

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 376

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: 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

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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~~ **and** 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.

SECTION 2. IC 8-1-13-8 IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2017]: 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,~~ **or electronic** 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)~~ **sixty (60)** days before the date of the meeting, ~~either personally, or by mail, or electronically,~~ 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~~ **the member's** address as it appears on the records of the corporation, with postage thereon prepaid. **If transmitted electronically, the notice is considered delivered when transmitted to the electronic mail address or other address provided by the member for electronic communications.** 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 **corporation's** members: ~~of the corporation~~

(1) who are present in person at any meeting of members; or

(2) who, in accordance with subsection (f), cast votes before any meeting of members;

of which meeting notice shall have been given as provided in ~~the foregoing subdivision~~ **subsection (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.



(f) A corporation may include a provision in the corporation's articles of incorporation or in the corporation's bylaws to allow any votes cast:

(1) after notice of a meeting is provided in accordance with subsection (c); and

(2) before a meeting of the members;

whether cast in person, by a written ballot mailed to the corporation's office, or by electronic ballot, to count toward the quorum requirement set forth in subsection (d) or toward any quorum requirement lawfully established in the corporation's articles of incorporation or in the corporation's bylaws.

SECTION 3. IC 8-1-13-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: 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~~

(b) A person shall may not become or remain a member of any local district corporation **(as** defined in section 23 of this chapter) unless such person shall use energy **or services** supplied by such corporation and shall have complied with the terms and conditions ~~in~~ **respect to of** membership contained in the bylaws of such corporation.

~~(b)~~ **(c)** Notwithstanding IC 8-1-2.7, a corporation or any subsidiary or affiliate thereof may not begin water **or wastewater** 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 **or wastewater** 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.

SECTION 4. IC 8-1-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: 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, chapter,~~ **chapter**, nor to limit any such grant to a power or powers of the same class or classes as those so enumerated.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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