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# HOUSE BILL No. 1712

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 8-1-2.6-1.3.

**Synopsis:** Annual report on telephone rates. Requires each provider that offers basic telecommunications service in Indiana to annually report certain information on the rates for such service to the commerce, energy, and utilities standing committee of the house of representatives (committee). Allows the committee to share the information reported with the regulatory flexibility committee, the legislative council, or the senate standing committee with appropriate subject matter jurisdiction. Provides that the committee, the regulatory flexibility committee, or the appropriate senate committee may use the reports to recommend legislation concerning the provision of basic telecommunications service in Indiana.

**Effective:** July 1, 2007.

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### Crooks

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January 26, 2007, read first time and referred to Committee on Commerce, Energy and Utilities.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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# HOUSE BILL No. 1712



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 8-1-2.6-1.3, AS ADDED BY P.L.27-2006,  
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2007]: Sec. 1.3. (a) As used in this section, "broadband  
4 service" means a connection to the Internet that provides capacity for  
5 transmission at an average speed of at least one and one-half (1.5)  
6 megabits per second downstream and at least three hundred eighty-four  
7 (384) kilobits per second upstream, regardless of the technology or  
8 medium used to provide the connection. The term includes a  
9 connection to the Internet provided by wireless technology, copper  
10 wire, fiber optic cable, coaxial cable, broadband over power lines, or  
11 other facilities or future technologies. The term does not include any of  
12 the following:

- 13 (1) Value added services in which computer processing  
14 applications are used to act on the form, content, code, or protocol  
15 of any information transmitted.
- 16 (2) Value added services providing text, graphic, video, or audio  
17 program content for a purpose other than transmission.



1 (3) The transmission of video programming or other  
 2 programming:  
 3 (A) provided by; or  
 4 (B) generally considered comparable to programming  
 5 provided by;  
 6 a television broadcast station or a radio broadcast station,  
 7 including cable TV, direct broadcast satellite, and digital  
 8 television.  
 9 (4) A connection to the Internet provided through satellite  
 10 technology.  
 11 (b) As used in this section, "rate transition period" refers to the  
 12 period beginning March 28, 2006, and ending June 30, 2009, during  
 13 which a provider may act under this section to increase the provider's  
 14 flat monthly rate for basic telecommunications service offered in one  
 15 (1) or more local exchange areas in Indiana.  
 16 (c) This subsection applies to a provider that offers basic  
 17 telecommunications service in one (1) or more local exchange areas in  
 18 Indiana on March 27, 2006. Subject to subsection (e), during the rate  
 19 transition period, a provider may act without the prior approval of the  
 20 commission to increase the provider's flat monthly rate for basic  
 21 telecommunications service in any local exchange area in which the  
 22 provider offers basic telecommunications service on March 27, 2006.  
 23 Subject to subsection (h), a provider may increase the provider's flat  
 24 monthly rate for basic telecommunications service in a local exchange  
 25 area as follows:  
 26 (1) The provider may increase the flat monthly rate not more  
 27 frequently than once during each successive twelve (12) month  
 28 period during the period beginning March 28, 2006, and ending  
 29 June 30, 2009. The amount of any increase in the flat monthly rate  
 30 imposed during a twelve (12) month period described in this  
 31 subdivision may not exceed one dollar (\$1). If a provider:  
 32 (A) does not impose an increase during any twelve (12) month  
 33 period described in this subdivision; or  
 34 (B) imposes an increase less than the maximum one dollar  
 35 (\$1) increase allowed under this subdivision during any twelve  
 36 (12) month period described in this subdivision;  
 37 the provider may not impose the unused increase in any  
 38 subsequent twelve (12) month period described in this  
 39 subdivision.  
 40 (2) The provider may increase the flat monthly rate not more  
 41 frequently than three (3) times during the entire rate transition  
 42 period. The amount of the total increase in the flat monthly rate

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1 during the transition period may not exceed three dollars (\$3), as  
2 calculated based on the flat monthly rate in effect in the local  
3 exchange area on March 27, 2006.

4 The provider shall provide the commission and all affected customers  
5 thirty (30) days advance notice of each rate increase under this  
6 subsection.

