FILED
July 2, 2019
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC PURSUANT TO IND. CODE §§ 8-1-2-42.7 AND 8-1-2-61, FOR (1) AUTHORITY TO MODIFY ITS RATES AND CHARGES FOR ELECTRIC UTILITY SERVICE THROUGH A STEP-IN OF NEW RATES AND CHARGES USING A FORECASTED TEST PERIOD; (2) APPROVAL OF NEW SCHEDULES OF RATES AND CHARGES, GENERAL RULES AND REGULATIONS, AND RIDERS; (3) APPROVAL OF A FEDERAL MANDATE CERTIFICATE UNDER IND. CODE § 8-1-8.4-1; (4) APPROVAL OF REVISED ELECTRIC DEPRECIATION RATES APPLICABLE TO ITS ELECTRIC PLANT IN SERVICE; (5) APPROVAL OF NECESSARY AND APPROPRIATE ACCOUNTING DEFERRAL RELIEF; AND (6) APPROVAL OF A REVENUE DECOUPLING MECHANISM FOR CERTAIN CUSTOMER CLASSES	)	**CAUSE NO. 45253**

VERIFIED DIRECT TESTIMONY
OF
JOHN R. PANIZZA

On Behalf of Petitioner,
DUKE ENERGY INDIANA, LLC

Petitioner's Exhibit 17

July 2, 2019

DIRECT TESTIMONY OF JOHN R. PANIZZA
DIRECTOR TAX OPERATIONS
DUKE ENERGY BUSINESS SERVICES LLC
ON BEHALF OF DUKE ENERGY INDIANA, LLC
BEFORE THE INDIANA UTILITY REGULATORY COMMISSION

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is John R. Panizza and my business address is 550 South Tryon Street, Charlotte, North Carolina.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed as Director, Tax Operations, by Duke Energy Business Services LLC, a service company subsidiary of Duke Energy Corporation ("Duke Energy"), and a non-utility affiliate of Duke Energy Indiana, LLC ("Duke Energy Indiana" or "Company").

Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS DIRECTOR, TAX OPERATIONS.

A. As Director, Tax Operations, I have overall responsibility for corporate tax compliance and accounting for Duke Energy. The Duke Energy Tax Operations Department is responsible for all federal, state, and local income tax returns for Duke Energy, including various joint ventures if Duke Energy is the designated tax matters partner.

The tax department is responsible for maintaining and reconciling Duke Energy's tax accounts and for the reporting and disclosure of tax-related matters, to the extent required.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I have a Bachelor of Science degree in Accounting from Montclair State University and a Master's in Taxation from Seton Hall University. I am a Certified Public Accountant in the state of New Jersey. My professional work experience began in 1989 as an auditor with KPMG. From 1993 to 2002, I held a number of financial positions primarily at two companies, in telecommunications and automotive (AT&T Corp., and Collins & Aikman Inc.). In 2002, I joined Duke Energy and have held a number of financial positions of increasing responsibilities, including various accounting and tax related positions. In March 2018, after a three-year rotation primarily in Corporate Accounting, I moved back into the role of Director, Tax Operations, a position that I had previously held.

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. My testimony addresses Duke Energy Indiana's income tax expense presented in this filing and certain other tax matters. I discuss the following tax issues relevant to this proceeding:

- Federal and state income tax expense
- The Tax Sharing Agreement;
- Investment tax credits;
- Property taxes;
- Utility receipts tax; and

- How the terms of the Settlement Agreement approved in Cause No. 45032 S-2, the 2017 Tax Cuts and Jobs Act ("TCJA") proceeding, flow through this proceeding.

Q. WHAT TAX INFORMATION DID YOU PROVIDE TO OTHER WITNESSES?

A. I provided tax information to Duke Energy Indiana witness Mr. Chris Jacobi for the forecasted test year. I also provided various tax information to Company witness Ms. Diana Douglas for her use in computing adjusted Test Period income tax expense, including the statutory federal and state income tax rates for Duke Energy Indiana that are expected to be in effect during the Test Period. I provided these same statutory federal and state income tax rates to Company witness Ms. Christa L. Graft for her use in calculating the gross revenue conversion factor.

II. FEDERAL AND STATE INCOME TAX EXPENSE

Q. PLEASE EXPLAIN UNDER WHAT BASIC PREMISE THE INCOME TAX CALCULATIONS WERE MADE?

A. The income tax calculations were made under the provisions of the Internal Revenue Code ("IRC") of 1986, as amended, including for the impacts of the TCJA, which reduced federal income taxes effective January 1, 2018, and the Indiana Administrative Code.

Q. WHAT TAX RATE DID THE COMPANY USE TO CALCULATE ITS BASE AND TEST PERIOD FEDERAL INCOME TAX EXPENSES?

A. The Company used the statutory federal corporate income tax rate of 21% for both the base period and forecasted period.

