

## **IC 8-1-13**

### Chapter 13. Rural Electric Membership Corporation Act

#### **IC 8-1-13-1**

##### **Short title**

Sec. 1. This chapter may be known and referred to as the "rural electric membership corporation act".

*(Formerly: Acts 1935, c.175, s.1.) As amended by P.L.59-1984, SEC.65.*

#### **IC 8-1-13-2**

##### **Incorporation; purpose**

Sec. 2. Any number of natural persons not less than eleven (11) may, by executing, filing and recording articles of incorporation as hereinafter provided, form a corporation not organized for pecuniary profit for the purpose of promoting and encouraging the fullest possible use of electric energy in the state by making electric energy available to inhabitants of rural areas of the state at the lowest cost consistent with sound economy and prudent management of the business of such corporations and/or by rendering other services to its members.

*(Formerly: Acts 1935, c.175, s.2; Acts 1937, c.258, s.1.)*

#### **IC 8-1-13-3**

##### **Definitions**

Sec. 3. The following terms whenever used or referred to in this chapter have the following meanings, unless a different meaning clearly appears from the context:

(a) "Corporation" means a corporation formed under this chapter.

(b) "Municipality" means any county, city, or town of this state.

(c) "Person" or "inhabitant" means natural persons, firms, associations, corporations, limited liability companies, business trusts, partnerships, and bodies politic.

(d) "Energy" means all electric energy no matter how generated or produced.

(e) "System" means any plant, works, system, facilities, or properties, together with all parts thereof and appurtenances thereto, used or useful in the furnishing of services.

(f) "Obligations" means negotiable bonds, interim certificates or receipts, notes, debentures, and all other evidences of indebtedness, either issued or the payment thereof assumed by the corporation.

(g) "Law" means any law of this state.

(h) "Federal agency" means the United States of America, the President of the United States of America, the federal emergency administrator of public works and any other authority, agency, or instrumentality of the United States of America, heretofore or hereafter created.

(i) "Acquire" means construction, obtaining by purchase, lease, devise, or gift, the exercise of the right of eminent domain in the manner provided by law for the exercise thereof, or other mode of

acquisition.

(j) "Improve" means to construct, reconstruct, improve, extend, enlarge, alter, better, or repair.

(k) "Board" means board of directors of a corporation formed under this chapter.

(l) "Member" means each person signing the articles of incorporation of a corporation and each person admitted to membership therein pursuant to law or the corporation's bylaws.

(m) "Service" or "services" means the furnishing of energy or other utility services incidental to development, operation, or maintenance of utility infrastructure and the rendering of related engineering, financial, accounting, economic development, or community development services, or educational services and related materials or equipment assisting in the establishment and maintenance of better communication between corporations and their members, or any of the same.

(n) As used in this chapter, the word "territory" when modified by the phrase "already being served with energy by any public or municipally owned utility" shall not be construed to include territory served by an electric distribution line or lines:

(1) acquired prior to March 1, 1980, from a public or municipally owned utility by a corporation formed or admitted to do business in this state under this chapter; or

(2) acquired on or after March 1, 1980, from a public or municipally owned utility by such a corporation;

if the Indiana utility regulatory commission, after public hearing, finds that public convenience and necessity would be best served by, and authorizes, such acquisition, and if the electric distribution line or lines, together with all other facilities proposed to be purchased, have a reproduction cost new, less depreciation, of not more than three hundred thousand dollars (\$300,000) and are not located in whole or in part in any city or town having a population in excess of one thousand five hundred (1,500); however, the dollar and population limitations do not apply if the acquisition is agreed to in all respects by all affected electricity suppliers and is approved by the commission.

(o) As used in this chapter, "commission" refers to the Indiana utility regulatory commission.

*(Formerly: Acts 1935, c.175, s.3; Acts 1937, c.258, s.2; Acts 1945, c.155, s.1; Acts 1951, c.162, s.1; Acts 1953, c.23, s.1; Acts 1969, c.116, s.1.) As amended by Acts 1980, P.L.69, SEC.3; P.L.121-1987, SEC.1; P.L.8-1993, SEC.123; P.L.95-1993, SEC.1; P.L.1-1994, SEC.33; P.L.109-1995, SEC.1; P.L.81-1998, SEC.1; P.L.198-1999, SEC.1.*

#### **IC 8-1-13-4**

##### **Articles of incorporation**

Sec. 4. (a) The articles of incorporation shall be entitled and endorsed either "Articles of Incorporation of \_\_\_\_\_ Rural Electric Membership Corporation" or Articles of Incorporation of

\_\_\_\_\_ Rural Electric Cooperative, Inc." (the blank space being filled in with the distinguishing part of the name of the corporation) and shall state the following:

- (1) The name of the corporation, which name shall be such as to distinguish it from any other corporation.
- (2) A reasonable description of the territory in which its operations are to be conducted, and which shall not include any incorporated city or town having a population in excess of fifteen hundred (1500) inhabitants at the time such articles are first approved by the commission, or any territory, whether within or without any incorporated city or town, already being served with energy by any public or municipally owned utility.
- (3) The location of its principal offices and the post office address thereof.
- (4) The maximum number of directors, not less than three (3).
- (5) The names and post office addresses of the directors, not less than three (3), who are to manage the affairs of the corporation for the first year of its existence, or until their successors are chosen.
- (6) The period, if any, limited for the duration of the corporation. If the duration of the corporation is to be perpetual, this fact should be stated.
- (7) The terms and conditions upon which members of the corporation shall be admitted.

(b) The articles of incorporation of a corporation may also contain any provision not contrary to law which the incorporators may choose to insert for the regulation of its business and for the conduct of the affairs of the corporation; and any provisions creating, defining, limiting, or regulating the powers of the corporation, its directors and members.

*(Formerly: Acts 1935, c.175, s.4; Acts 1937, c.258, s.3; Acts 1939, c.105, s.2; Acts 1953, c.48, s.1.) As amended by P.L.23-1988, SEC.46.*

### **IC 8-1-13-5**

#### **Articles of incorporation; action by commission**

Sec. 5. (a) The natural persons executing the articles of incorporation shall be residents of the territory in which the operations of the corporation are to be conducted who are desirous of using electric energy to be furnished by the corporation. The articles of incorporation shall be executed in as many copies as there are counties, any part or parts of which are included in the territory in which the operations of the corporation are to be conducted and shall be acknowledged by the subscribers before an officer authorized by the laws of this state to take acknowledgments of deeds. When so acknowledged the articles of incorporation shall be submitted to the commission together with a petition executed by one (1) or more of the natural persons executing the said articles of incorporation praying the commission to grant a certificate of public convenience and necessity for the organization and operations of the

proposed corporation. Upon the filing of such articles and petition with the commission, said commission shall set the said petition for public hearing and shall give notice of the time and place of such hearing by publication one (1) time in at least one (1) newspaper printed and published in each of the counties in which the said corporation proposes to carry on its operations, which publication shall be had at least ten (10) days prior to the date set for such hearing, the cost of such publications to be paid by the petitioners at the time of filing said petition. Any interested person may appear at such hearing either in person or by attorney and oppose the prayer of said petition. The commission, after hearing the evidence introduced at said hearing, shall enter a finding either that the convenience and necessity of the public proposed to be served in the territory in which the operations of the corporation are to be conducted will or will not be served by the organizations and operations of the proposed corporation. If such finding be in the affirmative, the commission shall enter an order approving the organization of such corporation and the proposed articles of incorporation and shall attach a copy of said order to each copy of the said articles of incorporation. If the said finding be in the negative, the commission shall enter an order denying the approval of the said articles of incorporation.

