

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. 494

AN ACT to amend the Indiana Code concerning state and local administration.

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

SECTION 1. IC 4-4-11.6-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 0.5. As used in this chapter, "2011 order" refers to the order of the commission issued on November 22, 2011, approving a purchase contract entered into on January 14, 2011.**

SECTION 2. IC 4-4-11.6-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. As used in this chapter, "business day" means a day other than a Saturday, Sunday, or legal holiday (as defined in IC 1-1-9-1).**

SECTION 3. IC 4-4-11.6-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE UPON PASSAGE]: **Sec. 10.5. As used in this chapter, a "savings" occurs, with respect to a purchase contract subject to review by the commission under section 14.5 of this chapter, when the purchase price of SNG paid by the authority under the purchase contract is less than the average market price of natural gas during intervals determined by the commission as set forth in section 14.5(b)(4) of this chapter.**

SECTION 4. IC 4-4-11.6-12, AS ADDED BY P.L.2-2009,



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SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. **(a)** The general assembly makes the following findings:

- (1) The furnishing of reliable supplies of reasonably priced natural gas for sales to retail customers is essential for the well being of the people of Indiana. Natural gas prices are volatile, and energy utilities have been unable to mitigate completely the effects of the volatility.
- (2) Long term contracts for the purchase of SNG between the authority and SNG producers will enhance the receipt of federal incentives for the development, construction, and financing of new coal gasification facilities in Indiana.
- (3) The authority's participation in and oversight of the purchase, sale, and delivery of SNG to retail end use customers is critical to obtain low cost financing for the construction of new coal gasification facilities.
- (4) Obtaining low cost financing for the construction of new coal gasification facilities is necessary to allow retail end use customers to enjoy the benefits of a reliable, reasonably priced, and long term energy supply.

(b) In addition to the findings set forth in subsection (a), the general assembly makes the following findings:

- (1) With respect to pending litigation concerning contracts entered into under this chapter, the general assembly defers to the constitutional role and independence of the judicial branch.**
- (2) The general assembly recognizes the expertise and independence of the commission in matters concerning Indiana's natural gas ratepayers.**
- (3) Legislative power includes the power to amend and repeal existing laws. The legislature has no power to enact a law or to make a contract or arrangement that in any way surrenders or abridges this legislative power. The act of one (1) legislature is not binding upon a future legislature.**
- (4) An action by a general assembly, including the enactment of legislation, to protect the public interest is a proper exercise of the police power and is not intended to impair a long term contract for the purchase of SNG.**
- (5) New discoveries of natural gas supplies and development of advanced drilling techniques may affect the determination of whether a long term contract for the purchase of SNG is in the public interest.**



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(6) Realizing savings at intervals during the term of a contract for the purchase of SNG protects retail end use customers and serves the public interest.

SECTION 5. IC 4-4-11.6-14, AS ADDED BY P.L.2-2009, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The authority, either directly or as an assignee of an energy utility, may enter into purchase contracts for the purchase of SNG from coal gasification facilities.

(b) The authority shall submit a final purchase contract the following to the commission for approval:

(1) The following:

(A) A purchase contract that is:

- (i) originally submitted to the commission for approval before January 1, 2012; and**
- (ii) subsequently amended, supplemented with addenda or agreements, or otherwise modified to amend the definition of retail end use customers in the purchase contract.**

(B) A purchase contract entered into after December 31, 2012.

(2) Any amendments, addenda, or other modifications made or added at any time to a purchase contract, regardless of when the purchase contract is entered into.

(3) Any other agreements entered into between the authority and a producer of SNG.

SECTION 6. IC 4-4-11.6-14.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14.5. (a) This section applies if an opinion by a court of appeal that does not affirm the 2011 order in its entirety is certified under Rule 65 of the Indiana Rules of Appellate Procedure.

(b) After notice and a hearing, the commission may approve, reject, or, before approval, require modification of a purchase contract submitted to the commission under section 14(b)(1) of this chapter if the commission finds that such action is in the public interest. The commission shall consider the following before finding that an action under this subsection is in the public interest:

- (1) Whether the purchase contract is structured in a way that lessens the impact of any price volatility in the natural gas market on retail end use customers.**
- (2) Whether the assumptions underlying the model used to calculate the purchase price of SNG under the purchase**

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contract, including assumptions about the future price of natural gas and coal and the value of future byproducts of the coal gasification facility, adequately apportion financial risk between the SNG producer and retail end use customers.

(3) The findings of any study conducted by the commission on the natural gas market and reported to the general assembly.

(4) Whether a purchase contract allows retail end use customers to realize savings during the term of the purchase contract at intervals established by the commission.

(5) Any other factors the commission considers necessary.

The commission shall issue a final order not more than one hundred eighty (180) business days after the date on which the authority submits the purchase contract to the commission under section 14(b)(1) of this chapter.

(c) A party that seeks to appeal an order issued under subsection (b) shall do so only through an expedited direct appeal to the Indiana supreme court under rules to be adopted by the Indiana supreme court.

(d) The commission may adopt rules under IC 4-22-2 to carry out the requirements of this section. A rule adopted under this subsection must establish filing and other procedural deadlines for all parties to a hearing under subsection (b).

SECTION 7. [EFFECTIVE UPON PASSAGE] (a) Not later than November 30, 2013, the Indiana utility regulatory commission created by IC 8-1-1-2 shall:

(1) conduct a study of the natural gas market, including:

(A) natural gas prices on both the open and captive markets; and

(B) the effect of the availability of substitute natural gas and shale gas on natural gas prices; and

(2) report the study results in an electronic format under IC 5-14-6 to the general assembly.

(b) This SECTION expires December 31, 2013.

SECTION 8. 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

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