ENGROSSED
SENATE BILL No. 472

DIGEST OF SB 472 (Updated April 11, 2019 6:41 pm - DI 101)

Citations Affected: IC 2-5; IC 8-1; IC 8-1.5; noncode.

Synopsis: Utility matters. Establishes the 15 member 21st century energy policy development task force (task force). Requires the task force to: (1) examine and evaluate specified aspects of the state's policies concerning electric generation portfolios; (2) develop recommendations for the general assembly and the governor (Continued next page)

Effective: Upon passage.

Koch, Garten, Charbonneau, Merritt, Houchin, Zay, Randolph Lonnie M, Kruse, Doriot, Ruckelshaus

(HOUSE SPONSORS — SOLIDAY, FRYE R)

January 14, 2019, read first time and referred to Committee on Utilities.
February 14, 2019, amended, reported favorably — Do Pass.
February 18, 2019, read second time, ordered engrossed. Engrossed.
February 19, 2019, read third time, passed. Yeas 36, nays 4.

HOUSE ACTION

March 5, 2019, read first time and referred to Committee on Utilities, Energy and Telecommunications.
April 4, 2019, amended, reported — Do Pass.
April 11, 2019, read second time, amended, ordered engrossed.

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concerning any identified challenges with respect to Indiana's electric

Generation Portfolios; and (3) issue a report setting forth the task force's

recommendations not later than December 1, 2020. Requires the utility

Regulatory Commission (IURC) to conduct, before July 1, 2020, a

Comprehensive study of the statewide impacts of: (1) transitions in

The fuel sources and other resources used to generate electricity by electric

utilities; and (2) new and emerging technologies for the generation of

electricity; on electric generation capacity, system reliability, system

resilience, and the cost of electric utility service. Requires the IURC to

Provide a final report on its study to the governor, the legislative


Later than July 1, 2020. Requires that an order affecting rates of service

May be entered by the IURC without a formal public hearing in the

case of any public or municipally owned utility that either: (1) serves

Less than 5,000 customers; or (2) has initiated a rate case on behalf of

A single division of the utility and that division: (A) serves less than

5,000 customers; and (B) has an IURC-approved schedule of rates and

Charges that is separate and independent from that of any other division

Of the utility. (Current law permits the IURC to enter a service rate

Order without a public hearing only in the case of a utility that itself

Serves less than 5,000 customers.) Changes the term "Distressed Utility"

to "Offered Utility" for purposes of provisions regarding acquisition of

Water or wastewater utilities. Makes the following changes for purposes

Of provisions under which a utility that acquires property from another

Utility at a cost differential may petition the IURC to include the cost

differential in the acquiring utility's rate base: (1) Provides conditions

For applicability of the rebuttable presumption that the cost differential

Is reasonable. (2) Amends the findings the IURC must make in order

To approve the petition. (3) Provides that notice of the filing of the

Petition may be provided to customers of the acquiring utility company

In a billing insert. Provides, for purposes of the requirement that a

Municipality that plans to sell or dispose of non-Surplus municipally

Owned utility property must appoint appraisers in a writing that is a

Public record, that a written contract with the appraisers or the

Appraisers' firms satisfies this requirement. Provides that the

Municipality must hold a public hearing regarding the appraisal and

Proposed sale not later than 180 days (rather than 90 days, under

Current law) after the appraisal is complete. Amends the factors the

IURC must consider in deciding whether the sale or disposition is in

The public interest. Urges the legislative council to assign to an

Appropriate interim study committee the task of studying the

Connection of unserved properties to sanitary sewer systems.
ENGROSSED
SENATE BILL No. 472

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

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

SECTION 1. IC 2-5-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 45. 21st Century Energy Policy Development Task Force
Sec. 1. As used in this chapter, "task force" refers to the 21st century energy policy development task force established by section 2 of this chapter.
Sec. 2. The 21st century energy policy development task force is established.
Sec. 3. The task force consists of the following fifteen (15) members:
   (1) Four (4) members of the senate, appointed as follows:
       (A) Two (2) members appointed by the president pro tempore, one (1) of whom shall serve as co-chair of the task

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force.

(B) Two (2) members appointed by the minority leader.

(2) Four (4) members of the house of representatives, appointed as follows:

(A) Two (2) members appointed by the speaker, one (1) of whom shall serve as co-chair of the task force.

(B) Two (2) members appointed by the minority leader.

(3) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent residential ratepayers.

(4) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent commercial ratepayers.

(5) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent industrial ratepayers.

(6) One (1) member who has expertise with respect to the generation, transmission, and distribution of electricity and who is appointed by the legislative council.

(7) One (1) member who has expertise in advanced energy research and development and who is appointed by the governor.

(8) One (1) member who has expertise in renewable energy technology and deployment and who is appointed by the governor.

(9) One (1) member who has broad experience in both economic development and energy policy and who is appointed by the governor.

Sec. 4. (a) Eight (8) members of the task force constitute a quorum.

(b) The affirmative vote of at least a majority of the members at a meeting at which a quorum is present is necessary for the task force to take official action other than to meet and take testimony.

(c) The task force shall meet at the call of the co-chairs.

Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.

Sec. 6. The task force shall do the following:

(1) Examine the state's existing policies regulating electric generation portfolios.

(2) Examine how possible shifts in electric generation portfolios may impact the reliability, system resilience, and
affordability of electric utility service.

