

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.

SENATE ENROLLED ACT No. 480

AN ACT to amend the Indiana Code concerning utilities.

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

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

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

- (1) Ensure compliance with IC 8-1-2.8 concerning the provision of dual party relay services to hearing impaired and speech impaired persons in Indiana.
- (2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and

C
O
P
Y



referrals.

(3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:

(A) switched to another telecommunications provider unless the customer authorizes the switch; or

(B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.

(4) Conduct proceedings under:

(A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and

(B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.

(5) Perform ~~any act with respect to interconnection agreements or disputes that the commission is authorized to perform the~~ **commission's duties** under IC 8-1-2.6-1.5 or IC 8-1-2-5.

(6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.

(7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.

(8) Perform the commission's duties under IC 8-1-2.6-13(d)(9) concerning the reporting of information by communications service providers.

(9) Administer the Indiana lifeline assistance program under IC 8-1-36.

(10) Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

(11) Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.

(12) Issue:

(A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;

(B) certificates of public convenience and necessity under IC 8-1-8.5; or

(C) certificates of public convenience and necessity under IC 8-1-8.7.

C
O
P
Y



(13) Determine territorial disputes between water utilities under IC 8-1-2-86.5.

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

- (1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.
- (2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.
- (3) The legal name, address, and telephone number of the provider's parent company, if any.
- (4) A description of each service area in Indiana in which the provider proposes to offer communications service.
- (5) For each service area identified under subdivision (4), a description of each type of communications service that the provider proposes to offer in the service area.
- (6) For each communications service identified under subdivision (5), whether the communications service will be offered to residential customers or business customers, or both.
- (7) The expected date of deployment for each communications service identified under subdivision (5) in each service area identified in subdivision (4).
- (8) A list of other states in which the provider offers communications service, including the type of communications service offered.
- (9) Any other information the commission considers necessary to:
 - (A) monitor the type and availability of communications service provided to Indiana customers; and
 - (B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may

C
O
P
Y



not exceed the commission's actual costs to process and review the application under section 8 of this chapter.

(b) A communications service provider shall also submit, along with the application required by subsection (a), the following documents:

(1) A certification from the secretary of state authorizing the provider to do business in Indiana.

(2) Information demonstrating the provider's financial, managerial, and technical ability to provide each communications service identified in the provider's application under subsection (a)(5) in each service area identified under subsection (a)(4).

(3) A statement, signed under penalty of perjury by an officer or another person authorized to bind the provider, that affirms the following:

(A) That the provider has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering communications service in Indiana.

(B) That the provider agrees to comply with any customer notification requirements imposed by the commission under section 11(b) of this chapter.

(C) That the provider agrees to update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 12 of this chapter.

(D) That the provider agrees to notify the commission when the provider commences offering communications service in each service area identified in the provider's application under subsection (a)(4).

(E) That the provider agrees to pay any lawful rate or charge for switched and special access services, as required under any:

- (i) applicable interconnection agreement; or
- (ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.

(F) That the provider agrees to report, at the times required by the commission, any information required by the commission under IC 8-1-2.6-13(d)(9).

(c) If:

(1) a communications service provider has been issued a:

- (A) certificate of territorial authority; or
- (B) certificate of public convenience and necessity;

by the commission before July 1, 2009; and

C
O
P
Y



(2) the certificate described in subdivision (1) is in effect on July 1, 2009;

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

(d) This section does not empower the commission to require an applicant for a certificate under this chapter 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 ~~subsection~~: **section**.

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

SECTION 4. IC 8-1-34-16, AS AMENDED BY SEA 54-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 16. (a) Except as provided in section 21 of this chapter, after June 30, 2006:

- (1) the commission is the sole franchising authority (as defined in 47 U.S.C. 522(10)) for the provision of video service in Indiana; and
- (2) a unit may not:
 - (A) require a provider to obtain a separate franchise;
 - (B) impose any fee, gross receipt tax, licensing requirement, rate regulation, or build-out requirement on a provider;
 - (C) regulate a holder or provider; or
 - (D) establish, fund, or otherwise designate an agency, a board, or another subordinate entity to monitor, supervise, evaluate, or regulate the holder or provider;

C
O
P
Y



except as authorized by this chapter.

(b) Except as provided in section 21 of this chapter, a person who seeks to provide video service in Indiana after June 30, 2006, shall file with the commission an application for a franchise. The application shall be made on a form prescribed by the commission and must include the following:

(1) A sworn affidavit, signed by an officer or another person authorized to bind the applicant, that affirms the following:

(A) That the applicant has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering video service in Indiana.

(B) That the applicant agrees to comply with all federal and state statutes, rules, and regulations applicable to the operation of the applicant's video service system.

(C) That the applicant agrees to:

(i) comply with any local ordinance or regulation governing the use of public rights-of-way in the delivery of video service; and

(ii) recognize the police powers of a unit to enforce the ordinance or regulation.

(D) If the applicant will terminate an existing local franchise under section 21 of this chapter, that the applicant agrees to perform any obligations owed to any private person, as required by section 22 of this chapter.

(2) The applicant's legal name and any name under which the applicant does or will do business in Indiana, as authorized by the secretary of state.

(3) The address and telephone number of the applicant's principal place of business, along with contact information for the person responsible for ongoing communications with the commission.

(4) The names and titles of the applicant's principal officers.

(5) The legal name, address, and telephone number of the applicant's parent company, if any.

(6) A description of each service area in Indiana to be served by the applicant. A service area described under this subdivision may include an unincorporated area in Indiana.

(7) The expected date for the deployment of video service in each of the areas identified in subdivision (6).

(8) A list of other states in which the applicant provides video service.

(9) If the applicant will terminate an existing local franchise under

C
O
P
Y



section 21(b) of this chapter, a copy of the written notice sent to the municipality under section 21(c) of this chapter.

(10) Any other information the commission considers necessary to:

(A) monitor the provision of video service to Indiana customers; and

(B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

~~This Subsection (c) This section~~ does not empower the commission to require:

(1) an applicant to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information; or

(2) a provider to disclose more frequently than in each odd numbered year information regarding the areas in which an applicant has deployed, or plans to deploy, video services.

The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this ~~subsection~~ **section**.

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

(e) Nothing in this title may be construed to require an applicant or a provider to disclose information that identifies by census block, street address, or other similar level of specificity the areas in which the applicant or provider has deployed, or plans to deploy, video service in Indiana. The commission may not disclose, publish, or report by census block, street address, or other similar level of specificity any information identifying the areas in Indiana in which an applicant or a provider has deployed, or plans to deploy, video service.

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

(b) A unit or an unincorporated area that receives the benefit of a PEG channel provided under section 25, 26, or 26.5 of this chapter shall ensure that all transmissions, content, and programming that are transmitted over a channel or other facility of the provider are

C
O
P
Y



submitted to the provider in a manner or form that:

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

(c) If it is technically feasible to do so, the holder of a certificate under this section and a provider described in section 21(a) of this chapter may cooperate to interconnect their systems to provide PEG channel capacity required under section 25, 26, or 26.5 of this chapter. Interconnection under this section may be accomplished by direct cable, microwave link, satellite, or other reasonable method of connection. The parties shall negotiate the terms of the interconnection in good faith, and a provider described in section 21(a) of this chapter may not withhold interconnection of PEG channel capacity.

(d) ~~A court with jurisdiction~~ **Subject to 47 U.S.C. 531, the commission** has exclusive authority to enforce any requirement under:

- (1) this section; or
- (2) section 25, 26, or 26.5 of this chapter.

C
o
p
y



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

C
O
P
Y

SEA 480+

