



February 5, 2013

SENATE BILL No. 560

DIGEST OF SB 560 (Updated January 31, 2013 12:56 pm - DI 103)

Citations Affected: IC 6-1.1; IC 8-1; IC 8-23.

Synopsis: Utility transmission. Provides for the establishment by counties of infrastructure development zones in which natural gas infrastructure is exempt from property taxation. Allows a customer of an electricity supplier to petition the utility regulatory commission (commission) for a temporary discount to the demand component of the customer's rates and charges established in the electricity supplier's applicable tariff. Requires the utility consumer counselor (counselor) to investigate a utility's petition for a transmission, distribution, and storage system improvement charge (TDSIC) and report its activities to the commission. Authorizes the counselor to request additional funding from the budget agency. Allows a utility to designate a test period for the commission to use in determining an increase in the utility's rates and charges. Provides that a utility may impose a temporary increase in rates and charges while its rate case is pending before the commission. Requires a utility to provide a refund to customers if the temporary rates and charges exceed the rates and charges approved by the commission. Establishes a framework from the commission to authorize and resolve disputes concerning electric transmission facilities constructed or operated by new or incumbent electric transmission owners. Authorizes a utility that provides electric or gas service to petition the commission to recover TDSIC costs. Requires the Indiana department of transportation to develop a program to coordinate the use of public rights-of-way with utilities when the department undertakes an infrastructure improvement project.

C
O
P
Y

Effective: Upon passage; July 1, 2013.

Hershman

January 14, 2013, read first time and referred to Committee on Utilities.
February 4, 2013, amended, reported favorably — Do Pass.

SB 560—LS 7393/DI 103+



February 5, 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. 560

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 6-1.1-12.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]:

4 **Chapter 12.5. Infrastructure Development Zones**
5 **Sec. 1. As used in this chapter, "eligible infrastructure" means**
6 **storage, compressed natural gas, liquefied natural gas,**
7 **transmission, and distribution facilities to be used in the delivery**
8 **of natural gas, or supplemental or substitute forms of gas sources**
9 **by a natural gas utility.**

10 **Sec. 2. As used in this chapter, "natural gas utility" means an**
11 **investor owned utility engaged in the business of furnishing natural**
12 **gas service to the public.**

13 **Sec. 3. As used in this chapter, "person" means a firm,**
14 **association, cooperative, corporation, limited liability company,**
15 **business trust, partnership, or limited liability partnership.**

16 **Sec. 4. A county executive, or in Marion County, the county**
17 **fiscal body, may adopt an ordinance designating a geographic**

SB 560—LS 7393/DI 103+



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

- territory as an infrastructure development zone after:**
- (1) conducting a public hearing on the proposed ordinance;**
 - (2) publishing notice of the public hearing in the manner prescribed by IC 5-3-1; and**
 - (3) making the following findings:**
 - (A) Adequate natural gas infrastructure is not available in the zone.**
 - (B) Providing a property tax exemption to a person for investing in eligible infrastructure in the zone will provide opportunities for increased natural gas usage and economic development benefits in the zone.**

Sec. 5. If an infrastructure development zone is established under this chapter, eligible infrastructure located in the zone is exempt from property taxation.

SECTION 2. IC 8-1-1.1-6.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6.1. (a) The consumer counselor may employ and fix the compensation of, with the approval of the governor and the budget agency, accountants, utility economists, engineers, attorneys, stenographers, or other assistance necessary to carry out the duties of the office. The compensation of the consumer counselor and the counselor's staff shall be paid from an appropriation made for that purpose by the general assembly, or with the approval of the governor and the budget agency, from a contingency fund established under IC 8-1-6-1.

(b) The consumer counselor may make use of engineers, experts, and accountants employed by the commission or the Indiana department of transportation and direct them to make appraisals and audits in the performance of the consumer counselor's duties under this chapter and IC 8-1-1 and IC 8-1-2. In so doing, the consumer counselor shall have access to the records and files of the commission or the Indiana department of transportation.

(c) The consumer counselor may employ, with the approval of the governor and the budget agency, additional stenographers, examiners, experts, engineers, assistant counselors, accountants, and consulting firms with expertise in utility, motor carrier, or railroad economics or management or both, at salaries and compensation and for a length of time as the governor and the budget agency may approve for a particular case or investigation. The compensation for the additional personnel together with the cost of transportation, hotel, telegram, and telephone bills while traveling on public business shall be paid from the expert witness fee account, or, with the approval of the governor and the budget agency, from a contingency fund established under

C
O
P
Y



1 IC 8-1-6-1 on warrants drawn by the auditor of state, sworn to by the
2 parties who incurred the expenses.

3 (d) Expenses incurred by the regular staff of the office and approved
4 by the consumer counselor, or an expense incurred by the commission
5 or the Indiana department of transportation under subsection (b), shall
6 be charged and paid in the manner provided in IC 8-1-2-70 or IC 8-1-6,
7 whichever is appropriate under the circumstances.

