Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION OF INDIANA MICHIGAN POWER COMPANY FOR APPROVAL OF MODIFICATIONS TO ITS INDUSTRIAL POWER TARIFF – TARIFF I.P.	)))))	**CAUSE NO. 46097** **APPROVED: FEB 19 2025**

ORDER OF THE COMMISSION

Presiding Officers:
Wesley R. Bennett, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On July 19, 2024, Indiana Michigan Power Company ("I&M" or "Petitioner") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of certain modifications to I&M's Industrial Power Tariff – Tariff I.P. Also on July 19, 2024, I&M filed its prepared testimony and attachments, as well as supporting work papers, of Andrew J. Williamson, I&M Director of Regulatory Services.

On July 29, 2024, Citizens Action Coalition of Indiana, Inc. ("CAC") filed a Petition to Intervene, which was granted by docket entry dated August 6, 2024.

On August 8, 2024, Amazon Data Services, Inc. ("Amazon") filed a Petition to Intervene, which was granted by docket entry dated August 16, 2024.

The Commission held a Technical Conference at 10:00 a.m. on August 22, 2024, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana.

On September 11, 2024, the Data Center Coalition ("DCC") filed a Petition to Intervene and on September 12, 2024, Google, LLC ("Google") filed petitions to intervene. The petitions were granted by docket entries dated September 19 and 20, 2024, respectively. On September 24, 2024, Microsoft Corporation ("Microsoft") filed a petition to intervene, which was granted by docket entry dated October 2, 2024.

On October 15, 2024, the Indiana Office of Utility Consumer Counselor ("OUCC") filed the prepared testimony and attachments of OUCC Analysts Patrick A. Kelley and Derek J. Leader. Also on October 15, 2024, CAC filed the direct testimony and attachment of CAC Program Director, Benjamin Inskeep; Google filed the prepared testimony and attachments of Justin B. Farr, Director in the firm of Energy Strategies, LLC; Amazon filed the prepared testimony and attachments of Carolyn A. Berry, Ph.D., a Principal in the Energy Practice at Bates White Economic Consulting, David G. Loomis, Professor Emeritus of Economics at Illinois State University, former Executive Director of the Institute for Regulatory Policy Studies, and President of Strategic Economic Research, LLC, and Michael Fradette, Principal, Energy Strategy by Amazon Web Services, Inc. ("AWS"); and DCC filed the prepared testimony and attachment of

Kevin C. Higgins, Principal in the firm of Energy Strategies, LLC. Microsoft filed a notice of intent not to file direct testimony.

On November 1, 2024, Google, Amazon, DCC and OUCC filed a partially opposed joint motion for leave to file cross answering testimony and CAC filed its opposition on the same day. The joint motion was denied by a docket entry dated November 4, 2024.

On November 4, 2024, I&M filed the prepared rebuttal testimony, attachments and work papers of Mr. Williamson, Steven F. Baker, I&M President and Chief Operating Officer, and Alex E. Vaughan, Managing Director – Regulated Pricing Generation & Fuel Strategy for American Electric Power Service Corporation.

On November 14, 2024, the Commission issued a docket entry requesting additional information from I&M, to which I&M responded on November 15, 2024.

The Commission conducted a hearing in this Cause on November 18, 2024, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M, the OUCC, CAC, Google, Amazon, DCC, and Microsoft participated in the evidentiary hearing, by counsel. At the hearing, the parties reached an agreement on a modified procedural schedule to allow the parties additional time to work towards potential settlement of the issues pending in this Cause, and the hearing was continued until December 20, 2024.

On November 22, 2024, I&M, on behalf of itself, the OUCC, and all intervenors (collectively, the "Settling Parties"), filed a Submission of Unopposed Settlement Agreement and Unopposed Motion for Acceptance of Out of Time Filing along with the Settling Parties' Stipulation and Settlement Agreement ("Settlement Agreement"). The Motion was granted by a docket entry dated December 2, 2024.

On December 4, 2024, the Settling Parties filed testimony in support of the Settlement Agreement by the following witnesses: Mr. Williamson, Michael D. Eckert, Chief Technical Advisor in the OUCC's Electric Division, Mr. Inskeep, Mr. Farr, Mr. Fradette, Mr. Loomis, and Dr. Berry.

The Commission conducted an evidentiary hearing on December 20, 2024, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M, the OUCC, CAC, Google, Amazon, DCC, and Microsoft participated in the evidentiary hearing, by counsel. At the hearing, the Settlement Agreement and the Settling Parties' respective prefiled direct, rebuttal, and settlement evidence was admitted without objection.

The Commission, based upon the applicable law and the evidence of record, now finds as follows:

1. <u>Jurisdiction and Notice</u>. Notice of the hearing in this Cause was given and published by the Commission as required by law. I&M is a "public utility" within the meaning of Ind. Code § 8-1-2-1. Pursuant to Ind. Code § 8-1-2-42, the Commission has jurisdiction over a public utility's rates and charges. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

2. **<u>Petitioner's Characteristics and Businesses</u>.** I&M is a corporation organized and existing under the laws of the State of Indiana, with its principal office located at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the states of Indiana and Michigan. I&M owns and operates plants and equipment within the states of Indiana and Michigan that are in service and used and useful in the generation, transmission, distribution, and furnishing of such service to the public. I&M supplies electric service to approximately 482,000 retail customers in Indiana. I&M is a wholly owned subsidiary the American Electric Power Company, Inc. ("AEP").

3. **<u>Relief Requested</u>.** I&M requests approval to update its Industrial Power Tariff – Tariff I.P. to incorporate certain terms to accommodate large load customers. As originally proposed by I&M, these modifications, also referred to as "Large Load Terms" in this filing, include: (1) applicability to customers with a contract demand in excess of 150 megawatts ("MW"), or reasonably expected to exceed 150 MW at one or more aggregated premises; (2) a contract term for an initial period of 20 years and provisions to address assignment of rights or delegations of obligations under the contract; (3) a Contract Termination Fee that would only apply should there be a permanent closure during the contract term; (4) provisions that allow a customer to reduce its contract capacity by up to 20% during the contract term; (5) a 90% monthly minimum billing demand; and (6) an increased minimum amount of collateral to be provided by the customer.

I&M now requests approval of the Settlement Agreement, which resolves all issues in this Cause.

4. **<u>I&M's Direct Evidence</u>.** Mr. Williamson presented the modified Tariff I.P. and explained the modified tariff is needed to address large load customers whose contract capacity exceeds 150 MW or is reasonably expected to grow to exceed 150 MW at one or more aggregated premises. Mr. Williamson detailed the proposed revisions to Tariff I.P., noting that the large load customers served under these new provisions will be charged for service at the same rates as other customers under Tariff I.P.

Mr. Williamson explained Petitioner is proposing to make these enhancements now because the electric utility industry is in the midst of a transformation, both in terms of customer makeup and changes occurring within the generation resources serving customers. He said the electric industry has seen increased activity and interest among large load customers over the past few years, which is occurring at the same time that utilities, including I&M, are transitioning their fleets to replace retiring generation resources. Mr. Williamson testified that in recent months, significant hyper-scaler business investments have been announced in I&M's retail service territory, which are expected to begin taking service in 2024 and 2025. He stated that once fully operational, these new customers will significantly increase I&M's Indiana retail load and require I&M to make significant transmission and generation infrastructure investments and other long-term financial commitments to provide service.

Mr. Williamson testified that the magnitude of demand for electricity associated with these customers is unprecedented and unlike any previous load additions I&M has experienced to date. He testified that as the state of Indiana continues to pursue these types of technology investments and with multiple large load customers expected to begin taking electric service from I&M in the

next year, now is the time to establish a consistent set of reasonable terms and conditions for large load customers taking service under Tariff I.P. He said the proposed tariff modifications ensure that I&M has reasonable terms and conditions of service in place that recognize and address the different needs and unique risks that large load customers present from I&M's other Tariff I.P. customers.

Mr. Williamson stated that the new large load additions are expected to increase I&M's current Indiana peak load of approximately 2,800 MW to more than 7,000 MW by approximately 2030. He said these customers operate in similar business sectors, expect to operate at very high load factors, and represent a significant change in the customer concentration risk associated with I&M's business going forward. He noted that a single 150 MW customer is equivalent to approximately 100,000 residential customers, which is approximately one fourth of I&M's Indiana residential customer base today or the entire population of Marion and Muncie, Indiana combined.

Mr. Williamson said the proposed Tariff I.P. refinements are necessary to memorialize a reciprocal commitment from large load customers that reasonably recognizes and aligns with the financial commitments that will be required by I&M to provide these customers with the level of safe, reliable, and adequate service they need to operate their energy-intensive businesses. He testified that the proposed tariff modifications will provide new and existing customers and I&M with reasonable financial protection should future conditions arise that impact the operations of a customer's facility and reduce the level of electric demand or consumption or result in the facility ceasing operation. He said that while neither I&M nor customers are expecting these situations, how these situations will be managed if they were to occur must be clear. Mr. Williamson said the modified tariff provisions will better position I&M going forward to achieve the state of Indiana's five energy policy objectives ("Five Pillars").

Mr. Williamson also discussed why it is appropriate to update Tariff I.P. versus creating a new tariff to serve large load customers. He said Tariff I.P. is appropriate for these large load customers because, while the magnitude of the load is unprecedented, the load characteristics of these customers are not dissimilar to other customers currently served under Tariff I.P. He said I&M currently has a wide range of different customers on Tariff I.P. with different load characteristics, including high-load factor customers. He stated that adding the large load customers to an existing tariff allows for consistency among customers to meet basic service needs and provides for a more timely, efficient, and predictable process to establish service. Mr. Williamson testified that for customers with unique needs, such as demand response, I&M would address those specific situations through other tariffs, riders, or mechanisms, such as a special contract.

Mr. Williamson explained that setting a 150 MW minimum demand ensures that only large loads above this threshold will be subject to the provisions in recognition of the larger needs and risks that serving those customers will create. Mr. Williamson testified that at the time of filing his direct testimony, I&M did not have a single customer or a group of customers under a common parent taking service under Tariff I.P. over 150 MW. Mr. Williamson explained how I&M will assess a customer's aggregate load with respect to this term and condition of service.

Mr. Williamson explained the reason for I&M's proposal to require a 20-year contract term for large load customers. He testified that I&M proposes to include this term due to the significant long-term investments and other financial commitments (e.g. Purchase Power Agreements ("PPAs")), primarily in generation and transmission assets, that will be required to serve these customers as part of I&M's integrated system serving its Indiana retail customers. He said that because transmission and generation costs of the integrated system must be reflected in I&M's rates for service, it is important for I&M to have a reciprocal long-term commitment from large load customers to support making the necessary long-term investments and commitments. He said an initial contract of 20 years provides reasonable assurance that these large load customers will take service over a period that reasonably aligns with the cost of I&M's significant investments and financial commitments. He noted that I&M is also seeking a reasonable notice period if a party intends to discontinue service, and that permanent closure of a customer's operation is addressed separately.

Mr. Williamson explained I&M plans to serve its expanding customer load through a diversified portfolio of new and existing generation resources with varying asset lives or contract terms. He stated that this will include both short-term (e.g., five to 15 years) and long-term (e.g., 20 to 35 years) resources. He said this diversification strategy will allow I&M to manage risk exposure in the event of a future change in load requirements while also balancing that within Indiana's energy policy. He said the proposed contract term, when combined with the other proposed tariff modifications, provides a reasonable basis for I&M to manage the costs associated with a diversified resource portfolio that will be needed to meet growing generation needs. He added that since generation resource costs are generally recovered over their respective service lives, the proposed contract term is expected to reasonably align with the costs I&M will be incurring to provide service to these customers and provides consistent contract treatment for all large load customers.

As to the proposed assignment of rights or delegation of obligations provision, Mr. Williamson said I&M proposes to include this term to clearly provide large load customers with consistent terms regarding how a situation involving assignment or delegation of rights and obligations under their contract will be handled.

Regarding the proposed permanent closure and reduction to contract capacity provisions, Mr. Williamson testified the proposals provide reasonable safeguards to all other customers. He stated that in the event of a permanent closure, I&M is asking the customer to provide formal notice to I&M within three business days of making such a determination. He said this notice, along with the payment equal to five years of minimum billing, are needed to provide I&M as much time as possible and reasonable compensation to I&M to prudently manage its ongoing transmission and generation costs in the market and within the timelines of the PJM Interconnection LLC ("PJM") capacity planning process. Mr. Williamson added that I&M's proposal also allows for coordination if a large load customer's capacity need changes. He said this flexibility was included due to customer concerns over their ability to project their capacity needs over 20 years while still recognizing I&M's long-term commitments and planning horizons. He said guaranteeing customers the ability to reduce their contract capacity by up to 20%, or more by mutual agreement, provides reasonable flexibility while limiting the magnitude of risk to I&M and other customers. He said that, consistent with current practices, a customer can request an increase to its contract capacity in total or in a given year, which I&M will evaluate based on its

ability to serve the requested capacity amount. He said all requested increases in contract capacity are subject to mutual agreement.

Regarding I&M's proposed Contract Termination Fee, Mr. Williamson testified that I&M must make long-term investments and other financial commitments in generation and transmission to meet the needs of new large loads. He said I&M understands that circumstances can change for large load customers but if a significant change in circumstances were to occur, I&M needs sufficient time to manage its commitments within regulatory and market timelines. In establishing the Contract Termination Fee, Mr. Williamson said I&M considered and evaluated the risks by performing a sensitivity analysis related to the potential cost of the generation assets needed to serve the load and the potential market for such assets in the event of a significant change in circumstances. He said this sensitivity analysis evaluated varying time horizons from 20 years to five years.

Mr. Williamson presented an analysis in Figures AJW-1 and AJW-2 of Petitioner's Exhibit 1, demonstrating the potential net cost or benefit using a range of asset costs and market conditions compared to the proposed Contract Termination Fee equal to five years of the customers' minimum bill requirement. He stated that while it is not possible to precisely predict the average cost of the portfolio of future generation resources or the market conditions that would exist at the time a large load customer would permanently close its operations, these sensitivity analyses demonstrate the proposed Contract Termination Fee covers a range of risks. He said the Contract Termination fee strikes a reasonable balance by providing a reasonable and predictable amount.

Regarding the proposed monthly minimum billing demand provision, Mr. Williamson stated that I&M proposes to include this term primarily based on the magnitude and size of these large load customers and the fact that I&M will need to make long-term investments and other financial commitments for years into the future to have adequate power supply to meet the customers' requested capacity needs. He noted the existing Tariff I.P. provisions have a minimum billing demand that is 60% of contract capacity and said without a tariff modification, a drop in billing demand to 60% by just one large load customer could have significant negative financial consequences. Mr. Williamson explained that for a large load customer, the difference between a 60% and 90% minimum billing demand can be the revenue requirement associated with the cost of service of one or more power plants. His analysis included Figure AJW-4 of Petitioner's Exhibit 1, which shows the difference between a 60% and 90% minimum billing demand, on a yearly basis, is approximately $90 million, compared to the expected yearly bill of approximately $500 million.

Mr. Williamson also discussed the proposed collateral requirements, which I&M proposed to include because the size and concentration risk of large load customers is unlike other customers. He stated that if a large load customer was to unexpectedly exit I&M's service territory and/or system, there is potential for significant financial harm to I&M and its other customers. He presented Figure AJW-5 in Petitioner's Exhibit 1 to demonstrate how I&M's expected annual revenues would shift once the hyper-scaler loads are fully realized. He testified that with the number of current commitments and potential future interest from large load customers, less than a handful of customers will be the largest single sector for I&M, even greater than I&M's existing residential, commercial, and industrial customers combined. He said it is imperative that other customers and I&M are reasonably protected in the event the unexpected occurs with these large

load customers. He added that while no reasonable term can fully insulate I&M and its other customers, the proposed term reasonably increases current requirements and provides additional protection should a customer unexpectedly cease taking service and be unable to pay its remaining charges.

Mr. Williamson testified that except for the higher collateral requirements, the proposed tariff provisions would only have impact if something unexpected occurred—meaning, if the customer's business operates consistent with the load it is contracting for, the proposed tariff modifications will have no impact on these customers. He further testified that if the Commission approves the proposed enhancements to Tariff I.P., I&M and its customers will be better protected in the event a large load customer unexpectedly reduces its load or permanently closes its operations. He added that having a Commission approved tariff in place for large load customers provides clarity to all parties for how these types of customers will be served.

5. OUCC's Evidence. Mr. Kelley testified that the OUCC strongly supports economic development and recognizes the benefits of data center investment but said current utility ratepayers in all classes should be shielded from any stranded costs that may occur. Recognizing I&M's proposed tariff includes some safeguards for existing residential, commercial, and industrial customers, he said additional safeguards are needed. Mr. Kelley stated it is crucial that the principle of cost causation be applied to the data center loads and current I&M ratepayers should not subsidize utility investment to accommodate large load requirements.

