

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC )  
FOR APPROVAL OF (1) ITS PROPOSED DEMAND )  
SIDE MANAGEMENT AND ENERGY )  
EFFICIENCY PROGRAMS FOR 2017-2019, )  
INCLUDING COST RECOVERY, LOST )  
REVENUES AND SHAREHOLDER INCENTIVES ) CAUSE NO. 43955 DSM 4  
IN ACCORDANCE WITH IND. CODE §§ 8-1-8.5-3, )  
8-1-8.5-10, 8-1-2-42(a) AND PURSUANT TO 170 IAC ) APPROVED: DEC 28 2017  
4-8-5 AND 170 IAC 4-8-6; (2) AUTHORITY TO )  
DEFER COSTS INCURRED UNTIL SUCH TIME )  
THEY ARE REFLECTED IN RETAIL RATES; (3) )  
RECONCILIATION OF DEMAND SIDE )  
MANAGEMENT AND ENERGY EFFICIENCY )  
PROGRAM COST RECOVERY THROUGH DUKE )  
ENERGY INDIANA, LLC'S STANDARD )  
CONTRACT RIDER 66A; AND (4) REVISIONS TO )  
STANDARD CONTRACT RIDER 66A )

ORDER OF THE COMMISSION

**Presiding Officers:**

**Sarah E. Freeman, Commissioner**

**David E. Veleta, Senior Administrative Law Judge**

On November 22, 2016, Duke Energy Indiana, LLC ("Petitioner") filed its Petition and Request for Administrative Notice ("Petition") as well as its Direct Testimony and Exhibits with the Indiana Utility Regulatory Commission ("Commission") seeking approval of its 2017-2019 EE Plan ("Plan"), pursuant to Ind. Code § 8-1-8.5-10.

On November 28, November 30, 2016, and February 6, 2017, respectively, Nucor Steel-Indiana, a division of Nucor Corporation ("Nucor"), the Citizens Action Coalition of Indiana, Inc. ("CAC"), and the Duke Industrial Group ("Industrial Group") filed Petitions to Intervene in this proceeding. The Commission granted those Petitions to Intervene on December 13, 2016, and February 9, 2017.

On March 6, 7, and 23, 2017, Petitioner submitted corrections to testimony and exhibits. On March 21, 2017, the OUCC, CAC, and the Industrial Group filed their case-in-chief Testimony and Exhibits, along with the Industrial Group filing a Motion for Administrative Notice. On April 5, 2017, the Commission issued a Docket Entry granting the Industrial Group's Motion for Administrative Notice. On June 29, 2017, Petitioner filed its Rebuttal Testimony and Exhibits.

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The Commission held an Evidentiary Hearing in this Cause on August 17, 2017, at 9:30 a.m., in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the Commission approved Petitioner's request for administrative notice and the parties offered their respective pre-filed testimony, all of which were admitted into the evidentiary record, and the witnesses were subject to cross-examination.

Based upon applicable law and evidence presented, the Commission finds:

1. **Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published as required by law. Petitioner is a "public utility" under Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1, and an "electricity supplier" pursuant to Ind. Code ch. 8-1-8.5. Under Ind. Code §§ 8-1-2-4, -42, -68, -69, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8, the Commission has jurisdiction over Petitioner's demand side management ("DSM") and energy efficiency ("EE") program offerings and associated cost recovery. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Petitioner is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office in Plainfield, Indiana, and is a second tier wholly owned subsidiary of Duke Energy Corporation. Petitioner is engaged in rendering electric utility service in the State of Indiana and owns, operates, manages, and controls, among other things, plants and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public, including the central, north central and southern parts of the State of Indiana. It also sells electric energy for resale to municipal utilities and to other public utilities that, in turn, supply electric utility service to numerous customers in areas not served directly by Petitioner.

3. **Relief Requested.** The Plan has an estimated cost of \$110,233,151 for the three-year Plan, including direct and indirect costs, customer incentives and independent evaluation, measurement, and verification ("EM&V"). Petitioner also requests authority to continue recovering all program costs, including lost revenues and financial incentives, via its existing Rider EE, which includes components for the recovery of program costs, lost revenues for all customer classes, and performance incentives. Petitioner does not seek approval of a performance incentive for its low-income weatherization program. Petitioner also requests that two residential and one non-residential demand response program be eligible for a performance incentive.

Petitioner requests that its Oversight Board ("OSB") continue to remain in place with the additional authority to approve new programs without seeking additional approval from the Commission if those program budgets are within the 10% spending cap for the approved portfolio budget.

Petitioner also seeks approval of its reconciliation of the costs incurred (including lost revenues) for both Core and Core Plus Programs and incentives achieved (for Core Plus Programs only) during 2015 with amounts actually collected from customers from Rider EE billings. Pursuant to the Settlement Agreement approved in Cause No. 43955 DSM-1, Petitioner also seeks approval of its updated reconciliation of lost revenues for 2012, 2013, and 2014.

Finally, Petitioner seeks authority to adjust Rider EE accordingly and continued authority to use deferred accounting on an ongoing basis until such costs are reflected in retail rates.

**4. Evidence.**

**A. Petitioner.** Petitioner presented the testimony of five witnesses in its case-in-chief: Mr. Michael Goldenberg, Senior Strategy and Collaboration Manager (entered into evidence as Petitioner's Exhibit 1); Mr. Scott Park, Director IRP & Analytics-Midwest (entered into evidence as Petitioner's Exhibit 2); Ms. Jean P. Williams, Manager DSM Analytics (entered into evidence as Petitioner's Exhibit 3); Ms. Karen K. Holbrook, Director Program Performance (entered into evidence as Petitioner's Exhibit 4); and Ms. Amy B. Dean, Lead Rates Analyst (entered into evidence as Petitioner's Exhibit 5).

Mr. Goldenberg presented Petitioner's EE Plan. As required in Ind. Code § 8-1-8.5-10, he presented the programs and budgets; Petitioner's proposed cost recovery mechanism for program costs, lost revenues and performance incentives; proposed changes to its OSB; and explained how Petitioner's Plan meets the requirements of Ind. Code § 8-1-8.5-10. Mr. Goldenberg also sponsored Corrected Petitioner's Exhibit 1-A, which was a complete description of each EE program, along with each EE program's cost breakdown and cost effectiveness scores. Mr. Goldenberg further explained that Petitioner was seeking approval of the following: reconciliation of costs approved in Cause No. 43955 DSM-2 ("DSM-2") for the 2015 program year, as well as, approval of its 2017-2019 Plan, under Ind. Code § 8-1-8.5-10.

Mr. Goldenberg testified that 83% of eligible load for commercial and industrial customers have opted out of participation in the EE Rider, accounting for a total of 50% of all commercial and industrial load. He stated that the portfolio included in this filing had programs for all eligible customer segments.

Mr. Goldenberg further testified that Petitioner's Plan presents goals that are consistent with the most recent integrated resource plan ("IRP") submitted to the Commission in 2015.

Mr. Goldenberg testified that Petitioner's proposed Plan was designed by its Program Managers taking into consideration the state of the EE market in its Indiana service territory, past program success, and the addition of new programs to continue to grow the EE opportunities for eligible customers. He stated that Petitioner designed its Plan to be consistent with its most recent IRP in terms of target energy and demand reduction achievement. Given the passage of time, the Program Managers continued to update the proposed Plan with the addition of a few new programs, as well as EM&V results that have been received for certain EE programs, changing the energy savings estimates. Mr. Goldenberg testified that Petitioner performed a separate analysis to be sure that the proposed Plan for 2017-2019 would have been selected as a cost-effective resource option in the 2015 IRP as submitted. He stated that Mr. Park's Direct Testimony demonstrates that the EE Plan is consistent with the portfolio that was selected by the 2015 IRP as part of the optimal resource plan.

Mr. Goldenberg presented Petitioner's goals for its 2017-2019 EE Plan and stated that he believes that Petitioner can reasonably achieve the goals for 2017-2019 based on its past

performance and Petitioner's Program Manager's experience with the EE market in its service territory.

Mr. Goldenberg testified that the 2017-2019 Plan contained all the same programs as approved by the Commission in 43955 DSM-3 ("DSM-3"), with the exception of the Appliance Recycling Program, as well as proposed new programs. As to new programs, Mr. Goldenberg testified that Petitioner proposes to add to the Smart Saver® Non-residential a Performance Incentive Program, which provides a mechanism to promote EE measures not eligible under Petitioner's Smart Saver® Prescriptive or Custom programs. He also stated that the HVAC component of the Smart Saver® Residential program was modified to market the incentives directly to customers via program collateral and a managed contractor network. Mr. Goldenberg testified that the changes to this program will make it cost effective, because Petitioner will earn fees from participating trade allies for referrals generated that result in higher efficiency HVAC systems being installed by customers. He explained that the fees earned by Petitioner for the referral will be used to offset program costs, which will effectively sustain program cost effectiveness, while providing customers with additional value, benefits, and services. Mr. Goldenberg testified that it was important to keep the Smart Saver® HVAC Residential Program in the portfolio because HVAC systems are traditionally the largest source of residential energy consumption. The addition of the managed network is critical to keeping the program in the portfolio by sustaining HVAC measures' cost effectiveness.

Mr. Goldenberg provided further details on the Bring Your Own Thermostat ("BYOT") Program testifying that it provides residential Demand Response ("DR") load management using the customers' own "smart" 2-way communicating thermostats instead of traditional load control switches. He explained that customers with AMI meters and who already own and use smart thermostats would have the opportunity to view, monitor, and engage with their energy usage. Mr. Goldenberg also stated that Petitioner is developing and evaluating a Smart Meter Usage App ("SMUA") which will encourage customers to make behavioral changes to use less energy and save money and that a pilot offer of the SMUA to validate the offer's cost effectiveness would be discussed with the OSB at the appropriate time.

Mr. Goldenberg testified that Petitioner was including New Product Development ("NPD") programs in this filing that are still in the evaluation stage as Petitioner is proposing a three-year Plan and he believes that these products will be ready for commercialization within the three-year period. He stated that when these offers are ready for commercialization, Petitioner will thoroughly review the program with its OSB before offering them to customers. If any of these programs in the final analysis fails to achieve cost effectiveness, Mr. Goldenberg testified, then it will not be brought forward for implementation.

Mr. Goldenberg testified that there are two residential DR programs and one non-residential DR program included in Petitioner's Plan. For residential customers, Petitioner continues to offer its very successful Power Manager® program that now is available to both single family and apartment dwellers, and Petitioner proposes to add the BYOT program discussed above. Petitioner will also offer Power Manager® for Business for non-residential customers. Mr. Goldenberg explained that Petitioner was proposing DR programs in its Plan as it has done for the last 13 years.

Mr. Goldenberg further explained that it is appropriate to include DR in Petitioner's Plan, as Section 10 does not preclude DR programs from a Plan. He stated that Ind. Code § 8-1-8-5-10(h) does not prohibit a utility from including demand response programs in a Plan and that the rules provide for cost recovery, lost revenues and incentives for both conservation and demand side management or DR programs. Mr. Goldenberg testified that the Commission has approved demand response programs in Petitioner's DSM proceedings in the past.

Mr. Goldenberg testified that all programs except the Low Income Weatherization program are cost effective under the Utility Cost Test ("UCT"). He stated that although the program does not pass the UCT, Petitioner believes there are benefits to bringing these needed improvements to low-income customers. He testified that even with the Low-Income Weatherization program, the entire EE Program portfolio remains cost effective under the UCT.

Mr. Goldenberg also testified that Smart Saver<sup>®</sup> Non-Residential Prescriptive and Smart Saver<sup>®</sup> Residential have some individual measures with a UCT score below 1.0. He stated that these programs contain multiple measures within the program and that the overall programs are cost effective.

Mr. Goldenberg testified that the OSB agreed to delay the start of the Market Potential Study ("MPS"), approved in DSM-3, until early 2017 so the results would be as current as possible for use in developing the EE portion of Petitioner's next IRP, which will be submitted in late 2018. He stated that no costs were incurred for the MPS in 2016.

Mr. Goldenberg testified that Petitioner was seeking to recover program costs (both direct and indirect costs, including the cost of EM&V), lost revenues, and a performance incentive for the Plan. Mr. Goldenberg testified that Petitioner is requesting lost revenue recovery for the life of the measure of the programs approved in its Plan, as approved in DSM-1 and DSM-2, because the promotion of EE causes utilities to experience a reduction in the recovery of their fixed costs absent the recovery of lost revenue. He stated that Petitioner's proposal for life of measure is reasonable because it matches the period over which Petitioner will experience a deficit in fixed cost recovery due to the impact from the EE programs.

Mr. Goldenberg also testified that a performance incentive is appropriate because it puts investments in EE on a level playing field with investments in traditional supply-side resources. He testified that the need for a performance incentive associated with EE programs is related to the traditional regulatory framework that Petitioner operates under in Indiana; wherein, a utility earns a return on the capital it invests in supply side assets. He stated that this regulatory framework seeks to eliminate or offset the financial bias against DSM.

Mr. Goldenberg testified that Petitioner was proposing a cost-plus tiered incentive structure, based on energy saving achievements for the portfolio for each program year, as measured by EM&V relative to impacts achieved. He stated that the incentive will be calculated at a portfolio level, as a percentage of program costs incurred, including associated EM&V costs, for incentive-eligible programs, using the total energy savings achievement level for the portfolio of eligible programs.

Mr. Goldenberg testified that Petitioner's proposed incentive mechanism excludes the Low Income Weatherization program from the calculation, as well as any pilot programs added to the portfolio through the end of 2019. He stated that programs that pass UCT are proposed to be included in the incentive calculation, even though they may have individual measures that fail. Mr. Goldenberg further testified that he is proposing that the NPD programs receive a performance incentive if they are approved by the OSB and commercialized in the market place.

Mr. Goldenberg testified that the total revenue requirement for the 2017-2019 period, which includes direct and indirect costs, EM&V, and other recoveries, including incentives and lost revenues, is \$197,632,578, assuming achievement of 100% of the goal.

Mr. Goldenberg testified that Petitioner is maintaining its OSB, which meets monthly. Mr. Goldenberg stated that Petitioner proposes to change its OSB governance to permit the OSB to approve new programs if the budgets are within the 10% discretionary spending authority as approved by the Commission in DSM-3.

Mr. Goldenberg explained that Petitioner's Plan concerning EM&V for the 2017-2019 portfolio of programs will continue the use of independent EM&V vendors as it is currently doing as discussed in Ms. Jean P. Williams' Direct Testimony.

Mr. Goldenberg testified that Petitioner's Plan presented in this proceeding specifically meets the requirements of Section 10 as it presents a Plan that includes EE goals that are reasonably achievable, consistent with its 2015 IRP, and designed to save 1.1% of eligible retail sales each year over the three-year plan. The Plan includes program budgets and costs, including the direct and indirect costs of EE programs, the costs associated with EM&V program results, and the recovery of lost revenues and a performance incentive, as well as independent EM&V for the programs.

In conclusion, Mr. Goldenberg testified that Petitioner's Plan is in the public interest as it aligns Petitioner's interests with those of its customers by offering programs for all market segments and including a wide spectrum of opportunities to lower consumption. Participating customers can become more educated regarding how they consume energy, become more energy efficient and help conserve our natural resources. Mr. Goldenberg testified that Petitioner's portfolio of programs is consistent with the IRP submitted in November 2015, and as a result, is designed to lower emissions and delay the need to build additional generation in its service territory in the future.

Mr. Park testified he directed the development of the 2015 IRP and worked with the IRP modeling team and the EE Analytics, Engineering, Forecasting, and Fuels groups to do so. Mr. Park testified that the EE Plan is consistent with Petitioner's preferred EE resource portfolio from the 2015 IRP in accordance with Ind. Code § 8-1-8.5-10.

Mr. Park sponsored Petitioner's Exhibits 2-A and 2-B, which was a copy of Volume 1 and Volume 2 of the public version of Petitioner's 2015 IRP, respectively submitted to the Commission

on November 2, 2015. Mr. Park also sponsored Petitioner's Exhibit 2-C, the Electricity Director's Final Report dated August 30, 2016.

