

IC 8-1-9

Chapter 9. Relocation of Utilities in Highway Rights-of-Way

IC 8-1-9-1

Public policy

Sec. 1. Recognizing that (a) part of the national system of interstate and defense highways located in Indiana are used by persons residing throughout Indiana and the United States for intrastate and interstate travel; (b) the cost of relocation of utility facilities necessitated by construction, reconstruction, change or modification of said highways is presently subject to being borne by utility rate payers only; and (c) existing federal legislation makes available a substantial portion of the funds with which said highways will be constructed, reconstructed, changed or modified, it is hereby declared that it is inequitable for rate payers of utilities to bear the cost of relocation of utility facilities necessitated by said highway construction, reconstruction, change or modification and that such cost of relocation of utility facilities should constitute a cost of construction of all of said highway projects in Indiana.

(Formerly: Acts 1961, c.112, s.1.)

IC 8-1-9-2

Definitions

Sec. 2. When used in this chapter, the term:

(a) "Utility" shall include all privately, municipally, publicly, or cooperatively owned systems for supplying communications, power, light, heat, electricity, gas, water, pipeline, sewer, sewage disposal, drain, or like service, directly or indirectly, to the public.

(b) "Cost of relocation" shall include the entire amount paid by a utility properly attributable to such relocation, after deducting therefrom any increase in the value of the new facility and any salvage value derived from the old facility.

(c) "Highway" when used in this chapter shall mean only those routes which are included within the national system of interstate and defense highways.

(Formerly: Acts 1961, c.112, s.2.) As amended by P.L.59-1984, SEC.62.

IC 8-1-9-3

Audits

Sec. 3. The cost of relocation of a utility facility is a cost of highway construction and shall be paid by the state in the same manner other costs of construction of the highway are paid. All relevant books, records, and accounts of any public utility to which a payment for a relocation has been made by the state shall be audited by the Indiana department of transportation auditor and the utility, following the audit, shall refund any portion of the payment the state determines was not properly compensable.

(Formerly: Acts 1961, c.112, s.3; Acts 1965, c.321, s.1.) As amended by Acts 1980, P.L.74, SEC.34; P.L.18-1990, SEC.25.

IC 8-1-9-4**New location; right to operate**

Sec. 4. In the case of any such relocation of facilities, the utility owning or operating the same, its successors, or assigns, may maintain and operate such facilities, with the necessary appurtenances in the new location or new locations, for as long a period, and upon the same terms and conditions, as it had the right to maintain and operate such facilities in their former location or locations.

(Formerly: Acts 1961, c.112, s.4.)

IC 8-1-9-5**Certain projects; payment of initial cost**

Sec. 5. Notwithstanding any other provisions of this chapter, the Indiana department of transportation may pay the initial cost of relocating a utility facility if all of the following conditions have been met:

- (1) The utility facility is owned by a political subdivision of this state.
- (2) The removal of the utility facility is incurred as the result of a federally funded highway or railroad-highway improvement project.
- (3) The relocation qualifies for initial cost of construction with state funds as a part of the federal-aid project cost.
- (4) A federal-aid project agreement is entered into with the Federal Highway Administration.
- (5) The department has been assured reimbursement for all costs by the Federal Highway Administration, the political subdivision, or both.

As added by Acts 1982, P.L.73, SEC.1. Amended by P.L.18-1990, SEC.26.