



Reprinted
February 12, 2013

SENATE BILL No. 560

DIGEST OF SB 560 (Updated February 11, 2013 3:53 pm - DI 101)

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 that is: (1) a public utility; and (2) under the jurisdiction of the utility regulatory commission (commission) for the approval of rates and charges; to petition the commission for a temporary discount to the demand component of the customer's rates and charges established in the electricity supplier's applicable standard tariff for service to a single Indiana facility of the customer. Requires: (1) preapproval by the economic development corporation (IEDC) of the customer's requested temporary discount amount; and (2) that an electricity supplier defer the cost of a discount for subsequent recovery in its next general retail electric rate case. 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
(Continued next page)

Effective: Upon passage; July 1, 2013.

Hershman, Merritt

January 14, 2013, read first time and referred to Committee on Utilities.
February 4, 2013, amended, reported favorably — Do Pass.
February 11, 2013, read second time, amended, ordered engrossed.

SB 560—LS 7393/DI 103+



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Digest Continued

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. Authorizes a utility that provides electric or gas service to petition the commission to recover TDSIC costs. Requires the utility to petition the commission for approval of a seven year plan for eligible transmission, distribution, and storage improvements. 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.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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SENATE BILL No. 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 a**
11 **utility engaged in the business of furnishing natural gas service to**
12 **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**

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- 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

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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) that is a public utility that is under the jurisdiction of
38 the commission for the approval of rates and charges may apply to
39 the commission for a temporary discount to the demand
40 component of the rates and charges contained in the electricity
41 supplier's applicable standard tariff for service to a single facility
42 of the customer that is located in Indiana if the customer:**

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- 1 **(1) has or will have a maximum demand for electricity of at**
- 2 **least ten (10) megawatts at the facility;**
- 3 **(2) employs more than fifty (50) full-time employees at the**
- 4 **facility;**
- 5 **(3) demonstrates that the temporary discount is necessary and**
- 6 **essential for the customer to attract or create additional jobs**
- 7 **or retain existing jobs at the facility;**
- 8 **(4) demonstrates that the customer's demand for electricity at**
- 9 **the facility will increase by at least one (1) megawatt as a**
- 10 **result of the jobs created or retained under subdivision (3);**
- 11 **and**
- 12 **(5) has applied for and received from the Indiana economic**
- 13 **development corporation approval for the requested**
- 14 **temporary discount amount.**

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

- 22 **(1) For circumstances not described in subdivision (2) or (3),**
- 23 **a discount up to ten percent (10%).**
- 24 **(2) For circumstances involving a redevelopment project in**
- 25 **which the customer is involved, a discount up to fifteen**
- 26 **percent (15%).**
- 27 **(3) For circumstances involving a brownfield project in which**
- 28 **the customer is involved, a discount up to twenty percent**
- 29 **(20%).**

30 **(d) A temporary discount authorized under subsection (c)**
 31 **expires three (3) years after the effective date of the discount. The**
 32 **cost of the temporary discount shall be included by the commission**
 33 **in the cost of service for the electricity supplier and shall be**
 34 **deferred for ratemaking purposes by the electricity supplier for**
 35 **subsequent recovery in connection with the electricity supplier's**
 36 **next general retail electric rate case.**

37 **(e) A customer that receives a temporary discount under this**
 38 **section for service to a facility may not:**

- 39 **(1) enter into a contract with the customer's electricity**
- 40 **supplier for electric utility service to the facility that provides**
- 41 **for rates, terms, or conditions that differ from the rates,**
- 42 **terms, and conditions contained in the electricity supplier's**

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1 applicable standard tariff; or

2 (2) take electric utility service to the facility under a
3 commission-approved economic development tariff offered by
4 the electricity supplier.

5 (f) A temporary discount authorized under subsection (c)
6 applies only to the demand component of the customer's rates and
7 charges related to the increase in the customer's load described in
8 subsection (b)(4). However, the commission may authorize the
9 application of the applicable temporary discount under subsection
10 (c) to all or part of the demand component of the customer's rates
11 and charges related to the entire facility if the commission
12 determines that a broader application is beneficial to all customers
13 of the electricity supplier.

