

#### **IC 8-1-2.4**

### **Chapter 2.4. Alternate Energy Production, Cogeneration, and Small Hydro Facilities**

#### **IC 8-1-2.4-1**

##### **Development of alternate energy production facilities; policy**

Sec. 1. It is the policy of this state to encourage the development of alternate energy production facilities, cogeneration facilities, and small hydro facilities in order to conserve our finite and expensive energy resources and to provide for their most efficient utilization.

*As added by Acts 1982, P.L.72, SEC.1.*

#### **IC 8-1-2.4-2**

##### **Definitions**

Sec. 2. (a) The definitions in this section apply throughout this chapter.

(b) "Alternate energy production facility" means:

- (1) a solar, wind turbine, waste management, resource recovery, refuse-derived fuel, or wood burning facility;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(c) "Cogeneration facility" means:

- (1) a facility that:
  - (A) simultaneously generates electricity and useful thermal energy; and
  - (B) meets the energy efficiency standards established for cogeneration facilities by the Federal Energy Regulatory Commission under 16 U.S.C. 824a-3;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(d) "Electric utility" means any public utility or municipally owned utility that owns, operates, or manages any electric plant.

(e) "Small hydro facility" means:

- (1) a hydroelectric facility at a dam;
- (2) any land, system, building, or improvement that is located at the project site and is necessary or convenient to the construction, completion, or operation of the facility; and
- (3) the transmission or distribution facilities necessary to conduct the energy produced by the facility to users located at or near the project site.

(f) "Steam utility" means any public utility or municipally owned utility that owns, operates, or manages a steam plant.

(g) "Private generation project" means a cogeneration facility that has an electric generating capacity of eighty (80) megawatts or more and is:

- (1) primarily used by its owner for the owner's industrial, commercial, heating, or cooling purposes; or
- (2) a qualifying facility for purposes of the Public Utility Regulatory Policies Act of 1978 that:
  - (A) is in existence on July 1, 2014; and
  - (B) produces electricity and useful thermal energy that is primarily used by a host operation for industrial, commercial, heating, or cooling purposes.

*As added by Acts 1982, P.L.72, SEC.1. Amended by P.L.23-1988, SEC.31; P.L.222-2014, SEC.2.*

### **IC 8-1-2.4-3**

#### **Participation of utilities; encouragement**

Sec. 3. The commission shall encourage the participation of utilities in alternate energy production facilities, cogeneration facilities, small hydro facilities, and private generation projects.

*As added by Acts 1982, P.L.72, SEC.1. Amended by P.L.222-2014, SEC.3.*

### **IC 8-1-2.4-4**

#### **Contracts by electric and steam utilities required**

Sec. 4. (a) Subject to section 5 of this chapter, the commission shall require electric utilities and steam utilities to enter into long term contracts to:

- (1) purchase or wheel electricity or useful thermal energy from alternate energy production facilities, cogeneration facilities, or small hydro facilities located in the utility's service territory, under the terms and conditions that the commission finds:
  - (A) are just and economically reasonable to the corporation's ratepayers;
  - (B) are nondiscriminatory to alternate energy producers, cogenerators, and small hydro producers; and
  - (C) will further the policy stated in section 1 of this chapter; and
- (2) provide for the availability of supplemental or backup power to alternate energy production facilities, cogeneration facilities, or small hydro facilities, on a nondiscriminatory basis and at just and reasonable rates.

(b) Upon application by the owner or operator of any alternate energy production facility, cogeneration facility, or small hydro facility, or any interested party, the commission shall establish for the affected utility just and economically reasonable rates for electricity purchased under subsection (a)(1). The rates shall be

established at levels sufficient to stimulate the development of alternate energy production, cogeneration, and small hydro facilities in Indiana, and to encourage the continuation of existing capacity from those facilities.

(c) The commission shall base the rates for new facilities or new capacity from existing facilities on the following factors:

(1) The estimated capital cost of the next generating plant, including related transmission facilities, to be placed in service by the utility.

(2) The term of the contract between the utility and the seller.

