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## SENATE BILL No. 492

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1.

**Synopsis:** Various telecommunications matters. Deletes expired provisions concerning rate transition periods for telecommunications service providers. Provides that a tariff filed by a telecommunications service provider as required by the utility regulatory commission (IURC) takes effect upon filing. Provides that the regulatory flexibility committee (committee) may request the IURC to report to the committee in odd-numbered years. (Current law requires the IURC to make a report every year.) Repeals statutes concerning: (1) rate reduction programs; and (2) certain settlement agreements. Deletes certain reporting requirements of communications service providers to the commission. Repeals a chapter concerning telephone caller identification services. Repeals the Indiana lifeline assistance program. Makes conforming amendments.

**Effective:** Upon passage; June 30, 2013; July 1, 2013.

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## Hershman

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January 14, 2013, read first time and referred to Committee on Utilities.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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# SENATE BILL No. 492



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 8-1-2.5-9 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) A regulatory  
 3 flexibility committee **is** established ~~under IC 8-1-2.6-4~~ to monitor  
 4 changes in the telephone industry shall also serve to monitor changes  
 5 and competition in the energy utility industry.  
 6 (b) The commission shall before August 15 of each year prepare for  
 7 presentation to the regulatory flexibility committee an analysis of the  
 8 effects of competition or changes in the energy utility industry on  
 9 service and on the pricing of all energy utility services under the  
 10 jurisdiction of the commission.  
 11 (c) In addition to reviewing the commission report prepared under  
 12 subsection (b), the regulatory flexibility committee shall also issue a  
 13 report and recommendations to the legislative council before  
 14 November 1 of each year that are based on a review of the following  
 15 issues:  
 16 (1) The effects of competition or changes in the energy utility  
 17 industry and the impact of the competition or changes on the



- 1 residential rates.
- 2 (2) The status of modernization of the energy utility facilities in
- 3 Indiana and the incentives required to further enhance this
- 4 infrastructure.
- 5 (3) The effects on economic development of this modernization.
- 6 (4) The traditional method of regulating energy utilities and the
- 7 method's effectiveness.
- 8 (5) The economic and social effectiveness of traditional energy
- 9 utility service pricing.
- 10 (6) The effects of legislation enacted by the United States
- 11 Congress.
- 12 (7) All other energy utility issues the committee considers
- 13 appropriate; however, it is not the intent of this section to provide
- 14 for the review of the statutes cited in section 11 of this chapter.

15 The report and recommendations issued under this subsection to the  
 16 legislative council must be in an electronic format under IC 5-14-6.

17 (d) This section:

- 18 (1) does not give a party to a collective bargaining agreement any
- 19 greater rights under the agreement than the party had before
- 20 January 1, 1995;
- 21 (2) does not give the committee the authority to order a party to
- 22 a collective bargaining agreement to cancel, terminate, amend or
- 23 otherwise modify the collective bargaining agreement; and
- 24 (3) may not be implemented by the committee in a way that would
- 25 give a party to a collective bargaining agreement any greater
- 26 rights under the agreement than the party had before January 1,
- 27 1995.

28 (e) The regulatory flexibility committee shall meet on the call of the  
 29 co-chairs to study energy utility issues described in subsection (c). The  
 30 committee shall, with the approval of the commission, retain  
 31 independent consultants the committee considers appropriate to assist  
 32 the committee in the review and study. The expenses for the  
 33 consultants shall be paid with funds from the public utility fees  
 34 assessed under IC 8-1-6.

35 (f) The legislative services agency shall provide staff support to the  
 36 committee.

37 (g) Each member of the committee is entitled to receive the same  
 38 per diem, mileage, and travel allowances paid to individuals who serve  
 39 as legislative members of interim study committees established by the  
 40 legislative council.