8 (e) Nothing in this chapter may be construed to prevent a party
9 interested in a proceeding, suit, or action from appearing in person or
10 from being represented by counsel.

11 (f) Persons hired by the consumer counselor as provided by this
12 section are exempt from the job classifications and compensation
13 schedules established under IC 4-15.

14 (g) The consumer counselor may purchase, lease, or otherwise
15 acquire sufficient technical equipment necessary for the consumer
16 counselor to carry out the consumer counselor's statutory duties.

17 **(h) The consumer counselor may submit to the budget agency
18 a request for funds sufficient to carry out any new duties or
19 responsibilities created under IC 8-1-39-9(b). The consumer
20 counselor shall include in its annual report to the regulatory
21 flexibility committee:**

- 22 **(1) a description of its activities under IC 8-1-39-9(b); and**
- 23 **(2) a summary of the costs associated with those activities.**

24 SECTION 3. IC 8-1-2-24 IS AMENDED TO READ AS FOLLOWS
25 [EFFECTIVE UPON PASSAGE]: Sec. 24. **(a)** Nothing in this chapter
26 shall be taken to prohibit a public utility from entering into any
27 reasonable arrangement with its customers or consumers, or with its
28 employees, or with any municipality in which any of its property is
29 located, for the division or distribution of its surplus profits, or
30 providing for a sliding scale of charges or other financial device that
31 may be practicable and advantageous to the parties interested. No such
32 arrangement or device shall be lawful until it shall be found by the
33 commission, after investigation, to be reasonable and just and not
34 inconsistent with the purpose of this chapter. Such arrangement shall
35 be under the supervision and regulation of the commission.

36 **(b) A customer of an electricity supplier (as defined in
37 IC 8-1-2.3-2) may apply to the commission for a temporary
38 discount to the demand component of the rates and charges
39 contained in the electricity supplier's applicable tariff if the
40 customer:**

- 41 **(1) has or will have a maximum demand for electricity of at
42 least ten (10) megawatts;**

C
o
p
y



- 1 (2) employs more than fifty (50) full-time employees at one (1)
 2 or more facilities located in Indiana;
 3 (3) demonstrates that the temporary discount is necessary and
 4 essential for the customer to attract or create additional jobs
 5 or retain existing jobs in Indiana; and
 6 (4) demonstrates that the customer's load will increase by at
 7 least one (1) megawatt.

8 (c) Upon receiving an application from a customer of an
 9 electricity supplier under subsection (b), the commission may
 10 approve a temporary discount to the demand component of the
 11 rates and charges contained in the electricity supplier's applicable
 12 tariff if the commission finds that the discount is just and
 13 reasonable and consistent with the circumstances described by the
 14 customer under subsection (b), as follows:

- 15 (1) For circumstances not described in subdivision (2) or (3),
 16 a discount up to ten percent (10%).
 17 (2) For circumstances involving a redevelopment project in
 18 which the customer is involved, a discount up to fifteen
 19 percent (15%).
 20 (3) For circumstances involving a brownfield project in which
 21 the customer is involved, a discount up to twenty percent
 22 (20%).

23 A temporary discount authorized under this subsection expires
 24 three (3) years after the effective date of the discount. The cost of
 25 the temporary discount shall be included by the commission in the
 26 cost of service for the electricity supplier and may be deferred for
 27 ratemaking purposes by the electricity supplier until the electricity
 28 supplier's next general rate case.

29 SECTION 4. IC 8-1-2-42.7 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 31 UPON PASSAGE]: Sec. 42.7. (a) For purposes of this section, "case
 32 in chief" includes the following:

- 33 (1) Testimony, exhibits, and supporting work papers.
 34 (2) Proposed test year and rate base cutoff dates.
 35 (3) Proposed revenue requirements.
 36 (4) Jurisdictional operating revenues and expenses, including
 37 taxes and depreciation.
 38 (5) Balance sheet and income statements.
 39 (6) Jurisdictional rate base.
 40 (7) Proposed cost of capital and capital structure.
 41 (8) Jurisdictional class cost of service study.
 42 (9) Proposed rate design and pro forma tariff sheets.

C
O
P
Y

1 (b) For purposes of this section, "utility" refers to the following:

- 2 (1) A public utility.
3 (2) A municipally owned utility.
4 (3) A cooperative owned utility.