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

- 18 (1) Testimony, exhibits, and supporting work papers.
19 (2) Proposed test year and rate base cutoff dates.
20 (3) Proposed revenue requirements.
21 (4) Jurisdictional operating revenues and expenses, including
22 taxes and depreciation.
23 (5) Balance sheet and income statements.
24 (6) Jurisdictional rate base.
25 (7) Proposed cost of capital and capital structure.
26 (8) Jurisdictional class cost of service study.
27 (9) Proposed rate design and pro forma tariff sheets.

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

- 29 (1) A public utility.
30 (2) A municipally owned utility.
31 (3) A cooperative owned utility.

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

- 36 (1) A forward looking test period determined on the basis of
37 projected data for the twelve (12) month period beginning not
38 later than twenty-four (24) months after the date on which the
39 utility petitions the commission for a change in its basic rates
40 and charges.
41 (2) A historic test period based on a twelve (12) month period
42 that ends not more than two hundred seventy (270) days



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1 before the date on which the utility petitions the commission
 2 for a change in its basic rates and charges. The commission
 3 may adjust a historic test period for fixed, known, and
 4 measurable changes and appropriate normalizations and
 5 annualizations.

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

10 (d) This subsection does not apply to a proceeding in which a
 11 utility is seeking an increase in basic rates and charges and
 12 requesting initial relief under IC 8-1-2.5-5 or IC 8-1-2.5-6. If the
 13 commission does not issue an order on a petition filed by a utility
 14 under subsection (c) within three hundred (300) days after the
 15 utility files its case in chief in support of the proposed increase, the
 16 utility may temporarily implement seventy-five percent (75%) of
 17 the utility's proposed permanent increase in basic rates and
 18 charges, subject to the commission's review and determination
 19 under subsection (e). The utility shall submit the proposed
 20 temporary rates and charges to the commission at least thirty (30)
 21 days before the date on which the utility seeks to implement the
 22 temporary rates and charges. The temporary rates and charges
 23 may reflect proposed or existing approved customer class
 24 allocations and rate designs. However, if the utility uses a forward
 25 looking test period described in subsection (c)(1), the utility may
 26 not implement the temporary increase before the date on which the
 27 projected twelve (12) month period begins.

28 (e) The commission shall review the temporary rates and
 29 charges to determine compliance with this section. The temporary
 30 rates and charges take effect on the latest of the following dates
 31 unless the commission determines that the temporary rates and
 32 charges are not properly designed in compliance with this section:

33 (1) The date proposed by the utility.

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

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

38 If the commission determines that the temporary rates and charges
 39 are not properly designed in compliance with this section, the
 40 utility may cure the defect and file the corrected temporary rates
 41 and charges with the commission within a reasonable period
 42 determined by the commission.



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1 (f) If the commission grants a utility an extension of the
 2 procedural schedule, the commission may extend the three
 3 hundred (300) day deadline set forth in subsection (d) by the length
 4 of the extension.

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

8 (h) If a utility implements temporary rates and charges that
 9 differ from the permanent rates and charges approved by the
 10 commission in a final order on the petition filed under subsection
 11 (c), the utility shall perform a reconciliation and implement a
 12 refund, in the form of a credit rider, or a surcharge, as applicable,
 13 on customer bills rendered on or after the date the commission
 14 approves the credit or surcharge. The refund or surcharge shall be
 15 credited or added in equal amounts each month for six (6) months.
 16 The amount of the total refund or surcharge equals the amount by
 17 which the temporary rates and charges differ from the permanent
 18 rates and charges.

19 SECTION 5. IC 8-1-39 IS ADDED TO THE INDIANA CODE AS
 20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON
 21 PASSAGE]:

22 **Chapter 39. Transmission, Distribution, and Storage System
 23 Improvement Charges and Deferrals**

24 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this
 25 chapter.**

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

30 (1) a public utility undertakes for purposes of safety,
 31 reliability, system modernization, or economic development,
 32 including the extension of gas service to rural areas;

33 (2) were not included in the public utility's rate base in its
 34 most recent general rate case; and

35 (3) either were:

36 (A) designated in the public utility's seven (7) year plan
 37 and approved by the commission under section 10 of this
 38 chapter as eligible for TDSIC treatment; or

39 (B) approved as a targeted economic development project
 40 under section 11 of this chapter.