Q. WHAT TAX RATE DID THE COMPANY USE TO CALCULATE ITS BASE AND TEST PERIOD STATE INCOME TAX EXPENSE?

A. The Company used the composite statutory Indiana corporate income tax rate of 5.88% for current tax and 4.9% for deferred tax for the base period. The Company used the composite statutory Indiana corporate income tax rate of 5.375% for current tax and 4.9% for deferred tax for the forecast period, 2020. The Indiana corporate tax rate is being reduced each year until it reaches 4.9% in 2022.

Q. WHAT IS THE COMBINED FEDERAL AND STATE STATUTORY INCOME TAX RATE APPLICABLE DURING THE TEST PERIOD?

A. The combined statutory federal and state statutory income tax rate for Duke Energy Indiana that was in effect during the base period is 25.6452% and that is expected to be in effect for the forecasted period is 25.2502%. This rate includes the corporate statutory federal income tax rate of 21% and the composite statutory Indiana corporate income tax rate of 5.88% for the base period and 5.38% for the forecast period. State income taxes are deductible in computing the federal tax liability and this deduction is considered in computing the overall effective tax liability.

Q. DOES THE PROJECTED TEST YEAR TAKE INTO ACCOUNT ACCELERATED DEPRECIATION AND THE EXTENSION OF BONUS

TAX DEPRECIATION AS A RESULT OF THE PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015?

A. Yes. Utilities are directed to use MACRS (modified accelerated cost recovery system) depreciation for capital investment placed in service. Though no longer accompanied by "bonus" depreciation on property acquired after September 27, 2017, MACRS still represents a significantly accelerated rate of depreciation compared to the straight-line method that is used for book depreciation. As a result, deferred taxes will continue to accrue under MACRS, but will do so at a slower rate compared to bonus depreciation.

With respect to property acquired before September 28, 2017, the tax depreciation calculations incorporate (i) 50% bonus for qualified property placed in service before 2018, (ii) 50% bonus for "longer production period property" (as described in IRC Section 168(k)(2)(B)) placed in service in 2018, and (iii) 40% bonus for other qualified property (*i.e.*, qualified property other than "longer production period property") placed in service in 2018.

Q. DOES THE STATE OF INDIANA CONFORM TO THE FEDERAL BONUS DEPRECIATION RULES?

A. No, Indiana decouples from the Federal Bonus Depreciation rules. Indiana requires that the taxpayer compute state depreciation as if Federal bonus had not been allowed.

Q. PLEASE EXPLAIN WHAT THE IRC'S NORMALIZATION RULES ARE, WHAT METHOD DUKE ENERGY INDIANA IS COMMITTED TO, AND

HOW IT AFFECTS THE RATEMAKING THAT CAN BE USED BY THE COMPANY?

A. "Normalization," or "interperiod income tax allocation" as it is sometimes referred to, is a method of allocating income tax effects, both positive and negative, to the period in which the item of revenue or expense giving rise to such income tax effects is incurred and reflected in cost of service. Provisions of income tax law, and related income tax regulations, can result in timing differences between the recognition of income and expense items in determining a utility's taxable income and the inclusion of such items in cost of service for accounting and ratemaking purposes. Accelerated tax depreciation is a common example. When a timing difference arises from the recognition of an expense item currently for tax purposes, as compared to the recognition of such item over time for accounting and ratemaking purposes (*e.g.*, the excess of accelerated tax depreciation utilized for tax purposes over straight-line depreciation utilized for accounting and ratemaking purposes), the tax effect of such timing difference is accounted for under the normalization method by charging deferred income tax expense and crediting accumulated deferred income taxes. As a result, the related federal and state income taxes payable in future periods (when the timing difference reverses and the recognition of such expense for accounting and ratemaking purposes exceeds the deduction for tax purposes) are charged to the accumulated deferred income tax account rather than to customers (*i.e.*, cost of service). Under normalization, income tax effects are properly matched to the item of revenue or expense giving rise to such tax effects. The income tax effect of each item of revenue or expense is included in cost of service in the same period such revenue or expense is included in cost of service. Normalization assures that, as an item is included in cost of service, so too is the income tax effect of that item. This Commission has historically followed the practice of normalization with respect to Duke Energy Indiana. Moreover, Sections 167 and 168 of the Internal Revenue Code ("Code"), and 13001(d) of the Tax Cuts and Jobs Act, generally provide that a utility cannot use accelerated tax depreciation if the normalization method is not utilized for ratemaking purposes.