5 (c) In a petition filed with the commission to change basic rates
6 and charges, a utility may designate a test period for the
7 commission to use. The commission shall approve a test period that
8 is one (1) of the following:

9 (1) A forward looking test period determined on the basis of
10 projected data for the twelve (12) month period beginning not
11 later than twenty-four (24) months after the date on which the
12 utility petitions the commission for a change in its basic rates
13 and charges.

14 (2) A historic test period based on a twelve (12) month period
15 that ends not more than two hundred seventy (270) days
16 before the date on which the utility petitions the commission
17 for a change in its basic rates and charges. The commission
18 may adjust a historic test period for fixed, known, and
19 measurable changes and appropriate normalizations and
20 annualizations.

21 (3) A hybrid test period based on at least twelve (12)
22 consecutive months of combined historic data and projected
23 data. The commission may adjust the historic data as set forth
24 in subdivision (2).

25 (d) This subsection does not apply to a proceeding in which a
26 utility is seeking an increase in basic rates and charges and
27 requesting initial relief under IC 8-1-2.5-5 or IC 8-1-2.5-6. If the
28 commission does not issue an order on a petition filed by a utility
29 under subsection (c) within three hundred (300) days after the
30 utility files its case in chief in support of the proposed increase, the
31 utility may temporarily implement seventy-five percent (75%) of
32 the utility's proposed permanent increase in basic rates and
33 charges, subject to the commission's review and determination
34 under subsection (e). The utility shall submit the proposed
35 temporary rates and charges to the commission at least thirty (30)
36 days before the date on which the utility seeks to implement the
37 temporary rates and charges. The temporary rates and charges
38 may reflect proposed or existing approved customer class
39 allocations and rate designs. However, if the utility uses a forward
40 looking test period described in subsection (c)(1), the utility may
41 not implement the temporary increase before the date on which the
42 projected twelve (12) month period begins.



C
O
P
Y

1 (e) The commission shall review the temporary rates and
 2 charges to determine compliance with this section. The temporary
 3 rates and charges take effect on the latest of the following dates
 4 unless the commission determines that the temporary rates and
 5 charges are not properly designed in compliance with this section:

6 (1) The date proposed by the utility.

7 (2) Three hundred (300) days after the date on which the
 8 utility files its case in chief.

9 (3) The termination of any extension of the three hundred
 10 (300) day deadline authorized under subsection (f) or (g).

11 If the commission determines that the temporary rates and charges
 12 are not properly designed in compliance with this section, the
 13 utility may cure the defect and file the corrected temporary rates
 14 and charges with the commission within a reasonable period
 15 determined by the commission.

16 (f) If the commission grants a utility an extension of the
 17 procedural schedule, the commission may extend the three
 18 hundred (300) day deadline set forth in subsection (d) by the length
 19 of the extension.

20 (g) The commission may suspend the three hundred (300) day
 21 deadline set forth in subsection (d) one (1) time for good cause. The
 22 suspension may not exceed sixty (60) days.

23 (h) If a utility implements temporary rates and charges that
 24 differ from the permanent rates and charges approved by the
 25 commission in a final order on the petition filed under subsection
 26 (c), the utility shall perform a reconciliation and implement a
 27 refund, in the form of a credit rider, or a surcharge, as applicable,
 28 on customer bills rendered on or after the date the commission
 29 approves the credit or surcharge. The refund or surcharge shall be
 30 credited or added in equal amounts each month for six (6) months.
 31 The amount of the total refund or surcharge equals the amount by
 32 which the temporary rates and charges differ from the permanent
 33 rates and charges.

34 SECTION 5. IC 8-1-38 IS ADDED TO THE INDIANA CODE AS
 35 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 36 PASSAGE]:

37 **Chapter 38. Transmission Reliability**

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

42 **Sec. 2.** As used in this chapter, "incumbent electric transmission

C
O
P
Y



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, 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 reviewed by an applicable regional



C
O
P
Y

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

transmission organization.

(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 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

C
o
p
y



1 (2) reliability compliance;
2 with respect to the new electric transmission facility.

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

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

7 SECTION 6. IC 8-1-39 IS ADDED TO THE INDIANA CODE AS
8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
9 PASSAGE]:

10 Chapter 39. Transmission, Distribution, and Storage System
11 Improvement Charges and Deferrals

12 Sec. 1. The definitions in IC 8-1-2-1 apply throughout this
13 chapter.

14 Sec. 2. As used in this chapter, "eligible transmission,
15 distribution, and storage system improvements" means new or
16 replacement electric or gas transmission, distribution, or storage
17 utility projects that:

- 18 (1) a public utility undertakes for purposes of safety,
19 reliability, system modernization, or economic development,
20 including the extension of gas service to rural areas;
- 21 (2) were not included in the public utility's rate base in its
22 most recent general rate case; and
- 23 (3) either were:
 - 24 (A) designated in the public utility's five (5) year plan and
25 approved by the commission under section 10 of this
26 chapter as eligible for TDSIC treatment; or
 - 27 (B) approved as a targeted economic development project
28 under section 11 of this chapter.

