



February 19, 2013

SENATE BILL No. 492

DIGEST OF SB 492 (Updated February 14, 2013 2:03 pm - DI 103)

Citations Affected: IC 8-1; IC 24-5.

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) serves as public notice of the filing of the tariff. Repeals statutes concerning: (1) rate reduction programs; and (2) certain settlement agreements. Deletes certain reporting requirements of communications service providers to the IURC. Limits information requested by the IURC for certain purposes from a communications service provider to public information provided to the Federal Communications 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.

Hershman, Merritt

January 14, 2013, read first time and referred to Committee on Utilities.
February 18, 2013, amended, reported favorably — Do Pass.

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SB 492—LS 7248/DI 103+



February 19, 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.

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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

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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 8-1-2.6-1.2, AS AMENDED BY P.L.1-2007,
42 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2013]: Sec. 1.2. Except as provided in sections 1.5(b) †2; and
 2 13 of this chapter, after March 27, 2006, the commission shall not
 3 exercise jurisdiction over any nonbasic telecommunications service.

4 SECTION 3. IC 8-1-2.6-1.3, AS ADDED BY P.L.27-2006,
 5 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2013]: Sec. 1.3. (a) As used in this section, "broadband
 7 service" means a connection to the Internet that provides capacity for
 8 transmission at an average speed of at least one and one-half (1.5)
 9 megabits per second downstream and at least three hundred eighty-four
 10 (384) kilobits per second upstream; regardless of the technology or
 11 medium used to provide the connection. The term includes a
 12 connection to the Internet provided by wireless technology, copper
 13 wire, fiber optic cable, coaxial cable, broadband over power lines, or
 14 other facilities or future technologies. The term does not include any of
 15 the following:

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

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

21 (3) The transmission of video programming or other
 22 programming:

23 (A) provided by; or

24 (B) generally considered comparable to programming
 25 provided by;

26 a television broadcast station or a radio broadcast station;
 27 including cable TV, direct broadcast satellite, and digital
 28 television.

29 (4) A connection to the Internet provided through satellite
 30 technology.

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

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



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1 Subject to subsection (h); a provider may increase the provider's flat
 2 monthly rate for basic telecommunications service in a local exchange
 3 area as follows:

4 (1) The provider may increase the flat monthly rate not more
 5 frequently than once during each successive twelve (12) month
 6 period during the period beginning March 28, 2006; and ending
 7 June 30, 2009. The amount of any increase in the flat monthly rate
 8 imposed during a twelve (12) month period described in this
 9 subdivision may not exceed one dollar (\$1). If a provider:

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

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

15 the provider may not impose the unused increase in any
 16 subsequent twelve (12) month period described in this
 17 subdivision.

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

24 The provider shall provide the commission and all affected customers
 25 thirty (30) days advance notice of each rate increase under this
 26 subsection.

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



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1 is first eligible to increase the initial flat monthly rate under this
 2 subsection. The amount of the total increase in the flat monthly rate
 3 during the rate transition period may not exceed the product of:

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

5 (2) the number of twelve (12) month periods remaining in the rate
 6 transition period at the time the provider is first eligible to
 7 increase the initial flat monthly rate under this subsection.

8 The provider shall provide the commission and all affected customers
 9 thirty (30) days advance notice of each rate increase under this
 10 subsection.

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

26 (1) Ninety (90) days after a request by the provider for a hearing
 27 and determination by the commission. The provider may request
 28 a hearing and determination under this subdivision at any time
 29 before 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 (2) Ninety (90) days after the expiration of:

35 (A) the eighteen (18) month period allowed by this subsection;
 36 or

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

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

41 (f) If, after a hearing under subsection (c); the commission
 42 determines that the provider does not offer broadband service to at least

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1 fifty percent (50%) of the households in the local exchange area not
 2 later than eighteen (18) months after the provider's first rate increase
 3 in the local exchange area under subsection (c) or (d); the commission
 4 may require the provider to:

5 (1) refund to customers; or

6 (2) pay to the commission as a civil penalty;

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

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

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

39 (i) After June 30, 2009; A provider that offers basic
 40 telecommunications service in Indiana:

41 (1) must offer a flat monthly rate with unlimited local calling for
 42 basic telecommunications service in each local exchange area in

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1 Indiana in which the provider offers basic telecommunications
 2 service; and
 3 (2) may not, in any local exchange area in Indiana in which the
 4 provider offers basic telecommunications service, offer any
 5 service plan for basic telecommunications service that includes
 6 measured local service.