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



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

8 **Sec. 4. As used in this chapter, "public utility" means:**
 9 (1) an energy utility (as defined in IC 8-1-2.5-2);
 10 (2) a municipally owned utility (as defined in IC 8-1-2-1(h));
 11 or
 12 (3) a department of public utilities created by IC 8-1-11.1.

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

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

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

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

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

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

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

- 41 (1) use the customer class revenue allocation factor based on
- 42 firm load approved in the public utility's most recent retail

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- 1 base rate case order;
- 2 (2) include the public utility's seven (7) year plan for eligible
- 3 transmission, distribution, and storage system improvements;
- 4 and
- 5 (3) identify projected effects of the plan described in
- 6 subdivision (2) on retail rates and charges.

7 The public utility shall provide a copy of the petition to the office
 8 of the utility consumer counselor when the petition is filed with the
 9 commission. The public utility shall update the public utility's
 10 seven (7) year plan under subdivision (2) with each petition the
 11 public utility files under this section. An update may include a
 12 petition for approval of a targeted economic development project
 13 under section 11 of this chapter.

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

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

26 (d) A public utility that implements a TDSIC under this chapter
 27 shall, before the expiration of the public utility's approved seven
 28 (7) year plan, petition the commission for review and approval of
 29 the public utility's basic rates and charges with respect to the same
 30 type of utility service.

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

33 Sec. 10. (a) A public utility shall petition the commission for
 34 approval of the public utility's seven (7) year plan for eligible
 35 transmission, distribution, and storage improvements. A plan
 36 submitted under this subsection may include for approval a
 37 targeted economic development project described in section 11 of
 38 this chapter.

39 (b) Following notice and hearing, and not more than two
 40 hundred ten (210) days after the public utility petitions the
 41 commission under subsection (a), the commission shall issue an
 42 order on the petition. If the commission determines that the public

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1 utility's seven (7) year plan is reasonable, the commission shall
2 approve the plan and designate the eligible transmission,
3 distribution, and storage improvements included in the plan as
4 eligible for TDSIC treatment.

5 (c) A public utility that provides gas service may petition the
6 commission to approve a targeted economic development project
7 as part of the public utility's seven (7) year plan under subsection
8 (a). The commission shall review within sixty (60) days the part of
9 the petition concerning the targeted economic development project
10 and approve the project if the commission determines that the
11 project qualifies as a targeted economic development project.

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

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

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

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

39 Sec. 12. (a) Not more than ninety (90) days after a public utility
40 files a petition under section 9 of this chapter, the commission shall
41 conduct a hearing and issue an order on the petition.

42 (b) Not more than sixty (60) days after a public utility files a

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1 petition under section 9 of this chapter, the office of the utility
2 consumer counselor and other intervenors, if any, may:

- 3 (1) examine the information of the public utility to confirm
- 4 that the proposed transmission, distribution, and storage
- 5 system improvements comply with this chapter; and
- 6 (2) report its findings to the commission.

7 (c) If the commission determines that the petition satisfies the
8 requirements of this chapter and the capital expenditures and
9 TDSIC costs are reasonable, the commission shall approve the
10 petition, including:

- 11 (1) capital expenditures;
- 12 (2) timely recovery of TDSIC costs, including costs associated
- 13 with a targeted economic development project, through a
- 14 TDSIC; and
- 15 (3) if requested, authority to defer TDSIC costs under section
- 16 9(b) of this chapter.

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

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

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

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

39 (b) If a public utility incurs TDSIC costs under the public
40 utility's seven (7) year capital expenditure plan that exceed the
41 percentage increase in a TDSIC approved by the commission, the
42 public utility shall defer recovery of the TDSIC costs as set forth in

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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 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.

SECTION 6. 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.