Mr. Park testified that to model EE in the IRP, EE measures were combined to create bundles of KWh savings similar to a Power Purchase Agreement ("PPA") and featured the specific hourly shape dictated by the measures in the bundle. He stated that each bundle was assigned a total revenue requirement, similar to a PPA. Mr. Park testified that each EE bundle was entered into the System Optimizer model for economic selection based on the hourly shape and cost. He stated that five Base Bundles and five Incremental Bundles, each five years in duration, were created and analyzed using this process. He stated that the preferred portfolio included the five Base EE bundles as a result of the model's optimization and the Base Bundle for the initial five year period of the IRP is consistent with the EE Plan in this filing. In preparation for this filing, Mr. Park testified that the IRP Modeling Team performed additional analysis to ensure that the proposed EE Plan was still selected as cost effective given the slight differences in the composition of the EE Plan.

Mr. Park presented tables in his direct testimony comparing the 2015 IRP and the EE Plan in terms of EE Savings in GWh, EE Demand Savings in MW, and costs to demonstrate that the Plan is consistent with Petitioner's most recent IRP.

Ms. Williams described the cost-effectiveness of Petitioner's Plan, as well as, provided the EM&V procedures Petitioner currently uses and will continue to use upon approval of its EE Plan and how the EM&V procedures comply with Indiana statutes and rules.

Ms. Williams testified that Petitioner evaluates the cost-effectiveness of EE programs using the tests specified in the California Standard Practice Manual and presented the cost-effectiveness tests scores for: the Participant Cost Test ("PCT"), the UCT, the Total Resource Cost ("TRC"), and the Ratepayer Impact Measure ("RIM") Test. She presented a table that showed the cost effectiveness scores for each program. Ms. Williams testified that all programs in the Plan are cost effective as required by Ind. Code § 8-1-8.5-10(j)(2) as all programs passed the UCT and TRC Tests, with the exception of the Low-Income Weatherization program. In addition, all the programs in which participants face an incremental out-of-pocket cost pass the Participant Test.

Ms. Williams identified the types of evaluations utilized by Petitioner as approved in Cause No. 43955 and employed since that time. She testified that evaluation studies will be performed by independent and qualified evaluation professionals and will include various methods reviewed within the International Performance Measurement and Verification Protocol Committee, January 2012, the Indiana Evaluation Framework (Indiana Demand Side Management Coordination Committee, February 2013), the Uniform Methods Project Model Protocols (National Renewable Energy Laboratory, April 2013 - January 2015), and National Action Plan for Energy Efficiency Model Energy Efficiency Program Impact Evaluation Guide (Prepared by Steven R. Schiller, Schiller Consulting, Inc., November 2007). Ms. Williams sponsored Petitioner's Exhibit 3-A which provided an initial design for the EM&V analysis for the proposed EE programs. The timeframe for EM&V was presented in Petitioner's Exhibit 3-B.

Ms. Williams further testified that in DSM-1, the Commission approved a Settlement Agreement in which Petitioner agreed to reconcile estimated lost revenues with actual lost revenues as verified by EM&V, applied retrospectively to the previously reconciled period for each program, and to calculate the shareholder incentives using prospective energy savings estimates and retrospective EM&V-reconciled participation numbers.

Ms. Williams testified that the estimated cost for all EM&V over the three (3) year portfolio period is \$3,680,392, which is approximately 3.3% of total costs.

Ms. Williams testified that Petitioner has conducted an analysis on the long-term and short term effect on customer bills as required by Ind. Code § 8-1-8.5-10(j)(7). She stated that the effect on rates and bills of participants are demonstrated through the Participant Test, which compares the benefits to the participant through bill savings plus incentives from the utility relative to the incremental costs to the participant for implementing the EE measure. Ms. Williams stated that the long-term effect on rates and bills of non-participants are demonstrated through the RIM Test. If a program's RIM Test score is lower than one, it indicates that rates would likely increase over time, whereas the UCT indicates whether revenues would increase more if the programs were not implemented and hence require increases in rates. Ms. Williams testified that because all of the programs, except Low Income Weatherization, pass the UCT, one can conclude that all customers would benefit from implementation of the EE programs.

Ms. Williams testified as to how the EM&V results will be utilized in developing forecasts for the proposed Rider. She stated that future forecasts will incorporate the most recent EM&V results and that the estimated participant and load impact information will be used to develop estimates of future lost revenues, future target achievement levels for development of estimated incentives, in future cost-effectiveness evaluations, and for other purposes. Ms. Williams testified that the EM&V results will be utilized in developing a true-up for the proposed Rider and that Petitioner will use the actual participation information and ex-post load impacts as the basis for retrospective true-ups of estimated lost revenues for the proposed EE Rider. Petitioner will also use the ex-post load impacts prospectively to calculate the shareholder incentive, as described in the Settlement approved by the Commission in DSM-1.

Ms. Holbrook testified as to the various calculations performed for this filing and the processes and sources used to develop actual and projected costs of providing programs that were used in the 2015 reconciliation, the update of the Core and Core Plus programs that were previously used in the 2012, 2013, and 2014 reconciliations, and the program budget estimates for 2017 through 2019.

Ms. Holbrook testified that there are Core program costs included in this reconciliation because Petitioner received invoices from the Core Third Party Administrator in 2015, as well as expenses from the Core Program EM&V vendor to EE programs offered in 2014. Ms. Holbrook stated that this would be the final reconciliation that will include program related costs associated with Core programs.

Ms. Holbrook testified to the sources and calculations used in the reconciliation of the 2015 revenue requirement included direct and indirect costs, EM&V, utility incentive and lost revenue.



She also testified that her group applied the results of all EM&V received by September 30, 2016, retroactively to the lost revenue impacts as agreed to in DSM-1. Exhibit 4-A reflects the total revenue requirement for 2015. Exhibit 4-B illustrates the calculation of the program level utility incentives.

Ms. Holbrook further explained what adjustments her group made to the 2014 and 2015 costs for purposes of proper ratemaking for opted out groups. Petitioner's Exhibits 4-C and 4-D illustrate the adjustments made.

Ms. Holbrook further explained the adjustments made to the 2012, 2013, and 2014 reconciliations. She stated that these reconciliations were updated for the application of EM&V to lost revenues and applied all EM&V received by September 30, 2016. She sponsored Exhibits that presented the impact of the application of EM&V.

Ms. Holbrook testified that her group was responsible for compiling the forecast for the 2017-2019 portfolio, including impacts (kWh and kW); program costs; EM&V costs; lost revenue; and applicable utility incentives. Ms. Holbrook testified that her organization calculated the Petitioner's incentive at a portfolio level to reflect a 10.5% return on total eligible costs as proposed, assuming portfolio performance at 100% of target, for all programs eligible for performance incentives. Exhibit 4-H shows the revenue requirement for each year, and in total, for the 2017-2019 time period.

Ms. Holbrook testified that 2017-2019 lost revenues were calculated using forecasted monthly participation and impacts per participant and using numbers at the meter, net of free riders. Ms. Holbrook presented Petitioner's Exhibit 4-I, an estimate of the Lost Revenues requested in this proceeding through 2023, assuming a base rate case is filed at the end of 2022.

Ms. Holbrook provided the revenue requirement for 2017, the reconciliation of 2015, and the updated reconciliations of 2012-2014 to Ms. Dean for her use in calculating rates.

Ms. Dean presented testimony on proposed rates in this proceeding under Petitioner's Standard Contract Rider No. 66-A, EE Revenue Adjustment ("EE Rider" or "Rider"), which Petitioner proposes to continue to use. She also sponsored the updated Tariffs for Commission approval. Ms. Dean explained that she calculated rates based on the following: re-reconciliations based on the application of EM&V related to lost revenues prepared for 2012, 2013, and 2014; an adjustment for program costs in 2014 and 2015 as discussed in the testimony of Ms. Holbrook; the 2015 reconciliation that has been prepared using actual 2015 costs results; and forecasted costs for calendar year 2017, as proposed in Petitioner's 2017-2019 EE Plan in this proceeding.

Ms. Dean testified that as approved in the Commission's Order in Cause No. 43955 ("EE Order") and subsequent Orders in Cause Nos. 43079 DSM-6, 44441 ("Opt Out Order"), DSM-1, DSM-2, and DSM-3 (collectively, Petitioner's EE Orders), all customers and rate classes are charged for the cost of a vintage year's EE programs to the extent they are or were eligible to participate in the programs offered for that period. She explained that costs for a vintage year's programs may extend beyond that vintage year or the time customers were eligible to participate

in the programs, such as in the case of persisting lost revenues or for costs of EM&V performed in a subsequent year for a prior vintage year's programs.

Ms. Dean testified as to the ratemaking that has previously been approved in Petitioner's EE Orders. The other cost recovery and ratemaking concepts approved for use in the EE Rider include: cost assignment to residential and non-residential rate groups based on the programs offered to each group and, within the non-residential rate group, based on whether and when customers were eligible to participate in the programs or whether and when customers opted out (or in) of participation; inclusion of all customers in paying for the programs, including interruptible load to the extent not specifically excluded by contract language for customers with special contracts; and cost allocation and rate development methodologies that include the use of kWh sales as billing determinants.

Ms. Dean testified that since the enactment of SEA 340, codified at Ind. Code § 8-1-8.5-9, Petitioner has received opt-out notifications from customers in all opt-out windows and one opt-in notice in the most recent opt-out window. Ms. Dean provided the Tariff rates for each of these opt-out groups. Ms. Dean also presented rates that Petitioner had developed for those customers who would opt out as part of the November 15, 2016 window, with the opt out to be effective January 1, 2017, by removing 2017 program costs and associated lost revenues and incentives from the costs assigned to participating customers.

Ms. Dean explained that a customer who opts out remains responsible for EE program costs, including lost revenues, shareholder incentives and related reconciliations, that accrued or were incurred or relate to EE investments made before the date on which the opt out is effective, regardless of the date on which the rates are actually assessed. Ms. Dean further explained that these groups will continue to be responsible in future years for their proportionate share of reconciliations and persisting lost revenues related to their respective opt-out date.

Ms. Dean testified that, as approved by the Commission in DSM-1 and DSM-2, the lost revenues associated with the 2012–2015 program years will be included in EE Rider rates until the measure life has expired for the individual programs or until rates are effective from a base rate case. She testified that, as approved by the Commission in DSM-3, the lost revenues associated with the 2016 program year will be included in EE Rider rates for the lesser of four years or measure life, or until rates are effective from a base rate case. Additionally, as approved in DSM-1, the lost revenues for these years are also subject to additional reconciliations in future years due to retrospective application of EM&V.

Ms. Dean explained the calculation of the rates proposed for the 2017 program year using the actual and estimated costs included in her rate development as provided by Ms. Holbrook. The 2017 estimated costs also included \$300,000 for a MPS, the cost of which has been allocated between residential and non-residential customers using the 2015 kWh sales, excluding customers who have opted out. Ms. Dean sponsored Petitioner's Exhibit 5-A, which was an update of Petitioner's Standard Contract Rider No. 66-A, EE Revenue Adjustment to be effective for billing after Commission approval as well as Exhibit 5-B, which is a series of schedules developing the rates that are presented for Commission approval in this proceeding. Ms. Dean testified that she

calculated separate reconciliation amounts for participating and opted out customers and presented the amounts in her testimony.

Ms. Dean further testified that reflected in the variances are differences in spending and participation (particularly for residential programs), performance incentive target achievement levels, and kWh sales for conservation and demand response programs from the estimates built into the rates that were charged to customers in 2015.

Ms. Dean also sponsored Petitioner's Exhibit 5-C regarding the rate impact of the rate adjustment factors developed in Petitioner's Exhibit 5-B. For a typical residential customer using 1000 kWh, the proposed 2017 rate reflects an increase of \$0.73, or 0.92% in the monthly bill. Ms. Dean noted that this rate impact was developed without any consideration for the positive impact to customer bills from the lower energy usage that is expected to result from participation in these programs.

Ms. Dean further testified that upon Commission approval, Petitioner is proposing to update its Standard Contract Rider No. 66-A, Seventh Revised Sheet No. 66-A, Pages 1 through 15 (Petitioner's Exhibit 5-C, Pages 1 through 15) subject to Petitioner's filing of the updated Rider 66-A Tariff sheet with the Commission's Electricity Division and begin billing the 2017 rates effective with the Commission's Order in this proceeding.

Ms. Dean testified that the estimated costs and impacts used to develop the 2017 rates proposed in this filing are expected to be reconciled in the Rider 66-A filing planned for mid-2018, developing rates to be billed in 2019, using actual participation and applicable EM&V.

Ms. Dean explained that the lost revenue pricing rates were based directly on Tariff rates or adjusted Tariff rates and will not change until new base rates are approved. She explained that the lost revenue pricing rates for the block Tariff rate schedules, which used average realizations as the basis for pricing rather than Tariff rates, could change year to year based on the sales at each of the Tariff block levels, as can average group rates, and will also change at the time new base rates are approved.

Ms. Dean concluded her testimony by testifying that Petitioner intends to continue using the deferral accounting treatment approved in Cause No. 43955 to minimize the timing difference between cost or revenue recognition in Petitioner's books and actual cost recovery.

**B. OUCC.** Edward T. Rutter, Chief Technical Advisor in the OUCC's Energy Resources (formally the Resource Planning and Communications) Division, pre-filed testimony on behalf of the OUCC. Mr. Rutter recommended that the Commission reject Petitioner's proposed DSM Plan in its entirety under Ind. Code § 8-1-8.5-10(m), issue an order supporting its findings and provide Petitioner with a reasonable time to file a modified plan that meets the requirements of Ind. Code § 8-1-8.5-10.

Mr. Rutter argued that Petitioner's request to collect \$197M+ in lost revenue (\$76.4M), shareholder incentive (\$10.9M) and program costs (\$110.2) during the three-year plan is unreasonable. He testified that his Confidential Attachment OUCC 1.1-A sets forth Petitioner's

Utility Cost Test ("UCT") cost and benefit analysis, which calculates benefits (in the form of avoided revenue requirements) the proposed DSM plan will produce. Mr. Rutter testified that sharing the UCT net benefit equally between ratepayers and shareholders is reasonable because ratepayers pay 100% of program costs, revenue requirements, lost revenues and shareholder incentives. He testified that because the avoided revenue requirements benefit should flow through to ratepayers paying for them, it is unreasonable for Petitioner's total lost revenue / shareholder incentive / program cost request to exceed 50% of the net UCT benefit.

Mr. Rutter testified that Petitioner's EM&V plan does not include annual EM&V and an accompanying report for each program for which it is requesting program costs, lost revenues and shareholder incentives. Mr. Rutter cited the Commission's DSM Rules, 170 IAC 4-8-4(b) as requiring this level of annual evaluation. Mr. Rutter argues that it is unreasonable to permit lost revenue or incentive recovery for any program when the proposed EM&V plan both violates the Commission's rules and prevents both the Commission and stakeholders from reviewing each program's annual performance, which form the basis for all lost revenue and shareholder incentive calculations.

Mr. Rutter testified that Petitioner's proposed incentive mechanism, which would award incentives based on a pre-tax rate of return between 8.5 to 11%, is unreasonable. He criticized the idea that in today's market, incentives are necessary to put DSM on "equal footing" with plant investment or to eliminate a DSM disincentive or bias against pursuing DSM. He analogized program costs and lost revenues as akin to a utility's "return of" its investment in plant, and incentives as the equivalent of the "return on" investment. Citing Petitioner's UCT net benefit analysis as evidence that there is no DSM disincentive, but rather a multi-hundred million dollar savings incentive, he concludes it is unreasonable to permit incentives in excess of Petitioner's current authorized rate of return for any program. He further testified that it was unreasonable to award incentives to any program unless it achieves 100% of its savings target. Mr. Rutter also concluded that incentives should be calculated for each specific program, not at the residential or commercial portfolio level or and the DSM Plan level.

Mr. Rutter testified Petitioner did not comply with several requirements set forth in Ind. Code § 8-1-8.5-10(j), including failing to include a complete cost and benefit analysis required by subsection (j)(2), failing to include a complete analysis on the long-term and short-term effects on customer rates as required by subsection (j)(7), and by seeking recovery of lost revenues other than those associated with the 2017-2019 Plan as required by subsection (j)(8).

Mr. Rutter testified that his analysis is confined to Petitioner's DSM plan as-filed, and the resulting impact to ratepayers and the company during calendar years 2017-2019.