Mr. Kelley reviewed the proposed tariff modifications, the prospective large load customers, and the announced capital investment in Indiana related to those customers. He said the projected demand of the smallest hyper-scaler projects I&M plans to serve will each exceed by a factor of more than ten times the demand of I&M's current largest single industrial customer.

Mr. Kelley testified that AWS' hyper-scaler project will be the largest customer to date in I&M's service territory. He said a decrease of 20% of AWS' anticipated energy use of 2,250 MW would reduce I&M's load by 450 MW and added that a loss of that amount would be roughly equivalent to powering 375,000 homes. Mr. Kelley expressed concern because that would be comparable to turning off the electrical demand to practically all Indianapolis residents with a reported 361,641 occupied households as of the 2020 U.S. Decennial Census.

Mr. Kelley acknowledged that I&M is not seeking approval of more generation resources as part of this case but indicated the demands of potential hyper-scaler customers are relevant to whether the proposed modifications to Tariff I.P. are sufficient to protect I&M's other captive ratepayers. He said hyper-scaler operations plan to run at full capacity 24 hours per day, seven days per week, and 365 days per year. He said unlike other industrial customers, an interruptible tariff is not an option for hyper-scalers, meaning I&M will have to always provide a high volume of energy.

As to local economic impacts, Mr. Kelley said the Indiana Data Center Tax Incentive offers tax exemptions on energy and equipment for new data centers built in Indiana for up to 50 years. He said this was the longest exemption period in any state when it was passed and noted that electricity purchases for these facilities are also exempt from state sales tax. Mr. Kelley also reviewed news stories highlighting the benefits the Amazon projects will be providing to the local

community. He said the publicized investments will not help I&M or I&M's ratepayers because they do not reduce the large power demand, power demand variability, or early termination risks.

Mr. Kelley concluded that existing utility customers need to be protected in the event a hyper-scaler terminates an electric service contract early, especially if the utility has invested vast resources to specifically meet the projected demands. He said the massive demands of hyper-scalers will inevitably require new electric power generation and transmission but the construction and financing costs for these assets—and retirement costs if applicable—should be directed to these large load customers as the cost-causers. He said consistent with the "user pays" paradigm, the large load customers must also be accountable for increased maintenance costs due to additional pressures on transmission systems.

Mr. Leader addressed I&M's proposed tariff modifications, noting that the modifications would provide some protection to I&M's current residential, commercial, and industrial customers. However, he recommended the Commission take all steps necessary to mitigate the imposition of stranded costs and load reductions, if they occur, on other ratepayers.

Mr. Leader described what a hyper-scaler is, discussed the Five Pillars and presented the OUCC's concerns about affordability. He said I&M's potential investment to meet the demand of these large load customers raises concerns because of the stranded investment/cost I&M may incur if a large load customer leaves the system, coupled with the resulting impact such stranded costs may have on all other customers. Mr. Leader discussed I&M's plan to manage the costs associated with a diverse portfolio of resources. He testified that if a large load customer agrees to the terms proposed by I&M, the large load customer tariff rates will not allow I&M to recover the full cost of service to serve that customer.

Mr. Leader said the OUCC supports a 20-year minimum contract term but noted the initial term of many PPAs exceeds 20 years. He said if I&M enters into 25- or 30-year PPA contracts, the OUCC is concerned I&M's other customers will become responsible for the stranded costs if the large load customer ceases its operations or otherwise leaves I&M's system before the end of a greater than 20-year PPA. He also expressed concern with whether a large load customer would be required to pay the Contract Termination Fee if the large load customer closed within the first five years of the contract.

Mr. Leader testified that I&M's proposed Tariff I.P. modifications require a large load customer to give I&M at least five years prior written notice of any intent to reduce that customer's specified contract capacity, unless the parties mutually agree to a shorter notice period. He said the proposed tariff allows a customer to reduce its maximum contracted capacity by up to a total of 20% during the contract period; if mutually agreed, the reduction could be more. He said the OUCC is concerned that modification by mutual agreement of any of the approved Tariff I.P. terms bypass the Commission's scrutiny and oversight and could be detrimental to I&M's other ratepayers. He stated that approving the proposed Tariff I.P. modifications while simultaneously providing for these provisions to not be applicable upon the mutual agreement of only I&M and a large load customer equates to endorsing alternative contract terms that are unknown. He said doing so may adversely affect other I&M customers, may not be in the public interest, and equates to approval by I&M and the customer instead of the Commission. He testified that the OUCC

recommends the Commission require I&M to take all needed steps to mitigate impact on other ratepayers if a large load customer leaves the system.

Mr. Leader expressed concern about a large load customer reducing its load by 20%. He said if a customer using one gigawatt ("GW") of energy reduces its load by 20%, that would result in a 200 MW load loss for I&M. He testified that unless I&M could sell those 200 MWs into the market, this could result in stranded asset costs, which would be passed onto other customers and result in a sizable bill increase. He said I&M's other customers should not be at risk of bearing these costs. Mr. Leader also noted that in a discovery response, I&M indicated that a customer could reduce its load by 20% and then terminate the load with a lower fee.

6. CAC's Evidence. Mr. Inskeep testified that the new large loads anticipated for I&M's service territory are unprecedented and staggering, including facilities that will be among the single largest electric users in the state. He said without the prompt implementation of robust consumer protections and enhanced transparency, existing ratepayers are at extraordinary risk from these new large loads. He stated that I&M has proactively proposed several constructive tariff revisions that meaningfully address these concerns, while still allowing for some flexibility and customization to address individual customer circumstances. However, he recommended certain modifications.

Mr. Inskeep said the load growth projected over a very short time for new data centers does not include other expected load growth in I&M's service territory. He said other economic development, rising customer counts, building electrification, electric vehicle charging, and potential technological breakthroughs like green hydrogen, are likely to push I&M's capacity and energy needs even higher.

Mr. Inskeep discussed the costs I&M expects to incur to provide electric service to these new large load customers and said this level of investment creates new risks. He explained there is project execution risk associated with each new build, which could be magnified by undertaking many of these projects all at once due to the pressure to bring a large amount of generation online in time to meet data center load ramps. He said it could also create a cash flow risk to I&M if it is spending large amounts on projects years prior to the costs reflected in rates.

Mr. Inskeep testified that the concentration of a majority of I&M's future load and retail sales in one industry at a small handful of facilities also significantly increases risk to I&M and to ratepayers. He stated that while some power used by the data centers could be used for cloud computing, it appears that a substantial portion of the power needs is for so-called Artificial Intelligence ("AI"). He said each data center will use hundreds of megawatts of power or more, further concentrating risk at just a small handful of facilities. Mr. Inskeep stated that negative impacts to the tech industry, demand for AI and computational power, or to specific data center facilities could have a ripple effect: power demand could abruptly decline significantly, eroding I&M revenues and resulting in rate increases and credit downgrades, which would lead to a higher cost of capital, changes to cost allocation, and more rate increases to customers.

Mr. Inskeep testified that new large load customers create risks to future economic development in I&M's service territory. He said for example, customers with new or expanding load could face challenges securing sufficient capacity from I&M within a reasonable timeframe, given I&M's need to secure sufficient power for 4.4 GW of data center load. He said the addition of the large load will result in significant transmission congestion, meaning other prospective customers could have to wait years to begin service, and substantial changes to cost allocation, with far more PJM costs being allocated to I&M, more I&M company-wide costs being allocated to its Indiana jurisdiction, and more I&M-Indiana costs being allocated to the Tariff I.P. class. He said higher cost allocations could undermine affordability for other ratepayers, including non-data center prospective Tariff I.P. customers who could decide to site new facilities elsewhere.

Mr. Inskeep discussed the reliability risks associated with large data center load growth. He said the North American Reliability Corporation has established a Large Loads Task Force to better understand the reliability impacts of emerging large loads such as data centers.

Mr. Inskeep discussed the Commission's authority to approve I&M's proposed terms and conditions of service. He said failure to adequately protect existing customers could result in existing customers facing large cost shifts and being assessed unjust and unreasonable charges in contravention of the plain language of Ind. Code § 8-1-2-4.

Mr. Inskeep said he broadly supports I&M's proposed tariff revisions as necessary and reasonable, although he recommends certain revisions. He expressed agreement with I&M's decision to serve new large load customers under a published tariff rather than through individually negotiated special contracts, which are often kept confidential. He said I&M's approach is more transparent, administratively efficient, and fair to existing and potential new customers.

Mr. Inskeep agreed that a minimum 20-year contract term with a five-year advance notice of cancellation is reasonable and necessary. He testified that an even longer contract term could be reasonably justified because generation and transmission assets are typically designed and constructed to last longer than 20 years and often are depreciated over a term longer than 20 years. Mr. Inskeep said as such, a 20-year contract term still carries risk that I&M would not be made whole if the customer were to cease taking service after 20 years.

Mr. Inskeep testified that I&M's proposed term addressing the assignment of rights or delegation of obligations strikes a reasonable balance between the need for I&M to have a minimum level of certainty, while still allowing reasonable flexibility for new large loads by allowing them to transfer rights or delegate obligations to another party. He recommended the Commission approve this proposal.

Mr. Inskeep agreed that both a Contract Termination Fee and a limitation on reductions to a large load customer's contract capacity are reasonable and necessary tariff modifications. He said I&M's proposed Contract Termination Fee provides I&M and existing customers with reasonable assurance that a material portion of stranded assets caused by a large load customer would be covered by the customer, even if it were to cease operations. He said this provision would not have any negative impact on the large load customers if its facilities operate as planned.

However, Mr. Inskeep recommended the Contract Termination Fee be modified so that it is equivalent to eight years of minimum bills instead of only five years. He said this adjustment would significantly reduce the risk to ratepayers over a ten-year period and presented an analysis supporting this view. Mr. Inskeep testified that his proposed adjustment reduces the potential exposure existing customers will have should these new facilities cease operations early.

Additionally, Mr. Inskeep said I&M's proposed term to allow a customer to reduce contract capacity by up to 20% with a five-year notice is not adequately protective of existing customers, so he recommended: (1) capping individual customer reductions to 100 MW in any given year (with a five-year advance notice); and (2) capping overall reductions across large load customers to 5% of the prior calendar year's I&M-Indiana jurisdictional peak load, on a first-come, first-served basis. He said these provisions would limit the capacity reduction "cliff" I&M could otherwise face from one or more large customers reducing their contract demand by an amount so large it could be difficult to effectively manage.

Mr. Inskeep did not object to I&M's proposed revision to allow for an increase or decrease in contract capacity of more than 20% upon mutual consent but expressed concern with the opacity of the process and the criteria I&M might use to make this determination with limited, if any, Commission oversight. He stated this would, for example, allow a large load customer to reduce its demand by more than 20% and by more than 100 MW in a year if I&M could effectively manage such a reduction without negative impacts to other customers.

Mr. Inskeep strongly agreed with I&M's proposal to increase the minimum billing demand. He said that modifying the minimum billing demand in Tariff I.P. for large load customers is a prudent and reasonable adjustment to mitigate risk. He said his only concern is whether I&M's proposal to increase it to a 90% billing demand minimum goes far enough. He testified that while he thinks a strong argument can be made for further strengthening this provision (e.g., to a 95% minimum billing demand), he believes I&M's proposal strikes a reasonable balance at this time by reducing financial risk to I&M and its ratepayers while still providing some amount of flexibility to large load customers.

Mr. Inskeep testified that I&M's demand charges do not cover all its "fixed" demand-related costs. He said, according to I&M, the $10.194/kWh demand charge is comprised of only about 56% of all production costs classified as demand-related and the remaining 44% is included in the Block 1 energy charge of $0.05703/kWh. He said the minimum demand charge of $14.7/kW is comprised of approximately 69% of all production costs classified as demand-related. He said therefore, even under a 90% minimum billing demand, a large load customer might not pay its full cost of service, depending on its electricity usage.

Mr. Inskeep discussed I&M's proposed collateral requirements. He agreed with I&M that it is a necessary and reasonable term to address the size and concentration risk of large load customers and recommended it be adopted.

With respect to interconnection costs, Mr. Inskeep said it is unlikely that new large load customers will be directly assigned the costs for direct connect facilities, given the revenue from a new large load customer would exceed the threshold in I&M's tariff. He said this could shift hundreds of millions of dollars in direct connect facility costs caused by new data centers owned

by multi-trillion-dollar companies onto I&M's current ratepayers, creating significant cross-subsidization concerns. Mr. Inskeep recommended that these costs be directly assigned to the large load customer causing the costs and that I&M Schedule of Tariff Terms and Conditions of Service, 14. Extension of Service, be waived for new large loads so that they are ineligible under this provision. He said to the extent necessary to implement this proposal, he requests the Commission grant a waiver of 170 IAC 4-1-27 with respect to large load customers.

Mr. Inskeep recommended that the portion of a new large load customer's load in excess of 150 MW be "firewalled" from existing ratepayers with respect to cost allocation and cost recovery of generation costs. He proposed I&M procure a separate resource portfolio specifically for new large loads to meet their capacity, energy, and ancillary services needs where the costs would be exclusively allocated to the new large load customers. He said these customers should have the first 150 MW of load included in I&M's class cost-of-service study as if it was any other Tariff I.P. customer's load, and the large load customer would pay the Tariff I.P. rates and charges associated with the first 150 MW of load. He said I&M could establish separate additional charges that would apply to usage above 150 MW, designed to recover I&M's return of and on generation resources procured exclusively for large load customers. He said this would ensure non-discriminatory access for loads of up to 150 MW, while adding terms for the portion of loads in excess of that amount to properly allocate those costs and avoid rate subsidization.

Mr. Inskeep described the relevance of demand response and testified that notwithstanding the inflexible nature of data center loads, there are still opportunities for demand response. Mr. Inskeep discussed some options available to incent demand response. He said it is critical to take actions now to ensure that residential customers will be protected, to the maximum extent possible, from potential rolling blackouts that could arise as a result of the enormous load growth from data centers. In addition, Mr. Inskeep recommended the Commission consider holding a public technical conference, collaborative, or round table on demand response opportunities for new large load customers that would be open to all Indiana utilities and stakeholders. He said because this issue impacts multiple Indiana utilities, it would be beneficial and efficient to have a forum for coordinating on this issue and charting solutions that are consistent with Indiana's Five Pillars.

Mr. Inskeep also addressed reporting requirements, noting there has been a significant lack of transparency with these new loads—both generally, and in response to specific data requests. He recommended I&M be ordered not to enter into any new or modified nondisclosure agreements with large load customers that would preclude I&M from sharing pertinent information with parties that do not have a competitive interest. He also recommended that the Commission direct I&M to submit a quarterly report in this docket that provides certain information with respect to large load customers but indicated he was open to collaborating on such reporting requirements to further clarify and refine reporting metrics, ensure confidential information is protected, and provide an appropriate level of transparency.

7. <u>Data Center Intervenor Evidence</u>.

A. <u>Amazon</u>. Mr. Fradette provided background on Amazon's data center development in Indiana. He testified that since 2010, the Amazon family of companies have invested $25.5 billion in Indiana and have added $25 billion to Indiana's gross domestic product, helping support customers, employees, and communities. He stated that on April 25, 2024, with

the support of Governor Eric Holcomb, Amazon announced plans to invest an estimated $11 billion in Indiana to build a data center campus located in St. Joseph County, Indiana, which is expected to create at least 1,000 new jobs and is the largest capital investment announcement in Indiana's history. He also discussed the importance of data centers to the national economy.

Mr. Fradette discussed the Tariff I.P. modifications proposed by I&M and the potential impact on data center development and operations if approved. He claimed the 150 MW threshold figure appears to be random, targeted at three large load customers, and made without consideration of the negative impacts, including commercial unreasonableness imposed.

Mr. Fradette testified that a 20-year contract term obligation is excessive and not reasonable. He said I&M confirmed that it has never entered into a 20-year contract term with a non-wholesale customer and that all of its industrial customers with contracts have initial terms of five years or less, with almost all of its customers under Tariff I.P. having two-year contracts. He added that in his work on behalf of Amazon in other U.S. states, he is not aware of any other electric utility that requires a 20-year contract term within its standard tariff.

Mr. Fradette said I&M's proposals would inappropriately restrict the ability of large load customers to right-size capacity commitments over the 20-year period and create a new systemic risk that I&M would be obligated or incentivized to over-invest in long-term commitments it might otherwise more conservatively manage for the benefit of all ratepayers. He stated that large load customers do not have the same tools, rights, regulations, and access to markets as utilities do to manage this long-term risk and recommended I&M's risk-shifting proposals not be approved.