(b) If the commission approve the said articles of incorporation as herein above provided, the same shall be filed together with the attached copy of the order of the commission in the office of the secretary of state who shall forthwith endorse his approval thereon and file one (1) of said copies in his office and deliver all other copies thereof with his approval endorsed thereon to the incorporators who shall thereupon file one (1) of the said approved copies of said articles in the office of the county recorder in each county in which a portion of the territory proposed to be served by the corporation is located. As soon as the provisions of this section have been complied with, the proposed corporation described in the articles so filed, under its designated name, shall be and constitute a body corporate.

*(Formerly: Acts 1935, c.175, s.5.) As amended by P.L.23-1988, SEC.47.*

### **IC 8-1-13-6**

#### **Board of directors**

Sec. 6. (a) Each corporation formed under this chapter shall have a board of directors that constitutes the governing body of the corporation. The directors must be members, or if the corporation's bylaws so provide, a member's officers, directors, or partners, or the owner of a member that is a sole proprietorship may be directors of the corporation. Directors other than those named in the corporation's articles of incorporation shall be elected by the members entitled to vote for the directors. Unless the bylaws of the corporation provide otherwise, the directors shall be elected annually. The bylaws may provide that:

- (1) the directors may hold office for any stated period not

exceeding three (3) years;

(2) the directors be elected so that the terms of only part of the directors expire at any one time; and

(3) only enough directors to succeed those whose terms are about to expire are elected in any year.

(b) The bylaws may provide that the territory where the members of the corporation reside be apportioned into districts and prescribe the procedure by which the members residing in any one (1) district may nominate a director.

(c) The bylaws may specify a fair remuneration for the time actually spent by its officers, directors, and members of its executive committee in the performance of their duties and provide that the remuneration be paid to the officers, directors, and members of the executive committee. The officers, directors, and members of the executive committee are entitled to reimbursement for expenses incurred in the performance of their duties whether or not the bylaws provide that they be remunerated for their time spent in the performance of those duties. The board shall annually designate and elect those officers it considers necessary.

*(Formerly: Acts 1935, c.175, s.6; Acts 1939, c.105, s.1.) As amended by P.L.109-1989, SEC.1; P.L.198-1999, SEC.2.*

#### **IC 8-1-13-7**

##### **Board of directors; powers and duties**

Sec. 7. The board shall have power to do all things necessary or convenient in conducting the business of the corporation, including but not limited to:

(a) The power to make, alter, amend or repeal by-laws for the regulation and management of the affairs of the corporation not inconsistent with law or with the articles of incorporation.

(b) To appoint agents and employees and to fix their compensation and the compensation of the officers of the corporation.

(c) To execute instruments.

(d) To delegate to one (1) or more of the directors or to the agents and employees of a corporation such powers and duties as it may deem proper.

(e) To make its own rules and regulations as to its procedure.

*(Formerly: Acts 1935, c.175, s.7; Acts 1937, c.258, s.4.)*

#### **IC 8-1-13-8**

##### **Membership certificates; meetings of members**

Sec. 8. (a) A corporation may issue to its members certificates of membership and each member shall be entitled to only one (1) vote at any regular or special meeting of the corporation.

(b) Meetings of members may be held at such place as may be provided in the by-laws. An annual meeting of the members shall be held at such time as may be provided by the by-laws. Special meetings may be called by the president, by the board of directors, by a petition signed by not less than one-twentieth (1/20) of all the

members or by such other officers or persons as may be provided in the articles of incorporation or the by-laws.

(c) Written or printed notice stating the place, day and hour of the meeting of members, and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than ten (10) nor more than thirty (30) days before the date of the meeting, either personally or by mail, by or at the direction of the president or the secretary, or the officers or persons calling the meeting, to each member of record entitled to vote at such meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope addressed to the member at his address as it appears on the records of the corporation, with postage thereon prepaid. Notice of meetings of members may be waived in writing.

(d) Unless otherwise provided in the articles of incorporation, one-fiftieth (1/50) of all the members of the corporation present in person at any meeting of members, of which meeting notice shall have been given as provided in the foregoing subdivision (c) of this section, shall constitute a quorum for the transaction of business at such meeting.

(e) Except as otherwise specifically provided in this chapter, a majority vote of those members who are voting at any regular meeting, or at any special meeting of the members called for that purpose, shall be necessary for the taking of any action, adoption of any resolution, or the election of any directors, or otherwise, as the case may be. Provided, that if more than two (2) persons are running for election as a director from the same district then the person receiving the most votes shall be elected.

*(Formerly: Acts 1935, c.175, s.8; Acts 1937, c.258, s.5.) As amended by Acts 1977, P.L.102, SEC.1.*

### **IC 8-1-13-9**

#### **Conditions of membership; restrictions to providing services**

Sec. 9. (a) The corporate purpose of each corporation formed under this chapter shall be to render services to or for the benefit of its members and no person shall become or remain a member of any local district corporation, defined in section 23 of this chapter, unless such person shall use energy supplied by such corporation and shall have complied with the terms and conditions in respect to membership contained in the bylaws of such corporation.

(b) Notwithstanding IC 8-1-2.7, a corporation or any subsidiary or affiliate thereof may not begin water service in any area unless both of the following apply:

- (1) The corporation has filed a petition with the commission seeking authority to begin water service.
- (2) The commission has found after a hearing that public convenience and necessity require the proposed service.

In connection with the petition, the commission may adopt conditions and restrictions on the area and consumers to be served that the commission finds consistent with the public interest. The

commission may revoke, modify, or amend a finding of public convenience and necessity upon a showing of good cause after a hearing.

*(Formerly: Acts 1935, c.175, s.9; Acts 1937, c.258, s.6.) As amended by P.L.59-1984, SEC.66; P.L.109-1995, SEC.2; P.L.81-1998, SEC.2.*

#### **IC 8-1-13-10**

##### **Powers of corporation**

Sec. 10. Each corporation formed under this chapter is hereby vested with all powers necessary or requisite for the accomplishment of its corporate purpose and capable of being delegated by the general assembly of the state of Indiana, and no enumeration of particular powers hereby granted shall be construed to impair any general grant of power contained in this section, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.

