

First Regular Session of the 124th General Assembly (2025)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2024 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 423

AN ACT to amend the Indiana Code concerning utilities.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 8-1-44 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]:

Chapter 44. Pilot Program for Small Modular Nuclear Reactor Partnerships

Sec. 1. As used in this chapter, "certificate of public convenience and necessity", or "CPCN", means a certificate required under IC 8-1-8.5-2 for the construction, purchase, or lease of any facility for the generation of electricity to be directly or indirectly used for the furnishing of public utility service.

Sec. 2. As used in this chapter, "commission" refers to the Indiana utility regulatory commission created by IC 8-1-1-2.

Sec. 3. As used in this chapter, "eligible partner" means any of the following:

- (1) An eligible utility.
- (2) A person that is a current or prospective customer of an eligible utility and that commits to:
 - (A) use electricity generated by an SMR to be constructed under the program; or
 - (B) host on the person's premises an SMR to be

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constructed under the program.

(3) A capital partner or third party investor.

(4) A military installation (as defined in IC 1-1-16-5).

(5) A reuse authority established under IC 36-7-30-3 for a military base reuse area established under IC 36-7-30-10.

(6) A manufacturer of SMRs.

(7) A state educational institution (as defined in IC 21-7-13-32).

Sec. 4. As used in this chapter, "eligible partnership" means a group or entity, however organized, that:

(1) consists of:

(A) at least one (1) eligible utility; and

(B) one (1) or more other eligible partners described in section 3(1) through 3(7) of this chapter; and

(2) is formed for the purpose of developing one (1) or more SMRs at an eligible project site under the program.

Sec. 5. As used in this chapter, "eligible project development costs" means project development costs that:

(1) have been incurred, or are reasonably estimated to be incurred, by an eligible utility in the development of one (1) or more SMRs under the program; and

(2) have not been and will not be recovered by the eligible utility through contributions of any money, services, or property that have been or will be provided at no cost to the eligible utility by any:

(A) eligible partner with whom the eligible utility has entered into an eligible partnership under this chapter;

(B) governmental agency; or

(C) other third party, regardless of whether the third party has entered into an eligible partnership with the eligible utility under this chapter.

Sec. 6. As used in this chapter, "eligible project site" means:

(1) a location in Indiana; or

(2) the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011.

Sec. 7. As used in this chapter, "eligible utility" means a utility listed in 170 IAC 4-7-2(a) and any successor in interest to that utility.

Sec. 8. As used in this chapter, "program" refers to the small modular nuclear reactor partnership pilot program established by section 12 of this chapter.



Sec. 9. As used in this chapter, "project" refers to a project for the construction, purchase, or lease of one (1) or more SMRs at an eligible project site for the generation of electricity to be directly or indirectly used to furnish public utility service to Indiana customers.

Sec. 10. As used in this chapter, "project development costs" means costs that have been incurred, or are reasonably estimated to be incurred, in the development of one (1) or more SMRs under the program, including:

- (1) evaluation, design, and engineering costs;
- (2) costs for federal approvals and licensing;
- (3) costs for environmental analyses and permitting;
- (4) early site permit (as defined in 10 CFR 52.1) costs;
- (5) equipment procurement costs; and
- (6) authorized carrying costs.

Sec. 11. As used in this chapter, "small modular nuclear reactor", or "SMR", has the meaning set forth in IC 8-1-8.5-12.1(a).

Sec. 12. (a) The small modular nuclear reactor partnership pilot program is established to:

- (1) facilitate the development of SMRs for the purpose of providing a reliable source of electricity to meet the growing demand for electric utility service necessary to:
 - (A) ensure the welfare and enhance the quality of life of Indiana residents and businesses; and
 - (B) attract and retain businesses and provide economic development opportunities for Indiana communities; and
- (2) reduce the costs that would otherwise be borne by eligible utilities and their ratepayers by enabling eligible utilities to partner with one (1) or more eligible partners to share the costs and risks associated with developing one (1) or more SMRs to be directly or indirectly used to furnish public utility service to Indiana customers.

(b) The commission may consult with:

- (1) the United States Nuclear Regulatory Commission;
- (2) the department of environmental management; or
- (3) any other relevant state or federal regulatory agency with jurisdiction over the construction or operation of nuclear generating facilities;

to the extent necessary to ensure the compliance of any eligible utility or eligible partnership with all applicable federal and state laws and regulations, or as necessary to review or issue orders on



petitions under sections 13 and 14 of this chapter.

Sec. 13. (a) An eligible utility that seeks to develop a project with one (1) or more eligible partners may petition the commission, in the form and manner prescribed by the commission, for approval to participate in the program. The eligible utility must file with the petition the eligible utility's case in chief, which must contain the information and supporting documentation regarding the factors the commission must consider under subsection (c). A petition must include, at the minimum, the following information:

(1) A statement identifying each eligible partner participating in the eligible partnership, including the contact information for a representative of the eligible partner to whom the commission may direct all communications concerning the proposed project.

