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| PREVAILED | Roll Call No. _____ |
| FAILED | Ayes _____ |
| WITHDRAWN | Noes _____ |
| RULED OUT OF ORDER | |

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 560 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-11.6-29 IS REPEALED [EFFECTIVE JULY
- 4 1, 2013]. ~~Sec. 29: The terms of a customer choice program (as defined~~
- 5 ~~in IC 8-1-2-42.1) may not impair the ability of the authority to deliver~~
- 6 ~~and sell SNG to retail end use customers."~~
- 7 Page 2, between lines 24 and 25, begin a new paragraph and insert:
- 8 "SECTION 3. IC 6-3.1-29-20.5, AS ADDED BY P.L.175-2007,
- 9 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2013]: Sec. 20.5. (a) Subject to subsection (c), part or all of
- 11 the credit to which a taxpayer is entitled under section 15 of this
- 12 chapter may be assigned by the taxpayer to one (1) or more utilities that
- 13 have entered into a contract that:
- 14 (1) is approved by the Indiana utility regulatory commission;
- 15 (2) provides for the purchase of electricity or substitute natural
- 16 gas (as defined in ~~IC 8-1-2-42.1) IC 4-4-11.6-11) by the utility~~
- 17 from the taxpayer; and
- 18 (3) expressly allows the assignment of tax credits under this
- 19 section.
- 20 A tax credit assigned to a utility under this section must be applied
- 21 against the utility's state tax liability in the order set forth in section
- 22 14(b) of this chapter.
- 23 (b) Notwithstanding section 16 of this chapter, any part of a
- 24 taxpayer's credit under section 15 of this chapter that is assigned by the

1 taxpayer under this section must be taken in twenty (20) annual
 2 installments, beginning with the year in which the taxpayer places into
 3 service an integrated coal gasification powerplant or a fluidized bed
 4 combustion technology.

5 (c) The part of a taxpayer's credit under section 15 of this chapter
 6 that may be assigned by the taxpayer with respect to any one (1)
 7 taxable year is subject to the following:

8 (1) The total amount of the taxpayer's credit under section 15 of
 9 this chapter that may be assigned by the taxpayer with respect to
 10 the taxable year may not exceed the product of:

11 (A) the total credit amount to which the taxpayer is entitled
 12 under section 15 of this chapter, divided by twenty (20);
 13 multiplied by

14 (B) the percentage of Indiana coal used in the taxpayer's
 15 integrated coal gasification powerplant or fluidized bed
 16 combustion technology in the taxable year for which the
 17 annual installment of the credit is allowed.

18 (2) The part of the amount determined under subdivision (1) that
 19 may be assigned to any one (1) utility with respect to the taxable
 20 year may not exceed the greater of:

21 (A) the utility's total state tax liability for the taxable year,
 22 multiplied by twenty-five percent (25%); or

23 (B) the utility's total utility receipts tax liability for the taxable
 24 year.

25 (d) Any part of the taxpayer's credit under section 15 of this chapter
 26 that is assigned to one (1) or more utilities by a taxpayer under this
 27 section with respect to a taxable year may not be claimed by the
 28 taxpayer or the taxpayer's shareholders, partners, or members.
 29 However, any part of the credit to which the taxpayer is entitled under
 30 section 15 of this chapter and that is not assigned by the taxpayer with
 31 respect to the taxable year may be taken and applied by the taxpayer,
 32 or the taxpayer's shareholders, partners, or members, in accordance
 33 with sections 16 and 20 of this chapter."

34 Page 5, between lines 23 and 24, begin a new paragraph and insert:

35 "SECTION 4. IC 8-1-2-42.1 IS REPEALED [EFFECTIVE JULY 1,
 36 2013]. Sec. 42.1. (a) As used in this section, "substitute natural gas"
 37 means pipeline quality gas produced by a facility that uses a
 38 gasification process to convert coal into a gas capable of being used:

39 (1) by a utility to supply gas utility service to end use consumers
 40 in Indiana; or

41 (2) as a fuel used by a utility to produce electric power to supply
 42 electric utility service to end use consumers in Indiana.