*(Formerly: Acts 1935, c.175, s.10.) As amended by P.L.59-1984, SEC.67.*

#### **IC 8-1-13-11**

##### **Enumerated powers of corporation**

Sec. 11. A corporation created under this chapter may do any and all acts or things necessary or convenient for carrying out the purpose for which it was formed, including the following powers:

- (1) To sue and be sued.
- (2) To have a seal and alter the same at pleasure.
- (3) To acquire, hold and dispose of property, real and personal, tangible and intangible, or any interest in the property and to pay in cash or on credit, and to secure and procure payment of all or any part of the purchase price on the terms and conditions as the board shall determine.
- (4) To acquire, own, exchange, operate, maintain, and improve a system or systems.
- (5) To pledge all or any part of its revenues or mortgage or otherwise encumber all or any part of its property for the purpose of securing the payment of the principal of and interest on any of its obligations.
- (6) To construct, operate, and maintain works across or along any street or public highway, or over any lands which are now or may be the property of this state or any political subdivision thereof, after obtaining the necessary franchise or permit therefor. Before any works are constructed across or along a highway in the state highway system, the corporation shall obtain the permit of the Indiana department of transportation to do so, and the location and setting of the works shall be approved by and subject to the supervision of the Indiana department of transportation. Before any works are constructed on or across lands belonging to the state, the corporation shall first obtain the permit of the department of the state having charge of the lands to do so, and the location and setting of the

works shall be approved by and subject to the supervision of the department. The works shall be erected and maintained so as not to interfere with the use and maintenance of the streets, highways, and lands, and no pole or appliance shall be located so as to interfere with the ingress or egress from any premises on the street or highway. Nothing in this section shall deprive the body having charge of the street or highway to require the relocation of any pole or appliance which may affect the proper use of the street or highway for public travel, for drainage or for the repair, construction, or reconstruction of the street or highway. The corporation shall restore the street, highway, or lands to its former condition or state as near as may be and shall not use the same in a manner to impair unnecessarily its usefulness or to injure the property of others.

(7) To accept gifts or grants of property, real or personal, from any person, municipality, or federal agency and to accept voluntary and uncompensated services.

(8) To make any and all contracts necessary or convenient for the full exercise of the powers in this chapter granted, including, without limiting the generality of the foregoing, contracts with any person, federal agency, or municipality for the purchase of energy needed by the corporation to supply its members; for the management and conduct of the business of the corporation; for the fixing of the rates, fees, or charges for service rendered or to be rendered by the corporation subject, however, to the approval of the commission as to all the rates, fees, or charges for energy in the same manner and to the same extent as is provided by law for the regulation of the rates, fees, or charges of public utilities.

(9) To sell, lease, mortgage, or otherwise encumber or dispose of all or any part of its property as provided in this chapter.

(10) To contract debts, borrow money, and to issue or assume the payment of obligations.

(11) To levy and collect reasonable fees, rents, tolls, and other charges for service rendered, subject to the approval of the commission.

(12) To perform any and all of the foregoing acts and to do any and all of the foregoing things under, through or by means of its own officers, agents, and employees, or by contracts with any person, federal agency, or municipality.

(13) To exercise the right of eminent domain in the manner provided by law.

(14) To recover, after a period of two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and are the result of distributable savings of the corporation returned to the members on a pro rata basis pursuant to section 17 of this chapter.

*(Formerly: Acts 1935, c.175, s.11; Acts 1937, c.258, s.7.) As amended by Acts 1977, P.L.102, SEC.2; Acts 1980, P.L.74, SEC.35;*

*Acts 1981, P.L.106, SEC.1; P.L.23-1988, SEC.48; P.L.18-1990, SEC.27.*

### **IC 8-1-13-12**

#### **Sale, encumbrance, or other disposition of property**

Sec. 12. (a) No corporation may sell, lease, or otherwise dispose of all, or substantially all, the property of the corporation unless (1) the same shall be authorized by a resolution duly adopted at a meeting of its members duly called and held as provided in section 8 of this chapter, which resolution shall have received the affirmative vote of at least a majority of all its members and unless (2) the same shall be approved by the commission.

(b) The board of directors of a corporation shall have full power and authority, without authorization by the members thereof, to authorize the execution and delivery of a mortgage, or mortgages, or a deed or deeds of trust of, or the pledging or encumbering of, any of or all the property, assets, rights, privileges, licenses, franchises and permits of the corporation, whether acquired or to be acquired and wherever situated, as well as the revenues therefrom, for the purpose of financing the construction or maintenance of the corporations' distribution or transmission system or systems, and for general plant as defined in the uniform system of accounts prescribed by the commission, all upon such terms and conditions as the board of directors shall determine, to secure any indebtedness of the corporation to any federal agency or to any financial institution, which action of the board of directors shall not be subject to the approval of the commission if the corporation has a mortgage with any federal agency.

*(Formerly: Acts 1935, c.175, s.12; Acts 1937, c.258, s.8; Acts 1953, c.47, s.1; Acts 1969, c.117, s.1; Acts 1971, P.L.83, SEC.1.) As amended by Acts 1977, P.L.102, SEC.3; P.L.23-1988, SEC.49.*

### **IC 8-1-13-13**

#### **Obligations in anticipation of revenue; authority to issue**

Sec. 13. (a) Subject to the approval of the commission, a corporation formed under this chapter may, from time to time, issue its obligations in anticipation of its revenues for any corporate purpose.

(b) Those obligations may be authorized by resolution of the board and may bear a date, mature at a time not exceeding forty (40) years from their respective dates, bear interest at a rate, be in denominations, be in a form, either coupon or registered, carry registration privileges, be executed in a manner, be payable in a medium of payment, at a place, and be subject to terms of redemption as provided in the resolution. The obligations may be sold in a manner and upon terms as determined by the board.

(c) Notwithstanding any other law, any obligations and the interest coupon pertaining to the obligation, if any, issued under this chapter, possess all of the qualities of negotiable instruments. However, approval of the commission is not required when a

corporation has a mortgage with any federal agency.  
*(Formerly: Acts 1935, c.175, s.13; Acts 1969, c.117, s.2; Acts 1971, P.L.83, SEC.2.) As amended by Acts 1977, P.L.102, SEC.4; P.L.23-1988, SEC.50; P.L.109-1989, SEC.2.*

#### **IC 8-1-13-14**

##### **Obligations; covenants or agreements**

Sec. 14. In connection with the issuance of any obligations, a corporation may make such covenants or agreements and do any and all such acts and things as may be necessary or convenient or desirable in order to secure its obligations or which, in the absolute discretion of the board tend to make the obligations more marketable, notwithstanding that such covenants, agreements, acts and things may constitute a limitation on the exercise of the powers herein granted.

*(Formerly: Acts 1935, c.175, s.14.)*

#### **IC 8-1-13-15**

##### **Purchase; own obligations**

Sec. 15. A corporation may, out of any funds available for that purpose, purchase any obligations issued by it at a price determined by resolution of the board together with accrued interest on the obligations. All obligations purchased in that manner shall be cancelled.

*(Formerly: Acts 1935, c.175, s.15.) As amended by P.L.109-1989, SEC.3.*

#### **IC 8-1-13-16**

##### **Consolidation or merger; mutual benefit corporations**

Sec. 16. (a) Any corporation created under the provisions of this chapter may enter into an agreement for the consolidation or merger of such a corporation with:

- (1) any other corporation organized under this chapter; or
- (2) any mutual benefit corporation that was organized before 1964 under Acts 1935, c. 157, that engages in the generation, transmission, or distribution of electric energy.

