

IC 8-1-39

Chapter 39. Transmission, Distribution, and Storage System Improvement Charges and Deferrals

IC 8-1-39-1

Application of definitions in IC 8-1-2-1

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

As added by P.L.133-2013, SEC.5.

IC 8-1-39-2

"Eligible transmission, distribution, and storage system improvements"

Sec. 2. As used in this chapter, "eligible transmission, distribution, and storage system improvements" means new or replacement electric or gas transmission, distribution, or storage utility projects that:

- (1) a public utility undertakes for purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;
- (2) were not included in the public utility's rate base in its most recent general rate case; and
- (3) either were:
 - (A) designated in the public utility's seven (7) year plan and approved by the commission under section 10 of this chapter as eligible for TDSIC treatment; or
 - (B) approved as a targeted economic development project under section 11 of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-3

"Pretax return"

Sec. 3. As used in this chapter, "pretax return" means the TDSIC revenues necessary to:

- (1) produce net operating income equal to the public utility's weighted cost of capital multiplied by investments in eligible transmission, distribution, and storage system improvements;
- (2) pay state and federal income taxes imposed on the net operating income calculated under subdivision (1); and
- (3) pay state utility receipts taxes associated with TDSIC revenues.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-4

"Public utility"

Sec. 4. As used in this chapter, "public utility" means:

- (1) an energy utility (as defined in IC 8-1-2.5-2);
- (2) a municipally owned utility (as defined in IC 8-1-2-1(h)); or
- (3) a department of public utilities created by IC 8-1-11.1.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-5**"Targeted economic development project"**

Sec. 5. As used in this chapter, "targeted economic development project" means a project approved by the commission under section 10(c) of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-6**"TDSIC"**

Sec. 6. As used in this chapter, "TDSIC" refers to a transmission, distribution, and storage system improvement charge.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-7**"TDSIC costs"**

Sec. 7. As used in this chapter, "TDSIC costs" means the following costs incurred with respect to eligible transmission, distribution, and storage system improvements incurred both while the improvements are under construction and post in service:

- (1) Depreciation expenses.
- (2) Operation and maintenance expenses.
- (3) Extensions and replacements to the extent not provided for through depreciation, in the manner provided for in IC 8-1.5-3-8.
- (4) Property taxes.
- (5) Pretax returns.

The term includes costs associated with a targeted economic development project approved under section 11 of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-8**"TDSIC revenues"**

Sec. 8. As used in this chapter, "TDSIC revenues" means revenues produced through a TDSIC and excluding revenues from all other rates and charges.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-9**Petition; contents; recovery and deferral of TDSIC costs**

Sec. 9. (a) Subject to subsection (c), a public utility that provides electric or gas utility service may file with the commission rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of eighty percent (80%) of approved capital expenditures and TDSIC costs. The petition must:

- (1) use the customer class revenue allocation factor based on firm load approved in the public utility's most recent retail base rate case order;
- (2) include the public utility's seven (7) year plan for eligible transmission, distribution, and storage system improvements;

and

(3) identify projected effects of the plan described in subdivision (2) on retail rates and charges.

The public utility shall provide a copy of the petition to the office of the utility consumer counselor when the petition is filed with the commission. The public utility shall update the public utility's seven (7) year plan under subdivision (2) with each petition the public utility files under this section. An update may include a petition for approval of a targeted economic development project under section 11 of this chapter.

(b) A public utility that recovers capital expenditures and TDSIC costs under subsection (a) shall defer the remaining twenty percent (20%) of approved capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of the next general rate case that the public utility files with the commission.

(c) Except as provided in section 15 of this chapter, a public utility may not file a petition under subsection (a) within nine (9) months after the date on which the commission issues an order changing the public utility's basic rates and charges with respect to the same type of utility service.

(d) A public utility that implements a TDSIC under this chapter shall, before the expiration of the public utility's approved seven (7) year plan, petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service.

(e) A public utility may file a petition under this section not more than one (1) time every six (6) months.

(f) Actual capital expenditures and TDSIC costs that exceed the approved capital expenditures and TDSIC costs require specific justification by the public utility and specific approval by the commission before being authorized for recovery in customer rates. *As added by P.L.133-2013, SEC.5.*

IC 8-1-39-10

Approval of seven year plan; inclusion of targeted economic development project; notice, hearing, and order

Sec. 10. (a) A public utility shall petition the commission for approval of the public utility's seven (7) year plan for eligible transmission, distribution, and storage improvements. A plan submitted under this subsection may include for approval a targeted economic development project described in section 11 of this chapter.

(b) Following notice and hearing, and not more than two hundred ten (210) days after the public utility petitions the commission under subsection (a), the commission shall issue an order on the petition. The order must include the following:

(1) A finding of the best estimate of the cost of the eligible improvements included in the plan.

(2) A determination whether public convenience and necessity require or will require the eligible improvements included in the plan.

(3) A determination whether the estimated costs of the eligible improvements included in the plan are justified by incremental benefits attributable to the plan.

If the commission determines that the public utility's seven (7) year plan is reasonable, the commission shall approve the plan and designate the eligible transmission, distribution, and storage improvements included in the plan as eligible for TDSIC treatment.