Mr. Fradette stated that the general service life of an I&M asset should not determine the length of the contract term. He contended the cost of I&M's investment to support large customers similarly is not proven to be correlated to a particular term of a service contract. He said I&M's new investments effectively pay for themselves within a matter of years at the current 60% minimum demand provision via the terms of the current Tariff I.P., while also positioning I&M to use the growth from large load customers to drive down rates for all Indiana and AEP ratepayers.

Mr. Fradette testified that Amazon forecasts its customers' demand over a ten-plus year horizon, from which Amazon develops, builds, and operates data centers globally to deliver the services its customers require. He explained that developing net new large utility loads where there is otherwise existing idle transmission capacity enables a win-win structure for the utility, regional ratepayers, the community, and Amazon. He said the utility is able to realize a new large load thereby increasing its revenues and investments, typically providing a benefit for its shareholders. He said ratepayers benefit because the cost burden of the exiting underutilized transmission infrastructure is spread across a larger pool of MWs, thus delivering cost savings for ratepayers. He said the community benefits from the incremental investment, tax revenue, and creation of new jobs. He said Amazon is able to invest in and operationalize new data center campuses to ensure it delivers the needed services to its customers, without triggering the long-lead multi-year inter- and intra-state transmission build out process.

Mr. Fradette stated that the net effect of I&M's proposed Contract Termination Fee is that a customer must pay all applicable rates and charges for at least ten years of service, potentially without the customer ever having taken or the utility providing service. He explained this is

unreasonable because: (1) I&M has made a customer's termination option conditional on the "permanent closure" of the facility; (2) the unilateral imposition of the proposed Tariff I.P. terms, including the Contract Termination Fee, is unfair and unreasonable; (3) while I&M's witness testified that five years of minimum billing is necessary to manage ongoing transmission and generation costs, I&M does not identify any of its other loads that are subject to this same condition or provide any other supporting data to back up this assertion; and (4) the termination fee calculation is inclusive of all demand related charges of I&M, which include generation capacity, transmission related charges, and I&M's use of system, overhead, and margin.

Mr. Fradette testified that as a regulated utility, I&M has multiple ways that it can reasonably dispose of excess capacity and energy commitments. He said at a minimum, any proposed termination fee must include a mechanism whereby I&M would be required to offset any such fee by mitigating its costs. He said the termination fee should simply ensure that remaining ratepayers are not left carrying the burden of stranded investments incurred to serve the incremental load; it should not include recovery of fixed costs incurred prior to the addition of the incremental load or guarantee a profit for I&M's shareholders.

Mr. Fradette said I&M's proposal to require at least five years' prior written notice of its intent to reduce the contract capacity is not reasonable because it prevents customers from right-sizing their capacity, resulting in inefficient capacity allocation, overbuilding, and related cost increases.

Mr. Fradette described I&M's proposal for a 90% monthly minimum billing demand as a commercially unreasonable take-or-pay structure, which would include charges to I&M that include generation capacity, transmission-related charges, and I&M's use of system, overhead, and margin. Mr. Fradette said this minimum billing obligation is not tied to I&M's actual costs to provide transmission and distribution services, but rather unreasonably burdens a specific type of customer with higher utility rates irrespective of I&M's costs of service. Mr. Fradette testified that a 90% minimum billing demand requires a higher committed spend from large load customers, significantly increasing costs over the proposed 20-year contract term. He said these increased costs pose a very high barrier to entry for large load customers and would likely drive away future investment in I&M's service territory.

Mr. Fradette said a 90% minimum billing demand is unprecedented. He testified that in Amazon's experience, the minimum billing demand is structured to ensure that incremental costs of service are reasonably recovered by the customer(s) benefiting from the infrastructure. Focusing specifically on regulated utility structures that have a percentage of minimum bill requirement, Mr. Fradette said Amazon has executed agreements from 0% up to 75% minimum demand obligations and in all of these incidences, the rates are transparently structured to ensure that the incremental cost of service for Amazon is equitably recovered by the utility over the contract term.

Mr. Fradette stated it would be more efficient for I&M to enter into special contracts with its three proposed customers that better reflect the mutual needs of each customer, while ensuring I&M recovers its variable costs and a portion of its fixed cost. He added that a special contract arrangement may also allow the Commission a seat at the table to ensure an appropriate and fair cost recovery. As an alternative to the proposed tariff modifications, Mr. Fradette discussed Cause No. 45975, which involved Duke Energy Indiana. He said Amazon would consider alternative

tariff provisions if I&M was obligated to build, contract, and enable a portfolio of carbon free energy sources to serve this load.

Mr. Fradette claimed I&M has not demonstrated that it will not recover more than its cost to serve large load customers if its proposals are adopted or how the proposed tariff change is a fair policy. He said large load customers will no longer be able to realize reduced electricity consumption demand when technology or other business events reduce its electric demand requirements to less than the 90% fixed usage requirement. He concluded that I&M's proposals are not supported by the evidence and therefore are unreasonable.

Mr. Loomis testified that I&M's proposed Tariff I.P. modifications violate the ratemaking principles prohibiting single-issue ratemaking, encouraging incrementalism, collaboration and negotiated settlements. He said a 20-year contract term is too long for any reasonable business to forecast their electricity needs, noting that a utility has the ability to aggregate the demand of thousands of customers and shift and redeploy resources as the needs of those customers change. Mr. Loomis stated that the Contract Termination Fee unreasonably shifts the electricity infrastructure risk from the utility onto the customer.

Mr. Loomis indicated that changes in contract terms are not the only way that I&M can protect itself from loss and stated as a regulated utility I&M has many ways to reduce risk. He stated that in the unlikely event that I&M cannot sell the electricity and capacity at a price that equals or exceeds its cost, it will receive revenue from the customer for the cancelled demand. He said I&M has not proven that the existing 60% rule needs to increase to 90%, in addition to the revenue from resale, to provide adequate compensation. He added that as a last resort, I&M can seek to adjust rates, explaining that as a regulated utility under rate-of-return regulation, I&M has the right, but not the guarantee, to earn a sufficient return on its prudently incurred rate base and recovery of its allowed operating expenses.

Mr. Loomis discussed the benefits from data centers coming to Indiana and the benefits to AEP. He also discussed alternatives to I&M's proposal, including: (1) making the tariff changes in the context of a full rate case where all the costs, customer classes, and alternatives can be examined; (2) adopting a one-year forward notice for capacity adjustment, or a time horizon of no more than three years; (3) allowing asymmetrical adjustments so that the customer can increase capacity at a higher percentage than it is allowed to decrease capacity; (4) adopting a four-year contract term rather than the 20-year term proposed by I&M; (5) allowing a new entity that would acquire a data center to assume the contract without negotiation or approval of I&M; (6) keeping the 60% minimum billing demand; and (7) eliminating the five-year termination fee with no alternative.

Dr. Berry discussed I&M's proposed 20-year contract length, 90% minimum demand charge, termination fee, maximum 20% reduction in contract capacity, and the 150 MW applicability threshold. She also discussed economic and regulatory issues related to the vertically integrated electric utilities. While she agreed that the anticipated additions of new customers at large demand levels represent a potential challenge in coming years to utilities nationwide, including I&M, she did not believe this situation should alter traditional utility planning and ratemaking or that it justified the distinct and inequitable treatment of customers as would occur under I&M's proposed tariff modifications. She testified that I&M's proposed terms and

conditions applicable only to large load customers are arbitrary, do not adhere to good regulatory ratemaking principles, and are not economically justified.

Dr. Berry stated the proposed Tariff I.P. is not fair, just, and reasonable because: (1) the new large load customers will provide benefits to I&M's existing customers by substantially increasing revenues collected under the Tariff I.P.; (2) I&M has estimated the cost of generation investments and identified some transmission investments that it is undertaking or planning to undertake to provide service to approximately four GW of new large load; (3) the revenues that I&M will receive from new large load customers far exceed the costs that I&M will incur to serve them; (4) I&M cannot identify any examples of utilities applying tariff terms and conditions comparable to its proposed Tariff I.P. changes; (5) I&M provided no alternatives to building generation to serve new large load that would reduce the potential risks of stranded assets; (6) I&M's proposed imposition of obligations and restrictions only on customers with loads greater than 150 MW constitutes a significant and arbitrary difference in treatment that is not supported by a corresponding differential impact to the system relative to similarly situated loads that would not be subject to the proposed terms; (7) I&M's proposal to lock all new large load customers into 20-year contract commitments and 90% minimum demand charges is a departure from traditional practice under utility regulatory principles and would shift risks appropriately borne by I&M to large load customers and perversely incentivize I&M to take on more risk than otherwise; (8) I&M has proposed a termination fee that does not correspond to actual costs incurred by I&M and that is applied indiscriminately to customers regardless of the costs they impose on the system; (9) I&M's proposed changes to Tariff I.P. combined with I&M's intention to make large, rate-based investments to serve load, would provide substantial benefit to I&M's shareholders while pushing virtually all risk to new large load customers; and (10) the current challenges facing I&M from anticipated new large load customers are not new to the electric industry.

Dr. Berry recommended rejecting I&M's proposal to increase the minimum demand charge from 60% to 90% and the requirement for a 20-year contract for customers with load greater than 150 MW. She indicated that a contract term of four years for large load customers would fall within a reasonable range for the contract term. She testified that given I&M's concerns about the persistence of new large loads, I&M should not plan to rely exclusively on long-term ownership of rate-based assets but should pursue available alternatives to establish a diversified supply portfolio that would reduce the risk to all customers.

Dr. Berry also recommended rejecting the proposed termination fee, adding that termination fees (if any) should be based on the actual unrecovered costs associated with each customer. Dr. Berry testified that I&M's proposal to limit a reduction in the contracted capacity of large load customers to 20% of the contract amount also should be rejected. She said all requested reductions in contract capacity should be allowed subject to a penalty if it is determined that there are unrecoverable costs associated with investments made on behalf of the large load customer. Finally, Dr. Berry recommended that the proposed modification to require a five-year notice period for large customers to terminate service should be rejected. She said all requests for termination, independent of a facility's permanent closure, should be allowed subject to a penalty if it is determined that there are unrecoverable costs associated with investments made on behalf of the large customer.

B. <u>DCC</u>. Mr. Higgins testified that it is reasonable for the Commission to adopt policies that accommodate load growth, such as those raised by I&M, in a thoughtful and deliberate manner so as to avoid cost shifting if investments are made to serve new load that does not fully materialize, but also to avoid imposing unjust terms on important growing industries. Mr. Higgins stated that while it is not unreasonable for the Commission to require large loads of 150 MW or greater to sign long-term contracts, it is preferable for those terms to be negotiated in the context of a special contract. He stated that a fundamental problem with the proposed 20-year contract term is that the pricing of the fixed cost of production remains open-ended, and therefore, the term (coupled with a 90% minimum demand provision) would erode I&M's incentive to negotiate long-term special contracts that not only protect the interests of I&M and other customers, but are also fair to the large load customer. He stated that to the extent the Commission determines that a default contract term is necessary in Tariff I.P., the maximum mandatory term should be no greater than ten years, with a 36-month exit notice requirement after five years, and a capacity reduction/termination fee for load reductions greater than 20% that is based on the foregone net revenues from the minimum demand charge over the remaining contract term, after accounting for the release or transfer of the terminated capacity to serve new load. He added that the tariff should permit exiting customers to negotiate mutually agreeable exit terms with I&M.

Mr. Higgins recommended that the Commission reject I&M's proposal to increase the minimum demand charge from 60% to 90% for large load customers. He distinguished between the minimum demand charge applicable to production demand and to transmission demand, observing that in the case of production demand, if a large load customer were to reduce its load significantly, or alternatively, not attain its contracted demand, generating resources that would otherwise have been utilized to serve the customer could be redeployed. Mr. Higgins stated that, based on the most recent PJM Base Residual Auction price, a 62% minimum demand charge for production would be a "hold harmless" level, and that a 70% minimum demand charge for production is conservative. He said instead of I&M's proposal, the minimum demand charge applicable to production demand should be set no greater than 70%.

With respect to the minimum demand charge applicable to transmission, Mr. Higgins used I&M's estimates of the incremental cost of transmission (between $840 million and $1.05 billion to accommodate an increase in I&M's load from 2,800 MW to 7,000 MW) to calculate a first-year revenue requirement of $3.07 per kW-month spread across 4,200 incremental MW. He stated this first-year revenue requirement is significantly less than the current embedded cost of the Off-System Sales ("OSS")/PJM Rider rate of $8.593 per kW-month. Mr. Higgins therefore stated that the 4,200 MW of new billing determinants would put downward pressure on the embedded cost rate for all I&M customers, because the new large load would pay the higher embedded cost rate. Mr. Higgins noted that even if a new large load customer entered into a ten-year contract, and its load did not materialize, the customer's contributions to the OSS/PJM Rider charge with the current 60% minimum demand charge would more than recover its pro rata share of the incremental transmission revenue requirement; and that consequently, there is no reasonable basis to increase the minimum demand charge applicable to the OSS/PJM Rider above its current 60% level. Mr. Higgins recommended that the minimum demand charge applicable to the OSS/PJM Rider should remain at 60%.

Mr. Higgins testified that it is not unreasonable for I&M to require that large loads provide enhanced collateral requirements but noted the form of collateral and the relationship to the creditworthiness of the customer are not clearly spelled out in the proposed tariff language. He recommended that the proposed collateral requirements be modified to state that a customer with a credit rating of at least A- from Standard & Poor's ("S&P") and A3 from Moody's, or cash on its balance sheet equivalent to ten times the collateral requirement, be exempt from providing collateral. Mr. Higgins also testified that I&M should commit to delivery of contract capacity on the schedule designated in the electric service agreement and that if I&M is unable to meet the contracted delivery date, remedies should be made available to the customer in the tariff.

C. Google. Mr. Farr testified that in April 2024, Google announced plans to invest $2 billion to build a new data center campus located near the City of Fort Wayne, Indiana, within I&M's service territory. He said Google's data center is a new large load that would be directly impacted by I&M's proposed modifications in this Cause. Mr. Farr explained that a data center is a facility designed to house computer systems, telecommunications equipment, and data storage infrastructure in a controlled environment where servers and networking hardware operate, supporting services like cloud computing, financial transactions, and other data-intensive applications. He said that data centers are an integral part of digital infrastructure, underpinning many features of daily life and business operations. He stated that they enable the seamless exchange of data and support the functioning of key economic sectors such as communications, finance, healthcare, retail, service industries, and manufacturing. He also explained that data centers' demand for electricity is the result of the aggregation of demand for digital services from individuals and businesses so that as demand for those services grows, and as business and personal interactions depend on more digital services, data centers' demand for electricity grows too.

Mr. Farr recommended the Commission reject I&M's proposed changes to Tariff I.P. as being an unreasonable and unjust imposition on large load customers without a factual basis of support. Mr. Farr said he supports I&M's proposal to require a customer to provide collateral equal to two years' worth of the customer's non-fuel bill. He included criteria received from I&M in discovery (Google Exhibit 1, Attachment JBF-1) and recommended the Commission adopt and memorialize this information in the tariff for clarity and transparency.

Mr. Farr testified it is reasonable for I&M to ensure that its terms of service appropriately account for the increased risk associated with the concentration of a large amount of load in only a few customers. He also testified that rather than adopting policies applicable to new large loads with the goal of insulating I&M from associated risks, the Commission should focus on providing sound planning signals to I&M to ensure the investments it pursues are reasonable and in the public interest. He recommended the Commission adopt new policies that include: (1) a 70 MW threshold for application that is sufficient to cover anticipated future load growth; (2) sufficient upfront collateral to ensure that I&M does not invest in additional infrastructure to serve speculative entities; (3) maintaining the 60% minimum demand charge; (4) a commitment term that minimizes the risk of stranded assets; and (5) fair, flexible, and transparent terms for the payment of exit fees if a customer opts to terminate or reduce its contractual commitments during the term.

Mr. Farr testified that these are key elements to consider in a policy to address customer-specific forecasting risk. He said these elements should be considered together as they interrelate with the goal of ensuring that if a specific customer requests to bring on a new large load, but the

load does not materialize as expected over a reasonable horizon, and therefore, the customer fails to fully utilize the reserved load, that customer is appropriately allocated any stranded costs actually incurred on its behalf. Mr. Farr said I&M's proposal contains terms that reflect these elements, but the specific proposal is too heavy-handed and not supported by evidence. He explained how some of I&M's proposed terms, including the 20-year contract commitment, 90% minimum billing demand, and limitations on a customer's ability to modify its contract capacity created unreasonable burdens on large load customers.

