COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 251, 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 the title and insert the following:

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

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 8-1-2-6.9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 6.9. (a) As used in this section, "energy utility" has the meaning set forth in IC 8-1-2.5-2.**

(b) As used in this section, "federally mandated costs" means capital, operation, maintenance, depreciation, research and development, tax, or carrying costs that an energy utility incurs in complying with mandates that the commission finds are, or with reasonable certainty will be, imposed on the energy utility by the federal government related to the following:

(1) Environmental laws, rules, regulations, or consent decrees, including clean air standards and costs associated with:

(A) reducing or offsetting the emission of greenhouse gases; or

(B) the purchase of emission allowances.

(2) Renewable portfolio or energy efficiency standards, including projects at existing generating facilities to allow for fuel switching, including the use of natural or substitute natural gas.

(3) Participation in one (1) or more industry reliability

organizations, including a regional transmission organization.

(4) Transmission and distribution pipeline integrity and safety.

The term does not include fines or penalties assessed against or imposed on an energy utility for violating environmental laws, regulations, or consent decrees.

(c) An energy utility may petition the commission to recover federally mandated costs through a periodic retail rate adjustment mechanism. The petition must include the following:

(1) A description of the mandate that is imposed on the energy utility by the federal government.

(2) A description and estimate of the federally mandated costs associated with the mandate described in subdivision (1).

(3) The energy utility's plans to comply with the mandate described in subdivision (1).

If the commission finds, after notice and hearing, that an energy utility's proposed compliance plan described in subdivision (3) is reasonable and necessary to comply with the mandate described in subdivision (1), the commission shall approve the periodic retail rate adjustment mechanism and authorize the timely recovery of federally mandated costs by the energy utility.

(d) The commission shall adjust any changes in charges approved for an energy utility under section 42(d) or 42(g) of this chapter or IC 8-1-13-30(d), as applicable, to permit the energy utility to retain revenues resulting from a periodic retail rate adjustment mechanism approved under this section.

SECTION 2. IC 8-1-8.8-1, AS AMENDED BY P.L.175-2007, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) The general assembly makes the following findings:

(1) Growth of Indiana's population and economic base has created a need for new energy production or generating facilities in Indiana.

(2) The development of a robust and diverse portfolio of energy production or generating capacity, including coal gasification and the use of renewable energy resources, is needed if Indiana is to continue to be successful in attracting new businesses and jobs.

(3) Indiana has considerable natural resources that are currently underutilized and could support development of new energy production or generating facilities, including coal gasification facilities, at an affordable price.

(4) Certain regions of the state, such as southern Indiana, could benefit greatly from new employment opportunities created by development of new energy production or generating facilities utilizing the plentiful supply of coal from the geological formation known as the Illinois Basin.

(5) Technology can be deployed that allows high sulfur coal

from the geological formation known as the Illinois Basin to be burned or gasified efficiently while meeting strict state and federal air quality limitations. Specifically, the state should encourage the use of advanced clean coal technology, such as coal gasification.

(6) It is in the public interest for the state to encourage the construction of new energy production or generating facilities that increase the in-state capacity to provide for current and anticipated energy demand at a competitive price.

(7) It is in the public interest for the state to encourage the study, analysis, construction, and life cycle management of nuclear energy production or generating facilities, as well as carbon dioxide capture, transportation, and storage facilities.

(b) The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

(1) Indiana's **and the region's** energy production or generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

(2) The vast and underutilized coal resources of the Illinois Basin are used as a fuel source for new energy production or generating facilities.

(3) The electric transmission and gas transportation systems within Indiana are upgraded to distribute additional amounts of electricity and gas more efficiently.

(4) Jobs are created as new energy production or generating facilities are built in regions throughout Indiana.

(5) The study, analysis, construction, and life cycle management of nuclear energy production or generating facilities are encouraged at the same time as are new coal fired and other fossil fuel based energy production or generating facilities.

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

(1) Any of the following projects:

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

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

(C) Projects to provide electric transmission facilities to

serve a new energy production or generating facility **or a nuclear energy production or generating facility.**

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

(E) Projects or potential projects that employ the use of nuclear energy production or generating technologies to produce electricity.

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

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

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

SECTION 4. IC 8-1-8.8-4, AS AMENDED BY P.L.175-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. As used in this chapter, "coal gasification facility" means a facility in Indiana that uses a manufacturing process that converts coal into a clean gas that can be used:

(1) as a fuel to generate energy; or

(2) as substitute natural gas.