41 SECTION 2. IC 8-1-2.6-1.3, AS ADDED BY P.L.27-2006,  
 42 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 1.3. (a) As used in this section, "broadband  
 2 service" means a connection to the Internet that provides capacity for  
 3 transmission at an average speed of at least one and one-half (1.5)  
 4 megabits per second downstream and at least three hundred eighty-four  
 5 (384) kilobits per second upstream; regardless of the technology or  
 6 medium used to provide the connection. The term includes a  
 7 connection to the Internet provided by wireless technology, copper  
 8 wire, fiber optic cable, coaxial cable, broadband over power lines, or  
 9 other facilities or future technologies. The term does not include any of  
 10 the following:

11 (1) Value added services in which computer processing  
 12 applications are used to act on the form, content, code, or protocol  
 13 of any information transmitted.

14 (2) Value added services providing text, graphic, video, or audio  
 15 program content for a purpose other than transmission.

16 (3) The transmission of video programming or other  
 17 programming:

18 (A) provided by; or

19 (B) generally considered comparable to programming  
 20 provided by;

21 a television broadcast station or a radio broadcast station;  
 22 including cable TV, direct broadcast satellite, and digital  
 23 television.

24 (4) A connection to the Internet provided through satellite  
 25 technology.

26 (b) As used in this section, "rate transition period" refers to the  
 27 period beginning March 28, 2006, and ending June 30, 2009, during  
 28 which a provider may act under this section to increase the provider's  
 29 flat monthly rate for basic telecommunications service offered in one  
 30 (1) or more local exchange areas in Indiana.

31 (c) This subsection applies to a provider that offers basic  
 32 telecommunications service in one (1) or more local exchange areas in  
 33 Indiana on March 27, 2006. Subject to subsection (e); during the rate  
 34 transition period; a provider may act without the prior approval of the  
 35 commission to increase the provider's flat monthly rate for basic  
 36 telecommunications service in any local exchange area in which the  
 37 provider offers basic telecommunications service on March 27, 2006.  
 38 Subject to subsection (h); a provider may increase the provider's flat  
 39 monthly rate for basic telecommunications service in a local exchange  
 40 area as follows:

41 (1) The provider may increase the flat monthly rate not more  
 42 frequently than once during each successive twelve (12) month

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1 period during the period beginning March 28, 2006, and ending  
 2 June 30, 2009. The amount of any increase in the flat monthly rate  
 3 imposed during a twelve (12) month period described in this  
 4 subdivision may not exceed one dollar (\$1). If a provider:

5 (A) does not impose an increase during any twelve (12) month  
 6 period described in this subdivision; or

7 (B) imposes an increase less than the maximum one dollar  
 8 (\$1) increase allowed under this subdivision during any twelve  
 9 (12) month period described in this subdivision;

10 the provider may not impose the unused increase in any  
 11 subsequent twelve (12) month period described in this  
 12 subdivision:

13 (2) The provider may increase the flat monthly rate not more  
 14 frequently than three (3) times during the entire rate transition  
 15 period. The amount of the total increase in the flat monthly rate  
 16 during the transition period may not exceed three dollars (\$3); as  
 17 calculated based on the flat monthly rate in effect in the local  
 18 exchange area on March 27, 2006.

19 The provider shall provide the commission and all affected customers  
 20 thirty (30) days advance notice of each rate increase under this  
 21 subsection:

22 (d) This subsection applies to a provider that, at any time during the  
 23 rate transition period, begins offering basic telecommunications service  
 24 in a local exchange area in Indiana in which the provider did not offer  
 25 basic telecommunications service on March 27, 2006. In accordance  
 26 with the procedures set forth in IC 8-1-2, the commission shall approve  
 27 the initial rates and charges for basic telecommunications service first  
 28 offered by the provider in a local exchange area at any time during the  
 29 rate transition period. Subject to subsections (e) and (h), beginning  
 30 twelve (12) months after the commission approves the initial rates and  
 31 charges for the local exchange area, the provider may increase the  
 32 initial flat monthly rate for basic telecommunications service in  
 33 accordance with subsection (c). However, subsection (c)(2) does not  
 34 apply to a rate increase under this subsection. The provider may not  
 35 increase the flat monthly rate under this subsection during the rate  
 36 transition period more frequently than the number of twelve (12) month  
 37 periods remaining in the rate transition period at the time the provider  
 38 is first eligible to increase the initial flat monthly rate under this  
 39 subsection. The amount of the total increase in the flat monthly rate  
 40 during the rate transition period may not exceed the product of:

41 (1) one dollar (\$1); multiplied by

42 (2) the number of twelve (12) month periods remaining in the rate

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1 transition period at the time the provider is first eligible to  
 2 increase the initial flat monthly rate under this subsection:

3 The provider shall provide the commission and all affected customers  
 4 thirty (30) days advance notice of each rate increase under this  
 5 subsection:

6 (e) This subsection applies to a provider that acts under subsection  
 7 (c) or (d) to increase the provider's flat monthly rate for basic  
 8 telecommunications service in a local exchange area in Indiana. Not  
 9 later than eighteen (18) calendar months after the provider's first rate  
 10 increase in the local exchange area under subsection (c) or (d); the  
 11 provider must offer broadband service to at least fifty percent (50%) of  
 12 the households located in the local exchange area; at the average  
 13 speeds set forth in subsection (a); as determined by the commission  
 14 after notice and an opportunity for hearing. The commission may  
 15 extend the eighteen (18) month period allowed under this subsection  
 16 by not more than nine (9) additional calendar months for good cause  
 17 shown by the provider. The commission shall hold a hearing and make  
 18 a finding as to whether the provider offers broadband service to at least  
 19 fifty percent (50%) of the households in the local exchange area not  
 20 later than the earlier of the following:

21 (1) Ninety (90) days after a request by the provider for a hearing  
 22 and determination by the commission. The provider may request  
 23 a hearing and determination under this subdivision at any time  
 24 before the expiration of:

25 (A) the eighteen (18) month period allowed by this subsection;  
 26 or

27 (B) any extension of the eighteen (18) month period allowed  
 28 by the commission under this subsection.

29 (2) Ninety (90) days after the expiration of:

30 (A) the eighteen (18) month period allowed by this subsection;  
 31 or

32 (B) any extension of the eighteen (18) month period allowed  
 33 by the commission under this subsection;

34 if the provider does not request a hearing and determination under  
 35 subdivision (1):

36 (f) If, after a hearing under subsection (e), the commission  
 37 determines that the provider does not offer broadband service to at least  
 38 fifty percent (50%) of the households in the local exchange area not  
 39 later than eighteen (18) months after the provider's first rate increase  
 40 in the local exchange area under subsection (c) or (d); the commission  
 41 may require the provider to:

42 (1) refund to customers; or

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1 (2) pay to the commission as a civil penalty;  
 2 an amount equal to the incremental revenue accruing to the provider as  
 3 a result of all rate increases imposed by the provider in the local  
 4 exchange area under subsection (c) or (d), plus interest. The  
 5 commission shall determine the amount of interest added to a refund  
 6 or payment made under this subsection by applying the average interest  
 7 rate paid during the eighteen (18) months after the provider's first rate  
 8 increase to depositors by the fifteen (15) largest banks with their  
 9 principal offices in Indiana. A determination by the commission under  
 10 this subsection is subject to appeal under IC 8-1-3.

11 (g) This subsection applies to an incumbent local exchange carrier  
 12 that offers basic telecommunications service in one (1) or more local  
 13 exchange areas in Indiana on March 27, 2006. Throughout the rate  
 14 transition period, the incumbent local exchange carrier shall continue  
 15 to make available a flat monthly rate with unlimited local calling for  
 16 basic telecommunications service in all local exchange areas in which  
 17 the incumbent local exchange carrier offers basic telecommunications  
 18 service on March 27, 2006, regardless of whether the incumbent local  
 19 exchange carrier increases the flat monthly rate in any of those local  
 20 exchange areas under subsection (c). Throughout the transition period,  
 21 an extended area of service in which the incumbent local exchange  
 22 carrier offers basic telecommunications service on March 27, 2006,  
 23 may not be reduced in area or scope without the approval of the  
 24 commission after notice and hearing.