(3) Evaluate whether state regulators have the appropriate
authority and statutory flexibility to consider the statewide
impact of the changes described in subdivision (2), while still
protecting ratepayer interests.

Sec. 7. The task force shall develop recommendations for the
general assembly and the governor concerning the following:

(1) Outcomes that must be achieved in order to overcome any
identified challenges concerning Indiana's electric generation
portfolios, along with a timeline for achieving those outcomes.

(2) Whether existing state policy and statutes enable state
regulators to properly consider the statewide impact of
changing electric generation portfolios and, if not, the best
approaches to enable state regulators to consider those
impacts.

(3) How to maintain reliable, resilient, and affordable electric
service for all electric utility consumers, while encouraging
the adoption and deployment of advanced energy
technologies.

Sec. 8. The task force shall:

(1) issue a report setting forth the recommendations required
by section 7 of this chapter; and

(2) not later than December 1, 2020, submit the report to the
following:

(A) The executive director of the legislative services agency
for distribution to the members of the general assembly.
The report submitted to the executive director of the
legislative services agency under this clause must be in an
electronic format under IC 5-14-6.

(B) The governor.

(C) The chair of the Indiana utility regulatory commission.

(D) The utility consumer counselor.

Sec. 9. The legislative services agency shall provide staff support
to the task force.

Sec. 10. This chapter expires December 2, 2020.

SECTION 2. IC 8-1-2-61.5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 61.5. (a) An order
affecting rates of service may be entered by the commission without a
formal public hearing in the case of any public or municipally owned
utility that:

(1) either:

(A) serves less than five thousand (5,000) customers; or
(B) has initiated a rate case on behalf of a single division of
the utility and that division:

(i) serves less than five thousand (5,000) customers;
(ii) has a commission-approved schedule of rates and
charges that is separate and independent from that of
any other division of the utility; and
(iii) itself satisfies subdivisions (2) and (3);
(2) primarily provides retail service to customers; and
(3) does not serve extensively another utility.
(b) The commission may require a formal public hearing on any
petition or complaint filed under this section concerning a rate change
request by a utility upon its the commission's own motion or upon
motion of any of the following:
(1) The utility consumer counselor.
(2) A public or municipal corporation.
(3) Ten (10) individuals, firms, limited liability companies,
corporations, or associations.
(4) Ten (10) complainants of any class described in this
subsection.
(c) A not-for-profit water utility or a not-for-profit sewer utility must
include in its petition a statement as to whether it has an outstanding
indebtedness to the federal government. When an indebtedness is
shown to exist, the commission shall require a formal hearing, unless
the utility also has included in its filing written consent from the agency
of the federal government with which the utility has outstanding
indebtedness for the utility to obtain an order affecting its rates from
the commission without a formal hearing.
(d) Notwithstanding any other provision of this chapter, the
commission may:
(1) on its the commission's own motion; or
(2) at the request of:
(A) the utility consumer counselor;
(B) a water or sewer utility described in subsection (a);
(C) ten (10) individuals, firms, limited liability companies,
corporations, or associations; or
(D) ten (10) complainants of any class described in this
subsection;
adopt a rule under IC 4-22-2, or issue an order in a specific proceeding,
providing for the development, investigation, testing, and use of
regulatory procedures or generic standards with respect to water or
sewer utilities described in subsection (a) or their services.
(e) The commission may adopt a rule or enter an order under
subsection (d) only if it finds, after notice and hearing, that the
proposed regulatory procedures or standards are in the public interest
and promote at least one (1) of the following:

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

SECTION 3. IC 8-1-8.5-3.1 IS ADDED TO THE INDIANA CODE
AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 3.1. (a) As used in this section, "electric
utility" means a:

(1) public, municipally owned, or cooperatively owned utility;
or
(2) joint agency created under IC 8-1-2.2;
that owns, operates, or manages any electric generation facility in
Indiana for the provision of electric utility service to Indiana
customers.

(b) Before July 1, 2020, the commission shall conduct a
comprehensive study of the statewide impacts, both in the near
term and on a long term basis, of:

(1) transitions in the fuel sources and other resources used to
generate electricity by electric utilities; and
(2) new and emerging technologies for the generation of
electricity, including the potential impact of such technologies
on local grids or distribution infrastructure;
on electric generation capacity, system reliability, system
resilience, and the cost of electric utility service for consumers. In
conducting the study required by this subsection, the commission
shall consider the likely timelines for the transitions in fuel sources
and other resources described in subdivision (1) and for the
implementation of new and emerging technologies described in
subdivision (2).

(c) During the 2019 legislative interim, the commission shall
provide a progress report on the commission's work in conducting
the study required by subsection (b) to the interim study committee
on energy, utilities, and telecommunications established by
IC 2-5-1.3-4(8).

(d) Not later than July 1, 2020, the commission shall issue to:
(1) the governor;
(2) the legislative council; and
(3) the 21st century energy policy development task force established by IC 2-5-45-2;
a final report containing the commission's findings and recommendations on the topics outlined in subsection (b). The report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) This section expires January 2, 2021.

SECTION 4. IC 8-1-30.3-1, AS ADDED BY P.L.189-2015, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 an offered 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 offered utility; minus
(B) contributions or advances in aid of construction plus applicable accrued depreciation.

SECTION 5. IC 8-1-30.3-2 IS REPEALED [EFFECTIVE UPON PASSAGE]. 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.

