

# SENATE BILL No. 397

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-13-34.5.

**Synopsis:** Reporting of stranded electric utility costs. Requires a cooperatively owned power supplier to submit an annual report to the utility regulatory commission (IURC) concerning the cooperatively owned power supplier's stranded costs with respect to the calendar year to which the report pertains. Defines a "cooperatively owned power supplier" as: (1) a general district corporation within the meaning of the rural electric membership corporation act (act); or (2) a nonprofit organization whose membership includes one or more corporations organized under the act. Provides that a cooperatively owned power supplier's stranded costs for a calendar year include both of the following, as applicable: (1) The difference between: (A) the forecasted costs with respect to the cooperatively owned power supplier's supply side portfolio; minus (B) the forecasted market value with respect to the cooperatively owned power supplier's supply side portfolio; for the calendar year. (2) The cooperatively owned power supplier's forecast of the amount of harm, measured as a shifting of costs among member corporations, resulting from any reduced load with respect to the calendar year. Provides that in the required report to the IURC, a cooperatively owned power supplier must provide an explanation of the reasons for any difference in amounts reported for these two elements of stranded costs. Subject to certain protections for confidential or proprietary business information, requires: (1) a cooperatively owned power supplier to: (A) make a copy of each annual report available for inspection and copying at its offices; (B) post each annual report on the cooperatively owned power supplier's Internet web site, if any; and (C) maintain each annual report in an electronic format for a period of at  
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**Effective:** Upon passage.

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## Boots

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January 14, 2021, read first time and referred to Committee on Utilities.

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Digest Continued

least five years; and (2) the IURC to post on its Internet web site each annual report received. Provides that these provisions apply to a cooperatively owned power supplier regardless of whether: (1) the cooperatively owned power supplier; or (2) any member of the cooperatively owned power supplier; has withdrawn from the jurisdiction of the IURC, as allowed under the act. Requires the IURC to adopt rules to implement these provisions.



First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# SENATE BILL No. 397



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 8-1-13-34.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 34.5. (a) This section applies to a**  
4 **cooperatively owned power supplier regardless of whether:**  
5 **(1) the cooperatively owned power supplier; or**  
6 **(2) any member of the cooperatively owned power supplier;**  
7 **has withdrawn from the jurisdiction of the commission under**  
8 **section 18.5 of this chapter.**  
9 **(b) As used in this section, "cooperatively owned power**  
10 **supplier" means:**  
11 **(1) a general district corporation within the meaning of**  
12 **section 23 of this chapter; or**  
13 **(2) a corporation organized under IC 23-17 whose**  
14 **membership includes one (1) or more corporations organized**  
15 **under this chapter.**



1           (c) As used in this section, "forecasted costs", with respect to a  
2 cooperatively owned power supplier's supply side portfolio, means  
3 the cooperatively owned power supplier's forecast of the  
4 cooperatively owned power supplier's fixed and committed costs to  
5 serve the cooperatively owned power supplier's member  
6 corporations during a particular calendar year, as calculated using  
7 a methodology approved by the commission in rules adopted under  
8 subsection (m), including costs related to:

9           (1) electric generation assets owned by the cooperatively  
10 owned power supplier, including:

- 11           (A) outstanding debt;  
12           (B) depreciation costs;  
13           (C) financing costs; or  
14           (D) other costs;

15 related to those assets; and

16           (2) power purchase agreements under which the cooperatively  
17 owned power supplier is obligated.

18           (d) As used in this section, "forecasted market value", with  
19 respect to a cooperatively owned power supplier's supply side  
20 portfolio, means the cooperatively owned power supplier's forecast  
21 of the market value of the fixed and committed costs to serve the  
22 cooperatively owned power supplier's member corporations during  
23 a particular calendar year, as calculated using a methodology  
24 approved by the commission in rules adopted under subsection  
25 (m), including the market value of costs related to:

26           (1) electric generation assets owned by the cooperatively  
27 owned power supplier, including:

- 28           (A) outstanding debt;  
29           (B) depreciation costs;  
30           (C) financing costs; or  
31           (D) other costs;

32 related to those assets; and

33           (2) power purchase agreements under which the cooperatively  
34 owned power supplier is obligated.