7 (d) This subsection applies to a provider that, at any time during the  
8 rate transition period, begins offering basic telecommunications service  
9 in a local exchange area in Indiana in which the provider did not offer  
10 basic telecommunications service on March 27, 2006. In accordance  
11 with the procedures set forth in IC 8-1-2, the commission shall approve  
12 the initial rates and charges for basic telecommunications service first  
13 offered by the provider in a local exchange area at any time during the  
14 rate transition period. Subject to subsections (e) and (h), beginning  
15 twelve (12) months after the commission approves the initial rates and  
16 charges for the local exchange area, the provider may increase the  
17 initial flat monthly rate for basic telecommunications service in  
18 accordance with subsection (c). However, subsection (c)(2) does not  
19 apply to a rate increase under this subsection. The provider may not  
20 increase the flat monthly rate under this subsection during the rate  
21 transition period more frequently than the number of twelve (12) month  
22 periods remaining in the rate transition period at the time the provider  
23 is first eligible to increase the initial flat monthly rate under this  
24 subsection. The amount of the total increase in the flat monthly rate  
25 during the rate transition period may not exceed the product of:

- 26 (1) one dollar (\$1); multiplied by
- 27 (2) the number of twelve (12) month periods remaining in the rate
- 28 transition period at the time the provider is first eligible to
- 29 increase the initial flat monthly rate under this subsection.

30 The provider shall provide the commission and all affected customers  
31 thirty (30) days advance notice of each rate increase under this  
32 subsection.

33 (e) This subsection applies to a provider that acts under subsection  
34 (c) or (d) to increase the provider's flat monthly rate for basic  
35 telecommunications service in a local exchange area in Indiana. Not  
36 later than eighteen (18) calendar months after the provider's first rate  
37 increase in the local exchange area under subsection (c) or (d), the  
38 provider must offer broadband service to at least fifty percent (50%) of  
39 the households located in the local exchange area, at the average  
40 speeds set forth in subsection (a), as determined by the commission  
41 after notice and an opportunity for hearing. The commission may  
42 extend the eighteen (18) month period allowed under this subsection

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1 by not more than nine (9) additional calendar months for good cause  
 2 shown by the provider. The commission shall hold a hearing and make  
 3 a finding as to whether the provider offers broadband service to at least  
 4 fifty percent (50%) of the households in the local exchange area not  
 5 later than the earlier of the following:

6 (1) Ninety (90) days after a request by the provider for a hearing  
 7 and determination by the commission. The provider may request  
 8 a hearing and determination under this subdivision at any time  
 9 before the expiration of:

10 (A) the eighteen (18) month period allowed by this subsection;

11 or

12 (B) any extension of the eighteen (18) month period allowed  
 13 by the commission under this subsection.

14 (2) Ninety (90) days after the expiration of:

15 (A) the eighteen (18) month period allowed by this subsection;

16 or

17 (B) any extension of the eighteen (18) month period allowed  
 18 by the commission under this subsection;

19 if the provider does not request a hearing and determination under  
 20 subdivision (1).

21 (f) If, after a hearing under subsection (e), the commission  
 22 determines that the provider does not offer broadband service to at least  
 23 fifty percent (50%) of the households in the local exchange area not  
 24 later than eighteen (18) months after the provider's first rate increase  
 25 in the local exchange area under subsection (c) or (d), the commission  
 26 may require the provider to:

27 (1) refund to customers; or

28 (2) pay to the commission as a civil penalty;

29 an amount equal to the incremental revenue accruing to the provider as  
 30 a result of all rate increases imposed by the provider in the local  
 31 exchange area under subsection (c) or (d), plus interest. The  
 32 commission shall determine the amount of interest added to a refund  
 33 or payment made under this subsection by applying the average interest  
 34 rate paid during the eighteen (18) months after the provider's first rate  
 35 increase to depositors by the fifteen (15) largest banks with their  
 36 principal offices in Indiana. A determination by the commission under  
 37 this subsection is subject to appeal under IC 8-1-3.

38 (g) This subsection applies to an incumbent local exchange carrier  
 39 that offers basic telecommunications service in one (1) or more local  
 40 exchange areas in Indiana on March 27, 2006. Throughout the rate  
 41 transition period, the incumbent local exchange carrier shall continue  
 42 to make available a flat monthly rate with unlimited local calling for

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1 basic telecommunications service in all local exchange areas in which  
 2 the incumbent local exchange carrier offers basic telecommunications  
 3 service on March 27, 2006, regardless of whether the incumbent local  
 4 exchange carrier increases the flat monthly rate in any of those local  
 5 exchange areas under subsection (c). Throughout the transition period,  
 6 an extended area of service in which the incumbent local exchange  
 7 carrier offers basic telecommunications service on March 27, 2006,  
 8 may not be reduced in area or scope without the approval of the  
 9 commission after notice and hearing.