(3) A levelized annual carrying charge based upon the term of the contract and determined in a manner consistent with both the methods and the current interest or return requirements associated with the utility's new construction program.

(4) The utility's annual energy costs, including current fuel costs, related operation and maintenance costs, and any other energy-related costs considered appropriate by the commission.

Until July 1, 1986, the rate for a new facility may not exceed eight cents (\$.08) per kilowatt hour.

(d) The commission shall base the rates for existing facilities on the factors listed in subsection (c). However, the commission shall also consider the original cost less depreciation of existing facilities and may establish a rate for existing facilities that is less than the rate established for new facilities.

(e) In the case of a utility that purchases all or substantially all of its electricity requirements, the rates established under this section must be equal to the current cost to the utility of similar types and quantities of electrical service.

(f) In lieu of the other procedures provided by this section, a utility and an owner or operator of an alternate energy production facility, cogeneration facility, or small hydro facility may enter into a long term contract in accordance with subsection (a) and may agree to rates for purchase and sale transactions. A contract entered into under this subsection must be filed with the commission in the manner provided by IC 8-1-2-42.

(g) This section does not require an electric utility or steam utility to construct any additional facilities unless those facilities are paid for by the owner or operator of the affected alternate energy production facility, cogeneration facility, or small hydro facility.

*As added by Acts 1982, P.L.72, SEC.1.*

#### **IC 8-1-2.4-5**

##### **Utilities excepted; grounds**

Sec. 5. (a) The commission may not require an electric utility or steam utility to purchase or wheel electricity or useful thermal energy from an alternate energy production facility or cogeneration facility unless the facility:

(1) has an electric generating capacity of not more than eighty

(80) megawatts;

(2) produces electricity, gas, or useful thermal energy for industrial, commercial, or residential purposes; and

(3) is owned or operated by an individual, firm, copartnership, corporation, company, association, joint stock association, city, town, or county that:

(A) is not primarily engaged in the business of producing or selling electricity, gas, or useful thermal energy other than electricity, gas, or useful thermal energy sold solely from alternate energy production facilities, cogeneration facilities, or small hydro facilities; and

(B) does not sell electricity, gas, or useful thermal energy to residential users other than the tenants or the owner or operator of the facility.

(b) The commission may not require an electric utility or steam utility to purchase or wheel electricity or useful thermal energy from a small hydro facility unless the facility has an electric generating capacity of not more than eighty (80) megawatts.

*As added by Acts 1982, P.L.72, SEC.1.*

#### **IC 8-1-2.4-6**

##### **Private generation projects; sale of excess output; interconnection**

Sec. 6. (a) The owner of a private generation project may sell excess electric output generated by the private generation project to an electric utility as provided in subsection (b) to the extent the sale is consistent with applicable federal and state laws, rules, and regulations.

(b) An electric utility may purchase excess output described in subsection (a) from a private generation project that is located entirely in the assigned service area of the electric utility. The terms of the purchase must be consistent with the integrated resource plan filed with the commission by the electric utility under 170 IAC 4-7, including avoided energy and capacity costs determined in the integrated resource plan.

(c) An electric utility is entitled to recover costs associated with the purchase of energy and capacity under subsection (b) under IC 8-1-2-42(d).

(d) An electric utility shall interconnect with a private generation project upon request, subject to reasonable considerations of safety, reliability, and financial assurance. The interconnection of a private generation project with an electric utility's distribution system is governed by 170 IAC 4-4.3. The interconnection of a private generation project with an electric utility's transmission system is governed by federal law and regulation, including orders, regulations, and transmission tariffs approved by the Federal Energy Regulatory Commission.

(e) Upon the request of the owner of a private generation project, an electric utility shall provide the private generation project with

back up, maintenance, and supplementary power. The electric utility shall charge rates that:

- (1) are based on the electric utility's costs;
- (2) do not discriminate against:
  - (A) the private generation project; or
  - (B) other customers of the electric utility with load characteristics similar to the private generation project; and
- (3) do not create subsidies for:
  - (A) the private generation project; or
  - (B) retail customers of the electric utility.

*As added by P.L.222-2014, SEC.4.*