SECTION 7. 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. 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

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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

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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.**



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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

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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).



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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

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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

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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+



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SENATE MOTION

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

Page 6, delete lines 34 through 42.

Delete pages 7 through 8.

Page 9, delete lines 1 through 6.

Renumber all SECTIONS consecutively.

(Reference is to SB 560 as printed February 5, 2013.)

HERSHMAN

 SENATE MOTION

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

Page 1, line 10, delete "an" and insert "**a**".

Page 1, line 11, delete "investor owned".

Page 3, line 37, after "8-1-2.3-2)" insert "**that is a public utility that is under the jurisdiction of the commission for the approval of rates and charges**".

Page 3, line 39, after "applicable" insert "**standard**".

Page 3, line 39, after "tariff" insert "**for service to a single facility of the customer that is located in Indiana**".

Page 3, line 42, delete ";" and insert "**at the facility**";".

Page 4, line 1, delete "one (1)" and insert "**the facility**";".

Page 4, delete line 2.

Page 4, line 5, delete "in Indiana; and" and insert "**at the facility**";".

Page 4, line 6, delete "load" and insert "**demand for electricity at the facility**".

Page 4, line 7, delete "." and insert "**as a result of the jobs created or retained under subdivision (3); and**

(5) has applied for and received from the Indiana economic development corporation approval for the requested temporary discount amount.".

Page 4, line 11, after "applicable" insert "**standard**".

Page 4, line 23, before "A" begin a new paragraph and insert "**(d)**".

Page 4, line 23, delete "this subsection" and insert "**subsection (c)**".

Page 4, line 26, delete "may" and insert "**shall**".

Page 4, line 27, delete "until" and insert "**for subsequent recovery in connection with**".

SB 560—LS 7393/DI 103+



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Page 4, line 28, after "general" insert "**retail electric**".

Page 4, between lines 28 and 29, begin a new paragraph and insert:

"(e) A customer that receives a temporary discount under this section for service to a facility may not:

(1) enter into a contract with the customer's electricity supplier for electric utility service to the facility that provides for rates, terms, or conditions that differ from the rates, terms, and conditions contained in the electricity supplier's applicable standard tariff; or

(2) take electric utility service to the facility under a commission-approved economic development tariff offered by the electricity supplier.

(f) A temporary discount authorized under subsection (c) applies only to the demand component of the customer's rates and charges related to the increase in the customer's load described in subsection (b)(4). However, the commission may authorize the application of the applicable temporary discount under subsection (c) to all or part of the demand component of the customer's rates and charges related to the entire facility if the commission determines that a broader application is beneficial to all customers of the electricity supplier."

Page 9, line 24, delete "five (5)" and insert "**seven (7)**".

Page 10, line 29, after "allocation" insert "**factor based on firm load**".

Page 10, line 31, delete "five (5)" and insert "**seven (7)**".

Page 10, line 38, delete "may, but is not required to," and insert "**shall**".

Page 10, line 39, delete "five (5)" and insert "**seven (7)**".

Page 11, line 9, delete "six (6)" and insert "**nine (9)**".

Page 11, delete lines 13 through 18, begin a new paragraph and insert:

"(d) A public utility that implements a TDSIC under this chapter shall, before the expiration of the public utility's approved seven (7) year plan, petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service."

Page 11, line 22, delete "five (5)" and insert "**seven (7)**".

Page 11, line 27, delete "one" and insert "**two hundred ten (210)**".

Page 11, line 28, delete "hundred eighty (180)".

Page 11, line 31, delete "five (5)" and insert "**seven (7)**".

Page 11, line 37, delete "five (5)" and insert "**seven (7)**".

Page 12, line 27, delete "sixty (60)" and insert "**ninety (90)**".

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Page 12, line 30, delete "thirty (30)" and insert "**sixty (60)**".

Page 12, line 32, after "counselor" insert "**and other intervenors, if any,**".

Page 13, line 28, delete "five (5)" and insert "**seven (7)**".

(Reference is to SB 560 as printed February 5, 2013.)

HERSHMAN

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