43 (b) As used in this section, "customer choice program" means a
 44 program under which residential and commercial consumers located in
 45 the service area of a gas or electric utility may:

46 (1) purchase their supply from a provider other than the utility in

- 1 the service area; and
 2 (2) receive transportation service from the utility in the service
 3 area for the delivery of the supply purchased under subdivision
 4 (1) to the consumer's premises.
- 5 (c) Subject to IC 8-1-8-9 and notwithstanding any other law; if the
 6 commission approves a contract for the purchase of substitute natural
 7 gas; or electricity generated in connection with the production of
 8 substitute natural gas; by a utility; the commission shall allow the
 9 utility to recover the following costs on a timely basis throughout the
 10 term of the contract:
- 11 (1) All costs incurred in connection with and resulting from the
 12 utility's purchases under the contract; including the cost of the
 13 substitute natural gas and related costs for generation;
 14 transmission; transportation; and storage services.
- 15 (2) All costs the utility incurs in obtaining replacement gas if the
 16 seller fails to deliver substitute natural gas required to be
 17 delivered under the contract; including the price of the gas; and
 18 related transportation; storage; and hedging costs; to the extent
 19 those costs are not paid by the seller.
- 20 (3) Upon petition by the utility; any other costs the commission
 21 finds are reasonably necessary in association with the contract.
- 22 (d) Any costs recovered under subsection (c):
- 23 (1) are in addition to the recovery of other costs; and
 24 (2) shall be made through an adjustment under section 42 of this
 25 chapter or another rate adjustment mechanism that allows for
 26 comparable timely cost recovery.
- 27 (e) If a customer choice program is implemented; expanded; or
 28 renewed for a utility during the term of a contract approved by order of
 29 the commission under subsection (c) that has the effect of reducing the
 30 utility's sales volumes; a condition of the authorization of that program
 31 must be the proportionate assignment of the gas or electric utility's
 32 substitute natural gas purchase obligation to the service providers in the
 33 customer choice program that meets the assignment requirements in the
 34 approved contract.
- 35 (f) Regardless of changes in market conditions or other
 36 circumstances; the commission may not take any action during the term
 37 of a contract approved under this section that adversely affects a
 38 utility's right to timely recover costs under this section or to otherwise
 39 fully recover such costs.
- 40 (g) With respect to utilities that are parties to a contract for the
 41 purchase of substitute natural gas approved by the commission under
 42 this section; the state covenants and agrees that as long as the contract
 43 is in effect the state will not limit; alter; or impair a utility's right to
 44 recover costs as provided in this section. Notwithstanding any other
 45 law; neither the commission nor any other state agency; political
 46 subdivision; or governmental unit may take any action that would have

1 the effect of limiting, altering, or impairing a utility's right to recover
 2 costs as provided in this section."

3 Page 7, between lines 35 and 36, begin a new paragraph and insert:
 4 "SECTION 7. IC 8-1-8.9-7, AS ADDED BY P.L.175-2007,
 5 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2013]: Sec. 7. As used in this chapter, "qualified order" means
 7 a final and irrevocable order that:

- 8 (1) is issued by the commission; and
- 9 (2) approves a qualified contract adopted in accordance with this
 10 chapter. ~~and IC 8-1-2-42.1.~~

11 SECTION 8. IC 8-1-8.9-8, AS ADDED BY P.L.175-2007,
 12 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2013]: Sec. 8. As used in this chapter, "substitute natural gas"
 14 or "SNG" has the meaning set forth in ~~IC 8-1-2-42.1(a).~~
 15 **IC 4-4-11.6-11.**

16 SECTION 9. IC 8-1-8.9-9, AS ADDED BY P.L.175-2007,
 17 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2013]: Sec. 9. As used in this chapter, "SNG property interest"
 19 means the right, title, and interest that:

- 20 (1) are held by an energy utility or its assignee; **and**
- 21 (2) are created by a qualified order. ~~and~~
- 22 ~~(3) entitle the energy utility or its assignee to recover qualified~~
 23 ~~costs under IC 8-1-2-42.1.~~

24 SECTION 10. IC 8-1-8.9-11, AS ADDED BY P.L.175-2007,
 25 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2013]: Sec. 11. (a) Notwithstanding any other law, the
 27 commission may, in accordance with this chapter, ~~and IC 8-1-2-42.1,~~
 28 issue a qualified order that:

- 29 (1) approves the terms of a qualified contract; and
- 30 (2) authorizes the recovery of qualified costs by an energy utility
 31 from its customers.
- 32 (b) A qualified order issued under this section may not be:
 - 33 (1) rescinded;
 - 34 (2) nullified; or
 - 35 (3) modified;

36 in such a manner that reduces or otherwise impairs the value of an
 37 SNG property interest."

- 1 Renumber all SECTIONS consecutively.
(Reference is to ESB 560 as printed March 15, 2013.)

Representative Pierce