7 SECTION 4. IC 8-1-2.6-1.4, AS AMENDED BY P.L.1-2007,
 8 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2013]: Sec. 1.4. Except as provided in sections 1.5(b) ~~12~~, and
 10 13 of this chapter, after June 30, 2009, the commission shall not
 11 exercise jurisdiction over basic telecommunications service.

12 SECTION 5. IC 8-1-2.6-1.5, AS ADDED BY P.L.27-2006,
 13 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2013]: Sec. 1.5. (a) In acting to impose any requirements or
 15 set any prices concerning:

16 (1) interconnection with the facilities and equipment of providers
 17 for purposes of 47 U.S.C. 251(c)(2);
 18 (2) the resale of telecommunications service for purposes of 47
 19 U.S.C. 251(c)(4); or
 20 (3) the unbundled access of one (1) provider to the network
 21 elements of another provider for purposes of 47 U.S.C. 251(c)(3);
 22 the commission shall not exceed the authority delegated to the
 23 commission under federal laws and regulations with respect to those
 24 actions. This subsection does not affect the commission's authority
 25 under IC 8-1-2-5.

26 (b) Subject to any regulations adopted by the Federal
 27 Communications Commission, this section does not affect:

28 (1) the commission's authority to mediate a dispute between
 29 providers under 47 U.S.C. 252(a);
 30 (2) the commission's authority to arbitrate a dispute between
 31 providers under 47 U.S.C. 252(b);
 32 (3) the commission's authority to approve an interconnection
 33 agreement under 47 U.S.C. 252(e), including the authority to
 34 establish service quality metrics and liquidated damages;
 35 (4) the commission's authority to review and approve a provider's
 36 statement of terms and conditions under 47 U.S.C. 252(f);
 37 (5) a provider's ability to file a complaint with the commission to
 38 have a dispute decided by the commission:
 39 (A) after notice and hearing; and
 40 (B) in accordance with this article; or
 41 (6) the commission's authority to resolve an interconnection
 42 dispute between providers under the expedited procedures set



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1 forth in 170 IAC 7-7.

2 (c) If a provider's rates and charges for intrastate switched or special

3 access service are:

4 (1) at issue in a dispute that the commission is authorized to

5 mediate, arbitrate, or otherwise determine under state or federal

6 law; or

7 (2) included in an interconnection agreement or a statement of

8 terms and conditions that the commission is authorized to review

9 or approve under state or federal law;

10 the commission shall consider the provider's rates and charges for

11 intrastate switched or special access service to be just and reasonable

12 if the intrastate rates and charges mirror the provider's interstate rates

13 and charges for switched or special access service.

14 **(d) If the commission requires a provider to file a tariff for**

15 **intrastate switched access service, special access service, or any**

16 **other service, the filing of the tariff with the commission serves as**

17 **the public notice of the filing of the tariff. The commission may**

18 **provide the public with notice of tariff filings through the**

19 **commission's Internet web site or other electronic means.**

20 SECTION 6. IC 8-1-2.6-4, AS AMENDED BY P.L.62-2009,

21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

22 UPON PASSAGE]: Sec. 4. (a) A regulatory flexibility committee is

23 established to monitor competition in the telecommunications industry.

24 (b) The committee is composed of the members of a house standing

25 committee selected by the speaker of the house of representatives and

26 a senate standing committee selected by the president pro tempore of

27 the senate. In selecting standing committees under this subsection, the

28 speaker and president pro tempore shall determine which standing

29 committee of the house of representatives and the senate, respectively,

30 has subject matter jurisdiction that most closely relates to the

31 electricity, gas, energy policy, and telecommunications jurisdiction of

32 the regulatory flexibility committee. The chairpersons of the standing

33 committees selected under this subsection shall co-chair the regulatory

34 flexibility committee.

35 (c) **Subject to subsection (f)**, the commission shall, by July 1 of

36 each year, prepare for presentation to the regulatory flexibility

37 committee a report that includes the following:

38 (1) An analysis of the effects of competition and technological

39 change on universal service and on pricing of all

40 telecommunications services offered in Indiana.