25 (h) If, at any time during the rate transition period, the commission  
 26 determines in accordance with IC 8-1-2-113 that an emergency exists,  
 27 the commission may act under IC 8-1-2-113 to temporarily alter,  
 28 amend, or suspend the limits on the flat monthly rate increases set forth  
 29 in subsections (c) and (d) if necessary to maintain a provider's financial  
 30 integrity and ability to provide adequate basic telecommunications  
 31 service. The commission shall reimplement the limits on flat monthly  
 32 rate increases, as set forth in subsections (c) and (d), when the  
 33 commission is satisfied the emergency no longer exists.

34 (i) After June 30, 2009, A provider that offers basic  
 35 telecommunications service in Indiana:

36 (1) must offer a flat monthly rate with unlimited local calling for  
 37 basic telecommunications service in each local exchange area in  
 38 Indiana in which the provider offers basic telecommunications  
 39 service; and

40 (2) may not, in any local exchange area in Indiana in which the  
 41 provider offers basic telecommunications service, offer any  
 42 service plan for basic telecommunications service that includes

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- 1 measured local service.
- 2 SECTION 3. IC 8-1-2.6-1.5, AS ADDED BY P.L.27-2006,  
 3 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 4 JULY 1, 2013]: Sec. 1.5. (a) In acting to impose any requirements or  
 5 set any prices concerning:
- 6 (1) interconnection with the facilities and equipment of providers  
 7 for purposes of 47 U.S.C. 251(c)(2);
  - 8 (2) the resale of telecommunications service for purposes of 47  
 9 U.S.C. 251(c)(4); or
  - 10 (3) the unbundled access of one (1) provider to the network  
 11 elements of another provider for purposes of 47 U.S.C. 251(c)(3);
- 12 the commission shall not exceed the authority delegated to the  
 13 commission under federal laws and regulations with respect to those  
 14 actions. This subsection does not affect the commission's authority  
 15 under IC 8-1-2-5.
- 16 (b) Subject to any regulations adopted by the Federal  
 17 Communications Commission, this section does not affect:
- 18 (1) the commission's authority to mediate a dispute between  
 19 providers under 47 U.S.C. 252(a);
  - 20 (2) the commission's authority to arbitrate a dispute between  
 21 providers under 47 U.S.C. 252(b);
  - 22 (3) the commission's authority to approve an interconnection  
 23 agreement under 47 U.S.C. 252(e), including the authority to  
 24 establish service quality metrics and liquidated damages;
  - 25 (4) the commission's authority to review and approve a provider's  
 26 statement of terms and conditions under 47 U.S.C. 252(f);
  - 27 (5) a provider's ability to file a complaint with the commission to  
 28 have a dispute decided by the commission:
    - 29 (A) after notice and hearing; and
    - 30 (B) in accordance with this article; or
  - 31 (6) the commission's authority to resolve an interconnection  
 32 dispute between providers under the expedited procedures set  
 33 forth in 170 IAC 7-7.
- 34 (c) If a provider's rates and charges for intrastate switched or special  
 35 access service are:
- 36 (1) at issue in a dispute that the commission is authorized to  
 37 mediate, arbitrate, or otherwise determine under state or federal  
 38 law; or
  - 39 (2) included in an interconnection agreement or a statement of  
 40 terms and conditions that the commission is authorized to review  
 41 or approve under state or federal law;
- 42 the commission shall consider the provider's rates and charges for

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1 intrastate switched or special access service to be just and reasonable  
 2 if the intrastate rates and charges mirror the provider's interstate rates  
 3 and charges for switched or special access service.

4 **(d) If the commission requires a provider to file a tariff for**  
 5 **intrastate switched access service, special access service, or any**  
 6 **other service:**

7 **(1) the tariff takes effect upon filing; and**

8 **(2) filing the tariff with the commission serves as notice of**  
 9 **filing of the tariff.**

10 SECTION 4. IC 8-1-2.6-4, AS AMENDED BY P.L.62-2009,  
 11 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 UPON PASSAGE]: Sec. 4. (a) A regulatory flexibility committee is  
 13 established to monitor competition in the telecommunications industry.