35           (e) As used in this section, "reduced load", with respect to a  
36 cooperatively owned power supplier, means the amount of the  
37 reduction in the amount of electricity delivered by the  
38 cooperatively owned power supplier to all of the cooperatively  
39 owned power supplier's member corporations during a calendar  
40 year, as compared with the amount of electricity delivered by the  
41 cooperatively owned power supplier to all of the cooperatively  
42 owned power supplier's member corporations during the



1 immediately preceding calendar year.

2 (f) As used in this section, "stranded costs", with respect to a  
3 cooperatively owned power supplier, and with respect to any  
4 calendar year, includes both of the following, as calculated by the  
5 cooperatively owned power supplier using a methodology  
6 approved by the commission in rules adopted under subsection  
7 (m):

8 (1) The difference between:

9 (A) the cooperatively owned power supplier's forecasted  
10 costs with respect to the cooperatively owned power  
11 supplier's supply side portfolio; minus

12 (B) the cooperatively owned power supplier's forecasted  
13 market value with respect to the cooperatively owned  
14 power supplier's supply side portfolio;

15 for the calendar year.

16 (2) The cooperatively owned power supplier's forecast of the  
17 amount of harm, measured as a shifting of costs among  
18 member corporations of the cooperatively owned power  
19 supplier, resulting from any reduced load with respect to the  
20 calendar year.

21 (g) For each calendar year, a cooperatively owned power  
22 supplier shall submit to the commission an annual report with  
23 respect to that calendar year that includes the following  
24 information, as applicable:

25 (1) The cooperatively owned power supplier's stranded costs  
26 under subsection (f)(1) for the calendar year. For each:

27 (A) electric generation asset;

28 (B) power purchase agreement; or

29 (C) other fixed commitment;

30 for which the cooperatively owned power supplier's  
31 forecasted costs exceed the forecasted market value, the  
32 cooperatively owned power supplier shall provide an  
33 explanation of reasons for making such investments or  
34 entering into such commitments at the time they were made.

35 (2) The amount of any reduced load experienced by the  
36 cooperatively owned power supplier with respect to the  
37 calendar year.

38 (3) With respect to any reduced load identified under  
39 subdivision (2), the cooperatively owned power supplier's  
40 stranded costs under subsection (f)(2) for the calendar year.

41 (4) If:

42 (A) the cooperatively owned power supplier reports



- 1           stranded costs under both subsection (f)(1) and (f)(2); and  
 2           **(B) the amount of stranded costs reported under**  
 3           **subsection (f)(1) is different from the amount of stranded**  
 4           **costs reported under subsection (f)(2);**  
 5           **the cooperatively owned power supplier shall provide an**  
 6           **explanation of the reasons for the difference.**  
 7           **(5) A description of the cooperatively owned power supplier's**  
 8           **plans for reducing or eliminating the cooperatively owned**  
 9           **power supplier's stranded costs in subsequent years.**  
 10           **(6) Any other relevant information required by the**  
 11           **commission in rules adopted under subsection (m).**  
 12           **The report required by this subsection shall be submitted each year**  
 13           **by a date prescribed by the commission, and in the form required**  
 14           **by the commission, in the rules adopted by the commission under**  
 15           **subsection (m). The first reports under this subsection shall be**  
 16           **submitted in 2022 for calendar year 2021.**  
 17           **(h) Subject to subsection (j), upon submitting a report to the**  
 18           **commission under subsection (g), a cooperatively owned power**  
 19           **supplier shall:**  
 20               **(1) make a copy of the report available for inspection and**  
 21               **copying at the offices of the cooperatively owned power**  
 22               **supplier in accordance with IC 5-14-3;**  
 23               **(2) if the cooperatively owned power supplier maintains an**  
 24               **Internet web site, post the report on the cooperatively owned**  
 25               **power supplier's Internet web site; and**  
 26               **(3) maintain in an electronic format a report prepared for a**  
 27               **particular calendar year for a period of at least five (5) years,**  
 28               **beginning on January 1 of the calendar year immediately**  
 29               **following the calendar year to which the report pertains.**  
 30           **(i) Subject to subsection (k), upon receipt of a report from a**  
 31           **cooperatively owned power supplier under subsection (g), the**  
 32           **commission shall post the report on the commission's Internet web**  
 33           **site.**  
 34           **(j) In complying with subsections (g) and (h), a cooperatively**  
 35           **owned power supplier shall not disclose information reasonably**  
 36           **designated as confidential or proprietary business information by:**  
 37               **(1) the cooperatively owned power supplier;**  
 38               **(2) any member corporation of the cooperatively owned**  
 39               **power supplier; or**  
 40               **(3) any person with whom:**  
 41                   **(A) the cooperatively owned power supplier; or**  
 42                   **(B) any member corporation of the cooperatively owned**



