

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.

SENATE ENROLLED ACT No. 492

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-2.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 9. (a) ~~The~~ **The** regulatory flexibility committee established under IC 8-1-2.6-4 ~~to monitor changes in the telephone industry~~ shall also ~~serve to~~ monitor changes and competition in the energy utility industry.

(b) The commission shall before August 15 of each year prepare for presentation to the regulatory flexibility committee an analysis of the effects of competition or changes in the energy utility industry on service and on the pricing of all energy utility services under the jurisdiction of the commission.

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

- (1) The effects of competition or changes in the energy utility industry and the impact of the competition or changes on the residential rates.
- (2) The status of modernization of the energy utility facilities in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development of this modernization.

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(4) The traditional method of regulating energy utilities and the method's effectiveness.

(5) The economic and social effectiveness of traditional energy utility service pricing.

(6) The effects of legislation enacted by the United States Congress.

(7) All other energy utility issues the committee considers appropriate; however, it is not the intent of this section to provide for the review of the statutes cited in section 11 of this chapter.

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

(d) This section:

(1) does not give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995;

(2) does not give the committee the authority to order a party to a collective bargaining agreement to cancel, terminate, amend or otherwise modify the collective bargaining agreement; and

(3) may not be implemented by the committee in a way that would give a party to a collective bargaining agreement any greater rights under the agreement than the party had before January 1, 1995.

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

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

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

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

SECTION 3. IC 8-1-2.6-1.3, AS ADDED BY P.L.27-2006, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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

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

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

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

(A) provided by; or

(B) generally considered comparable to programming provided by;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

or

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

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

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

or

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

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

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

(1) refund to customers; or



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

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

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

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

- (1) must offer a flat monthly rate with unlimited local calling for basic telecommunications service in each local exchange area in Indiana in which the provider offers basic telecommunications service; and
- (2) may not, in any local exchange area in Indiana in which the provider offers basic telecommunications service, offer any service plan for basic telecommunications service that includes

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measured local service.

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

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

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

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

- (1) the commission's authority to mediate a dispute between providers under 47 U.S.C. 252(a);
- (2) the commission's authority to arbitrate a dispute between providers under 47 U.S.C. 252(b);
- (3) the commission's authority to approve an interconnection agreement under 47 U.S.C. 252(e), including the authority to establish service quality metrics and liquidated damages;
- (4) the commission's authority to review and approve a provider's statement of terms and conditions under 47 U.S.C. 252(f);
- (5) a provider's ability to file a complaint with the commission to have a dispute decided by the commission:
 - (A) after notice and hearing; and
 - (B) in accordance with this article; or
- (6) the commission's authority to resolve an interconnection dispute between providers under the expedited procedures set forth in 170 IAC 7-7.

(c) If a provider's rates and charges for intrastate switched or special access service are:

- (1) at issue in a dispute that the commission is authorized to mediate, arbitrate, or otherwise determine under state or federal

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law; or

(2) included in an interconnection agreement or a statement of terms and conditions that the commission is authorized to review or approve under state or federal law;

the commission shall consider the provider's rates and charges for intrastate switched or special access service to be just and reasonable if the intrastate rates and charges mirror the provider's interstate rates and charges for switched or special access service.

(d) If the commission requires a provider to file a tariff for intrastate switched access service, special access service, or any other service, the filing of the tariff with the commission serves as the public notice of the filing of the tariff. The commission shall provide the public with notice of tariff filings through the commission's Internet web site or other electronic means.

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

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

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

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

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

(A) the number of multichannel video programming

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- distributors offering video service to Indiana customers;
- (B) the technologies used to provide video service to Indiana customers; and
- (C) the effects of competition on the pricing and availability of video service in Indiana.

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

- (A) an identification of all telecommunications rules and policies that are eliminated by the commission under section 4.1 of this chapter during the two (2) most recent state fiscal years; and
- (B) an explanation why the telecommunications rules and policies identified under clause (A) are no longer in the public interest or necessary to protect consumers.

This subdivision expires June 30, 2013.