(b) An agreement under subsection (a) must set forth the terms and conditions of the consolidation or merger, the name of the proposed consolidated or merged corporation, the number of its directors, not less than five (5), the time of the annual election and the names of the persons, not less than five (5), to be directors upon completing the consolidation or merger. The agreement must specify the terms the directors will serve. A corporation organized under this chapter shall duly call and hold a meeting of its members, as provided in section 8 of this chapter, at which the proposal of such consolidation or merger shall be presented. A mutual benefit corporation must approve the merger in accordance with IC 23-17-19-3. With respect to such a merger, the agreement may provide that the surviving corporation may have one (1) or more members that are incorporated under the laws of a state other than

Indiana. If at each such meeting, the aforesaid agreement is approved by a resolution duly adopted and receiving the affirmative vote of at least a majority of all the members of the respective corporation voting at the meeting, the directors named in the agreement shall subscribe and acknowledge articles conforming substantially to the original articles of incorporation, except that it shall be entitled and endorsed "Articles of consolidation (merger) of \_\_\_\_\_" (the blank space being filled in with the names of the corporations being consolidated or merged) and shall state:

- (1) The names of the corporations being consolidated or merged.
- (2) The name of the consolidated or merged corporation.
- (3) The other items required or permitted to be stated in original articles of incorporation.

(c) Articles of consolidation or merger under this section or a certified copy or copies thereof shall be filed in the office of the secretary of state and thereupon the proposed consolidated or merged corporation, under its designated name, shall be and constitute a body corporate with all the powers of a corporation as originally formed hereunder. In the case of a merger of a corporation organized under this chapter and a mutual benefit corporation, IC 23-17-19-5 applies.

*(Formerly: Acts 1935, c.175, s.16; Acts 1937, c.258, s.9.) As amended by Acts 1977, P.L.102, SEC.5; P.L.83-1997, SEC.1.*

#### **IC 8-1-13-17**

##### **Services, facilities, and charges; sinking fund; REA borrowers**

Sec. 17. (a) A corporation shall furnish reasonably adequate services and facilities. The charge made by any corporation for any service rendered or to be rendered, either directly or in connection therewith, shall be nondiscriminatory, reasonable, and just, and every discriminatory, unjust, or unreasonable charge for the service is prohibited.

(b) A reasonable and just charge for service within the meaning of this section are charges that produce sufficient revenue:

- (1) to pay all legal and other necessary expense incident to the operation of its system, to include maintenance cost, operating charges, upkeep, depreciation and amortization, repairs, and interest charges on bonds or other obligations;
- (2) to provide a sinking fund for the liquidation of bonds or other evidences of indebtedness;
- (3) to provide adequate funds to be used as working capital, as well as funds for making extensions and replacements (to the extent not provided for through depreciation);
- (4) to meet reasonable financial agreements entered into by the corporation in the process of securing capital; and
- (5) for the payment of any taxes that may be assessed against the corporation or its property.

(c) The purpose of this section is to ensure that the charges produce an income sufficient to maintain the corporation property in

a sound physical and financial condition to render adequate and efficient service. Any rate too low to meet the requirements of this section is unlawful.

(d) Revenues and receipts not needed for the purposes of this section shall be returned to the members on an equitable basis, either in cash or in abatement of current charges for energy, as the board may decide.

(e) As used in subsections (g) and (h), "financial assistance" means:

- (1) a loan or loan guarantee; or
- (2) a lien accommodation provided to secure a loan made by another lender;

that is made by the Rural Electrification Administration of the United States Department of Agriculture (REA).

(f) As used in subsections (g) and (h), "REA borrower" means a corporation created under this chapter that is the recipient of financial assistance.

(g) In determining rates under this section, once the commission determines that property of an REA borrower is reasonably necessary for the provision of electric service and has been placed in service, the commission shall approve rates to be charged by the REA borrower sufficient to enable the REA borrower to:

- (1) satisfy its reasonable expenses and obligations; and
- (2) repay the full amount of any financial assistance and the interest thereon.

(h) So long as there remains any unpaid portion of any financial assistance associated with the property of an REA borrower determined under subsection (g) to be reasonably necessary and placed in service, the rates of the REA borrower shall be set at a level sufficient to repay the financial assistance, regardless of any change in the regulatory status of the property, including, without limitation, the full or partial retirement of the property or any other change in the status of the property as reasonably necessary or used and useful.

(i) Subsections (g) and (h) do not apply to a corporation that is not created under this chapter, whether or not the rates of the corporation are set by the commission under this section.

*(Formerly: Acts 1935, c.175, s.17.) As amended by P.L.121-1987, SEC.2; P.L.109-1989, SEC.4; P.L.74-1991, SEC.2; P.L.1-1992, SEC.31.*

## **IC 8-1-13-18**

### **Rates and charges; jurisdiction and powers of commission**

Sec. 18. A corporation is subject to the jurisdiction of the commission for the purpose of fixing rates to be charged to members of the corporation for energy, and for the purpose of service area assignments under IC 8-1-2.3.

*(Formerly: Acts 1935, c.175, s.18; Acts 1937, c.258, s.10; Acts 1939, c.105, s.3; Acts 1951, c.162, s.2.) As amended by Acts 1980, P.L.69, SEC.4; P.L.121-1987, SEC.3; P.L.23-1988, SEC.51.*

## **IC 8-1-13-18.5**

### **Withdrawal from jurisdiction of commission**

Sec. 18.5. (a) Except as provided in subsection (i), a corporation organized under this chapter or a corporation organized under IC 23-17 whose membership includes one (1) or more corporations organized under this chapter may withdraw from the jurisdiction of the commission. A corporation organized under this chapter that withdraws from the jurisdiction of the commission must comply with all provisions of this chapter that do not directly concern the commission and must continue to pay the public utility fee required under IC 8-1-6. A member of a corporation that has withdrawn from the commission's jurisdiction shall have reasonable access to the meetings and the minutes of the meetings of the corporation's board of directors, except for executive sessions that concern personnel matters and confidential or proprietary matters that may:

- (1) invade the privacy of a member or an employee of the corporation; or
- (2) impair the corporation's bargaining, legal, or competitive position;

if the matter is disclosed to the member.

(b) A corporation that proposes to withdraw under this chapter from the jurisdiction of the commission must first obtain the approval of the members.

(c) The board of a corporation that proposes to withdraw under this chapter from the jurisdiction of the commission must conduct a referendum of the members of the corporation to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.

(d) A board must send written notice of the board's intent to conduct a referendum to the commission before the board may conduct the referendum.

(e) A referendum may be conducted at an annual or special meeting of the members held under section 8 of this chapter if a quorum is present.

(f) Written notice of a meeting at which a referendum is to be conducted must be sent to every member not less than thirty (30) days before the date of the meeting. The notice must contain the following information:

- (1) The place, date, and hour of the meeting.
- (2) The fact that a referendum will be conducted at the meeting to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.
- (3) The fact that no proxies will be permitted to determine whether the members approve of the removal of the corporation from the jurisdiction of the commission.

(g) A board shall distribute secret ballots to the members present at the meeting. The ballots must be in a form substantially equivalent to the following:

\_\_\_ YES. I want the corporation to withdraw from the jurisdiction of the commission.