29 Sec. 3. As used in this chapter, "pretax return" means the
30 TDSIC revenues necessary to:

- 31 (1) produce net operating income equal to the public utility's
32 weighted cost of capital multiplied by investments in eligible
33 transmission, distribution, and storage system improvements;
- 34 (2) pay state and federal income taxes imposed on the net
35 operating income calculated under subdivision (1); and
- 36 (3) pay state utility receipts taxes associated with TDSIC
37 revenues.

38 Sec. 4. As used in this chapter, "public utility" means:

- 39 (1) an energy utility (as defined in IC 8-1-2.5-2);
- 40 (2) a municipally owned utility (as defined in IC 8-1-2-1(h));
- 41 or
- 42 (3) a department of public utilities created by IC 8-1-11.1.

C
o
p
y



1 **Sec. 5.** As used in this chapter, "targeted economic development
2 project" means a project approved by the commission under
3 section 11 of this chapter.

4 **Sec. 6.** As used in this chapter, "TDSIC" refers to a
5 transmission, distribution, and storage system improvement
6 charge.

7 **Sec. 7.** As used in this chapter, "TDSIC costs" means the
8 following costs incurred with respect to eligible transmission,
9 distribution, and storage system improvements incurred both while
10 the improvements are under construction and post in service:

- 11 (1) Depreciation expenses.
- 12 (2) Operation and maintenance expenses.
- 13 (3) Extensions and replacements to the extent not provided for
14 through depreciation, in the manner provided for in
15 IC 8-1.5-3-8.
- 16 (4) Property taxes.
- 17 (5) Pretax returns.

18 The term includes costs associated with a targeted economic
19 development project approved under section 11 of this chapter.

20 **Sec. 8.** As used in this chapter, "TDSIC revenues" means
21 revenues produced through a TDSIC and excluding revenues from
22 all other rates and charges.

23 **Sec. 9. (a)** Subject to subsection (c), a public utility that provides
24 electric or gas utility service may file with the commission rate
25 schedules establishing a TDSIC that will allow the periodic
26 automatic adjustment of the public utility's basic rates and charges
27 to provide for timely recovery of eighty percent (80%) of approved
28 capital expenditures and TDSIC costs. The petition must:

- 29 (1) use the customer class revenue allocation approved in the
30 public utility's most recent retail base rate case order;
- 31 (2) include the public utility's five (5) year plan for eligible
32 transmission, distribution, and storage system improvements;
33 and
- 34 (3) identify projected effects of the plan described in
35 subdivision (2) on retail rates and charges.

36 The public utility shall provide a copy of the petition to the office
37 of the utility consumer counselor when the petition is filed with the
38 commission. The public utility may, but is not required to, update
39 the public utility's five (5) year plan under subdivision (2) with
40 each petition the public utility files under this section. An update
41 may include a petition for approval of a targeted economic
42 development project under section 11 of this chapter.

C
o
p
y



1 (b) A public utility that recovers capital expenditures and
2 TDSIC costs under subsection (a) shall defer the remaining twenty
3 percent (20%) of approved capital expenditures and TDSIC costs,
4 including depreciation, allowance for funds used during
5 construction, and post in service carrying costs, and shall recover
6 those capital expenditures and TDSIC costs as part of the next
7 general rate case that the public utility files with the commission.

8 (c) Except as provided in section 15 of this chapter, a public
9 utility may not file a petition under subsection (a) within six (6)
10 months after the date on which the commission issues an order
11 changing the public utility's basic rates and charges with respect
12 to the same type of utility service.

13 (d) The commission may require, at the expiration of a public
14 utility's five (5) year plan, that the public utility submit financial
15 information to the commission to allow the commission to review
16 the adequacy of the public utility's basic rates and charges. If the
17 commission finds good cause, the commission may investigate the
18 public utility's basic rates and charges under IC 8-1-2-58.

19 (e) A public utility may file a petition under this section not
20 more than one (1) time every six (6) months.

21 Sec. 10. (a) A public utility shall petition the commission for
22 approval of the public utility's five (5) year plan for eligible
23 transmission, distribution, and storage improvements. A plan
24 submitted under this subsection may include for approval a
25 targeted economic development project described in section 11 of
26 this chapter.

27 (b) Following notice and hearing, and not more than one
28 hundred eighty (180) days after the public utility petitions the
29 commission under subsection (a), the commission shall issue an
30 order on the petition. If the commission determines that the public
31 utility's five (5) year plan is reasonable, the commission shall
32 approve the plan and designate the eligible transmission,
33 distribution, and storage improvements included in the plan as
34 eligible for TDSIC treatment.

