

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE ENROLLED ACT No. 1319

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-30.3 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 30.3. Acquisition of Distressed Water or Wastewater Utilities

Sec. 1. As used in this chapter, "cost differential" means the difference between:

- (1) the cost to a utility company that acquires utility property from a distressed utility, including the purchase price, incidental expenses, and other costs of acquisition; minus
- (2) the difference between:
 - (A) the cost of the utility property when originally put into service by the distressed utility; minus
 - (B) contributions or advances in aid of construction plus applicable accrued depreciation.

Sec. 2. As used in this chapter, "distressed utility" refers to a utility company whose property is the subject of an acquisition described in section 5(a) of this chapter.

Sec. 3. As used in this chapter, "utility company" means:

- (1) a public utility (as defined in IC 8-1-31-7) that provides water or wastewater service; or

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(2) a regional sewer or water district.

Sec. 4. As used in this chapter, "utility property" refers to property of a utility company that is the subject of an acquisition described in section 5(a) of this chapter.

Sec. 5. (a) This section applies if:

(1) a utility company acquires property from another utility company at a cost differential; and

(2) at least one (1) utility company described in subdivision (1) is subject to the jurisdiction of the commission under this article.

(b) There is a rebuttable presumption that a cost differential is reasonable.

(c) The utility company that acquires the utility property may petition the commission to include the cost differentials as part of its rate base. The commission shall approve the petition if the commission finds the following:

(1) The utility property is used and useful in providing water service, wastewater service, or both water and wastewater service.

(2) The distressed utility:

(A) served not more than three thousand (3,000) customers; or

(B) was nonviable in the absence of the acquisition.

(3) The distressed utility failed to furnish or maintain adequate, efficient, safe, and reasonable service and facilities.

(4) The utility company will make reasonable and prudent improvements to ensure that customers of the distressed utility will receive adequate, efficient, safe, and reasonable service.

(5) The acquisition of the utility property is the result of a mutual agreement made at arms length.

(6) The actual purchase price of the utility property is reasonable.

(7) The utility company and the distressed utility are not affiliated and share no ownership interests.

(8) The rates charged by the utility company before acquiring the utility property of the distressed utility will not increase unreasonably as a result of acquiring the utility property.

(9) The cost differential will be added to the utility company's rate base to be amortized as an addition to expense over a reasonable time with corresponding reductions in the rate base.



(d) A utility company may petition the commission in an independent proceeding to approve a petition under subsection (c) before the utility company acquires the utility property if the utility company provides:

- (1) notice of the proposed acquisition and any changes in rates or charges to customers of the distressed utility;**
- (2) notice to customers of the utility company if the proposed acquisition will increase the utility company's rates by an amount that is greater than one percent (1%) of the utility company's base annual revenue;**
- (3) notice to the office of the utility consumer counselor; and**
- (4) a plan for reasonable and prudent improvements to provide adequate, efficient, safe, and reasonable service to customers of the distressed utility.**

Sec. 6. For purposes of section 5(c)(3) of this chapter, a distressed utility is not furnishing or maintaining adequate, efficient, safe, and reasonable service and facilities if the commission finds one (1) or more of the following:

- (1) The distressed utility violated one (1) or more state or federal statutory or regulatory requirements concerning the safety, adequacy, efficiency, or reasonableness of its services or facilities.**
- (2) The distressed utility has inadequate financial, managerial, or technical ability or expertise.**
- (3) The distressed utility fails to provide water in sufficient amounts, that is palatable, or at adequate volume or pressure.**
- (4) The distressed utility, due to necessary improvements to its plant or distribution or collection system or operations, is unable to furnish and maintain adequate service to its customers at rates equal to or less than those of the public utility.**
- (5) Any other facts that the commission determines demonstrate the distressed utility's inability to furnish or maintain adequate, efficient, safe, or reasonable service or facilities.**

Sec. 7. Not later than October 1 of each year, the commission shall submit, in an electronic format under IC 5-14-6 to the interim study committee on energy, utilities, and telecommunications, a report concerning acquisitions under this chapter.

SECTION 2. IC 14-25-7-12.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12.5. (a) The department shall



cooperate with the United States Geological Survey to establish a program under which volunteers may monitor the water resource and provide monitoring data to the commission, the department, and the United States Geological Survey. Data derived from the voluntary monitoring conducted under the program may be:

(1) collected and disseminated by the commission under section 12(1) of this chapter; and

(2) used by the commission in conducting the continuing assessment of the availability of the water resource under section 11(1) of this chapter.

(b) The department may cooperate with other local, state, and federal governmental agencies in implementing this section.

(c) The commission, under IC 4-22-2 and section 10(a) of this chapter, may adopt rules concerning the administration of this section. Section 10(c) and 10(d) of this chapter does not apply to the adoption of rules under this subsection.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