\_\_\_ NO. I want the corporation to remain under the jurisdiction of the commission.

Only those members present in person at the meeting may vote. Each member is entitled to one (1) vote on the question of the corporation's withdrawal from jurisdiction of the commission. If a majority of the members present vote in favor of withdrawing from the jurisdiction of the commission, the withdrawal is effective thirty (30) days after the date of the vote. If less than a majority of the members vote in favor of withdrawing the corporation from jurisdiction of the commission, the corporation is prohibited from conducting another referendum concerning withdrawal for eighteen (18) months following the date of the meeting at which the vote was taken. Parties aggrieved by the conduct of the referendum must file an action in the circuit or superior court with jurisdiction in the county where the corporation has the corporation's principal office to allege noncompliance with this section not more than thirty (30) days after the date of the vote.

(h) If a corporation withdraws from jurisdiction of the commission, the corporation's secretary shall not more than five (5) days after the date of the vote send a verified certification of the vote to the commission affirming that all the requirements of this section were met and include all of the following:

- (1) The total membership of the corporation.
- (2) The total number of members voting in the referendum.
- (3) The actual vote, for and against withdrawal.

(i) If a corporation withdraws from the jurisdiction of the commission, the commission shall continue to exercise jurisdiction over the corporation only as to the following:

- (1) Electric service area assignments under IC 8-1-2.3.
- (2) Certificates of public convenience and necessity, certificates of territorial authority, and indeterminate permits under IC 8-1-2, IC 8-1-8.5, or IC 8-1-8.7.
- (3) Water utility disputes under IC 8-1-2-86.5.

(j) Whenever two (2) or more corporations organized under this chapter consolidate or merge under section 16 of this chapter, and one (1) but not all of the corporations has withdrawn from the jurisdiction of the commission under this section, the consolidated or merged corporation is under the jurisdiction of the commission until the consolidated or merged corporation withdraws from jurisdiction of the commission under this section, unless the agreement for consolidation or merger approved under section 16 of this chapter includes the withdrawal from the jurisdiction of the commission under this section.

(k) A board of a corporation that has withdrawn from the jurisdiction of the commission under this section must conduct a referendum of the corporation's members to determine whether the corporation should return to the jurisdiction of the commission upon receipt of:

- (1) a petition for a referendum signed by not less than fifteen percent (15%) of the corporation's members; or

(2) a resolution ordering a referendum adopted by a majority vote of the board of directors of the corporation.

Upon receipt of the petition or adoption of the resolution by the board, the board shall inform the commission of the petition or resolution and shall thereafter conduct a referendum at the next annual meeting of the corporation held under section 8 of this chapter, or if the next annual meeting is more than ninety (90) days after the date the petition was received or resolution for referendum was adopted by the board, then at a special meeting called by the board and held not more than ninety (90) days after receipt of the petition or adoption of the resolution. The process provided in subsections (d), (e), (f), (g), and (h) shall be followed when conducting a referendum under this subsection, except the form of the ballots must be as follows:

\_\_\_ YES. I want the corporation to return to the jurisdiction of the commission.

\_\_\_ NO. I want the corporation to remain outside the jurisdiction of the commission.

If a corporation returns to the jurisdiction of the commission, the commission shall resume all the jurisdiction it would have if the corporation had not withdrawn, effective thirty (30) days following the date the referendum was conducted. If less than a majority of the members voting at the referendum vote in favor of returning to the jurisdiction of the commission, a referendum on the question presented at the referendum may not be conducted for eighteen (18) months following the date of the vote.

*As added by P.L.109-1995, SEC.3. Amended by P.L.42-2005, SEC.1.*

### **IC 8-1-13-19**

#### **Repealed**

*(Repealed by Acts 1980, P.L.69, SEC.5.)*

### **IC 8-1-13-20**

#### **Repealed**

*(Repealed by Acts 1980, P.L.69, SEC.5.)*

### **IC 8-1-13-21**

#### **Dissolution of corporation**

Sec. 21. Any corporation created under this chapter may be dissolved by filing in the office of the secretary of state articles of dissolution which shall be entitled and indorsed "Articles of dissolution of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and shall state:

(a) Name of the corporation and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the names of the original corporations.

(b) The date of filing of the articles of incorporation in the office of secretary of state and, if such corporation is a corporation resulting from a consolidation as provided in this chapter, the dates on which the articles of incorporation of the

original corporations were filed in the office of secretary of state.

(c) That the corporation elects to dissolve.

(d) The name and post office address of each of its directors, and the name, title, and post office address of each of its officers.

Such articles shall be subscribed and acknowledged in the same manner as original articles of incorporation by the president or vice president and the secretary or an assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted by the members of each corporation at meetings thereof duly called and held as provided in section 8 of this chapter. Articles of dissolution and/or a certified copy or copies thereof shall be filed in the same places as original articles of incorporation and thereupon the corporation shall be deemed to be dissolved. Such corporation shall continue for the purpose of paying, satisfying, and discharging any existing liabilities or obligations and collecting or liquidating its assets, and doing all other acts required to adjust and wind up its business and affairs, and may sue and be sued, in its corporate name. Any assets remaining after all liabilities or obligations of the corporation have been satisfied or discharged shall pass to and become the property of the state.

*(Formerly: Acts 1935, c.175, s.19; Acts 1937, c.258, s.11.) As amended by P.L.59-1984, SEC.68.*

### **IC 8-1-13-22**

#### **Articles of incorporation; amendment; change of name; change of territory**

Sec. 22. (a) A corporation created under this chapter may amend its articles of incorporation to change its corporate name, to increase or reduce the number of its directors or change any other provisions therein; however, no corporation shall amend its articles of incorporation to embody therein any purpose, power, or provision which would not be authorized if its original articles of incorporation, including such additional or changed purpose, power, or provision were offered for filing at the time articles under this section are offered. Such amendment may be accomplished by filing articles of amendment in the office of the secretary of state which shall be entitled and endorsed "Articles of amendment of \_\_\_\_\_" (the blank space being filled in with the name of the corporation) and state:

- (1) The name of the corporation, and if it has been changed, the name under which it was originally incorporated.
- (2) The date of filing the articles of incorporation in each public office where filed.
- (3) Whether the territory served or to be served by the corporation is to be changed and, if so, whether it is to be increased or decreased.
- (4) The purposes, powers, or provisions, if any, to be amended

or eliminated and the purposes, powers, or provisions, if any, to be added or substituted.

(b) Such articles shall be subscribed in the name of the corporation by the president or a vice president, and by the secretary or the assistant secretary, who shall make and annex an affidavit stating that they have been authorized to execute and file such articles by a resolution duly adopted at a meeting of the corporation duly called and held as provided in section 8 of this chapter, or upon waiver of notice signed by all the members of the corporation. If by any such amendment to articles of incorporation, the territory proposed to be served by the corporation is to be increased or decreased, the articles of amendment, together with a petition executed by the secretary or assistant secretary of the corporation and praying for the permission of the commission shall be submitted to such commission. Thereupon, the commission shall set said petition for public hearing and shall give notice of the time and place thereof one (1) time in at least one (1) newspaper published in each of the counties in which lies any of the territory proposed to be added or omitted by such amendment, which publication shall be at least ten (10) days before such hearing; the cost of such publication shall be paid by the petitioner when filing such petition.