SECTION 6. IC 8-1-30.3-2.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.6. As used in this chapter, "offered utility" means a utility company whose property is the subject of an acquisition described in section 5(a) of this chapter.

SECTION 7. IC 8-1-30.3-5, AS AMENDED BY P.L.64-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) This section applies if:
(1) a utility company acquires property from another an offered utility company at a cost differential in a transaction involving a willing buyer and a willing seller; and
(2) at least one (1) utility company described in subdivision (1) is subject to the jurisdiction of the commission under this article.
(b) Subject to subsection (c), there is a rebuttable presumption that a cost differential is reasonable.
(c) If the acquisition is made under IC 8-1.5-2-6.1, and to the extent the purchase price does not exceed the appraised value as
determined under IC 8-1.5-2-5, the purchase price is considered reasonable for purposes of subsection (d) and any resulting cost differential is considered reasonable.

(d) Before closing on the acquisition, the utility company that acquires the utility property may petition the commission to include the any cost differentials differential as part of its rate base in future rate cases. The commission shall approve the petition if the commission finds the following:

1. The utility property is used and useful to the offered utility in providing water service, wastewater service, or both water and wastewater service.
2. The distressed offered utility is too small to capture economies of scale or has failed to furnish or maintain adequate, efficient, safe, and reasonable service and facilities.
3. The utility company will improve economies of scale or, if otherwise needed, make reasonable and prudent improvements to ensure the offered utility's plant, the offered utility's operations, or both, so that customers of the distressed offered utility will receive adequate, efficient, safe, and reasonable service.
4. The acquisition of the utility property is the result of a mutual agreement made at arms length.
5. The actual purchase price of the utility property is reasonable.
6. The utility company and the offered utility are not affiliated and share no ownership interests.
7. The rates charged by the utility company before acquiring the utility property of the distressed utility will not increase unreasonably in future general rate cases solely as a result of acquiring the utility property from the offered utility. For purposes of this subdivision, the rates and charges will not increase unreasonably in future general rate cases so long as the net original cost proposed to be recorded under subsection (f) is not greater than two percent (2%) of the acquiring utility's net original cost rate base as determined in the acquiring utility's most recent general rate case. If the amount proposed to be recorded under subsection (f) is greater than two percent (2%) of the acquiring utility's net original cost rate base as determined in the acquiring utility's most recent general rate case, the commission shall proceed to determine whether the rates charged by the utility company will increase unreasonably in future general rate cases solely as a result of acquiring the utility property from the offered utility and, in
making the determination, may consider evidence of:
(A) the anticipated dollar value increase; and
(B) the increase as a percentage of the average bill.
(8) 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) (e) A utility company may petition the commission in an
independent proceeding to approve a petition under subsection (e)
before the financial close of the transaction if the utility company
provides for In connection with its petition under subsection (d), the
acquiring utility company shall provide the following:
(1) Notice of the proposed acquisition and any proposed changes
in rates or charges to customers of the distressed utility.
(2) (1) Notice to customers of the acquiring utility company that
a petition has been filed with the commission under this chapter.
The notice provided under this subdivision must include the cause
number assigned to the petition. Notice under this subdivision
may be provided to customers in a billing insert.
(3) (2) Notice to the office of the utility consumer counselor.
(4) A plan for reasonable and prudent improvements to provide
adequate, efficient, safe, and reasonable service to customers of
the distressed utility.
(e) (f) In a proceeding under subsection (d), the commission shall
issue its final order not later than two hundred ten (210) days after the
filing of the petitioner's case in chief. If the commission grants the
petition, the commission's order shall authorize the acquiring utility
company to make accounting entries recording the acquisition and that
reflect:
(1) the full purchase price;
(2) incidental expenses; and
(3) other costs of acquisition;
as the net original cost of the utility plant in service assets being
acquired, allocated in a reasonable manner among appropriate utility
plant in service accounts.
SECTION 8. IC 8-1-30.3-6, AS AMENDED BY P.L.85-2017,
SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 6. For purposes of section 5(e)(2) 5(d)(2) of
this chapter, a distressed an offered utility is too small to capture
economies of scale or 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 offered utility violated one (1) or more state or
federal statutory or regulatory requirements in a manner that the
commission determines affects the safety, adequacy, efficiency,
or reasonableness of its services or facilities.

(2) The distressed offered utility has inadequate financial,
managerial, or technical ability or expertise.

(3) The distressed offered utility fails to provide water in
sufficient amounts, that is palatable, or at adequate volume or
pressure.

(4) The distressed offered 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 acquiring utility
company.

(5) The distressed offered utility
   (A) is municipally owned utility property of a municipally
       owned utility that serves fewer than five thousand (5,000)
customers.
    and
   (B) is being sold under IC 8-1.5-2-6.1.

(6) Any other facts that the commission determines demonstrate
the distressed offered utility's inability to capture economies of
scale or to furnish or maintain adequate, efficient, safe, or
reasonable service or facilities.

SECTION 9. IC 8-1.5-2-4, AS AMENDED BY P.L.98-2016,
SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 4. Whenever the municipal legislative body
or the municipal executive determines to sell or otherwise dispose of
nonsurplus municipally owned utility property, it shall provide for the
following in a written document writing that shall be made available,
upon request, for inspection and copying at the offices of the
municipality's municipally owned utility in accordance with IC 5-14-3:

(1) The appointment, as follows, of three (3) residents of Indiana
to serve as appraisers:
   (A) One (1) disinterested person who is an engineer licensed
       under IC 25-31-1.
   (B) One (1) disinterested appraiser licensed under IC 25-34.1.
   (C) One disinterested person who is either:
      (i) an engineer licensed under IC 25-31-1; or
      (ii) an appraiser licensed under IC 25-34.1.