Q. WHAT LEVEL OF INCOME TAX EXPENSE SHOULD BE UTILIZED IN ESTABLISHING RATES FOR DUKE ENERGY INDIANA?

A. The level of income tax expense charged to utility operations (after reflecting *pro forma* adjustments) is most appropriate because it reflects the income tax effects of all items affecting operating income. Income tax expense should follow cost responsibility. If an item is included in cost of service and recovered from customers, the income tax effects associated with that item should be included in cost of service.

Q. DID YOU PROVIDE THE TAX GUIDANCE AND RATES APPLICABLE TO DUKE ENERGY INDIANA TO COMPANY WITNESS MS. DIANA DOUGLAS FOR USE IN CALCULATING ADJUSTED TEST PERIOD INCOME TAXES?

A. Yes. I provided this information to Ms. Diana Douglas for use in calculating the revenue requirement. I also provided her with the amount of income tax expense for the base period and the forecasted test period.

III. TAX SHARING AGREEMENT

Q. DOES DUKE ENERGY INDIANA FILE AS PART OF A CONSOLIDATED FEDERAL INCOME TAX RETURN?

A. Yes. Duke Energy, as the parent company, files a consolidated income tax return for all corporate entities in the Duke Energy family, including Duke Energy Indiana.

Q. WHAT DOCUMENT GOVERNS THIS TAX ARRANGEMENT?

A. Duke Energy Corp. and its subsidiaries participate in a Tax Sharing Agreement, which was most recently approved by the Commission in Cause No. 42873. This Agreement provides for filing of consolidated income tax returns and for allocation of consolidated income tax liabilities and benefits, effective for consolidated tax year 2006 and following. This agreement has been amended over time to reflect the various entities that have become subsidiaries with subsequent mergers.

Q. HOW IS DUKE ENERGY INDIANA'S PORTION OF TAX LIABILITY DETERMINED?

A. Income taxes recorded for Duke Energy Indiana represent amounts that it would incur as a separate stand-alone company. This is also the basis for computing the income taxes for this filing, except as it relates to a regulatory adjustment discussed in the testimony of Company witness Ms. Douglas related to a deduction for parent interest.

IV. INVESTMENT TAX CREDITS

Q. DOES DUKE ENERGY INDIANA HAVE ANY INVESTMENT TAX CREDITS?

A. Yes, the Company has recent investment tax credits associated with the Edwardsport IGCC Plant (IRC Section 48A Qualifying Advance Coal Project Credit) and the Crane Solar Facility (IRC Section 48 Energy Credit). It also expects to qualify for credits associated with the Markland Hydropower Plant (IRC Section 48 Energy Credit) upon the completion of the Markland Uprate Project. The Company also has a small amount of pre-Tax Reform Act of 1986 investment tax credits that continue to benefit customers.

Q. HOW ARE THESE CREDITS ACCOUNTED FOR IN THE BASE AND TEST YEARS?

A. As Duke Energy Corporation is in a net operating loss position, it cannot currently claim these recent tax credits. Therefore, the investment tax credits do not impact the base and test year income tax expense or revenue requirements in this proceeding. Under the IRC normalization rules, I discussed previously, the Company is prohibited from passing back these credits to customers until we can utilize them on the federal income tax return. Our current forecast reflects full usage of these credits during tax years 2022 and 2023, but this will depend on actual taxable income of the Consolidated Duke Corporation tax entity. As explained in detail by Duke Energy Indiana witnesses Ms. Diana Douglas and Ms. Suzanne Sieferman, the Company has tracking mechanisms in place to ensure that customers receive the full benefit of these tax incentives when the Company is able to utilize them.

Q. DID YOU PROVIDE INFORMATION REGARDING DUKE ENERGY INDIANA'S TAX CREDITS TO MS. DIANA DOUGLAS FOR INCLUSION IN HER RATES AND SCHEDULES?

A. Yes. See her exhibit, Petitioner's Exhibit 4-H (DLD), Schedule TX7 and Petitioner's Exhibit 4-G (DLD), Schedule CS1.

V. PROPERTY TAX EXPENSE

Q. HOW DID DUKE ENERGY INDIANA CALCULATE THE PROPERTY TAX EXPENSE FOR THE BASE AND FORECASTED TEST PERIODS?

A. We calculated the property tax expense for the base period based on the assessed value of Duke Energy Indiana's property located in Indiana, Ohio and North Carolina with forecast adjustments for anticipated property tax rate increases, additions including property transfers, retirements and additional depreciation. The testimony of Ms. Douglas explains the calculation of the *pro forma* adjusted property tax expense for the forecasted Test Period.

Q. PLEASE EXPLAIN WHY YOU ARE INCLUDING OHIO PROPERTY TAX.

A. In Cause No. 42544 (approved December 19, 2002), the Commission approved the purchase of the Madison Generating Station, located in Butler Co., Ohio by

PSI Energy (a predecessor to Duke Energy Indiana). Since that time, Duke Energy Indiana has paid Ohio property taxes on this station. Ohio property taxes were also included in the Company's last base rate proceeding.

