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## SENATE BILL No. 241

Proposed Changes to introduced printing by AM024102

### DIGEST OF PROPOSED AMENDMENT

Alternative regulatory procedures for water or sewer utilities. Adds language to amend the existing statute authorizing alternative regulatory procedures for water or sewer utilities with customer bases not exceeding specified numbers to include within the scope of the statute a procedure that promotes economic development opportunities in rural areas while providing just and reasonable protections to a utility's existing ratepayers.

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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 8-1-2-61.5, AS AMENDED BY P.L.229-2019,  
2    SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3    JULY 1, 2026]: Sec. 61.5. (a) An order affecting rates of service may  
4    be entered by the commission without a formal public hearing in the  
5    case of any public or municipally owned utility that:  
6       (1) either:  
7          (A) serves less than eight thousand (8,000) customers; or  
8          (B) has initiated a rate case on behalf of a single division of  
9          the utility and that division:  
10             (i) serves less than five thousand (5,000) customers;  
11             (ii) has a commission-approved schedule of rates and  
12             charges that is separate and independent from that of  
13             any other division of the utility; and  
14             (iii) itself satisfies subdivisions (2) and (3);  
15             (2) primarily provides retail service to customers; and  
16             (3) does not serve extensively another utility.  
17       (b) The commission may require a formal public hearing on any

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1        petition or complaint filed under this section concerning a rate change  
 2        request by a utility upon the commission's own motion or upon motion  
 3        of any of the following:

4        (1) The utility consumer counselor.  
 5        (2) A public or municipal corporation.  
 6        (3) Ten (10) individuals, firms, limited liability companies,  
 7        corporations, or associations.  
 8        (4) Ten (10) complainants of any class described in this  
 9        subsection.  
 10      (c) A not-for-profit water utility or a not-for-profit sewer utility  
 11      must include in its petition a statement as to whether it has an  
 12      outstanding indebtedness to the federal government. When an  
 13      indebtedness is shown to exist, the commission shall require a formal  
 14      hearing, unless the utility also has included in its filing written consent  
 15      from the agency of the federal government with which the utility has  
 16      outstanding indebtedness for the utility to obtain an order affecting its  
 17      rates from the commission without a formal hearing.

18      (d) Notwithstanding any other provision of this chapter, the  
 19      commission may:

20      (1) on the commission's own motion; or  
 21      (2) at the request of:  
 22        (A) the utility consumer counselor;  
 23        (B) a water or sewer utility described in subsection (a);  
 24        (C) ten (10) individuals, firms, limited liability companies,  
 25        corporations, or associations; or  
 26        (D) ten (10) complainants of any class described in this  
 27        subsection;

28      adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,  
 29      providing for the development, investigation, testing, and use of  
 30      regulatory procedures or generic standards with respect to water or  
 31      sewer utilities described in subsection (a) or their services.

32      (e) The commission may adopt a rule or enter an order under  
 33      subsection (d) only if it finds, after notice and hearing, that the  
 34      proposed regulatory procedures or standards are in the public interest  
 35      and promote at least one (1) of the following:

36        (1) Utility cost minimization to the extent that a utility's quality  
 37        of service or facilities are not diminished.  
 38        (2) A more accurate evaluation by the commission of a utility's  
 39        physical or financial conditions or needs.  
 40        (3) A less costly regulatory procedure for a utility, its consumers,  
 41        or the commission.  
 42        (4) Increased utility management efficiency that is beneficial to



1                   consumers.

2                   **(5) Economic development opportunities in rural areas (as**  

3                   **defined in section 89(a)(3) of this chapter) while providing**  

4                   **just and reasonable protections to a utility's existing**  

5                   **ratepayers.**

6                   [1] SECTION ~~↔~~[2]. IC 8-1-31.7-7, AS ADDED BY P.L.137-2020,  

7                   SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

8                   JULY 1, 2026]: Sec. 7. As used in this chapter, "service enhancement

9                   improvement" means an expenditure that is either of the following:

10                  (1) Made, or to be made, by an eligible utility and related to:

11                  (A) direct or indirect compliance with one (1) or more  

12                  requirements; or

13                  (B) installation of a new plant or equipment:

14                  (i) that is not a replacement plant or equipment; and  

15                  (ii) that the commission determines is reasonable and

16                  appropriate to further health, safety, or environmental  

17                  protection for the eligible utility's customers,  

18                  employees, or the public.