SECTION 5. IC 8-1-8.8-6, AS AMENDED BY P.L.175-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 6. As used in this chapter, "eligible business" means an energy utility (as defined in IC 8-1-2.5-2) or owner of a coal gasification facility that:

(1) proposes to construct or repower a new energy production or generating facility;

(2) proposes to construct or repower a project described in section 2(1) or 2(2) of this chapter;

(3) undertakes a project to develop alternative energy sources, including renewable energy projects or **coal gasification facilities; or**

(4) purchases fuels **or energy** produced by a coal gasification facility **or by a nuclear energy production or generating facility.**

SECTION 6. IC 8-1-8.8-8, AS AMENDED BY P.L.175-2007, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 8. (a) As used in this chapter, "new energy **production or** generating facility" refers to a generation or coal gasification facility that satisfies all of the following:

(1) The facility produces energy primarily from coal or gases from coal from the geological formation known as the Illinois Basin.

(2) The facility is a:

(A) newly constructed or newly repowered energy ~~generation~~ plant; or

(B) newly constructed ~~generation~~ capacity expansion at an existing ~~facility,~~ **plant;**

dedicated primarily to serving Indiana retail customers.

(3) The repowering, construction, or expansion of the facility was begun by an Indiana utility after July 1, 2002.

(4) Except for a facility that is a clean ~~coal and~~ energy project under section 2(2) of this chapter, the facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

(b) The term includes the transmission lines, gas transportation facilities, and associated equipment employed specifically to serve a new energy generating or coal gasification facility.

SECTION 7. IC 8-1-8.8-8.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.3. As used in this chapter, "new nuclear energy production or generating facility" refers to a nuclear energy production or generating facility that satisfies all of the following:**

(1) The facility is a:

(A) newly constructed or repowered facility; or

(B) newly constructed capacity expansion, power uprate, or life cycle management at an existing facility;

dedicated primarily to serving Indiana customers.

(2) The construction, repowering, expansion, power uprate, or life cycle management was begun by an Indiana utility after July 1, 2008.

(3) The facility has an aggregate rated electric generating capacity of at least one hundred (100) megawatts for all units at one (1) site or a generating capacity of at least four hundred thousand (400,000) pounds per hour of steam.

SECTION 8. IC 8-1-8.8-8.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.5. (a) As used in this chapter, "nuclear energy production or generating facility" means an energy production or generation facility that uses a nuclear reactor as its heat source to provide steam to a turbine generator to produce or generate electricity.**

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

SECTION 9. IC 8-1-8.8-8.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 8.7. As used in this chapter, "qualified utility system expenses" means the following:**

(1) Any preconstruction costs associated with the study, analysis, or development of a:

(A) new energy production or generating facility; or

(B) new nuclear energy production or generating facility;

including siting, design, licensing, and permitting costs,

regardless of whether the facility for which such costs are incurred is ultimately constructed or placed in service.

(2) The expansion, power uprate, or life cycle management of a nuclear energy production or generating facility.

SECTION 10. IC 8-1-8.8-9, AS AMENDED BY P.L.175-2007, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 9. As used in this chapter, "qualified utility system property" means any:

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

(2) new nuclear energy production or generating facility;

used, or to be used, in whole or in part, by an energy utility to provide retail energy service (as defined in IC 8-1-2.5-3) regardless of whether that service is provided under IC 8-1-2.5 or another provision of this article.

SECTION 11. IC 8-1-8.8-10, AS AMENDED BY P.L.95-2010, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 10. (a) As used in this chapter "renewable energy resources" means alternative sources of renewable energy, including the following:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(D) Animal wastes.

(E) Animal byproducts.

(F) Aquatic plants.

(G) Algae.

(6) Hydropower from existing dams.

(7) Fuel cells.

(8) Energy from waste to energy facilities.

(9) Energy storage systems.

(10) Combined heat and power facilities.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

(1) Tires.

(2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.

(c) The term excludes treated or painted lumber.

SECTION 12. IC 8-1-8.8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 11. (a) The commission

shall encourage clean ~~coal and~~ energy projects by creating the following financial incentives for clean ~~coal and~~ energy projects, if the projects are found to be reasonable and necessary:

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

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

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

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

(5) Other financial incentives the commission considers appropriate.

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

(c) The commission shall promptly review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in its review.

