

IC 8-1-30

Chapter 30. Operation of Certain Water and Sewer Utilities

IC 8-1-30-1

Applicability of definitions

Sec. 1. The definitions in IC 8-1-2-1 apply throughout this chapter.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-2

"Utility company" defined

Sec. 2. As used in this chapter, "utility company" refers to either of the following:

- (1) A public utility that provides water or sewer service.
- (2) A regional sewer and water district.

The term does not include a municipally owned utility.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-3

Commission review of operations

Sec. 3. (a) The commission may review any of the following or any combination of the following aspects of a utility company's operations:

- (1) Technical, financial, and managerial capacity.
- (2) Physical condition and capacity of the utility company's plant.
- (3) Compliance with Indiana or federal law or the commission's orders.
- (4) Provision of service to customers.

(b) The commission may conduct a review under this section upon its own motion, a request of the office of the utility consumer counselor, or upon the filing of a complaint by a customer of the utility company. The commission's order for review must state facts to justify a review by the commission.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-4

Findings of violations

Sec. 4. The commission may issue orders under section 5 of this chapter if the commission finds either of the following:

- (1) The utility company has continued violations of:
 - (A) law regulating the utility company after the commission has ordered compliance; or
 - (B) commission orders.
- (2) The commission finds after a review conducted under section 3 of this chapter that the utility company has severe deficiencies that the utility company has failed to remedy.

As added by P.L.145-1999, SEC.7.

IC 8-1-30-5

Issuance of orders to provide for acquisition or appointment of receivers

Sec. 5. (a) As used in this section, "subject utility company" refers to a utility company that is the subject of a finding by the commission under section 4 of this chapter.

(b) If the commission makes a finding under section 4 of this chapter, the commission may, after notice and hearing, make appropriate orders to do any of the following:

(1) Provide for the acquisition of the subject utility company by another utility company, a municipally owned utility, or by another person that has the ability to operate the subject utility company:

(A) in compliance with law and the commission's orders; and

(B) to remedy any deficiencies found by the commission.

(2) Provide for the appointment of a receiver to operate the subject public utility:

(A) in compliance with law and the commission's orders; and

(B) to remedy any deficiencies found by the commission.

(c) Before making an order under subsection (b), the commission shall give notice of the hearing to the following:

(1) The subject utility company.

(2) Other utility companies in Indiana.

(3) Appropriate public agencies and political subdivisions, including all municipalities, located in the subject utility company's service territory.

(d) An order under subsection (b)(1) must provide:

(1) that the person acquiring the subject utility company must pay the fair market value of the subject utility company at the time of acquisition; and

(2) the specific accounting methods and appraisal procedures and terms by which the fair market value of the subject utility company is to be determined.

(e) An order under subsection (b)(1) may provide cost recovery mechanisms for costs associated with improvements to the acquired system that are immediate and necessary to remedy deficiencies, including any of the following:

(1) A mechanism for expediting any adjustments to the rate base and rates of the person acquiring the subject utility company.

(2) Surcharges on customers of the acquired utility company system to pay for extraordinary costs.

(3) A plan for deferring certain improvement costs and recovering costs in phases.

(4) A plan for equalizing rates of the subject utility company with the rates of the person acquiring the subject utility company, if necessary.

(5) Other incentives to the person acquiring the subject utility company, including adjustments to the allowed rate of return.

(f) If the commission makes an order under subsection (b)(2), the attorney general shall file an action in a court with jurisdiction on

behalf of the commission for the appointment of a receiver under IC 32-30-5. The receiver appointed by the court:

- (1) has the same rights and duties under Indiana law as a utility company providing water or sewer service; and
- (2) shall continue to operate the subject utility company until the court finds that the subject utility company:
 - (A) has the ability to comply and will comply with Indiana law and the commission's orders relating to the operation of the utility company; and
 - (B) has the ability to operate without any of the deficiencies found by the commission.

As added by P.L.145-1999, SEC.7. Amended by P.L.2-2002, SEC.37.

IC 8-1-30-6

Municipal requirement to sell utility property

Sec. 6. (a) This section does not apply to the following:

- (1) A municipality that, as of July 1, 2012, had established and operated a water utility.
- (2) An action brought under:
 - (A) IC 8-1-2-92;
 - (B) IC 8-1-2-93; or
 - (C) IC 8-1.5-2;before March 1, 2013.

(b) A municipality or other governmental unit may not require a utility company that provides water or sewer service to sell property used in the provision of such service to the municipality or governmental unit under IC 8-1-2-92, IC 8-1-2-93, or otherwise, unless:

- (1) the commission has made all necessary findings under section 4 of this chapter; and
- (2) the procedures and requirements of this chapter have been complied with and satisfied.

As added by P.L.145-1999, SEC.7. Amended by P.L.270-2013, SEC.3.