19                  (2) ~~Replacement of a plant or equipment Any of the following~~  

20                  **that are made, or to be made, or incurred, or to be incurred,**[1]

21                  [1]to maintain existing health, safety, or environmental protection  

22                  for the eligible utility's customers, employees, or the public:

23                  (A) **Replacement of a plant or equipment.**

24                  (B) **Subject to section 9.1 of this chapter, chemical costs**  

25                  **recorded in:**

26                  (i) **Account 618;** or

27                  (ii) **Account 718;**

28                  **of the National Association of Regulatory Utility**  

29                  **Commissioners Uniform System of Accounts as adopted**  

30                  **by the commission under 170 IAC 6-2-2.**

31                  (C) **Subject to section 9.1 of this chapter, power costs**  

32                  **recorded in:**

33                  (i) **Account 615;** or

34                  (ii) **Account 715;**

35                  **of the National Association of Regulatory Utility**  

36                  **Commissioners Uniform System of Accounts as adopted**  

37                  **by the commission under 170 IAC 6-2-2.**

38                  SECTION ~~↔~~[3]. IC 8-1-31.7-9, AS AMENDED BY

39                  P.L.100-2023, SECTION 2, IS AMENDED TO READ AS FOLLOWS

40                  [EFFECTIVE JULY 1, 2026]: Sec. 9. (a) Except as provided in  

41                  subsection (e), before an eligible utility may seek to recover its service

42                  enhancement improvement costs through a periodic rate adjustment

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under section 12 of this chapter, it must first obtain preapproval from the commission of its plan for the proposed service enhancement improvement or improvements. The eligible utility must file with the commission a petition and a case in chief, including supporting information described in section 10 or 11 of this chapter, as applicable. If the petition includes a request for an allocation of costs under IC 8-1-30.3-6.5, the eligible utility shall provide a copy of:

(1) the petition; and

(2) the eligible utility's case in chief;

10 to each intervenor in the eligible utility's last general rate case.

19 (c) The commission shall issue its final order on the petition not  
20 later than two hundred ten (210) days after the filing of the eligible  
21 utility's case in chief.

22 (d) An eligible utility may have more than one (1) plan, and an  
23 eligible utility may file separate petitions for separate plans.

24 (e) An eligible utility is not required to seek preapproval of a plan  
25 in order to seek recovery under section 12 of this chapter for:

(1) eligible additions service enhancement improvements that are described in section 7(2)(A) of this chapter; or  
(2) costs that are described in section 7(2)(B) or 7(2)(C) of

38 (1) Eighty percent (80%) of the eligible utility's service  
39 enhancement improvement costs shall be recovered by the  
40 eligible utility through a periodic rate adjustment mechanism  
41 that allows the timely recovery of the approved service  
42 enhancement improvement costs.

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(2) Twenty percent (20%) of the eligible utility's service enhancement improvement costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, compounded monthly and based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the eligible utility as part of its next general rate case filed by the eligible utility with the commission.

(3) Actual costs that exceed by more than twenty-five percent (25%) the projected costs set forth in the eligible utility's plan approved under this section require specific justification by the eligible utility and specific approval by the commission before being authorized in the next general rate case filed by the eligible utility with the commission.

SECTION ~~4~~<sup>4</sup>. IC 8-1-31.7-9.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 9.1. (a) This section applies to the recalculation of costs described in section 7(2)(B) and 7(2)(C) of this chapter for purposes of an adjustment rider under section 12 of this chapter.**

**(b) Chemical costs described in section 7(2)(B) of this chapter may be recalculated as follows:**

(1) If:

**(A) at least two (2) years have elapsed since the date of the commission's most recent order adjusting the basic rates and charges of an eligible utility; and**

**(B) the average actual annual cost of chemicals has increased or decreased by at least three percent (3%) over the course of the two (2) year period described in subdivision (2);**

the eligible utility may submit for the commission's review supporting documentation of the average actual annual cost of chemicals for the two (2) year period described in subdivision (2), as calculated under subdivision (2), along with documentation of how the average annual cost of chemicals over that period differs from the amount currently being collected for chemicals through the eligible utility's rates. However, if the average actual annual cost of chemicals has not changed or has increased or decreased by less than three percent (3%) over the course of the two (2) year period described in subdivision (2), an eligible utility may not seek an adjustment to the eligible utility's recovery

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1 of chemical costs under this section.