35 (c) A public utility that provides gas service may petition the
36 commission to approve a targeted economic development project
37 as part of the public utility's five (5) year plan under subsection (a).
38 The commission shall review within sixty (60) days the part of the
39 petition concerning the targeted economic development project and
40 approve the project if the commission determines that the project
41 qualifies as a targeted economic development project.

42 Sec. 11. (a) The extension, construction, addition, or

C
o
p
y



1 improvement of the plant and equipment of a public utility that is
 2 installed to provide gas service to a targeted economic development
 3 project is used and useful in the public service.

4 (b) Costs associated with a targeted economic development
 5 project shall be treated as TDSIC costs and may be recovered
 6 through a TDSIC under section 12 of this chapter. The TDSIC
 7 revenues associated with a targeted economic development project
 8 shall not be included in a public utility's total retail revenues for
 9 purposes of determining an aggregate increase under section 14 of
 10 this chapter.

11 (c) Notwithstanding any law or rule governing extension of
 12 service, a public utility that provides gas service may, on a
 13 nondiscriminatory basis, extend service in rural areas without a
 14 deposit or other adequate assurance of performance from the
 15 customer, to the extent that the extension of service results in a
 16 positive contribution to the utility's overall cost of service over a
 17 twenty (20) year period. However, if the public utility determines
 18 that the extension of service to a targeted economic development
 19 project will not result in a positive contribution to the utility's
 20 overall cost of service over a twenty (20) year period, the public
 21 utility may require a deposit or other adequate assurance of
 22 performance from:

23 (1) the developer of the targeted economic development
 24 project; or

25 (2) a local, regional, or state economic development
 26 organization.

27 **Sec. 12. (a)** Not more than sixty (60) days after a public utility
 28 files a petition under section 9 of this chapter, the commission shall
 29 conduct a hearing and issue an order on the petition.

30 (b) Not more than thirty (30) days after a public utility files a
 31 petition under section 9 of this chapter, the office of the utility
 32 consumer counselor may:

33 (1) examine the information of the public utility to confirm
 34 that the proposed transmission, distribution, and storage
 35 system improvements comply with this chapter; and

36 (2) report its findings to the commission.

37 (c) If the commission determines that the petition satisfies the
 38 requirements of this chapter and the capital expenditures and
 39 TDSIC costs are reasonable, the commission shall approve the
 40 petition, including:

41 (1) capital expenditures;

42 (2) timely recovery of TDSIC costs, including costs associated

C
O
P
Y



1 with a targeted economic development project, through a
 2 TDSIC; and
 3 (3) if requested, authority to defer TDSIC costs under section
 4 9(b) of this chapter.

5 Sec. 13. (a) For purposes of calculating the TDSIC costs of a
 6 public utility, the commission shall determine an appropriate
 7 pretax return for the public utility. In determining the appropriate
 8 pretax return, the commission may consider the following factors:

- 9 (1) The current state and federal income tax rates.
- 10 (2) The public utility's capital structure.
- 11 (3) The actual cost rates for the public utility's long term debt
 12 and preferred stock.
- 13 (4) The public utility's cost of common equity determined by
 14 the commission in the public utility's most recent general rate
 15 proceeding.
- 16 (5) Other information that the commission determines is
 17 necessary.

18 (b) The commission shall adjust a public utility's authorized
 19 return for purposes of IC 8-1-2-42(d)(3) or IC 8-1-2-42(g)(3) to
 20 reflect incremental earnings from an approved TDSIC.

21 Sec. 14. (a) The commission may not approve a TDSIC that
 22 would result in an average aggregate increase in a public utility's
 23 total retail revenues of more than three percent (3%) in a twelve
 24 (12) month period. For purposes of this subsection, a public
 25 utility's total retail revenues do not include TDSIC revenues
 26 associated with a targeted economic development project.

27 (b) If a public utility incurs TDSIC costs under the public
 28 utility's five (5) year capital expenditure plan that exceed the
 29 percentage increase in a TDSIC approved by the commission, the
 30 public utility shall defer recovery of the TDSIC costs as set forth in
 31 section 9(b) of this chapter.

32 Sec. 15. A public utility that has implemented a TDSIC under
 33 this chapter shall file revised rate schedules resetting the charge if
 34 new basic rates and charges become effective for the public utility
 35 following a commission order authorizing a general increase in
 36 rates and charges that includes in the public utility's rate base
 37 eligible transmission, distribution, and storage system
 38 improvements reflected in the TDSIC.

39 Sec. 16. (a) For purposes of this chapter, the following are not
 40 a general increase in basic rates and charges under IC 8-1-2-42(a):

- 41 (1) The filing of a TDSIC.
- 42 (2) A change in a TDSIC.