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

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

- (1) The effects of competition and technological change in the telecommunications industry and impact of competition on available subsidies used to maintain universal service.
- (2) The status of modernization of the publicly available telecommunications infrastructure in Indiana and the incentives required to further enhance this infrastructure.
- (3) The effects on economic development and educational opportunities of the modernization described in subdivision (2).
- (4) The current methods of regulating providers, at both the federal and state levels, and the effectiveness of the methods.
- (5) The economic and social effectiveness of current telecommunications service pricing.
- (6) All other telecommunications issues the committee deems appropriate.

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

(e) The regulatory flexibility committee shall meet on the call of the co-chairpersons to study telecommunications issues described in

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subsection (d). The committee shall, with the approval of the commission, retain the independent consultants the committee considers appropriate to assist the committee in the review and study. The expenses for the consultants shall be paid by the commission.

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

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

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

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

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

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

This subsection expires June 30, 2013.

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

~~(e)~~ **(d)** In carrying out this section, the commission shall promote the policies and purposes set forth in this chapter. Beginning in 2007, and in each odd-numbered year after 2007, the commission's annual

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report to the regulatory flexibility committee under section 4 of this chapter must:

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

This subsection expires June 30, 2013.

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

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

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

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

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

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

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

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

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- (1) ~~Subject to section 12 of this chapter,~~ Enforce the terms of a settlement agreement approved by the commission before July 29, 2004. The commission's authority under this subdivision continues for the duration of the settlement agreement.
- (2) Fulfill the commission's duties under IC 8-1-2.8 concerning the provision of dual party relay services to deaf, hard of hearing, and speech impaired persons in Indiana.
- (3) Fulfill the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.
- (4) Fulfill the commission's responsibilities under IC 8-1-29 to adopt and enforce rules to ensure that a customer of a telecommunications provider is not:
- (A) switched to another telecommunications provider unless the customer authorizes the switch; or
 - (B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.
- (5) Fulfill the commission's obligations under:
- (A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and
 - (B) IC 20-20-16;
- concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.
- (6) Perform any of the functions described in section 1.5(b) of this chapter.
- (7) ~~After June 30, 2009,~~ Perform the commission's responsibilities under IC 8-1-32.5 to:
- (A) issue; and
 - (B) maintain records of;
- certificates of territorial authority for communications service providers offering communications service to customers in Indiana.
- (8) Perform the commission's responsibilities under IC 8-1-34 concerning the issuance of certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.
- (9) ~~After June 30, 2009,~~ Require a communications service provider, other than a provider of commercial mobile service (as defined in 47 U.S.C. 332), to report to the commission on an

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annual basis, or more frequently at the option of the provider, any of the following information:

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

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

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

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

(B) Information concerning the:

(i) capacity;

(ii) location; and

(iii) planned or potential use;

of the communications service provider's dark fiber in Indiana.

(C) Information concerning the communications service offered by the communications service provider in Indiana, including:

(i) the types of service offered; and

(ii) the areas in Indiana in which the services are offered.

(D) and subject to section 4(f) of this chapter, any information needed by the commission to prepare the commission's report to the regulatory flexibility committee under section 4 of this chapter.

(E) Any other information that the commission is authorized to collect from a communications service provider under state or federal law.

The commission may revoke a certificate issued to a communications service provider under IC 8-1-32.5 if the communications service provider fails or refuses to report any information required by the commission under this subdivision. However, this subdivision does not empower the commission to require a communications service provider to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this subdivision.

(10) Perform the commission's duties under IC 8-1-32.4 with respect to telecommunications providers of last resort, to the

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extent of the authority delegated to the commission under federal law to perform those duties.

(11) Perform the commission's duties under IC 8-1-2-5 with respect to interconnection.

~~(12) Establish and administer the Indiana Lifeline assistance program under IC 8-1-36.~~

~~(13) After June 30, 2009;~~ **(12)** Collect and maintain from a **communications service** provider of **commercial mobile service** (as defined in 47 U.S.C. 332) the following information:

(A) The address of the provider's Internet web site.

(B) All toll free telephone numbers and other customer service telephone numbers maintained by the provider for receiving customer inquiries and complaints.