14 (b) The committee is composed of the members of a house standing  
 15 committee selected by the speaker of the house of representatives and  
 16 a senate standing committee selected by the president pro tempore of  
 17 the senate. In selecting standing committees under this subsection, the  
 18 speaker and president pro tempore shall determine which standing  
 19 committee of the house of representatives and the senate, respectively,  
 20 has subject matter jurisdiction that most closely relates to the  
 21 electricity, gas, energy policy, and telecommunications jurisdiction of  
 22 the regulatory flexibility committee. The chairpersons of the standing  
 23 committees selected under this subsection shall co-chair the regulatory  
 24 flexibility committee.

25 **(c) The cochairpersons of the committee may request the**  
 26 **commission to prepare a report under this subsection in each**  
 27 **odd-numbered year. The request must be made not later than**  
 28 **February 15 in each odd-numbered year. However, the request in**  
 29 **2013 must be made not later than June 30, 2013. If a request is**  
 30 **made, the commission shall, by July 1 of each the year in which the**  
 31 **request is made, prepare for presentation to the regulatory flexibility**  
 32 **committee a report that ~~includes~~ may include the following:**

33 (1) An analysis of the effects of competition and technological  
 34 change on universal service and on pricing of all  
 35 telecommunications services offered in Indiana.

36 (2) An analysis of the status of competition and technological  
 37 change in the provision of video service (as defined in  
 38 IC 8-1-34-14) to Indiana customers, as determined by the  
 39 commission in carrying out its duties under IC 8-1-34. The  
 40 commission's analysis under this subdivision ~~must~~ **may** include  
 41 a description of:

42 (A) the number of multichannel video programming

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- 1 distributors offering video service to Indiana customers;  
 2 (B) the technologies used to provide video service to Indiana  
 3 customers; and  
 4 (C) the effects of competition on the pricing and availability of  
 5 video service in Indiana.  
 6 (3) Beginning with the report due July 1, 2007, and in each report  
 7 ~~due in an odd-numbered year after July 1, 2007:~~ **2013:**  
 8 (A) an identification of all telecommunications rules and  
 9 policies that are eliminated by the commission under section  
 10 4.1 of this chapter during the two (2) most recent state fiscal  
 11 years; and  
 12 (B) an explanation why the telecommunications rules and  
 13 policies identified under clause (A) are no longer in the public  
 14 interest or necessary to protect consumers.  
 15 (4) ~~Beginning with the report due July 1, 2010;~~ Best practices  
 16 concerning vertical location of underground facilities for purposes  
 17 of IC 8-1-26. A report under this subdivision must address the  
 18 viability and economic feasibility of technologies used to  
 19 vertically locate underground facilities.  
 20 (d) In addition to reviewing the commission report prepared under  
 21 subsection (c), the regulatory flexibility committee ~~shall~~ **may** also issue  
 22 a report and recommendations to the legislative council by November  
 23 1 of each year that is based on a review of the following issues:  
 24 (1) The effects of competition and technological change in the  
 25 telecommunications industry and impact of competition on  
 26 available subsidies used to maintain universal service.  
 27 (2) The status of modernization of the publicly available  
 28 telecommunications infrastructure in Indiana and the incentives  
 29 required to further enhance this infrastructure.  
 30 (3) The effects on economic development and educational  
 31 opportunities of the modernization described in subdivision (2).  
 32 (4) The current methods of regulating providers, at both the  
 33 federal and state levels, and the effectiveness of the methods.  
 34 (5) The economic and social effectiveness of current  
 35 telecommunications service pricing.  
 36 (6) All other telecommunications issues the committee deems  
 37 appropriate.  
 38 The report and recommendations issued under this subsection to the  
 39 legislative council must be in an electronic format under IC 5-14-6.  
 40 (e) The regulatory flexibility committee shall meet on the call of the  
 41 co-chairpersons to study telecommunications issues described in  
 42 subsection (d). The committee shall, with the approval of the

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1 commission, retain the independent consultants the committee  
 2 considers appropriate to assist the committee in the review and study.  
 3 The expenses for the consultants shall be paid by the commission.