41 (2) An analysis of the status of competition and technological

42 change in the provision of video service (as defined in

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1 IC 8-1-34-14) to Indiana customers, as determined by the
 2 commission in carrying out its duties under IC 8-1-34. The
 3 commission's analysis under this subdivision **must may** include
 4 a description of:

5 (A) the number of multichannel video programming
 6 distributors offering video service to Indiana customers;

7 (B) the technologies used to provide video service to Indiana
 8 customers; and

9 (C) the effects of competition on the pricing and availability of
 10 video service in Indiana.

11 (3) Beginning with the report due July 1, 2007, ~~and in each report~~
 12 ~~due in an odd-numbered year after July 1, 2007:~~ **2013:**

13 (A) an identification of all telecommunications rules and
 14 policies that are eliminated by the commission under section
 15 4.1 of this chapter during the two (2) most recent state fiscal
 16 years; and

17 (B) an explanation why the telecommunications rules and
 18 policies identified under clause (A) are no longer in the public
 19 interest or necessary to protect consumers.

20 (4) ~~Beginning with the report due July 1, 2010;~~ Best practices
 21 concerning vertical location of underground facilities for purposes
 22 of IC 8-1-26. A report under this subdivision must address the
 23 viability and economic feasibility of technologies used to
 24 vertically locate underground facilities.

25 (d) In addition to reviewing the commission report prepared under
 26 subsection (c), the regulatory flexibility committee ~~shall~~ **may** also issue
 27 a report and recommendations to the legislative council by November
 28 1 of each year that is based on a review of the following issues:

29 (1) The effects of competition and technological change in the
 30 telecommunications industry and impact of competition on
 31 available subsidies used to maintain universal service.

32 (2) The status of modernization of the publicly available
 33 telecommunications infrastructure in Indiana and the incentives
 34 required to further enhance this infrastructure.

35 (3) The effects on economic development and educational
 36 opportunities of the modernization described in subdivision (2).

37 (4) The current methods of regulating providers, at both the
 38 federal and state levels, and the effectiveness of the methods.

39 (5) The economic and social effectiveness of current
 40 telecommunications service pricing.

41 (6) All other telecommunications issues the committee deems
 42 appropriate.

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

3 (e) The regulatory flexibility committee shall meet on the call of the
4 co-chairpersons to study telecommunications issues described in
5 subsection (d). The committee shall, with the approval of the
6 commission, retain the independent consultants the committee
7 considers appropriate to assist the committee in the review and study.
8 The expenses for the consultants shall be paid by the commission.

9 (f) **If the commission requests a communications service
10 provider (as defined in section 13(b) of this chapter) to provide
11 information for the commission to use in preparing a report under
12 subsection (c), the request must be limited to public information
13 provided to the Federal Communications Commission and may be
14 required to be provided only in the form in which it is provided to
15 the Federal Communications Commission. However, the
16 commission may request any public information from a
17 communications service provider (as defined in section 13(b) of this
18 chapter) upon a request from the committee's co-chairpersons that
19 specifically enumerates the public information sought.**

20 SECTION 7. IC 8-1-2.6-4.1, AS ADDED BY P.L.27-2006,
21 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JUNE 30, 2013]: Sec. 4.1. (a) Not later than:

- 23 (1) July 1, 2007; and
 - 24 (2) July 1 of each odd-numbered year after July 1, 2007;
- 25 the commission shall, through a rulemaking proceeding under
26 IC 4-22-2 or another commission proceeding, identify and eliminate
27 rules and policies concerning telecommunications service and
28 telecommunications service providers if the rules or policies are no
29 longer necessary in the public interest or for the protection of
30 consumers as the result of meaningful economic competition between
31 providers of telecommunications services.

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

- 37 (1) the option of basic telecommunications service; and
- 38 (2) any regulatory protections, including pricing or quality of
39 service protections, that the residential customer would forego by
40 switching to nonbasic telecommunications service.

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

42 (c) **A rule adopted under subsection (b) (before its expiration on**

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June 30, 2013) is void after June 30, 2013.

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

- (1) identify any regulation or policy eliminated by the commission under this section during the two (2) most recent state fiscal years; and
- (2) explain why the regulation or policy is no longer in the public interest or necessary to protect consumers.