(2) The appraisal of the property.

(3) The time that the appraisal is due.

It is sufficient for purposes of this section that the municipal
legislative body or municipal executive provides for the
appointment in written contracts with the appraisers or the firms with whom the appraisers are employed.

SECTION 10. IC 8-1.5-2-5, AS AMENDED BY P.L.98-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Each appraiser appointed as provided by section 4 of this chapter must:

(1) by education and experience, have such expert and technical knowledge and qualifications as to make a proper appraisal and valuation of the property of the type and nature involved in the sale;
(2) be a disinterested person; and
(3) not be a resident or taxpayer of the municipality.

(b) The appraisers shall:
(1) be sworn to make a just and true valuation of the property; and
(2) return their appraisal, in writing, to the:
   (A) municipal legislative body; or
   (B) municipal executive;
that appointed them within the time fixed in the written document appointing them under section 4 of this chapter.

(c) If all three (3) appraisers cannot agree as to the appraised value, the appraisal, when signed by two (2) of the appraisers, constitutes a good and valid appraisal.

(d) If, after the return of the appraisal by the appraisers, the legislative body and the municipal executive decide to proceed with the sale or disposition of the nonsurplus municipally owned utility property, the legislative body shall, not earlier than the thirty (30) day period described in subsection (e) and not later than ninety (90) one hundred eighty (180) days after the return of the appraisal, hold a public hearing to do the following:
(1) Review and explain the appraisal.
(2) Receive public comment on the proposed sale or disposition of the nonsurplus municipally owned utility property.

Not less than thirty (30) days or more than sixty (60) days after the date of a hearing under this section, the legislative body may adopt an ordinance providing for the sale or disposition of the nonsurfus municipally owned utility property, subject to subsections (f) and (g) and, in the case of an ordinance adopted under this subsection after March 28, 2016, subject to section 6.1 of this chapter. The legislative body is not required to adopt an ordinance providing for the sale or disposition of the nonsurplus municipally owned utility property if, after the hearing, the legislative body determines it is not in the interest of the municipality to proceed with the sale or disposition. Notice of a
hearing under this section shall be published in the manner prescribed
by IC 5-3-1.

e) The hearing on the proposed sale or disposition of the
nonsurplus municipally owned utility property may not be held less
than thirty (30) days after notice of the hearing is given as required by
subsection (d).

(f) Subject to subsection (j), an ordinance adopted under subsection
(d) does not take effect until the latest of the following:

(1) The expiration of the thirty (30) day period described in
subsection (g), if the question as to whether the sale or disposition
should be made is not submitted to the voters of the municipality
under subsection (g).

(2) If:

(A) the question as to whether the sale or disposition shall be
made is submitted to the voters of the municipality under
subsection (g); and

(B) a majority of the voters voting on the question vote for the
sale or disposition;

at such time that the vote is determined to be final.

(3) The effective date specified by the legislative body in the
ordinance.

(g) Subject to subsection (m) and to section 6.1 of this chapter in the
case of an ordinance adopted under subsection (d) after March 28,
2016, if:

(1) the legislative body adopts an ordinance under subsection (d);

and

(2) not later than thirty (30) days after the date the ordinance is
adopted at least the number of the registered voters of the
municipality set forth in subsection (h) sign and present a petition
to the legislative body opposing the sale or disposition;

the legislative body shall submit the question as to whether the sale or
disposition shall be made to the voters of the municipality at a special
or general election. In submitting the public question to the voters, the
legislative body shall certify within the time set forth in IC 3-10-9-3, if
applicable, the question to the county election board of the county
containing the greatest percentage of population of the municipality.
The county election board shall adopt a resolution setting forth the text
of the public question and shall submit the question as to whether the
sale or disposition shall be made to the voters of the municipality at a
special or general election on a date specified by the municipal
legislative body. Pending the results of an election under this
subsection, the municipality may not take further action to sell or
dispose of the property as provided in the ordinance.

(h) Subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016, the number of signatures required on a petition opposing the sale or disposition under subsection (g) is as follows:

(1) In a municipality with not more than one thousand (1,000) registered voters, thirty percent (30%) of the registered voters.

(2) In a municipality with at least one thousand one (1,001) registered voters and not more than five thousand (5,000) registered voters, fifteen percent (15%) of the registered voters.

(3) In a municipality with at least five thousand one (5,001) registered voters and not more than twenty-five thousand (25,000) registered voters, ten percent (10%) of the registered voters.

(4) In a municipality with at least twenty-five thousand one (25,001) registered voters, five percent (5%) of the registered voters.

(i) If a majority of the voters voting on the question vote for the sale or disposition, the legislative body shall proceed to sell or dispose of the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(j) If a majority of the voters voting on the question vote against the sale or disposition, the ordinance adopted under subsection (d) does not take effect and the sale or disposition may not be made, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(k) If:

(1) the legislative body adopts an ordinance under subsection (d); and

(2) after the expiration of the thirty (30) day period described in subsection (g), a petition is not filed;

the municipal legislative body may proceed to sell the property as provided in the ordinance, subject to subsection (m) and to section 6.1 of this chapter in the case of an ordinance adopted under subsection (d) after March 28, 2016.