(2) For each eligible partner identified under subdivision (1), a description of the funds, property, or services that the eligible partner plans to contribute to the project, including an estimate of the amount or value of the funds, property, or services to be provided.

(3) For each eligible partner identified under subdivision (2) that plans to provide financing for or otherwise invest financially in the project, any information the commission may require in considering the creditworthiness of the eligible partner, including:

- (A) the eligible partner's investment grade rating;
- (B) guarantees of a parent company of the eligible partner that has an investment grade rating; or
- (C) a bank reference letter or bonding commitment on behalf of the eligible partner;

as may be applicable.

(4) For any eligible partner identified under subdivision (1) and described in section 3(2) of this chapter:

- (A) an estimate of the electricity that:
 - (i) is to be generated by an SMR developed under the project; and
 - (ii) the eligible partner anticipates using; or
- (B) a description of the location and site characteristics of the eligible partner's premises on which an SMR developed under the project is to be located;

as applicable.

(5) The address or geographic coordinates for, or a legal or other description that sufficiently identifies the location of, the



proposed eligible project site.

(6) For each SMR to be developed as part of the project, information as to the following, to the extent known at the time of the petition:

(A) The capacity.

(B) The manufacturer.

(C) Any technical configurations or specifications that may be required by the commission.

(D) The proposed location of the SMR on the proposed project site.

(7) An anticipated timeline for the following:

(A) Performing project development activities.

(B) Incurring project development costs, including any eligible project development costs.

(C) The anticipated date by which the eligible partnership will make a decision as to whether to seek a CPCN under IC 8-1-8.5.

(8) Any efforts by the eligible utility or the eligible partnership to pursue funding opportunities from the United States Department of Energy to offset project development costs or construction costs in connection with the proposed project.

(9) Any other information that the commission may require to enable the commission to conduct a review under subsection (c) or make the findings set forth in subsection (d).

(b) If more than one (1) eligible utility is part of an eligible partnership that seeks to develop a project for approval to participate in the program, the eligible utilities shall jointly file the petition required under this section. However, each eligible utility that is part of the eligible partnership and that seeks approval to incur eligible project development costs under section 14 of this chapter must separately file a petition with the commission under section 14 of this chapter. In any case in which more than one (1) eligible utility files a joint petition under this section, a reference in this section to one (1) eligible utility is a reference to all eligible utilities filing the joint petition.

(c) In reviewing a petition and supporting case in chief under this section, the commission shall consider the following:

(1) Whether the proposed project is consistent with:

(A) the purposes set forth in section 12(a) of this chapter; and

(B) any rules adopted by the commission under this



chapter.

(2) The factors set forth in IC 8-1-8.5-12.1(d)(1)(A) and IC 8-1-8.5-12.1(d)(1)(B) with respect to any SMR that is to be developed as part of the project, giving due regard to IC 8-1-8.5-12.1(d)(2) that applies in the context of a petition for a CPCN.

(3) Whether the eligible utility has provided adequate assurances that if the eligible utility seeks a CPCN in connection with the project, the eligible utility will comply with all requirements set forth in IC 8-1-8.5 and in rules adopted under IC 8-1-8.5-12.1.

(4) Whether the timeline set forth in the eligible utility's petition under subsection (a)(7) is reasonable and demonstrates a likelihood that the eligible utility will seek a CPCN under IC 8-1-8.5.

(d) The commission shall issue a final order approving or denying a petition under this section not later than one hundred eighty (180) days after receiving the petition and complete case in chief. However, if the commission makes a docket entry extending the procedural schedule and the eligible utility does not object to the entered extension, the commission may extend the one hundred eighty (180) day time frame for issuing a final order under this subsection for the amount of time set forth in the docket entry. The commission shall approve a petition if the commission makes the following findings:

(1) That the proposed project is consistent with:

(A) the purposes set forth in section 12(a) of this chapter; and

(B) any rules adopted by the commission under this chapter.

(2) That if the eligible utility seeks a CPCN in connection with the project, the eligible utility will comply with all requirements set forth in IC 8-1-8.5 and in rules adopted under IC 8-1-8.5-12.1.

(3) That the timeline set forth in the eligible utility's petition under subsection (a)(7) is reasonable and demonstrates a likelihood that the eligible utility will seek a CPCN under IC 8-1-8.5.

Sec. 14. (a) An eligible utility may:

(1) simultaneously with filing a petition under section 13 of this chapter for approval to participate in the program; or

(2) at any time after filing a petition under section 13 of this



chapter for approval to participate in the program; file with the commission a petition for approval to incur, before obtaining a CPCN for the project to be developed under the program, eligible project development costs. The eligible utility must file with the petition the eligible utility's case in chief, which must contain the information and supporting documentation regarding the factors the commission must consider under subsection (b).

