
SENATE BILL No. 553

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-1-2-103.

Synopsis: Fire protection costs. Allows a municipally owned water utility in a second class city in St. Joseph County to petition the utility regulatory commission (IURC) to include in the utility's schedule of rates the fire protection costs for each property owner who is not a customer of the utility but whose property is located within 1,000 feet of a fire hydrant within the service area of the utility. Allows the municipally owned utility to charge a fee to such property owners in an amount equivalent to the amount by which the rate for customers of the utility is changed. Requires the IURC to approve a new schedule of rates to take effect 30 days after the IURC's receipt of the utility's petition and recalculated rate schedule. Makes technical changes in the law concerning utilities' rates for fire protection costs to reflect changes in the law that became effective July 1, 2002.

Effective: July 1, 2003.

Broden

January 23, 2003, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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SENATE BILL No. 553



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

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

1 SECTION 1. IC 8-1-2-103, AS AMENDED BY P.L.176-2002,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 103. (a) No public utility, or agent or officer
4 thereof, or officer of any municipality constituting a public utility, as
5 defined in this chapter, may charge, demand, collect, or receive from
6 any person a greater or less compensation for any service rendered or
7 to be rendered, or for any service in connection therewith, than that
8 prescribed in the published schedules or tariffs then in force or
9 established as provided herein, or than it charges, demands, collects, or
10 receives from any other person for a like and contemporaneous service.
11 A person who recklessly violates this subsection commits a Class A
12 misdemeanor.

13 (b) Notwithstanding subsection (a), if a city of less than twenty
14 thousand (20,000) in population according to the most recent federal
15 decennial census, constituting a public water utility, and acting as a
16 public utility prior to May 1, 1913, either as such city, or by any
17 commercial association, chamber of commerce, or committee with the



1 consent of such city, entered into any agreement with any person
2 engaged in manufacturing any articles of commerce to furnish free
3 water for a certain limited time as an inducement to such person so
4 engaged in manufacturing to locate the establishment or manufacturing
5 plant of such person within such city, such city may carry out such
6 agreement to furnish free water to such person for the period of time
7 remaining, as stipulated in such contract. This chapter does not prohibit
8 any public utility from supplying or furnishing free service or service
9 at special rates to any municipality, or any institution or agency of such
10 municipality, in cases where the supplying or furnishing of such free
11 service or service at special rates is stipulated in any provision of the
12 franchise under which such public utility was operating before May 16,
13 1919, or, in the event that such franchise shall have been surrendered,
14 from supplying or furnishing such free service or service at special
15 rates until such time as the franchise would have expired had it not
16 been surrendered under this chapter; and it shall be the duty of any
17 utility operating under any franchise, stipulating for free service or
18 service at special rates to municipality, or any institution or agency of
19 such municipality, to furnish such free service or service at special
20 rates.

21 (c) This subsection applies to a public utility that provides water for
22 public fire protection services in both a county containing a
23 consolidated city and in portions of counties that are adjacent to the
24 county containing a consolidated city. This subsection applies
25 throughout the territory served by the public utility. In the case of a
26 public utility furnishing water and beginning on January 1, 1994, the
27 charges for the production, storage, transmission, sale and delivery, or
28 furnishing of water for public fire protection purposes shall be included
29 in the basic rates of the customers of the public utility. However, the
30 construction cost of any fire hydrant installed after December 31, 1993,
31 at the request of a municipality, township, county, or other
32 governmental unit shall be paid for by or on behalf of the municipality,
33 township, county, or other governmental unit. The change in the
34 recovery of current revenue authorized by this section shall be reflected
35 in a new schedule of rates to be filed with the commission at least thirty
36 (30) days before the time the new schedule of rates is to take effect.
37 The new schedule of rates shall:

- 38 (1) eliminate fire protection charges billed directly to
39 governmental units, other than charges for the construction cost
40 for new hydrants installed after December 31, 1993; and
41 (2) increase the rates charged each customer of the utility, based
42 on equivalent meter size, by an amount equal to:

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1 (A) the revenues lost from the elimination of such fire
2 protection charges; divided by

3 (B) the current number of equivalent five-eighths (5/8) inch
4 meters.

5 This change in the recovery of public fire protection costs shall not be
6 considered to be a general increase in basic rates and charges of the
7 public utility and is not subject to the notice and hearing requirements
8 applicable to general rate proceedings. The commission shall approve
9 the new schedule of rates that are to be effective January 1, 1994.

10 (d) This subsection applies to a public utility or a municipally
11 owned water utility that is not subject to subsection (c). Except as
12 provided in subsection (e), in the case of a public utility or municipally
13 owned water utility furnishing water, if the governing body of any
14 municipality, **township, county, or other governmental unit that has**
15 **customers** within the service area of the utility adopts an ordinance
16 providing that costs shall be recovered under this subsection, the
17 charges for the production, storage, transmission, sale and delivery, or
18 furnishing of water for public fire protection purposes shall be included
19 in the basic rates of all customers of the utility within the municipality,
20 **township, county, or other governmental unit.** However, on or after
21 a date specified in the ordinance, the construction cost of any fire
22 hydrant installed at the request of a municipality, township, county, or
23 other governmental unit that adopts an ordinance under this subsection
24 shall be paid for by or on behalf of the municipality, township, county,
25 or other governmental unit. The change in the recovery of current
26 revenue authorized by the ordinance shall be reflected in a new
27 schedule of rates to be filed with the commission at least thirty (30)
28 days before the time the new schedule of rates is to take effect. The
29 new schedule of rates shall:

30 (1) eliminate fire protection charges billed directly to:

31 (A) **all governmental units within the service area of the**
32 **utility, if an ordinance is adopted under this subsection**
33 **before July 1, 2002; or**

34 (B) **the governmental unit that adopts the ordinance, if an**
35 **ordinance is adopted under this subsection after June 30,**
36 **2002;**

37 other than charges for the construction cost for new hydrants
38 installed on and after the date specified in the ordinance; and

39 (2) increase the rates charged to each customer of the utility **if an**
40 **ordinance is adopted under this subsection before July 1,**
41 **2002, or to each customer of the utility within the**
42 **governmental unit that adopts the ordinance, if the ordinance**

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1 **is adopted after June 30, 2002**, based on equivalent meter size,
2 by an amount equal to:

3 (A) the revenues lost from the elimination of such fire
4 protection charges; divided by

5 (B) the current number of equivalent five-eighths (5/8) inch
6 meters **within:**

7 **(i) the service area of the utility, if an ordinance is**
8 **adopted under this subsection before July 1, 2002; or**

9 **(ii) the governmental unit that adopts the ordinance**
10 **under this subsection, if the ordinance is adopted after**
11 **June 30, 2002.**

12 This change in the recovery of public fire protection costs shall not be
13 considered to be a general increase in basic rates and charges of the
14 utility and is not subject to the notice and hearing requirements
15 applicable to general rate proceedings. The commission shall approve
16 the new schedule of rates that are to be effective on a date specified in
17 the ordinance.

18 (e) This subsection applies to a municipally owned water utility in
19 a city having a population of more than fifty thousand (50,000) but less
20 than fifty-five thousand (55,000). The city may adopt a plan to recover
21 costs as described in subsection (d) without passing an ordinance, if the
22 plan applies only to customers of the utility:

23 **(1) residing in a county having a population of more than two**
24 **hundred thousand (200,000) but less than three hundred thousand**
25 **(300,000), if the plan is adopted before July 1, 2002; or**

26 **(2) within the municipality that adopts the plan under this**
27 **subsection, if the plan is adopted after June 30, 2002.**

28 If the city wishes to adopt such a plan, the city shall file a new schedule
29 of rates with the commission, but is not subject to commission approval
30 of the rates.

31 (f) In the case of a change in the method of recovering public fire
32 protection costs under an ordinance adopted under subsection (d):

33 (1) on or after July 1, 1997, a customer of the utility located
34 outside the limits of a municipality whose property is not located
35 within one thousand (1,000) feet of a fire hydrant (measured from
36 the hydrant to the nearest point on the property line of the
37 customer) must be excluded from the increase in rates attributable
38 to the change and must not be included in the number of
39 equivalent five-eighths (5/8) inch meters for purposes of
40 subsection (d)(2)(B); or

41 (2) before July 1, 1997, the commission may:

42 (A) in the context of a general rate proceeding initiated by the

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1 utility; or

2 (B) upon petition of:

3 (i) the utility;

4 (ii) the governmental unit that passed the ordinance; or

5 (iii) an affected customer;

6 prospectively exclude public fire protection costs from the rates
7 charged to customers located outside the limits of any
8 municipality whose property is not located within one thousand
9 (1,000) feet of a fire hydrant (measured from the hydrant to the
10 nearest point on the property line of the customer) if the
11 commission authorizes a simultaneous increase in the rates of the
12 utility's other customers to the extent necessary to prevent a loss
13 of revenues to the utility.

14 An increase in the rates of the utility's other customers under
15 subdivision (2) may not be construed to be a general increase in basic
16 rates and charges of the utility and is not subject to the hearing
17 requirements applicable to general rate proceedings. This subsection
18 does not prohibit the commission from adopting different methods of
19 public fire protection cost recovery for unincorporated areas after
20 notice and hearing within the context of a general rate proceeding or
21 other appropriate proceeding.

22 **(g) This subsection applies to a municipally owned water utility
23 in a second class city located in a county having a population of
24 more than two hundred thousand (200,000) but less than three
25 hundred thousand (300,000) for which the commission has
26 approved a new schedule of rates and charges under subsection (d)
27 before July 1, 2003. Upon the petition of the utility, the commission
28 shall prospectively include in the rates charged to customers
29 described in subsection (d)(2) the public fire protection costs for
30 each property owner:**

31 **(1) who is not a customer of the utility; but**

32 **(2) whose property is located within one thousand (1,000) feet
33 of a fire hydrant (measured from the hydrant to the nearest
34 point on the property line) that is within:**

35 **(A) the utility's service area, if an ordinance under
36 subsection (d) is adopted before July 1, 2002; or**

37 **(B) the city, if an ordinance under subsection (d) is adopted
38 after June 30, 2002.**

39 **The commission shall recalculate the amount determined under
40 subsection (d)(2) by adding one (1) five-eighths (5/8) inch meter to
41 the number of meters determined under subsection (d)(2)(B) for
42 each property owner described in this subsection. In addition to**

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1 recalculating the rates charged to the customers described in
2 subsection (d)(2) to reflect the change in the amount determined
3 under subsection (d)(2), the utility shall charge to each property
4 owner described in this subsection a charge or fee equivalent to the
5 recalculated amount under subsection (d)(2). The recalculated
6 rates for the customers described in subsection (d)(2) and the
7 charge imposed on property owners described in this subsection
8 shall be reflected in a new schedule of rates to be filed with the
9 commission along with the utility's petition under this subsection.
10 Upon receipt of the petition and schedule, the commission shall
11 approve the new schedule of rates to take effect thirty (30) days
12 after the date of receipt. The charge imposed on property owners
13 described in this subsection may not be construed to be a general
14 increase in basic rates and charges of the utility and is not subject
15 to the hearing requirements applicable to general rate proceedings.

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