(l) Notwithstanding the procedures set forth in this section, if:

(1) before July 1, 2015, a municipality adopts an ordinance under this section for the sale or disposition of nonsurplus municipally owned utility property in accordance with the procedures set forth in this section before its amendment on July 1, 2015; and

(2) the ordinance adopted takes effect before July 1, 2015, in accordance with the procedures set forth in this section before its
amendment on July 1, 2015;
the ordinance is not subject to challenge under subsection (g) after June
30, 2015, regardless of whether the thirty (30) day period described in
subsection (g) expires after June 30, 2015. An ordinance described in
this subsection is effective for all purposes and is legalized and
validated.

(m) Subsections (g) through (k) do not apply to an ordinance
adopted under subsection (d) after March 28, 2016, if the commission
determines, in reviewing the proposed sale or disposition under section
6.1(h) of this chapter, that the factors set forth in IC 8-1-30.3-5(c)
IC 8-1-30.3-5(d) are satisfied as applied to the proposed sale or
disposition.

SECTION 11. IC 8-1.5-2-6.1, AS AMENDED BY P.L.64-2018,
SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
UPON PASSAGE]: Sec. 6.1. (a) This section applies to a municipality
that adopts an ordinance under section 5(d) of this chapter after March
28, 2016.

(b) Before a municipality may proceed to sell or otherwise dispose
of all or part of its nonsurplus utility property under an ordinance
adopted under section 5(d) of this chapter, the municipality and the
prospective purchaser must obtain the approval of the commission
under this section.

(c) As part of the sale or disposition of the property, the
municipality and the prospective purchaser may include terms and
conditions that the municipality and the prospective purchaser consider
to be equitable to the existing utility customers of:

(1) the municipality's municipally owned utility; and

(2) the prospective purchaser;

as applicable.

(d) The commission shall approve the sale or disposition of the
property according to the terms and conditions proposed by the
municipality and the prospective purchaser if the commission finds that
the sale or disposition according to the terms and conditions proposed
is in the public interest. For purposes of this section, the purchase price
of the municipality's nonsurplus utility property shall be considered
reasonable if it does not exceed the appraised value set forth in the
appraisal required under section 5 of this chapter.

(e) The following apply to the commission's determination under
subsection (d) as to whether the proposed sale or disposition according
to the proposed terms and conditions is in the public interest:

(1) If:

(A) the municipality's municipally owned utility prospective

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(B) the commission approves the municipality's municipally owned utility's prospective purchaser's petition; under IC 8-1-30.3-5(c);
the proposed sale or disposition is considered to be in the public interest.

(2) If subdivision (1) does not apply and subject to subsection (h), the commission shall consider the extent to which the proposed terms and conditions of the proposed sale or disposition would require the existing utility customers of either the prospective purchaser or the municipality's municipally owned utility, as applicable, to pay rates that would subsidize utility service to the other party's existing customers. For purposes of this subdivision, the proposed terms and conditions will not result in rates that would subsidize service to other customers if the amount to be recorded as net original cost under subsection (f) is not greater than two percent (2%) of the prospective purchaser's net original cost rate base as determined in the prospective purchaser's most recent general rate case. If the amount to be recorded is greater than two percent (2%), the commission determines that shall proceed to determine whether:

(A) the proposed terms and conditions would result in a subsidy described in this subdivision; and
(B) the subsidy would cause the proposed terms and conditions of the proposed sale or disposition not to be in the public interest.

The commission shall calculate the amount of the subsidy that would result and shall set forth in an order under this section such changes to the proposed terms and conditions as the commission considers appropriate to address the subsidy. The prospective purchaser and the municipality shall each have thirty (30) days from the date of the commission's order setting forth the commission's changes to either accept or reject the changes. If either party rejects the commission's changes, the proposed sale or disposition is considered not to be in the public interest.

(3) In reviewing the proposed terms and conditions of the proposed sale or disposition under either subdivision (1) or (2), the commission shall consider the financial, managerial, and technical ability of the prospective purchaser to provide the utility service required after the proposed sale or disposition.
(4) In reviewing the proposed terms and conditions of the
proposed sale or disposition under either subdivision (1) or (2),
the commission shall accept as reasonable the valuation of the
nonsurplus utility property determined through an appraisal and
review under section 5 of this chapter.

(f) As part of an order approving a sale or disposition of property
under this section, the commission shall, without regard to amounts
that may be recorded on the books and records of the municipality and
without regard to any grants or contributions previously received by the
municipality, provide that for ratemaking purposes, the prospective
purchaser shall record as the net original cost rate base an amount
equal to:

(1) the full purchase price;
(2) incidental expenses; and
(3) other costs of acquisition;
allocated in a reasonable manner among appropriate utility plant in
service accounts.

(g) The commission shall issue a final order under this section not
later than two hundred ten (210) days after the filing of the parties' case
in chief.

