



PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 309 be amended to read as follows:

- 1 Page 5, between lines 18 and 19, begin a new paragraph and insert:
- 2 "SECTION 2. IC 8-1-8.5-5, AS AMENDED BY P.L.210-2014,
- 3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2015]: Sec. 5. (a) As a condition for receiving the certificate
- 5 required under section 2 of this chapter, the applicant shall file an
- 6 estimate of construction, purchase, or lease costs in such detail as the
- 7 commission may require.
- 8 (b) The commission shall hold a public hearing on each such
- 9 application. The commission may consider all relevant information
- 10 related to construction, purchase, or lease costs. A certificate shall be
- 11 granted only if the commission has:
- 12 (1) made a finding as to the best estimate of construction,
- 13 purchase, or lease costs based on the evidence of record;
- 14 (2) made a finding that either:
- 15 (A) the construction, purchase, or lease will be consistent with
- 16 the commission's plan (or such part of the plan as may then be
- 17 developed, if any) for expansion of electric generating
- 18 capacity; or
- 19 (B) the construction, purchase, or lease is consistent with a
- 20 utility specific proposal submitted under section 3(e) of this
- 21 chapter and approved under subsection (d). However, if the

1 commission has developed, in whole or in part, a plan for the
 2 expansion of electric generating capacity and the applicant has
 3 filed and the commission has approved under subsection (d)
 4 a utility specific proposal submitted under section 3(e) of this
 5 chapter, the commission shall make a finding under this clause
 6 that the construction, purchase, or lease is consistent with the
 7 commission's plan, to the extent developed, and that the
 8 construction, purchase, or lease is consistent with the
 9 applicant's plan under section 3(e) of this chapter, to the extent
 10 the plan was approved by the commission;

11 (3) made a finding that the public convenience and necessity
 12 require or will require the construction, purchase, or lease of the
 13 facility;

14 (4) made a finding that the facility, if it is a coal-consuming
 15 facility, utilizes Indiana coal or is justified, because of economic
 16 considerations or governmental requirements, in using
 17 non-Indiana coal; and

18 (5) made the findings under subsection ~~(e)~~; **if (e) or (f), as**
 19 **applicable.**

20 (c) If:

21 (1) the commission grants a certificate under this chapter based
 22 upon a finding under subsection (b)(2) that the construction,
 23 purchase, or lease of a generating facility is consistent with the
 24 commission's plan for the expansion of electric generating
 25 capacity; and

26 (2) a court finally determines that the commission plan is invalid;
 27 the certificate shall remain in full force and effect if the certificate was
 28 also based upon a finding under subsection (b)(2) that the construction,
 29 purchase, or lease of the facility was consistent with a utility specific
 30 plan submitted under section 3(e) of this chapter and approved under
 31 subsection (d).

32 (d) The commission shall consider and approve, in whole or in part,
 33 or disapprove a utility specific proposal or an amendment thereto
 34 jointly with an application for a certificate under this chapter. However,
 35 such an approval or disapproval shall be solely for the purpose of
 36 acting upon the pending certificate for the construction, purchase, or
 37 lease of a facility for the generation of electricity.

38 (e) This subsection applies if an applicant **that is a municipally**
 39 **owned utility, a cooperatively owned utility, or a joint agency**
 40 **created under IC 8-1-2.2** proposes to construct, **purchase, or lease** a
 41 facility with a generating capacity of more than eighty (80) megawatts.
 42 Before granting a certificate to the applicant, the commission:

43 (1) must, in addition to the findings required under subsection (b),
 44 find that the estimated costs of the proposed facility are, to the
 45 extent commercially practicable, the result of competitively bid
 46 engineering, procurement, or construction contracts, as

- 1 applicable; and
- 2 (2) shall also consider the following factors:
- 3 (A) Reliability.
- 4 (B) Solicitation by the applicant of competitive bids to obtain
- 5 purchased power capacity and energy from alternative
- 6 suppliers.

7 The applicant, including an affiliate of the applicant, may participate
 8 in competitive bidding described in this subsection.