(b) In reviewing a petition and the supporting case in chief under this section, the commission shall consider the following:

(1) The timeline set forth by the eligible utility under section 13(a)(7) of this chapter in the eligible utility's petition for approval to participate in the program.

(2) The amount of eligible project development costs the eligible utility anticipates incurring.

(c) The commission shall review a petition filed under this section and issue a final order approving or denying the petition not later than one hundred eighty (180) days after receiving the petition and complete case in chief. However, if the commission makes a docket entry extending the procedural schedule and the eligible utility does not object to the entered extension, the commission may extend the one hundred eighty (180) day time frame for issuing a final order under this subsection for the amount of time set forth in the docket entry. In an order approving a petition under this section, the commission must make a finding as to the best estimate and reasonableness of eligible project development costs based on the evidence of record. If the commission denies the eligible utility's petition under section 13 of this chapter for approval to participate in the program, and the eligible utility seeks to pursue the development of an SMR outside the program, the eligible utility may:

(1) proceed to develop an SMR under the procedures set forth in IC 8-1-8.5-12.1; and

(2) request that the eligible utility's petition to incur eligible project development costs under this section be considered a petition to incur project development costs under IC 8-1-8.5-12.1, subject to the eligible utility's right to supplement or revise the petition submitted under this section as necessary.

However, an eligible utility or any other public utility (as defined in IC 8-1-8.5-1) that seeks to incur project development costs under IC 8-1-8.5-12.1 may recover under IC 8-1-8.5-12.1 only those



project development costs that have not been and will not be recovered by the eligible utility or the public utility through contributions of any money, services, or property that have been or will be provided at no cost to the eligible utility or the public utility by any third party.

(d) If an eligible utility has received approval from the commission under subsection (c) to incur eligible project development costs, the eligible utility may, at any time before or during the development and execution of the project approved under the program, petition the commission for the approval of a rate schedule that periodically adjusts the eligible utility's rates and charges to provide for the timely recovery of eligible project development costs.

(e) If, after reviewing an eligible utility's proposed rate schedule in a petition filed under subsection (d), the commission determines that the eligible utility has incurred or will incur eligible project development costs that are:

- (1) reasonable in amount;
- (2) necessary to support the development of a project under the program; and
- (3) consistent with the commission's finding as to the best estimate of eligible project development costs in the commission's order of approval under subsection (c);

the commission shall approve the recovery of the eligible project development costs, subject to subsections (f) and (g). However, an eligible utility may not file adjustments to a rate schedule to adjust for cost recovery approved under this subsection more than one (1) time every twelve (12) months.

(f) An eligible utility that recovers eligible project development costs under subsection (e) shall recover eighty percent (80%) of the approved eligible project development costs under the rate schedule approved under subsection (e) and shall defer the remaining twenty percent (20%) of approved eligible project development costs, including, to the extent applicable, depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the commission, and shall recover those eligible project development costs as part of the next general rate case that the eligible utility files with the commission.

(g) The recovery of an eligible utility's eligible project development costs through a periodic rate adjustment mechanism approved by the commission under subsection (e) must occur over



a period that is equal to:

- (1) the period over which the approved eligible project development costs are incurred; or
- (2) three (3) years;

whichever is less.

(h) Eligible project development costs that are found by the commission to be reasonable, necessary, and consistent with the best estimate of eligible project development costs in the commission's order of approval under subsection (c) shall be recovered by an eligible utility by inclusion in the eligible utility's rates and charges. Eligible project development costs that are incurred by an eligible utility and that exceed the best estimate of eligible project development costs under subsection (b) may not be included in the eligible utility's rates and charges unless found by the commission to be reasonable, necessary, and prudent in supporting the development of the project for which they were incurred. Eligible project development costs that are incurred by an eligible utility for a project that is canceled or not completed may be recovered by the eligible utility if found by the commission to be reasonable, necessary, and prudently incurred, but such costs shall be recovered without a return unless the commission also finds that:

- (1) the decision to cancel or not complete the project was prudently made for good cause;
- (2) the eligible project development costs incurred will be offset, as applicable, by:
 - (A) funding opportunities from the United States Department of Energy that are pursued in good faith by the eligible utility;
 - (B) a recoupment of revenues received by the eligible utility from one (1) or more third parties for the transfer of assets created through the costs incurred; or
 - (C) a reimbursement of costs by a single customer or prospective customer at whose request the project was pursued; and
- (3) a return on the eligible project development costs incurred is appropriate under the circumstances to avoid harm to the eligible utility and its customers.

(i) An eligible utility may elect not to seek approval of, or cost recovery for, eligible project development costs under this section and instead seek approval from the commission to defer and amortize eligible project development costs in accordance with the



procedures set forth in IC 8-1-8.5-6.5 with respect to construction costs.

Sec. 15. This chapter shall not be construed to affect the authority of the United States Nuclear Regulatory Commission.

Sec. 16. The commission may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 17. This chapter expires July 1, 2035.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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