

HOUSE BILL No. 1125

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-37.

Synopsis: Clean energy resources. Amends the statute concerning the voluntary clean energy portfolio standard program for electricity suppliers to include more clean energy resources within the existing list of clean energy resources that may not be used to satisfy more than 30% of any of the clean portfolio standard goals set forth in the statute. Makes conforming amendments.

Effective: Upon passage.

Frizzell

January 9, 2012, read first time and referred to Committee on Utilities and Energy.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1125



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 8-1-37-10, AS ADDED BY P.L.150-2011,
- 2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 UPON PASSAGE]: Sec. 10. (a) Subject to subsection (d), the
- 4 commission shall adopt rules under IC 4-22-2 to establish the Indiana
- 5 voluntary clean energy portfolio standard program. The program
- 6 established under this section must be a voluntary program that
- 7 provides incentives to participating electricity suppliers that undertake
- 8 to supply specified percentages of the total electricity supplied to their
- 9 Indiana retail electric customers from clean energy.
- 10 (b) The rules adopted by the commission under this section to
- 11 establish the program must:
- 12 (1) incorporate:
- 13 (A) the CPS goals set forth in section 12(a) of this chapter;
- 14 (B) methods for measuring and evaluating a participating
- 15 electricity supplier's compliance with the CPS goals set forth
- 16 in section 12(a) of this chapter;
- 17 (C) the financial incentives and periodic rate adjustment



- 1 mechanisms set forth in section 13 of this chapter; and
 2 (D) the reporting requirements set forth in section 14 of this
 3 chapter;
- 4 (2) require the commission to determine, before approving an
 5 application under section 11 of this chapter, that the approval of
 6 the application will not result in an increase to the retail rates and
 7 charges of the electricity supplier above what could reasonably be
 8 expected if the application were not approved;
- 9 (3) take effect not later than January 1, 2012; and
 10 (4) be consistent with this chapter.
- 11 (c) Upon the effective date of the rules adopted by the commission
 12 under this section, an electricity supplier may apply to the commission
 13 under section 11 of this chapter for approval to participate in the
 14 program.
- 15 (d) The commission may adopt emergency rules under
 16 IC 4-22-2-37.1 to:
- 17 (1) adopt the rules required by this section; or
 18 (2) **amend rules previously adopted under this section as**
 19 **necessary to implement any subsequent amendments to this**
 20 **chapter enacted by the general assembly to:**
 21 (A) **change those sources, clean sources, alternative**
 22 **technologies, or programs that qualify as clean energy**
 23 **resources under this chapter;**
 24 (B) **change any restrictions or limitations with respect to**
 25 **the particular clean energy resources that may be used to**
 26 **satisfy any of the clean portfolio standard goals set forth in**
 27 **this chapter; or**
 28 (C) **otherwise amend the program requirements set forth**
 29 **in this chapter.**
- 30 An emergency rule adopted by the commission under IC 4-22-2-37.1
 31 expires on the date a rule that supersedes the emergency rule is adopted
 32 by the commission under IC 4-22-2-24 through IC 4-22-2-36.
- 33 SECTION 2. IC 8-1-37-12, AS ADDED BY P.L.150-2011,
 34 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 12. (a) Subject to subsection (c), to qualify for
 36 the financial incentives set forth in section 13 of this chapter, a
 37 participating electricity supplier must obtain clean energy to meet the
 38 energy requirements of the participating electricity supplier's Indiana
 39 retail electric customers according to the following CPS goals:
- 40 (1) CPS Goal Period I: For the six (6) calendar years beginning
 41 January 1, 2013, and ending December 31, 2018, an average of at
 42 least four percent (4%) of the total electricity obtained by the

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1 participating electricity supplier to meet the energy requirements
2 of its Indiana retail electric customers during the base year.

3 (2) CPS Goal Period II: For the six (6) calendar years beginning
4 January 1, 2019, and ending December 31, 2024, an average of at
5 least seven percent (7%) of the total electricity obtained by the
6 participating electricity supplier to meet the energy requirements
7 of its Indiana retail electric customers during the base year.