2 (2) If the eligible utility has determined that the average  
 3 actual annual cost of chemicals has increased or decreased  
 4 by at least three percent (3%) over the course of the two (2)  
 5 year period described in this subdivision, the eligible utility  
 6 shall include in its submission under this subsection a  
 7 calculation of the average actual annual cost of chemicals for  
 8 the two (2) year period described in this subdivision, along  
 9 with a comparison of that cost to the amount currently being  
 10 collected for chemicals through the eligible utility's rates, as  
 11 follows:

12       **STEP ONE:** Calculate the actual cost of chemicals  
 13        during the two (2) year period immediately preceding  
 14        the date of the eligible utility's submission under this  
 15        subsection by adding together the actual annual cost of  
 16        chemicals in each year of the two (2) year period.

17       **STEP TWO:** Calculate the quotient of the STEP ONE  
 18        amount divided by two (2). This quotient is the average  
 19        actual annual cost of chemicals for the two (2) years  
 20        immediately preceding the eligible utility's submission  
 21        under this subsection.

22       **STEP THREE:** Calculate the difference between:

23           (i) the STEP TWO result; minus

24           (ii) the amount currently being collected for  
 25           chemicals through the eligible utility's rates on an  
 26           annual basis.

27       (3) If the STEP THREE result under subdivision (2) is a  
 28        positive number, the amount of the STEP THREE result  
 29        shall be included in the adjustment rider under section 12 of  
 30        this chapter as an expense in calculating an adjustment to the  
 31        rider.

32       (4) If the STEP THREE result under subdivision (2) is a  
 33        negative number, the amount of the STEP THREE result  
 34        shall be included in the adjustment rider under section 12 of  
 35        this chapter as a credit in calculating an adjustment to the  
 36        rider.

37       (c) Power costs described in section 7(2)(C) of this chapter may  
 38        be recalculated as follows:

39           (1) If:

40              (A) at least two (2) years have elapsed since the date of  
 41              the commission's most recent order adjusting the basic  
 42              rates and charges of an eligible utility; and



(B) the average actual annual cost of power has increased or decreased by at least three percent (3%) over the course of the two (2) year period described in subdivision (2);

the eligible utility may submit for the commission's review supporting documentation of the average actual annual cost of power for the two (2) year period described in subdivision (2), as calculated under subdivision (2), along with documentation of how the average annual cost of power over that period differs from the amount currently being collected for power through the eligible utility's rates. However, if the average actual annual cost of power has not changed or has increased or decreased by less than three percent (3%) over the course of the two (2) year period described in subdivision (2), an eligible utility may not seek an adjustment to the eligible utility's recovery of power costs under this section.

**(2) If the eligible utility has determined that the average actual annual cost of power has increased or decreased by at least three percent (3%) over the course of the two (2) year period described in this subdivision, the eligible utility shall include in its submission under this subsection a calculation of the average actual annual cost of power for the two (2) year period described in this subdivision, along with a comparison of that cost to the amount currently being collected for power through the eligible utility's rates, as follows:**

**STEP ONE: Calculate the actual cost of power during the two (2) year period immediately preceding the date of the eligible utility's submission under this subsection by adding together the actual annual cost of power in each year of the two (2) year period.**

**STEP TWO: Calculate the quotient of the STEP ONE amount divided by two (2). This quotient is the average actual annual cost of power for the two (2) years immediately preceding the eligible utility's submission under this subsection.**

### **STEP THREE: Calculate the difference between:**

- (i) the STEP TWO result; minus
- (ii) the amount currently being collected for power through the eligible utility's rates on an annual basis.