(h) In reviewing a proposed sale or disposition under subsection (e),
the commission shall determine whether the factors set forth in
IC 8-1-30.3-5(e) IC 8-1-30.3-5(d) are satisfied as applied to the
proposed sale or disposition of the municipality's nonsurplus
municipally owned utility property for purposes of section 5(m) of this
chapter. If the commission determines that the factors set forth in
IC 8-1-30.3-5(e); IC 8-1-30.3-5(d):

(1) are satisfied as applied to the proposed sale or disposition,
section 5(g) through 5(k) of this chapter does not apply to the
municipality's ordinance adopted under section 5(d) of this
chapter; or
(2) are not satisfied as applied to the proposed sale or disposition:
   (A) section 5(g) through 5(k) of this chapter applies to the
   municipality's ordinance adopted under section 5(d) of this
   chapter; and
   (B) the question as to whether the sale or disposition should be
   made must be submitted to the voters of the municipality at a
   special or general election if at least the number of the
   registered voters of the municipality set forth in section 5(h) of
   this chapter sign and present a petition to the legislative body
   opposing the sale or disposition, in accordance with section
   5(g) through 5(k) of this chapter.

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However, notwithstanding this subsection, in reviewing a proposed sale or disposition under subsection (e)(2), the commission may not condition its approval of the proposed sale or disposition on whether the factors set forth in IC 8-1-30.3-5(e) IC 8-1-30.3-5(d) are satisfied or on any other factors except those provided for in subsection (e)(2), (e)(3), and (e)(4).

SECTION 12. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.

(b) This SECTION expires January 1, 2020.

SECTION 13. An emergency is declared for this act.
Madam President: The Senate Committee on Utilities, to which was referred Senate Bill No. 472, 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 4, line 27, delete "one percent (1%)" and insert "two percent (2%)".

Page 4, line 29, after "case." insert "If the amount proposed to be recorded under subsection (f) is greater than two percent (2%) of the acquiring utility's net original cost rate base as determined in the acquiring utility's most recent general rate case, the commission shall proceed to determine whether the rates charged by the utility company will increase unreasonably in future general rate cases solely as a result of acquiring the utility property from the offered utility and, in making the determination, may consider evidence of:

(A) the anticipated dollar value increase; and
(B) the increase as a percentage of the average bill."

Page 11, line 2, delete "one percent (1%)" and insert "two percent (2%)".

Page 11, line 5, delete "one percent (1%)," and insert "two percent (2%),".

Page 12, after line 32, begin a new paragraph and insert:

"SECTION 10. IC 16-22-8-34, AS AMENDED BY P.L.134-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 34. (a) The board or corporation may do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following:

(1) As a municipal corporation, sue and be sued in any court with jurisdiction.
(2) To serve as the exclusive local board of health and local department of health within the county with the powers and duties conferred by law upon local boards of health and local departments of health.
(3) To adopt and enforce ordinances consistent with Indiana law and administrative rules for the following purposes:
   (A) To protect property owned or managed by the corporation.
   (B) To determine, prevent, and abate public health nuisances.
   (C) To establish isolation and quarantine regulations in accordance with IC 16-41-9.
   (D) To license, regulate, and establish minimum sanitary
standards for the operation of a business handling, producing, processing, preparing, manufacturing, packing, storing, selling, distributing, or transporting articles used for food, drink, confectionery, or condiment in the interest of the public health.

(E) To control:
   (i) rodents, mosquitos, and other animals, including insects, capable of transmitting microorganisms and disease to humans and other animals; and
   (ii) the animals' breeding places.

(F) Subject to subsection (c), to require persons to connect to available sewer systems and to regulate the disposal of domestic or sanitary sewage by private methods. However, the board and corporation have no jurisdiction over publicly owned or financed sewer systems or sanitation and disposal plants.

(G) To control rabies.

(H) For the sanitary regulation of water supplies for domestic use.

(I) To protect, promote, or improve public health. For public health activities and to enforce public health laws, the state health data center described in IC 16-19-10 shall provide health data, medical information, and epidemiological information to the corporation.

(J) To detect, report, prevent, and control disease affecting public health.

(K) To investigate and diagnose health problems and health hazards.

(L) To regulate the sanitary and structural conditions of residential and nonresidential buildings and unsafe premises.

(M) To regulate the remediation of lead hazards.

(N) To license and regulate the design, construction, and operation of public pools, spas, and beaches.

(O) To regulate the storage, containment, handling, use, and disposal of hazardous materials.

(P) To license and regulate tattoo and body piercing facilities.

(Q) To regulate the storage and disposal of waste tires.

(4) To manage the corporation's hospitals, medical facilities, and mental health facilities.

(5) To furnish health and nursing services to elementary and secondary schools within the county.