Mr. Farr also expressed concern that I&M's proposed terms were creating an imbalance between the utility and large load customers by shifting risk from I&M to those customers with no reciprocal assurances of supporting the customer's own objectives. Mr. Farr testified to the importance of I&M's consideration of comprehensive special contracts, which he said was integral to supporting the business goals of Google and I&M to the benefit of other ratepayers while still addressing risks and facilitating prudent planning and resource investment. He recommended that the Commission direct I&M to negotiate in partnership with Google to bring forward a special contract for approval that enables Google to progress on its business objectives, accelerates advanced solutions, ensures that all costs associated with Google's service are fully covered under the special contract, and protects I&M's other ratepayers from any increase in costs as the result of Google's service. He further recommended that the Commission modify the applicability terms of any changes to Tariff I.P. to explicitly acknowledge the role of special contracts in meeting the need of new large load customers.

8. <u>I&M's Rebuttal Evidence</u>. Mr. Baker testified that to support the state's economic development strategy, I&M will be required to integrate potentially the largest electric loads in the state of Indiana onto the electric grid in a compressed timeline. He said the tariff provisions are necessary to ensure I&M has reasonable customer protections in place to execute on these projects and address the risks incurred by I&M. He said certain positions taken by intervenors in this proceeding would create challenges in I&M's ability to effectively manage the risks associated with projects of this magnitude.

Mr. Baker discussed I&M's role in supporting economic development in I&M's service area, noting that I&M has been tasked with supporting a state economic development initiative to attract large data centers into Indiana. Mr. Baker explained that to provide electric service to unprecedented large customer loads in a safe and reliable manner and take into consideration the interest of both new and existing customers, I&M is implementing a multi-faceted strategy that includes significant generation and transmission investments. He said the proposed tariff modifications along with potential special contracts for unique customer needs are the essential framework necessary to meet all parties' needs.

He stressed the importance of understanding these strategic elements are being completed in parallel and with urgency to meet the timelines requested by the large load customers I&M is currently working with and scheduled to begin serving later this year and in early 2025. He said the timeliness of a Commission order approving I&M's proposed tariff modifications is critical to I&M's ability to serve these customers with a clear understanding of the terms of service.

Responding to Mr. Fradette's concern that I&M's proposals will negatively impact development of Amazon's data centers in I&M's service territory, Mr. Baker testified that I&M must balance the needs of all customers, including taking steps to safeguard other customers from risks associated with large loads. He explained that having a Commission approved tariff with specific terms and conditions of service for large load customers will be beneficial to I&M, the state of Indiana, and I&M's other customers. He said it will support the "speed to market" economic development strategy by providing customers a clear and well-defined path to begin taking service and provide I&M a level of certainty to make the transmission and generation investments needed with reasonable safeguards for I&M's other customers.

Mr. Baker agreed with CAC witness Inskeep's concerns that the data center development would ultimately restrict, rather than foster, additional economic development in I&M's service territory. He said there is a practical reality that when connecting these loads to I&M's transmission system, I&M will be constrained on available transmission capacity for additional growth. Mr. Baker testified that the capacity needs of the large load customers require significant resources and this in turn impacts the opportunity for other new loads (or expansions of existing customer loads) to be served without delay. He said the proposed tariff modifications recognize that I&M is making a significant commitment to these customers and that it is critical this commitment be reciprocated.

Mr. Baker testified that Amazon witness Berry's characterization of I&M's plans for acquiring the generation resources to serve large loads is inaccurate. He said I&M plans to serve the loads with a diverse portfolio of generation resources that includes both shorter terms as well as longer terms and will include both PPAs and utility ownership. He said the Amazon witnesses' argument regarding I&M self-imposing risks by selecting only utility-owned projects is misinformed and inaccurate and minimizes the role of the Commission in determining what is in the best interest of I&M and its customers.

As for Google witness Farr's concern that the Indiana resource planning and approval process puts Google in the position of having to accept I&M's resource decisions, Mr. Baker testified that I&M is currently being challenged with acquiring over 4,000 MW of PJM accredited capacity by 2030 to meet its projected load obligations. He said this is an unprecedented time in I&M's history, and likely in the state of Indiana's history, and comes at a time when PJM has expressed concerns regarding existing generation resource retirements and new generation resource availability. Mr. Baker stated that I&M is open to working with the large load customers on future generation opportunities, but it is unlikely to result in meaningful generation capacity in the short-term to meet the needs of customers and it does not obviate the need for the tariff modifications.

Regarding the specific sustainability goals of Google and Amazon, Mr. Baker testified that to the extent there are opportunities for I&M to partner with these customers on specific projects, I&M is open to having discussions about a customer-specific contract arrangement. However, he noted that such opportunities cannot adversely affect I&M's other customers and should be consistent with the Five Pillars.

Mr. Baker also addressed CAC witness Inskeep's concern that residential customers should be protected from potential rolling blackouts caused by large load customers. He testified that public safety is I&M's number one priority and I&M agrees that it is prudent for a utility to prepare

for and respond to emergency events in a manner that ensures public safety is prioritized. He said I&M regularly evaluates and practices its emergency response procedures, which include pre-determining the sections of the electric system that are subject to forced outages during load shedding events and limiting exposure for critical customer and public infrastructure loads. He added that it is important to recognize that each emergency event is unique and would require I&M to coordinate closely with PJM while having all various options available to respond to that specific situation.

Mr. Baker agreed that DCC witness Higgins' incremental cost of transmission is an appropriate estimate of the interconnection costs for the three customers with which I&M is currently working. However, he said it is important to recognize that the Tariff I.P. modifications are not being proposed only for these three specific customers but would be applicable to any future large load customers. Mr. Baker explained that I&M has started planning and communicating with PJM on the next set of transmission projects necessary to provide additional capacity for future growth and to ensure a reliable and robust transmission system in the future. He said preliminary estimates for future transmission infrastructure are billions of dollars over the next seven to ten years. He said I&M has managed this transmission capacity position closely to ensure the reliability of the grid for existing customers and maintain some amount for existing customer expansions, but it is important for all I&M customers and communities that transmission system investments are made to enable ongoing economic development opportunities.

Regarding the use of special contracts, Mr. Baker testified that I&M spent a significant amount of time discussing the special contract approach versus the tariff approach with the large load customers and conducted meetings and discussions with various stakeholders related to the impacts of the large loads. He testified that I&M concluded that for it to be able to manage the integration of these customers onto the grid in a safe, reliable, secure, and affordable manner, the proposed tariff modification is the best way to strike the appropriate balance among stakeholders.

Mr. Baker disagreed with DCC witness Higgins' view that establishing a 20-year term requirement in Tariff I.P., particularly with a 90% minimum demand provision, would erode I&M's incentive to negotiate long-term special contracts. He reiterated that for customers with unique needs beyond standard service under the tariff, I&M would address those specific situations through other tariffs, riders, or mechanisms, such as a special contract. He stated that for standard electric service, I&M will serve these customers under the Tariff I.P. terms as approved by the Commission.

Mr. Baker also responded to Amazon witness Fradette's concerns that imposing a 90% minimum billing demand obligates data centers to an unrealistic forecast over a term of 20 plus years and impacts the financial viability of investments within I&M's service territory. Mr. Baker said he found Mr. Fradette's position to be largely inconsistent with I&M's experience with the large load customers to date, noting multiple large load customers have executed service agreements with stated contract capacity commitments during the term of the agreement. Mr. Baker emphasized that I&M does not set the load ramp or contract capacity for the large load customers. He said, if anything, I&M limits the contract capacity based on the amount of transmission capacity available. He stated that Mr. Fradette's claim ignores the fact that it is the customer who has the internal business information necessary to determine the forecast and

therefore it is the customer's responsibility to provide realistic requirements that match actual business needs and intentions.

Mr. Baker explained that the acquisitions I&M makes for generation resources will have contract periods or service lives ranging from five years to 35 years. He stated that understanding expected loads over the entire 20-year integrated resource planning horizon is critical not only in determining the most appropriate resources, but also the terms and/or lives of the resources. He said these considerations highlight the importance of the proposed tariff modifications to provide I&M confidence in the resource selections it will be making early in 2025 to serve future load obligations. He said I&M can only plan and make appropriate decisions based on the contract capacity requirements provided to I&M by the large load customers.

Mr. Baker also addressed Amazon witness Fradette's opposition to I&M's proposed termination fee. Mr. Baker testified that if the level of termination fees referenced by Mr. Fradette become a reality, it will be highly valuable if I&M's proposed terms are in place. He said the proposed Tariff I.P. modifications are designed to protect I&M and its existing customers in the event the large load customers do not meet the plans they have provided to I&M. He said that if the large load customers operate as planned, the proposed modifications do not provide any additional burden on the large load customers. Mr. Baker stated that I&M has a responsibility to manage the system and provide safe and reliable service to all its customers. With the significant impacts the large load customers will have on I&M's system, he said it is critically important that those customers be held accountable to the capacity requirements they provide to I&M as an input to overall system planning.

Responding to concerns with I&M's proposed revision to Tariff I.P.'s minimum billing demand, Mr. Vaughan explained that the need for, and reasonableness of, I&M's proposed 90% minimum billing demand can be seen by comparing I&M's historical capacity requirements to serve its load to what it now faces as a result of the new large load customers. He said he could not corroborate Mr. Fradette's claim that the 90% minimum demand proposal was "unprecedented." Mr. Vaughan provided Figure AEV-2R in Petitioner's Exhibit 5 to show it is not uncommon for vertically integrated utilities (i.e., utilities providing both generation and transmission service) to have minimum demand provisions with demand ratchets in excess of 60%, and in some cases, the same or higher than the 90% I&M is proposing.

Mr. Vaughn noted that many of the rate structures associated with these higher minimum demand provisions are also what is generally described as "Demand, Energy, Customer" tariffs, where the demand costs are recovered almost exclusively through the demand charges. He said conversely, I&M's existing, approved Tariff I.P. rate recovers a material amount of demand costs (roughly 44%) through the volumetric energy charge. He stated that while I&M does not propose to modify its existing rate design in this case, it is important to recognize this difference when comparing I&M's Tariff I.P. to other tariff provisions. Mr. Vaughan testified that because a material amount of the production demand costs is being collected in an energy charge, this means the effective minimum demand being proposed by I&M is much lower than 90%, adding that from a production demand cost perspective, the proposed 90% level equates to an approximate 62% minimum demand charge in application.

In response to Amazon witness Berry, Mr. Vaughan clarified that so long as a large load customer meets its contracted capacity each month, regardless of the load factor it actually achieves, the customer should be indifferent to the proposed change in minimum billing demand as it would have no impact on its rates and charges. He stated that while I&M hopes the new large load customers will meet the forecasted usage and load factors provided to I&M, I&M must also reasonably plan for the alternative. He testified that witness Berry's testimony does not reasonably reflect the economic rationale for why I&M proposes a 90% minimum billing demand charge. He explained that as shown in Figure AEV-3R of Petitioner's Exhibit 5, the amount of non-fuel cost recovery is highly dependent upon the load's energy usage, and there is a risk of under-recovery as a Tariff I.P. customer's load factor decreases. He added that, contrary to witness Berry's assertions, this data shows the importance of increasing the minimum billing demand provision to safeguard against a scenario where the large load customer's contracted load does not materialize or the large load customer ceases operations.

Mr. Vaughan provided Figure AEV-4R in Petitioner's Exhibit 5, which he said is the same non-fuel cost recovery analysis as shown in Figure AEV-3R but modified to show the non-fuel generation cost recovery that would be achieved under the current 60% and proposed 90% minimum demand levels if the customer were to cease operations (i.e., operate at a zero load factor). Mr. Vaughan testified that this analysis shows that if a large load customer ceases operation, I&M faces significant under-recovery of its non-fuel generation costs under the existing 60% minimum demand billing provision, and increasing the minimum billing demand to 90% for large load customers is a reasonable step towards safeguarding I&M and its other customers from this risk.

Responding to Google witness Farr's testimony, Mr. Vaughan testified that based on I&M's current resource mix, I&M's average embedded fixed cost of generation capacity is roughly $690/MW-day. He said the equivalent levels of non-fuel generation cost recovery under the 90% and 60% minimum demand levels are $366/MW-day and $244/MW-day respectively. He stated that as I&M adds a significant amount of generation capacity to serve these new large loads in the coming years, it is not unreasonable to assume that the average rates in Tariff I.P. will reduce over time as the incremental cost of generation resources and increased billing units are figured into the ratemaking equation. He also disagreed with Amazon witness Fradette's suggestion that this potential benefit cuts against the need for a 90% minimum billing demand. Mr. Vaughan said this dynamic is another reason to increase the current 60% minimum demand level because lower minimum demand charges provide less protection to existing customers in the future. He stated that regardless of whether future retail rates for service go up or down, the higher minimum demand charge remains important to increase the level of confidence that large load customers will reasonably contribute to the fixed costs I&M incurs to provide service and mitigate the adverse impacts that would otherwise occur to I&M's other customers.

Mr. Vaughan also disagreed with Amazon witness Fradette's contention that I&M's proposed increase to Tariff I.P.'s minimum demand clause provides I&M with an incentive to over-invest in utility-owned resources. He said the minimum charge is based on the allocated cost of service to the class in question, regardless of whether the underlying utility infrastructure providing service is owned by I&M or contracted for from a third party. He stated the proposal is in no way an incentive for I&M to "over-invest" but rather it is a way to protect existing customers

and balance the future cost responsibility between new and existing customers should a large load customer cause some amount of stranded costs.

Mr. Vaughan also testified that from a cost-of-service or ratemaking perspective, it is not necessary for the Commission to wait for a general rate case proceeding to address I&M's proposed Tariff I.P. modifications, particularly the 90% minimum demand provision, as Amazon witness Loomis claimed.

Mr. Vaughan also responded to Amazon witness Berry's contention that the amounts paid by large load customers for local transmission costs would, like generation, go to reducing rates for other customers and represent an amount foregone by new large load customers by paying the average system cost instead of the incremental cost to serve them. He stated that this assumption is incorrect and counter to the foundational ratemaking concept of cost causation. Mr. Vaughan testified that a portion of the zonal transmission revenue requirement associated with the system that will serve I&M's peak load will be reallocated based on the coincident peak loads of the load serving entities within the zone. He said the actual incremental zonal transmission cost increase that the Indiana retail jurisdiction would receive from a 4,000 MW increase in peak demand would be closer to $431 million annually, rather than the $83.9 million referenced by witness Berry.

Mr. Vaughan testified that it is also incorrect to assume, as witness Berry does, that the only costs to serve new large load customers are the truly incremental system costs. He said these large, high load factor loads will be utilizing the existing, robust zonal transmission system and I&M's entire generation resource portfolio (existing assets plus incremental) and as such should share in the cost responsibility for the costs to serve them. Mr. Vaughan said those costs will be a mix of existing system embedded costs and incremental costs.

Mr. Vaughan agreed with DCC witness Higgins that load growth is anticipated for other load serving entities in the AEP Zone, but stated this does not change the need for the protections set forth in I&M's modified terms and conditions. He said AEP Ohio has publicly discussed upwards of 5,000 MW of load growth over a similar period as I&M is expecting to experience its large near-term growth. He stated that using the same analysis that identified $431 million in incremental transmission costs to the Indiana retail jurisdiction discussed above, but also accounting for 5,000 MW of load growth elsewhere in the zone, still results in roughly $294 million of incremental zonal transmission expense allocations to I&M's Indiana retail jurisdiction.

Regarding the assertions of Amazon witness Berry and DCC witness Higgins that only a 60% minimum demand level is needed for transmission charges to adequately protect customers, Mr. Vaughan testified that 60% is insufficient to protect existing customers because the load additions will cause a reallocation of the existing total zonal transmission revenue requirement. He said using the same assumed 4,000 MW peak addition, he estimated that an 88% minimum demand for the transmission charges collected through the PJM/OSS Rider represents the breakeven point where other customers should be indifferent from a transmission cost recovery standpoint. Mr. Vaughan noted that this analysis assumes no incremental investments in transmission infrastructure, which is a conservative assumption.

As for special contracts, Mr. Vaughan testified that in his experience with this issue across the AEP system operating companies, special contracts are generally warranted and appropriate for reasons not applicable to the large load customers. He stated that a customer simply wanting to receive service through a special contract so that it can negotiate its own unique deal is not appropriate, warranted by cost-of-service considerations, or administratively efficient.

Mr. Vaughan also responded to the direct assignment and cost allocation concerns raised by the OUCC. Mr. Vaughan agreed with Mr. Kelley that the addition of these new large load customers creates new risks and challenges. However, he expressed concern with Mr. Kelley's testimony to the extent it advocates for departing from traditional ratemaking. He said that with proper safeguards in place, all customers can benefit from traditional ratemaking and the potential for downward pressure on average rates from large load additions under this approach.

