

# HOUSE BILL No. 1320

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-40; IC 36-7-5.3.

**Synopsis:** Generation of electricity by distributed generation. Provides that the utility regulatory commission (IURC) may authorize an electricity supplier to establish certain tariffs, rates and charges, and credits with respect to the acquisition of electricity from a customer that uses distributed generation. Establishes consumer protections for customers using distributed generation. Requires electricity suppliers and customers that use distributed generation to comply with applicable safety, performance, reliability and interconnection rules and standards. Provides that a local ordinance, resolution, or order involving distributed generation equipment must: (1) reasonably accommodate the facility; and (2) represent the minimum regulation practicable to accomplish a legitimate governmental purpose.

**Effective:** Upon passage.

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January 13, 2015, read first time and referred to Committee on Utilities, Energy and Telecommunications.

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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 BILL No. 1320

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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 8-1-40 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON  
3 PASSAGE]:

4 **Chapter 40. Distributed Generation**  
5 **Sec. 1. As used in this chapter, "avoided cost" means the**  
6 **incremental energy cost an electricity supplier avoids by receiving**  
7 **electricity from a customer that uses distributed generation rather**  
8 **than by purchasing the electricity from another party or**  
9 **generating the electricity itself.**

10 **Sec. 2. As used in this chapter, "customer" means a person that:**  
11 **(1) receives electric service from an electricity supplier; and**  
12 **(2) is not billed a monthly demand charge for peak demand**  
13 **for electric kilowatts.**

14 **Sec. 3. As used in this chapter, "distributed generation" means**  
15 **the generation of electricity by equipment that is:**



- 1           (1) located on the customer's premises;  
 2           (2) owned, operated, leased, or otherwise used by the  
 3           customer; and  
 4           (3) interconnected and operated in parallel with the electricity  
 5           supplier's facilities.

6           The term does not include an electric generator used exclusively  
 7           for emergency purposes.

8           Sec. 4. As used in this chapter, "electricity supplier" has the  
 9           meaning set forth in IC 8-1-2.3-2(b).

10          Sec. 5. As used in this chapter, "fixed charge" means:

- 11          (1) a fixed monthly charge;  
 12          (2) a basic service charge; or  
 13          (3) any other charge that is not derived from the volume of  
 14          energy consumed by a customer;

15          that reflects the fixed costs of the customer's electricity supplier.

16          Sec. 6. As used in this chapter, "fixed costs" means any costs  
 17          that:

- 18          (1) are incurred by an electricity supplier as part of its cost of  
 19          service; and  
 20          (2) do not vary directly with the number of kilowatt hours  
 21          sold or delivered.

22          The term includes capital and operating costs.

23          Sec. 7. As used in this chapter, "subsidy" means a cost  
 24          attributable to a customer that is allocated or assigned on a basis  
 25          other than the cost of service to a different customer in the same  
 26          customer class of service.

27          Sec. 8. (a) An electricity supplier may petition the commission  
 28          to authorize rates and charges, including fixed charges, based on  
 29          a nonvolumetric rate design.

30          (b) If the commission finds that the nonvolumetric rate design  
 31          is based on principles of cost causation, the commission shall  
 32          authorize the rates and charges.

33          Sec. 9. (a) Upon petition by an electricity supplier, the  
 34          commission may authorize the electricity supplier to establish and  
 35          impose a fixed charge to avoid, reduce, or eliminate a subsidy to  
 36          customers of the electricity supplier that use distributed  
 37          generation.

38          (b) A fixed charge authorized under this section applies only to  
 39          customers that place distributed generation equipment into service  
 40          after December 31, 2014.

41          Sec. 10. (a) An electricity supplier may petition the commission  
 42          to approve a tariff that provides a credit on a customer bill for



1 electric service to a customer that:

- 2 (1) uses distributed generation; and  
 3 (2) delivers electricity to the electricity supplier.

4 (b) The commission shall approve a tariff described in  
 5 subsection (a) if the commission makes the following findings:

6 (1) The customer will be charged for all electricity that the  
 7 customer consumes at the applicable rate schedule for sales to  
 8 that customer class.

9 (2) The amount of the credit on the customer's bill equals the  
 10 electricity supplier's avoided cost that is attributable to the  
 11 electricity provided by the customer to the electricity supplier.

12 (3) Any unused portion of a credit issued to a customer during  
 13 a billing cycle will carry forward and be applied against all  
 14 charges billed to the customer during a subsequent billing  
 15 cycle.

16 (c) A tariff approved under this section applies only to  
 17 customers that place distributed generation equipment into service  
 18 after December 31, 2014.

19 Sec. 11. A petition described in section 8, 9, or 10 of this chapter:

- 20 (1) must be in the manner and form prescribed by the  
 21 commission; and  
 22 (2) may be submitted to the commission as part of any of the  
 23 following proceedings:

24 (A) A general basic rate proceeding.

25 (B) A proceeding limited to examining cost allocation and  
 26 rate design methods proposed to set rates for an electricity  
 27 supplier that do not change the total retail revenues  
 28 previously authorized for the electricity supplier by the  
 29 commission.

30 (C) A proceeding to revise a tariff approved by the  
 31 commission under 170 IAC 4-4.2 (concerning net  
 32 metering).

