



February 14, 2011

SENATE BILL No. 480

DIGEST OF SB 480 (Updated February 10, 2011 1:43 pm - DI 103)

Citations Affected: IC 8-1.

Synopsis: Various communications matters. Authorizes the utility regulatory commission (IURC) to delegate authority to its staff to grant certain requests concerning telephone numbers. Provides that actions taken by the staff are appealable to the IURC. Specifies the information that the IURC may require certain communications service providers to include in applications for certificates of territorial authority. Provides that the IURC may not require a video service provider to disclose identifying information at certain levels of specificity. Grants jurisdiction to resolve certain matters concerning video service franchises to the IURC rather than a court with jurisdiction.

Effective: July 1, 2011.

Hershman, Merritt, Young R

January 13, 2011, read first time and referred to Committee on Utilities & Technology.
February 14, 2011, reported favorably — Do Pass.

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SB 480—LS 7472/DI 103+



February 14, 2011

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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SENATE BILL No. 480



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

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

1 SECTION 1. IC 8-1-2.6-17 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2011]: **Sec. 17. The commission may delegate to staff authority
4 to grant requests for numbering resources submitted through the
5 safety valve process established by the Federal Communications
6 Commission as provided In the Matter of Numbering Resource
7 Optimization: Implementation of the Local Competition Provisions
8 of the Telecommunications Act of 1996, 17 FCC Red 252 (FCC
9 01-362, 2001). An action taken by commission staff under this
10 section is appealable to the commission.**

11 SECTION 2. IC 8-1-17.5-25, AS ADDED BY P.L.18-2010,
12 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2011]: **Sec. 25. Notwithstanding any other law, the
14 commission may exercise jurisdiction over a surviving corporation or
15 successor corporation formed under this chapter only to do the
16 following:**

17 (1) Ensure compliance with IC 8-1-2.8 concerning the provision

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- 1 of dual party relay services to hearing impaired and speech
- 2 impaired persons in Indiana.
- 3 (2) Perform the commission's duties under IC 8-1-19.5 concerning
- 4 the administration of the 211 dialing code for communications
- 5 service used to provide access to human services information and
- 6 referrals.
- 7 (3) Enforce rules adopted under IC 8-1-29 to ensure that a
- 8 customer of a telecommunications provider is not:
- 9 (A) switched to another telecommunications provider unless
- 10 the customer authorizes the switch; or
- 11 (B) billed for services by a telecommunications provider that
- 12 without the customer's authorization added the services to the
- 13 customer's service order.
- 14 (4) Conduct proceedings under:
- 15 (A) the federal Telecommunications Act of 1996 (47 U.S.C.
- 16 151 et seq.); and
- 17 (B) IC 20-20-16;
- 18 concerning universal service and access to telecommunications
- 19 service and equipment, including the designation of eligible
- 20 telecommunications carriers under 47 U.S.C. 214.
- 21 (5) Perform any act with respect to interconnection agreements or
- 22 disputes that the commission is authorized to perform the
- 23 **commission's duties** under IC 8-1-2.6-1.5 or IC 8-1-2-5.
- 24 (6) Issue or maintain certificates of territorial authority for
- 25 communications service providers under IC 8-1-32.5.
- 26 (7) Perform the commission's duties under IC 8-1-34 to issue and
- 27 maintain certificates of franchise authority to multichannel video
- 28 programming distributors offering video service to Indiana
- 29 customers.
- 30 (8) Perform the commission's duties under IC 8-1-2.6-13(d)(9)
- 31 concerning the reporting of information by communications
- 32 service providers.
- 33 (9) Administer the Indiana lifeline assistance program under
- 34 IC 8-1-36.
- 35 (10) Fulfill the commission's duties under any state or federal law
- 36 concerning the administration of any universally applicable
- 37 dialing code for any communications service.
- 38 (11) Perform the commission's duties under IC 8-1-2.3 with
- 39 respect to assigned service areas for electricity suppliers.
- 40 (12) Issue:
- 41 (A) certificates of public convenience and necessity,
- 42 certificates of territorial authority, and indeterminate permits

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- 1 under IC 8-1-2;
- 2 (B) certificates of public convenience and necessity under
- 3 IC 8-1-8.5; or
- 4 (C) certificates of public convenience and necessity under
- 5 IC 8-1-8.7.
- 6 (13) Determine territorial disputes between water utilities under
- 7 IC 8-1-2-86.5.