(6) To furnish medical care to insured and uninsured residents of
(7) To furnish dental services to the insured and uninsured residents of the county.
(8) To establish public health programs.
(9) To adopt an annual budget ordinance and levy taxes.
(10) To incur indebtedness in the name of the corporation.
(11) To organize the corporation into divisions.
(12) To acquire and dispose of property.
(13) To receive charitable contributions and gifts as provided in 26 U.S.C. 170.
(14) To make charitable contributions and gifts.
(15) To establish a charitable foundation as provided in 26 U.S.C. 501.
(16) To receive and distribute federal, state, local, or private grants.
(17) To receive and distribute grants from charitable foundations.
(18) To establish corporations and enter into partnerships and joint ventures to carry out the purposes of the corporation. This subdivision does not authorize the merger of the corporation with a hospital licensed under IC 16-21.
(19) To erect, improve, remodel, or repair corporation buildings.
(20) To determine operating procedures.
(21) To do the following:
   (A) Adopt a schedule of reasonable charges for nonresidents of the county for medical and mental health services.
   (B) Collect the charges from the patient, the patient's insurance company, or a government program.
   (C) Require security for the payment of the charges.
(22) To adopt a schedule of and to collect reasonable charges for medical and mental health services.
(23) To enforce Indiana laws, administrative rules, ordinances, and the code of the health and hospital corporation of the county.
(24) To purchase supplies, materials, and equipment.
(25) To employ personnel and establish personnel policies.
(26) To employ attorneys admitted to practice law in Indiana.
(27) To acquire, erect, equip, and operate the corporation's hospitals, medical facilities, and mental health facilities.
(28) To dispose of surplus property in accordance with a policy by the board.
(29) To determine the duties of officers and division directors.
(30) To fix the compensation of the officers and division directors.
(31) To carry out the purposes and object of the corporation.
(32) To obtain loans for hospital expenses in amounts and upon terms agreeable to the board. The board may secure the loans by pledging accounts receivable or other security in hospital funds.
(33) To establish fees for licenses, services, and records. The corporation may accept payment by credit card for fees. IC 5-14-3-8(d) does not apply to fees established under this subdivision for certificates of birth, death, or stillbirth registration.
(34) To use levied taxes or other funds to make intergovernmental transfers to the state to fund governmental health care programs, including Medicaid and Medicaid supplemental programs.

(b) The board shall exercise the board's powers and duties in a manner consistent with Indiana law, administrative rules, and the code of the health and hospital corporation of the county.

(c) If a main sewer line is extended at the initiative and expense of one (1) owner of residential property to allow that owner's residential property to be connected to a sanitary sewer system, the board may not exercise its power under subsection (a)(3)(F) to require other residential properties to be connected to the extension of the main sewer line, regardless of the proximity of those other residential properties to the extension of the main sewer line.

SECTION 11. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to an appropriate interim study committee the task of studying the connection of unserved properties to sanitary sewer systems.
(b) This SECTION expires January 1, 2020.

SECTION 12. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 472 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 11, Nays 0.

ES 472—LS 7340/DI 101
COMMITTEE REPORT

Mr. Speaker: Your Committee on Utilities, Energy and Telecommunications, to which was referred Senate Bill 472, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-45 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 45. 21st Century Energy Policy Development Task Force

Sec. 1. As used in this chapter, "task force" refers to the 21st century energy policy development task force established by section 2 of this chapter.

Sec. 2. The 21st century energy policy development task force is established.

Sec. 3. The task force consists of the following fifteen (15) members:

(1) Four (4) members of the senate, appointed as follows:
   - (A) Two (2) members appointed by the president pro tempore, one (1) of whom shall serve as co-chair of the task force.
   - (B) Two (2) members appointed by the minority leader.

(2) Four (4) members of the house of representatives, appointed as follows:
   - (A) Two (2) members appointed by the speaker, one (1) of whom shall serve as co-chair of the task force.
   - (B) Two (2) members appointed by the minority leader.

(3) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent residential ratepayers.

(4) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent commercial ratepayers.

(5) One (1) member who has broad experience in electric utility policy and who is appointed by the legislative council to represent industrial ratepayers.

(6) One (1) member who has expertise with respect to the generation, transmission, and distribution of electricity and who is appointed by the legislative council.
(7) One (1) member who has expertise in advanced energy research and development and who is appointed by the governor.
(8) One (1) member who has expertise in renewable energy technology and deployment and who is appointed by the governor.
(9) One (1) member who has broad experience in both economic development and energy policy and who is appointed by the governor.

Sec. 4. (a) Eight (8) members of the task force constitute a quorum.

(b) The affirmative vote of at least a majority of the members at a meeting at which a quorum is present is necessary for the task force to take official action other than to meet and take testimony.

(c) The task force shall meet at the call of the co-chairs.

Sec. 5. All meetings of the task force shall be open to the public in accordance with and subject to IC 5-14-1.5. All records of the task force shall be subject to the requirements of IC 5-14-3.

Sec. 6. The task force shall do the following:

1. Examine the state's existing policies regulating electric generation portfolios.
2. Examine how possible shifts in electric generation portfolios may impact the reliability, system resilience, and affordability of electric utility service.
3. Evaluate whether state regulators have the appropriate authority and statutory flexibility to consider the statewide impact of the changes described in subdivision (2), while still protecting ratepayer interests.

Sec. 7. The task force shall develop recommendations for the general assembly and the governor concerning the following:

1. Outcomes that must be achieved in order to overcome any identified challenges concerning Indiana's electric generation portfolios, along with a timeline for achieving those outcomes.
2. Whether existing state policy and statutes enable state regulators to properly consider the statewide impact of changing electric generation portfolios and, if not, the best approaches to enable state regulators to consider those impacts.
3. How to maintain reliable, resilient, and affordable electric service for all electric utility consumers, while encouraging the adoption and deployment of advanced energy technologies.
Sec. 8. The task force shall:
   (1) issue a report setting forth the recommendations required by section 7 of this chapter; and
   (2) not later than December 1, 2020, submit the report to the following:
      (A) The executive director of the legislative services agency for distribution to the members of the general assembly. The report submitted to the executive director of the legislative services agency under this clause must be in an electronic format under IC 5-14-6.
      (B) The governor.
      (C) The chair of the Indiana utility regulatory commission.
      (D) The utility consumer counselor.

Sec. 9. The legislative services agency shall provide staff support to the task force.

Sec. 10. This chapter expires December 2, 2020.

