



February 26, 2016

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**ENGROSSED  
SENATE BILL No. 383**

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DIGEST OF SB 383 (Updated February 24, 2016 3:01 pm - DI 103)

**Citations Affected:** IC 8-1.

**Synopsis:** System integrity adjustments. Provides that an eligible water or wastewater utility may petition the utility regulatory commission (commission) to charge a system integrity adjustment to recover or credit an adjustment amount based on the eligible utility's revenues. Provides that a the commission, after a hearing, shall approve a properly calculated system integrity adjustment. Provides that a utility may collect a system integrity adjustment until the earlier of: (1) 48 months after the date on which the utility is allowed to begin collecting the system integrity adjustment; or (2) the date on which the commission issues an order in the utility's next general rate case proceeding. Requires the commission to adopt rules concerning system integrity adjustment proceedings. Makes a technical correction.

**Effective:** July 1, 2016.

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**Charbonneau, Eckerty, Merritt,  
Randolph Lonnie M, Steele**

(HOUSE SPONSORS — VANNATTER, KOCH, STEMLER, HALE)

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January 12, 2016, read first time and referred to Committee on Environmental Affairs.  
January 25, 2016, amended, reported favorably — Do Pass.  
February 1, 2016, read second time, amended, ordered engrossed.  
February 2, 2016, engrossed.  
February 3, 2016, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Utilities, Energy and Telecommunications.  
February 25, 2016, amended, reported — Do Pass.

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ES 383—LS 6916/DI 103





February 26, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 383

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A BILL FOR AN ACT to amend the Indiana Code concerning utilities.

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

1 SECTION 1. IC 8-1-2-0.5 IS ADDED TO THE INDIANA CODE  
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2016]: **Sec. 0.5. The general assembly declares that it is the**  
4 **continuing policy of the state, in cooperation with local**  
5 **governments and other concerned public and private**  
6 **organizations, to use all practicable means and measures, including**  
7 **financial and technical assistance, in a manner calculated to create**  
8 **and maintain conditions under which utilities plan for and invest**  
9 **in infrastructure necessary for operation and maintenance while**  
10 **protecting the affordability of utility services for present and**  
11 **future generations of Indiana citizens.**

12 SECTION 2. IC 8-1-31-9, AS AMENDED BY P.L.212-2015,  
13 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2016]: Sec. 9. (a) When a petition is filed under section 8 of  
15 this chapter, the commission shall conduct a hearing.

16 (b) The office of the utility consumer counselor may:

17 (1) examine information of the eligible utility to confirm:

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- 1 (A) that the infrastructure improvements are in accordance  
 2 with section 5 of this chapter; ~~to confirm and~~  
 3 (B) proper calculation of the adjustment amount proposed  
 4 under section 8(a) of this chapter; and  
 5 (2) submit a report to the commission not later than thirty (30)  
 6 days after the petition is filed.
- 7 (c) The commission shall hold the hearing and issue its order not  
 8 later than sixty (60) days after the petition is filed.
- 9 (d) If the commission finds that a petition filed under section 8 of  
 10 this chapter complies with the requirements of this chapter, the  
 11 commission shall enter an order approving the petition.
- 12 SECTION 3. IC 8-1-31.5 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2016]:
- 15 **Chapter 31.5. System Integrity Adjustments**
- 16 **Sec. 1. The definitions in IC 8-1-2-1 apply throughout this**  
 17 **chapter.**
- 18 **Sec. 2. As used in this chapter, "actual revenues" means the**  
 19 **annual operating revenues that an eligible utility receives or**  
 20 **accrues for a twelve (12) month period authorized for recovery**  
 21 **through basic rates and charges approved by the commission in the**  
 22 **eligible utility's most recent general rate case. However, the term**  
 23 **does not include the following:**
- 24 (1) Revenues received through an infrastructure improvement  
 25 charge approved by the commission under IC 8-1-31.  
 26 (2) Revenues from the operation of a utility that an eligible  
 27 utility acquires after the commission's most recent order  
 28 establishing the eligible utility's level of annual operating  
 29 revenues authorized for recovery by the eligible utility  
 30 through existing rates and charges.
- 31 **Sec. 3. As used in this chapter, "adjustment amount" means the**  
 32 **dollar amount:**
- 33 (1) by which an eligible utility's actual revenues for a twelve  
 34 (12) month period differ from the eligible utility's authorized  
 35 revenues for the same twelve (12) month period; and  
 36 (2) that the eligible utility seeks to recover from or credit to  
 37 customers through a system integrity adjustment requested in  
 38 a petition filed under section 12 or 13 of this chapter.
- 39 **Sec. 4. As used in this chapter, "adjustment revenues" means**  
 40 **revenues produced through application of a system integrity**  
 41 **adjustment. The term does not include revenue from other rates**  
 42 **and charges.**



1           **Sec. 5.** As used in this chapter, "authorized revenues" means the  
 2 annual operating revenues of an eligible utility approved by the  
 3 commission for a twelve (12) month period in the eligible utility's  
 4 most recent general rate case.