This subsection expires June 30, 2013.

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

(b) Notwithstanding any other provision of this chapter or any other statute, a provider may participate in any rate reduction program for residential customers funded from revenues provided by any governmental entity or other revenues administered by an agency of that entity:

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

SECTION 10. IC 8-1-2.6-13, AS AMENDED BY P.L.109-2012, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 13. (a) As used in this section, "communications service" has the meaning set forth in IC 8-1-32.5-3.

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

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

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

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1 ~~(d)~~ (c) Notwithstanding sections 1.2, 1.4, and 1.5 of this chapter, the
 2 commission may do the following, ~~both during and after the rate~~
 3 ~~transition period described in section 1.3 of this chapter~~, except as
 4 otherwise provided in this subsection:

5 (1) ~~Subject to section 12 of this chapter~~, Enforce the terms of a
 6 settlement agreement approved by the commission before July 29,
 7 2004. The commission's authority under this subdivision
 8 continues for the duration of the settlement agreement.

9 (2) Fulfill the commission's duties under IC 8-1-2.8 concerning
 10 the provision of dual party relay services to deaf, hard of hearing,
 11 and speech impaired persons in Indiana.

12 (3) Fulfill the commission's duties under IC 8-1-19.5 concerning
 13 the administration of the 211 dialing code for communications
 14 service used to provide access to human services information and
 15 referrals.

16 (4) Fulfill the commission's responsibilities under IC 8-1-29 to
 17 adopt and enforce rules to ensure that a customer of a
 18 telecommunications provider is not:

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

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

24 (5) Fulfill the commission's obligations under:

25 (A) the federal Telecommunications Act of 1996 (47 U.S.C.
 26 151 et seq.); and

27 (B) IC 20-20-16;

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

31 (6) Perform any of the functions described in section 1.5(b) of this
 32 chapter.

33 (7) ~~After June 30, 2009~~, Perform the commission's responsibilities
 34 under IC 8-1-32.5 to:

35 (A) issue; and

36 (B) maintain records of;

37 certificates of territorial authority for communications service
 38 providers offering communications service to customers in
 39 Indiana.

40 (8) Perform the commission's responsibilities under IC 8-1-34
 41 concerning the issuance of certificates of franchise authority to
 42 multichannel video programming distributors offering video

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service to Indiana customers.

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

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

- (i) for public inspection and copying at the offices of the commission under IC 5-14-3; and
- (ii) electronically through the computer gateway administered by the office of technology established by IC 4-13.1-2-1;

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

(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)~~ **subject to section 4(f) of this chapter**, 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

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1 disclosure of confidential information supplied under this
 2 subdivision.
 3 (10) Perform the commission's duties under IC 8-1-32.4 with
 4 respect to telecommunications providers of last resort, to the
 5 extent of the authority delegated to the commission under federal
 6 law to perform those duties.
 7 (11) Perform the commission's duties under IC 8-1-2-5 with
 8 respect to interconnection.
 9 ~~(12) Establish and administer the Indiana Lifeline assistance~~
 10 ~~program under IC 8-1-36.~~
 11 ~~(13) After June 30, 2009, (12)~~ Collect and maintain from a
 12 **communications service** provider of **commercial mobile service**
 13 ~~(as defined in 47 U.S.C. 332)~~ the following information:
 14 (A) The address of the provider's Internet web site.
 15 (B) All toll free telephone numbers and other customer service
 16 telephone numbers maintained by the provider for receiving
 17 customer inquiries and complaints.
 18 (C) An address and other contact information for the provider,
 19 including any telephone number not described in clause (B).
 20 The commission shall make any information submitted by a
 21 provider under this subdivision available on the commission's
 22 Internet web site. The commission may also make available on the
 23 commission's Internet web site contact information for the Federal
 24 Communications Commission and the Cellular Telephone
 25 Industry Association.
 26 ~~(14)~~ **(13)** Fulfill the commission's duties under any state or federal
 27 law concerning the administration of any universally applicable
 28 dialing code for any communications service.
 29 ~~(e) After June 30, 2009, (d)~~ The commission does not have
 30 jurisdiction over any of the following with respect to a communications
 31 service provider:
 32 (1) Rates and charges for communications service provided by the
 33 communications service provider, including the filing of
 34 schedules or tariffs setting forth the provider's rates and charges.
 35 (2) Depreciation schedules for any of the classes of property
 36 owned by the communications service provider.
 37 (3) Quality of service provided by the communications service
 38 provider. ~~other than the imposition of a reporting requirement~~
 39 ~~under subsection (d)(9)(A).~~
 40 (4) Long term financing arrangements or other obligations of the
 41 communications service provider.
 42 (5) Except as provided in subsection ~~(d)~~, **(c)**, any other aspect