Mr. Vaughan disagreed with CAC witness Inskeep's contention that placing large load customers with existing customers could create significant cross-subsidization concerns and with his recommendation that new large load customers should be partially "firewalled" from existing customers with respect to cost allocation and cost recovery of generation costs. He explained that these concerns are better addressed in a rate case but noted that there are benefits to setting rates using average system costs, rather than directly assigning costs as Mr. Inskeep recommends.

Mr. Vaughan disagreed with Google witness Farr's statement that I&M's proposed tariff modifications will have an impact on how I&M allocates costs among customer classes, as well as how costs are allocated between jurisdictions. Mr. Vaughan stated that I&M's proposal is directed at the terms and conditions of service applicable to large load customers within the Tariff I.P. class. He said cost allocation issues, whether between customer classes or between jurisdictions, are outside the scope of this proceeding and properly addressed in the context of a rate case. He added that I&M's proposal in this case does not inhibit the ability of the Commission or parties to address cost allocation issues in a subsequent proceeding.

Mr. Williamson clarified that his direct testimony, which states that special contracts can be used to support the unique needs of customers, does not mean that those same customers should not be subject to a standard tariff for their basic or standard electric service needs. He said large load customers can receive electric service under Tariff I.P. and have a special contract to adjust their monthly electric service charges for other services, such as demand response, sustainability programs, or strategic partnerships. He noted this is done today for several of I&M's Tariff I.P. customers.

Mr. Williamson testified that prior to filing this case, I&M invested a significant amount of time over several months with multiple large load customers attempting to negotiate terms and conditions of service that could be established through a special contract framework. He stated that it became increasingly clear that it would be very difficult, if not impossible, to achieve a reasonably consistent set of terms and conditions of service amongst all the large load customers as it related to standard electric service. He said that during this same period, I&M received inquiries from other potential large load customers, indicating the number of large load customers could further increase in the future, making the consistency between special contracts even less likely to be achievable.

Mr. Williamson discussed the current status of the large load customers in I&M's Indiana retail service territory, summarizing the executed Transmission Letters of Agreement that represent approximately 3,700 MW of total load through 2030 and stating I&M will require a significant amount of new generation to serve its growing load. Mr. Williamson also discussed the potential for other large load customers to take service in Indiana in the future.

In response to the parties' specific recommendations, Mr. Williamson noted the considerable variation in the recommendations. He said on the one hand, the data center intervenors generally argue that I&M's proposed tariff modifications are unreasonable and/or too stringent. He said on the other hand, the consumer parties (i.e., OUCC and CAC) generally agree with I&M's proposed terms and conditions but suggest additional safeguards may be necessary to protect I&M's other customers. He said these differing viewpoints reinforce the need for a balanced and consistent approach that recognizes the concerns raised by all parties while ensuring I&M and its customers (both existing and prospective) have clear guidance as to how such matters will be addressed going forward. He said the proposals made by I&M in this proceeding strike an appropriate balance and should be approved.

Mr. Williamson explained why the parties' claims that the proposed tariff modifications have not been imposed elsewhere in the United States is not a valid reason to reject them. Pointing to the size of the large loads, he said the past is not representative of the future and what has not been done up to this point in time cannot be relied upon as a basis of whether the proposed modifications are reasonable and necessary in the future. He also noted the unprecedented nature of the situation facing I&M today.

Mr. Williamson disagreed with DCC witness Higgins' position regarding I&M's proposed 20-year contract term and explained why he believes I&M's proposal is not unreasonably one-sided. As to Mr. Higgins' proposed ten-year term, Mr. Williamson said the sensitivity analysis presented in his direct testimony indicates that the amount of risk is expected to decline the longer the contract term. He testified that while under some asset cost and market conditions, a ten-year contract coupled with I&M's proposed Contract Termination Fee could sufficiently cover I&M's financial risk, a longer-term contract will provide greater assurance that a large load customer terminating its contract does not result in excess capacity costs that negatively impact I&M's other customers.

Mr. Williamson also responded to DCC witness Higgin's position that it would be inefficient to lock a large load customer into capacity it did not need, particularly given the anticipated growing demand for capacity. Mr. Williamson said this is why I&M included proposed language to allow for contract capacity reductions greater than 20% upon mutual agreement. He said it is also reasonable that large load customers be limited on how much they can reduce contract capacity without any certainty that the financial implications can be managed without causing significant financial harm. He said I&M's proposal establishes reasonable guardrails beyond which a large load customer cannot unilaterally change its contract capacity.

Mr. Williamson also responded to the testimony offered by Google witness Farr and Amazon witness Loomis that 20 years is too long for any reasonable business to forecast their electricity needs. He said the 20-year contract term is designed to provide reasonable assurance that large load customers will take service over a period that reasonably aligns with the significant

investments and financial commitments I&M will make to provide service. He said not only is I&M planning for the load over a similar period of time as the proposed contract term, I&M will also be entering into financial commitments for a similar period.

Mr. Williamson also addressed Amazon witness Fradette's testimony regarding I&M's current customer contract periods and current asset service lives. Mr. Williamson testified that I&M has historically been long on generation, which enabled I&M to serve its growing load without incurring a substantial increase in I&M's overall fixed costs. He said this is not the situation today, explaining I&M will require a significant amount of generation to serve its growing load. He said this will result in a significant and long-term increase in I&M's fixed costs, which is why the large load customers contributing to these increased resource commitments need to have a corresponding commitment to maintain service with I&M. Mr. Williamson stated that Mr. Fradette fails to recognize the scale and magnitude of the large load customers, explaining that Amazon's projected load will exceed the load of I&M's Indiana retail industrial and commercial customers combined. Mr. Williamson said it is unreasonable and imprudent to assume I&M could shift and redeploy resources should the needs of large load customers decrease.

In response to DCC witness Higgins' proposal to modify the collateral requirements, Mr. Williamson testified that while cash on the balance sheet is considered a credit positive, it is only one attribute when determining a customer's credit worthiness. He said requiring both a public debt rating (Moody's/S&P), along with a liquidity covenant puts I&M in the best position to ensure that a large load customer and/or its guarantor can provide payment if an early termination occurs.

Mr. Williamson said I&M did not oppose CAC witness Inskeep's recommendation to change the contract capacity change provision to: (1) cap individual customer reductions to 100 MW in any given year (with a five-year advance notice); and (2) cap overall reductions across large load customers to 5% of the prior calendar year's I&M-Indiana jurisdictional peak load, on a first-come, first-served basis. However, he indicated that I&M's proposed terms may better balance customer flexibility with customer protections.

Mr. Williamson disagreed with Amazon witnesses Fradette and Loomis regarding the notice period to reduce contract capacity. He said that while it is true I&M's load obligations and resource commitments can change annually, that does not mean I&M can simply acquire or unwind significant amounts of long-term generation resources annually or effectively. He explained that most of the capacity in PJM is acquired before or during the Base Residual Auction and to effectively optimize excess capacity, it requires the sale to occur years in advance of product being sold. Mr. Williamson stated that while I&M's load forecast could be adjusted prior to the delivery year, it may be unable to adjust its capacity resources in a cost-effective manner to those changes. Mr. Williamson stated that for this reason, large load customers need to be responsible for their forecast and I&M's five-year notice reasonably recognizes that it is prudent utility practice to acquire generation prior to PJM's three-year forward capacity planning market.

9. <u>Docket Entry Responses</u>. I&M responded to several questions from the Presiding Officers. In response to a question on pre-service cost recovery, I&M responded that it "will seek to reasonably align timing of generation resource costs with the timing of its expected load requirements," noting that synchronization will be dependent on several factors. Pet. Ex. 10. Regarding how various tracker cost allocations might be adjusted, I&M responded that future

individual tracker filings would be updated to address the allocations. Finally, in response to a question regarding Commission oversight of any future service contract modifications provided for in Tariff IP, I&M responded it was not opposed to an approval role if the Commission desired such a role.

10. Settlement Agreement and Supporting Testimony. Following the prefiling of testimony, the Settling Parties, which represent varied and competing customer groups and interests, including residential and large load customers, reached a comprehensive agreement. The Settlement Agreement resolves all pending issues in this Cause. The witnesses offering settlement testimony discussed the arm's-length nature of the negotiations and efforts undertaken to reach what all parties consider to be a balanced settlement that fairly resolves all issues in the case.

I&M witness Williamson discussed the Settlement Agreement's terms and testified the Settlement Agreement is a package agreement that reasonably resolves all pending issues among the Settling Parties. He said taken as a whole, the Settlement Agreement represents the result of arm's-length negotiations by a diverse group of stakeholders with differing views on the issues raised in the docket. He testified that party experts were involved with legal counsel in the development of both the conceptual framework and the details of the Settlement Agreement and that a significant number of hours were devoted by the Settling Parties to discussions, the collaborative exchange of information, and settlement negotiations.

Mr. Williamson stated that as discussed within I&M's direct and rebuttal testimony, I&M is anticipating unprecedented load growth driven by new large load customer demand. He said I&M requires significant transmission and generation infrastructure investments and other long-term financial commitments to serve its growing Indiana retail load. He stated from I&M's perspective, it is reasonable and necessary to establish terms and conditions for service that safeguard against the cost impacts that can occur if the new load does not fully materialize or prematurely terminates. He said that while there was general agreement on the need for safeguards, the parties disagreed as to what extent, as shown in Petitioner's Exhibit 2, Figure AJW-2R.

Mr. Williamson testified this is a complex situation and there is no easy solution that perfectly satisfies every stakeholder interest. He said the Settling Parties worked cooperatively and that the settlement discussions provided the parties an opportunity to delve into each other's concerns, ideas, and interests. He testified that ultimately, the joint efforts of the Settling Parties allowed them to reach a unanimous and balanced Settlement Agreement that fairly resolves all the issues in this case and adopts important safeguards. He said I&M considered the Five Pillars during the settlement discussions and that the outcome is consistent with those pillars and the supporting testimony in this Cause. He expressed his opinion that the Settlement Agreement is in the public interest and reasonably resolves all issues in this docket without further expenditure of the time and resources of the Commission and the Settling Parties to litigate these matters.

OUCC witness Eckert testified that the Settlement Agreement resolves critical issues intended to prevent I&M's costs to serve these large load customers from being shifted to I&M's other customers. The Settlement Agreement is also intended to protect I&M and its other customers by agreeing upon the terms to which the large load customers will be bound, the extent the large load customers may reduce their capacity over that term, the collateral that must be

maintained, the exit fees, and other contract terms, including the allocation of I&M's revenue requirement among its rate classes.

Mr. Eckert testified the Settlement Agreement is the product of intense negotiations, with each Settling Party compromising on challenging issues to reach an overall agreement that balances ratepayers' interests. He said it was critical to the OUCC that the risks large load customers pose for I&M's other ratepayers be mitigated. He said that given the ratepayer benefits and the mitigation of ratepayer risks achieved under the Settlement Agreement, the OUCC, as the statutory representative of all ratepayers, concluded the Settlement Agreement is a fair resolution of the issues, supported by the evidence, is in the public interest, and should be approved.

CAC witness Inskeep testified that the Settlement Agreement is the product of intense and lengthy negotiations, with each party making compromises to reach a settlement that balances the interests of I&M, new and prospective data center customers, and existing ratepayers. He explained the Settlement Agreement maintains the same general type of modifications to Tariff I.P. as originally proposed by I&M, but with changes to certain details of the terms and conditions of service for new large load customers that reflect compromise among the parties. He said the Settlement Agreement includes other terms addressing issues of importance to certain Settling Parties, including terms addressing cost allocation, collaboration on additional topics such as demand response and a Clean Transition Tariff, reporting requirements, and funding to the Indiana Community Action Association ("INCAA") to support income-qualified Hoosiers. He concluded the terms of the Settlement Agreement are reasonable, supported by the evidence, and provide a fair resolution to the issues raised in this proceeding. He requested the Commission find that the Settlement Agreement is consistent with the public interest and approve it.

Google witness Farr testified that the Settlement Agreement is a comprehensive resolution to various concerns expressed by multiple parties, all of whom had distinct viewpoints. He expressed his opinion that this case is about balancing risks. He said as described in his direct testimony, it is reasonable for the Commission to consider tariff revisions to help ensure that I&M is planning for a prudent amount of investment and, to the degree that a specific customer's demand forecast proves inaccurate, that the financial risks of that inaccuracy be borne by the specific customer, not I&M's greater body of ratepayers. He said the Settlement Agreement achieves that objective. He expressed his belief that the Settlement Agreement's terms create the proper balance between large load customers and I&M, while also providing significant protections to I&M and other ratepayers. He testified the issues raised in this case were challenging and encompassed a complex array of opinions on how best to achieve the optimal regulatory outcome. He said despite the range of views, the Settling Parties came to the negotiating table and found consensus on terms to resolve the case that, in his opinion, protects the interests of the participating parties in a manner consistent with sound rate design principles.

Amazon witnesses Fradette, Loomis, and Berry all recommended approval of the Settlement Agreement, which they said is based on appropriate regulatory policy and rate design principles, including appropriate allocation of costs to serve large load customers. They said the parties' agreement is well within the range of outcomes from a litigated case. They further testified that the Settlement Agreement is the result of a collaborative negotiation process that supports I&M's ability to provide cost-effective, dependable service to all customers and continue pursuing

opportunities that enable third party economic development and investment of large loads, such as Amazon's data centers, within I&M's service territory.

11. <u>Commission Discussion and Findings</u>. Settlement is a reasonable means of resolving a controversial proceeding. We note that Indiana law strongly favors settlement as a means of resolving contested proceedings. *Mendenhall v. Skinner & Broadbent Co., Inc.*, 728 N.E.2d 140, 145 (Ind. 2000) ("The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes."). The Settlement Agreement represents the proposed resolution of the issues in this Cause by all the parties of record. As the Commission has previously discussed, settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coal. of Ind., Inc. v. PSI Energy, Inc.,* 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coal.,* 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum,* 735 N.E.2d at 795 (citing *Citizens Action Coal. of Ind. v. Public Service Co.,* 582 N.E.2d 330 (Ind. 1991)). The Commission's procedural rules require that settlement be supported by probative evidence. 170 IAC 1-1.1-17(d). Before the Commission can approve the Settlement Agreement, the Commission must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2 and that it serves the public interest. In the current Cause, the Commission has before it substantial evidence with which to judge the reasonableness of the terms of the Settlement Agreement.

While our decision is based on the entire record, the foregoing summary of the evidence facilitates our consideration. As discussed in greater detail below, the Commission concludes the Settlement Agreement, taken as a whole and modified herein, is a fair and reasonable resolution of the issues presented in this Cause, supported by the record, and in the public interest. Accordingly, the Commission approves the Settlement Agreement as set forth below.

A. <u>Applicability</u>. In its case-in-chief, I&M proposed that the Large Load Terms would apply based on a threshold of greater than 150 MW, which would apply to both individual and aggregated sites. I&M proposed the 150 MW minimum threshold because of the significant financial commitment I&M indicated must be made to serve loads of that magnitude or greater into the future and the customer concentration risk it represents to I&M's business and the cost of serving its customers.

The record shows the OUCC did not oppose I&M's proposal, and the CAC supported it. Google and Amazon opposed this threshold. More specifically, Google suggested a 70 MW threshold would be more appropriate to cover anticipated future load growth and account for the risk of demand uncertainty due to the number of new customers seeking service in the range of 70-150 MW. Amazon contended that I&M's 150 MW threshold appears to be random and targeted to the initial three large load customers.

I&M witness Williamson testified that as part of the give and take of settlement negotiation, the Settling Parties compromised by agreeing to a lower individual site threshold. Under the Settlement Agreement, the Large Load Terms will apply to customers taking service on I&M Tariff I.P. with contract capacity greater than or equal to 70 MW at an individual site or 150 MW on an aggregated basis ("Large Load Customer"). I&M will exercise reasonable discretion when choosing to aggregate premises as set forth in the Settlement Agreement. The Settling Parties also agreed that the Large Load Terms shall only apply to new load, or an expansion of existing load, occurring on or after January 1, 2024.

Based on the record, the Commission finds the Settling Parties' agreement on the applicability of the Large Load Terms to be reasonable. We recognize that the agreed Large Load Customer threshold of 70 MW at an individual site or 150 MW on an aggregated basis reasonably provides that customers for whom I&M would need to make significant financial investments to serve are obligated measurably more than under the existing Tariff IP. We further find that applying the Large Load Terms only to new load, or an expansion of existing load, occurring on or after January 1, 2024, reasonably safeguards I&M's existing customers in a manner more consistent with the risk of new or expanded load.