(c) Any interested person may appear, personally or by attorney, at such hearing and aid or oppose the prayer of the petition. After such hearing, the commission shall grant or deny the petition and make its order accordingly.

(d) No amendment increasing or decreasing the territory to be served by such corporation shall be filed in the office of the secretary of state unless there be attached thereto a certified copy of an order from the commission consenting to such increase or decrease. Such articles shall be filed in the office of the secretary of state and thereupon the amendment shall be deemed to have been effected.

*(Formerly: Acts 1935, c.175, s.20; Acts 1937, c.258, s.12; Acts 1939, c.105, s.4.) As amended by Acts 1977, P.L.102, SEC.6; P.L.23-1988, SEC.52.*

### **IC 8-1-13-23**

#### **Classification of corporations; general district corporation and local district corporation distinguished**

Sec. 23. Any corporation to be formed under this chapter shall be either a general district corporation or a local district corporation.

(a) A general district corporation is a corporation formed under this chapter for the purpose of furnishing services to local district corporations. A general district corporation may be formed to do business in all, or a stated number of the counties of this state. No such corporation shall have the authority or right to do business with a local district corporation in any county already named as a part of the territory of another general district corporation unless, prior to its incorporation, consent for it to transact business in that county shall have been given by the existing general district corporation or corporations then authorized to furnish services to the local district

corporations in that county. However, nothing in this chapter shall be construed to allow such a newly formed general district corporation to engage in the business to acquire, own, operate, maintain, and improve a system or systems. A general district corporation may be organized by:

- (1) a group consisting of one-third (1/3) of the heads of farm families in all the counties included;
- (2) the directors of an association of agricultural producers, the members of which reside in nine-tenths (9/10) of the counties named within the said corporation's territorial limits;
- (3) the directors of the county or regional stockholder corporations within the state having as stockholders or members more than seventy-five thousand (75,000) producers of agricultural products within the state of Indiana; or
- (4) the board of directors of another general district corporation organized under this chapter.

(b) A local district corporation is a corporation formed under this chapter for the purpose of furnishing services to its members. A local district corporation shall not be permitted to exercise any of the powers granted under this chapter until at least one-half (1/2) of the heads of farm families residing in the territory described in its proposed articles of incorporation shall have agreed in writing to become members of the corporation and made a minimum payment for such membership as in said articles provided.

*(Formerly: Acts 1935, c.175, s.21; Acts 1937, c.258, s.13.) As amended by Acts 1980, P.L.70, SEC.1.*

#### **IC 8-1-13-24**

##### **Commission decisions or orders; appeal**

Sec. 24. Any person or legal entity adversely affected by any final decision, ruling, or order of the commission made pursuant to this chapter may appeal that decision, ruling, or order under the same appeal procedures as in IC 8-1-3.

*(Formerly: Acts 1935, c.175, s.22.) As amended by Acts 1977, P.L.102, SEC.7; P.L.23-1988, SEC.53.*

#### **IC 8-1-13-25**

##### **Construction of chapter**

Sec. 25. This chapter is to be liberally construed, and the enumeration of any object, purpose, power, manner, method, or thing shall not be deemed to exclude like or similar objects, purposes, powers, manners, methods, or things.

*(Formerly: Acts 1935, c.175, s.23.) As amended by P.L.59-1984, SEC.69.*

#### **IC 8-1-13-26**

##### **Foreign corporation; admittance to do business within state; finding of convenience and necessity**

Sec. 26. Any foreign corporation organized as a nonprofit corporation for the purpose of making electric energy available to the

inhabitants of rural areas may be admitted to do business within this state and shall have the same powers, restrictions, and liabilities as a corporation organized under this chapter. Whenever such foreign corporation desires to be admitted to operate in this state, it shall file with the commission a petition in as many original counterparts as there are counties in Indiana, in which it requests permission to make electric energy available, plus five (5). Said petition shall describe the territory in Indiana in which its operations are to be conducted and pray the said commission to grant to it a certificate of public convenience and necessity for such operations. To each such original petition, there shall be attached a copy of the articles of incorporation of said corporation, with all amendments thereto, duly authenticated by the proper officer of the state wherein it is incorporated. Said petition shall be acted upon by the commission in accordance with the provisions of section 18 of this chapter. The commission shall enter a finding that the convenience and necessity of the public proposed to be served in the Indiana territory in which the operations of the corporation are proposed to be conducted either will or will not be served by such operations. If said finding be in the negative, said commission shall enter an order denying the petition. If such finding be in the affirmative, said commission shall enter an order granting a certificate of public convenience and necessity for the proposed operations of said corporation in Indiana and shall attach a copy of said order, duly certified by the secretary of said commission, to each of the originals of said petition, filed as aforesaid, except two (2) and deliver the same to the petitioner. The corporation shall then present to the secretary of state all such sets of authenticated copy of articles, original petition, and order of the commission, together with such application for admission to do business in this state, if any, as the secretary of state may require and tender to the said secretary of state six dollars and fifty cents (\$6.50) to cover his fees for filing, certificate, and seal. If the secretary of state shall approve the same, he shall endorse his approval upon each of the aforesaid sets of documents, file one (1) thereof in his office, return the remaining ones to the corporation, and issue to the corporation his certificate of admission to do business in this state. Thereupon, and before the corporation shall do any business in this state, it shall file in the office of the recorder of each county in Indiana in which it is to make electric energy available, one (1) of said sets of documents bearing the approval of the secretary of state endorsed thereon.

*(Formerly: Acts 1935, c.175, s.26; Acts 1939, c.106, s.2.) As amended by P.L.59-1984, SEC.70; P.L.23-1988, SEC.54.*

#### **IC 8-1-13-27**

##### **Liability of members and directors**

Sec. 27. (a) No member of any corporation shall be liable or responsible for its debts or liabilities.

(b) A director of a distribution cooperative corporation or a director of a power supplier whose members are corporations as

defined in this chapter is not personally liable while acting in good faith for the acts or omissions of the distribution cooperative corporation or the power supplier.

*(Formerly: Acts 1935, c.175, s.27; Acts 1939, c.106, s.3.) As amended by P.L.59-1984, SEC.71; P.L.121-1987, SEC.4.*

#### **IC 8-1-13-28**

##### **Rules; customer relations; adoption; complaints; procedures**

Sec. 28. (a) The commission shall adopt rules to govern the relations between corporations and any or all classes of their customers. Those rules shall cover the following subjects:

- (1) Extension of service.
- (2) Extension of credit.
- (3) Deposits, including interest.
- (4) Billing procedures.
- (5) Termination of service.
- (6) Complaints.
- (7) Information and notice to customers of their rights under the rules.

(b) The commission may investigate and enter orders on complaints filed by individual customers arising under this section. The commission may establish an appeals division to act on its own behalf regarding individual customer complaints. The decision of the division is binding on all parties to the complaint. The commission shall review decisions of the appeals division upon timely request by an affected party.

