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FISCAL IMPACT STATEMENT

LS 7863

BILL NUMBER: SB 492

NOTE PREPARED: Jan 15, 2003

BILL AMENDED:

SUBJECT: Utility Regulation.

FIRST AUTHOR: Sen. Server

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: This bill allows the Indiana Utility Regulatory Commission (IURC) to add to the value of an energy utility's property for ratemaking purposes the value of certain qualified property constructed by the utility to comply with state or federal mandates. The bill allows an energy utility to recover through a retail rate adjustment mechanism governmentally mandated costs incurred in providing retail energy service.

The bill allows a public utility providing electric or gas service to implement rates proposed by the utility in a petition for a change in its basic rates if the IURC fails to issue an order on the petition within nine months. The bill requires the utility to refund to customers any difference between the rate implemented and the higher of the rate: (1) finally approved; or (2) previously in effect.

It provides that a merger, consolidation, reorganization, or stock transaction involving a utility company may not occur without IURC approval if the transaction will cause 50% or more of the company's voting stock to be held by different interests.

It also allows the IURC to impose a civil penalty of up to \$5,000 if a public utility providing specified services or a rural electric membership corporation (REMC) violates any utility law or fails to comply with: (1) a standard of service established by IURC rule; or (2) a rate or service requirement of an IURC order. The bill allows the IURC to impose an additional penalty of up to \$10,000 if the violation or failure demonstrates a disregard by the public utility or REMC of its duty to remedy the violation or failure.

The bill specifies that a suit to recover a penalty imposed by the IURC shall be brought by the Attorney General.

It also expands the eligibility of public utilities that may submit voluntary environmental compliance plans to the IURC to include public utilities subject to any state or federal environmental laws, in addition to public utilities subject to the federal Clean Air Act.

The bill repeals references to the federal Clean Air Act in the provisions concerning environmental compliance plans.

Effective Date: Upon passage; July 1, 2003.

Explanation of State Expenditures: *Ratemaking:* The bill makes several changes to the expenses and investments made by an energy utility that can be considered as recoverable during ratemaking proceedings. The bill also provides for the establishment of a retail rate adjustment mechanism that allows utilities to recover governmentally mandated costs. These provisions will require the IURC and the Office of the Utility Consumer Counselor (OUCC) to make adjustments to their current investigatory and auditing procedures.

IURC Enforcement Authority: This proposal extends the IURC's fining and enforcement authority over regulated gas and electric utilities, including REMCs. The proposal would give the IURC the ability to impose civil penalties against utilities that violate a standard of service rule or order issued by the Commission. The IURC is expected to be able to absorb any additional administrative costs associated with this proposal.

IURC Merger Authority: This bill will increase the authority of the IURC over mergers, reorganizations, or the acquisition of control of certain public utilities. While this bill will expand the IURC's authority over mergers and reorganizations and potentially increase the number of hearings held by the IURC, any impact is expected to be absorbed using resources currently available to the Commission. The OUCC would also participate in any utility merger approval proceedings. Any additional cost to the OUCC is also expected to be covered using existing personnel and resources.

Attorney General's Cost in IURC Proceedings: The proposal also authorizes the Attorney General to bring an action to *enforce* an order of the Commission. If more legal actions are required to enforce an order in court, the administrative burden of the Attorney General's office will increase. A portion of the Attorney General's cost may be partially mitigated if the court awards damages, attorney's fees, and costs.

The state's utility costs could increase if electricity and natural gas rates are increased as a result of this bill.

Background on IURC and OUCC Funding: The operating budgets of the IURC and OUCC are funded by regulated utilities operating in Indiana. The IURC determines the rate at which to bill the utilities based on the two agencies' budgets, less reversions, divided by the total amount of gross intra-state operating revenue received by the regulated utilities for the previous fiscal year. Based on this formula, utilities are currently billed approximately 0.10% of their gross intra-state operating revenues to fund the IURC and OUCC. In FY 2002, fees from the utilities and fines generated approximately \$9.5 M

Explanation of State Revenues: *IURC Enforcement Authority:* Under this bill, the IURC could impose a civil penalty of up to \$5,000 for the first violation or act of noncompliance by an utility and \$10,000 for the second and subsequent violations. Fines collected under this provision would be deposited in the state General Fund. The number of instances in which the IURC would impose monetary penalties is unknown.

Explanation of Local Expenditures: Local governmental entities, including schools, would be subject to

any increases in utility costs as a result of this bill.

Explanation of Local Revenues:

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Utility Consumer Counselor; Attorney General's Office.

Local Agencies Affected:

Information Sources: *2002 Electric Report to the Regulatory Flexibility Committee*, IURC; Auditor's Trial Balance FY 2002.

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