8 (3) CPS Goal Period III: In the calendar year ending December
9 31, 2025, at least ten percent (10%) of the total electricity
10 obtained by the participating electricity supplier to meet the
11 energy requirements of its Indiana retail electric customers during
12 the base year.

13 (b) For purposes of subsection (a), electricity is measured in
14 megawatt hours. However, in determining whether a participating
15 electricity supplier has met a CPS goal set forth in subsection (a), the
16 commission shall require that at least fifty percent (50%) of the
17 megawatt hours of clean energy obtained by the participating electricity
18 supplier to meet the energy requirements of its Indiana retail electric
19 customers during the CPS goal period under consideration must
20 originate from clean energy resources located in Indiana.

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

- 24 (1) except as provided in subsection (f), is obtained by the
25 participating electricity supplier to meet the energy requirements
26 of the participating electricity supplier's Indiana retail electric
27 customers during the CPS goal period under consideration; and
28 (2) is generated by a facility located in a control area that is part
29 of a regional transmission organization of which an electricity
30 supplier is a member.

31 (d) An electricity supplier is not required to obtain clean energy to
32 meet a particular CPS goal if the commission determines that the cost
33 of clean energy resources available to the electricity supplier would
34 result in an increase in the rates and charges of the electricity supplier
35 that would not be just and reasonable.

36 (e) A participating electricity supplier may own or purchase one (1)
37 or more CECs to meet any of the CPS goals set forth in subsection (a)
38 as long as the clean energy represented by the CEC meets the condition
39 set forth in subsection (c)(2).

40 (f) A participating electricity supplier may apply:

- 41 (1) amounts of clean energy supplied by the participating
42 electricity supplier to its Indiana retail electric customers during

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1 a particular CPS goal period; or
 2 (2) CECs acquired by the participating electricity supplier during
 3 a particular CPS goal period;
 4 that exceed the requirements for the particular CPS goal period to the
 5 immediately succeeding CPS goal period.

6 (g) A participating electricity supplier may **not** use **any of the**
 7 **following** clean energy resource ~~described in section 4(a)(17) through~~
 8 ~~4(a)(21) of this chapter resources, alone or in combination with one~~
 9 **(1) or more of the other following clean energy resources**, to satisfy
 10 ~~not~~ more than thirty percent (30%) of any of the CPS goals set forth in
 11 subsection (a):

12 **(1) Fuel cells.**

13 **(2) Hydrogen.**

14 **(3) Energy from waste to energy facilities, including energy**
 15 **derived from advanced solid waste conversion technologies.**

16 **(4) Coal bed methane.**

17 **(5) Industrial byproduct technologies that use fuel or energy**
 18 **that is a byproduct of an industrial process.**

19 **(6) Waste heat recovery from capturing and reusing the waste**
 20 **heat in industrial processes for heating or for generating**
 21 **mechanical or electrical work.**

22 **(7) Demand side management or energy efficiency initiatives**
 23 **that:**

24 **(A) reduce electricity consumption; or**

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

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

31 **(8) A clean energy project described in IC 8-1-8.8-2(1).**

32 **(9) Nuclear energy.**

33 **(10) Electricity that is:**

34 **(A) generated by a customer owned distributed generation**
 35 **facility that is interconnected to the electricity supplier's**
 36 **distribution system in accordance with the commission's**
 37 **interconnection standards set forth in 170 IAC 4-4.3; and**

38 **(B) supplied back to the electricity supplier for use in**
 39 **meeting the electricity supplier's electricity demand**
 40 **requirements in accordance with the commission's net**
 41 **metering rules set forth in 170 IAC 4-4.2.**

42 **(11) Combined heat and power systems.**

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1 **(12) Electricity that is generated from natural gas at a facility**
 2 **constructed in Indiana after July 1, 2011, which displaces**
 3 **electricity generation from an existing coal fired generation**
 4 **facility.**

5 SECTION 3. IC 8-1-37-13, AS ADDED BY P.L.150-2011,
 6 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 UPON PASSAGE]: Sec. 13. (a) The commission may establish a
 8 shareholder incentive consisting of the authorization of an increased
 9 overall rate of return on equity, not to exceed fifty (50) basis points
 10 over a participating electricity supplier's authorized rate of return,
 11 whenever the participating electricity supplier attains a CPS goal set
 12 forth in section 12(a) of this chapter. The number of additional basis
 13 points authorized by the commission under this subsection may:

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

17 (2) in the case of a particular participating electricity supplier, be
 18 based on the extent to which the participating electricity supplier
 19 met a particular CPS goal using clean energy resources **other**
 20 **than those** listed in section ~~4(a)(1) through 4(a)(16)~~ **12(g)** of this
 21 chapter.