Mr. Rutter also recommended that Petitioner's Smart Saver® HVAC Program be denied based on Petitioner's testimony that the program will not be cost effective unless participating trade allies pay Petitioner for customer referrals. Mr. Rutter recommended that the Commission reject the referral fee element and determine if the program remained cost effective. If it did not, he recommended the Commission reject the program pursuant to Ind. Code § 8-1-8.5 -10(l).

Mr. Rutter noted that while Mr. Goldenberg's direct at page 11 stated that Petitioner had removed the Appliance Recycling Program from this proposed Plan, Mr. Goldenberg's Exhibit 1-A(MG) at page 25 included the program, objectives, a marketing plan, projected savings, a budget, cost effectiveness information and measure lives. He recommended Petitioner demonstrate the program has been removed from the Plan, remove all associated costs from the budget, recalculate and provide a corrected Plan budget. If Petitioner seeks any relief other than complete removal of this program, Mr. Rutter recommend Petitioner make that plain.

Ms. Crystal L. Thacker, Utility Analyst in the OUCC's Electric Division, testified that she reviewed Petitioner's petition, direct testimony, exhibits, workpapers, discovery responses and documents filed in previous Petitioner DSM tracker proceedings. She also met with Petitioner representatives. She stated that nothing she reviewed indicated Petitioner's calculation of DSM Adjustment Factors (based on its current proposal) was incorrect. However, Ms. Thacker noted that if the Commission rejects any particular program, or finds the Plan unreasonable in its entirety, the Commission should require Petitioner continue recovery of the DSM adjustment factor approved in DSM-3, subject to later reconciliation, until Petitioner's re-submitted plan is approved.

C. CAC. Elizabeth A. Stanton testified on behalf of Citizens Action Coalition of Indiana, Inc. ("CAC"). She provided her expert opinion that Petitioner's plan should be rejected as unreasonable under Ind. Code § 8-1-8.5-10 until all the recommendations that she set forth are incorporated into Petitioner's plan and recommended that Petitioner continue to offer its DSM programs as it has under its plan in Cause No. 43955 DSM 3 for purposes of consistency, marketplace certainty, and for the benefit of Petitioner's customers.

She testified that even if Petitioner's proposed savings were properly reconciled with IRP savings, which is not as shown by CAC Witness Sommer, its proposed savings for the plan are too low. Dr. Stanton presented evidence on how much energy Petitioner is proposing to save in its 2017-2019 plan and how that compares to other benchmarks. She explained how Petitioner proposes saving 201 gigawatt-hours ("GWh") in 2017; 191 GWh in 2018; and 198 GWh in 2019.

Dr. Stanton testified how it is not reasonable that Petitioner is proposing to reduce its efficiency goal in this application from DSM-3 to DSM-4. She said how even if Petitioner's DSM plan could be reconciled with its IRP, Petitioner's MPS identified more than twice as much efficiency that Petitioner could achieve than what it is proposing here. Petitioner also over-performed on its energy efficiency goal for 2016 in several programs, and appears to be over-performing in 2017. Taken together, these data points suggest that Petitioner should consider revising its goal upwards, certainly not downwards relative to the currently approved goals.

Dr. Stanton next presented evidence as to why Petitioner's plan does not meet the "overall reasonableness" threshold with its proposed performance incentive. She explained that a reasonable performance standard is, at a minimum, connected to energy savings, rather than on program costs incurred as proposed by Petitioner. She recommended that a performance incentive be limited to 5 to 10% of the UCT benefits and only awarded if lost revenue recovery is capped. She created a table to compare Vectren's approved performance incentive in Cause No. 44645 to I&M (then pending) and Petitioner's currently pending proposal for performance incentives.

She also noted that Petitioner is proposing to save just ~0.7% of 2015 retail sales each year in 2017-2019, while there are currently 16 states that are achieving energy efficiency savings of 1% or more, and the leader is achieving nearly 3%. This was another factor weighing against awarding Petitioner with a performance incentive.

Dr. Stanton also testified that Petitioner's plan does not meet the "overall reasonableness" threshold with its asymmetrical proposal for lost revenue recovery. Dr. Stanton recommended that recovery of lost revenues be limited to the amount associated with decreases in sales that are directly attributable to the implementation of Commission approved energy efficiency programs and only to the extent it impacts Petitioner's fixed cost recovery. She explained how Petitioner has not provided evidence that it will under recover fixed costs due to the impacts of its energy efficiency programs. She used a figure from the American Council for an Energy-Efficient Economy's ("ACEEE's") recent lost revenue adjustment mechanism ("LRAM") research to illustrate the potential for a utility to over-earn if a LRAM is implemented without symmetry, or regard for the overall utility rate of return.

She explained that lost revenue recovery is meant to be a short-term solution to address revenue loss in between rate cases, which should be limited to three years or the life of the measure, whichever is shorter, to avoid the "Pancake Effect" based on ACEEE's recent LRAM research. She walked through Petitioner's recent history of lost revenue recovery mechanisms.

She testified that Petitioner's plan does not meet the "overall reasonableness" threshold with its proposed lost revenue recovery due to its request for recovery of lost revenues for the lifetime of an EE measure which creates an expensive pancake effect as dubbed by ACEEE in which lost revenues for the life of the measure accumulate over a multiple-year period between rate cases.

Finally, Dr. Stanton suggested an alternative proposal to using savings to judge consistency between the IRP and the DSM plan. She noted that CAC Witness Sommer demonstrated that Petitioner's reconciliation of the IRP with the DSM plan is complicated, if not inaccurate. She stated that even if the reconciliation of the IRP and DSM plan savings were straightforward and transparent, a simple accounting of whether the same level of savings is present in both the IRP and the DSM plan is a poor litmus test of whether an IRP is consistent with a DSM plan, which ignores the question of whether DSM was evaluated on a "consistent and comparable" basis within the IRP. Her alternative method uses the IRP results to help inform the cost-effectiveness screening that occurs within the DSM plan, which, for example, could be done by modeling zero-cost blocks of 0.25% decrements to load. The results of each run can then be used to determine an avoided cost proxy for that level of load reduction. She testified that this method has the benefit of eliminating the need to review cost and savings assumptions for reasonableness both in the IRP and the DSM plan, and leaving this review to the DSM plan where more data will be available. She noted that the avoided cost proxy that flows from the IRP into the DSM plan could then be added to other benefits like avoided transmission and distribution and avoided ancillary services. She noted that there will likely still be disagreements about other key inputs into the IRP modeling that will affect the resulting avoided cost proxy. Nevertheless, she suggests that this alternative is preferable because it helps to eliminate what seems to be an ongoing source of disagreement

between stakeholders and the utilities as well as eliminating a key area of opacity in resource planning.

Anna Sommer, President of Sommer Energy, LLC, also testified on behalf of CAC. She provided her expert opinion on the manner in which Petitioner reconciled its 2015 IRP with its proposed DSM plan in this Cause and whether Petitioner's plan meets the definition of "energy efficiency goals" as prescribed by Senate Enrolled Act ("SEA") 412 in Section (c). She already performed an analysis of Petitioner's 2015 IRP upon which this filing is based and incorporated those comments as her exhibits.

She testified that Petitioner's plan does not reconcile proposed DSM plan savings with 2015 IRP savings despite Petitioner Witness Park's statement at page 5 of his Direct Testimony that the "portfolio proposed in this proceeding was designed to be consistent with the 2015 IRP." Ms. Sommer explained that in Petitioner's 2015 IRP at page 76, there were two bundles available to the IRP model during the period 2015-2019 – a "Base" bundle and an "Incremental" bundle; however, the "Base" bundle was the only one that was a part of Petitioner's preferred plan during this same period, which was "created using the assumption that Petitioner will be implementing the currently approved and proposed portfolio of EE programs during the IRP analysis period. For periods beyond 2018, the assumption was made that the composition and size of the future annual portfolio impacts were the same as in the 2018 portfolio."

CAC Witness Sommer noted that taken at face value the table in Petitioner Witness Park's testimony seems to show that the proposed DSM plan would offer more savings in 2017, 2018, and 2019 than were selected in the 2015 IRP and, by extension, would offer more savings than what was proposed at the time Petitioner made its first attempt at a SEA 412 filing in Cause No. 43955 DSM 3. However, the opposite is true. If approved, Petitioner's proposed portfolio in this filing would reduce its DSM goals that were approved in Cause No. 43955 DSM 3 for the years 2017 and 2018, despite the fact Petitioner's plan as presented in 43955 DSM 3 was found to be not compliant with SEA 412.

She described the process Petitioner uses to attempt to demonstrate consistency between its proposed DSM plan and its 2015 IRP. First, she explained how one cannot find the same numbers under the heading "2015 IRP" savings from Petitioner Witness Park's Table 1 anywhere in Petitioner's 2015 IRP. Similarly, there does not appear to be any place in Petitioner's testimony in this Cause where the "EE Plan" numbers are repeated. Indeed, the kWh goals given at page 8 of Petitioner Witness Goldenberg's testimony's table would seem to be entirely at odds with the table shown in Mr. Park's testimony in terms of savings in the proposed DSM plan.

She explained why these two tables cannot be reconciled to demonstrate "consistency" between the IRP and the proposed DSM plan. She said that based on discovery and two phone calls with Petitioner's team for further clarification, she now understood that Petitioner claims that six steps were involved in developing the IRP bundle inputs and then translating the IRP results back to the DSM plan.

She focused on the "Base" bundle here because that is what was picked for the "preferred" plan during the first five years of the 2015 IRP, noting that it does not necessarily mean, however,

that she believes the "Incremental" bundle was appropriately constructed. She said that Petitioner claims it did the following steps to create the "Base" bundle and then translated it to a proposed set of goals for this DSM plan including: incorporating the approved and proposed goals (from Cause No. 43955 DSM 3) into the "Base" bundle. Adjusting the "Base" bundle downward for free riders. Adjusting the "Base" Bundle for a "half-year" convention so that, for example, the savings achieved in 2017 are the sum of half the 2016 proposed net goal and half the 2017 proposed net goal. Including the "Base" Bundle in the IRP Preferred Plan. Adjusting the "Base" Bundle savings upward for free riders. Finally, adjusting "Base" Bundle savings upwards for My Home Energy Report ("MyHER") and slightly, in 2019, for Smart Saver® Non-Residential savings to ultimately develop the proposed goals for this Cause.

She testified that there are many layers to this process - layers that do not particularly make sense. She asked, why, for example, would it be preferable to remove free rider savings to develop the bundles and then add them back in when developing the goal for this DSM plan? And, if the "Base" Bundle really reflected what was in the proposed DSM plan at the time the 2015 IRP was created, why then does the proposal in this Cause reduce Petitioner's DSM goal by 6,849,778 million kWh in 2017 and 5,217,204 million kWh in 2018 from Petitioner's DSM goal in the prior year's filing? She identified the following specific problems with this process: First, translating the proposed goals from Cause No. 43955 DSM-3 to the "Base" IRP Bundle, does not include all the savings from the proposed goal in 43955 DSM-3. Inexplicably, most of the MyHER savings were removed from the "Base" Bundle, while the Residential Energy Assessments and the Smart Saver® Non-Residential Prescriptive savings were adjusted upwards. Then, the second step included some unspecified adjustment, presumably to account for free riders, which reduced the 131,764,291 kWh by 19%. Because Petitioner's IRP model, System Optimizer, needs savings input at a more granular level than annual, the savings were adjusted for a "half-year" convention to try to account for the fact that full savings are not achieved on January 1<sup>st</sup> of every year. She said that the most accurate thing to do would have been to break down the annual savings so that the sum of its parts still equals the annual total, yet she learned during a call with Petitioner that this "half-year" approach was simply easier. Regardless, this results in moving some of the 2016 savings goal, which is higher than 2017, into the 2017 annual total savings goal. System Optimizer is not "smart" in the sense that it cannot distinguish between incremental and cumulative savings. So since the totality of 2017 savings consists of not just the savings achieved in 2017 but also the savings achieved in 2015 and 2016 that persist through 2017, System Optimizer requires a cumulative total. It's unclear at what point the next step occurred (prior to the development of the proposed DSM plan or afterwards); however, it appears that the cumulative savings from the IRP model are translated back into incremental savings for the purposes of reconciling the proposed savings in this Cause. But the incremental savings in this step are different than the incremental savings shown in either Step 2 or Step 3. The free rider savings were added back in, but at a different level than were taken out in the original adjustment for free riders. Finally, the savings were adjusted upwards again by adding in MyHER savings, also at a different level than what was reflected in the Cause No. 43955 DSM 3 goals.

She concluded that after 6 or so distinct steps, Petitioner ends up with a proposed goal that is 6,849,778 kWh less than its 2017 goal currently in place from Cause No. 43955 DSM 3. From this information, she testified that (1) the free rider adjustment is different in Steps 2 and 5b, (2) the translation of cumulative to incremental savings in Step 5a is completely undescribed, and (3)



the half-year convention in Step 3 distorts the annual savings total, are the least of her concerns with this reconciliation. She testified that what is more concerning is (1) the complexity of this process since review of the “consistency” between the IRP and the DSM plan will be just as opaque in future proceedings and (2) the extent to which this reconciliation means that the IRP is undercounting savings.

She explained why she thought the IRP may be undercounting savings. She explained that in order for an IRP to be accurate in terms of accounting for savings, a utility must account for all the ways in which customers might save energy regardless of who can “take credit” for those savings. For example, it must account for savings associated with federal appliance standards, the savings from its own energy efficiency programs, and the effects of those programs for which it may not be able to claim credit, i.e. free riders and spillovers. She noted how Petitioner told CAC during the March 20 and March 21, 2017 calls that the adjustments for free riders and the MyHER are already accounted for in the load forecast. During these two calls, she attempted to discern, unsuccessfully, how those adjustments were made since they are not discussed in the IRP. She explained that the only “post-estimation” adjustment described in the IRP at page 35 states:

A new process for reflecting the impacts of Utility Energy Efficiency Programs (“UEE”) on the forecast was introduced in Spring 2015. In the latest forecast the concept of program ‘Measure Life’ was included in the calculations. For example, if the accelerated benefit of a residential UEE program is expected to have occurred 7 years before the energy reduction program would have been otherwise adopted, then the UEE effects after year 7 are subtracted (“rolled off”) from the total cumulative UEE so as to represent the extent to which UEE programs reduce load that would have otherwise not been reduced. With statistically adjusted end-use models, the naturally occurring appliance efficiency trends replace the rolled off UEE benefits, which reduces the forecasted load due to energy efficiency adoption. Because we incorporate data on saturations and efficiencies of the relevant end-uses for residential and commercial customers, these program achievements are implicitly built in to the predictive variables of our models beginning in the year when roll-off is complete.

She noted how this paragraph, while certainly ambiguous, seems to be describing a going forward adjustment for energy efficiency programs, which is also consistent with how “roll-off” is used in Figures 8-A through 8-D of the Petitioner 2015 IRP, as well as the spreadsheet provided to CAC in this Cause.

She said how other evidence of a potential problem comes from comparing Petitioner’s 2015 IRP Figure 3-C at page 42 to Table 8-M at page 159. She explained how Figure 3-C shows the IRP load forecast and Table 8-M shows the loads and resources of the preferred plan in the IRP. The “load” in Figure 3-C and the “Petitioner System Peak” in Table 8-M are identical. She stated that, for this to be accurate, the load forecasters would have needed to know exactly what bundles of energy efficiency were selected in the preferred plan in the IRP ahead of running the

actual model so that they could adjust appropriately for free riders or the peak impact of free riders would have to be so insignificant through the planning period that this after-the-fact adjustment is “in the noise”, i.e., within the rounding error through 2035. Given that the free rider adjustment in the reconciliation described above was 19% or 25% annually, the impact of free riders is highly unlikely to be “in the noise”. And if the bundles in the preferred plan were known to the load forecasters ahead of running the actual model, then Petitioner cannot reasonably claim that the savings in its IRP’s proposed preferred portfolio actually arose from a “an optimal balance...result[ing] from a well-developed and reasoned IRP that evaluates the appropriate balance of new supply-side and demand-side resources taking account of risks and uncertainty.” Final Order, Cause No. 43955 DSM 3 at 45.