33 Sec. 12. The commission may not:

- 34 (1) approve a tariff; or  
 35 (2) authorize rates and charges;

36 that include a subsidy for customers that use distributed  
 37 generation.

38 Sec. 13. (a) This chapter does not affect the following:

- 39 (1) An agreement entered into, or a tariff approved by the  
 40 commission, before May 14, 2015, for the purchase of  
 41 electricity from a customer that uses distributed generation.  
 42 (2) An agreement entered into before May 14, 2015, to



- 1 provide a credit on a customer's bill for the intermittent  
 2 delivery of excess electricity from the customer that uses  
 3 distributed generation to an electricity supplier under a net  
 4 metering tariff.
- 5 (b) Notwithstanding subsection (a) or section 12 of this chapter,  
 6 an electricity supplier that is a party to an agreement or a tariff  
 7 described in subsection (a)(1) may petition the commission to  
 8 renew, modify, or supplant the agreement or tariff.
- 9 Sec. 14. An electricity supplier may offer distributed generation  
 10 and other renewable energy services to customers.
- 11 Sec. 15. (a) A customer that uses distributed generation shall  
 12 comply with applicable safety, performance, and reliability  
 13 standards established by the following:
- 14 (1) The commission.
  - 15 (2) An electricity supplier, subject to approval by the  
 16 commission.
  - 17 (3) The National Electric Code.
  - 18 (4) The National Electrical Safety Code.
  - 19 (5) The Institute of Electrical and Electronics Engineers.
  - 20 (6) Underwriters Laboratories.
  - 21 (7) The federal energy regulatory commission.
  - 22 (8) Local regulatory authorities.
- 23 (b) Electricity suppliers and customers that use distributed  
 24 generation shall comply with applicable interconnection rules and  
 25 standards established by the following:
- 26 (1) The commission. Applicable rules and standards under  
 27 this subdivision include 170 IAC 4-4.2 (concerning net  
 28 metering) and 170 IAC 4-4.3 (concerning interconnection).
  - 29 (2) An electricity supplier, subject to approval by the  
 30 commission.
- 31 Sec. 16. (a) A customer that uses distributed generation has the  
 32 following rights regarding the installation, ownership, and leasing  
 33 of distributed generation equipment:
- 34 (1) The right to know that the attorney general is authorized  
 35 to enforce this section, including by receiving complaints  
 36 concerning the installation, ownership, or leasing of  
 37 distributed generation equipment.
  - 38 (2) The right to know the expected amount of electricity that  
 39 will be produced by the distributed generation equipment that  
 40 the customer is purchasing or leasing.
  - 41 (3) The right to know all costs associated with installing  
 42 distributed generation equipment, including any taxes for



1 which the customer is liable.

2 (4) The right to know the value of all federal, state, or local  
3 tax credits, electricity supplier rate credits, or other incentives  
4 or rebates that the customer may receive or, if applicable,  
5 assign to the provider of distributed generation.

6 (5) The right to know the rate at which the customer will be  
7 credited for electricity produced by the customer's distributed  
8 generation equipment and delivered to an electricity supplier.

9 (6) The right to know information regarding lease payments  
10 and interest rates over the life of a lease for distributed  
11 generation equipment.

12 (7) The right to know if a provider of distributed generation  
13 insures the distributed generation equipment against damage  
14 or loss and, if applicable, any circumstances under which the  
15 provider does not insure against or otherwise cover damage  
16 to or loss of the distributed generation equipment.

17 (8) The right to know the responsibilities of a provider of  
18 distributed generation with respect to installing or removing  
19 distributed generation equipment, including during the life of  
20 a lease.

21 (9) The right to know which party to a lease for distributed  
22 generation equipment is responsible for the balance of the  
23 lease when:

24 (A) the premises on which the distributed generation  
25 equipment is located is sold; or

26 (B) the customer dies;

27 before the end of the lease.

28 (b) The attorney general, in consultation with the commission,  
29 shall adopt rules under IC 4-22-2 that the attorney general  
30 considers necessary to implement and enforce this section,  
31 including a rule requiring written disclosure of the rights set forth  
32 in subsection (a) by a provider of distributed generation to a  
33 customer.

34 SECTION 2. IC 36-7-5.3 IS ADDED TO THE INDIANA CODE  
35 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
36 UPON PASSAGE]:

37 **Chapter 5.3. Regulation of Distributed Generation Equipment**

38 **Sec. 1. The definitions in IC 8-1-40 apply throughout this**  
39 **chapter.**

40 **Sec. 2. A municipality or county may not enact or enforce an**  
41 **ordinance, a resolution, or an order that prohibits the construction**  
42 **or operation of distributed generation equipment.**



1           **Sec. 3. If a municipality or county adopts an ordinance,**  
2 **resolution, or order involving the construction, placement, size, or**  
3 **operation of distributed generation equipment based on health,**  
4 **safety, or aesthetic conditions, the ordinance, resolution, or order**  
5 **must:**

- 6           **(1) reasonably accommodate distributed generation; and**
- 7           **(2) represent the minimal regulation practicable to**  
8           **accomplish the municipality's or county's legitimate purpose.**

9           **Sec. 4. This chapter does not prohibit a municipality or county**  
10 **from taking action to protect or preserve a historic, a historical, or**  
11 **an architectural district that is established by the municipality or**  
12 **county or under state or federal law.**

13           **SECTION 3. An emergency is declared for this act.**

