be deemed an indeterminate permit, unless expressly conditioned otherwise by the commission when issued.

(5) "Notice of hearing" means notice of the time, place, and purpose of a hearing, given by publication in at least one (1) newspaper of general circulation in each of the counties in which the particular sewage disposal company operates or proposes to operate and given also in writing by United States registered mail:

(A) to each other sewage disposal company operating in territory contiguous to the territory in which the particular sewage disposal company operates or proposes to operate;

(B) to each municipality in territory contiguous and nearest to the territory in which the particular sewage disposal company operates or proposes to operate; and

(C) to such other persons or entities which the commission may from time to time require by its rules and forms;

with all such notices ~~shall be so~~ mailed ~~so~~ as to be received by the recipients at least ten (10) days prior to any hearing, or as otherwise required by the commission.

(b) It is hereby declared to be in the public interest to provide for the orderly development and rendering of sewage disposal service in rural areas within the state of Indiana, and such public interest makes it necessary and desirable that to the extent provided herein the holding of a certificate of territorial authority should be required as a condition precedent to the rendering of such service, and that such operation be under the control, regulation, and supervision of the commission, and such sewage disposal companies shall not be subject to regulation by any municipality or county government or metropolitan regulatory body, or any branch or subdivisions thereof or substitute therefor in the form of special service districts, with the exception that said sewage disposal company shall be subject to the comprehensive plan, zoning, and subdivision requirements and regulations of the governmental units having jurisdiction in the area. However, all functions, powers, and duties of the state department of health and the water pollution control board shall remain unaffected by this section.

(c) No sewage disposal company shall commence the rendering of sewage disposal service in any rural area in the state of Indiana in which it is not actually rendering sewage disposal service, without first obtaining from the commission a certificate of territorial authority authorizing such sewage disposal service, finding that public convenience and necessity require such sewage disposal service within such rural area by such sewage disposal company, and defining and

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1 limiting specifically the rural area covered thereby. No sewage disposal
 2 company hereby required to hold such a certificate shall render any
 3 additional sewage disposal service within such rural area to any extent
 4 greater than that authorized by such certificate or shall continue to
 5 render sewage disposal service within such rural area if and after such
 6 certificate of territorial authority has been revoked or transferred as in
 7 this section provided, unless in such order of revocation or transfer the
 8 commission shall require continued service until a new sewage
 9 disposal company or municipality actually takes over such service. The
 10 commission shall not have the power to require extension of such
 11 service by any sewage disposal company into any additional territory
 12 than that defined and limited in such a certificate without the consent
 13 of such sewage disposal company.

14 (d) Whenever any sewage disposal company proposes to commence
 15 the rendering of sewage disposal service in any rural area, it shall file
 16 with the commission a verified application for a certificate of territorial
 17 authority to cover the proposed service. The commission shall by rule
 18 prescribe the form of the application and the information to be
 19 contained therein, and such application by any such company shall
 20 conform to such prescribed form. The commission shall set the matter
 21 for hearing and notice of such hearing shall be given to the parties and
 22 in the manner defined in this section. Any city may, and upon petition
 23 to the commission shall, be made a party to any service proposal if its
 24 territorial limits lie within five (5) miles of the area to be serviced
 25 under this section.

26 (e) If, after notice of hearing and hearing on any application for a
 27 certificate of territorial authority, the commission shall find from the
 28 evidence introduced at such hearing, including any evidence which the
 29 commission shall have caused to be introduced as a result of any
 30 investigation which it may have made into the matter, that the applicant
 31 has proved:

- 32 (1) lawful power and authority to apply for said certificate and to
- 33 operate said proposed service;
- 34 (2) financial ability to install, commence, and maintain said
- 35 proposed service; and
- 36 (3) public convenience and necessity require the rendering of the
- 37 proposed service in the proposed rural area by this particular
- 38 sewage disposal company; however, in the event the service is
- 39 proposed for a proposed rural real estate addition, division, or
- 40 development, or any part thereof, the reasonably expected sewage
- 41 disposal service requirements of the anticipated residents may be
- 42 found to constitute such public convenience and necessity;

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1 then the certificate of territorial authority, defining and limiting the
2 rural area to be covered thereby, shall be granted to the applicant,
3 subject to such terms, restrictions, limitations, and conditions,
4 including but not limited to a reasonable time in which to commence
5 operations, as the commission shall determine to be necessary and
6 desirable in the public interest.

7 (f) In cases of applications filed by two (2) or more sewage disposal
8 companies seeking the issuance of a certificate of territorial authority
9 for the same area or areas or any conflicting portions thereof, the
10 commission may either consider such applications separately or by
11 consolidation of two (2) or more or all within a single hearing at its
12 discretion and shall have the power to issue its certificate after notice
13 of hearing and hearing to any single qualified sewage disposal
14 company for a particular rural area, or, in the event that the commission
15 determines and finds that two (2) or more or all applicants seeking the
16 same area or areas or any conflicting portions thereof are both or all
17 qualified, then the commission shall have the power to determine
18 which is the better or best qualified, or whether the same area or areas
19 or any conflicting portions thereof shall be divided between or among
20 such qualified applicants. However, in no event shall such area or areas
21 or portions thereof be greater than that for which the particular
22 applicant applied, unless such sewage disposal company shall consent
23 and agree in writing to such modification of its application and the
24 issuance of such modified certificate.