**D. Industrial Group.** The Industrial Group presented the testimony of Mr. Michael P. Gorman, Managing Principal of Brubaker & Associates, Inc. Mr. Gorman testified regarding the cost recovery components of Petitioner’s DSM plan, as well as the DSM program structure. The Industrial Group also filed a Motion for Administrative Notice, which was granted by Docket Entry.

Mr. Gorman testified that Petitioner’s overall rates must be established at a level that allows Petitioner to recover its prudently incurred costs and also gives Petitioner an opportunity to earn a reasonable rate of return, while at the same time cannot be set so high as to be confiscatory to Petitioner’s ratepayers. He opined that Petitioner’s EE Plan is unjust and unreasonable due to its proposals for excessive and unreasonable recovery of lost revenues and performance incentives, and the overall costs of the program.

Mr. Gorman concluded that Petitioner’s \$76 million requested lost revenue recovery is excessive and its continued growth is unsustainable. Mr. Gorman testified that, according to Petitioner estimates, Petitioner’s lost revenue recovery revenue requirement for the period covered by its 2017-2019 EE Plan is \$76.45 million, or 38.7% of the total requested EE Plan revenue requirement of \$197.63 million. Yet in contrast, Petitioner has requested only \$57.77 million in Customer Incentives, just 29.2% of the total Plan revenue requirement. Furthermore, he noted that a significant portion of the lost revenue Petitioner seeks is attributable to “legacy lost revenues.” Of the \$76.45 million in total requested lost revenue recovery, only about \$22.94 million is related to measures installed during the 2017-2019 Plan period. The remaining \$53.51 million represents recovery of “legacy lost revenues,” lost revenues associated with measures installed in past periods dating back to 2012. Mr. Gorman also explained that the requested revenue requirement for non-lost revenue EE Plan costs is approximately \$110 million, while the revenue requirement associated with lost revenues is \$76 million, which means the ratio of lost revenue recovery to non-lost revenue EE Plan costs is greater than 2:3.

Mr. Gorman identified three other reasons why Petitioner’s lost revenue recovery request should be rejected. First, Mr. Gorman pointed out that Petitioner’s sales have increased since the last rate case. He explained that lost revenue recovery is not justified when any decline in sales due to EE programs is offset by sales increases that result from other factors. Second, he testified that lost revenue recovery is not justified because it ignores the reality that any fluctuation in sales levels can be attributable to multiple factors other than utility-sponsored DSM programs. Mr. Gorman explained that while a utility may experience a “lost sale” due to the implementation of a

DSM measure, that does not mean the utility has been deprived of a reasonable opportunity to earn its return, or even a reasonable opportunity to earn an amount in excess of its authorized return. Other changes, such as increased load growth, changes in operating expenses, managerial efficiency, and approval of other trackers all impact the utility's opportunity to earn its authorized return. Third, Mr. Gorman testified that Petitioner's lost revenue recovery mechanism represents single issue ratemaking that interferes with the ability to simultaneously reset costs, revenues and sales levels in a base rate case. He explained that sales fluctuations can occur due to a number of factors, including weather changes, broader macroeconomic drivers, changes in business cycles and the results of EE efforts that are independently undertaken by customers outside of utility-sponsored DSM programs. As such, it is very difficult to accurately isolate the effect of sales declines that are attributable solely to the effect of utility-sponsored DSM programs. He further noted that EM&V is a process of estimation, and that there is no guarantee it absolutely reflects the impact of a specific DSM measure, or even an EE Plan, as a whole.

Mr. Gorman also testified that Petitioner's lost revenue calculations are not reasonable because they include stale data. Mr. Gorman explained that Petitioner adjusts its tariff energy rate by removing fuel and variable O&M costs, which are calculated based on the levels from Petitioner's 2002 cost of service study. Yet such stale fuel and O&M costs are almost certainly not reasonably reflective of Petitioner's current fuel and variable O&M costs that were saved as a result of implementing EE programs.

Mr. Gorman opined that Petitioner's request to recover lost revenue is particularly unreasonable given that Petitioner's last rate case used a test year ending in 2002 and that Petitioner does not expect to file a base rate case until the end of 2022. Any "uncapped" lost revenues would not be "zeroed out" until new rates went into effect. Mr. Gorman calculated that Petitioner has collected, or forecasts collecting, roughly \$123.6 million in lost revenues associated with measures installed between 2012 and 2016, which accounts for 84% of the total \$147.16 million Petitioner has collected, or forecasts collecting, in lost revenues between 2012 and 2019. He testified that sheer scale of the recovery here illustrates how the life of the measure lost revenue recovery greatly reduces Petitioner's incentive to file a base rate case in the short term in which Petitioner's lost revenues could be reset to zero. He explained that this also illustrates the "pancaking" effect the Commission has previously found to be the basis for restricting lost revenue recovery to a specific term of years.

As an alternative to allowing recovery of lost revenues for the life of a measure, Mr. Gorman recommended using a "term of years" such as four years in order to preserve some balance between the utility and the ratepayer. He further explained that as Attachments MPG-A and MPG-C illustrate, after about four years, the amount of lost revenue collected, or forecasted to be collected, for any particular vintage begins to decline. This suggests a four-year recovery effectively compensates the utility. He recommended that the cap be applied to legacy lost revenues as well, because such costs must be considered in evaluating whether rates are just and reasonable and because such a cap would have a minimal impact on Petitioner's requested revenue requirement. Finally, as an alternative to a four-year cap, Mr. Gorman recommended imposing a hard cap to ensure recovery of lost revenues does not cause Petitioner's overall rates to increase in excess of a specified percentage.

Mr. Gorman testified that the level of performance incentives Petitioner seeks to recover is too high in comparison to the goals that Petitioner has set. Mr. Gorman explained that Petitioner's proposed incentive structure seeks a rate of return ("ROR") that is higher than the amount approved in Petitioner's last rate case. Specifically, if Petitioner reaches 80% of its target reductions, Petitioner would receive an ROR that is between 4.2% and 1.87% higher than what the Commission found to be a reasonable ROR range. If Petitioner reaches 110% of its self-selected targets, Petitioner's ROR would be between 6.7% and 4.37% higher than the reasonable range. Furthermore, since Petitioner sets the EE program energy savings targets, selects the EE programs it relies on to achieve these targets, determines the EE program budgets, and administers the program, Petitioner should not receive an award for anything less than achieving performance in excess of 100% of its EE savings targets. Mr. Gorman recommended that incentives be limited to situations where Petitioner achieves energy savings in excess of 110% of its EE savings goal, and be limited to an amount no more than 1.5% of the Commission authorized ROR in the last rate case. Mr. Gorman also recommended adopting a carrot-and-stick approach to performance incentives. Under this approach, if actual EE falls significantly below the EE savings target, Petitioner's shareholders would be penalized at a comparable magnitude to the rewards that are available for exceeding the targets.

Mr. Gorman observed that Petitioner's proposed performance incentives would give Petitioner more profit for less risk relative to supply side options, thereby disadvantaging supply-side options. He testified that it is not reasonable to grant Petitioner's request for performance bonuses because doing so gives Petitioner a return on such expenditures even though Petitioner is not making a capital investment and is not putting any of its capital at risk.

Mr. Gorman testified that the costs of Petitioner's EE Plan are unjust and unreasonable because Petitioner proposes to spend more to save energy than that same energy actually costs the customer on a per unit basis. He calculated that excluding legacy lost revenues, the Plan budget would cost about \$0.24 per kwh saved, and taking into account legacy lost revenues and prior savings, the Plan would cost about \$0.084 per kwh saved. He pointed out the \$0.24 per kwh is more than double the Commission staff's calculation of the cost to serve Residential customers. He also testified that the Plan is unreasonable because Petitioner cannot demonstrate that its overall charges – with its many trackers and stale rates – are just and reasonable. He calculated that almost 50% of a typical large industrial ratepayer's total electric bill currently derives from Petitioner trackers. Mr. Gorman testified that Petitioner must demonstrate that the total bill paid by ratepayers is reasonable, and that Petitioner has not made such a demonstration, given Petitioner's numerous trackers and the amount of time that has passed since its last base rate case.

Mr. Gorman concluded that Petitioner's petition in this case should be rejected. He testified that Petitioner's proposal to recover lost revenue is unjust and unreasonable in terms of the amount of lost revenue sought to be recovered and in light of Petitioner's current sales levels. In addition, Petitioner's proposal to recover performance incentives is unjust and unreasonable because the level of performance incentives is too high in comparison with the goals set, and contains no penalties for failure to achieve goals. Further, such incentives are not needed to level the playing field between demand side and supply side resource options. Finally, the overall costs of the DSM program are unjust and unreasonable in light of the costs themselves and in terms of the rates as a whole.

Mr. Gorman testified that if the Commission does permit Petitioner to recover lost revenue and performance incentives, it should reduce Petitioner's return on equity in the next rate case to recognize the reduction in business risk associated with such recoveries.

Mr. Gorman expressed concern that Petitioner applies all EM&V results retrospectively for the purpose of calculating lost revenues, which means that Petitioner reconciles its estimated lost revenues with actual lost revenues as verified by EM&V by applying the EM&V results retrospectively to previously reconciled EE program periods for each EE program. He also observed that the timeline is not consistent, resulting in a situation in which a particular Petitioner EE program might be subject to EM&V in Year One but not Year Two.

Mr. Gorman testified that if ongoing or future EM&V evaluations are applied retrospectively to adjust the lost revenue recoveries for Petitioner's EE programs beyond the end of the test year in Petitioner's next base rate case, then Petitioner's approach makes it impossible to fully reset Petitioner's lost revenue recoveries to zero in Petitioner's next base rate case. He testified that Petitioner should work with customers, especially opt-out customers, to limit the retrospective application of EM&V after Petitioner files a rate case petition.

Mr. Gorman recommended against Petitioner's proposal to permit the OSB to approve new EE programs for Petitioner without Commission approval if the budgets of the new programs are within a 10% discretionary spending limit. He explained that that statute does not permit the Commission to delegate its authority to approve new EE programs to a third party or allow such new programs to be approved on a piece-meal basis outside of a comprehensive EE Plan.

**E. Petitioner's Rebuttal Testimony.** Mr. Goldenberg, Mr. Phillip O. Stillman, Director, Load Forecast & Fundamentals, Mr. Park, Ms. Williams, Ms. Holbrook, and Ms. Dean filed rebuttal testimony responsive to the OUCC, CAC, and the Industrial Group.

Mr. Goldenberg testified that Mr. Rutter's contention that just and reasonable rates should never exceed 50% of the net benefit as calculated under the UCT is flawed. He explained that Mr. Rutter failed to recognize that the calculation of the net UCT benefit excludes the bill savings that participating customers realize, which are the very basis for the lost revenues Petitioner experiences and that are included in the net UCT benefit analysis. Mr. Goldenberg responded that if the calculation is done in such a way that truly intends to balance both the investor and consumer interests, as Mr. Rutter proposes should be the case, then the Lost Revenues must be removed from the calculation because they are more than offset by the customer bill savings.

Mr. Goldenberg testified that he agrees with Mr. Rutter that lost revenues associated with Petitioner-offered EE programs are not the only potential cause of Petitioner not fully recovering its fixed costs or earning its authorized return. Mr. Goldenberg further responded that the lost revenues sought to be recovered in this proceeding are those solely attributable to the installation of EE measures by Petitioner's customers through their participation in Petitioner's EE programs. Mr. Goldenberg responded that if Petitioner sells less electricity as a direct result of its EE programs, fixed costs are not being recovered absent lost revenue recovery.

Mr. Goldenberg testified that Mr. Rutter's contention that Petitioner should not receive a shareholder incentive, or in the alternative that a shareholder incentive should be limited to 50% of the UCT net benefit and only if a utility achieves 100% of its proposed goals ignores the Commission rules providing for a performance incentive "to eliminate or offset regulatory or financial bias against DSM, or in favor of a supply-side resource, a utility might encounter in procuring least-cost resources." Mr. Goldenberg responded to Intervenor arguments against a performance incentive stating that the effect of offering successful EE programs is that Petitioner is deferring or potentially eliminating the need to invest capital into the power system where it would earn a return on its capital investments.

Mr. Goldenberg responded to Intervenor arguments who recommended against an incentive mechanism based on a percentage of program costs based on performance tiers explaining that Petitioner chose to continue with this incentive mechanism previously approved. He also stated that Petitioner's experience has demonstrated that this methodology offers transparency, simplicity and certainty around the potential magnitude of the performance incentive.

Mr. Goldenberg disagreed with Mr. Rutter's contention that incentives should only be awarded at the program level as opposed to the portfolio level. He explained that Petitioner's goals are stated at the portfolio level, Petitioner manages EE at the portfolio level and the IRP models EE at the portfolio level. He stated that Petitioner works with its OSB to shift funds as needed to achieve these goals at the portfolio level. Mr. Goldenberg testified that the performance of all the programs in aggregate demonstrates the overall effectiveness of Petitioner's efforts and recognizes the fact there is an interactive effect between programs. He testified that requiring utility incentives to be calculated and earned at the program level would be a fundamental disconnect between the IRP and EE Plan.

Mr. Goldenberg responded to the OUC's assertion that Petitioner did not provide all the information required under Ind. Code § 8-1-8.5-10(j). Responsive to Ind. Code § 8-1-8.5-10(j)(2), Petitioner provided a cost benefit analysis of its Plan on Pages 3 through 8 of Ms. Williams Direct Testimony. Mr. Goldenberg stated that the program budget presented in this proceeding included direct, indirect, and EM&V costs only, which are the costs used to calculate the UCT, consistent with what has been the historical basis for the Commission's determination of overall portfolio cost effectiveness. He responded to Mr. Rutter's argument that including lost revenues and financial incentives in the various tests used to calculate cost-effectiveness is inconsistent with years of Commission Orders approving programs as cost-effective and with how those terms are defined by the California Standard Practice Manual, relied upon by the Commission in past proceedings. Mr. Goldenberg stated that to change the inputs to these tests to include the program costs as that term is defined in Ind. Code § 8-1-8.5-10(g) distorts the results of the tests and what they are intended to measure.

Furthermore, Mr. Goldenberg testified that Petitioner provided testimony on the effect or potential effect on the rates of customers who participate in EE and those who do not participate as required by Section 10(j)(7) and referred to the Direct Testimony of Ms. Williams on Pages 6 and 16-17, where she specifically addresses the potential long and short term effects of the Plan on customer rates and bills by providing both the RIM and PCT scores.

Mr. Goldenberg testified that he did not agree with Mr. Rutter's contention that the Commission should curtail persisting lost revenues approved in previous proceedings as inconsistent with Ind. Code § 8-1-8.5-10(j)(8). Mr. Goldenberg explained that if the Commission were to eliminate the lost revenues granted in previous Orders, it would be engaging in prohibited retroactive ratemaking, because such costs recovery has already been approved.

Mr. Goldenberg also responded to the OUCC's concerns with Petitioner's Smart Saver® HVAC program. He stated that Smart Saver® HVAC is one of the longest running programs in Petitioner's EE Portfolio and provides tremendous benefits to residential customers for the one piece of equipment that utilizes the largest amount of energy in the home. Mr. Goldenberg testified that to suggest that the program be eliminated due to a new and innovative design that has been well received in other Duke Energy jurisdictions by both customers and trade allies would be an unfortunate outcome for its customers.

Mr. Goldenberg also addressed the Industrial Group's concerns regarding incentives, lost revenues and changes to its OSB. Mr. Goldenberg cited Ind. Code § 8-1-8.5-10(o), which is clear in its wording, that the purpose of the incentive is to encourage implementation and to offset the financial bias towards supply-side investment inherent in the regulatory model, and to rebut Mr. Gorman's assertion that Petitioner should be punished for missing its goals with a negative incentive. Mr. Goldenberg further disagreed with Mr. Gorman's contention that granting Petitioner performance incentives disadvantages supply-side options relative to DSM, because EE is risk free. Mr. Goldenberg discussed the risks associated with Petitioner achieving its EE Goals: lower than planned participation as well as the risk of lower than anticipated impacts from EM&V on program results.