5           **Sec. 6.** As used in this chapter, "cumulative excess or deficit"  
 6 means the amount by which an eligible utility's actual revenues  
 7 are:

- 8           (1) in the case of an excess, greater than; or
- 9           (2) in the case of a deficit, less than;

10 the eligible utility's authorized revenues measured on a cumulative  
 11 annual basis from the effective date of the commission's order in  
 12 the eligible utility's most recent general rate case proceeding.

13           **Sec. 7.** As used in this chapter, "eligible utility" means a:

- 14           (1) public utility;
- 15           (2) municipally owned utility; or
- 16           (3) not-for-profit utility;

17 that provides water or wastewater service and is under the  
 18 jurisdiction of the commission for the approval of rates and  
 19 charges.

20           **Sec. 8.** As used in this chapter, "not-for-profit utility" has the  
 21 meaning set forth in IC 8-1-2-125(a). The term includes a utility  
 22 company that is owned, operated, or held in trust by a consolidated  
 23 city.

24           **Sec. 9.** As used in this chapter, "system integrity adjustment"  
 25 means an amount charged by an eligible utility to allow the  
 26 automatic adjustment of the eligible utility's basic rates and  
 27 charges to recover from or credit to customers an adjustment  
 28 amount.

29           **Sec. 10.** As used in this chapter, "system integrity collar" means  
 30 a dollar amount that is equal to the product of:

- 31           (1) an eligible utility's authorized revenues; multiplied by
- 32           (2) two hundredths (0.02).

33 An eligible utility's system integrity collar is satisfied when the  
 34 eligible utility's cumulative excess or deficit equals or exceeds the  
 35 eligible utility's system integrity collar.

36           **Sec. 11. (a)** A system integrity adjustment may not exceed the  
 37 product of an eligible utility's adjustment amount multiplied by  
 38 ninety-four hundredths (0.94).

39           **(b)** For purposes of the credit or recovery of an adjustment  
 40 amount, a system integrity adjustment must be allocated only to an  
 41 eligible utility's non-industrial rate classes.

42           **Sec. 12. (a)** An eligible utility that is not collecting a system



1 integrity adjustment may file with the commission a petition  
 2 setting forth rate schedules that establish a system integrity  
 3 adjustment to recover from or credit to customers the eligible  
 4 utility's adjustment amount. The petition must establish that the  
 5 eligible utility's system integrity collar has been satisfied on a  
 6 cumulative basis following the effective date of the commission's  
 7 order in the eligible utility's most recent general rate case. The  
 8 eligible utility's system integrity collar may not be included in the  
 9 calculation of its adjustment amount. The eligible utility shall  
 10 certify in the petition that the eligible utility will use any  
 11 adjustment revenues for eligible infrastructure improvements (as  
 12 defined in IC 8-1-31-5).

13 (b) An eligible utility shall serve the office of the utility  
 14 consumer counselor a copy of the petition at the same time the  
 15 petition is filed with the commission. The office of the utility  
 16 consumer counselor may do the following:

17 (1) Examine information of the eligible utility to confirm  
 18 proper calculation of the proposed system integrity  
 19 adjustment.

20 (2) Submit a report of the examination to the commission not  
 21 later than thirty (30) days after the petition is filed.

22 (c) The commission shall hold a hearing on the petition and issue  
 23 its order not later than ninety (90) days after the petition is filed.

24 (d) If the commission determines that the system integrity  
 25 adjustment is properly calculated, the commission shall enter an  
 26 order approving the petition. The system integrity adjustment may  
 27 be collected until the earlier of the following:

28 (1) Forty-eight (48) months after the date set forth in the  
 29 order entered under this subsection on which the eligible  
 30 utility may begin collecting the system integrity adjustment.

31 (2) The date on which the commission issues an order in the  
 32 eligible utility's next general rate case proceeding.

33 Sec. 13. (a) This section applies to an eligible utility for which  
 34 the commission has issued an order approving a petition under  
 35 section 12(d) of this chapter.

36 (b) An eligible utility shall file a petition for a change in its  
 37 adjustment amount:

38 (1) not more than thirty (30) days after the end of each twelve  
 39 (12) month period following the date on which the eligible  
 40 utility files a petition under section 12 of this chapter; and

41 (2) until the commission issues an order in the eligible utility's  
 42 next general rate case proceeding after the commission