8 SECTION 3. IC 8-1-32.5-6, AS AMENDED BY P.L.1-2007,
 9 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2011]: Sec. 6. (a) Except as provided in subsection (c), before
 11 a communications service provider may offer communications service
 12 to customers in Indiana, the communications service provider must
 13 apply to the commission for a certificate of territorial authority. A
 14 communications service provider that seeks a certificate under this
 15 chapter shall submit an application on a form prescribed by the
 16 commission. **Subject to subsection (e)**, the form prescribed by the
 17 commission must require the communications service provider to
 18 report the following information:

- 19 (1) The provider's legal name and any name under which the
- 20 provider does or will do business in Indiana, as authorized by the
- 21 secretary of state.
- 22 (2) The provider's address and telephone number, along with
- 23 contact information for the person responsible for ongoing
- 24 communications with the commission.
- 25 (3) The legal name, address, and telephone number of the
- 26 provider's parent company, if any.
- 27 (4) A description of each service area in Indiana in which the
- 28 provider proposes to offer communications service.
- 29 (5) For each service area identified under subdivision (4), a
- 30 description of each type of communications service that the
- 31 provider proposes to offer in the service area.
- 32 (6) For each communications service identified under subdivision
- 33 (5), whether the communications service will be offered to
- 34 residential customers or business customers, or both.
- 35 (7) The expected date of deployment for each communications
- 36 service identified under subdivision (5) in each service area
- 37 identified in subdivision (4).
- 38 (8) A list of other states in which the provider offers
- 39 communications service, including the type of communications
- 40 service offered.
- 41 (9) Any other information the commission considers necessary to:
- 42 (A) monitor the type and availability of communications

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1 service provided to Indiana customers; and
 2 (B) prepare the commission's annual report to the regulatory
 3 flexibility committee under IC 8-1-2.6-4.
 4 The commission may charge a fee for filing an application under this
 5 section. Any fee charged by the commission under this subsection may
 6 not exceed the commission's actual costs to process and review the
 7 application under section 8 of this chapter.
 8 (b) A communications service provider shall also submit, along with
 9 the application required by subsection (a), the following documents:
 10 (1) A certification from the secretary of state authorizing the
 11 provider to do business in Indiana.
 12 (2) Information demonstrating the provider's financial,
 13 managerial, and technical ability to provide each communications
 14 service identified in the provider's application under subsection
 15 (a)(5) in each service area identified under subsection (a)(4).
 16 (3) A statement, signed under penalty of perjury by an officer or
 17 another person authorized to bind the provider, that affirms the
 18 following:
 19 (A) That the provider has filed or will timely file with the
 20 Federal Communications Commission all forms required by
 21 the Federal Communications Commission before offering
 22 communications service in Indiana.
 23 (B) That the provider agrees to comply with any customer
 24 notification requirements imposed by the commission under
 25 section 11(b) of this chapter.
 26 (C) That the provider agrees to update the information
 27 provided in the application submitted under subsection (a) on
 28 a regular basis, as may be required by the commission under
 29 section 12 of this chapter.
 30 (D) That the provider agrees to notify the commission when
 31 the provider commences offering communications service in
 32 each service area identified in the provider's application under
 33 subsection (a)(4).
 34 (E) That the provider agrees to pay any lawful rate or charge
 35 for switched and special access services, as required under
 36 any:
 37 (i) applicable interconnection agreement; or
 38 (ii) lawful tariff or order approved or issued by a regulatory
 39 body having jurisdiction.
 40 (F) That the provider agrees to report, at the times required by
 41 the commission, any information required by the commission
 42 under IC 8-1-2.6-13(d)(9).

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- 1 (c) If:
- 2 (1) a communications service provider has been issued a:
- 3 (A) certificate of territorial authority; or
- 4 (B) certificate of public convenience and necessity;
- 5 by the commission before July 1, 2009; and
- 6 (2) the certificate described in subdivision (1) is in effect on July
- 7 1, 2009;

8 the communications service provider is not required to submit an
 9 application under this section for as long as the certificate described in
 10 subdivision (1) remains in effect. For purposes of this subsection, if a
 11 corporation organized under IC 8-1-13 (or a corporation organized
 12 under IC 23-17-1 that is an electric cooperative and that has at least one
 13 (1) member that is a corporation organized under IC 8-1-13) holds a
 14 certificate of public convenience and necessity issued by the
 15 commission before, on, or after July 1, 2009, that certificate may serve
 16 as the certificate required under this chapter with respect to any
 17 communications service offered by the corporation, subject to the
 18 commission's right to require the corporation to provide any
 19 information that an applicant is otherwise required to submit under
 20 subsection (a) or that a holder is required to report under
 21 IC 8-1-2.6-13(d)(9).

22 (d) This section does not empower the commission to require an
 23 applicant for a certificate under this chapter to disclose confidential and
 24 proprietary business plans and other confidential information without
 25 adequate protection of the information. The commission shall exercise
 26 all necessary caution to avoid disclosure of confidential information
 27 supplied under this subsection.