C
 O
 P
 Y



1 **(3) The deferral of depreciation expenses, operation and**
 2 **maintenance expenses, property taxes, or post in service**
 3 **allowance for funds used during construction under section**
 4 **9(b) of this chapter.**
 5 **(b) This chapter does not limit:**
 6 **(1) a public utility's ability to recover eligible transmission,**
 7 **distribution, and storage system improvements in a general**
 8 **retail rate case; or**
 9 **(2) the commission's valuation of utility property under**
 10 **IC 8-1-2-6.**
 11 **Sec. 17. The commission may adopt by rule under IC 4-22-2 or**
 12 **by order other procedures not inconsistent with this chapter that**
 13 **the commission finds reasonable or necessary to administer a**
 14 **TDSIC.**
 15 SECTION 7. IC 8-23-2-5.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2013]: **Sec. 5.5. (a) The department shall develop a program to**
 18 **coordinate the efficient and cost effective use of public**
 19 **rights-of-way by the department and utilities when the department**
 20 **undertakes an infrastructure improvement project.**
 21 **(b) A program developed under subsection (a) may require the**
 22 **department and utilities to share the following information:**
 23 **(1) Active construction and excavation permits.**
 24 **(2) Locations of existing utility facilities.**
 25 **(3) Short and long term project schedules.**
 26 **(c) The department may adopt rules under IC 4-22-2 to**
 27 **implement this section.**
 28 SECTION 8. An emergency is declared for this act.

C
O
P
Y



COMMITTEE REPORT

Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 560, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-1.1-12.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]:

Chapter 12.5. Infrastructure Development Zones

Sec. 1. As used in this chapter, "eligible infrastructure" means storage, compressed natural gas, liquefied natural gas, transmission, and distribution facilities to be used in the delivery of natural gas, or supplemental or substitute forms of gas sources by a natural gas utility.

Sec. 2. As used in this chapter, "natural gas utility" means an investor owned utility engaged in the business of furnishing natural gas service to the public.

Sec. 3. As used in this chapter, "person" means a firm, association, cooperative, corporation, limited liability company, business trust, partnership, or limited liability partnership.

Sec. 4. A county executive, or in Marion County, the county fiscal body, may adopt an ordinance designating a geographic territory as an infrastructure development zone after:

- (1) conducting a public hearing on the proposed ordinance;**
- (2) publishing notice of the public hearing in the manner prescribed by IC 5-3-1; and**
- (3) making the following findings:**

(A) Adequate natural gas infrastructure is not available in the zone.

(B) Providing a property tax exemption to a person for investing in eligible infrastructure in the zone will provide opportunities for increased natural gas usage and economic development benefits in the zone.

Sec. 5. If an infrastructure development zone is established under this chapter, eligible infrastructure located in the zone is exempt from property taxation."

Page 2, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 2. IC 8-1-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. **(a)** Nothing in this chapter shall be taken to prohibit a public utility from entering into

C
O
P
Y



any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter. Such arrangement shall be under the supervision and regulation of the commission.

(b) A customer of an electricity supplier (as defined in IC 8-1-2.3-2) may apply to the commission for a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable tariff if the customer:

- (1) has or will have a maximum demand for electricity of at least ten (10) megawatts;**
- (2) employs more than fifty (50) full-time employees at one (1) or more facilities located in Indiana;**
- (3) demonstrates that the temporary discount is necessary and essential for the customer to attract or create additional jobs or retain existing jobs in Indiana; and**
- (4) demonstrates that the customer's load will increase by at least one (1) megawatt.**

(c) Upon receiving an application from a customer of an electricity supplier under subsection (b), the commission may approve a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable tariff if the commission finds that the discount is just and reasonable and consistent with the circumstances described by the customer under subsection (b), as follows:

- (1) For circumstances not described in subdivision (2) or (3), a discount up to ten percent (10%).**
- (2) For circumstances involving a redevelopment project in which the customer is involved, a discount up to fifteen percent (15%).**
- (3) For circumstances involving a brownfield project in which the customer is involved, a discount up to twenty percent (20%).**

A temporary discount authorized under this subsection expires three (3) years after the effective date of the discount. The cost of the temporary discount shall be included by the commission in the cost of service for the electricity supplier and may be deferred for

C
O
P
Y



ratemaking purposes by the electricity supplier until the electricity supplier's next general rate case."

Page 3, line 14, delete "satisfies" and insert "is".

Page 3, line 15, delete "must be".

Page 3, line 20, delete "must be".

Page 3, line 27, delete "must be".

Page 4, line 27, delete "if the commission finds that the" and insert **"one (1) time for good cause."**

Page 4, delete lines 28 through 37.

Page 4, line 38, delete "significant change. A" and insert **"The"**.

