

Adopted Rejected

COMMITTEE REPORT

YES: 10
NO: 0

MR. SPEAKER:

Your Committee on Commerce, Energy, Technology and Utilities, to which was referred Senate Bill 487, 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:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 8-1-2.6-4, AS AMENDED BY P.L.27-2006,
- 4 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2009]: Sec. 4. (a) A regulatory flexibility committee is
- 6 established to monitor competition in the telecommunications industry.
- 7 (b) The committee is composed of the members of a house standing
- 8 committee selected by the speaker of the house of representatives and
- 9 a senate standing committee selected by the president pro tempore of
- 10 the senate. In selecting standing committees under this subsection, the
- 11 speaker and president pro tempore shall determine which standing
- 12 committee of the house of representatives and the senate, respectively,
- 13 has subject matter jurisdiction that most closely relates to the
- 14 electricity, gas, energy policy, and telecommunications jurisdiction of
- 15 the regulatory flexibility committee. The chairpersons of the standing
- 16 committees selected under this subsection shall co-chair the regulatory

1 flexibility committee.

2 (c) The commission shall, by July 1 of each year, prepare for
3 presentation to the regulatory flexibility committee a report that
4 includes the following:

5 (1) An analysis of the effects of competition and technological
6 change on universal service and on pricing of all
7 telecommunications services offered in Indiana.

8 (2) An analysis of the status of competition and technological
9 change in the provision of video service (as defined in
10 IC 8-1-34-14) to Indiana customers, as determined by the
11 commission in carrying out its duties under IC 8-1-34. The
12 commission's analysis under this subdivision must include a
13 description of:

14 (A) the number of multichannel video programming
15 distributors offering video service to Indiana customers;

16 (B) the technologies used to provide video service to Indiana
17 customers; and

18 (C) the effects of competition on the pricing and availability of
19 video service in Indiana.

20 (3) Beginning with the report due July 1, 2007, and in each report
21 due in an odd-numbered year after July 1, 2007:

22 (A) an identification of all telecommunications rules and
23 policies that are eliminated by the commission under section
24 4.1 of this chapter during the two (2) most recent state fiscal
25 years; and

26 (B) an explanation why the telecommunications rules and
27 policies identified under clause (A) are no longer in the public
28 interest or necessary to protect consumers.

29 **(4) Beginning with the report due July 1, 2010, best practices**
30 **concerning vertical location of underground facilities for**
31 **purposes of IC 8-1-26. A report under this subdivision must**
32 **address the viability and economic feasibility of technologies**
33 **used to vertically locate underground facilities.**

34 (d) In addition to reviewing the commission report prepared under
35 subsection (c), the regulatory flexibility committee shall also issue a
36 report and recommendations to the legislative council by November 1
37 of each year that is based on a review of the following issues:

38 (1) The effects of competition and technological change in the

- 1 telecommunications industry and impact of competition on
 2 available subsidies used to maintain universal service.
- 3 (2) The status of modernization of the publicly available
 4 telecommunications infrastructure in Indiana and the incentives
 5 required to further enhance this infrastructure.
- 6 (3) The effects on economic development and educational
 7 opportunities of the modernization described in subdivision (2).
- 8 (4) The current methods of regulating providers, at both the
 9 federal and state levels, and the effectiveness of the methods.
- 10 (5) The economic and social effectiveness of current
 11 telecommunications service pricing.
- 12 (6) All other telecommunications issues the committee deems
 13 appropriate.

14 The report and recommendations issued under this subsection to the
 15 legislative council must be in an electronic format under IC 5-14-6.

16 (e) The regulatory flexibility committee shall meet on the call of the
 17 co-chairpersons to study telecommunications issues described in
 18 subsection (d). The committee shall, with the approval of the
 19 commission, retain the independent consultants the committee
 20 considers appropriate to assist the committee in the review and study.
 21 The expenses for the consultants shall be paid by the commission."