10 (h) If, at any time during the rate transition period, the commission  
 11 determines in accordance with IC 8-1-2-113 that an emergency exists,  
 12 the commission may act under IC 8-1-2-113 to temporarily alter,  
 13 amend, or suspend the limits on the flat monthly rate increases set forth  
 14 in subsections (c) and (d) if necessary to maintain a provider's financial  
 15 integrity and ability to provide adequate basic telecommunications  
 16 service. The commission shall reimplement the limits on flat monthly  
 17 rate increases, as set forth in subsections (c) and (d), when the  
 18 commission is satisfied the emergency no longer exists.

19 (i) After June 30, 2009, a provider that offers basic  
 20 telecommunications service in Indiana:

21 (1) must offer a flat monthly rate with unlimited local calling for  
 22 basic telecommunications service in each local exchange area in  
 23 Indiana in which the provider offers basic telecommunications  
 24 service; and

25 (2) may not, in any local exchange area in Indiana in which the  
 26 provider offers basic telecommunications service, offer any  
 27 service plan for basic telecommunications service that includes  
 28 measured local service.

29 (j) **As used in this subsection, "committee" refers to the**  
 30 **commerce, energy, and utilities standing committee of the house of**  
 31 **representatives, or to any successor committee designated by the**  
 32 **speaker of the house of representatives. Not later than November**  
 33 **1 of each year, beginning in 2007, each provider that offers basic**  
 34 **telecommunications service in Indiana shall report to the**  
 35 **committee the following information with respect to the**  
 36 **immediately preceding calendar year:**

37 (1) **The flat monthly rate for basic telecommunications service**  
 38 **charged by the provider in each local exchange area in**  
 39 **Indiana in which the provider offered basic service during the**  
 40 **preceding calendar year. The provider shall report the rates**  
 41 **charged for basic telecommunications service in each local**  
 42 **exchange area as of:**

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1 (A) January 1 of the immediately preceding calendar year,  
2 or the date on which the provider began offering basic  
3 telecommunications service in the local exchange area if  
4 the provider began offering basic telecommunications  
5 service in the local exchange area after January 1 but  
6 before December 31 of the immediately preceding calendar  
7 year; and

8 (B) December 31 of the immediately preceding calendar  
9 year.

10 (2) With respect to any change in the flat monthly rate made  
11 by the provider in a local exchange area during the  
12 immediately preceding calendar year:

13 (A) the date on which the change took effect; and

14 (B) the amount of the increase or decrease in the flat  
15 monthly rate.

16 (3) This subdivision applies to a report covering a calendar  
17 year that begins after December 31, 2008. If the provider is an  
18 eligible telecommunications carrier (as defined in IC 8-1-36-4)  
19 that offers a discounted flat monthly rate to participants in  
20 the Indiana Lifeline assistance program in a local exchange  
21 area, the following information:

22 (A) The amount of the discounted flat monthly rate in the  
23 local exchange area as of the dates specified in subdivision  
24 (1).

25 (B) The amount of reimbursement received under the  
26 Indiana Lifeline assistance program for providing the  
27 discounted flat monthly rate in the local exchange area.

28 The committee may share the information in a report submitted  
29 under this subsection with the regulatory flexibility committee, the  
30 legislative council, or the senate standing committee having  
31 appropriate subject matter jurisdiction (as determined by the  
32 president pro tempore of the senate). However, this subsection does  
33 not require a provider to disclose confidential and proprietary  
34 business plans and other confidential information without  
35 adequate protection of the information. Any legislative committee  
36 or council authorized to review reports under this subsection shall  
37 exercise all necessary caution to avoid disclosure of confidential  
38 information supplied under this subsection. The committee, the  
39 regulatory flexibility committee, or the appropriate senate standing  
40 committee may use the information contained in reports submitted  
41 under this subsection to recommend legislation to the general  
42 assembly concerning the provision of basic telecommunications

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1 **service in Indiana.**

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