

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE ENROLLED ACT No. 1470

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-39-2, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) As used in this chapter, "eligible transmission, distribution, and storage system improvements" means new or replacement electric or gas transmission, distribution, or storage utility projects that:

- (1) a public utility undertakes for purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;
- (2) were not included in the public utility's rate base in its most recent general rate case; and
- (3) either were:
 - (A) ~~designated described~~ in the public utility's ~~seven (7) year~~ **TDSIC** plan and approved by the commission under section 10 of this chapter as ~~eligible and authorized~~ for TDSIC treatment; ~~or~~
 - (B) described in the public utility's update to the public utility's TDSIC plan under section 9 of this chapter and authorized for TDSIC treatment by the commission; or**
 - ~~(B)~~ (C) approved as a targeted economic development project under section 11 of this chapter.

(b) The term includes:

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- (1) projects that do not include specific locations or an exact number of inspections, repairs, or replacements, including inspection based projects such as pole or pipe inspection projects, and pole or pipe replacement projects; and**
- (2) projects involving advanced technology investments to support the modernization of a transmission, distribution, or storage system, such as advanced metering infrastructure, information technology systems, or distributed energy resource management systems.**

SECTION 2. IC 8-1-39-7.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.8. As used in this chapter, "TDSIC plan", or plan, means a public utility's plan for eligible transmission, distribution, and storage system improvements over the course of a period of:**

- (1) at least five (5) years; and**
- (2) not more than seven (7) years.**

SECTION 3. IC 8-1-39-9, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Subject to subsection ~~(c)~~, **(d)**, a public utility that provides electric or gas utility service may file with the commission rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of eighty percent (80%) of approved capital expenditures and TDSIC costs. The petition must:

- (1) use the customer class revenue allocation factor based on firm load approved in the public utility's most recent retail base rate case order;
- (2) include the public utility's ~~seven (7) year~~ **TDSIC** plan for eligible transmission, distribution, and storage system improvements; and
- (3) identify projected effects of the plan described in subdivision (2) on retail rates and charges.

The public utility shall provide a copy of the petition to the office of the utility consumer counselor when the petition is filed with the commission.

(b) The public utility shall update the public utility's ~~seven (7) year TDSIC plan under subdivision (2) with each petition the public utility files under this section: subsection (a)(2) at least annually.~~ An update may include a petition for approval of:

- (1) a targeted economic development project under section 11 of this chapter; or**

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(2) transmission, distribution, and storage system improvements not described in the public utility's TDSIC plan most recently approved by the commission under section 10 of this chapter.

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

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

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

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

~~(f)~~ **(g)** Actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs require specific justification by the public utility and specific approval by the commission before being authorized for recovery in customer rates.

SECTION 4. IC 8-1-39-10, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) A public utility shall petition the commission for approval of the public utility's ~~seven (7)~~ **year TDSIC** plan for eligible transmission, distribution, and storage improvements. A plan submitted under this subsection may include for approval a targeted economic development project described in section 11 of this chapter.

(b) Following notice and hearing, and not more than two hundred ten (210) days after the public utility petitions the commission under subsection (a), the commission shall issue an order on the petition. The order must include the following:

- (1) A finding of the best estimate of the cost of the eligible improvements included in the plan.
- (2) A determination whether public convenience and necessity

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require or will require the eligible improvements included in the plan.

(3) A determination whether the estimated costs of the eligible improvements included in the plan are justified by incremental benefits attributable to the plan.

If the commission determines that the public utility's ~~seven (7) year~~ **TDSIC** plan is reasonable, the commission shall approve the plan and ~~designate~~ **authorize TDSIC treatment** for the eligible transmission, distribution, and storage improvements included in the plan. ~~as eligible for TDSIC treatment.~~

(c) A public utility that provides gas **or electric** service may petition the commission to approve a targeted economic development project as part of the public utility's ~~seven (7) year~~ **TDSIC** plan under subsection (a). The commission shall review within sixty (60) days the part of the petition concerning the targeted economic development project and approve the inclusion of the project if the commission determines that the inclusion of the project is consistent with the requirements of this chapter.