Mr. Goldenberg further testified that he does not agree with Mr. Gorman's contention that lost revenue recovery is not justified when any decline in sales due to EE programs is offset by sales increases that result from other factors. As discussed in response to Mr. Rutter, Mr. Goldenberg stated that the recovery of lost revenues requested in this filing is attributable to the measured and verified results of customer participation in Petitioner's EE programs.

In regard to Mr. Gorman's statement that Petitioner should be required to ensure that it adjusts its lost revenue recovery claims and DSM program expenditures to accurately reflect the actual level of large customer opt-outs, including any additional opt-outs that may occur in future years, Mr. Goldenberg testified that the level of lost revenues and DSM program expenditures already reflect the impact of customers who have opted out given that they are not eligible to participate, and therefore, would have no program expenditures or lost revenue from the time of opt-out forward. Additionally, program budgets have been adjusted to compensate for known opt-outs; however, trying to guess which customers may opt-out in future years is an exercise in futility.

Mr. Goldenberg also testified that Mr. Gorman's opposition to OSB review of new programs is not consistent with how the OSB for other investor-owned utilities operate.

Mr. Goldenberg also responded to the CAC's concerns of Dr. Stanton and Ms. Sommer who urged the Commission to reject Petitioner's EE Plan unless the Commission adopted their many recommendations.

Concerning Dr. Stanton's contention that performance incentives should be limited to 5-10% of the UCT benefits, Mr. Goldenberg testified that Petitioner would agree to be limited to 10% of the UCT benefit, but not an incentive at 5%. In regard to Dr. Stanton's contention that performance incentives should be connected to energy savings achieved, Mr. Goldenberg testified that Petitioner's incentive proposal is connected to energy savings as the amount it would earn would depend on the amount of energy savings achieved in its tiered incentive structure. Mr. Goldenberg disagreed with Dr. Stanton's contention that an incentive mechanism based on a percentage of program costs incents spending dollars rather than focusing on results. He stated that Petitioner's Program Managers are tasked with running their programs at the lowest cost possible to achieve the highest participation and maintain cost effectiveness.

In regard to the OUCC and CAC's proposal on a shared savings incentive mechanism, Mr. Goldenberg testified that Petitioner was receptive to a shared savings incentive mechanism, if it is tiered based on Petitioner's performance relative to energy savings targets similar to the design approved for Southern Indiana Gas & Electric Company (d/b/a Vectren) in Cause No. 44645. Mr. Goldenberg testified that he believes the incentive mechanism approved in Cause No. 44645 would be appropriate if the Commission does not approve Petitioner's requested incentive mechanism, because a shared savings incentive structure is designed to tie the magnitude of the utility incentive to the net benefit realized through customer adoption of Petitioner's programs.

Mr. Goldenberg disagreed with Dr. Stanton's assertion that it is unreasonable for Petitioner to recover performance incentives for at least some of its proposed DR programs and cited a number of reasons why Petitioner included residential and non-residential DR programs, as part of the incentive calculation: (1) the peak demand reduction of these programs has been factored into the IRP; (2) the Commission has approved DR and EE programs as a component of Petitioner's DSM portfolio to be recovered under Rider 66 for years; and (3) the market transformation that is being facilitated by technological advances that are blurring the lines between EE and DR programs. He explained that this transformation has created new hybrid programs that are a combination of DR and EE and that as the technology market continues to evolve, more of these types of programs will be proposed and will most likely account for a larger percentage of the portfolio's EE reductions.

Mr. Goldenberg also disagreed with Dr. Stanton's assertion that Petitioner should be seeking to achieve the amount of impacts identified in its MPS. Mr. Goldenberg explained that the MPS Dr. Stanton is referencing was completed in 2013 and was developed before opt out for large commercial and industrial customers was an option. In addition, the MPS specifically targeted the need to achieve the targets established in Cause No. 42693 S1 and the impacts identified were not consistent with the EE impacts identified in the IRP.

Mr. Goldenberg testified that he did not agree with the OUCC's, CAC's, and Industrial Group's claims that Petitioner's EE Plan was not reasonable and should not be approved. As Mr. Goldenberg discussed at length in both his direct and rebuttal testimonies, Petitioner is not only a



strong advocate for EE and DR, Petitioner has for over 25 years been continually innovating and looking for new and better ways to assist customers in their use of electricity. He stated that it is important to Petitioner that it receive approval to recover lost revenues and an incentive in return for undertaking the work necessary to maintain a robust and marketable portfolio for the benefit of its customers, while not undermining Petitioner's ability to earn a fair and reasonable return.

Mr. Goldenberg concluded his rebuttal testimony by stating that in order to provide the Commission with periodic updates on its EE program performance, Petitioner will file its program scorecard after each quarterly in-person OSB meeting. Petitioner will continue to file its EM&V reports as required in Cause No. 43955 DSM-2.

Mr. Stillman provided rebuttal testimony regarding how Petitioner modeled EE in the load forecast that underlies the IRP. Mr. Stillman explained that the load forecast informs the IRP team of the estimated future energy and demand requirements that will be placed on Petitioner's system, which allows the IRP team to evaluate how well the existing resources will meet the estimated future requirements and allow for the planning of needed future resources.

Mr. Stillman testified as to how EE was modeled in the load forecast before 2015 and the changes that occurred for the 2015 IRP. In response to CAC witness Sommer's concerns about free ridership, Mr. Stillman testified that Petitioner accounted for free riders in its EE process by incorporating free riders in historical sales and historical economic activity, as well as when looking forward at naturally occurring efficiencies.

Mr. Stillman explained that, beginning in the 2015 IRP process, Petitioner began modeling EE to account for UEE. He explained that a "before-UEE" load forecast used in the IRP after which the IRP team then identified the UEE bundles that were to be included in the forecast. Mr. Stillman testified that based upon the UEE selected by the IRP team, Petitioner then included the UEE efficiencies in the "after-UEE" load forecast.

Mr. Stillman testified that there are challenges in introducing UEE savings into the forecast because many UEE programs serve to accelerate naturally occurring efficiency adoption rates; therefore, introducing UEE savings into the forecast in this new manner requires a fine balancing act in order to avoid double counting the UEE efficiencies with the naturally occurring efficiencies. Mr. Stillman stated that to ensure there is not a double counting of the efficiencies, Petitioner introduced the "roll off" concept where it no longer reduces the forecasted sales for the UEE savings at the conclusion of the measure life, as the forecast will have been reduced for that same efficiency measure through the inclusion of the naturally occurring efficiency trends.

Mr. Stillman testified that once the load forecast has been completed, Petitioner performs other analyses looking at historical sales volumes and the amount of energy an average customer uses. He stated that by looking at these historical trends and comparing those trends to future expectations, Petitioner gains confidence around the level of efficiency adoption that is assumed in the forecast. Additionally, Petitioner compares its expected efficiency gains between each jurisdiction, as well as, what other utilities are saying they have experienced and are expecting going forward.

Mr. Stillman concluded his rebuttal testimony by testifying that it is his opinion that the process described above provides the IRP team with a good snapshot of EE impacts over the IRP planning horizon and “accounts for all the ways in which customers might save energy regardless of who can take credit for those savings” as CAC witness Sommer recommended.

Mr. Park responded to CAC witnesses Dr. Stanton and Ms. Sommer’s concerns regarding Petitioner’s EE Plan in this proceeding and its consistency with Petitioner’s 2015 IRP. Mr. Park testified that Ms. Sommer’s analysis on the process used by Petitioner to demonstrate consistency between its proposed DSM Plan and its 2015 IRP is incorrect.

Mr. Park explained that Petitioner relied on its IRP model runs and performed additional runs in advance of this filing incorporating the most updated EM&V information to verify that the EE Plan was consistent with the most recent IRP. Mr. Park stated his belief that Ms. Sommer confused the analysis done as part of the IRP and the additional analyses performed for this filing.

Mr. Park explained Petitioner’s 2015 IRP used the load forecast as a starting point because modeling EE as a supply-side resource is not as easy as simply adding EE to the IRP models. He reiterated Mr. Stillman’s concern with double counting or omitting EE in the modeling process. Mr. Park stated that modeling EE as a supply-side resource was a new methodology adopted at the request of Petitioner stakeholders during the most recent IRP stakeholder meetings. To model EE as a supply-side resource, Mr. Park testified that the EE Analytics Group developed an hourly energy profile of the EE bundles to facilitate economic selection. He explained that the IRP Group modeled EE as a fixed profile 5-year resource that included an hourly profile for the entire five-year period, referred to as an EE bundle.

Mr. Park explained that the Base EE bundle was constructed using the EE programs that were approved for 2015 and those proposed for 2016-2018 pending in Cause No. 43955 DSM-3. He stated that the EE Analytics Group assumed 2019 would have the same hourly shape and EE savings as 2018. Mr. Park testified that the EE Analytics Group then used the hourly shape, costs and impacts to fully define the first 5-year bundle of EE that was modeled in the 2015 IRP.

Mr. Park explained that subsequent bundles were 5 years in duration and that the EE Analytics Group leveraged the preceding Base Bundle and increased the cost at the standard rate of inflation plus a rate that reflects the increasing marginal costs as programs become increasingly saturated. He stated that the IRP Group added Incremental Bundles that were also five years in duration based on the corresponding Base Bundle in composition. Mr. Park explained that the initial Incremental Bundles were half the size of the corresponding Base Bundle at a higher cost to reflect the increasing marginal cost associated with incenting higher participation. Mr. Park testified that these initial Incremental Bundles were too costly and were not economically selected by the IRP models even in the higher cost scenarios. In response to this, the IRP Group re-characterized the initial Incremental Bundles at one-fourth the size of the Base Bundle, which roughly translated to 0.1% of sales, and removed the cost increases associated with rising market saturation. These revised Incremental Bundles were economically selected, but only in the high-cost scenarios. Mr. Park further testified that the preferred portfolio in the 2015 IRP included the first Base Bundles that cover the time period of EE in this filing.

Mr. Park testified that Petitioner intends to continue to model EE as a supply-side resource and expects that in its 2018 IRP, Petitioner will model EE bundles on a 3 year basis to coincide with the EE filing cycle, as well as, potentially adding more Incremental EE bundles.

Mr. Park also testified that the EE Analytics Group created an updated Base Bundle to further test the consistency between the proposed EE portfolio in this filing and the IRP. He stated that this updated Base Bundle incorporated updated assumptions utilizing updated EM&V results and combining historical 2015 data, projected 2016 data based on partial year actual data, and the expected savings outlined in the proposed EE filing. He testified that the updated assumptions included: (1) adjusted MyHER savings to reflect EM&V results that were received between completion of the 2015 IRP and the submission of this EE Plan; (2) adjustments to the Residential Energy Assessments savings to reflect changes to the kits provided to customers; and (3) changes in lighting for the Non Residential Smart Saver<sup>®</sup> Prescriptive program. He testified that the analysis demonstrated that the portfolio underlying the EE Plan continued to be consistent with the IRP.

Mr. Park explained that Petitioner performed two specific analyses to show consistency with the IRP: (1) comparing the cumulative KWh of EE savings, KW demand savings and program costs for the EE portfolio for 2015-2019 that was selected by the 2015 IRP analysis to an updated EE portfolio for 2015-2019 that accounted for actual program performance in 2015, projected program performance in 2016, and the use of the DSM-4 filed portfolio in 2017-2019; and (2) a rerun of the IRP analysis using the updated 2017-2019 portfolio to determine if the IRP model would select this updated portfolio. He testified that the results of the cumulative KWh comparison showed that the updated 2015-2019 EE Plan filed in this proceeding was slightly lower than the portfolio selected by the IRP model in the original IRP analysis and that the KW demand savings and program costs were also very close. He testified that, because these two portfolios are very similar in all aspects, the Portfolio included in this filing is consistent with the 2015 IRP.

Mr. Park testified that he disagreed with Dr. Stanton's contention that Petitioner's EE Plan did not reconcile proposed savings with its 2015 IRP and explained that for the time period of 2015-2019, the IRP and the proposed EE filing are within 7.6% of each other on a demand basis, 1.9% of each other on an energy basis, and 1.2% on a cost basis.

Mr. Park also disagreed with Ms. Sommer's contention that Petitioner incorrectly removed free rider savings to develop its EE Base Bundles and then added free riders back in when developing the goal for the EE Plan. He explained that the IRP does not include free riders in the Base EE bundles because they are accounted for in the load forecast. He explained that EE goals in the Plan were developed on a gross basis, but represented in the IRP on a net of free rider basis to avoid double counting.

Mr. Park further testified that Ms. Sommer's complaint that the IRP Base Bundle does not include all of the savings from the proposed goals in DSM-3, is not correct. The DSM-3 goals approved in that proceeding were included in the EE Base Bundles included in the 2015 IRP.

Mr. Park further addressed Ms. Sommer's concerns as to "some unspecified adjustment" to account for free riders. Mr. Park testified that this adjustment is not "unspecified", but rather is based on empirical and measured information where available and based upon reasonable expectations for new programs. He reiterated that the impact associated with free riders has already been accounted for in the load forecast Mr. Stillman provides for the IRP; therefore, these impacts must be removed from the forecast of utility-sponsored EE in order to avoid double counting of these impacts.

In regard to Ms. Sommer's contention that Petitioner adjusted EE savings for a half-year convention in the System Optimizer Model, Mr. Park testified that the System Optimizer model is primarily concerned with the amount of energy that all resources, including EE, provide at the time of the annual peak, which occurs in the summer. Mr. Park explained that at the time of the summer peak, Petitioner projected that only half of the total annual number of participants will be available; whereas, the annual savings capability would reflect the total number of participants at the end of the year.

Mr. Park further explained that adjustments must be made to properly analyze the annual KWh savings from all forms of EE in an IRP analysis. He stated that the following adjustments must be made to the gross KWh savings prior to analyzing them in an IRP: (1) The impacts associated with measures with a one-year measure life must be properly accounted for in the annual impacts; (2) The impacts of free riders must be removed from the adjusted gross savings; and (3) The annual KWh savings must be converted to an hourly savings shape, properly accounting for the addition of customers throughout the year.

Mr. Park also explained the need for an adjustment for measures with a one-year measure life to properly reflect the nature of the impacts. He explained that it is critical that only the UEE savings that are incremental to what currently is embedded in the load forecast is included in the IRP analysis. Therefore, in the analysis performed by Petitioner for the 2015 IRP, only the impacts associated with incremental new customers for the MyHER program were included in the EE bundles.

Mr. Park also explained the need for an adjustment to convert the annual KWh savings to an hourly savings shape to properly calculate the impact on the system peaks. Mr. Park stated that the addition of new customers to the proposed programs must be shown to occur over time during a given year or the impact of these customers will artificially overstate the program impact at the time of the system peak. Petitioner uses a methodology that spreads the expected customers evenly over the year by assuming participation of 1/12 of the customers in each month.

Mr. Park further explained Ms. Sommer is not properly adjusting the annual savings as described above in order to compare the actual inputs into the IRP analysis. Mr. Park provided a table to demonstrate the method to adjust the values from the DSM-3 filing to arrive at the Base EE bundle in the IRP. He stated that his comparison shows that the pertinent impacts demonstrate that the net KWh impacts are actually higher in this filing than in DSM-3.

Mr. Park further responded to Ms. Sommer's contention that System Optimizer is unable to distinguish between incremental and cumulative savings. Mr. Park explained that System

Optimizer processes EE bundles based on the hourly shape of the EE bundle and does not need to distinguish between incremental and cumulative savings. The cumulative savings discussed in the IRP analysis are the summation of all of the incremental participants that have been added during the time period being analyzed in the IRP. For the purpose of the presentation in the DSM Plan, the incremental savings represent the amount of annual capability added to the overall EE portfolio in a given year.

Mr. Park rebutted Ms. Sommer's contention that Petitioner takes cumulative savings from the IRP and translates them back to the incremental savings for purposes of the EE Plan, explaining that cumulative savings in the IRP do not reflect all the anticipated efficiency savings. He stated that the EE bundles modeled in the IRP represent incremental EE savings that are potentially achievable beyond the EE savings already included in the load forecast. In response to Ms. Sommer's concern about MyHER impacts, Mr. Park explained that to properly account for savings contributed by the MyHER program, which has a one-year measure life, the forecast of savings provided to the IRP must include only the incremental new savings that are incremental to the previous IRP.