25 (g) After the issuance of such certificate, no other sewage disposal
26 company shall render sewage disposal service in the area or areas so
27 determined and so defined in any certificate of territorial authority
28 issued by the commission, except after notice of hearing and hearing,
29 and the determination and finding by the commission that public
30 convenience and necessity require that sewage disposal service in said
31 same area or areas be also rendered or offered by an additional or
32 another company, and the issuance of a certificate duly granted by the
33 commission as provided in this section.

34 (h) A sewage disposal company shall be required to furnish
35 ~~reasonable~~ **reasonably** adequate sewage disposal services and facilities
36 for which said service and facilities it shall be entitled to charge
37 reasonable, nondiscriminatory rates, subject to the jurisdiction of the
38 commission for the purpose of fixing said rates to be charged to patrons
39 of such sewage disposal company for sewage disposal service, and for
40 such purpose the commission is given jurisdiction to proceed in the
41 same manner and with like power as is provided by this chapter in the
42 case of public utilities. **If a sewage disposal company requests the**

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1 **commission's approval of an increase in the sewage disposal**
2 **company's retail rates and charges, the commission shall provide**
3 **any notices required by IC 8-1-1.6.**

4 (i) To encourage the installation of sewage treatment plants, and
5 sewers, mains, stations, and all other equipment and appurtenances for
6 rendering sewage disposal service in rural areas in close proximity to
7 municipalities, and to ensure that a sewage disposal company which
8 had made such installation in such area can recover the cost of its
9 investment, in the event that the area or areas or any part thereof
10 included within the territory granted under a certificate of territorial
11 authority shall be annexed by any municipality at any time within
12 twelve (12) years from the date that such certificate was granted, a
13 sewage disposal company operating under such certificate shall
14 continue to operate under such certificate of territorial authority,
15 subject to the exclusive jurisdiction and regulation of the commission,
16 for the unexpired portion of such period of twelve (12) years from the
17 date of granting such certificate, or, in the case of a determinate permit
18 specifying a term shorter than twelve (12) years, then for the unexpired
19 portion of such lesser period as specified by such permit from the date
20 of granting such permit. However, the foregoing provisions in regard
21 to continued operation within the corporate limits of a municipality
22 after annexation shall not affect the right of the sewage disposal
23 company to cease its operation of providing sewage disposal service
24 within such annexed territory prior to the termination of said twelve
25 (12) year or lesser determinate permit period, upon thirty (30) days
26 written notice to the commission, the municipality, and all patrons.

27 (j) Upon approval by the commission given after notice of hearing
28 and hearing, but not otherwise, any certificate of territorial authority
29 may:

30 (1) be sold, assigned, leased, or transferred by the holder thereof
31 to any sewage disposal company to which a territorial certificate
32 might be lawfully issued; or

33 (2) be included in the property and rights encumbered under any
34 indenture of mortgage or deed of trust of such holder;

35 or any sewage treatment plant or plants, sewers, mains, stations, and
36 equipment and appurtenances for the rendering of sewage disposal
37 service, or any part thereof, may be sold, assigned, leased, or
38 transferred by the holder thereof to any municipality if these assets lie
39 within an area which shall have been annexed by such municipality or
40 lie within the given radius of miles from the corporate limits of such
41 municipality into which it is authorized to render such services, if such
42 municipality is prepared to render a comparable sewage disposal

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1 service without loss of continuity of service, and if the terms of such
2 sale, assignment, lease, or transfer are reasonable. However, once the
3 commission has given its approval to such transaction and the
4 transaction itself is actually consummated, the commission shall have
5 no control over the sewage disposal service henceforth rendered by
6 such municipality as a municipally owned utility (as defined in this
7 chapter).

8 (k) Any certificate of territorial authority may, after notice of
9 hearing and hearing, be revoked by the commission, in whole or in
10 part, for the failure of the holder thereof to furnish reasonably adequate
11 sewage disposal service within the area or areas determined and
12 defined in such certificate of territorial authority, or for the failure of
13 the holder thereof to comply with any applicable order or rule
14 prescribed by the commission in the exercise of its powers under this
15 chapter, or for failure to comply with any term, condition, or limitation
16 of such certificate of territorial authority.

17 (l) After the commission revokes any certificate of territorial
18 authority under subsection (k) or after the county board of health
19 determines the existence of a serious health problem related to the
20 sewage disposal facility, the county commissioners of the county in
21 which the sewage disposal facility is located may acquire the facility,
22 subject to the approval of the acquisition by the county council, except
23 that the county commissioners may not acquire any facility already
24 acquired by any city or town. The county commissioners shall acquire
25 the sewage disposal facility by:

26 (1) gift, grant, purchase, or condemnation that is funded in the
27 same manner that cities and towns fund sewage treatment
28 acquisitions under IC 36-9; or

29 (2) a lease arrangement that is funded in the same manner that
30 cities and towns fund leases of sewage disposal facilities under
31 IC 36-9.

32 After acquisition, the county commissioners shall repair, operate, and
33 maintain the sewage disposal facility and charge user fees for these
34 services.

35 **SECTION 6. An emergency is declared for this act.**

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