B. <u>Mandatory Term</u>. As discussed above, I&M originally proposed an initial contract term of 20 years. The OUCC and CAC supported this proposal. DCC proposed ten years, Google contended the contract term should minimize the risk of stranded assets, and Amazon proposed four years. In rebuttal, I&M acknowledged that a ten-year contract term coupled with I&M's proposed Contract Termination Fee could sufficiently cover I&M's financial risk under some asset cost and market conditions, but a longer-term contract was a preferable safeguard.

As shown in Section I.A.2 of the Settlement Agreement, the Settling Parties agreed to an Initial Contract Term of not less than 12 years, commencing after any Load Ramp Period ends. The Load Ramp Period can be no greater than five years. The Load Ramp Period is the later period of time from when: (a) electric service is available to the Large Load Customer or (b) the Large Load Customer is scheduled to begin taking electric service, until the time the Large Load Customer's maximum contract capacity is billed. The Contract Term is defined as the combined period of time associated with any Load Ramp Period plus the Initial Contract Term.

I&M witness Williamson testified that as part of the negotiated package, the agreement on the Initial Contract Term strikes a reasonable balance of the diverse positions amongst the Settling Parties and provides for a substantially longer commitment than I&M requires as an initial contract term from other Tariff I.P. customers.

OUCC witness Eckert testified that the agreed mandatory term helps reduce the risk of stranded asset costs for I&M and their potential recovery from I&M's other customers and/or shareholders.

CAC witness Inskeep testified that the Settlement Agreement would establish a minimum contract term for Large Load Customers of 12 years, plus the Large Load Customer's designated Load Ramp Period, if any, which can last up to five years. He said in other words, most Large Load Customers would be expected to have a 14- to 17-year contract term, assuming a two- to five-year Load Ramp Period. He said this is significantly longer than the current two-year

minimum contract term specified in Tariff I.P., and only modestly shorter than the 20-year term initially proposed by I&M. He stated the Initial Contract Term reasonably balances the need expressed by I&M for Large Load Customers to make a long-term financial commitment consistent with the large investments that I&M will be making on their behalf, concerns expressed by consumer advocates regarding potential cost shifts if a Large Load Customer were to suddenly reduce or discontinue service, and the desire expressed by large customers for additional contract flexibility.

Google witness Farr testified the Settlement Agreement specifically allows for a Load Ramp Period of not more than five years. He said this allows a customer to specify defined, stepped, load levels as it moves towards its ultimate contract demand. He added this will enable the customer to align its contract with its business needs while also ensuring that I&M is planning and investing based on an accurate signal of demand.

Amazon witness Fradette testified the mandatory term provision that the Settling Parties agreed upon after much discussion is fair, just, and reasonable, in the context of the overall settlement package. Likewise, Dr. Berry and Mr. Loomis both agreed that the mandatory term provision is fair, just, and reasonable.

The record shows there was a general acknowledgement amongst the parties that an initial contract term longer than Tariff I.P.'s current two-year minimum would be reasonable for Large Load Customers. At the same time, several parties raised concern with I&M's original proposal for a 20-year term. The parties, through the Settlement Agreement, have resolved this issue through an agreement that a Large Load Customer will be subject to a minimum contract term of 12 years, plus the Large Load Customer's designated Load Ramp Period, if any, which can last up to five years. The record shows the agreed mandatory term reasonably balances the diverse views of the Settling Parties while providing for a substantially longer commitment from Large Load Customers than I&M requires as an initial contract term from other Tariff I.P. customers. The record further shows that the minimum contract term of 12 years, when coupled with the other provisions of the Settlement Agreement, provides reasonable financial safeguards for I&M and its other customers that exceed those under the currently approved Tariff IP. The agreed mandatory term provision will also help Large Load Customers align their contract with their business needs while also ensuring that I&M is planning and investing based on accurate demand signals.

C. Monthly Billing Demand. I&M's direct testimony explained why it supported revising the minimum billing demand from 60% to 90% for large load customers as a reasonable way to protect I&M and its other customers by mitigating the potential volatility and variability associated with such customers. Multiple intervenor witnesses questioned the need for I&M's proposed revision to Tariff I.P.'s minimum billing demand provision. As shown in Petitioner's Exhibit 2, Figure AJW-2R, the DCC proposed 70% on production demand; 60% for the OSS/PJM Rider, and Amazon and Google proposed 60%. The record shows both the OUCC and CAC agreed with I&M's proposal.

As shown in Section I.A.3 of the Settlement Agreement, the Settling Parties agreed to an 80% minimum monthly billing demand. More specifically, Settlement Agreement Attachment A provides the Settling Parties' agreement to the following language for the Tariff I.P. monthly billing demand clause for Large Load Customers:

> The Monthly Billing Demands for Large Load Customers in kW for each plant shall be taken each month as the single-highest 15-minute integrated peak in kW, as registered at such plant during the month by a demand meter or indicator, subject to the Off-Peak Hour Provision, but the monthly demand so established shall in no event be less than the greater of (a) 80 percent of the Large Load Customer's contract capacity specified for the applicable time period of the Contract Term; or (b) 80 percent of the Large Load Customer's highest previously established Monthly Billing Demand during the past 11 months. The Metered Voltage adjustment, as set forth above, shall not apply to the Large Load Customer's minimum Monthly Billing Demand.

I&M witness Williamson testified the agreed minimum billing demand provision balances customer flexibility with assurances that Large Load Customers provide financial support for the significant transmission and generation infrastructure needed to serve such load. He said importantly, the 80% minimum billing demand provision is combined with enhanced minimum charge terms. He said the combination of these two minimum charges reflects a reasonable and balanced compromise amongst all Settling Parties and provides important financial protections for all I&M customers.

OUCC witness Eckert testified the Settlement Agreement increases the monthly billing demand for Large Load Customers from that in I&M's current Tariff I.P. He said the agreed monthly minimum billing demand provision reduces the risk of stranded assets and better ensures Large Load Customers pay their fair share of the costs I&M incurs to serve their added load.

Google witness Farr noted that under the Settlement, I&M is only applying the 80% minimum monthly billing demand to the Large Load Customer's load ramp capacity as specified in its contract. He said when coupled with the agreed-upon minimum charge provision, this allows the customer greater flexibility in its planning as it moves its facility to full operation without imposing a significant financial obligation that is not tied to its actual level of service for the period.

The record reflects the parties had differing positions and concerns regarding I&M's original proposal to increase the minimum monthly billing demand for large load customers from the current 60% to 90%. The Settling Parties resolved those concerns through Section I.A.3 of the Settlement Agreement, which provides for an 80% minimum monthly billing demand. The record shows an 80% minimum monthly billing demand reasonably balances I&M's interest in ensuring Large Load Customers provide financial support for the significant transmission and generation infrastructure needed to serve them, the Large Load Customers' interest in flexibility, and I&M's other customers' interest in mitigating the potential volatility and variability associated with Large Load Customers in an appropriate manner, particularly when consideration is given to the other provisions of the Settlement Agreement.

D. <u>Minimum Charge</u>. As shown by Settlement Agreement Attachment A, the Settling Parties agreed to the following language for the Tariff I.P. minimum charge clause for Large Load Customers:

Large Load Customers are subject to a minimum monthly charge for each plant equal to the sum of: (a) the Monthly Service Charge; (b) the product of the Minimum Demand Charge and the Monthly Billing Demand; (c) the product of the Step 1 Embedded Capacity Charge and the Monthly Billing Demand; and (d) the sum of the product of each demand charge in all applicable demand related riders in effect at the time and the Monthly Billing Demand. The Step 1 Embedded Capacity Charge rate will be computed as follows: (Block 1 Energy Rate less Block 2 Energy Rate) multiplied by Block 1 Energy Hours less (Minimum Demand Charge less Demand Charge).

The Step 1 Embedded Capacity Charge under this tariff shall be as follows:

Tariff Code	Service Voltage	Step 1 Embedded Capacity Charge ($/kW)
327	Secondary	13.289
322	Primary	12.427
323	Subtransmission	12.271
324	Transmission	10.959

By way of example, the Step 1 Embedded Capacity Charge, under Tariff I.P. as of November 14, 2024, for Transmission Service Voltage: ($0.05058/kWh - $0.01286/kWh) *410 hrs. - ($14.70/kW-mo. – $10.194 /kW-mo.) = $10.959/kW.

I&M witness Williamson testified the Settlement Agreement restructures I&M's original minimum charge proposal to also include demand costs embedded in the Block 1 Energy Charge through the Step 1 Embedded Capacity Charge. He explained that including the Step 1 Embedded Capacity Charge in the minimum charge computation establishes an overall higher minimum charge, which ensures greater cost recovery in the event of significantly lower levels of anticipated load and/or permanent closure than compared to I&M's original proposal. He testified that reducing the minimum billing demand from 90% to 80% allows additional operational and planning flexibility for the Large Load Customer, while the addition of the Step 1 Embedded Capacity Charge allows for greater protection to I&M and existing customers by requiring a higher minimum bill than I&M's original proposal. He also said that because demand costs are recovered through various rate adjustment mechanisms, the agreed Tariff I.P. language clarifies that "all applicable demand related riders" are included in the minimum monthly charge calculation.

As an example of the greater protection to I&M and existing customers, Mr. Williamson provided Figure AJW-1S in Petitioner's Exhibit 3. He further explained that the annual minimum bill for a 1,000 MW customer provided by the Settlement Agreement is approximately $76 million higher than under I&M's original proposal of 90% minimum demand.

OUCC witness Eckert testified that under the Settlement Agreement, Large Load Customers must pay the demand component of all applicable riders in effect at the time, thereby encompassing riders with a demand component that may hereafter be approved during the Contract Term.

CAC witness Inskeep explained the calculation of the monthly minimum charge for Large Load Customers now includes the Step 1 Embedded Capacity Charge, which will be based on the greater of 80% of the customer's contract capacity or 80% of its highest monthly billing demand from the prior 11 months. He said the inclusion of the Step 1 Embedded Capacity Charge modifies the effective monthly charge to the $275 monthly fixed charge plus an aggregate minimum demand charge totaling $35.034 per kW applied against the greater of 80% of the Large Load Customer's contract capacity or its peak demand from the prior 11 months. He said the end result is that consumers are better protected if a Large Load Customer reduces their load to much less than its contract capacity in a given month.

Mr. Inskeep provided an example of how the monthly minimum charge is impacted by the Settlement Agreement. He said a new Large Load Customer with a contract capacity of 1,000 MW and a load factor of 85% is expected to pay a monthly bill of about $41 million, or $492.3 million per year. He said under the current terms of Tariff I.P., which is based on a minimum billing at 60% of contract capacity, this customer would have a minimum bill of about $14.4 million, or $173.3 million per year. I&M, in its case-in-chief, proposed increasing this to 90%, resulting in a monthly minimum of about $21.7 million, or $260 million per year. Mr. Inskeep stated that the Settlement Agreement increases the monthly minimum bill to about $28 million, or $336.3 million per year, which is roughly double the current monthly minimum charge under Tariff I.P. *See also,* CAC Ex. 2, Table 2. He said this is a significantly higher level of protection that benefits I&M and its existing customers.

The record shows that the minimum demand charge is necessary to allow I&M to reasonably recover its cost of providing service on a monthly basis. We agree it is important to safeguard against a scenario where the Large Load Customer's contracted load does not materialize or the Large Load Customer ceases operations, particularly because I&M's Tariff I.P. rate structure recovers certain production demand costs through the first block energy charge. The Settlement Agreement reasonably addresses the concerns raised by the parties related to I&M's original proposal while maintaining, and strengthening, customer protections related to the addition of Large Load Customers to I&M's system. The settlement testimony of I&M and the CAC regarding the comparative impact of the terms of the Settlement Agreement for a Large Load Customer based on usage and load factor shows a meaningfully higher minimum monthly bill under the settlement tariff as compared to I&M's existing Tariff I.P. structure.

E. Collateral Requirements. In its case-in-chief, I&M proposed to include additional collateral requirements for large load customers because the size and concentration risk of these customers is unlike other customers. Only the DCC raised an objection to the proposed collateral requirements. DCC witness Higgins suggested the proposed collateral requirements be modified to state that a customer with a credit rating of at least A- from S&P and A3 from Moody's, or cash on its balance sheet equivalent to ten times the collateral requirement, be exempt from providing collateral. In rebuttal, Mr. Williamson stated that requiring both a public debt rating (Moody's/S&P), along with a liquidity covenant puts I&M in the best position to ensure that a

large load customer and/or its guarantor is willing and able to provide payment in the event that an early termination occurs.

The Settling Parties agreed that the collateral requirement I&M proposed in its Verified Petition and direct testimony should be adopted. However, the Settling Parties also agreed that a Large Load Customer with a credit rating of at least A- from S&P and A3 from Moody's and liquidity greater than ten times the collateral requirement shall be exempt from the Tariff I.P. collateral requirements. A Large Load Customer that does not have a credit rating from S&P and Moody's but maintains liquidity greater than ten times the collateral requirement (evidenced by providing quarterly financial statements and certification that on the date financial statements are provided that the Large Load Customer's liquidity meets the ten times threshold) shall be exempt from 50% of the collateral requirements not to exceed an exemption of more than $250 million. For additional clarity, the Settlement Agreement also sets forth in Section 1.A.5 how the collateral requirement will be met.

Mr. Williamson testified that this negotiated part of the settlement package is consistent with his rebuttal testimony concerning public companies that have a credit rating and puts in place additional provisions to address private companies that do not have a credit rating.

The record reflects that if a Large Load Customer was to unexpectedly exit I&M's service territory and/or system, there is potential for significant financial harm to I&M and its other customers. The record further shows that with the number of current commitments and potential future interest in I&M's system from Large Load Customers, less than a handful of customers will be the largest single sector for I&M, even greater than I&M's existing residential, commercial, and industrial customers combined. While no reasonable term can fully insulate I&M and its other customers, the agreed collateral requirements reasonably increase the requirement of I&M's current Terms and Conditions of Service and provide additional protections in the event a customer does unexpectedly cease taking service from I&M and is unable to pay its remaining charges. More specifically, the collateral requirement provision agreed to by the Settling Parties maintains I&M's proposal based on credit metrics while also allowing for potential Large Load Customers without a credit rating to offset a portion of their collateral requirement through sufficient liquidity, subject to reasonable financial documentation. This reasonably protects I&M and its other customers while providing a reasonable alternative for private companies that do not have a credit rating.

F. <u>Contractual Flexibility and Exit Fee</u>. In its case-in-chief, I&M recognized that large load customers should be provided with reasonable flexibility to reduce their maximum contract capacity during the term of the contract. I&M originally proposed that a customer would be allowed to reduce its contract capacity by up to 20% but allowed for additional flexibility in mutually agreeable circumstances that are beneficial, or at least not detrimental, to the customer, I&M, and all other customers. I&M also proposed the customer give at least five years' prior written notice of its capacity reduction. In the event of a permanent closure, I&M proposed the customer shall notify I&M within three business days of making this determination. I&M also proposed to establish a minimum five-year commitment under the tariff and provide the customer the ability thereafter to exit the contract by providing a Contract Termination Fee equal to five years of the customers' minimum bill in the event of a permanent closure.

The OUCC did not oppose I&M's Contract Termination Fee but expressed concern regarding contract capacity reductions greater than 20%. The CAC proposed a termination fee of eight years of minimum bills, and caps on contract capacity reductions. Witnesses for DCC, Google, and Amazon also challenged I&M's proposal based on various arguments as summarized in Petitioner's Exhibit 2, Figure AJW-2R. For example, Google witness Farr recommended the Commission adopt fair and transparent fees to cover foregone net revenues from the minimum demand charge if excess capacity, released by a customer, is not used; but he was critical of I&M's proposed 20% limitation on the reduction of capacity over the 20-year life of the contract and the lack of a provision for I&M's ability to use any excess capacity to serve other customers or otherwise reduce a customers' financial obligations.

The Settlement Agreement maintains a Large Load Customer's flexibility to reduce its contract capacity after the first five years without paying a capacity reduction/termination fee ("Exit Fee"). The total capacity reduction under this provision is limited to 20%, except by mutual agreement between I&M and the Large Load Customer, which I&M shall only grant in circumstances that are beneficial, or at least not detrimental, to the Large Load Customer, I&M, and all other customers.

I&M witness Williamson testified this provision is consistent with I&M's initial proposal. He said the agreed flexibility recognizes there may be situations where allowance for larger contract capacity reductions without payment of an Exit Fee would make sense, if I&M was able to avoid or offset the exposure to long-term excess capacity risk. As an example, he said if I&M has not yet acquired the long-term generation needed to serve that additional increment of load in the future and could avoid that financial commitment and cost, then it may be reasonable to accept the greater reduction to the contract capacity commitment beyond the 20%.