4 SECTION 5. IC 8-1-2.6-4.1, AS ADDED BY P.L.27-2006,  
 5 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JUNE 30, 2013]: Sec. 4.1. (a) Not later than:

7 (1) July 1, 2007; and

8 (2) July 1 of each odd-numbered year after July 1, 2007;

9 the commission shall, through a rulemaking proceeding under  
 10 IC 4-22-2 or another commission proceeding, identify and eliminate  
 11 rules and policies concerning telecommunications service and  
 12 telecommunications service providers if the rules or policies are no  
 13 longer necessary in the public interest or for the protection of  
 14 consumers as the result of meaningful economic competition between  
 15 providers of telecommunications services.

16 (b) Not later than July 1, 2007, the commission shall adopt rules  
 17 under IC 4-22-2 to require a telecommunications service provider, at  
 18 any time the provider communicates with a residential customer about  
 19 changing the customer's basic telecommunications service to nonbasic  
 20 telecommunications service, to notify the residential customer of:

21 (1) the option of basic telecommunications service; and

22 (2) any regulatory protections, including pricing or quality of  
 23 service protections, that the residential customer would forego by  
 24 switching to nonbasic telecommunications service.

25 **This subsection expires June 30, 2013.**

26 **(c) A rule adopted under subsection (b) (before its expiration on**  
 27 **June 30, 2013) is void after June 30, 2013.**

28 (c) (d) In carrying out this section, the commission shall promote  
 29 the policies and purposes set forth in this chapter. Beginning in 2007,  
 30 and in each odd-numbered year after 2007, the commission's annual  
 31 report to the regulatory flexibility committee under section 4 of this  
 32 chapter must:

33 (1) identify any regulation or policy eliminated by the commission  
 34 under this section during the two (2) most recent state fiscal  
 35 years; and

36 (2) explain why the regulation or policy is no longer in the public  
 37 interest or necessary to protect consumers.

38 **This subsection expires June 30, 2013.**

39 SECTION 6. IC 8-1-2.6-8 IS REPEALED [EFFECTIVE JULY 1,  
 40 2013]. Sec. 8: (a) As used in this section, "rate reduction" means a  
 41 decrease in either recurring or nonrecurring rates or charges.

42 (b) Notwithstanding any other provision of this chapter or any other

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1 statute; a provider may participate in any rate reduction program for  
2 residential customers funded from revenues provided by any  
3 governmental entity or other revenues administered by an agency of  
4 that entity:

5 SECTION 7. IC 8-1-2.6-12 IS REPEALED [EFFECTIVE JULY 1,  
6 2013]. ~~Sec. 12: This chapter does not terminate or otherwise change the~~  
7 ~~terms and conditions of a settlement agreement approved by the~~  
8 ~~commission under this chapter before July 29, 2004. However, a~~  
9 ~~provider may renegotiate the terms and conditions of the settlement~~  
10 ~~agreement at any time before the expiration of the settlement~~  
11 ~~agreement.~~

12 SECTION 8. IC 8-1-2.6-13, AS AMENDED BY P.L.109-2012,  
13 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2013]: Sec. 13. (a) As used in this section, "communications  
15 service" has the meaning set forth in IC 8-1-32.5-3.

16 (b) As used in this section, "communications service provider"  
17 means a person or an entity that offers communications service to  
18 customers in Indiana, without regard to the technology or medium used  
19 by the person or entity to provide the communications service. The  
20 term includes a provider of commercial mobile service (as defined in  
21 47 U.S.C. 332).

22 (c) As used in this section, "dark fiber" refers to unused capacity in  
23 a communications service provider's communications network,  
24 including fiber optic cable or other facilities:

- 25 (1) in place within a public right-of-way; but
- 26 (2) not placed in service by a communications service provider.