28 **(e) The form prescribed for a communications service provider**
 29 **that offers a service described in IC 8-1-2.6-1.1 must require the**
 30 **communications service provider to report and certify the**
 31 **accuracy of only the information required under subsection (a)(1)**
 32 **and (a)(2).**

33 SECTION 4. IC 8-1-34-16, AS ADDED BY P.L.183-2006,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2011]: Sec. 16. (a) Except as provided in section 21 of this
 36 chapter, after June 30, 2006:

- 37 (1) the commission is the sole franchising authority (as defined in
- 38 47 U.S.C. 522(10)) for the provision of video service in Indiana;
- 39 and
- 40 (2) a unit may not:
- 41 (A) require a provider to obtain a separate franchise; or
- 42 (B) impose any fee, gross receipt tax, licensing requirement,

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1 rate regulation, or build-out requirement on a provider;
 2 except as authorized by this chapter.
 3 (b) Except as provided in section 21 of this chapter, a person who
 4 seeks to provide video service in Indiana after June 30, 2006, shall file
 5 with the commission an application for a franchise. The application
 6 shall be made on a form prescribed by the commission and must
 7 include the following:
 8 (1) A sworn affidavit, signed by an officer or another person
 9 authorized to bind the applicant, that affirms the following:
 10 (A) That the applicant has filed or will timely file with the
 11 Federal Communications Commission all forms required by
 12 the Federal Communications Commission before offering
 13 video service in Indiana.
 14 (B) That the applicant agrees to comply with all federal and
 15 state statutes, rules, and regulations applicable to the operation
 16 of the applicant's video service system.
 17 (C) That the applicant agrees to:
 18 (i) comply with any local ordinance or regulation governing
 19 the use of public rights-of-way in the delivery of video
 20 service; and
 21 (ii) recognize the police powers of a unit to enforce the
 22 ordinance or regulation.
 23 (D) If the applicant will terminate an existing local franchise
 24 under section 21 of this chapter, that the applicant agrees to
 25 perform any obligations owed to any private person, as
 26 required by section 22 of this chapter.
 27 (2) The applicant's legal name and any name under which the
 28 applicant does or will do business in Indiana, as authorized by the
 29 secretary of state.
 30 (3) The address and telephone number of the applicant's principal
 31 place of business, along with contact information for the person
 32 responsible for ongoing communications with the commission.
 33 (4) The names and titles of the applicant's principal officers.
 34 (5) The legal name, address, and telephone number of the
 35 applicant's parent company, if any.
 36 (6) A description of each service area in Indiana to be served by
 37 the applicant. A service area described under this subdivision may
 38 include an unincorporated area in Indiana.
 39 (7) The expected date for the deployment of video service in each
 40 of the areas identified in subdivision (6).
 41 (8) A list of other states in which the applicant provides video
 42 service.

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- 1 (9) If the applicant will terminate an existing local franchise under
- 2 section 21(b) of this chapter, a copy of the written notice sent to
- 3 the municipality under section 21(c) of this chapter.
- 4 (10) Any other information the commission considers necessary
- 5 to:
- 6 (A) monitor the provision of video service to Indiana
- 7 customers; and
- 8 (B) prepare the commission's annual report to the regulatory
- 9 flexibility committee under IC 8-1-2.6-4.

10 This subsection does not empower the commission to require an
 11 applicant to disclose confidential and proprietary business plans and
 12 other confidential information without adequate protection of the
 13 information. The commission shall exercise all necessary caution to
 14 avoid disclosure of confidential information supplied under this
 15 subsection. **Nothing in this title may be construed to require an**
 16 **applicant to disclose information to identify the areas in which the**
 17 **applicant has deployed video services by census block, street**
 18 **address, or other similar level of specificity.**

19 (c) The commission may charge a fee for filing an application under
 20 this section. Any fee charged by the commission under this subsection
 21 may not exceed the commission's actual costs to process and review the
 22 application under section 17 of this chapter.

23 SECTION 5. IC 8-1-34-27, AS ADDED BY P.L.27-2006,
 24 SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2011]: Sec. 27. (a) The operation of a PEG channel provided
 26 under section 25, 26, or 26.5 of this chapter is the responsibility of the
 27 unit or unincorporated area that receives the benefit of the channel, and
 28 the holder or other provider is responsible only for the transmission of
 29 the channel.

30 (b) A unit or an unincorporated area that receives the benefit of a
 31 PEG channel provided under section 25, 26, or 26.5 of this chapter
 32 shall ensure that all transmissions, content, and programming that are
 33 transmitted over a channel or other facility of the provider are
 34 submitted to the provider in a manner or form that:

- 35 (1) is capable of being accepted and transmitted by the provider
- 36 over the provider's video service system;
- 37 (2) does not require additional alteration or change in the content
- 38 by the provider; and
- 39 (3) is compatible with the technology or protocol used by the
- 40 provider to deliver video service.

41 (c) If it is technically feasible to do so, the holder of a certificate
 42 under this section and a provider described in section 21(a) of this

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1 chapter may cooperate to interconnect their systems to provide PEG
 2 channel capacity required under section 25, 26, or 26.5 of this chapter.
 3 Interconnection under this section may be accomplished by direct
 4 cable, microwave link, satellite, or other reasonable method of
 5 connection. The parties shall negotiate the terms of the interconnection
 6 in good faith, and a provider described in section 21(a) of this chapter
 7 may not withhold interconnection of PEG channel capacity.

8 (d) ~~A court with jurisdiction~~ **Subject to 47 U.S.C. 531, the**
 9 **commission** has exclusive authority to enforce any requirement under:
 10 (1) this section; or
 11 (2) section 25, 26, or 26.5 of this chapter.

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities and Technology, to which was referred Senate Bill No. 480, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 480 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 0.

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