(3) If the STEP THREE result under subdivision (2) is a

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1                   **positive number, the amount of the STEP THREE result**  
 2                   **shall be included in the adjustment rider under section 12 of**  
 3                   **this chapter as an expense in calculating an adjustment to the**  
 4                   **rider.**

5                   **(4) If the STEP THREE result under subdivision (2) is a**  
 6                   **negative number, the amount of the STEP THREE result**  
 7                   **shall be included in the adjustment rider under section 12 of**  
 8                   **this chapter as a credit in calculating an adjustment to the**  
 9                   **rider.**

10                  SECTION ~~44~~<sup>45</sup> IC 8-1-31.7-12, AS ADDED BY P.L.137-2020,  
 11                  SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12                  JULY 1, 2026]: Sec. 12. (a) If the commission approves an eligible  
 13                  utility's plan under section 9 of this chapter, or if commission approval  
 14                  of the plan is otherwise not required, the eligible utility may file a  
 15                  petition to establish or adjust an adjustment rider to its rate schedules  
 16                  under this section so as to allow timely recovery of the eligible utility's  
 17                  service enhancement improvement costs. The following shall apply:

18                  (1) The adjustment rider shall be calculated as a fixed charge  
 19                  based upon equivalent meter size.

20                  (2) Publication of notice of the filing is not required.

21                  **For purposes of this section, the timely recovery of costs for a**  
 22                  **municipally owned utility or a not-for-profit utility shall be in a**  
 23                  **manner consistent with IC 8-1-31-8(a)(3).**

24                  (b) **Except as provided in subsection (i),** the adjustment rider  
 25                  shall provide for the timely recovery of eighty percent (80%) of the  
 26                  service enhancement improvement costs. The remaining twenty percent  
 27                  (20%) of the service enhancement improvement costs shall be deferred  
 28                  under section 9(f)(2) of this chapter.

29                  (c) The commission shall conduct a hearing.

30                  (d) The office of the utility consumer counselor may:

31                  (1) examine information of the eligible utility to confirm:  
 32                    (A) that the eligible additions are in accordance with  
 33                    sections 2 and 8 of this chapter, **as applicable;** and  
 34                    (B) the proper calculation of the adjustment amount  
 35                    proposed under this section **or section 9.1 of this chapter,**  
 36                    **as applicable;** and

37                  (2) submit a report to the commission not later than thirty (30)  
 38                  days after the petition is filed.

39                  (e) Except as provided in subsection (h), the commission shall  
 40                  hold the hearing and issue its order not later than sixty (60) days after  
 41                  the petition is filed.

42                  (f) Except as provided in subsection (h), the commission shall



1 enter an order approving a petition filed under this section to the extent  
 2 the commission finds that the petition complies with the requirements  
 3 of this chapter.

4 (g) A petition filed under this section may combine one (1) or  
 5 more of the following:

6 (1) Service enhancement improvement costs associated with one  
 7 (1) or more plans approved under section 9 of this chapter.  
 8 (2) Service enhancement improvement costs for which approval  
 9 of a plan is not required under this chapter.

10 (h) If a petition filed under this section seeks recovery of service  
 11 enhancement improvement costs associated with eligible additions  
 12 made in association with service enhancement improvements described  
 13 in section 7(2) 7(2)(A) of this chapter:

14 (1) the commission shall create a sub-docket to consider the  
 15 service enhancement improvement costs if the petition combines  
 16 the service enhancement improvement costs with service  
 17 enhancement improvement costs associated with approved plans  
 18 under section 7(1)(A) or 7(1)(B) of this chapter;

19 (2) to approve recovery of the service enhancement improvement  
 20 costs associated with service enhancement improvements  
 21 described in section 7(2) 7(2)(A) of this chapter, the commission  
 22 must find that the service enhancement improvements described  
 23 in section 7(2) 7(2)(A) of this chapter are reasonable and  
 24 necessary; and

25 (3) the time period for issuance of an order under subsection (e)  
 26 is extended to one hundred twenty (120) days with respect to the  
 27 service enhancement improvement costs associated with service  
 28 enhancement improvements described in section 7(2) 7(2)(A) of  
 29 this chapter.

30 **(i) An adjustment rider under this section for the recovery of  
 31 costs described in section 7(2)(B) or 7(2)(C) of this chapter shall  
 32 provide for the timely recovery of those costs in full and without  
 33 the deferral otherwise required under subsection (b).I**

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