Mr. Park also disagreed with Ms. Sommer's statement that Petitioner's IRP may be undercounting savings stating that the IRP models EE savings as a supply-side resource for resource planning purposes. He reiterated that some of the EE savings are included in the load forecast and the remaining incremental EE is reflected in the EE bundles. He testified that Ms. Sommer's contention that the load forecasters would have needed to know exactly what bundles were selected in the peak demand forecast is incorrect.

Mr. Park refuted Dr. Stanton's proposed alternative methodology to model EE in an IRP. He explained the problems with her approach: (1) while it may appear simple to allow the IRP model to evaluate 0.25% block of load decrements for avoided costs, one would still need an hourly savings shape for the load decrements to insert into the model; (2) it would be quite a challenge to match individual programs to a bucket of load reduction of 0.25%; and (3) besides the fact that running the IRP for each 0.25% bucket involves a significant amount of additional and lengthy IRP analyses and that the avoided costs would vary for each bucket.

Ms. Williams responded to Mr. Rutter's contention that the EM&V Plan submitted by Petitioner violates Commission Rule 170 IAC 4-8-4(b), because it does not include annual EM&V for each program. She responded that Petitioner is proposing to continue to use EM&V procedures approved by the Commission in past proceedings going back to 2012 and that nothing in the rule has changed in that time. She explained that Petitioner does not provide annual EM&V reports to allow for a program to mature sufficiently so that a statistically significant sample size is available to provide valid and useful EM&V results. Ms. Williams testified that the time necessary for a given program to reach the needed level of participation or historical customer usage data would vary by program. Ms. Williams further testified that EM&V activity will occur throughout the period of the EE Plan proposed in this proceeding; however, valid results for each program will only be available when a sufficient amount of time has passed to provide a statistically significant sample size.

Ms. Williams also testified that she did not agree with Mr. Rutter's contention that the cost benefit analysis as required under Ind. Code § 8-1-8.5-10(j)(2) must include lost revenues and utility incentives as part of the costs used in that analysis. She stated that Petitioner provided a set of four cost benefit analyses in this filing and those tests, following the guidelines established in the California Standard Practice Manual, are the same four tests Petitioner has provided in prior DSM portfolio filings. Ms. Williams further testified that she is not aware of any statutory requirement to include lost revenues and utility incentives in the calculation of the cost benefit analysis of this proposed portfolio.

Ms. Williams further testified that she does not agree with Mr. Rutter's statement that Petitioner's proposed DSM Plan fails to comply with Ind. Code § 8-1-8.5-10(j)(7) ("Section (j)(7)") because it does not provide the actual cost of the Plan to ratepayers. She testified that Petitioner has met this requirement by explaining how customer rates and bills will be affected based on the results of the PCT and RIM Tests, as well as, the overall portfolio UCT. Contrary to Mr. Rutter's contention, Ms. Williams explained that Section (j)(7) does not require a dollar amount, but rather a comparison. It would be difficult, if not impossible, to provide a dollar amount because of changes in usage patterns, variations in household composition, differences in size of residence, and other myriad differences.

Ms. Holbrook responded to Mr. Rutter's testimony arguing that an incentive mechanism should be limited to 50% of the avoided cost or UCT benefit. She stated that, although she disagrees with the general premise, if his suggested calculation is used, it should include only costs that are incremental to customers. Ms. Holbrook argued that lost revenues are not incremental costs to customers but rather costs customers would pay absent EE.

Ms. Holbrook also responded to Mr. Rutter's contention that a utility incentive should only be granted at the program level as opposed to the portfolio level as has been done in the past. Ms. Holbrook explained that Petitioner manages programs at a portfolio level and she disagreed with Mr. Rutter's argument that a few strong performing programs should not cover for weak performers in terms of earning a performance incentive. She stated that requiring incentives to be awarded at the program level does not align with how Petitioner manages its portfolio, nor does it align with the goal of achieving its overall EE goals and it would add unnecessary complexity to the incentive calculation process.

Concerning Mr. Rutter's recommendation that performance incentive amounts should never exceed the utility's authorized rate of return, Ms. Holbrook explained that Mr. Rutter confuses the return on capital, which is an ongoing annual return the utility recovers over the life of an asset and a single-year return on program costs as an incentive to offer utility sponsored EE. She stated that Petitioner is foregoing an ongoing multi-year return on investment for a one year return on program costs, and that a return on costs should therefore be higher than its allowed return on rate base because it is foregoing future earnings opportunities.

Ms. Holbrook took exception to Mr. Rutter's argument that there is a \$320M bias in favor of DSM because it is not clear how he arrived at this number. She testified that program cost recovery is not a net benefit to Petitioner nor are lost revenues an incentive to offer EE programs

as both of these items are removing a disincentive. She stated that it is only the performance incentive that provides a true incentive to offer EE programs.

Ms. Holbrook further stated that the lost revenue recovery requested in this proceeding will not provide Petitioner with a return in excess of what was authorized in its last rate proceeding. She reiterated that the recovery of lost revenues is meant to return the utility to the position it would be in if it had not offered EE measures. Ms. Holbrook testified that the lost revenues requested for recovery in this proceeding do not guarantee any type of returns on rate base for the utility and are focused only on EE activity covered in this rider.

Ms. Holbrook stated that Mr. Rutter's calculations for the cost of the EE Plan are erroneous because they are based on kWh saved, not on a billed amount to customers. She further stated that Mr. Rutter includes lost revenues awarded in previous years that continue to persist, which inflates the cost per kWh saved.

Ms. Holbrook responded to Mr. Gorman's proposed procedures for applying EM&V results to its EE programs after a rate case. She explained that in future EE Rider filing reconciliations, lost revenues and impacts will be recalculated by applying the latest EM&V results, and that it is possible a future rate adjustment to that vintage year will be required in the EE Rider, after the rate case and could serve to either increase or decrease the revenues sought.

Ms. Holbrook also testified that she did not agree with Mr. Gorman's assertions regarding the reasonableness of lost revenue recovery at issue in this proceeding, as he incorrectly states that the amount Petitioner seeks to recover by including persisting lost revenues approved in previous proceedings. She stated that this proceeding concerns the EE Plan for 2017-2019 and not those lost revenues that the Commission approved for past EE activity.

Ms. Holbrook also testified that she does not agree with Mr. Gorman's argument that increasing or fluctuating sales argue against the recoverability of lost revenues. She stated that Petitioner has robust financial controls around all of its EE calculations, including lost revenue calculations, which are relied upon as Sarbanes-Oxley controls. Ms. Holbrook testified that these controls ensure that the only impacts that are measured and verified, both internally and by the third-party EM&V providers, are included for calculations for incentives and lost revenues.

Ms. Holbrook testified that she did not agree with Mr. Gorman's assertion that Petitioner's proposed performance incentives would give Petitioner more profit for less risk relative to supply side options because there are risks associated with the profitability of an EE portfolio. She testified that it is conceivable that Petitioner would forego investment in supply-side resources for a profit that never materializes from the EE Plan due to a lack of customer participation and that Petitioner is foregoing ongoing annual returns for supply-side resources in return for a one-year return on program costs.

Ms. Holbrook also did not agree with Mr. Gorman's calculations as to the cost per kWh because he is comparing the cost of kWh saved to the cost of kWh billed. She explained that those two numbers are not comparable because one shows a calculation of the all-in cost of the EE rider over kWh saved, while the other is a cost of service calculation over kWh billed. She stated that

the UCT illustrates whether or not the programs Petitioner is offering are cost effective; that is, whether the savings in avoided costs generated by the programs, over the lives of the various measures, exceeds the cost to implement those measures.

Ms. Dean disagreed with the premise put forth by Messrs. Rutter and Gorman that Petitioner would earn in excess of its allowed rate of return from its last rate case. She stated that both Mr. Rutter and Mr. Gorman have failed to recognize that Petitioner's proposed 8.5-11% performance incentive rate is a before-tax rate, *i.e.*, the performance incentive revenues that Petitioner receives will be subject to income tax. Ms. Dean testified that, after adjusting for taxes, the amount of incentive requested is actually 6.71%, which is less than the 7.30% of after-tax return approved to be earned on original cost depreciated rate base by the Commission in Cause No. 42359.

Ms. Dean testified that both Messrs. Rutter and Gorman believe a reasonable rate of return would be between 4.30 to 6.63%, which is the range of the rate of return on fair value rate base, not the 7.30% weighted cost of capital rate that was approved to be earned on original cost depreciated rate base in Cause No. 42359. Ms. Dean testified that she did not believe this was an accurate comparison because it is the original cost of capital that is applied to original cost depreciated rate base to determine revenue requirements in rate cases and capital recovery riders for supply-side options.

Ms. Dean responded to concerns about lost revenue recovery. She testified that the recovery of lost revenues is intended to reimburse Petitioner for fixed costs that will otherwise not be recovered because of the reduction in sales associated with its EE offerings. Ms. Dean testified that lost revenues are a real cost of EE in the context of DSM programs, because although cost-effective DSM programs can be an effective means to manage the rate of growth and costs of meeting the utility's future energy and capacity needs, they cannot generally eliminate or somehow reverse the cost of past capital investments made on behalf of customers.

Ms. Dean further testified that Petitioner would incur lost revenue impacts from Petitioner's 2017-2019 programs for the duration of the life of each individual measure, which is different measure by measure, or until the energy savings reductions are reflected in the level of sales used to set new base retail rates. In response to Mr. Gorman's recommendation to limit lost revenues to four years and Dr. Stanton's three year recommendation, Ms. Dean testified that Mr. Gorman offered no support for his claim that four years is appropriate and that Dr. Stanton merely pointed to a previous Petitioner filing. Ms. Dean stated that limiting lost revenues to anything other than life of the measure (or until the lower sales level is included in base rates) is an arbitrary cap on lost revenues, as is Mr. Gorman's suggestion that a dollar amount cap on lost revenues.

Concerning the "pancake effect" referenced by Dr. Stanton, Ms. Dean testified that lost revenues are a real cost of offering EE and therefore should continue to be recoverable. Ms. Dean testified Petitioner faces a "reverse pancake effect" on utility revenues with each additional year of measure life. Ms. Dean testified that Petitioner will continue to incur lost revenues in 2017-2019 associated with the 2012-2016 EE programs, to the extent customers have implemented successful EE measures that continue to reduce their energy consumption.



In response to Dr. Stanton's recommendation that recovery of lost revenues should be limited to the amount associated with decreases in sales that are directly attributable to the implementation of Commission approved EE programs and only to the extent it impacts Petitioner's fixed cost recovery, Ms. Dean testified that Petitioner's proposed lost revenue recovery is designed to include only lost revenues associated with decreases in sales that are directly attributable to the implementation of Commission approved EE programs.

Ms. Dean testified in response to Messrs. Rutter and Gorman and Dr. Stanton's argument that Petitioner might not be at risk for under-recovering fixed costs due to other activities unrelated to DSM such as revenue or sales increases since the last base rate case. She stated that the participation and energy savings (*i.e.*, energy usage reductions) used to calculate the lost revenues that were included in the current proceeding were or will be subject to verification, including EM&V performed by a third party.

Ms. Dean rebutted Dr. Stanton and Messrs. Rutter and Gorman's concerns that, if Petitioner's lost revenue proposal is approved, Petitioner might over-earn its authorized rate of return. Ms. Dean testified that Petitioner compares jurisdictional authorized earnings with actual earnings and authorized return with earned rate of return under Ind. Code § 8-1-2-42(d)(3), also known as the FAC Earnings Test. She presented analyses to demonstrate Petitioner is not overearning as Exhibits 12-C and 12-D to her rebuttal testimony.

In response to Mr. Gorman's concern that Petitioner has the benefit of recovery of projected lost revenues until a future reconciliation, Ms. Dean stated that the projections for program costs, EM&V and lost revenues are the best estimates available at the time of filing and that these projections are trued-up in a subsequent filing. She explained that a reconciliation might result in customers' charges increasing or decreasing.

In regard to Mr. Gorman's statement that Petitioner should be required to adjust lost revenue claims to reflect opt outs, Ms. Dean testified that Petitioner does reconcile costs by the various opt-out groups. Petitioner's Exhibit 5-B, Page 10 of 10, shows lost revenues adjusted by opt-out groups in order to appropriately assign costs.

Responding to Mr. Gorman's claim that Petitioner should eliminate the exposure of opt out customers to ongoing EE charges following Petitioner's next base rate case, Ms. Dean explained that the terms of Petitioner's Tariff provide that customers who have opted out remain responsible for any costs (or entitled to any credits) related to final reconciliations for rates billed for their share of EE program costs, including persisting lost revenues, as of the effective date of opt out. This applies to any subsequent reconciliation made after new base rates are implemented for such costs billed prior to base rates being implemented.

**5. Discussion and Commission Findings.** Petitioner requests approval of its Plan for 2017-2019 and authority to recover direct and indirect program costs, a shareholder incentive, and lost revenues pursuant to Ind. Code § 8-1-8.5-10.

We apply a reasonable least-cost standard for issuances of certificates of public convenience and necessity under Ind. Ch. 8-1-8.5. Both the DSM and IRP Rules were adopted to

assist the Commission in implementing Ind. Code ch. 8-1-8.5. The IRP Rules require utilities to consider both supply and demand side resources to meet their long-term resource needs in a least-cost manner. The consideration of a utility's resource needs is performed through a long-range planning analysis, i.e., the IRP. The Commission's rules at 170 IAC 4-8 ("DSM Rules") provide guidelines for the Commission to identify and address any bias against DSM. The DSM Rules also address cost recovery related to all DSM activities, including the subset of EE improvements.<sup>1</sup> Consequently, the Commission has historically considered and approved utility DSM programs and associated cost recovery under Ind. Code ch. 8-1-8.5 and its DSM Rules. *See, e.g., Indianapolis Power & Light*, Cause No. 43623, Phase I Order (IURC Feb. 10, 2010), and *Ind. Michigan Power Co.*, Cause No. 44486 (IURC Dec. 3, 2014).

In 2015, the Indiana Legislature enacted Section 10 establishing that:

Beginning not later than calendar year 2017, and not less than one (1) time every three (3) years, an electricity supplier shall petition the commission for approval of a plan that includes:

- (1) energy efficiency goals;
- (2) energy efficiency programs to achieve the energy efficiency goals;
- (3) program budgets and program costs; and
- (4) evaluation, measurement, and verification procedures that must include independent evaluation, measurement, and verification.

Section 10(h). Once such a plan has been submitted, the Commission is required to consider the following ten factors enumerated in Section 10(j) to determine the overall reasonableness of the proposed plan:

- (1) Projected changes in customer consumption of electricity resulting from the implementation of the plan.
- (2) A cost and benefit analysis of the plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan.
- (3) Whether the plan is consistent with the following:
  - (A) The state energy analysis developed by the commission under section 3 of this chapter.
  - (B) The electricity supplier's most recent long range integrated resource plan submitted to the commission.

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<sup>1</sup> EE improvements have been traditionally limited to activities that reduce energy use for a comparable level of energy service. 170 IAC 4-8-1(j) and Ind. Code §§ 8-1-8.5-9(c) and -10(b). Whereas, a demand side resource is broader and encompasses any activity that reduces the demand for electric service, *e.g.*, air conditioning load management, time-of-use rates, and demand response programs.

(4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the energy efficiency programs included in the plan, including the alignment of the procedures with applicable environmental regulations, including federal regulations concerning credits for emission reductions.

(5) Any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of an energy efficiency program or from the overall design of a plan.

(6) Comments provided by customers, customer representatives, the office of utility consumer counselor, and other stakeholders concerning the adequacy and reasonableness of the plan, including alternative or additional means to achieve energy efficiency in the electricity supplier's service territory.

(7) The effect, or potential effect, in both the long term and the short term, of the plan on the electric rates and bills of customers that participate in energy efficiency programs compared to the electric rates and bills of customers that do not participate in energy efficiency programs.

(8) The lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier.

(9) The electricity supplier's current integrated resource plan and the underlying resource assessment.

(10) Any other information the commission considers necessary.

Following a determination of overall reasonableness by the Commission, Sections 10(k), (l), and (m) establish three possible actions the Commission may take concerning the proposed plan. Consequently, beginning not later than calendar year 2017, electricity suppliers are statutorily required to submit an EE plan to the Commission for approval.