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1 regulated by the commission under this title before July 1, 2009.
2 ~~(f) After June 30, 2009;~~ (e) The commission has jurisdiction over a
3 communications service provider only to the extent that jurisdiction is:

- 4 (1) expressly granted by state or federal law, including:
 - 5 (A) a state or federal statute;
 - 6 (B) a lawful order or regulation of the Federal
 - 7 Communications Commission; or
 - 8 (C) an order or a ruling of a state or federal court having
 - 9 jurisdiction; or
- 10 (2) necessary to administer a federal law for which regulatory
- 11 responsibility has been delegated to the commission by federal
- 12 law.

13 SECTION 11. IC 8-1-2.6-15, AS ADDED BY P.L.27-2006,
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2013]: Sec. 15. (a) Except as provided in subsection (b); If
16 there is a conflict between this chapter and another provision of this
17 article, this chapter controls.

- 18 (b) This chapter does not affect the rights of:
 - 19 (1) a provider that has withdrawn from the commission's
 - 20 jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5 before March
 - 21 28, 2006; to remain outside the jurisdiction of the commission
 - 22 during the transition period described in section 1.3 of this
 - 23 chapter; or
 - 24 (2) a provider that:
 - 25 (A) has not withdrawn from the commission's jurisdiction
 - 26 under IC 8-1-2-88.5 or IC 8-1-17-22.5 before March 28, 2006;
 - 27 and
 - 28 (B) is otherwise eligible to withdraw from the commission's
 - 29 jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5;
 - 30 to withdraw from the commission's jurisdiction under
 - 31 IC 8-1-2-88.5 or IC 8-1-17-22.5 at any time during the transition
 - 32 period described in section 1.3 of this chapter.

33 Except as provided in section 13(d)(5) of this chapter; after June 30;
34 2009; section 1.4 of this chapter applies to a provider described in this
35 subsection.

36 SECTION 12. IC 8-1-2.9 IS REPEALED [EFFECTIVE JULY 1,
37 2013]. (Telephone Caller Identification Services).

38 SECTION 13. IC 8-1-17.5-25, AS AMENDED BY P.L.109-2012,
39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2013.]: Sec. 25. Notwithstanding any other law, the
41 commission may exercise jurisdiction over a surviving corporation or
42 successor corporation formed under this chapter only to do the

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- 1 following:
- 2 (1) Ensure compliance with IC 8-1-2.8 concerning the provision
- 3 of dual party relay services to deaf, hard of hearing, and speech
- 4 impaired persons in Indiana.
- 5 (2) Perform the commission's duties under IC 8-1-19.5 concerning
- 6 the administration of the 211 dialing code for communications
- 7 service used to provide access to human services information and
- 8 referrals.
- 9 (3) Enforce rules adopted under IC 8-1-29 to ensure that a
- 10 customer of a telecommunications provider is not:
- 11 (A) switched to another telecommunications provider unless
- 12 the customer authorizes the switch; or
- 13 (B) billed for services by a telecommunications provider that
- 14 without the customer's authorization added the services to the
- 15 customer's service order.
- 16 (4) Conduct proceedings under:
- 17 (A) the federal Telecommunications Act of 1996 (47 U.S.C.
- 18 151 et seq.); and
- 19 (B) IC 20-20-16;
- 20 concerning universal service and access to telecommunications
- 21 service and equipment, including the designation of eligible
- 22 telecommunications carriers under 47 U.S.C. 214.
- 23 (5) Perform the commission's duties under IC 8-1-2.6-1.5 or
- 24 IC 8-1-2-5.
- 25 (6) Issue or maintain certificates of territorial authority for
- 26 communications service providers under IC 8-1-32.5.
- 27 (7) Perform the commission's duties under IC 8-1-34 to issue and
- 28 maintain certificates of franchise authority to multichannel video
- 29 programming distributors offering video service to Indiana
- 30 customers.
- 31 (8) Perform the commission's duties under IC 8-1-2.6-13(d)(9)
- 32 concerning the reporting of information by communications
- 33 service providers.
- 34 ~~(9) Administer the Indiana lifeline assistance program under~~
- 35 ~~IC 8-1-36.~~
- 36 ~~(10)~~ (9) Fulfill the commission's duties under any state or federal
- 37 law concerning the administration of any universally applicable
- 38 dialing code for any communications service.
- 39 ~~(11)~~ (10) Perform the commission's duties under IC 8-1-2.3 with
- 40 respect to assigned service areas for electricity suppliers.
- 41 ~~(12)~~ (11) Issue:
- 42 (A) certificates of public convenience and necessity,