Page 5, line 26, after "organization" insert ",".

Page 5, line 27, delete "territory,".

Page 6, line 16, delete "under consideration for selection in a regional" and insert **"reviewed by an applicable regional transmission organization."**

Page 6, delete line 17.

Page 7, delete lines 30 through 42, begin a new paragraph and insert:

"Sec. 2. As used in this chapter, "eligible transmission, distribution, and storage system improvements" means new or replacement electric or gas transmission, distribution, or storage utility projects that:

- (1) a public utility undertakes for purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;**
- (2) were not included in the public utility's rate base in its most recent general rate case; and**
- (3) either were:**
 - (A) designated in the public utility's five (5) year plan and approved by the commission under section 10 of this chapter as eligible for TDSIC treatment; or**
 - (B) approved as a targeted economic development project under section 11 of this chapter.**

Sec. 3. As used in this chapter, "pretax return" means the TDSIC revenues necessary to:

- (1) produce net operating income equal to the public utility's weighted cost of capital multiplied by investments in eligible transmission, distribution, and storage system improvements;**
- (2) pay state and federal income taxes imposed on the net operating income calculated under subdivision (1); and**
- (3) pay state utility receipts taxes associated with TDSIC revenues.**



C
O
P
Y

Sec. 4. As used in this chapter, "public utility" means:

- (1) an energy utility (as defined in IC 8-1-2.5-2);
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h));
- or
- (3) a department of public utilities created by IC 8-1-11.1.

Sec. 5. As used in this chapter, "targeted economic development project" means a project approved by the commission under section 11 of this chapter.

Sec. 6. As used in this chapter, "TDSIC" refers to a transmission, distribution, and storage system improvement charge.

Sec. 7. As used in this chapter, "TDSIC costs" means the following costs incurred with respect to eligible transmission, distribution, and storage system improvements incurred both while the improvements are under construction and post in service:

- (1) Depreciation expenses.
- (2) Operation and maintenance expenses.
- (3) Extensions and replacements to the extent not provided for through depreciation, in the manner provided for in IC 8-1.5-3-8.
- (4) Property taxes.
- (5) Pretax returns.

The term includes costs associated with a targeted economic development project approved under section 11 of this chapter.

Sec. 8. As used in this chapter, "TDSIC revenues" means revenues produced through a TDSIC and excluding revenues from all other rates and charges.

Sec. 9. (a) Subject to subsection (c), a public utility that provides electric or gas utility service may file with the commission rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of eighty percent (80%) of approved capital expenditures and TDSIC costs. The petition must:

- (1) use the customer class revenue allocation approved in the public utility's most recent retail base rate case order;
- (2) include the public utility's five (5) year plan for eligible transmission, distribution, and storage system improvements; and
- (3) identify projected effects of the plan described in subdivision (2) on retail rates and charges.

The public utility shall provide a copy of the petition to the office of the utility consumer counselor when the petition is filed with the

C
O
P
Y



commission. The public utility may, but is not required to, update the public utility's five (5) year plan under subdivision (2) with each petition the public utility files under this section. An update may include a petition for approval of a targeted economic development project under section 11 of this chapter.

(b) A public utility that recovers capital expenditures and TDSIC costs under subsection (a) shall defer the remaining twenty percent (20%) of approved capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of the next general rate case that the public utility files with the commission.

(c) Except as provided in section 15 of this chapter, a public utility may not file a petition under subsection (a) within six (6) months after the date on which the commission issues an order changing the public utility's basic rates and charges with respect to the same type of utility service.

(d) The commission may require, at the expiration of a public utility's five (5) year plan, that the public utility submit financial information to the commission to allow the commission to review the adequacy of the public utility's basic rates and charges. If the commission finds good cause, the commission may investigate the public utility's basic rates and charges under IC 8-1-2-58.

(e) A public utility may file a petition under this section not more than one (1) time every six (6) months.

Sec. 10. (a) A public utility shall petition the commission for approval of the public utility's five (5) year plan for eligible transmission, distribution, and storage improvements. A plan submitted under this subsection may include for approval a targeted economic development project described in section 11 of this chapter.

(b) Following notice and hearing, and not more than one hundred eighty (180) days after the public utility petitions the commission under subsection (a), the commission shall issue an order on the petition. If the commission determines that the public utility's five (5) year plan is reasonable, the commission shall approve the plan and designate the eligible transmission, distribution, and storage improvements included in the plan as eligible for TDSIC treatment.

(c) A public utility that provides gas service may petition the commission to approve a targeted economic development project as part of the public utility's five (5) year plan under subsection (a).



C
O
P
Y

The commission shall review within sixty (60) days the part of the petition concerning the targeted economic development project and approve the project if the commission determines that the project qualifies as a targeted economic development project.