Mr. Williamson testified that Section I.A.6 of the Settlement Agreement also addresses the notification process necessary to reduce capacity by up to 20%. He said the Settling Parties agreed that the Large Load Customer must provide I&M with at least 42 months' notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought. He stated this notice period will provide I&M time to incorporate such changes into its capacity planning ahead of PJM's Base Residual Auction associated with the PJM Delivery Year for which the reduction or termination is sought.

Mr. Williamson testified Section I.A.6.b of the Settlement Agreement resolves the Settling Parties' dispute regarding the Contract Termination Fee. He explained the Settling Parties agreed that a Large Load Customer may terminate its contract or reduce its contract capacity beyond 20% at any time after the first five years of the contract by giving I&M at least 42 months' written notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought, subject to payment of an Exit Fee. He said the Exit Fee shall be due and payable to I&M upon the effective date of the contract termination or the effective date of the capacity reduction.

Mr. Williamson explained the Settling Parties agreed that the Exit Fee shall be calculated as the nominal value of the remaining Minimum Charge for the terminated/reduced capacity in excess of the 20% allowed reduction for the first year of the Exit Fee Period; and for any remaining year of the Exit Fee Period, the Exit Fee shall be calculated in the same manner as the first year, minus the OSS/PJM Rider's (or the same cost addressed in another rider's) contribution to the

Minimum Charge. He said the Exit Fee Period is defined as the Large Load Customer's then remaining Initial Contract Term, or any agreed extension, and that the Settlement Agreement establishes that the Exit Fee Period shall not be less than one year and not exceed five years.

Mr. Williamson next explained why the OSS/PJM Rider's contribution to the Minimum Charge is removed from the calculation after the first year. He stated the demand related component of the OSS/PJM Rider exists currently to recover I&M's allocated share of the zonal revenue requirement for the AEP transmission zone. He said a load's contribution to the peaks used in that allocation process will drop out or be removed from the process on a one-year lag following their reduced or ceased operations. For example, he said a load that ceased operations in 2024 would still contribute to the costs allocated to I&M during the following 2025 calendar year; and would no longer contribute to the allocation of such costs to I&M in 2026. He stated this is the reason for the wording in the Settlement Agreement regarding the OSS/PJM Rider and the minimum charge. Mr. Williamson testified that the timing in which the OSS/PJM Rider recovers demand-related costs associated with the service provided to Large Load Customers was the subject of discussion amongst the Settling Parties. Ultimately, in the interest of settlement and mitigating potential short-term negative impacts to remaining customers, the Settling Parties agreed to this condition as a component of the overall package.

Mr. Williamson said the Settlement Parties' agreed in Section I.A.6.c of the Settlement Agreement that following receipt of proper notice and through the Exit Fee Period, I&M will use reasonable efforts, consistent with its obligations as a public utility, to mitigate the Exit Fee amount by evaluating the opportunity to assign the terminated/reduced capacity to serve new Large Load Customers, to expand service to existing Large Load Customers, or otherwise secure offsetting expected revenues. He said additionally, the remainder of any mitigating amounts owed to the Large Load Customer shall be delivered to the Large Load Customer, or its designated successor, after all outstanding balances have been resolved.

Mr. Williamson reiterated I&M's goal is to avoid having excess capacity in the event of a Large Load Customer ceasing operations. He said if a Large Load Customer was to exit I&M's system, the ideal scenario would be to have another Large Load Customer continuing the service at the same location or establishing service at another location resulting in a similar ongoing long-term commitment for that capacity. Because this ideal scenario may not exist, he said reasonable efforts will be used to evaluate alternative solutions consistent with I&M's obligations. He said the resolution of this issue is reasonably designed to allow I&M to find a solution to mitigate its exposure to long-term excess capacity costs while balancing that with a Large Load Customer's interest in mitigating the Exit Fee where possible.

Mr. Williamson stated Section I.A.6.d of the Settlement Agreement sets forth an agreed dispute resolution process. He said if there is an issue concerning the calculation of the Exit Fee, that either I&M or the Large Load Customer view as in need of escalation, the Settlement Agreement provides that either entity may request escalation. He said while escalation is a common business practice, including it in the Settlement Agreement provides clarity by setting out an agreed timeline for issue resolution. He said this section also clarifies that the dispute resolution process does not limit or otherwise affect the ability of either the Large Load Customer or I&M to file a formal proceeding requesting the Commission to resolve the dispute.

Finally, Mr. Williamson discussed Section I.A.6.e of the Settlement Agreement. He said I&M originally proposed that a Large Load Customer would not assign its rights or delegate its obligations without the written consent of I&M. He said that although Amazon proposed that assignment or delegation be allowed without negotiation or approval of I&M, the Settlement Agreement reasonably resolves this issue by providing that a Large Load Customer shall not assign any of its rights or delegate any of its obligations under the Tariff I.P. contract without the written consent of I&M. An assignment or delegation in violation of this section is null and void.

OUCC witness Eckert testified that the Settlement Agreement affords contractual flexibility while mitigating the potential impact on I&M's other ratepayers by not allowing a reduction during the first five years, limiting the reduction to a total of up to 20%, and requiring at least 42 months prior written notice. He said Section I.A.6.a includes further protection for I&M's ratepayers by precluding an agreement being made to reduce a Large Load Customer's capacity by more than the 20% total without payment of a capacity reduction/termination fee if the result of that reduction is detrimental to I&M's other customers. He said this safeguard helps to ensure that the rates for other ratepayers are not adversely impacted by a mutual agreement that reduces a Large Load Customer's capacity greater than a total of 20%.

CAC witness Inskeep testified the Settlement Agreement would result in an Exit Fee totaling more than $1 billion for a 1,000 MW large load customer that discontinued service five or more years prior to the end of its Contract Term. He said this is a substantial Exit Fee providing significant protection to I&M and consumers if a Large Load Customer discontinues service, as I&M will use revenues from the Exit Fee to offset remaining costs incurred to serve the customer, protecting remaining customers from rate increases associated with the loss of the Large Load Customer. He stated the Settlement Agreement also allows the opportunity for Large Load Customers to receive a refund on their Exit Fee should I&M successfully mitigate the impacts of any reduction or discontinuation of service.

Google witness Farr identified this section as an example of how the Settlement Agreement modifications establish an appropriate degree of balance. He explained that a Large Load Customer can reduce their contract capacity beyond 20% without a fee if certain specified conditions, including I&M's agreement, are met, or if those conditions are not met, by paying an Exit Fee. He noted the Exit Fee is subject to I&M's mitigation efforts to use that capacity for other purposes that would secure offsetting revenues for I&M. He said these provisions act in harmony to provide customers with reasonable flexibility in setting, and adjusting, their contract capacity while still protecting other ratepayers and I&M. He testified it is particularly important that the Exit Fee is subject to mitigation not simply through expanding service to new or existing customers, but also through other potential means. He said this reflects a more balanced approach to setting, and mitigating, the Exit Fee by properly keeping the burden on I&M to act prudently in making resource decisions.

Amazon witness Fradette noted the Settlement Agreement provides flexibility which allows a Large Load Customer: (a) to reduce contract capacity by up to 20% without a fee upon providing notice as defined in the Settlement; and (b) to reduce contract capacity by an amount greater than 20%, upon providing notice as defined in the Settlement Agreement and subject to an Exit Fee, which can be mitigated. He testified this flexibility was critical in the overall evaluation and ensures a fair, just, and reasonable resolution for all Settling Parties.

The record reflects general recognition among the Settling Parties that contractual flexibility is important for Large Load Customers, but that such flexibility must be balanced against the potential risks to I&M and other customers in the event the Large Load Customer were to significantly deviate from its contractual capacity. While we recognize I&M's goal is to avoid having excess capacity in the event of a Large Load Customer ceasing operations, we must also recognize that the ideal scenario, in which another Large Load Customer establishes service resulting in a similar ongoing long-term commitment for that capacity, may not exist. Accordingly, it is important that safeguards be established in the event a Large Load Customer reduces its contract capacity or terminates its contract early while still expecting I&M to pursue alternative, if less than ideal, solutions.

The evidence reflects that the Settling Parties have negotiated a resolution that addresses the various stakeholder concerns and positions and maintains a reasonable balance between customer flexibility and safeguards in the event a Large Load Customer must reduce or terminate load. More specifically, we find the combination of terms found in Section I.A.6 of the Settlement Agreement, when taken as a whole, create a framework whereby a Large Load Customer can have a reasonable level of contractual flexibility while ensuring that significant reductions in capacity, or termination of load, do not detrimentally impact I&M's remaining customers. In particular, we note that the Settlement Agreement's resolution of this issue is reasonably designed to allow I&M to find a solution to mitigate I&M's exposure to long-term excess capacity costs while balancing that with a Large Load Customer's interest in mitigating the Exit Fee where possible. At the same time, the record shows that the Exit Fee provided for in the Settlement Agreement is substantial, totaling more than $1 billion for a 1,000 MW Large Load Customer that discontinues service five or more years prior to the end of its contract term. We find these Settlement Agreement provisions, working in concert, provide significant protection to I&M and customers should a Large Load Customer discontinue service. However, due to the significance of these potential obligation modifications, we find the Commission should exercise its oversight of any exit or material reduction of Large Load Customer demand that I&M responded it was not opposed to in its November 15, 2024, Docket Entry response. Accordingly, any reduction in contract capacity beyond 20% that is mutually agreed upon between I&M and the Large Load Customer must also be submitted to the Commission for its review and approval before becoming effective.

G. Special Contracts. I&M requests approval of modifications to Tariff I.P. to establish a consistent framework for the terms and conditions of basic or standard service for large load customers. I&M proposed that special contracts be utilized to address unique needs or opportunities that are not available through I&M's tariffs, if, and as, they arise. In other words, under I&M's original proposal, large load customers could receive electric service under Tariff I.P. and also have a special contract to adjust their monthly electric service charges for other services, such as demand response, sustainability programs, or strategic partnerships, as is done today for several of I&M's Tariff I.P. customers.

Amazon, DCC, and Google contended that, for various reasons, it is preferrable to serve large loads through a negotiated special contract. The CAC agreed with I&M's proposal to serve large load customers under a published tariff rather than through individually negotiated special contracts because it viewed the tariff approach as more transparent, administratively efficient, and fair to existing and potential new customers.

Mr. Williamson testified this issue was the subject of substantial discussion during settlement negotiations. He said ultimately, the Settling Parties recognized that Indiana's regulatory framework allows customer-specific contracts to be brought to the Commission. He stated the Settlement Agreement balances the differing views of the parties and provides that special contract requests from potential and existing Large Load Customers shall continue to be addressed in a manner consistent with I&M's existing practices. He noted the Settlement Agreement also provides that I&M will bring those special contracts to the Commission for review and approval in accordance with Ind. Code §§ 8-1-2-24 and -25.

Google witness Farr testified that the Settlement Agreement definitively states that I&M will treat requests for special contracts consistent with the statutory provisions allowing for such contracts. He explained although I&M never proposed to eliminate such contracts, its initial proposal could be read as a limitation on the conditions under which I&M would consider this approach. He said the language in the Settlement Agreement is important to preserve opportunities for collaboration and develop shared solutions for providing service to Large Load Customers beyond the limited range of areas identified by I&M in its initial proposal.

The Commission finds the Settlement Agreement provision related to special contracts provides clarity with respect to service under Tariff I.P. and appropriately recognizes Indiana's regulatory framework that allows customer-specific contracts to be brought to the Commission. Ind. Code §§8-1-2-24 and -25.

H. Full Planning Studies. Section I.A.8 of the Settlement Agreement provides that Full Planning Studies, including steady-state and dynamic studies, required because of the potential addition of a Large Load Customer shall be paid solely by the Large Load Customer.

CAC witness Inskeep testified that this term is one of several ways the Settlement Agreement addresses concerns raised about the allocation of costs. He said this term helps alleviate concerns that portions of planning study costs could be allocated to other ratepayers in the future.

Based on the evidence presented and the overall Settlement Agreement, we find this term reasonable.

I. Collaboration. Section I.A.9 of the Settlement Agreement provides that the Settling Parties will work collaboratively on topics of interest, namely a Clean Transition Tariff, Load Shedding Events, and Demand Response.

With respect to the Clean Transition Tariff, Section I.A.9.a of the Settlement Agreement provides I&M will work collaboratively with the Settling Parties to develop a new customer program tariff proposal that enables participants to support investment in carbon-free resources while ensuring that all program costs are covered by program participants and remaining consistent with the Five Pillars.

Google witness Farr testified that the Clean Transition Tariff is an optional customer program tariff proposal that enables participants to support investment in carbon-free resources, while ensuring that participating customers cover the full cost of those investments. Acknowledging that I&M could not commit to proposing such a program, Mr. Farr said I&M's willingness to work with the Large Load Customers and other Settling Parties in the potential

development of such a program is important because it shows an understanding of the need to work together to address the complexities inherent in addressing the energy transition and customers' own business objectives.

The Settlement Agreement also provides a schedule for updating the Commission on these discussions. More specifically, the Settlement Agreement states I&M will target October 1, 2025, as the date for I&M to petition the Commission for approval of a proposal. I&M retains the right to make the ultimate decision as to whether to seek approval and its decision will be informed by the collective support for the proposal among the collaborative participants. If I&M elects not to seek approval of a proposal, the Settlement Agreement provides that I&M will notify the Commission through a compliance filing in this Cause, explaining its decision and providing the Commission with comments solicited from the collaborating participants regarding their position on the proposal.

With respect to Load Shedding Events and Demand Response, the Settlement Agreement acknowledges that I&M will continue to prioritize public safety in its emergency load reduction plans. I&M witness Williamson testified the Settlement Agreement provides that I&M will convene one or more meetings of the Settling Parties to discuss: (1) I&M's emergency response procedures, including required system actions that would be necessary to respond to an emergency load shedding event required by PJM that is caused by deficiencies in either transmission and/or generation capacity and consider the potential need to modify such procedures due to the Large Load Customers; and (2) existing and potential demand response opportunities for Large Load Customers.

Mr. Williamson noted the Settling Parties welcome a Commission representative to participate in this discussion. He said I&M will convene the initial meeting within 90 days of a final Commission order approving this Settlement Agreement and will file a report in this proceeding upon conclusion of the discussion. He said these Settlement Agreement terms and the associated activities serve to reasonably address important concerns and interests of various Settling Parties in a collaborative manner.

While the Commission need not approve the Settling Parties' agreement to work collaboratively with respect to a Clean Transition Tariff, Load Shedding Events, and Demand Response, we recognize and appreciate the parties' efforts to address utility service issues important to customers.

J. <u>Reporting</u>. CAC witness Inskeep made specific recommendations regarding ongoing reporting, which he proposed occur quarterly. Mr. Inskeep's testimony also raised concerns about transparency with these new loads, and nondisclosure agreements between CAC and the data center intervenors. On rebuttal, I&M indicated an understanding of the CAC's interest in large load customers. However, I&M witness Williamson expressed concern about the frequency of the reporting; the fact that I&M already reports on numerous matters; the importance of additional reporting requirements being clear, having a defined purpose, and providing a benefit; and the need to protect confidential and competitively sensitive information.

The Settling Parties agreed that I&M will report to the Commission on a semi-annual basis the specific information related to Large Load Customers enumerated in Section I.A.10 of the Settlement Agreement. The Settling Parties further agreed that the confidential information in the report would be provided subject to protection from public disclosure, and the confidential portions of the report would not be provided to the Large Load Customers or other competitively interested stakeholders. However, the confidential portion of the report would be provided to the OUCC and CAC subject to agreed procedures (or, in the absence of agreement, Commission ordered procedures) for the protection of the confidential information.

The first semi-annual report will be filed within six months of a final Commission order approving the Settlement Agreement. Also, upon Commission request, copies of executed electric service agreements and transmission letters of agreements shall also be provided to the Commission, subject to the protection of confidential information. Such information will also be provided to the OUCC and CAC subject to agreed-upon or, in the absence of agreement, Commission ordered, terms of protection of the confidential information. As is the case with the underlying reports, the confidential documents will not be provided to the Large Load Customers or other competitively interested stakeholders.

Section I.A.10.e of the Settlement Agreement addresses certain mechanics associated with the agreed reporting, including an agreement to work together on the terms of non-disclosure agreements as well as the content and format of the report. And if agreement cannot be reached, a request to establish such terms on these matters may be made to the Commission. Additionally, Section I.A.10.f clarifies the scope of the negotiated resolution—that the Settlement Agreement does not limit the ability of the Commission or any Settling Party to seek information in future proceedings or to request modification or discontinuance of the reporting requirements.