(c) This section does not invalidate any rule adopted by the commission before September 1, 1987, to govern the relations between corporations and their customers if the rule is consistent with this section.

*As added by P.L.121-1987, SEC.5.*

#### **IC 8-1-13-29**

##### **Rates, tolls, and charges; schedules; filing; approval**

Sec. 29. (a) Every corporation shall file with the commission, within a time fixed by the commission, schedules showing all rates, tolls, and charges that it has established and that are enforced at the time for any service performed by it within the state, or for any service in connection with the rates, tolls, and charges.

(b) The schedules of rates, tolls, and charges shall be open for public inspection.

(c) Every corporation shall file, with and as a part of the schedule, all rules that in any manner affect the rates charged or to be charged for any service.

(d) It is unlawful for a corporation to charge any amount for any service that varies from the schedules approved by the commission.

*As added by P.L.121-1987, SEC.6.*

#### **IC 8-1-13-30**

##### **Changes in schedules of rates, tolls, and charges; requests for**

**increases; approval; factors considered; required procedures**

Sec. 30. (a) No change shall be made in any schedule, including schedules of joint rates, except upon thirty (30) days notice to the commission, and approval by the commission, and all changes shall be plainly indicated upon existing schedules or by filing new schedules in place of existing schedules thirty (30) days before the time the same are to take effect. The commission may prescribe a shorter time within which a change may be made. A corporation may not file a request for a general increase in its basic rates and charges within fifteen (15) months after the filing date of its most recent request for a general increase in its basic rates and charges, except that the commission may order a more timely increase if:

- (1) the requested increase relates to a different type of utility service;
- (2) the commission finds that the corporation's financial integrity or service reliability is threatened; or
- (3) the increase is based on:
  - (A) a rate structure previously approved by the commission; or
  - (B) orders of federal courts or federal regulatory agencies having jurisdiction over the corporation.

The phrase "general increase in basic rates and charges" does not include changes in rates related solely to the cost of fuel or purchased electricity or adjustments in accordance with tracking provisions approved by the commission.

(b) No schedule of rates, tolls, and charges of a corporation which includes or authorizes any changes in charges based upon costs is effective without the approval of the commission. Before the commission approves any changes in the schedule of rates, tolls, and charges of a corporation that generates and sells electricity, based upon the cost of fuel to generate electricity or upon the cost of fuel included in the cost of purchased electricity, the utility consumer counselor shall examine the books and records of the public generating corporation to determine the cost of fuel upon which the proposed charges are based. In addition, before a fuel cost charge becomes effective, the commission shall hold a summary hearing on the sole issue of the fuel charge. The utility consumer counselor shall conduct a review and make a report to the commission within twenty (20) days after the corporation's request for the fuel cost charge is filed. The commission shall hold the summary hearing and issue its order within twenty (20) days after it receives the utility consumer counselor's report. The provisions of this chapter concerning the filing, printing, and changing of rate schedules and the time required for giving notice of hearing and requiring publication of notice do not apply to the fuel cost charge or the summary hearing.

(c) Regardless of the pendency of any request for a fuel cost charge by any corporation, the books and records pertaining to cost of fuel of all corporations that generate electricity shall be examined by the utility consumer counselor not less often than quarterly, and the books and records of all electric nongenerating corporations shall

be examined by the utility consumer counselor not less often than annually. The utility consumer counselor shall provide the commission with a report as to the examination of the books and records within a reasonable time following the examination. The utility consumer counselor may, if appropriate, request of the commission a reduction or elimination of the fuel cost charge. Upon such request, the commission shall immediately hold a hearing in the manner provided in this chapter.

(d) An electric generating corporation may apply for a change in its fuel charge not more often than each three (3) months. When the application is filed the petitioning corporation shall show to the commission its cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity, for the period between its last order from the commission approving fuel costs in its basic rates and the latest month for which actual fuel costs are available. The petitioning corporation shall also estimate its average fuel costs for the three (3) calendar months subsequent to the expiration of the twenty (20) day period allowed the commission in subsection (b). The commission shall conduct a formal hearing solely on the fuel cost charge requested in the petition subject to the notice requirements of IC 8-1-1-8 and shall grant the electric corporation the requested fuel cost charge if it finds that:

- (1) the electric corporation has made every reasonable effort to acquire fuel and generate or purchase power or both so as to provide electricity to its customers at the lowest fuel cost reasonably possible;
- (2) the actual increases in fuel cost through the latest month for which the actual fuel costs are available since the last order of the commission approving basic rates and charges of the electric corporation have not been offset by actual decreases in other operating expenses;
- (3) the corporation's estimate of its prospective average fuel costs for each of the three (3) calendar months are reasonable after taking into consideration:
  - (A) the actual fuel costs experienced by the corporation during the latest three (3) calendar months for which actual fuel costs are available; and
  - (B) the estimated fuel costs for the same latest three (3) calendar months for which actual fuel costs are available.

(e) Should the commission at any time determine that an emergency exists that could result in an abnormal change in fuel costs, it may, in order to protect the public from the adverse effects of such change, suspend the provisions of subsection (d) as to the corporation affected by the emergency and initiate such procedures as may be necessary to protect both the public and the corporation from harm. The commission shall lift the suspension when it is satisfied the emergency no longer exists.

(f) Any change in the fuel cost charge granted by the commission under the provisions of this section shall be reflected in the rates charged by the corporation in the same manner as any other changes

in rates granted by the commission in a case approving the basic rates and charges of the corporation. However, the corporation may file the change as a separate amendment to its rate schedules with a reasonable reference in the amendment that the charge is applicable to all of its filed rate schedules.

*As added by P.L.121-1987, SEC.7.*

#### **IC 8-1-13-31**

##### **Production of corporate books, accounts, papers, or records; order or subpoena; penalty for failure to comply**

Sec. 31. (a) The commission may require, by order or subpoena, a corporation to produce within the state (at a time and place the commission may designate) any books, accounts, papers, or records (or verified copies) kept by the corporation anywhere, to allow an examination to be made by the commission or under its direction.

(b) The order or subpoena shall be served on the corporation in the same manner as a summons is served in a civil action.

(c) Any corporation that does not comply (after reasonable written notice) with any order or subpoena shall be assessed a civil penalty of not less than fifty dollars (\$50) and not more than five hundred dollars (\$500) for each day that it does not comply. Any penalty assessed under this subsection shall be deposited in the state general fund.

*As added by P.L.121-1987, SEC.8.*

#### **IC 8-1-13-32**

##### **Investigations; agents; powers; recommendations**

Sec. 32. (a) The commission may appoint, by written order, an agent to investigate any corporation. The commission shall prescribe the duties of the agent in the order, and the agent has all of the inquisitorial powers granted the commission under this chapter.

(b) The commission may conduct any number of investigations contemporaneously through different agents and may delegate to the agent the taking of all testimony bearing upon any investigation or hearing. The commission's decision must be based on its examination of all the testimony and records.

(c) The recommendations made by any agent are advisory and do not preclude the taking of further testimony, if ordered by the commission, or further investigation.