(d) A public utility may terminate an existing TDSIC plan before the end of the original plan period by providing the commission a notice of termination at least sixty (60) days before the date on which the plan will terminate. Eligible transmission, distribution, and storage improvements receiving TDSIC treatment under section 9 of this chapter before termination of the plan shall continue to receive TDSIC treatment under section 9 of this chapter after termination of the plan until a final order in the public utility's next general rate case is issued. A public utility that terminates a plan:

(1) may petition the commission for approval of a new TDSIC plan under this section; and

(2) must petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service before the original expiration date of the terminated plan.

SECTION 5. IC 8-1-39-11, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) The extension, construction, addition, or improvement of the plant and equipment of a public utility that is installed to provide gas **or electric** service to a targeted economic development project is used and useful in the public service.

(b) A public utility shall apply to the Indiana economic development corporation for approval to treat costs associated with a targeted

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economic development project as TDSIC costs. Costs approved by the Indiana economic development corporation shall be treated as TDSIC costs and may be recovered through a TDSIC under section 12 of this chapter. The TDSIC revenues associated with a targeted economic development project shall not be included in a public utility's total retail revenues for purposes of determining an aggregate increase under section 14 of this chapter.

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

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

SECTION 6. IC 8-1-39-12, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Not more than ~~ninety (90)~~ **one hundred twenty (120)** days after a public utility files a petition under section 9 of this chapter, the commission shall conduct a hearing and issue an order on the petition.

(b) Not more than sixty (60) days after a public utility files a petition under section 9 of this chapter, the office of the utility consumer counselor and other intervenors, if any, may:

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

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

- (1) capital expenditures;
- (2) timely recovery of TDSIC costs, including costs associated with a targeted economic development project, through a TDSIC; and

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(3) if requested, authority to defer TDSIC costs under section ~~9(b)~~
9(c) of this chapter.

(d) If the public utility has requested approval of new targeted economic development projects or new transmission, distribution, and storage system improvements under section 9(b) of this chapter, the commission's order must include the following:

(1) A finding of the best estimate of the cost of the new projects or improvements.

(2) A determination whether public convenience and necessity require or will require the new projects or improvements.

(3) A determination whether the estimated costs of the new projects or improvements are justified by incremental benefits attributable to the new projects or improvements.

If the commission determines that the public utility's new projects or improvements are reasonable, the commission shall approve the new projects or improvements and authorize TDSIC treatment for the new projects or improvements.

SECTION 7. IC 8-1-39-14, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than two percent (2%) in a twelve (12) month period. For purposes of this subsection, a public utility's total retail revenues do not include TDSIC revenues associated with a targeted economic development project.

(b) If a public utility incurs TDSIC costs under the public utility's ~~seven (7) year capital expenditure~~ TDSIC plan that exceed the percentage increase in a TDSIC approved by the commission, the public utility shall defer recovery of the TDSIC costs as set forth in section ~~9(b)~~ **9(c)** of this chapter.

(c) For purposes of subsection (a), in the case of a public utility that terminates a TDSIC plan under section 10(d) of this chapter, the commission shall consider the combined twelve (12) month revenue impact of the TDSIC approved under the terminated plan and the TDSIC approved under any new TDSIC plan.

SECTION 8. IC 8-1-39-16, AS ADDED BY P.L.133-2013, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) For purposes of this chapter, the following are not a general increase in basic rates and charges under IC 8-1-2-42(a):

(1) The filing of a TDSIC.

(2) A change in a TDSIC.

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(3) The deferral of depreciation expenses, operation and maintenance expenses, property taxes, or post in service allowance for funds used during construction under section ~~9(b)~~ **9(c)** of this chapter.

(b) This chapter does not limit:

(1) a public utility's ability to recover eligible transmission, distribution, and storage system improvements in a general retail rate case; or

(2) the commission's valuation of utility property under IC 8-1-2-6.

SECTION 9. An emergency is declared for this act.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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