22 Page 4, line 16, delete "fine" and insert "**civil penalty**".

23 Page 4, line 32, delete "adequately identify the site of the" and insert
 24 "**provide to the association the physical location of the proposed**
 25 **excavation or demolition by one (1) of the following means:**

26 (A) **A street address.**

27 (B) **A legal description of the location.**

28 (C) **A highway location using highway mile markers or**
 29 **cross streets."**

30 Page 4, delete lines 33 through 34.

31 Page 4, line 37, delete "A notice expires twenty (20)".

32 Page 4, line 38, delete "days after the date on which the notice is
 33 served."

34 Page 6, delete lines 27 through 35, begin a new paragraph and
 35 insert:

36 "**(h) A person that:**

37 (1) **causes damage to a pipeline facility located in an area of**
 38 **excavation or demolition;**

1 **(2) is required to perform white lining under subsection**
 2 **(a)(2); and**
 3 **(3) fails to perform white lining before an operator of a**
 4 **pipeline facility arrives at the site of the proposed excavation**
 5 **or demolition to mark the operator's pipeline facilities;**
 6 **may be subject to a civil penalty in an amount recommended by the**
 7 **advisory committee and approved by the commission, not to exceed**
 8 **ten thousand dollars (\$10,000)."**

9 Page 10, line 3, delete "." and insert "**or provides incorrect facility**
 10 **locate markings.**".

11 Page 11, line 23, delete "underground" and insert "**pipeline**".

12 Page 12, line 17, delete "nine (9)" and insert "**seven (7)**".

13 Page 12, delete lines 19 through 30, begin a new line block indented
 14 and insert:

15 **"(1) One (1) member representing the association.**
 16 **(2) One (1) member representing investor owned gas utilities.**
 17 **(3) One (1) member representing operators of pipeline**
 18 **facilities or pipelines.**
 19 **(4) One (1) member representing municipal gas utilities.**
 20 **(5) Two (2) members representing commercial excavators.**
 21 **(6) One (1) member representing providers of facility locate**
 22 **marking services."**

23 Page 12, delete line 42, begin a new paragraph and insert:

24 **"(g) The pipeline safety division shall investigate alleged**
 25 **violations of this chapter. If the pipeline safety division finds that**
 26 **a person has violated this chapter, the pipeline safety division shall**
 27 **forward its finding to the advisory committee.**

28 **(h) The advisory committee shall act in an advisory capacity to**
 29 **the commission concerning the implementation and enforcement**
 30 **of this chapter. In this capacity, the advisory committee may**
 31 **recommend the following penalties with respect to persons that the**
 32 **pipeline safety division has found to violate this chapter:**

33 **(1) Civil penalties consistent with this chapter.**
 34 **(2) Participation in education or training programs developed**
 35 **and implemented by the commission.**
 36 **(3) Warning letters.**
 37 **(4) Development of a plan to avoid future violations of this**
 38 **chapter.**

1 **Before making a recommendation under this subsection, the**
 2 **advisory committee shall provide notice to the person found to be**
 3 **in violation of this chapter of an opportunity to appear before the**
 4 **advisory committee with respect to the violation.**

5 **(i) Upon receiving a recommendation from the advisory**
 6 **committee under subsection (h), and after notice and opportunity**
 7 **for a public hearing, the commission shall do the following as**
 8 **applicable:**

9 **(1) Uphold or reverse the finding of a violation by the pipeline**
 10 **safety division under subsection (g).**

11 **(2) Approve or disapprove each recommendation of the**
 12 **advisory committee.**

13 **(3) Collect any civil penalties and deposit the penalties in the**
 14 **underground plant protection account."**

15 Page 13, delete lines 1 through 21.

16 Page 14, line 3, delete "23(h)" and insert "**23(i)**".

17 Page 14, between lines 3 and 4, begin a new paragraph and insert:

18 "SECTION 21. IC 8-1-26-25 IS ADDED TO THE INDIANA CODE
 19 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2009]: **Sec. 25. An operator of a pipeline facility that violates this**
 21 **chapter may be subject to a civil penalty imposed by the**
 22 **commission under IC 8-1-22.5 in addition to a penalty or fine**
 23 **imposed under this chapter.**

24 SECTION 22. IC 8-1-26-26 IS ADDED TO THE INDIANA CODE
 25 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2009]: **Sec. 26. The commission shall adopt rules under**
2 **IC 4-22-2 to carry out its responsibilities under this chapter."**

3 Renumber all SECTIONS consecutively.
 (Reference is to SB 487 as reprinted February 18, 2009.)

and when so amended that said bill do pass.

Representative Moses