(c) A public utility that provides gas service may petition the commission to approve a targeted economic development project as part of the public utility's seven (7) year plan under subsection (a). The commission shall review within sixty (60) days the part of the petition concerning the targeted economic development project and approve the inclusion of the project if the commission determines that the inclusion of the project is consistent with the requirements of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-11

Extension of gas service to targeted economic development project; approval by Indiana economic development corporation of costs as TDSIC costs; rural gas service

Sec. 11. (a) The extension, construction, addition, or improvement of the plant and equipment of a public utility that is installed to provide gas service to a targeted economic development project is used and useful in the public service.

(b) A public utility shall apply to the Indiana economic development corporation for approval to treat costs associated with a targeted economic development project as TDSIC costs. Costs approved by the Indiana economic development corporation shall be treated as TDSIC costs and may be recovered through a TDSIC under section 12 of this chapter. The TDSIC revenues associated with a targeted economic development project shall not be included in a public utility's total retail revenues for purposes of determining an aggregate increase under section 14 of this chapter.

(c) Notwithstanding any law or rule governing extension of service, a public utility that provides gas service may, on a nondiscriminatory basis, extend service in rural areas without a deposit or other adequate assurance of performance from the customer, to the extent that the extension of service results in a positive contribution to the utility's overall cost of service over a twenty (20) year period. However, if the public utility determines that the extension of service to a targeted economic development project will not result in a positive contribution to the utility's overall cost of service over a twenty (20) year period, the public utility may require a deposit or other adequate assurance of performance from:

(1) the developer of the targeted economic development project;
or

- (2) a local, regional, or state economic development organization.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-12

Commission hearing and order; examination by office of utility consumer counselor and intervenors

Sec. 12. (a) Not more than ninety (90) days after a public utility files a petition under section 9 of this chapter, the commission shall conduct a hearing and issue an order on the petition.

(b) Not more than sixty (60) days after a public utility files a petition under section 9 of this chapter, the office of the utility consumer counselor and other intervenors, if any, may:

- (1) examine the information of the public utility to confirm that the proposed transmission, distribution, and storage system improvements comply with this chapter; and
- (2) report its findings to the commission.

(c) If the commission determines that the petition satisfies the requirements of this chapter and the capital expenditures and TDSIC costs are reasonable, the commission shall approve the petition, including:

- (1) capital expenditures;
- (2) timely recovery of TDSIC costs, including costs associated with a targeted economic development project, through a TDSIC; and
- (3) if requested, authority to defer TDSIC costs under section 9(b) of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-13

Determination of pretax return

Sec. 13. (a) For purposes of calculating the TDSIC costs of a public utility, the commission shall determine an appropriate pretax return for the public utility. In determining the appropriate pretax return, the commission may consider the following factors:

- (1) The current state and federal income tax rates.
- (2) The public utility's capital structure.
- (3) The actual cost rates for the public utility's long term debt and preferred stock.
- (4) The public utility's cost of common equity determined by the commission in the public utility's most recent general rate proceeding.
- (5) Other information that the commission determines is necessary.

(b) The commission shall adjust a public utility's authorized return for purposes of IC 8-1-2-42(d)(3) or IC 8-1-2-42(g)(3) to reflect incremental earnings from an approved TDSIC.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-14

Total retail revenues; average aggregate increase

Sec. 14. (a) The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than two percent (2%) in a twelve (12) month period. For purposes of this subsection, a public utility's total retail revenues do not include TDSIC revenues associated with a targeted economic development project.

(b) If a public utility incurs TDSIC costs under the public utility's seven (7) year capital expenditure plan that exceed the percentage increase in a TDSIC approved by the commission, the public utility shall defer recovery of the TDSIC costs as set forth in section 9(b) of this chapter.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-15

Revised rate schedule following general increase in rates and charges

Sec. 15. A public utility that has implemented a TDSIC under this chapter shall file revised rate schedules resetting the charge if new basic rates and charges become effective for the public utility following a commission order authorizing a general increase in rates and charges that includes in the public utility's rate base eligible transmission, distribution, and storage system improvements reflected in the TDSIC.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-16

Exclusions from general increase in basic rates and charges

Sec. 16. (a) For purposes of this chapter, the following are not a general increase in basic rates and charges under IC 8-1-2-42(a):

- (1) The filing of a TDSIC.
- (2) A change in a TDSIC.
- (3) The deferral of depreciation expenses, operation and maintenance expenses, property taxes, or post in service allowance for funds used during construction under section 9(b) of this chapter.

(b) This chapter does not limit:

- (1) a public utility's ability to recover eligible transmission, distribution, and storage system improvements in a general retail rate case; or
- (2) the commission's valuation of utility property under IC 8-1-2-6.

As added by P.L.133-2013, SEC.5.

IC 8-1-39-17

Adoption of rules

Sec. 17. The commission may adopt by rule under IC 4-22-2 or by order other procedures not inconsistent with this chapter that the commission finds reasonable or necessary to administer a TDSIC.

As added by P.L.133-2013, SEC.5.