Given this background, we begin by considering the request for approval of the DSM Plan under Section 10.

**A. Presentation of a Plan.** The evidence is uncontroverted that Petitioner is an electricity supplier as defined by Section 10(a) and that it has made a submission under Section 10(h) seeking approval of a proposed Plan prior to 2017. However, the evidence is disputed as to whether Petitioner has submitted a Plan that includes all four of the criteria required by Section 10(h), i.e., goals, programs to achieve goals, budgets and program costs, and independent EM&V.

Based on the evidence presented as discussed further below, we find that Petitioner's 2017-2019 Plan satisfies the requirements of Section 10(h).

**1. EE Goals.** Section 10(c) defines "energy efficiency goals" as:

All energy efficiency produced by cost effective plans that are:

- (1) reasonably achievable;
- (2) consistent with an electricity supplier's integrated resource plan; and
- (3) designed to achieve an optimal balance of energy resources in an electricity Supplier's service territory.

Petitioner proposes EE goals to be achieved through its 2017-2019 Plan that are expected to result in energy savings of approximately 1.1% of eligible retail sales for each year of the three-year Plan, assuming 83% of eligible non-residential load has opted out of participation pursuant to SEA 340. Mr. Park explained Petitioner's process for developing its Plan to be consistent with the EE goals established in its 2015 IRP.

The CAC argues that Petitioner's Plan does not capture all EE that is reasonably achievable. Dr. Stanton noted that Petitioner's 2013 MPS identified a higher amount of reasonably achievable energy savings than what Petitioner proposed in its Plan. While acknowledging that the MPS did not take into account an industrial customer's ability to opt out of EE programs, she argued that the residential savings in the 2013 MPS were still valid and should be pursued. The CAC also took issue with the goals that were established in Petitioner's 2015 IRP.

In evaluating whether a utility's EE goals are reasonably achievable, we must balance what an MPS indicates is reasonably achievable against the need for EE in the utility's service territory because the EE goals must also be consistent with the utility's IRP. Petitioner's 2015 IRP concluded that DSM at a level of 1.1% of eligible retail sales was cost effective. The EE goals established pursuant to Section 10 should be consistent with and based on needs shown in the IRP, not what might be achieved pursuant to the MPS. As was noted in our recent Order in *N. Ind. Public Serv. Co.*, Cause No. 44634 at 33 (IURC Dec. 30, 2015), a market potential study that evaluates possible cost-effective DSM programs in a particular service area, such as Petitioner's MPS, is an input into the IRP through which an optimal resource portfolio is to be developed, taking into account risks and uncertainties. Based on the evidence of record, it appears that the level of savings in Petitioner's EE Plan is reasonably achievable.

Mr. Park provided testimony as to how the portfolio put forth by Petitioner in this proceeding is consistent with the 2015 IRP, as required by Ind. Code § 8-1-8.5-10. Mr. Park described two different ways Petitioner compared the proposed EE programs with EE modeled in the 2015 IRP. First, Petitioner compared the savings and cost characteristics of the proposed EE programs and the bundle of EE programs selected in the 2015 IRP. To do this Petitioner had to adjust for the difference in time between the 2015 IRP and the programs being proposed in the period 2017-2019. Petitioner performed the comparison using the same five year period 2015-2019. Actual EE energy savings for 2015 and a projection for 2016 (using actual energy savings through September 30, 2016) were included. Then the projected energy savings for 2017-2019 were added to the 2015 and 2016 data. Petitioner compared the five-year savings described above based on the 2017-2019 proposal with the five-year EE bundle selected in the 2015 IRP. Over the period 2015-2019, the EE savings based on the proposed 2017-2019 programs was only 1.9% less than the bundle developed in the 2015 IRP. A similar comparison of demand savings had the proposed plan over

the five-year period saving 7.6% less mega-watts relative to the IRP bundle of EE savings. Finally, program costs were compared and the proposed plan for 2017-2019 had 1.2% higher costs.

Additionally, Petitioner modeled the 2017-2019 EE plan using the 2015 IRP models and assumptions to see if the model would select the 2017-2019 programs as a cost-effective resource. The modeling was done for scenarios both with and without carbon regulation; in each case, the model selected the 2017-2019 EE plan as a cost-effective resource.

Based on these two comparisons Petitioner concluded the 2017-2019 proposed plan is consistent with the IRP. CAC believes Petitioner's EE plan is based on a flawed 2015 IRP. To support this position, CAC witness Sommer incorporates CAC comments prepared as part of the development of the 2015 Director's IRP report. These comments are critical of a number of aspects of Petitioner's 2015 IRP methodology. Ms. Sommer also argues that the 2017-2019 EE plan cannot be reconciled with the 2015 IRP. Furthermore, Ms. Sommer concludes that Petitioner is proposing to save less energy for the 2017-2019 period with the proposed EE plan than was the case in the EE Plan approved by the Commission in Cause No. 43955 DSM 3.

In rebuttal testimony, Petitioner's witness Mr. Park clarified there are different purposes for the EE bundles in the IRP versus the goals in the EE Plan. For example, the load forecast in an IRP includes the effects of free riders so the bundles of EE modeled in the IRP are net of free riders, meaning free riders are not included in the IRP EE bundles. This is done to avoid double counting the impact of free riders. The impact of free riders is included in the load forecast because the load forecast is supposed to account for all energy efficiency that would occur whether the utility EE programs existed or not. In contrast, EE Plan goals are reported on a gross basis that includes the energy savings caused by free riders.

Mr. Park also said some of the differences are related to changes in EE savings due to recent EM&V results for the My Home Energy Report program. Also, savings estimates for the Residential Energy Assessments program were adjusted to reflect recent changes to the kits provided to customers. Lastly, there were adjustments for changes in non-residential lighting for the Saver Prescriptive® program. According to Mr. Park, when the adjustments are properly made, the energy savings in the proposed EE Plan for the period 2017-2019 exceed those for the program approved by the Commission in Cause No. 43955 DSM 3.

Ind. Code § 8-1-8.5-10 requires the EE plan to be consistent with the IRP, not that the two be reconciled. However, given the passage of time between the IRP being finalized and the submittal of an EE Plan for Commission review, it is incumbent on a utility to account for or explain the basis for differences between the EE in the IRP's preferred portfolio and that in the proposed EE Plan. Petitioner was able to explain the differences between the IRP EE results and the proposed EE Plan. Furthermore, Petitioner's explanation helped to demonstrate the consistency of the EE Plan with Petitioner's 2015 IRP.

CAC witnesses argue the EE Plan is not the result of an IRP designed to achieve an optimal balance of energy resources in an electricity supplier's service territory. CAC cited their comments submitted as a part of the preparation of the Director's 2015 IRP Report.

Petitioner modeled EE as a series of five-year supply-side bundles. The first series of bundles were referred to as the Base Bundles and it was selected in all scenarios as a cost effective option in the 2015 IRP. Petitioner also modeled the option of offering more EE, the Incremental Bundles, to determine if it would be selected as an economic resource. Initially, the Incremental Bundles were modeled as being half the size of the corresponding Base Bundle, but at a higher cost per unit to reflect the increasing marginal costs required to attain higher participation. None of these Incremental Bundles were chosen by the IRP model as being economic resources. The Company then created a set of Incremental Bundles that were one-quarter the size of the corresponding Base Bundle and had a cost that was still higher than the Base Bundle, but less expensive on a per unit basis than the original Incremental Bundles. The IRP model results demonstrated that certain of these final Incremental Bundles were selected by the model as an economic resource but only in high cost scenarios. As explained by Petitioner witnesses Stillman and Park, Petitioner made a concerted effort to model EE as a supply-side resource rather than forcing in an estimate in the load forecast in its 2015 IRP. These witnesses testified that a significant amount of rigor was employed in its modeling of EE and the process used to allow the IRP model to choose EE as an economic resource.

The Director's 2015 IRP Report found Petitioner's load forecast methodologies, analytical tools, and processes are reasonable. These methodologies included how the load forecast accounted for energy efficiency, one of the key areas of apparent misunderstanding in this case. Petitioner also implemented in the 2015 IRP a new way to model EE resources as bundles for better comparability to supply-side resource selection. As a part of the process, Petitioner committed to investigate improvements for future IRP analysis, including modeling the incremental DSM bundles with more granularity related to individual programs and potentially shortening the operating period of each bundle. There is little reason to conclude that the need to make EE modeling improvements in the future detracts from whether the 2015 IRP was designed to achieve an optimal balance of resources over time. Accordingly, we find that Petitioner's EE goals meet the requirement that it is reasonably achievable, designed to achieve an optimal balance of energy resources and consistent with Petitioner's 2015 IRP.

2. **EE Programs.** The 2017-2019 Plan includes 15 residential and four non-residential programs designed to achieve the set EE goals. Six of these programs are considered new product development programs that will be primarily phased in at the end of the three-year EE Plan period if they prove to be cost-effective. Additionally, Petitioner included two residential demand response and one non-residential demand response program. There was some argument that the Commission should not approve such programs because Section 10's definition of "energy efficiency program" specifically excludes programs designed primarily to reduce demand for limited intervals of time. As indicated above, the Commission has authority under Ind. Code ch. 8-1-8.5 and the DSM Rules to consider and approve utility-sponsored demand response programs and associated cost recovery. This was not changed by SEA 412. *See Southern Indiana Gas & Electric Co.*, Cause No. 44645 at 19 (IURC 3/23/2016).

The OUCC recommends excluding the Smart Saver<sup>®</sup> HVAC Residential Program from the 2017-2019 Plan because Petitioner proposes offering an incentive to participating trade allies. Mr. Goldenberg responded that the referral fee is optional to all trade allies and that the program

provides tremendous benefits to participating customers because HVAC equipment utilizes the highest amount of energy in most homes. Given the significant amount of EE savings associated with residential customers' HVAC systems and the program's favorable cost effectiveness scores, we find that the Smart Saver® HVAC Residential Program is appropriately included in the 2017-2019 Plan.

3. **Program Budgets and Costs.** Mr. Goldenberg identified the annual budget associated with the Plan and the costs associated with each of the programs. The impact and effect of the proposed budgets and costs are discussed further below in our consideration of the factors specified by Section 10(j). Petitioner's 2017-2019 Energy Efficiency Programs and their budgets are in the table below:

Duke Energy Indiana 2017 - 2019 Energy Efficiency Programs	
<b>Residential</b>	
*Smart Saver® Residential	\$ 29,914,469
Agency Assistance Portal	\$ 525,585
Energy Efficiency Education Program for Schools	\$ 1,968,403
Low Income Neighborhood	\$ 1,869,093
Low Income Weatherization	\$ 5,644,088
Multi-Family EE Products & Services	\$ 466,147
My Home Energy Report	\$ 9,538,403
Residential Energy Assessments	\$ 2,716,664
Power Manager®	\$ 8,755,525
**Bring Your Own Thermostat	\$ 1,123,653
**Energy Efficient Appliances	\$ 45,729
**Manufactured Home Retrofit	\$ 68,586
**Multifamily Retrofit	\$ 124,206
**Residential New Construction	\$ 723,648
**Multifamily My Home Energy Report	\$ 779,527
<b>Total Residential</b>	<b>\$ 64,263,725</b>
<b>Non-Residential</b>	
Smart Saver® Non-Residential	\$ 25,744,621
Power Manager® for Business	\$ 2,793,020
Small Business Energy Saver	\$ 15,853,042
*Non-Residential Smart Saver® Performance Incentive Program	\$ 1,278,743
<b>Total Non-Residential</b>	<b>\$ 45,669,426</b>
<b>Total Portfolio</b>	<b>\$ 109,933,151</b>
Market Potential Study	\$ 300,000
<b>Total Market Potential Study</b>	<b>\$ 300,000</b>
<b>Grand Total 2017-2019 Portfolio</b>	<b>\$ 110,233,151</b>
* Modified Program ** New Product Development Program	

4. **Independent EM&V.** Ms. Williams also explained that the EE Plan includes EM&V with a process for independent evaluation of the programs. Although the OUCC argued that Petitioner is required to submit EM&V reports annually for each program, the rules regarding EM&V are unchanged and we find the OUCC's interpretation and proposed requirement

is inconsistent with the administrative rule and how the Commission has required EM&V for the Petitioner in the past. Ms. Williams explained that Petitioner's extensive EM&V process often takes longer than a year to complete to ensure sufficient sample size and accurate data. Petitioner proposed a similar EM&V process to what it uses today and we find that meets the requirements of the statute and rules.

**B. Reasonableness of the Plan.** Having determined that Petitioner has submitted an EE Plan as required by Section 10(h), Section 10(j) identifies 10 factors the Commission must consider in determining its overall reasonableness. Although Petitioner's Plan arguably includes DR programs as well as EE programs, the factors enumerated in Section 10 are similar to the factors that the Commission has historically considered in determining whether to approve DSM programs and associated cost recovery under its DSM Rules. Accordingly, we consider both types of programs included in Petitioner's Plan. For the reasons set forth below, we find that Petitioner's 2017-2019 Plan is reasonable and should be approved.

**1. Projected Changes in Customer Consumption.** Petitioner's demonstrated energy savings resulting from the Plan in conjunction with its load forecast in its 2015 IRP enable us to consider projected changes in customer consumption of electricity resulting from implementation of the Plan. Because we find that Petitioner's proposed programs are cost-effective and designed to result in energy savings of 1.1% of eligible retail sales each year over the three year period of the Plan, we expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs. No party provided any evidence to the contrary. Petitioner's proposed energy efficiency goals are in the table below:

	2017	2018	2019	2017 – 2019
MWh Savings	201,144	191,488	197,643	590,275
MWh as % of 2016 Total Sales	0.7%	0.7%	0.7%	
MWh as % of 2016 Eligible Sales	1.1%	1.1%	1.1%	

**2. Cost-Benefit Analysis.** Petitioner evaluated the cost-effectiveness of its proposed DSM programs using the standard UCT, TRC, RIM, and Participant Tests. Ms. Williams explained the purpose of the various tests and provided the test results for each of Petitioner's proposed programs. All of the programs passed the UCT and TRC Tests, except the Low Income Weatherization program. All programs in which participants face an incremental out-of-pocket cost also passed the Participant Test. While the total portfolio passes the RIM Test, most of the individual EE programs did not.

This Commission, as well as other state utility Commissions, has traditionally required the use of the UCT, TRC, RIM and Participant Tests in evaluating the cost-effectiveness of DSM programs. In fact, the Commission's IRP rule at 170 IAC 4-7-7 requires the use of at least one of these four tests, or any other test the Commission may find to be reasonable, when evaluating DSM resource options. As noted by the parties, each of these tests is designed to compare various costs and benefits from a different perspective. The TRC Test helps determine whether EE is cost-effective overall, whereas the PCT, UCT, and RIM Tests help to determine whether the program design and efficiency measures provided by the program are balanced from the perspective of the participant, utility, and non-participants, respectively. The purpose of applying several different



tests is to provide a more comprehensive analysis of the cost-effectiveness than that which can be accomplished with just one of the tests. Hence, consideration of multiple cost-effectiveness tests allows us to better evaluate the reasonableness of individual programs and the overall DSM portfolio as a whole.

The OUCC encourages the Commission to reject Petitioner's Plan because its cost effectiveness tests do not follow the definition of program costs found in Ind. Code § 8-1-8.5-10(g), which defines program costs to include lost revenues and a performance incentive. Although we agree with the OUCC that Section 10(g) defines program costs to include lost revenues and performance incentives, we disagree that Section 10(j) requires a cost-benefit analysis to simply consist of a comparison between the quantifiable monetary benefits of a program and its program costs as defined in Section 10(g). First, the plain language simply requires a cost and benefit analysis of the Plan. It does not require a comparison of the program costs as defined in Section 10(g) with any specific benefit. Second, such an interpretation would lead to unintended results, such as only very few EE programs passing the cost-effectiveness hurdle.

Based on the evidence presented, we find that Petitioner has demonstrated that its proposed 2017-2019 Plan is reasonably cost effective.