27 (d) (c) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the  
28 commission may do the following, both during and after the rate  
29 transition period described in section 1.3 of this chapter, except as  
30 otherwise provided in this subsection:

- 31 (1) Subject to section 12 of this chapter, enforce the terms of a  
32 settlement agreement approved by the commission before July 29,  
33 2004. The commission's authority under this subdivision  
34 continues for the duration of the settlement agreement.
- 35 (2) (1) Fulfill the commission's duties under IC 8-1-2.8  
36 concerning the provision of dual party relay services to deaf, hard  
37 of hearing, and speech impaired persons in Indiana.
- 38 (3) (2) Fulfill the commission's duties under IC 8-1-19.5  
39 concerning the administration of the 211 dialing code for  
40 communications service used to provide access to human services  
41 information and referrals.
- 42 (4) (3) Fulfill the commission's responsibilities under IC 8-1-29

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1 to adopt and enforce rules to ensure that a customer of a  
2 telecommunications provider is not:

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

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

8 ~~(5)~~ **(4)** Fulfill the commission's obligations under:

9 (A) the federal Telecommunications Act of 1996 (47 U.S.C.  
10 151 et seq.); and

11 (B) IC 20-20-16;

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

15 ~~(6)~~ **(5)** Perform any of the functions described in section 1.5(b) of  
16 this chapter.

17 ~~(7) After June 30, 2009;~~ **(6)** Perform the commission's  
18 responsibilities under IC 8-1-32.5 to:

19 (A) issue; and

20 (B) maintain records of;

21 certificates of territorial authority for communications service  
22 providers offering communications service to customers in  
23 Indiana.

24 ~~(8)~~ **(7)** Perform the commission's responsibilities under IC 8-1-34  
25 concerning the issuance of certificates of franchise authority to  
26 multichannel video programming distributors offering video  
27 service to Indiana customers.

28 ~~(9) After June 30, 2009;~~ **(8)** Require a communications service  
29 provider, other than a provider of commercial mobile service (as  
30 defined in 47 U.S.C. 332), to report to the commission on an  
31 annual basis, or more frequently at the option of the provider, ~~any~~  
32 ~~of the following information:~~

33 (A) Service quality goals and performance data. The  
34 commission shall make any information or data submitted  
35 under this subsection available:

36 (i) for public inspection and copying at the offices of the  
37 commission under IC 5-14-3; and

38 (ii) electronically through the computer gateway  
39 administered by the office of technology established by  
40 IC 4-13.1-2-1;

41 to the extent the information or data are not exempt from  
42 public disclosure under IC 5-14-3-4(a).

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- (B) Information concerning the:
  - (i) capacity;
  - (ii) location; and
  - (iii) planned or potential use;
 of the communications service provider's dark fiber in Indiana.
- (C) Information concerning the communications service offered by the communications service provider in Indiana; including:
  - (i) the types of service offered; and
  - (ii) the areas in Indiana in which the services are offered.
- (D) any information needed by the commission to prepare the commission's report to the regulatory flexibility committee under section 4 of this chapter.
- (E) Any other information that the commission is authorized to collect from a communications service provider under state or federal law.

The commission may revoke a certificate issued to a communications service provider under IC 8-1-32.5 if the communications service provider fails or refuses to report any information required by the commission under this subdivision. However, this subdivision does not empower the commission to require a communications service provider 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 subdivision.

- (10) (9) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the extent of the authority delegated to the commission under federal law to perform those duties.
- (11) (10) Perform the commission's duties under IC 8-1-2-5 with respect to interconnection.
- (12) Establish and administer the Indiana Lifeline assistance program under IC 8-1-36.
- (13) After June 30, 2009, (11) Collect and maintain from a **communications service provider of commercial mobile service** (as defined in 47 U.S.C. 332) the following information:
  - (A) The address of the provider's Internet web site.
  - (B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