*As added by P.L.121-1987, SEC.9.*

#### **IC 8-1-13-33**

##### **Uniform accounts; requisites**

Sec. 33. Every corporation shall keep and render to the commission, in the manner and form prescribed by the commission, uniform accounts of all business transacted. In formulating a system of accounting for a corporation, the commission shall consider any system of accounting established by any federal law, commission, or department and any system authorized by a national association of such corporations.

*As added by P.L.121-1987, SEC.10.*

**IC 8-1-13-34**

**Furnishing of information; requirement**

Sec. 34. Every corporation shall furnish to the commission all information required by it to carry into effect this chapter and shall make specific answers to all questions submitted by the commission.

*As added by P.L.121-1987, SEC.11.*

**IC 8-1-13-35**

**Blank forms received; verification; delivery of documents, books, and papers**

Sec. 35. Any corporation receiving from the commission any blank forms with directions to complete them shall answer fully and correctly each question in the form, and if it is unable to answer any question, it shall give a good and sufficient reason for failing to answer the questions. The answers shall be verified under oath by the president, secretary, superintendent, or general manager, or person in charge of the corporation and returned to the commission at its office within the period fixed by the commission. Whenever required by the commission, every corporation shall deliver to the commission for examination any relevant documents, books, accounts, papers, and records (or copies), with a complete inventory of all its property in a form prescribed by the commission.

*As added by P.L.121-1987, SEC.12.*

**IC 8-1-13-36**

**Complaints against corporation; discriminatory rates or charges; inadequate service; investigation; hearing; order**

Sec. 36. Upon a complaint made against any corporation by:

- (1) any mercantile, agricultural, or manufacturing society;
- (2) any body politic or municipal organization;
- (3) ten (10) or more persons, firms, corporations, limited liability companies, or associations;
- (4) ten (10) or more complainants of any or all of the classes described in subdivision (3); or
- (5) any public utility or corporation;

that any of the rates, tolls, charges, schedules, or joint rates (with which the petitioner is directly interested) are in any respect unreasonable or unjustly discriminatory, or that any regulation, measurement, practice, or act affecting or relating to the service of a corporation is in any respect unreasonable, unsafe, insufficient, or unjustly discriminatory, or that any service is inadequate or cannot be obtained, the commission shall proceed to investigate with or without notice. However, the commission may not enter an order affecting those rates, tolls, charges, schedules, regulations, measurements, practices, or acts complained of without a formal public hearing.

*As added by P.L.121-1987, SEC.13. Amended by P.L.8-1993, SEC.124.*

### **IC 8-1-13-37**

#### **Investigation by commission on its own motion; rates, service, or territory**

Sec. 37. Whenever the commission believes that:

- (1) any rate or charge may be unreasonable or unjustly discriminatory;
- (2) any service is inadequate or cannot be obtained; or
- (3) an investigation of any matter relating to rates or territory for a corporation should be made;

it may, on its own motion, conduct an investigation with or without notice.

*As added by P.L.121-1987, SEC.14.*

### **IC 8-1-13-38**

#### **Complaints by corporation affecting its own rates or service; notice and hearing requirements; consent orders**

Sec. 38. (a) Any corporation may make complaint as to any matter affecting its own rates or service. The corporation shall publish a notice of the filing of the petition or complaint in a newspaper of general circulation published in any county in which the corporation renders service. An order affecting rates or service may be entered by the commission without a formal public hearing, if the corporation has obtained written consent to obtain an order affecting its rates from the commission without a formal hearing from any agency of the federal government with which the corporation has outstanding evidence of indebtedness to the federal government. The commission may, however, on its own motion require a formal public hearing, and shall, upon a motion filed by the utility consumer counselor, by any public or municipal corporation, by ten (10) individuals, firms, corporations, limited liability companies, or associations, or by ten (10) complainants of any or all of these classes, hold a formal public hearing with respect to any petition or complaint.

(b) In any general rate proceeding under subsection (a) which requires a public hearing and in which an increase in revenues is sought which exceeds the sum of two million five hundred thousand dollars (\$2,500,000), the commission shall conduct at least one (1) public hearing in the largest municipality located within the corporation's service area.

*As added by P.L.121-1987, SEC.15. Amended by P.L.8-1993, SEC.125.*

### **IC 8-1-13-39**

#### **Distribution cooperatives with less than 5,000 customers; rate orders; hearing requirement**

Sec. 39. (a) Except as provided in subsection (b), an order affecting rates of service may be entered by the commission without a formal public hearing in the case of a distribution cooperative with less than five thousand (5,000) customers.

(b) The commission shall require a formal public hearing on any petition or complaint filed concerning a distribution cooperative with

less than five thousand (5,000) customers upon motion of any of the following:

- (1) The utility consumer counselor.
- (2) A public or municipal corporation.
- (3) Ten (10) individuals, firms, corporations, limited liability companies, or associations.
- (4) Ten (10) complainants of any class described in subdivision (3).

*As added by P.L.121-1987, SEC.16. Amended by P.L.8-1993, SEC.126.*

#### **IC 8-1-13-40**

##### **Subpoena power of commissioners and authorized agents; enforcement**

Sec. 40. Each of the commissioners and every authorized agent has the power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and compel the production of books, accounts, papers, records, documents, and testimony in pending proceedings of corporations and where relevant. In case of disobedience on the part of any person to comply with any order of the commission or any commissioner or any subpoena, or on the refusal of any witness to testify to any matter regarding which the person may be lawfully interrogated before the commission, or its authorized agent, it shall be the duty of the circuit or superior court of any county, on application of a commissioner, to compel the obedience to the requirements of a subpoena issued from that court or a refusal to testify in that court.

*As added by P.L.121-1987, SEC.17.*

#### **IC 8-1-13-41**

##### **Violations of chapter; findings; just and reasonable orders to be made**

Sec. 41. Whenever, upon the investigation made under this chapter, the commission finds any regulations, measurements, practices, acts, or services are unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, or otherwise in violation of this chapter, or finds that any service is inadequate or that any service which can be reasonably demanded cannot be obtained, the commission shall determine and by order fix just and reasonable measurements, regulations, acts, practices, or service to be furnished, imposed, observed, and followed in the future in lieu of those found to be unjust, unreasonable, unwholesome, unsanitary, unsafe, insufficient, preferential, unjustly discriminatory, inadequate, or otherwise in violation of this chapter. In addition, the commission shall make other orders concerning the measurement, regulation, act, practice, or service as are just and reasonable.

*As added by P.L.121-1987, SEC.18.*

#### **IC 8-1-13-42**

**Rules; adoption; prior rules validated**

Sec. 42. (a) The commission may adopt rules under IC 4-22-2 to carry out this chapter.

(b) This section does not invalidate any rule adopted by the commission before September 1, 1987.

*As added by P.L.121-1987, SEC.19.*

**IC 8-1-13-43**

**Maximum borrowing and expenditures for economic development**

Sec. 43. (a) A corporation may not expend more than fifteen percent (15%) of its total utility plant for economic development.

(b) A corporation that is not an REA borrower (as defined in section 17(f) of this chapter) may not borrow any funds for an economic development project without approval of the Indiana utility regulatory commission.

*As added by P.L.95-1993, SEC.2.*