1           power supplier;  
 2           contracts in a power purchase agreement or otherwise;  
 3       unless the disclosure is consented to by all the parties. However,  
 4       any information or other data required to be reported under  
 5       subsection (g) is not reasonably designated as confidential or  
 6       proprietary business information to the extent the information or  
 7       data can be redacted to exclude the asserted confidential or  
 8       proprietary business information.

9           (k) In complying with subsection (i), the commission shall not  
 10       disclose information reasonably designated as confidential or  
 11       proprietary business information by:

12           (1) the cooperatively owned power supplier submitting the  
 13           report;

14           (2) any member corporation of the cooperatively owned  
 15           power supplier submitting the report; or

16           (3) any person with whom:

17               (A) the cooperatively owned power supplier submitting the  
 18               report; or

19               (B) any member corporation of the cooperatively owned  
 20               power supplier submitting the report;

21       contracts in a power purchase agreement or otherwise;  
 22       unless the disclosure is consented to by all the parties. However,  
 23       any information or other data required to be reported by a  
 24       cooperatively owned power supplier under subsection (g) is not  
 25       reasonably designated as confidential or proprietary business  
 26       information to the extent the information or data can be redacted  
 27       to exclude the asserted confidential or proprietary business  
 28       information.

29           (l) To the extent necessary for the commission to enforce  
 30       compliance with this section, the following apply to a cooperatively  
 31       owned power supplier regardless of whether the cooperatively  
 32       owned power supplier, or any member of the cooperatively owned  
 33       power supplier, has withdrawn from the jurisdiction of the  
 34       commission under section 18.5 of this chapter:

35           (1) Section 34 of this chapter.

36           (2) Section 35 of this chapter.

37           (3) Section 40 of this chapter.

38           (m) Not later than July 1, 2021, the commission shall adopt rules  
 39       to implement this section. The rules adopted by the commission  
 40       under this subsection must include the following:

41           (1) One (1) or more permissible methodologies by which a  
 42           cooperatively owned power supplier may calculate the



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**following:**

**(A) Forecasted costs under subsection (c).**

**(B) Forecasted market value under subsection (d).**

**(C) Stranded costs under subsection (f).**

**(2) An annual due date for the report required under subsection (g).**

**In adopting rules under this subsection, the commission may adopt emergency rules in the manner provided by IC 4-22-2-37.1. Notwithstanding IC 4-22-2-37.1(g), an emergency rule adopted by the commission under this subsection and in the manner provided by IC 4-22-2-37.1 expires on the date on which a rule that supersedes the emergency rule is adopted by the commission under IC 4-22-2-24 through IC 4-22-2-36.**

**SECTION 2. An emergency is declared for this act.**