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1 certificates of territorial authority, and indeterminate permits
 2 under IC 8-1-2;
 3 (B) certificates of public convenience and necessity under
 4 IC 8-1-8.5; or
 5 (C) certificates of public convenience and necessity under
 6 IC 8-1-8.7.

7 ~~(13)~~ (12) Determine territorial disputes between water utilities
 8 under IC 8-1-2-86.5.

9 SECTION 14. IC 8-1-36 IS REPEALED [EFFECTIVE JULY 1,
 10 2013]. (Indiana Lifeline Assistance Program).

11 SECTION 15. IC 24-5-12-25 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) If a person
 13 makes a solicitation to a prospect that is outside of the course of
 14 dealing (as described in IC 26-1-1-205), whether personally, through
 15 salespersons, or through the use of an automated dialing and answering
 16 device, the person may not knowingly or intentionally block or attempt
 17 to block the display of the person's:

- 18 (1) telephone number; or
 - 19 (2) identity;
- 20 by a caller ID service (as defined by ~~IC 8-1-2.9-1~~) when attempting to
 21 initiate a telephone conversation for the purpose of making a
 22 solicitation to a prospect.

23 (b) A person who knowingly or intentionally violates this section
 24 commits a Class B misdemeanor. However, the offense is a Class A
 25 misdemeanor if the person has a previous unrelated conviction under
 26 this subsection.

27 SECTION 16. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 492, 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:

Page 2, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 2. IC 8-1-2.6-1.2, AS AMENDED BY P.L.1-2007, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.2. Except as provided in sections 1.5(b) ~~12~~; and 13 of this chapter, after March 27, 2006, the commission shall not exercise jurisdiction over any nonbasic telecommunications service."

Page 7, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 4. IC 8-1-2.6-1.4, AS AMENDED BY P.L.1-2007, SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.4. Except as provided in sections 1.5(b) ~~12~~; and 13 of this chapter, after June 30, 2009, the commission shall not exercise jurisdiction over basic telecommunications service."

Page 8, line 6, delete ":" and insert ", **the filing of the tariff with the commission serves as the public notice of the filing of the tariff. The commission may provide the public with notice of tariff filings through the commission's Internet web site or other electronic means.**"

Page 8, delete lines 7 through 42, begin a new paragraph and insert:

"SECTION 6. IC 8-1-2.6-4, AS AMENDED BY P.L.62-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A regulatory flexibility committee is established to monitor competition in the telecommunications industry.

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

(c) **Subject to subsection (f)**, the commission shall, by July 1 of each year, prepare for presentation to the regulatory flexibility committee a report that includes the following:



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

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

(A) the number of multichannel video programming distributors offering video service to Indiana customers;

(B) the technologies used to provide video service to Indiana customers; and

(C) the effects of competition on the pricing and availability of video service in Indiana.

(3) ~~Beginning with the report due July 1, 2007, and in each report due in an odd-numbered year after July 1, 2007:~~ **2013:**

(A) an identification of all telecommunications rules and policies that are eliminated by the commission under section 4.1 of this chapter during the two (2) most recent state fiscal years; and

(B) an explanation why the telecommunications rules and policies identified under clause (A) are no longer in the public interest or necessary to protect consumers.

(4) ~~Beginning with the report due July 1, 2010;~~ Best practices concerning vertical location of underground facilities for purposes of IC 8-1-26. A report under this subdivision must address the viability and economic feasibility of technologies used to vertically locate underground facilities.