22 The additional basis points authorized by the commission under this
 23 subsection for each CPS goal period are not cumulative and may not be
 24 authorized for a clean energy resource for which the commission has
 25 authorized an incentive under IC 8-1-8.8-11(a)(2). In determining a
 26 participating electricity supplier's authorized rate of return to which
 27 additional basis points may be added upon the participating electricity
 28 supplier's achievement of a particular CPS goal, the commission shall
 29 not include as part of the authorized rate of return any additional basis
 30 points awarded to the participating electricity supplier for having
 31 achieved the immediately preceding CPS goal.

32 (b) If the commission approves an electricity supplier's application
 33 under section 11(c) of this chapter, the commission shall authorize the
 34 incentive described in subsection (a) and the recovery of costs, by
 35 means of a periodic rate adjustment mechanism, as described in
 36 subsection (c), based on the following considerations:

- 37 (1) The sharing of achieved savings or as a percentage of costs.
 38 (2) Avoided costs resulting from achieving demand side
 39 management or energy efficiency targets.
 40 (3) The recovery of lost revenues associated with implementation
 41 of demand side management or energy efficiency initiatives.
 42 (4) The designation of electricity produced or conserved by a

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1 clean energy resource as an energy savings for purposes of any
 2 initiative, rule, or order approved by the commission to promote
 3 the efficient use and production of electricity, including initiatives
 4 to implement demand side management, energy efficiency, or
 5 conservation measures in accordance with commission rules.

6 (c) If the commission approved an electricity supplier's application
 7 under section 11(c) of this chapter, the commission shall permit the
 8 recovery, by means of a periodic rate adjustment mechanism, of all
 9 just, reasonable, and necessary program costs incurred by a
 10 participating electricity supplier in:

11 (1) constructing, operating, or maintaining facilities that generate
 12 clean energy that:

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

16 (B) meets the requirements set forth in section 12(c) of this
 17 chapter; or

18 (2) otherwise generating or purchasing clean energy that is used
 19 by the participating electricity supplier in its efforts to meet a CPS
 20 goal set forth in section 12(a) of this chapter.

21 For purposes of this subsection and subsection (h)(1), "program costs"
 22 includes administrative costs, ancillary costs, capacity costs, costs
 23 associated with CECs, capital costs, depreciation costs, tax costs, and
 24 financing costs incurred in connection with an activity described in
 25 subdivision (1) or (2).

26 (d) A participating electricity supplier that seeks an incentive
 27 established by the commission under subsection (a) or a periodic rate
 28 adjustment mechanism established by the commission under subsection
 29 (c) must apply to the commission:

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

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

34 for approval for the incentive or periodic rate adjustment mechanism
 35 sought.

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

40 (f) The commission shall, after notice and hearing, issue a
 41 determination of a participating electricity supplier's eligibility for the
 42 financial incentive or periodic rate adjustment mechanism sought. The

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1 commission shall issue a determination under this subsection not later
 2 than one hundred twenty (120) days after the date of the application,
 3 unless the commission finds that the applicant has not cooperated fully
 4 in the proceeding.

5 (g) Subject to the participating electricity supplier's continuing
 6 compliance with the applicable CPS goal, as determined according to
 7 the measurement and evaluation procedures described in section
 8 10(b)(1)(B) of this chapter, a shareholder incentive described in
 9 subsection (a) continues in effect until the earlier of the following:

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

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

15 (h) Subject to the participating electricity supplier's continuing
 16 compliance with the applicable CPS goal, as determined according to
 17 the measurement and evaluation procedures described in section
 18 10(b)(1)(B) of this chapter, a periodic rate adjustment mechanism
 19 described in subsection (c) continues in effect until the earlier of the
 20 following:

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

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

26 **SECTION 4. An emergency is declared for this act.**

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