

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. 424

AN ACT to amend the Indiana Code concerning utilities.

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

SECTION 1. IC 8-1-8.5-12.1, AS AMENDED BY P.L.93-2024, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2025]: Sec. 12.1. (a) **As used in this section, "project development costs" means costs that have been incurred, or are reasonably estimated to be incurred, in the development of one (1) or more small modular nuclear reactors, 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.**

(b) As used in this section, "small modular nuclear reactor" means a nuclear reactor that:

- (1) has a rated electric generating capacity of not more than four hundred seventy (470) megawatts;
- (2) is capable of being constructed and operated, either:
 - (A) alone; or
 - (B) in combination with one (1) or more similar reactors if additional reactors are, or become, necessary;at a single site; and
- (3) is required to be licensed by the United States Nuclear

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Regulatory Commission.

The term includes a nuclear reactor that is described in this subsection and that uses a process to produce hydrogen that can be used for energy storage, as a fuel, or for other uses.

~~(b)~~ (c) Not later than July 1, 2023, the commission, in consultation with the department of environmental management, shall adopt rules under IC 4-22-2 concerning the granting of certificates under this chapter for the construction, purchase, or lease of small modular nuclear reactors:

- (1) in Indiana for the generation of electricity to be directly or indirectly used to furnish public utility service to Indiana customers; or
- (2) at the site of a nuclear energy production or generating facility that supplies electricity to Indiana retail customers on July 1, 2011.

~~(c)~~ (d) Rules adopted by the commission under this section must provide for the following:

(1) That in acting on a public utility's petition for the construction, purchase, or lease of one (1) or more small modular nuclear reactors, as described in subsection ~~(b)~~, (c), the commission shall consider the following:

(A) Whether, and to what extent, the one (1) or more small modular nuclear reactors proposed by the public utility will replace a loss of generating capacity in the public utility's portfolio resulting from the retirement or planned retirement of one (1) or more of the public utility's existing electric generating facilities that:

- (i) are located in Indiana; and
- (ii) use coal or natural gas as a fuel source.

(B) Whether one (1) or more of the small modular nuclear reactors that will replace an existing facility will be located on the same site as or near the existing facility and, if so, potential opportunities for the public utility to:

- (i) make use of any land and existing infrastructure or facilities already owned or under the control of the public utility; or
- (ii) create new employment opportunities for workers who have been, or would be, displaced as a result of the retirement of the existing facility.

(2) That the commission may grant a certificate under this chapter under circumstances and for locations other than those described in subdivision (1).



(3) That the commission may not grant a certificate under this chapter unless the owner or operator of a proposed small modular nuclear reactor provides evidence of a plan to apply for all licenses or permits to construct or operate the proposed small modular nuclear reactor as may be required by:

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

(4) That any:

- (A) reports;
- (B) notices of violations; or
- (C) other notifications;

sent to or from the United States Nuclear Regulatory Commission by or to the owner or operator of a proposed small nuclear reactor must be submitted by the owner or operator to the commission within such times as prescribed by the commission, subject to the commission's duty to treat as confidential and protect from public access and disclosure any information that is contained in a report or notice and that is considered confidential or exempt from public access and disclosure under state or federal law.

(5) That any person that owns or operates a small modular nuclear reactor in Indiana may not store:

- (A) spent nuclear fuel (as defined in IC 13-11-2-216); or
- (B) high level radioactive waste (as defined in IC 13-11-2-102);

from the small modular nuclear reactor on the site of the small modular nuclear reactor without first meeting all applicable requirements of the United States Nuclear Regulatory Commission.

~~(d) In adopting the rules required by this section, the commission may adopt rules under IC 4-22-2.~~

(e) A public utility may petition the commission for approval to incur, before obtaining a certificate under this chapter, project development costs for the development of one (1) or more small modular nuclear reactors. The public utility must file with the petition the public utility's case in chief, which must contain the information and supporting documentation regarding the factors the commission must consider under this subsection. In reviewing a petition and the supporting case in chief under this subsection, the commission shall consider the following:



(1) Whether a project by the utility to construct, purchase, or lease a small modular nuclear reactor is reasonably consistent with:

(A) this section and rules adopted by the commission under this section; and

(B) the purposes set forth in IC 8-1-8.8-1(b), as applicable.

(2) The following factors with respect to the project development costs and the project for which they are to be incurred:

(A) The amount of project development costs the public utility anticipates incurring.

(B) The anticipated timeline for incurring the project development costs.

(C) The anticipated date by which the public utility will make a decision as to whether to seek a certificate under this chapter.

The commission shall review a petition submitted under this subsection 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 public 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, the commission must make a finding as to the best estimate and reasonableness of project development costs based on the evidence of record.

(f) If a public utility has received approval from the commission under subsection (e) to incur project development costs, the public utility may petition the commission at any time before or during the development and execution of a small modular nuclear reactor project for the approval of a rate schedule that periodically adjusts the public utility's rates and charges to provide for the timely recovery of project development costs. A petition under this subsection must describe any efforts by the public utility to pursue funding opportunities from the United States Department of Energy to offset the project development costs that the public utility seeks to recover under the proposed rate schedule.

(g) If, after reviewing a public utility's proposed rate schedule in a petition submitted under subsection (f), the commission determines that the public utility has incurred or will incur project



development costs that are:

- (1) reasonable in amount;
- (2) necessary to support the construction, purchase, or lease of a small modular nuclear reactor; and
- (3) consistent with the commission's finding as to the best estimate of project development costs in the commission's order of approval under subsection (e);

the commission shall approve the recovery of the project development costs, subject to subsections (h) and (i). However, a public 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.

(h) A public utility that recovers project development costs under subsection (g) shall recover eighty percent (80%) of the approved project development costs under the rate schedule approved under subsection (g) and shall defer the remaining twenty percent (20%) of approved 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 project development costs as part of the next general rate case that the public utility files with the commission.

(i) The recovery of a public utility's project development costs through a periodic rate adjustment mechanism approved by the commission under subsection (g) must occur over a period that is equal to:

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

whichever is less.

(j) Project development costs that are found by the commission to be reasonable, necessary, and consistent with the best estimate of project development costs in the commission's order of approval under subsection (e) shall be recovered by a public utility by inclusion in the public utility's rates and charges. Project development costs that are incurred by a public utility and that exceed the best estimate of project development costs under subsection (e) may not be included in the public utility's rates and charges unless found by the commission to be reasonable, necessary, and prudent in supporting the construction, purchase, or lease of the small modular nuclear reactor for which they were



incurred. Project development costs that are incurred by a public utility for a project that is canceled or not completed may be recovered by the public 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 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 public utility;
 - (B) a recoupment of revenues received by the public 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 project development costs incurred is appropriate under the circumstances to avoid harm to the public utility and its customers.
- (k) A public utility may elect not to seek approval of, or cost recovery for, project development costs under subsections (e) through (i) and instead seek approval from the commission to defer and amortize project development costs in accordance with the procedures set forth in section 6.5 of this chapter with respect to construction costs.
- (l) The commission may adopt rules under IC 4-22-2 to implement subsections (e) through (k).
- ~~(e)~~ (m) This section shall not be construed to affect the authority of the United States Nuclear Regulatory Commission.



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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