(C) An address and other contact information for the provider, including any telephone number not described in clause (B). The commission shall make any information submitted by a provider under this subdivision available on the commission's Internet web site. The commission may also make available on the commission's Internet web site contact information for the Federal Communications Commission and the Cellular Telephone Industry Association.

~~(14)~~ **(13)** Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.

~~(e) After June 30, 2009;~~ **(d)** The commission does not have jurisdiction over any of the following with respect to a communications service provider:

(1) Rates and charges for communications service provided by the communications service provider, including the filing of schedules or tariffs setting forth the provider's rates and charges.

(2) Depreciation schedules for any of the classes of property owned by the communications service provider.

(3) Quality of service provided by the communications service provider. ~~other than the imposition of a reporting requirement under subsection (d)(9)(A).~~

(4) Long term financing arrangements or other obligations of the communications service provider.

(5) Except as provided in subsection ~~(d)~~; **(c)**, any other aspect regulated by the commission under this title before July 1, 2009.

~~(f) After June 30, 2009;~~ **(e)** The commission has jurisdiction over a communications service provider only to the extent that jurisdiction is:

(1) expressly granted by state or federal law, including:

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- (A) a state or federal statute;
 - (B) a lawful order or regulation of the Federal Communications Commission; or
 - (C) an order or a ruling of a state or federal court having jurisdiction; or
- (2) necessary to administer a federal law for which regulatory responsibility has been delegated to the commission by federal law.

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

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

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

(2) a provider that:

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

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

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

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

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

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

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



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- (2) Perform the commission's duties under IC 8-1-19.5 concerning the administration of the 211 dialing code for communications service used to provide access to human services information and referrals.
- (3) Enforce rules adopted under IC 8-1-29 to ensure that a customer of a telecommunications provider is not:
 - (A) switched to another telecommunications provider unless the customer authorizes the switch; or
 - (B) billed for services by a telecommunications provider that without the customer's authorization added the services to the customer's service order.
- (4) Conduct proceedings under:
 - (A) the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq.); and
 - (B) IC 20-20-16;

concerning universal service and access to telecommunications service and equipment, including the designation of eligible telecommunications carriers under 47 U.S.C. 214.
- (5) Perform the commission's duties under IC 8-1-2.6-1.5 or IC 8-1-2-5.
- (6) Issue or maintain certificates of territorial authority for communications service providers under IC 8-1-32.5.
- (7) Perform the commission's duties under IC 8-1-34 to issue and maintain certificates of franchise authority to multichannel video programming distributors offering video service to Indiana customers.
- (8) Perform the commission's duties under ~~IC 8-1-2.6-13(d)~~**(9) IC 8-1-2.6-13(c)** concerning the reporting of information by communications service providers.
- ~~(9) Administer the Indiana lifeline assistance program under IC 8-1-36.~~
- ~~(10)~~ **(9)** Fulfill the commission's duties under any state or federal law concerning the administration of any universally applicable dialing code for any communications service.
- ~~(11)~~ **(10)** Perform the commission's duties under IC 8-1-2.3 with respect to assigned service areas for electricity suppliers.
- ~~(12)~~ **(11)** Issue:
 - (A) certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2;
 - (B) certificates of public convenience and necessity under IC 8-1-8.5; or

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(C) certificates of public convenience and necessity under IC 8-1-8.7.

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

SECTION 14. IC 8-1-32.5-6, AS AMENDED BY P.L.219-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 6. (a) Except as provided in subsection (c), before a communications service provider may offer communications service to customers in Indiana, the communications service provider must apply to the commission for a certificate of territorial authority. A communications service provider that seeks a certificate under this chapter shall submit an application on a form prescribed by the commission. Subject to subsection (e), the form prescribed by the commission must require the communications service provider to report the following information:

- (1) The provider's legal name and any name under which the provider does or will do business in Indiana, as authorized by the secretary of state.
- (2) The provider's address and telephone number, along with contact information for the person responsible for ongoing communications with the commission.
- (3) The legal name, address, and telephone number of the provider's parent company, if any.
- (4) A description of each service area in Indiana in which the provider proposes to offer communications service.
- (5) For each service area identified under subdivision (4), a description of each type of communications service that the provider proposes to offer in the service area.
- (6) For each communications service identified under subdivision (5), whether the communications service will be offered to residential customers or business customers, or both.
- (7) The expected date of deployment for each communications service identified under subdivision (5) in each service area identified in subdivision (4).
- (8) A list of other states in which the provider offers communications service, including the type of communications service offered.
- (9) Any other information the commission considers necessary to:
 - (A) monitor the type and availability of communications service provided to Indiana customers; and
 - (B) prepare the commission's annual report to the regulatory flexibility committee under IC 8-1-2.6-4.