3. **Consistent with State Energy Analysis and Utility IRP.** Ind. Code § 8-1-8.5-3 requires the Commission to develop, publicize, and keep current an analysis of the long-range need for the expansion of electric generation facilities and sets forth certain requirements that the analysis must include. There is currently no state energy analysis that meets all the statutory criteria. As discussed earlier in this Order, we find that Petitioner's 2017-2019 Plan is consistent with its 2015 IRP.

4. **EM&V.** Evaluation for all programs in the Plan will be conducted by an independent evaluator. Ms. Williams testified that the independent evaluator would perform a process evaluation and an impact evaluation. Ms. Williams described the process and rigor that Petitioner applies to its EM&V. She presented a current schedule of EM&V timelines. Mr. Goldenberg testified that Petitioner will continue to file its EM&V reports as required in Cause No. 43955 DSM-2.

Based on the evidence presented, we find that Petitioner's proposed EM&V procedures to independently verify the results of its proposed programs, and the estimated EM&V costs are reasonable. Petitioner shall continue to file its EM&V reports as completed.

5. **Undue or Unreasonable Preference to Customer Classes.** There was no evidence presented identifying any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the Plan, and we find none.

6. **Stakeholder Comments.** This provision simply requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders concerning the adequacy and reasonableness of the 2017-2019 Plan. The OUCC, CAC, Nucor Steel and the Industrial Group provided such comments through the evidence

they presented in this proceeding, which the Commission has considered and addressed in making its determinations in this Order.

7. **Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-participants.** Petitioner provided evidence of the short-term bill impacts on customers as well as various cost-effectiveness tests, some of which are designed specifically to evaluate the long-term effect of the proposed programs on the electric rates and bills of both participating and non-participating customers. Ms. Dean testified that the short-term effect for participating customers is reduced energy consumption, which can result in lower energy bills.

The OUCC argued that Petitioner did not include a complete cost-benefit analysis because the analysis conducted did not include lost revenue recovery granted in previous proceedings. As discussed below, we disagree that these persisting lost revenues should be included in the analysis.

Based on Petitioner's estimated impact information along with the results of the cost-effectiveness tests, we find that effects or potential effects of the Plan on electric rates and customer bills of participants and non-participants to be reasonable.

8. **Lost Revenues and Performance Incentives.** If the Commission finds that an electricity supplier's EE Plan is reasonable, Section 10(o) requires us to allow an electricity supplier to recover the following:

- (1) Reasonable financial incentives that:
  - (A) encourage implementation of cost effective energy efficiency programs;
  - or
  - (B) eliminate or offset regulatory or financial bias:
    - (i) against energy efficiency programs; or
    - (ii) in favor of supply side resources.
- (2) Reasonable lost revenues.

We must consider whether Petitioner's request for financial incentives and lost revenues associated with its EE programs is reasonable.

A. **Lost Revenues.** The Commission must allow recovery of lost revenues it determines is reasonable. This could be lost revenue recovery up to the earlier of measure life or a base rate case, or some other level of lost revenue recovery that is supported by evidence and thought by the Commission to be reasonable.

The OUCC, CAC, and the Industrial Group present a number of interrelated arguments to demonstrate the level of recovery of lost revenues proposed by Petitioner is unreasonable. Both the OUCC and Intervenors argue that lost revenues should be authorized only if Petitioner has experienced a reduction in kWh sales compared to the kWh sales used to set rates in its last base rate case. Mr. Gorman argues it is very difficult to accurately isolate the effect of sales declines that are attributable solely to the effect of utility DSM programs, and that it is ultimately a process of estimation subject to errors to a greater or lesser degree. The CAC argues that the baseline

against which energy consumption is measured to estimate lost revenues will change over time, and lost revenue calculations don't adequately account for this complication. The implication of the CAC's and Industrial Group's concerns is that the determination of energy savings and lost revenue becomes progressively less reliable and more uncertain in successive years and therefore should not be relied upon. Dr. Stanton argues that if recovery of lost revenue is allowed, it should be limited to three years or the life of the measure, whichever is shorter, to avoid the pancake effect. The pancake effect occurs when lost revenues caused by EE investments in different years aggregate. On rebuttal, Petitioner's witnesses testified that lost revenues are only recovered based on measure-level EM&V results, which insure that lost revenues recovered are directly attributable to EE.

EM&V is the most established approach to reasonably estimating energy savings and lost revenues associated with EE programs. Petitioner's approach appears reasonably designed to ensure it recovers only the lost revenues that EM&V can establish, with a high degree of confidence, will result from savings driven by EE measures. While we recognize that EM&V degrades over time based on accumulated changes, this degradation is built into the EM&V process. The OUCC, CAC, and Industrial Group offered no basis on which we could make factual findings that a three-year cap, or any other limitation, would allow Petitioner to recover reasonable lost revenues. It is inherent that energy savings validated by EM&V will create lost revenues. Consequently, cost-effective EE programs should have lower program costs with larger energy savings, which does result in higher lost revenues relative to program costs.

The Intervenor also argued that Petitioner should not be permitted to recover lost revenues approved in previous proceedings. However, as we stated in our Order on Reconsideration in DSM-3, we decline to address the recovery of lost revenues associated with pre-2017 DSM measures because that recovery was addressed in other Commission Orders that are not the subject of this proceeding.

Therefore, because Petitioner has EM&V in place to verify EE impacts, this Commission finds that lost revenue recovery for the life of the measure for Petitioner's EE programs is appropriate. Our conclusion is consistent with the Commission's DSM rules at 170 IAC 4-8 and Section 10's requirement that EM&V are included in any EE plan. Section 10(o) similarly recognizes the importance of subjecting lost revenues to EM&V.

**B. Performance Incentives.** Section 10(o) authorizes the Commission to award reasonable financial incentives when it finds a plan to be reasonable. The DSM Rules at 170 IAC 4-8-7(a) also recognize the role of reasonable performance incentives to encourage the implementation of DSM programs by addressing financial bias against such programs. Petitioner requests approval to earn a performance incentive on all programs except its Low Income Weatherization program. Petitioner also requests that its proposed performance incentive mechanism, which is based on the performance of the portfolio of programs measured in terms of its actual, independently verified, net energy and demand savings compared to projected net energy and demand savings, be effective for all eligible programs offered to customers during 2017-2019. Petitioner witness Ms. Dean testified that investments in capital assets like power plants provide a return on investment under the traditional business model, while investments in DSM drive down the need for those capital investments without providing a return.

Without a reasonable performance incentive, an electricity supplier has no means of replacing the opportunity to earn a return on supply-side investments.

Petitioner is proposing a cost-plus tiered-incentive structure based on energy saving achievements for the portfolio for each program year, as measured by EM&V. Further, the incentive is calculated at the portfolio level as a percentage of program costs incurred for incentive eligible programs, using the total energy savings achievement level for the portfolio of eligible programs. The below table includes Petitioner's proposed incentive structure.

Target Achievement	2017-2019 (Gross MWh at the Meter)	Pre-Tax Rate of Return	Pre-Tax Return on Costs
Greater than 110%	$\geq 601,059$	11.0%	\$11,471,797
100-110%	$\geq 546,417$	10.5%	\$10,950,352
90-100%	$\geq 491,776$	9.5%	\$9,907,461
80-90%	$\geq 437,134$	8.5%	\$8,864,570
Less than 80%	$< 437,134$	0.0%	\$0.0

Both the OUCC and Intervenors raise several objections to Petitioner's proposed recovery of performance incentives. The OUCC argues that any performance incentive should be calculated at the program, and not the portfolio level and that any financial incentives should be subject to the overall 50% cap on the sum of program costs, lost revenues, and incentives of the UCT net benefits. The Industrial Group argues that performance incentives are not needed to level the playing field between demand-side and supply-side resources. The Industrial Group also argues that a performance incentive should include carrots and sticks in terms of rewarding and punishing a utility for its attainment/non-attainment of goals. Finally, the Industrial Group argues that performance incentives are not needed if lost revenue recovery is granted. CAC argued that performance incentive should be limited to 5 to 10% of the UCT benefit and only awarded if lost revenues recovery is limited to three years. CAC suggested that the Commission move Duke to a shared net benefit performance incentive that is calculated using the net present value of UCT benefits, and is tier based on energy savings performance like what was approved in Cause No. 44645 for Vectren.

Both Section 10(o)(1) and the DSM Rules at 170 IAC 4-8-7 authorize the Commission to approve reasonable performance incentives to encourage the implementation of DSM programs to address the regulatory or financial bias against such programs. None of the reasons articulated by the OUCC or Intervenors convinces us that Petitioner is not entitled to reasonable financial incentives for pursuing DSM programs that the Commission has determined are reasonable and cost-effective. Petitioner has sufficiently demonstrated that its Plan and proposed DSM programs are reasonable and that its EE goals are consistent with its 2015 IRP and designed to achieve an optimal balance of energy resources in its service territory. Further, Section 10(o) mandates the Commission authorize reasonable financial incentives when it approves an EE Plan as reasonable.

In rebuttal, Petitioner stated that it was amenable to a performance incentive similar to that approved for Vectren in Cause No. 44645. We agree that the performance incentive approved for Vectren in Cause No. 44645 provides a better framework for performance incentives in the State. Specifically, we agree with Dr. Stanton that it is preferable for performance incentives to be tied

to both tiered levels of energy savings achieved and the net present value of the net benefits of the UCT. By using this type of structure, the utility is encouraged to minimize program costs while striving to achieve as much cost-effective energy efficiency as reasonably possible. Therefore, we find that Petitioner is authorized to recover performance incentives for each of its programs, as follows:

<b>Performance Incentives</b>	
Achievement Level (kWh)	Incentive Level (NPV of net benefits of UCT)
110 %	10 %
100-109.99 %	8 %
90-99.99 %	7 %
80-89.99 %	6 %
75-79.99 %	5 %
0-74.99 %	0 %

9. **Petitioner's IRP.** The Plan's consistency with Petitioner's IRP and underlying resource assessment was discussed above.

C. **Program Cost Recovery.** Petitioner requests that it be authorized to recover program costs through its approved DSM Rider. Section 10 provides that once an electricity supplier's EE plan is approved, the Commission shall allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism. Section 10(k)(2). The DSM Rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5. Having found Petitioner's Plan to be reasonable in its entirety, we therefore find that Petitioner shall be authorized to recover its associated program costs.

D. **Oversight and Stakeholder Input.** Petitioner requests that its OSB have authority to approve new programs without seeking additional approval from the Commission if those program budgets are within the 10% spending cap previously approved for existing programs' approved budgets. The Industrial Group opposed this request as there is no statutory basis for such authority. Petitioner counters that other utilities have this authority and that it would increase OSB participation and remove barriers to launching new EE programs. No other party objected to this request. We agree that this authority is useful to permit more programs to enter the marketplace once evaluated by the OSB and therefore approve this request.

E. **Update to Rider No. 66-A.** Ms. Dean testified that upon Commission approval, Petitioner is proposing to update its Standard Contract Rider No. 66-A, Seventh Revised Sheet No. 66-A, Pages 1 through 15 (Petitioner's Exhibit 5-C, Pages 1 through 15) subject to Petitioner's filing of the updated Rider 66-A Tariff sheet with the Commission's Energy Division and begin billing the rates effective with the Commission's Order in this proceeding. Petitioner's proposed update to Rider No. 66-A is approved.

F. **Program Scorecard.** After further review of the information that has been provided in the past, we find that additional information is necessary to provide the Commission

and other interested parties a better understanding of the savings being achieved. Accordingly, the following quarterly reporting requirements shall be effective immediately upon Commission approval of this Order. A scorecard containing the required reporting information shall be submitted on a quarterly basis (i.e., April 30, July 30, October 30, and January 30) with the fourth quarter scorecard also including the information for the full year. Petitioner's first scorecard should be filed on January 30, 2018. Scorecards shall be filed in Petitioner's DSM tracker proceedings. If a DSM tracker is not pending before the Commission, then the scorecard shall be filed in Petitioner's most recently concluded DSM tracker case.

Quarterly scorecards shall provide for each program gross MWh savings at the meter and gross MW savings at the meter. The savings to be reported are to include: ex ante savings, audited savings, verified savings, ex post gross, and net energy savings as these numbers become available. Minimally, this will require Petitioner to provide information from the year in which the quarterly reporting occurs as well as the previous year so that net energy savings information can be captured. The actual savings as a percent of the annual goal shall also be presented. The savings shall be compared to the Commission-approved amount of savings for the program as well as an updated goal, if applicable, to reflect program adjustments authorized by the OSB consistent with Commission-approved budget flexibility. It should be noted if the savings goal is not what the Commission originally approved and the change shall be explained.

To provide clarity and ensure receipt of consistent DSM information across utilities, Petitioner shall use the following definitions for each type of savings: (a) ex ante savings - energy savings from program tracking system, as reported by the third-party administrator or the utility; (b) audited savings - ex ante savings after deemed calculations and project/measure counts have been confirmed by the evaluation administrator; (c) verified savings - savings estimated following confirmation of the installation and use of a sample of a project/measure installations; (d) ex post gross - evaluated savings resulting from the installation and use of all program-incented or provided technologies; and (e) net energy savings - evaluated savings resulting from the installation and use of incented or provided technologies directly attributable to the program.

Information presented in the scorecard shall also include the amount of: customer incentives by program, direct program expenditures by program, total expenditures by program, indirect program expenditures, and EM&V expenditures. Direct costs include vendor implementation costs and program-specific administrative costs incurred by the utility. Indirect costs are those costs not tied directly to a single program, but rather to multiple programs or an entire portfolio. Customer incentives and EM&V expenditures are not to be included in either the direct or indirect program expenditure data; each is to be presented separately. Actual expenditures for each cost type as a percent of the total annual budget should also be presented. Actual expenditures shall be compared to the Commission-approved budget for the program as well as an updated budget, if applicable, to reflect program adjustments authorized by the OSB consistent with Commission approved budget flexibility. It should be noted if the budgeted amount is not what the Commission originally approved and the change shall be explained.

The scorecards for the portfolio shall also separately identify lost revenues and shared savings corresponding to ex ante savings, audited savings, verified savings, ex post gross, and net energy savings as these numbers become available. Minimally, this will require Petitioner to

provide information from the year in which the quarterly reporting occurs as well as the previous year so that net energy savings information can be captured.

6. **Confidential Information.** Petitioner filed a Motion for Protection of Confidential and Proprietary Information, which was supported by Affidavits, showing Exhibits and Workpapers filed in this proceeding were trade secret information within the scope of Ind. Code § 5-14-3-4(a)(4) and Ind. Code § 24-2-3-2. The Presiding Officers made rulings from the bench finding such information confidential on a preliminary basis after which such information was entered into evidence under seal. Accordingly, we find that all such information should continue to be held confidential pursuant to Ind. Code § 5-14-3-4(a) (4) and Ind. Code § 24-2-3-2.

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. Petitioner's 2017-2019 Plan is approved as set forth in this Order.
2. Petitioner's request for timely recovery of all costs, including program costs, lost revenues, and financial incentives associated with Petitioner's portfolio of programs offered to customers during 2017-2019, through its Rider 66-A is approved consistent with the terms of this Order.
3. Petitioner's request for continued authority to use deferred accounting on an ongoing basis until such costs are reflected in retail rates through its Rider EE is approved.
4. Petitioner's reconciliation of the costs incurred, including lost revenues, for programs for 2015, with amounts actually collected from customers from Rider EE billings is hereby approved.
5. Petitioner's updated reconciliation of lost revenues for 2012, 2013 and 2014 is hereby approved.
6. Petitioner's proposed update to Rider 66-A, including the billing factors contained in this Order, is approved, consistent with the Commission's determinations.
7. Petitioner's request to make changes to its OSB as discussed herein is approved.
8. Petitioner will file its Program Scorecards after each quarterly in-person OSB meeting.
9. Petitioner will continue to file its EM&V reports as required in Cause No. 43955 DSM-2.
10. The material submitted to the Commission under seal shall be and hereby is declared to contain trade secret information as defined in Ind. Code § 24-2-3-2 and therefore is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

11. This Order shall be effective on and after the date of its approval.

**ATTERHOLT, FREEMAN, HUSTON, WEBER, AND ZIEGNER CONCUR:**

**APPROVED:**

DEC 28 2017

**I hereby certify that the above is true  
and correct copy of the Order as approved.**

  
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**Mary M. Becerra**  
**Secretary of the Commission**