"SECTION 3. IC 8-1-8.5-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. (a) As used in this section, "electric utility" means a:
   (1) public, municipally owned, or cooperatively owned utility; or
   (2) joint agency created under IC 8-1-2.2; that owns, operates, or manages any electric generation facility in Indiana for the provision of electric utility service to Indiana customers.
   (b) Before July 1, 2020, the commission shall conduct a comprehensive study of the statewide impacts, both in the near term and on a long term basis, of:
      (1) transitions in the fuel sources and other resources used to generate electricity by electric utilities; and
      (2) new and emerging technologies for the generation of electricity, including the potential impact of such technologies on local grids or distribution infrastructure; on electric generation capacity, system reliability, system resilience, and the cost of electric utility service for consumers. In conducting the study required by this subsection, the commission shall consider the likely timelines for the transitions in fuel sources and other resources described in subdivision (1) and for the implementation of new and emerging technologies described in subdivision (2).
(c) During the 2019 legislative interim, the commission shall provide a progress report on the commission's work in conducting the study required by subsection (b) to the interim study committee on energy, utilities, and telecommunications established by IC 2-5-1.3-4(8).

(d) Not later than July 1, 2020, the commission shall issue to:
   (1) the governor;
   (2) the legislative council; and
   (3) the 21st century energy policy development task force established by IC 2-5-45-2;

a final report containing the commission's findings and recommendations on the topics outlined in subsection (b). The report to the legislative council under this subsection must be in an electronic format under IC 5-14-6.

(e) Subject to subsections (f) through (i), after April 30, 2019, and before January 1, 2021, the commission may not issue a final order in any matter or proceeding that:

   (1) requests approval of:
       (A) a certificate of public convenience and necessity; or
       (B) a purchased power agreement;

   (2) the commission determines would have an impact on the generation capacity, system reliability, or system resilience of electric utility service on a statewide basis, whether in the near term or on a long term basis; and

   (3) is:
       (A) pending as of; or
       (B) filed on or after; May 1, 2019.

This subsection does not apply to a general rate case or to an electric utility's request for the approval of a retail rate adjustment mechanism.

(f) Except as provided in subsection (g), subsection (e) does not apply in any individual matter or proceeding concerning a proposed:

   (1) electric generation facility;
   (2) change in fuel source or other resource used to generate electricity; or
   (3) purchased power agreement;

involving less than two hundred fifty (250) megawatts of generating capacity.

(g) Subject to subsections (h) and (i), after April 30, 2019, and before January 1, 2021, the commission may not issue a final order
in any individual matter or proceeding concerning a proposed:

(1) electric generation facility;

(2) change in fuel source or other resource used to generate electricity; or

(3) purchased power agreement;

regardless of the number of megawatts of generating capacity involved in the individual matter or proceeding, once the total number of megawatts of generating capacity approved by the commission after April 30, 2019, and before January 1, 2021, in all matters or proceedings described in subdivisions (1) through (3) exceeds ten thousand (10,000) megawatts on a statewide basis.

(h) If the commission determines under subsection (e) or (g) that a final order may not be issued in a particular matter or proceeding, the commission may, in an expedited proceeding not to exceed ninety (90) days, grant relief from the commission's determination and issue a final emergency order in the particular matter if the following conditions are met:

(1) The electric utility involved in the matter or proceeding files with the commission a petition seeking emergency relief from the commission's determination.

(2) The commission determines after:

(A) conducting a public hearing on the necessity for the relief sought by the electric utility; and

(B) receiving public testimony from the appropriate regional transmission organizations;

that an emergency exists, or that delaying or denying the issuance of an order in the matter would present significant adverse risks to the statewide or regional electric generation capacity, system reliability, or system resilience.

(i) Subsections (e) and (g) do not prohibit any of the following after April 30, 2019, and before January 1, 2021:

(1) An electric utility from filing a petition for approval of:

(A) a certificate of public convenience and necessity; or

(B) a purchased power agreement.

(2) The commission, electric utilities, parties, or intervenors from conducting any procedural matters preceding a final order in a pending proceeding, including establishing procedural schedules, filing testimony and exhibits, holding hearings, conducting conferences, and taking such other actions necessary for the commission's final determination in the matter.

(3) The commission from issuing a final order denying all or
part of an electric utility's petition for approval of:
   (A) a certificate of public convenience and necessity; or
   (B) a purchased power agreement;
if the denial of all or part of the petition would not have an impact on the generation capacity, system reliability, or system resilience of electric utility service on a statewide basis.

(j) This section expires January 2, 2021."

Delete pages 13 through 14.
Page 15, delete lines 1 through 41.
Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 472 as printed February 15, 2019.)

SOLIDAY

Committee Vote: yeas 8, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 472 be amended to read as follows:
Replace the effective date in SECTION 2 with "[EFFECTIVE UPON PASSAGE]".
Replace the effective dates in SECTIONS 4 through 11 with "[EFFECTIVE UPON PASSAGE]".
(Reference is to ESB 472 as printed April 5, 2019.)

SOLIDAY
HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 472 be amended to read as follows:

Page 7, line 10, delete "emergency".
Page 7, line 13, delete "emergency".

(Reference is to ESB 472 as printed April 5, 2019.)

SOLIDAY

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 472 be amended to read as follows:

Page 6, delete lines 9 through 42.
Delete page 7.
Page 8, line 1, delete "(j)" and insert "(e)".

(Reference is to ESB 472 as printed April 5, 2019.)

PIERCE