February 22, 2013

SENATE BILL No. 94

DIGEST OF SB 94 (Updated February 21, 2013 11:49 am - DI 14)

Citations Affected: IC 8-1.

Synopsis: Electric transmission owners. Authorizes the utility regulatory commission (IURC) to grant a new electric transmission owner authority to operate as a public utility under certain conditions. Provides that an incumbent electric transmission owner has a right of first refusal to construct a local reliability facility. Authorizes the IURC to resolve certain disputes between new and incumbent electric transmission owners.

Effective: Upon passage.

Leising, Kruse, Broden

January 7, 2013, read first time and referred to Committee on Rules and Legislative Procedure.
February 12, 2013, amended; reassigned to Committee on Utilities.
February 21, 2013, amended, reported favorably — Do Pass.

C o p y

February 22, 2013

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.

C o p y

SENATE BILL No. 94

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

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

SECTION 1. IC 8-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 38. Transmission Reliability

Sec. 1. As used in this chapter, "electric transmission facility" means a high voltage transmission line with a rating of at least one hundred (100) kilovolts and related transmission facilities and controls.

Sec. 2. As used in this chapter, "incumbent electric transmission owner" means a public utility that owns, operates, and maintains an electric transmission facility in whole or in part in Indiana.

Sec. 3. (a) As used in this chapter, "local reliability electric transmission facility" means an electric transmission facility located in whole or in part in Indiana that is required by a regional transmission organization to satisfy the reliability standards of the North American Electric Reliability Corporation, a regional reliability organization, or a successor corporation or organization.

If the electricity transmission facility is located in the territory of the PJM Interconnection regional transmission organization territory, or its successor organization, its rating must be:

(1) at least one hundred (100) kilovolts; and

(2) not more than three hundred (300) kilovolts.

(b) The term does not include an electric transmission facility to the extent the facility is required by a regional transmission organization primarily to address nonreliability drivers.

Sec. 4. As used in this chapter, "new electric transmission owner" means a corporation, company, partnership, limited liability company, or other organization that:

(1) on the date of its incorporation or organization, does not own, operate, or maintain an electric transmission facility located in whole or in part in Indiana; and

(2) is incorporated or organized to construct, own, operate, and maintain an electric transmission facility located in whole or in part in Indiana.

Sec. 5. As used in this chapter, "public utility" has the meaning set forth in IC 8-1-8.5-1.

Sec. 6. As used in this chapter, "regional transmission organization" refers to a regional transmission organization approved by the Federal Energy Regulatory Commission.

Sec. 7. (a) The commission shall grant a new electric transmission owner authority to operate as a public utility in Indiana if the commission makes the following findings:

(1) The new electric transmission owner has the financial, managerial, and technical capability to construct, own, operate, and maintain an electric transmission facility.

(2) The new electric transmission owner has the ability and intent to comply with all statutes, rules, and regulations enforced by the commission.

(3) The new electric transmission owner has the intent to construct, own, operate, and maintain an electric transmission facility that is under consideration for selection in a regional transmission plan.

(4) The new electric transmission owner has provided written notice of its request for authority under this section to each incumbent electric transmission owner that may connect its existing electric transmission facility to the new electric transmission facility of the new electric transmission owner.

(b) In making findings under subsection (a), the commission may consider the creditworthiness of the new electric transmission

C o p y

owner, including:

(1) the new electric transmission owner's investment grade rating;

(2) guarantees of a parent company of the new electric transmission owner that has an investment grade rating;

(3) a bank reference letter or bonding commitment on behalf of the new electric transmission owner;

(4) the authority of the new electric transmission owner to directly set rates or impose taxes; and

(5) the capability of the new electric transmission owner to meet its financial obligations if it abandons the new electric transmission facility after its construction.

Sec. 8. A new electric transmission owner shall notify the commission in a timely manner of the dates on which construction of the new electric transmission facility began and was completed.

Sec. 9. (a) An incumbent electric transmission owner has the right to construct, own, operate, and maintain the following:

(1) A local reliability electric transmission facility that connects to an electric transmission facility owned by the incumbent electric transmission owner.

(2) Upgrades to an existing electric transmission facility owned by the incumbent electric transmission owner.

(b) The right to construct, own, operate, and maintain a local reliability facility that connects to electric transmission facilities owned by two (2) or more incumbent electric transmission owners belongs individually and proportionately to each incumbent electric transmission owner, unless the incumbent electric transmission owners otherwise agree in writing.

Sec. 10. (a) An incumbent electric transmission owner may enter into a contract with a new electric transmission owner that proposes to connect a new electric transmission facility to the electric transmission facility of the incumbent electric transmission owner. The contract may assign responsibility for:

(1) maintenance and upgrades; and

(2) reliability compliance;

with respect to the new electric transmission facility.

(b) The commission has jurisdiction to resolve a dispute arising under a contract described in subsection (a).

Sec. 11. This chapter does not affect an incumbent electric transmission owner's use and control of existing property rights.

SECTION 2. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 94, 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 everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

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

(Reference is to SB 94 as introduced.)

LONG, Chairperson

COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 94, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 94 as printed February 13, 2013.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 0.

C o p y