


IEA SUPPORTS HOUSE BILL 1470

House: Soliday, Hatfield
Senate: Messmer

Passed Indiana House of Representatives on Feb 5, 2019 -- bipartisan vote of 74-19

Indiana Law Supports Energy Infrastructure Improvements

The 2013 Indiana General Assembly passed Senate Enrolled Act 560 (SEA 560-2013) which, among other provisions, encouraged electric and natural gas utilities to replace their aging infrastructure and modernize their electric or natural gas transmission, distribution, or storage systems. This provision is known as "TDSIC", an acronym for Transmission, Distribution, Storage Infrastructure Charge.

The law established a process for a utility to propose a 7-year infrastructure plan covering projects related to safety, reliability, system modernization, and economic development such as investments in:

- new electric transmission projects to deliver electricity from wind farms and solar fields in rural areas;
- new electric substations;
- upgraded electric poles, wires and underground cables;
- electric breakers/transformers;
- replacing aging gas transmission and distribution pipelines; and
- extension of gas pipelines to certain unserved areas.

The Indiana Utility Regulatory Commission (IURC) holds hearings on these detailed plans and takes testimony from interested parties (e.g. industrial customers, Office of the Utility Consumer Counselor and other consumer groups) before rendering a decision based on whether the plan is necessary and in the public interest, reasonable, and cost beneficial to customers.

House Bill 1470 Restores Intent of Energy Infrastructure Law

The purpose of HB 1470 is to address Indiana Supreme Court and Court of Appeals decisions that narrowed the intent of SEA 560-2013. Both cases involved NIPSCO plans: one an electric plan (Indiana Court of Appeals 2015 decision) and one a gas plan (Indiana Supreme Court 2018 decision).
In general terms, the recent Court rulings eroded the intent of the legislation and eliminated plan flexibility by saying the existing statute:

- Prohibits plan updates that include new projects.
- Prohibits inclusion of projects that are based on planning criteria and inspections to determine exact locations of projects and numbers of structures.
- Requires specific, highly detailed information for all projects in all years of the 7-year TDSIC plan.

HB 1470 restores the intent of SEA 560 which was a realistic, flexible, and adaptive utility planning process – one that reflects that:

- More detailed information about projects is available in the earlier years of a plan but projects in later years should still be eligible for inclusion.
- Updates to TDSIC plans should incorporate more detailed information for later project years as such information becomes available.
- Utility plans change as circumstances change, and updates to TDSIC plans can and should include new projects, not just changes to existing projects, if projects are found by the IURC to be reasonable and necessary.
- Projects shown to be necessary due to inspections are important components of any transmission and distribution infrastructure plan.

HB 1470 recognizes how TDSIC planning works in the real world and provides flexibility while retaining IURC approval over the plan and all updates.

HB 1470 Contains Three Procedural Clarifications and Keeps All Customer Protections

HB 1470 contains three provisions which are procedural clarifications that improve the process now that we have some experience with the TDSIC law. It also keeps all current customer protections:

- It changes the current plan time period from 7 years to a period between 5 to 7 years.
  - **<u>It retains the requirement that a utility file a base rate case with the IURC before the expiration of their TDSIC plan</u>.**
  - It maintains the protection that if a utility's TDSIC plan is approved, the utility can only recover 80 percent of the cost of the plan through a rate mechanism known as a rider or tracker. The remaining 20 percent is deferred until the utility's next rate case.
  - It preserves the protection that the IURC may not approve a TDSIC plan that would result in an average total increase in a utility's total retail revenues of more than 2 percent annually. This annual "cap" on rate impact from the TDSIC plan protects customers.
- It requires a utility to update its TDSIC plan annually.
- It allows a utility to address changing priorities or new projects by terminating a TDSIC plan with the IURC and petitioning for the approval of a new TDSIC plan with the IURC while maintaining the requirement to file a base rate case with the IURC before the original TDSIC plan expiration date.

HB 1470 Promotes Economic Development and Keeps Pace with New Technology

- Clarifies that economic development projects included in TDSIC plans apply to both gas and electric projects.
- Allows inclusion of projects involving new or advanced technology investments that support modernization (e.g. smart meters, battery storage, etc.).