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

SECTION 13. IC 8-1-8.8-12, AS AMENDED BY P.L.175-2007, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 12. (a) The commission shall provide financial incentives to eligible businesses for:

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

(2) new nuclear energy production or generating facilities;

financial incentives in the form of timely recovery of the costs incurred in connection with the **study, analysis, development, siting, design, licensing, permitting,** construction, repowering, expansion, **power uprate, life cycle management,** operation, or maintenance of the facilities.

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

the commission.

(c) An application must include the following:

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

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

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

(4) Other information the commission considers necessary.

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

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

(2) qualified utility system expenses;

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

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

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

SECTION 14. IC 8-1-8.8-13, AS AMENDED BY P.L.175-2007, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 13. An eligible business shall file a monthly report with the lieutenant governor stating the following information:

(1) The amount of Illinois Basin coal, if any, purchased during the previous month for use in a new energy **production or** generating ~~or coal gasification~~ facility.

(2) The amount of any fuel **or energy** produced by:

(A) a coal gasification facility; ~~and~~ **or**

(B) a nuclear energy production or generating facility;

that is purchased by the eligible business during the previous month.

(3) Any other information the lieutenant governor may reasonably require.

SECTION 15. IC 8-1-8.8-14, AS AMENDED BY P.L.71-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 14. **(a)** The group shall conduct an annual study on the use, availability, and economics of using:

(1) renewable energy resources; **and**

(2) nuclear energy production or generating technologies to

produce electricity;

in Indiana. Each year, the group shall submit a report on the study to the commission for inclusion in the commission's annual report to the regulatory flexibility committee described in IC 8-1-2.5-9 and IC 8-1-2.6-4.

(b) The report **required by this section** must include suggestions from the group to encourage the development and use of:

(1) renewable energy resources and technologies, ~~appropriate for use in Indiana. In formulating the suggestions, the group shall evaluate~~ **including** potential renewable energy generation opportunities from biomass and algae production systems; **and**

(2) nuclear energy production or generating technologies; appropriate for use in Indiana.

SECTION 16. IC 8-1-13.1-2, AS ADDED BY P.L.151-2009, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. As used in this chapter, "alternative energy project" means a project that:

(1) develops or makes use of:

(A) clean ~~coal and~~ energy projects (as defined in IC 8-1-8.8-2);

(B) renewable energy resources (as defined in IC 8-1-8.8-10) for the production of electricity;

(C) integrated gasification combined cycle (IGCC) technology to produce synthesis gas that is used:

(i) to generate electricity; or

(ii) as a substitute for natural gas;

regardless of the fuel source used to produce the synthesis gas;

(D) methane recovered from landfills for the production of electricity;

(E) demand side management, energy efficiency, or conservation programs; or

(F) coal bed methane;

(2) results in quantifiable reductions in, or the avoidance of:

(A) the use of electricity produced by traditional electric generating facilities that use fossil fuels as their fuel source; or

(B) regulated air pollutants and carbon emissions produced by traditional electric generating facilities that use fossil fuels as their fuel source; and

(3) is implemented under a plan approved by:

(A) the office; and

(B) a corporation's or a cooperatively owned power supplier's board of directors.

SECTION 17. IC 8-1-37 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 37. Clean Energy Portfolio Standard Program

Sec. 1. As used in this chapter, "base year" means the calendar year ending December 31, 2010.

Sec. 2. As used in this chapter, "clean energy" means electricity that is produced from a clean energy resource.

Sec. 3. As used in this chapter, "clean energy credit", or "CEC", means an interest that:

(1) represents:

(A) one (1) megawatt hour of clean energy that satisfies the applicable conditions set forth in section 12(b)(2) of this chapter, if the CEC represents clean energy that is not generated by a facility located in Indiana; or

(B) one and twenty-five hundredths (1.25) megawatt hours of clean energy, if the CEC represents clean energy that is generated by a facility located in Indiana;

(2) is quantifiable and transferrable; and

(3) is possessed by not more than one (1) entity at a time.

Sec. 4. As used in this chapter, "clean energy resource" means any of the following sources, clean sources, alternative technologies, or programs used in connection with the production or conservation of electricity:

(1) Energy from wind.

(2) Solar energy.

(3) Photovoltaic cells and panels.

(4) Dedicated crops grown for energy production.

(5) Organic waste biomass, including any of the following organic matter that is available on a renewable basis:

(A) Agricultural crops.

(B) Agricultural wastes and residues.

(C) Wood and wood wastes, including the following:

(i) Wood residues.

(ii) Forest thinnings.

(iii) Mill residue wood.

(D) Animal wastes.