Sec. 11. (a) The extension, construction, addition, or improvement of the plant and equipment of a public utility that is installed to provide gas service to a targeted economic development project is used and useful in the public service.

(b) Costs associated with a targeted economic development project shall be treated as TDSIC costs and may be recovered through a TDSIC under section 12 of this chapter. The TDSIC revenues associated with a targeted economic development project shall not be included in a public utility's total retail revenues for purposes of determining an aggregate increase under section 14 of this chapter.

(c) Notwithstanding any law or rule governing extension of service, a public utility that provides gas service may, on a nondiscriminatory basis, extend service in rural areas without a deposit or other adequate assurance of performance from the customer, to the extent that the extension of service results in a positive contribution to the utility's overall cost of service over a twenty (20) year period. However, if the public utility determines that the extension of service to a targeted economic development project will not result in a positive contribution to the utility's overall cost of service over a twenty (20) year period, the public utility may require a deposit or other adequate assurance of performance from:

- (1) the developer of the targeted economic development project; or
- (2) a local, regional, or state economic development organization.

Sec. 12. (a) Not more than sixty (60) days after a public utility files a petition under section 9 of this chapter, the commission shall conduct a hearing and issue an order on the petition.

(b) Not more than thirty (30) days after a public utility files a petition under section 9 of this chapter, the office of the utility consumer counselor may:

- (1) examine the information of the public utility to confirm that the proposed transmission, distribution, and storage system improvements comply with this chapter; and
 - (2) report its findings to the commission.
- (c) If the commission determines that the petition satisfies the

C
O
P
Y



requirements of this chapter and the capital expenditures and TDSIC costs are reasonable, the commission shall approve the petition, including:

- (1) capital expenditures;
- (2) timely recovery of TDSIC costs, including costs associated with a targeted economic development project, through a TDSIC; and
- (3) if requested, authority to defer TDSIC costs under section 9(b) of this chapter.

Sec. 13. (a) For purposes of calculating the TDSIC costs of a public utility, the commission shall determine an appropriate pretax return for the public utility. In determining the appropriate pretax return, the commission may consider the following factors:

- (1) The current state and federal income tax rates.
- (2) The public utility's capital structure.
- (3) The actual cost rates for the public utility's long term debt and preferred stock.
- (4) The public utility's cost of common equity determined by the commission in the public utility's most recent general rate proceeding.
- (5) Other information that the commission determines is necessary.

(b) The commission shall adjust a public utility's authorized return for purposes of IC 8-1-2-42(d)(3) or IC 8-1-2-42(g)(3) to reflect incremental earnings from an approved TDSIC.

Sec. 14. (a) The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than three percent (3%) in a twelve (12) month period. For purposes of this subsection, a public utility's total retail revenues do not include TDSIC revenues associated with a targeted economic development project.

(b) If a public utility incurs TDSIC costs under the public utility's five (5) year capital expenditure plan that exceed the percentage increase in a TDSIC approved by the commission, the public utility shall defer recovery of the TDSIC costs as set forth in section 9(b) of this chapter.

Sec. 15. A public utility that has implemented a TDSIC under this chapter shall file revised rate schedules resetting the charge if new basic rates and charges become effective for the public utility following a commission order authorizing a general increase in rates and charges that includes in the public utility's rate base eligible transmission, distribution, and storage system



C
O
P
Y

improvements reflected in the TDSIC.

Sec. 16. (a) For purposes of this chapter, the following are not a general increase in basic rates and charges under IC 8-1-2-42(a):

- (1) The filing of a TDSIC.**
- (2) A change in a TDSIC.**
- (3) The deferral of depreciation expenses, operation and maintenance expenses, property taxes, or post in service allowance for funds used during construction under section 9(b) of this chapter.**

(b) This chapter does not limit:

- (1) a public utility's ability to recover eligible transmission, distribution, and storage system improvements in a general retail rate case; or**
- (2) the commission's valuation of utility property under IC 8-1-2-6.**

Sec. 17. The commission may adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer a TDSIC."

Delete pages 8 through 10.

Page 11, delete lines 1 through 10, begin a new paragraph and insert:

"SECTION 5. IC 8-23-2-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 5.5. (a) The department shall develop a program to coordinate the efficient and cost effective use of public rights-of-way by the department and utilities when the department undertakes an infrastructure improvement project.**

(b) A program developed under subsection (a) may require the department and utilities to share the following information:

- (1) Active construction and excavation permits.**
- (2) Locations of existing utility facilities.**
- (3) Short and long term project schedules.**

(c) The department may adopt rules under IC 4-22-2 to implement this section."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 560 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 8, Nays 2.

SB 560—LS 7393/DI 103+



C
O
P
Y