Q. PLEASE EXPLAIN WHY YOU ARE INCLUDING NORTH CAROLINA PROPERTY TAX.

A. Duke Energy Indiana pays property tax in North Carolina because there is computer hardware and software located in Mecklenburg County, North Carolina (Charlotte) that they own (on Duke Energy Indiana Books and Records). These assets are related to the Customer Information System. Each Duke Energy regulated entity owns a portion of this system.

VI. UTILITY RECEIPTS TAX

Q. IS THE COMPANY'S PROPOSAL TO INCLUDE UTILITY RECEIPTS TAX ("URT") ON THE CUSTOMERS BILL INSTEAD OF IN THE COST OF SERVICE STUDY CONSISTENT WITH INDIANA TAX CODE?

A. Yes. The Company is subject to a 1.4% URT on all receipts, except sales for resale and sales to federal government agencies. Company witness Ms. Graft explains the Company's proposal to separately state URT as a line item on customer bills. This proposal comports with IND. Code 6-2.3-3-4 (a), which outlines the requirements for URT as follows:

(a) Gross receipts do not include collections by a taxpayer of a tax, fee, or surcharge imposed by a state, a political subdivision, or the United States if:

(1) the tax, fee, or surcharge is imposed solely on the sale at retail of utility services;

(2) the tax, fee, or surcharge is remitted to the appropriate taxing authority; and

(3) the taxpayer collects the tax, fee or surcharge separately as an addition to the price of the utility service sold.

The Company meets requirements 1 and 2 currently. If the Commission allows Duke Energy Indiana to separately state the URT on customer bills, the Company will also meet requirement 3.

VII. TCJA SETTLEMENT REQUIREMENTS

Q. PLEASE SUMMARIZE THE SETTLEMENT AGREEMENT APPROVED IN CAUSE NO. 45032 S-2.

A. The Settlement Agreement, as approved by the Commission on August 22, 2018, provided for the return of protected excess accumulated deferred income taxes ("EDIT") to be refunded to customers commencing January 1, 2020, and amortized using the average rate assumption method ("ARAM") required by the IRS. The amortization amounts associated with 2018 and 2019 were to be deferred as a regulatory liability to be addressed in this rate case. The testimony of Company witness Ms. Douglas will address the Company's proposal for providing credits to customers for the deferred amounts.

The excess unprotected EDIT will be amortized and refunded to customers over a 10-year period. For the first five years, the amortization amount will be $7 million annually; for the last five years, the amortization will step up to $35 million annually. The amortization of the unprotected EDIT began in September

2018 and customers began getting a credit in the Company's Rider 67, as discussed in the Direct Testimony of Company witness Ms. Douglas.

The Settlement Agreement further provided for Duke Energy Indiana to offset its regulatory liability associated with the over-collection of federal income tax through base rates with approximately $36 million of the Company's regulatory assets that were accruing carrying costs at the time.[1] Any remainder between the regulatory liability associated with the over-collection of federal income tax through base rates and the regulatory assets identified above was to be deferred, without carrying costs, until the Company's next general base rate case.

Q. HAS DUKE ENERGY INDIANA INCORPORATED THE IMPACTS OF THE SETTLEMENT AGREEMENT IN THIS PROCEEDING?

A. Yes. The amortization amounts associated with protected and unprotected EDIT will continue to be refunded to customers through Rider 67 and those amounts have been removed from base rates by *pro forma*, as explained by Ms. Douglas. The Company performed the regulatory asset/liability netting and is including the remainder in with the regulatory assets included in this case.

[1] Mr. Brian Davey's testimony in Cause No. 45032 S-2 stated that these regulatory assets included IGCC Carbon Capture Study for $26.3 million, and NOx AFUDC Continuation Environmental Plant – Retail After Rate Case Cut-off, for 9.8 million.

VIII. CONCLUSION

Q. HAVE YOU REVIEWED THE INCOME TAX CALCULATION INCLUDING THE EFFECTIVE INCOME TAX RATES AND TAXES OTHER THAN INCOME TAX AMOUNTS PRESENTED IN THE REVENUE REQUIREMENT EXHIBITS PREPARED BY MS. DOUGLAS?

A. Yes.

Q. DID YOU FIND THIS INFORMATION TO BE REASONABLE AND ACCURATE?

A. Yes.

Q. DOES THIS CONCLUDE YOUR PREFILED DIRECT TESTIMONY AT THIS TIME?

A. Yes, it does.

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: John R. Panizza
John R. Panizza

Dated: 7/2/2019