(E) Animal byproducts.

(F) Aquatic plants.

(G) Algae.

(6) Hydropower.

(7) Fuel cells.

(8) Hydrogen.

(9) Energy from waste to energy facilities, including energy derived from advanced solid waste conversion technologies.

(10) Energy storage systems or technologies.

(11) Geothermal energy.

(12) A clean coal and energy project described in IC 8-1-8.8-2(1)(D).

(13) Carbon capture and storage projects.

(14) Nuclear energy.

(15) Electricity that is:

(A) generated by a customer owned distributed generation facility that is interconnected to the electricity supplier's distribution system in accordance with the commission's interconnection standards set

forth in 170 IAC 4-4.3; and

(B) supplied back to the electricity supplier for use in meeting the electricity supplier's electricity demand requirements.

(16) Coal bed methane.

(17) Combined heat and power systems.

(18) Demand side management or energy efficiency initiatives that:

(A) reduce electricity consumption; or

(B) implement load management, demand response, or energy efficiency measures designed to shift customers' electric loads from periods of higher demand to periods of lower demand;

as a result of equipment installed, or customers enrolled, after January 1, 2010.

(19) Industrial byproduct technologies that use fuel or energy that is a byproduct of an industrial process.

Sec. 5. As used in this chapter, "clean portfolio standard goal", or "CPS goal", refers to a goal set forth in section 12(a) of this chapter that a participating electricity supplier must achieve during a specified period during the program to qualify for one (1) or more of the financial incentives described in section 13 of this chapter.

Sec. 6. (a) 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 customers in Indiana on January 1, 2011.

(b) The term does not include a utility that is:

(1) a municipally owned utility (as defined in IC 8-1-2-1(h));

(2) a corporation organized under IC 8-1-13; or

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

Sec. 7. As used in this chapter, "participating electricity supplier" refers to an electricity supplier that has been approved by the commission under section 11 of this chapter to participate in the program.

Sec. 8. As used in this chapter, "program" refers to the Indiana clean energy portfolio standard program established by the commission under section 10 of this chapter.

Sec. 9. As used in this chapter, "regional transmission organization", with respect to an electricity supplier, refers to the regional transmission organization approved by the Federal Energy Regulatory Commission for the control area that includes the electricity supplier's assigned service area (as defined in IC 8-1-2.3-2).

Sec. 10. (a) Subject to subsection (d), the commission shall adopt rules under IC 4-22-2 to establish the Indiana clean energy portfolio standard program. The program established under this section must be a voluntary program that provides incentives to participating electricity suppliers that undertake to supply

specified percentages of the total electricity supplied to their Indiana retail electric customers from clean energy.

(b) The rules adopted by the commission under this section to establish the program must:

(1) incorporate:

(A) the CPS goals set forth in section 12(a) of this chapter;

(B) methods for measuring and evaluating a participating electricity supplier's compliance with the CPS goals set forth in section 12(a) of this chapter;

(C) the financial incentives set forth in section 13 of this chapter; and

(D) the reporting requirements set forth in section 14 of this chapter;

(2) take effect not later than January 1, 2012; and

(3) be consistent with this chapter.

(c) Upon the effective date of the rules adopted by the commission under this section, an electricity supplier may apply to the commission under section 11 of this chapter for approval to participate in the program.

(d) The commission may adopt emergency rules under IC 4-22-2-37.1 to adopt the rules required by this section. An emergency rule adopted by the commission under IC 4-22-2-37.1 expires on the date a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.

Sec. 11. (a) An electricity supplier that seeks to participate in the program established by the commission under section 10 of this chapter must apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than a date specified by the commission in the rules adopted under section 10 of this chapter;

for approval to participate in the program.

(b) Upon receiving an application under subsection (a), the commission shall review the application for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(c) The commission shall approve an application submitted under subsection (a) if the commission determines that:

(1) the application is complete and accurate; and

(2) the electricity supplier submitting the application has demonstrated that the electricity supplier has a reasonable expectation of supplying clean energy to its Indiana retail electric customers during the calendar year ending December 31, 2025, in an amount equal to at least ten percent (10%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year, as set forth in section 12(a)(3) of this chapter.