9 **(f) This subsection applies if an applicant that is an electricity**
 10 **supplier (as defined in IC 8-1-37-6) proposes to construct,**
 11 **purchase, or lease a facility with a generating capacity of more**
 12 **than twenty (20) megawatts. Before granting a certificate to the**
 13 **applicant, the commission must, in addition to the findings**
 14 **required under subsection (b), find that the applicant has issued a**
 15 **request for proposals under section 5.1 of this chapter. The**
 16 **electricity supplier is not required to award the contract under the**
 17 **request for proposals as a condition of receiving the certificate.**

18 SECTION 3. IC 8-1-8.5-5.1 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 2015]: **Sec. 5.1. (a) For purposes of this section, "electricity**
 21 **supplier" has the meaning set forth in IC 8-1-37-6.**

22 **(b) For purposes of this section, "project" refers to the**
 23 **construction, purchase, or lease of a facility with a generating**
 24 **capacity of more than twenty (20) megawatts.**

25 **(c) This section does not apply to the purchase, in any amount**
 26 **or manner, of energy, capacity, or ancillary service from a regional**
 27 **transmission organization.**

28 **(d) Before an electricity supplier may apply for a certificate**
 29 **required under section 2 of this chapter for a facility project, the**
 30 **electricity supplier shall issue a request for proposals for the**
 31 **facility project. The electricity supplier shall simultaneously:**

- 32 **(1) give public notice of the request for proposals in the**
- 33 **manner required by IC 5-3-1; and**
- 34 **(2) provide electronic access to the notice through its Internet**
- 35 **web site.**

36 **(e) Proposals must be submitted:**
 37 **(1) simultaneously to the electricity supplier and the office of**
 38 **utility consumer counselor; and**
 39 **(2) not more than ninety (90) days after notice is first**
 40 **published under subsection (d).**

41 **(f) A request for proposals under this section must include the**
 42 **following:**

- 43 **(1) The factors or criteria that the electricity supplier will use**
- 44 **to evaluate the proposals.**
- 45 **(2) A scoring matrix that indicates the relative importance of**
- 46 **the factors or criteria described in subdivision (1).**
- 47 **(3) Service and performance obligations.**

- 1 **(4) Dispatchability options.**
 2 **(5) Conditions of termination or defaults.**
 3 **(6) Fuel price forecasts used to evaluate bid prices.**
 4 **(7) Other factors the electricity supplier considers necessary.**
 5 **(g) The utility consumer counselor shall conduct an independent**
 6 **review or analysis of proposals submitted under subsection (e). In**
 7 **reviewing or analyzing the proposals for cost effectiveness and**
 8 **reasonableness, the utility consumer counselor shall consider the**
 9 **following factors:**
 10 **(1) The capability of each offeror to perform the requirements**
 11 **of the proposal.**
 12 **(2) Economic benefits resulting from the request for proposal**
 13 **process.**
 14 **(3) The life cycle cost of the project.**
 15 **(4) Fuel price volatility and risk.**
 16 **(5) Reliability.**
 17 **(6) Energy diversity of the facility relative to the electricity**
 18 **supplier's total generation portfolio.**
 19 **(7) Other factors the utility consumer counselor considers**
 20 **necessary.**
 21 **The utility consumer counselor shall provide the results of the**
 22 **review or analysis in an electronic format to the electricity supplier**
 23 **and the commission. The utility consumer counselor is not required**
 24 **to provide the results before the commission grants the certificate**
 25 **required under section 2 of this chapter.**
 26 **(h) The office of utility consumer counselor may enter into a**
 27 **contract with an independent third party to conduct the review or**
 28 **analysis of proposals under subsection (g). The electricity supplier**
 29 **that issued the request for proposals is responsible for all costs**
 30 **under the contract.**
 31 **(i) An electricity supplier shall:**
 32 **(1) award the contract for a project to the offeror that**
 33 **submits the most cost effective and reasonable proposal; and**
 34 **(2) provide notice of the award to the commission and the**
 35 **office of utility consumer counselor.**
 36 **The commission shall determine whether the successful offeror**
 37 **submitted the most cost effective and reasonable proposal.**
 38 **(j) For purposes of determining under subsection (i) whether the**
 39 **successful offeror submitted the most cost effective and reasonable**
 40 **proposal, the commission shall consider the following factors:**
 41 **(1) The review or analysis conducted by the utility consumer**
 42 **counselor under subsection (g) or an independent third party**
 43 **under subsection (h), as applicable.**
 44 **(2) Other criteria the commission considers necessary.**
 45 **(k) For purposes of this section, the most cost effective and**
 46 **reasonable proposal is not necessarily the least or lowest cost**
 47 **proposal.**

- 1 **(l) An electricity supplier, including an affiliate of the electricity**
- 2 **supplier, may participate in the request for proposals process for**
- 3 **a project of the electricity supplier.**
- 4 **(m) An electricity supplier may issue a request for information**
- 5 **before issuing a request for proposals under this section.**
- 6 **(n) A proposal submitted under this section is declared**
- 7 **confidential for purposes of IC 5-14-3.**
- 8 **(o) The commission shall adopt rules under IC 4-22-2 to**
- 9 **implement this section."**
- 10 Renumber all SECTIONS consecutively.
 (Reference is to ESB 309 as printed March 20, 2015.)

Representative Hale