- 1           **approves a system integrity adjustment.**  
2           **(c) An eligible utility shall serve the office of the utility**  
3           **consumer counselor a copy of the petition at the same time the**  
4           **petition is filed with the commission.**  
5           **(d) The commission shall hold a hearing on the petition and**  
6           **issue its order not later than ninety (90) days after the petition is**  
7           **filed.**  
8           **Sec. 14. For purposes of satisfying a system integrity collar, an**  
9           **eligible utility's cumulative excess or deficit shall be reset to zero**  
10           **(0) upon the effective date of the commission's order in the eligible**  
11           **utility's next general rate case proceeding after the commission**  
12           **approves a system integrity adjustment.**  
13           **Sec. 15. At the same time an eligible utility files a petition under**  
14           **section 13 of this chapter, the eligible utility shall reconcile the**  
15           **difference between:**  
16           **(1) the adjustment amount approved by the commission for a**  
17           **previous twelve (12) month period; and**  
18           **(2) the adjustment revenues received by the eligible utility**  
19           **during the same twelve (12) month period.**  
20           **The eligible utility may recover from or credit to customers the**  
21           **reconciliation amount through a system integrity adjustment by**  
22           **filing a petition under section 12 of this chapter.**  
23           **Sec. 16. For purposes of IC 8-1-2-42(a), the approval of a**  
24           **petition filed under section 12 or 13 of this chapter is not a general**  
25           **increase in basic rates and charges.**  
26           **Sec. 17. An eligible utility that:**  
27           **(1) is subject to the jurisdiction of the commission; and**  
28           **(2) serves five thousand (5,000) or more customers;**  
29           **shall include in its annual report to the commission on a form**  
30           **prescribed by the commission under IC 8-1-2-12 a comparison of**  
31           **actual revenues and authorized revenues for the period covered by**  
32           **the report.**  
33           **Sec. 18. The commission shall adopt by rule under IC 4-22-2 or**  
34           **by order other procedures not inconsistent with this chapter that**  
35           **the commission finds reasonable or necessary to administer this**  
36           **chapter.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Environmental Affairs, to which was referred Senate Bill No. 383, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, delete lines 29 through 34, begin a new paragraph and insert:

**"Sec. 10. As used in this chapter, "system integrity collar" means a dollar amount that is equal to the product of:**

- (1) an eligible utility's authorized revenues; multiplied by**
- (2) two hundredths (0.02).**

**An eligible utility's system integrity collar is satisfied when the eligible utility's cumulative excess or deficit equals or exceeds the eligible utility's system integrity collar."**

Page 3, line 42, after "case." insert **"The eligible utility's system integrity collar may not be included in the calculation of its adjustment amount."**

Page 4, delete lines 10 through 11.

Page 4, line 12, delete "(d)" and insert "(c)".

Page 4, line 13, delete "sixty (60)" and insert **"ninety (90)"**.

Page 4, line 15, delete "(e)" and insert **"(d)"**.

Page 4, line 17, after "petition." insert **"The system integrity adjustment may be collected until the earlier of the following:**

- (1) Forty-eight (48) months after the date set forth in the order entered under this subsection on which the eligible utility may begin collecting the system integrity adjustment.**
- (2) The date on which the commission issues an order in the eligible utility's next general rate case proceeding."**

Page 4, delete lines 32 through 33.

Page 4, line 34, delete "(e)" and insert **"(d)"**.

Page 4, line 35, delete "sixty (60)" and insert **"ninety (90)"**.

Page 5, line 12, delete "may" and insert **"shall"**.

and when so amended that said bill do pass.

(Reference is to SB 383 as introduced.)

CHARBONNEAU, Chairperson

Committee Vote: Yeas 8, Nays 0.





## SENATE MOTION

Madam President: I move that House Bill 383 be amended to read as follows:

Page 4, line 3, after "amount." insert "**The eligible utility shall certify in the petition that the eligible utility will use any adjustment revenues for eligible infrastructure improvements (as defined in IC 8-1-31-5).**".

Page 4, line 26, delete "11(e)" and insert "**11(d)**".

Page 5, between lines 16 and 17, begin a new paragraph and insert: "**Sec. 16. An eligible utility that:**

**(1) is subject to the jurisdiction of the commission; and**

**(2) serves five thousand (5,000) or more customers;**

**shall include in its annual report to the commission on a form prescribed by the commission under IC 8-1-2-12 a comparison of actual revenues and authorized revenues for the period covered by the report.**".

Page 5, line 17, delete "16." and insert "**17.**".

(Reference is to SB 383 as printed January 26, 2016.)

CHARBONNEAU

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 COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 383, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 38, delete "11 or 12" and insert "**12 or 13**".

Page 3, between lines 35 and 36, begin a new paragraph and insert:

**"Sec. 11. (a) A system integrity adjustment may not exceed the product of an eligible utility's adjustment amount multiplied by ninety-four hundredths (0.94).**

**(b) For purposes of the credit or recovery of an adjustment amount, a system integrity adjustment must be allocated only to an eligible utility's non-industrial rate classes.**".

Page 3, line 36, delete "11." and insert "**12.**".

Page 4, line 27, delete "12." and insert "**13.**".

Page 4, line 29, delete "11(d)" and insert "**12(d)**".

Page 4, line 34, delete "11" and insert "**12**".

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Page 5, line 2, delete "13." and insert "**14.**".  
Page 5, line 7, delete "14." and insert "**15.**".  
Page 5, line 8, delete "12" and insert "**13**".  
Page 5, line 16, delete "11" and insert "**12**".  
Page 5, line 17, delete "15." and insert "**16.**".  
Page 5, line 18, delete "11 or 12" and insert "**12 or 13**".  
Page 5, line 20, delete "16." and insert "**17.**".  
Page 5, line 27, delete "17." and insert "**18.**".

and when so amended that said bill do pass.

(Reference is to SB 383 as reprinted February 2, 2016.)

KOCH

Committee Vote: yeas 12, nays 0.