Sec. 12. (a) Subject to subsection (b), to qualify for the financial incentives set forth in section 13 of this chapter, a participating electricity supplier must supply clean energy to the participating electricity supplier's Indiana retail electric customers according to the following CPS goals:

(1) CPS Goal I: In the calendar year ending December 31, 2013, at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(2) CPS Goal II: For the five (5) calendar years beginning January 1, 2014, and ending December 31, 2018, an average of at least four percent (4%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2019, at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

(3) CPS Goal III: For the five (5) calendar years beginning January 1, 2020, and ending December 31, 2024, an average of at least seven percent (7%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year. In the calendar year ending December 31, 2025, at least ten percent (10%) of the total electricity supplied by the participating electricity supplier to its Indiana retail electric customers during the base year.

For purposes of this subsection, electricity is measured in megawatt hours. However, in determining whether a participating electricity supplier has met a CPS goal set forth in this subsection, the commission shall multiply each megawatt hour of clean energy that is generated by a facility located in Indiana by a factor of one and twenty-five hundredths (1.25).

(b) In determining whether a participating electricity supplier has met a particular CPS goal set forth in subsection (a), the commission shall consider only clean energy that:

(1) except as provided in subsection (e), is supplied by the participating electricity supplier to the participating electricity supplier's Indiana retail electric customers during the CPS goal period under consideration; and

(2) meets one (1) of the following conditions:

(A) Is generated by a facility located in Indiana or in a control area that is part of the regional transmission organization of which the participating electricity supplier is a member.

(B) Is generated by a facility that:

(i) is not located in Indiana or in a control area that is part of the regional transmission organization of which the participating electricity supplier is a member; and

(ii) is located in a control area that is part of another regional transmission organization and that is adjacent to a control area that is part of the regional transmission organization of which the participating electricity supplier is a member;

if the participating electricity supplier owns at least a forty-nine percent (49%) interest in the facility.

(c) To the extent feasible, a participating electricity supplier shall apply toward meeting the CPS goals set forth in subsection (a) clean energy that is:

(1) generated by facilities that are:

(A) owned;

(B) operated; or

(C) in the process of being constructed;

by the participating electricity supplier on January 1, 2011; or

(2) purchased under a contract at no additional cost to the participating electricity supplier's Indiana retail electric customers.

(d) A participating electricity supplier may own or purchase one (1) or more CECs to meet any of the CPS goals set forth in subsection (a) as long as the clean energy represented by the CEC meets one (1) of the conditions set forth in subsection (b)(2).

(e) A participating electricity supplier may apply:

(1) amounts of clean energy supplied by the participating electricity supplier to its Indiana retail electric customers during a particular CPS goal period; or

(2) CECs acquired by the participating electricity supplier during a particular CPS goal period;

that exceed the requirements for the particular CPS goal period to the immediately succeeding CPS goal period.

(f) A participating electricity supplier may use a clean energy resource described in section 4(18) of this chapter to satisfy not more than thirty percent (30%) of any of the CPS goals set forth in subsection (a).

Sec. 13. (a) The commission shall establish the following incentives for participating electricity suppliers:

(1) A shareholder incentive consisting of the authorization of an increased overall rate of return on equity, not to exceed fifty (50) basis points over a participating electricity supplier's authorized rate of return, whenever the participating electricity supplier attains a CPS goal set forth in section 12(a) of this chapter. The number of additional basis points authorized by the commission under this subdivision may:

(A) be different for each of the CPS goal periods identified in section 12(a) of this chapter, as the commission determines is appropriate; and

(B) in the case of a particular participating electricity supplier, be based, in part, on the extent to which the

participating electricity supplier has attempted to meet a particular CPS goal in the manner specified in section 12(c) of this chapter.

The additional basis points authorized by the commission under this subdivision for each CPS goal period are not cumulative. In determining a participating electricity supplier's authorized rate of return to which additional basis points may be added upon the participating electricity supplier's achievement of a particular CPS goal, the commission shall not include as part of the authorized rate of return any additional basis points awarded to the participating electricity supplier for having achieved the immediately preceding CPS goal.

(2) The recovery, by means of a periodic rate adjustment mechanism, of all reasonable and necessary program costs incurred by a participating electricity supplier in:

(A) constructing, operating, or maintaining facilities that generate clean energy that:

(i) is used by the participating electricity supplier in its efforts to meet a CPS goal set forth in section 12(a) of this chapter; and

(ii) meets the requirements set forth in section 12(b) of this chapter; or

(B) otherwise generating or purchasing clean energy that:

(i) is used by the participating electricity supplier in its efforts to meet a CPS goal set forth in section 12(a) of this chapter; and

(ii) meets the requirements set forth in section 12(b) of this chapter.