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1 (C) An address and other contact information for the provider,  
 2 including any telephone number not described in clause (B).  
 3 The commission shall make any information submitted by a  
 4 provider under this subdivision available on the commission's  
 5 Internet web site. The commission may also make available on the  
 6 commission's Internet web site contact information for the Federal  
 7 Communications Commission and the Cellular Telephone  
 8 Industry Association.  
 9 ~~(14)~~ **(12)** Fulfill the commission's duties under any state or federal  
 10 law concerning the administration of any universally applicable  
 11 dialing code for any communications service.  
 12 ~~(e)~~ **(d)** After June 30, 2009, ~~(d)~~ The commission does not have  
 13 jurisdiction over any of the following with respect to a communications  
 14 service provider:  
 15 (1) Rates and charges for communications service provided by the  
 16 communications service provider, including the filing of  
 17 schedules or tariffs setting forth the provider's rates and charges.  
 18 (2) Depreciation schedules for any of the classes of property  
 19 owned by the communications service provider.  
 20 (3) Quality of service provided by the communications service  
 21 provider. ~~other than the imposition of a reporting requirement~~  
 22 ~~under subsection (d)(9)(A).~~  
 23 (4) Long term financing arrangements or other obligations of the  
 24 communications service provider.  
 25 (5) Except as provided in subsection ~~(d)~~; **(c)**, any other aspect  
 26 regulated by the commission under this title before July 1, 2009.  
 27 ~~(f)~~ **(e)** After June 30, 2009, The commission has jurisdiction over a  
 28 communications service provider only to the extent that jurisdiction is:  
 29 (1) expressly granted by state or federal law, including:  
 30 (A) a state or federal statute;  
 31 (B) a lawful order or regulation of the Federal  
 32 Communications Commission; or  
 33 (C) an order or a ruling of a state or federal court having  
 34 jurisdiction; or  
 35 (2) necessary to administer a federal law for which regulatory  
 36 responsibility has been delegated to the commission by federal  
 37 law.  
 38 SECTION 9. IC 8-1-2.9 IS REPEALED [EFFECTIVE JULY 1,  
 39 2013]. (Telephone Caller Identification Services).  
 40 SECTION 10. IC 8-1-17.5-25, AS AMENDED BY P.L.109-2012,  
 41 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2013.]: Sec. 25. Notwithstanding any other law, the

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1 commission may exercise jurisdiction over a surviving corporation or  
 2 successor corporation formed under this chapter only to do the  
 3 following:

4 (1) Ensure compliance with IC 8-1-2.8 concerning the provision  
 5 of dual party relay services to deaf, hard of hearing, and speech  
 6 impaired persons in Indiana.

7 (2) Perform the commission's duties under IC 8-1-19.5 concerning  
 8 the administration of the 211 dialing code for communications  
 9 service used to provide access to human services information and  
 10 referrals.

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

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

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

18 (4) Conduct proceedings under:

19 (A) the federal Telecommunications Act of 1996 (47 U.S.C.  
 20 151 et seq.); and

21 (B) IC 20-20-16;

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

25 (5) Perform the commission's duties under IC 8-1-2.6-1.5 or  
 26 IC 8-1-2-5.

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

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

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

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

38 ~~(+0) (9)~~ Fulfill the commission's duties under any state or federal  
 39 law concerning the administration of any universally applicable  
 40 dialing code for any communications service.

41 ~~(+1) (10)~~ Perform the commission's duties under IC 8-1-2.3 with  
 42 respect to assigned service areas for electricity suppliers.

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1           ~~(12)~~ **(11)** Issue:  
2           (A) certificates of public convenience and necessity,  
3           certificates of territorial authority, and indeterminate permits  
4           under IC 8-1-2;  
5           (B) certificates of public convenience and necessity under  
6           IC 8-1-8.5; or  
7           (C) certificates of public convenience and necessity under  
8           IC 8-1-8.7.  
9           ~~(13)~~ **(12)** Determine territorial disputes between water utilities  
10          under IC 8-1-2-86.5.  
11          SECTION 11. IC 8-1-36 IS REPEALED [EFFECTIVE JULY 1,  
12          2013]. (Indiana Lifeline Assistance Program).  
13          SECTION 12. **An emergency is declared for this act.**

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