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The commission may charge a fee for filing an application under this section. Any fee charged by the commission under this subsection may not exceed the commission's actual costs to process and review the application under section 8 of this chapter.

(b) A communications service provider shall also submit, along with the application required by subsection (a), the following documents:

(1) A certification from the secretary of state authorizing the provider to do business in Indiana.

(2) Information demonstrating the provider's financial, managerial, and technical ability to provide each communications service identified in the provider's application under subsection (a)(5) in each service area identified under subsection (a)(4).

(3) A statement, signed under penalty of perjury by an officer or another person authorized to bind the provider, that affirms the following:

(A) That the provider has filed or will timely file with the Federal Communications Commission all forms required by the Federal Communications Commission before offering communications service in Indiana.

(B) That the provider agrees to comply with any customer notification requirements imposed by the commission under section 11(b) of this chapter.

(C) That the provider agrees to update the information provided in the application submitted under subsection (a) on a regular basis, as may be required by the commission under section 12 of this chapter.

(D) That the provider agrees to notify the commission when the provider commences offering communications service in each service area identified in the provider's application under subsection (a)(4).

(E) That the provider agrees to pay any lawful rate or charge for switched and special access services, as required under any:

- (i) applicable interconnection agreement; or
- (ii) lawful tariff or order approved or issued by a regulatory body having jurisdiction.

(F) That the provider agrees to report, at the times required by the commission, any information required by the commission under ~~IC 8-1-2.6-13(d)(9)~~: **IC 8-1-2.6-13(c)(9)**.

(c) If:

(1) a communications service provider has been issued a:

(A) certificate of territorial authority; or

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- (B) certificate of public convenience and necessity;
 by the commission before July 1, 2009; and
 (2) the certificate described in subdivision (1) is in effect on July 1, 2009;

the communications service provider is not required to submit an application under this section for as long as the certificate described in subdivision (1) remains in effect. For purposes of this subsection, if a corporation organized under IC 8-1-13 (or a corporation organized under IC 23-17-1 that is an electric cooperative and that has at least one (1) member that is a corporation organized under IC 8-1-13) holds a certificate of public convenience and necessity issued by the commission before, on, or after July 1, 2009, that certificate may serve as the certificate required under this chapter with respect to any communications service offered by the corporation, subject to the commission's right to require the corporation to provide any information that an applicant is otherwise required to submit under subsection (a) or that a holder is required to report under ~~IC 8-1-2.6-13(d)(9)~~. **IC 8-1-2.6-13(c)(9)**.

(d) This section does not empower the commission to require an applicant for a certificate under this chapter to disclose confidential and proprietary business plans and other confidential information without adequate protection of the information. The commission shall exercise all necessary caution to avoid disclosure of confidential information supplied under this section.

(e) The form prescribed for a communications service provider that offers only a service described in IC 8-1-2.6-1.1 must require the communications service provider to report and certify the accuracy of only the information required under subsection (a)(1) and (a)(2).

SECTION 15. IC 8-1-32.5-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. A communications service provider, including a public utility that provides communications service, is not eligible for a property tax exemption under IC 6-1.1 for facilities and technologies used in the deployment and transmission of broadband service in an area where a communications service provider provides wireline broadband service.

SECTION 16. IC 8-1-36 IS REPEALED [EFFECTIVE JULY 1, 2013]. (Indiana Lifeline Assistance Program).

SECTION 17. IC 24-5-12-25 , AS AMENDED BY HEA 1376-2013, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 25. (a) If a person makes a

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

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

by a caller identification service (as defined in IC 24-5-14.5-3) when attempting to initiate a telephone conversation for the purpose of making a solicitation to a prospect.

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

SECTION 18. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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