For purposes of this subdivision, "program costs" includes administrative costs, ancillary costs, capacity costs, costs associated with CECs, capital costs, depreciation costs, tax costs, and financing costs incurred in connection with an activity described in clause (A) or (B).

(3) Incentives based on:

(A) the sharing of achieved savings or as a percentage of costs; or

(B) avoided costs resulting from achieving demand side management or energy efficiency targets.

(4) The recovery of lost revenues associated with implementation of demand side management or energy efficiency initiatives.

(5) The designation of electricity produced or conserved by a clean energy resource as an energy savings for purposes of any initiative, rule, or order approved by the commission to promote the efficient use and production of electricity, including initiatives to implement demand side management, energy efficiency, or conservation measure in accordance with commission rules.

(b) A participating electricity supplier that seeks one (1) or more incentives established by the commission under subsection (a) must apply to the commission:

(1) in the manner and on a form prescribed by the commission; and

(2) not later than any dates specified by the commission in rules adopted under section 10 of this chapter;

for approval for the incentives sought.

(c) The commission shall review an application filed under this section for completeness. The commission may request additional information the commission considers necessary to aid in the commission's review.

(d) The commission shall, after notice and hearing, issue a determination of a participating electricity supplier's eligibility for the financial incentives sought. The commission shall issue a determination under this subsection not later than one hundred twenty (120) days after the date of the application, unless the commission finds that the applicant has not cooperated fully in the proceeding.

(e) Subject to the participating electricity supplier's continuing compliance with the applicable CPS goal, as determined according to the measurement and evaluation procedures described in section 10(b)(1)(B) of this chapter, a shareholder incentive described in subsection (a)(1) continues in effect until the earlier of the following:

(1) A time or upon an event specified in the commission's order approving the shareholder incentive.

(2) The commission issues a new order authorizing the participating electricity supplier to receive a shareholder incentive for meeting the next CPS program goal.

(f) Subject to the participating electricity supplier's continuing compliance with the applicable CPS goal, as determined according to the measurement and evaluation procedures described in section 10(b)(1)(B) of this chapter, a financial incentive described in subsection (a)(2) continues in effect until the earlier of the following:

(1) The participating electricity supplier has recovered the program costs for which the periodic rate adjustment mechanism was allowed.

(2) A time or upon an event specified in the commission's order approving the periodic rate adjustment mechanism.

Sec. 14. (a) Subject to subsection (c), beginning in 2014, each participating electricity supplier shall report to the commission not later than March 1 of each year on the following:

(1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year.

(2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric

customers during the most recently ended calendar year, including a breakdown of the following:

(A) The amount of clean energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:

(i) name and location;

(ii) total generating capacity;

(iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and

(iv) total amount of clean energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.

(B) The amount of clean energy purchased from other suppliers of clean energy. The participating electricity supplier shall identify:

(i) each supplier from whom clean energy was purchased;

(ii) the amount of clean energy purchased from each supplier;

(iii) the price paid by the participating electricity supplier for the clean energy purchased from each supplier; and

(iv) to the extent known, the name and location of each facility at which the clean energy purchased from each supplier was generated.

(3) The number of CECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:

(A) each person from whom one (1) or more CECs was purchased;

(B) the price paid to each person identified in clause (A) for the CECs purchased;

(C) the number of CECs applied, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year; and

(D) the number of CECs, if any, that the participating electricity supplier plans to carry over to the next succeeding CPS goal period, as permitted by section 12(e) of this chapter.

(4) The participating electricity supplier's plans for meeting the CPS goal applicable to the calendar year in which the report is submitted.

(5) Advances in clean energy technology that affect activities described in subdivisions (1) and (4).

(6) Any other information that the commission prescribes in rules adopted under IC 4-22-2.

For purposes of this subsection, amounts of clean energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2025.

(b) Subject to subsection (c), beginning in 2014, the commission's annual report to the regulatory flexibility committee under IC 8-1-2.5-9(b) must include a summary of the information provided by participating electricity suppliers under subsection (a) with respect to the most recently ended calendar year. The commission's duty to include the information specified in this subsection in its annual report to the regulatory flexibility committee terminates after the commission has submitted the information that applies to the calendar year ending December 31, 2025.

(c) This section does not empower the commission to require a participating electricity supplier to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

SECTION 18. **An emergency is declared for this act.**

(Reference is to SB 251 as introduced.)

and when so amended that said bill be reassigned to the Senate Committee on Utilities and Technology.

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LONG, Chairperson