(d) In addition to reviewing the commission report prepared under subsection (c), the regulatory flexibility committee ~~shall~~ **may** also issue a report and recommendations to the legislative council by November 1 of each year that is based on a review of the following issues:

(1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.

(2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.

(3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).

(4) The current methods of regulating providers, at both the

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federal and state levels, and the effectiveness of the methods.

(5) The economic and social effectiveness of current telecommunications service pricing.

(6) All other telecommunications issues the committee deems appropriate.

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

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission."

Delete page 9.

Page 10, delete lines 1 through 3, begin a new paragraph and insert:

"(f) If the commission requests a communications service provider (as defined in section 13(b) of this chapter) to provide information for the commission to use in preparing a report under subsection (c), the request must be limited to public information provided to the Federal Communications Commission and may be required to be provided only in the form in which it is provided to the Federal Communications Commission. However, the commission may request any public information from a communications service provider (as defined in section 13(b) of this chapter) upon a request from the committee's co-chairpersons that specifically enumerates the public information sought."

Page 11, line 31, reset in roman "(1)".

Page 11, line 31, delete "enforce" and insert "Enforce".

Page 11, line 31, reset in roman "the terms of a".

Page 11, reset in roman lines 32 through 34.

Page 11, line 35, reset in roman "(2)".

Page 11, line 35, delete "(1)".

Page 11, line 38, reset in roman "(3)".

Page 11, line 38, delete "(2)".

Page 11, line 42, reset in roman "(4)".

Page 11, line 42, delete "(3)".

Page 12, line 8, reset in roman "(5)".

Page 12, line 8, delete "(4)".

Page 12, line 15, reset in roman "(6)".

Page 12, line 15, delete "(5)".

Page 12, line 17, reset in roman "(7)".

Page 12, line 17, delete "(6)".



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Page 12, line 24, reset in roman "(8)".

Page 12, line 24, delete "(7)".

Page 12, line 28, reset in roman "(9)".

Page 12, line 28, delete "(8)".

Page 13, line 11, after "(D)" insert "**subject to section 4(f) of this chapter,**".

Page 13, line 28, reset in roman "(10)".

Page 13, line 28, delete "(9)".

Page 13, line 32, reset in roman "(11)".

Page 13, line 32, delete "(10)".

Page 13, line 36, delete "(11)" and insert "**(12)**".

Page 14, line 9, delete "(12)" and insert "**(13)**".

Page 14, line 27, strike "(f)".

Page 14, line 27, after "2009," insert "(e)".

Page 14, between lines 37 and 38, begin a new paragraph and insert:
 "SECTION 11. IC 8-1-2.6-15, AS ADDED BY P.L.27-2006, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 15. (a) Except as provided in subsection (b); If there is a conflict between this chapter and another provision of this article, this chapter controls.

(b) This chapter does not affect the rights of:

(1) a provider that has withdrawn from the commission's jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5 before March 28, 2006; to remain outside the jurisdiction of the commission during the transition period described in section 1.3 of this chapter; or

(2) a provider that:

(A) has not withdrawn from the commission's jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5 before March 28, 2006; and

(B) is otherwise eligible to withdraw from the commission's jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5;

to withdraw from the commission's jurisdiction under IC 8-1-2-88.5 or IC 8-1-17-22.5 at any time during the transition period described in section 1.3 of this chapter.

Except as provided in section 13(d)(5) of this chapter, after June 30, 2009, section 1.4 of this chapter applies to a provider described in this subsection."

Page 16, between lines 12 and 13, begin a new paragraph and insert:

"SECTION 15. IC 24-5-12-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) If a person makes a solicitation to a prospect that is outside of the course of

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dealing (as described in IC 26-1-1-205), whether personally, through salespersons, or through the use of an automated dialing and answering device, the person may not knowingly or intentionally block or attempt to block the display of the person's:

- (1) telephone number; or
- (2) identity;

by a caller ID service (as defined by IC 8-1-2.9-1) when attempting to initiate a telephone conversation for the purpose of making a solicitation to a prospect.

(b) A person who knowingly or intentionally violates this section commits a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a previous unrelated conviction under this subsection."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 492 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 0.

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