I&M witness Williamson testified that the Settling Parties' agreement on reporting provides for a frequency that is less often than CAC originally recommended and more often than the annual reporting preferred by I&M. He said importantly, the agreed reporting addresses the protection of confidential and competitively sensitive information to be reported, which extends to public disclosure as well as to disclosure to data centers or other entities with a competitive interest.

Mr. Williamson stated that due to the confidential and competitively sensitive nature of the information involved, it was challenging to wrestle with the desire for transparency and reporting. He said from I&M's perspective, as part of the negotiated settlement package, the reporting provisions reasonably balance the divergent concerns of the parties and provide a path for the Commission to resolve disputes on the terms of nondisclosure agreements and the content of public versions of the reports if necessary.

CAC witness Inskeep testified that the agreed upon reporting will provide, at a more frequent cadence, consumer advocates and the Commission with additional information about the electricity and capacity needs of Large Load Customers, notices by those customers to reduce their contract capacity, Exit Fees assessed by I&M, a status update on the "queue" of Large Load Customers in I&M's service territory, and summaries of investments made by I&M to serve Large Load Customers. He said the CAC is especially supportive of the provision requiring the Settling

Parties to collaborate on a non-disclosure agreement and the content and format of a public version of the report.

The record shows the Settling Parties have agreed to a set of reporting requirements that, taken as a whole, provide information regarding the addition of Large Load Customers in I&M's service area. The record further shows that protection of the confidential information to be submitted in the semi-annual reports is reasonable. The Settling Parties also agreed to the filing in this Cause of a joint motion or other request in accordance with 170 IAC 1-1.1-4(i)(2) to support the confidential treatment of specific information identified in the Settlement Agreement. We find the Settling Parties' agreed reporting requirements and procedures to be reasonable.

K. Grid-Enhancing Technologies. Section I.A.11 of the Settlement Agreement provides that following the submittal of its 2024 Integrated Resource Plan ("IRP") and prior to I&M's next IRP, I&M will conduct a study, with input from interested Settling Parties as to the scope of the study and with opportunities for stakeholder feedback, to evaluate the potential of grid-enhancing technologies. The results of the study, to the extent applicable, will be shared (subject to protection of confidential information) as part of the IRP stakeholder process and may be incorporated into the resource options considered in I&M's next IRP(s).

I&M witness Williamson testified that the discussion by witnesses in this Cause about the impact of hyper-scalers on transmission shows the importance of transmission planning and efficiency. He said to this end, the Settling Parties agreed to obtain more information for potential incorporation into I&M's IRP process.

Google witness Farr testified that I&M has committed to conduct a study to evaluate the potential of grid-enhancing technologies, including sensors, power flow control devices, and analytical tools that maximize the transmission of electricity across the existing system. He said these technologies offer the potential to expand transmission capacity in a timely and cost-efficient manner and are an important part of building a grid that is reliable and affordable. He stated this commitment under the Settlement Agreement furthers the opportunities for collaborative approaches among parties to address future investment needs.

The record includes much discussion by the Settling Parties' witnesses concerning the potential impacts of hyper-scalers on the transmission system and the importance of utility transmission planning. While we need not approve the Settling Parties' agreement concerning the exploration of grid-enhancing technology, we again recognize the parties' willingness to work collaboratively to address utility planning and service issues.

L. Grid Reliability and Addition of Large Customer Load. Section I.A.12 of the Settlement Agreement provides that I&M will meet with interested stakeholders to discuss the process and implications of interconnecting Large Load Customers, including but not limited to the appropriate bar for entry into I&M's queue, queue management, interconnection requirements, and load ramping requirements. I&M also agreed to make a good faith effort to implement reasonable improvements that are identified through the discussion.

I&M witness Williamson testified that during settlement discussions, CAC voiced a desire to learn more about grid reliability as it relates to the addition of the Large Load Customers. He described the Settlement Agreement provision addressing CAC's desire and noted I&M also agreed to make a good faith effort to implement reasonable improvements to this process that are identified from this discussion.

M. Cost Allocation. Under Section I.A.13 of the Settlement Agreement, the Settling Parties agree that the Settlement Agreement does not limit the ability of the Commission or the Settling Parties to address cost allocation issues in a subsequent proceeding.

I&M witness Williamson testified that, from I&M's perspective, this provision is reasonable because the appropriate place to address cost allocation concerns is in the context of a case where I&M is proposing a change in its rates.

CAC witness Inskeep stated this provision allows CAC and other Settling Parties to raise cost allocation issues in other cases, such as rate cases and tracker filings. He said this is a reasonable resolution to a contested issue in this case because it allows this important issue to be more extensively examined in appropriate proceedings.

The evidence demonstrates that the Settling Parties found it preferrable to delay addressing cost allocation issues to subsequent proceedings, such as a future tracker filing or rate case, rather than establishing a cost allocation or specific methodology to be used for Large Load Customers. While the Commission does not find such agreement to be unreasonable when considering the Settlement Agreement as a whole, we also recognize the additional work that will be necessary to address cost allocation so as to avoid it becoming a contested issue in every future I&M rate-related filing. This concern was reflected in our November 14, 2024 Docket Entry question. We encourage I&M to add this issue to its other formal collaborative agreements set forth in the Settlement Agreement to foster solutions that could serve to preserve the administrative efficiency of future tracker filings.

N. Cost of Service Study. The Settlement Agreement provides that prior to filing its next base rate case, I&M agrees to prepare an analysis applying a 12 coincident peak ("CP") demand allocator to the class cost-of-service study ("CCOSS"). However, the Settling Parties agree that I&M is not obligated to propose use of the 12 CP CCOSS analysis or take a position in support of or against the analysis in its next base rate case. I&M will include the analysis in its work papers filed with the Commission in its next base rate case and all parties, including I&M, will have the opportunity to take any position with respect to the analysis.

CAC witness Inskeep testified that the 12 CP study could be an incremental step towards improving existing cost allocation methodologies. He said CAC appreciates I&M's willingness to analyze this alternative cost allocation method and present its analysis as part of its next rate case, which can help lay the foundation to a constructive examination of this issue.

The overall terms of the Settlement Agreement and the supporting settlement testimony show the agreement with respect to the cost-of-service study provides a reasonable opportunity for I&M and interested parties to gain additional information in advance of I&M's next rate case to foster the administrative efficiency of that proceeding.

O. <u>Contribution to INCAA</u>. Section I.A.15 of the Settlement Agreement provides that Amazon, Microsoft, and Google will provide, no later than six months after their respective service energization within I&M's service territory, annual funding for a period of five years to INCAA to support income-qualified customers in Indiana.

OUCC witness Eckert testified that Amazon, Microsoft, and Google agreed to contribute to INCAA to provide customer benefits. He noted the funding will support income-qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities.

CAC witness Inskeep testified that the Settlement Agreement provides that Amazon, Microsoft, and Google each agree that no later than six months after their respective service energization within I&M's service territory, each will provide $500,000 per year for five years to INCAA to support income-qualified customers in Indiana. He said Large Load Customers are currently able to opt-out of utility demand-side management programs and thereby avoid contributing funding to these beneficial customer programs. He explained as a long-time advocate for energy efficiency and programs to improve affordability for low-income customers, CAC is particularly appreciative that the Settlement Agreement includes this substantial funding, totaling $7.5 million, for assistance to these customers.

Google witness Farr explained this funding will help INCAA provide important energy assistance to customers, including assisting with health and safety investments so that energy efficiency measures can move forward. He said this helps ensure that some customers will have access to a greater range of services than before, offering improvements to their homes and quality of life. He stated this term aligns with the three companies' own, publicly stated, interest in pursuing efficiency; and, more importantly, is a further sign of their long-term commitment to Indiana, and the communities in which they are establishing their physical presence.

The record reflects that, as part of the overall Settlement Agreement, Amazon, Microsoft, and Google agree that no later than six months after their respective service energization within I&M's service territory, each will provide annual funding for a period of five years to INCAA to support income-qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities. The respective Settling Parties' agreement on this matter will provide valuable long-term support to enhance the quality of life for income-qualified customers in Indiana.

P. <u>Other Matters</u>. Section I.A.16 of the Settlement Agreement provides that any matters not addressed by the Settlement Agreement will be adopted as proposed by I&M in its direct case. I&M witness Williamson testified that this type of provision is commonly included in I&M's settlement agreements before this Commission. The Commission notes that I&M's intent to align its generation cost incurrence and cost recovery from Large Load Customers reflected in its response to our November 14, 2024 Docket Entry shall be considered an I&M proposal.

Q. <u>Tariff</u>. Mr. Williamson testified that Settlement Agreement Attachment A is a clean copy of the Tariff I.P. updated to reflect the terms of the Settlement Agreement. He also provided a redlined document comparing the agreed tariff provisions to the ones originally proposed by I&M in Petitioner's Exhibit 3, Attachment AJW-1S.

R. **<u>Ind. Code §§ 8-1-2-0.5 and -0.6</u>.** I&M witness Williamson testified that although the current filing does not fall within the scope of the matters for which the Commission has indicated utilities should provide information regarding the Five Pillars, he said I&M nonetheless recognized that the service to the Large Load Customers should align with the Five Pillars. He explained that as a regulated utility, I&M has an obligation to provide a safe and reliable supply of electricity for its customers in accordance with Indiana's energy policy. He said the Settlement Agreement supports system reliability, resiliency, and stability by providing I&M and its customers with the financial assurances and appropriate tariff protections needed to make the significant and necessary financial commitments in generation resources and the transmission system for all I&M customers. He explained the Settlement Agreement supports affordability by providing Large Load Customers with access to the Tariff I.P. rate under normal business conditions and benefiting all customers as a result of increased load. He testified in the event of a business disruption by the Large Load Customers that causes them to deviate from their plans, the agreed tariff modifications provide protections for existing customers to minimize adverse financial impacts. He said with respect to environmental sustainability, the agreed tariff modifications will provide I&M with the financial assurances needed to make appropriate investments in a diverse portfolio of generation resources, including clean energy resources. He stated additionally, the Settlement Agreement provides for collaboration on a Clean Transition Tariff that would seek to advance clean resources for Hoosier customers.

OUCC witness Eckert testified that the Tariff I.P. modifications agreed upon in the Settlement Agreement better address the affordability objective identified in the Five Pillars and better protect I&M's other customers from the prospect of stranded costs from load reductions by Large Load Customers. More specifically, he identified the following terms as addressing the affordability pillar: (1) Mandatory Contract Term; (2) Monthly Minimum Billing Demand; (3) Minimum Charge; (4) Collateral Requirement; (5) Contractual Flexibility and Exit Fees and said these terms will provide protection to I&M's customers from the risks that attend the addition of the Large Load Customers to I&M's system. Mr. Eckert testified the Settlement Agreement also addresses reliability, resiliency, and stability. He explained how the terms related to load shedding events and demand response, grid-enhancing technologies, and grid reliability highlight how I&M and the other Settling Parties can work together to achieve reliability, resiliency, and stability. Finally, Mr. Eckert noted the Settlement Agreement addresses environmental sustainability through an agreed collaboration to develop a new customer program tariff proposal that enables participants to support investment in carbon-free resources while ensuring that all program costs are covered by program participants.

CAC witness Inskeep testified that the Settlement Agreement is consistent with the Five Pillars and will help to address reliability, affordability, resiliency, stability, and environmental sustainability as Large Load Customers come to I&M's service territory. He said the strengthened contract provisions, such as the longer contract term, minimum charge, and Exit Fee, will provide increased certainty and stability to I&M's revenues, which will allow I&M to make investments necessary for reliability, resiliency, and stability. He said these and other Settlement Agreement provisions also guard against potential cost shifts if a Large Load Customer uses less electricity than planned or discontinues service early, which is a substantial benefit to customer affordability.

Finally, Mr. Inskeep testified the Settlement Agreement will promote environmental sustainability through (1) funding provided to INCAA that will increase low-income weatherization opportunities; (2) collaboration between parties on demand response and a Clean Transition Tariff, which could help accelerate the adoption of environmentally sustainable sources of generation; and (3) collaboration between parties on grid enhancing technologies.

S. Conclusion. The testimony supporting the Settlement Agreement explains why the Settling Parties believe the Commission should find the Settlement Agreement, when considered as a whole, is reasonable and in the public interest. As noted above, all customer classes, as well as a few Large Load Customers, were represented by the Settling Parties through the settlement discussions.

The record shows I&M is beginning to provide service to Large Load Customers and the level of service required is likely to grow rapidly. Therefore, it is important that a service option be provided pursuant to terms and conditions that serve to reasonably confront the unprecedented size and unique risks of the Large Load Customers and serve to protect I&M and its other customers. The tariff approach presented is a reasonable and balanced effort to provide a tariff for standard electric service, which provides financial protection and customer flexibility, and is a transparent, consistent offering across similarly situated customers. Importantly, we find the Tariff IP modifications to offer improved ratepayer protections as compared to I&M's existing tariff. Notably, the agreed-upon tariff modifications do not preclude I&M from entering into special contracts with Large Load Customers and submitting those agreements for Commission approval as an alternative or complementary approach that might further enhance utilization of the Large Load Customer characteristics or provide further ratepayer protections. In summary, the modified tariff agreed upon in the Settlement Agreement is an improvement to I&M's existing tariff offering but we look forward to ongoing improvement efforts.

Based upon our review of the record as a whole and consideration of the Settlement Agreement terms in totality and the supporting testimony and exhibits, the Commission finds that the Settlement Agreement as modified herein represents a just and reasonable resolution of the issues. Accordingly, the Settlement Agreement as discussed and modified herein is approved.

12. Effect of Settlement Agreement. The Settling Parties agreed that the Settlement Agreement and each term, condition, methodology, and exclusion contained therein reflect a fair, just, and reasonable resolution and compromise for the purpose of settlement in this proceeding, and that the Settlement Agreement shall not constitute, and shall not be used as, precedent or be deemed an admission by any person or entity in any other proceeding before the Commission except to the extent necessary to implement or enforce the Settlement Agreement. Consequently, regarding the future citation of the Settlement Agreement or of this Order, the Commission finds our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC Mar. 19, 1997).

13. Confidential Information. Motions seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3 were filed by Amazon on August 26, 2024, and by I&M on November 4, 2024. Each request was supported by affidavit showing certain documents to be offered into evidence contained trade secret information as defined by Ind. Code § 24-2-3-2 and

within the scope of Ind. Code § 5-14-3-4(a)(4). The requests were granted by the Presiding Officers on September 6, 2024, and November 6, 2024, respectively, finding such information confidential on a preliminary basis. Subsequently, the parties submitted the designated confidential information.

After reviewing the designated confidential information, we find all such information is trade secret as defined by Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. Each moving party takes reasonable steps to maintain the secrecy of the information, and disclosure of such information would cause harm to the moving party. Therefore, we find that the information should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29 and held confidential and protected from public disclosure by the Commission.

Additionally, on December 12, 2024, the Settling Parties submitted a Joint Motion requesting that designated customer-specific and confidential information to be submitted in accordance with the reporting requirements set forth in the Settlement Agreement be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The Joint Motion was supported by affidavits from I&M witness Williamson and from Ms. Amanda Peterson Corio, Director of Clean Energy and Power at Google, and requests that the Commission's Order in this Cause determine that the confidential versions of the semi-annual Large Load Customer reports are exempt from public disclosure to permit I&M to submit the reports under seal.

We find it administratively efficient to address and approve the Settling Parties' request now, rather than require the Settling Parties to support each report on a filing-by-filing basis, as it is reasonably anticipated that the types of confidential information to be provided in each report will remain consistent. Based on our review of the description of the information to be provided in the semi-annual reports, we find that such information qualifies as trade secret and should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29 and held confidential and protected from public disclosure by the Commission.

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

1. The Settlement Agreement, a copy of which is attached to this Order, is approved as modified herein.

2. I&M's proposed Tariff I.P., as modified by the Settlement Agreement and shown in Settlement Agreement Attachment A, is approved as set forth herein.

3. Any reduction in contract capacity beyond 20% that is mutually agreed upon between I&M and the Large Load Customer must also be submitted to the Commission for its review and approval before becoming effective.

4. Prior to implementing its revised Tariff I.P., I&M shall file the tariff under this Cause for approval by the Commission's Energy Division. Such tariff shall be effective on or after the Order date subject to Division review and agreement.

5. The information submitted or to be submitted under seal in this Cause pursuant to the parties' requests for confidential treatment, including the confidential versions of the Large Load Customer reports, is determined to be confidential trade secret information as defined in Ind. Code § 24-2-3-2 and shall be held as confidential and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

6. I&M shall file semi-annual Large Load Customer reports under this Cause consistent with the Settlement Agreement. I&M shall file its first report within six months of the date of this Order.

7. I&M is directed to include the 12 CP CCOSS analysis in its work papers filed with its next base rate case.

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

HUSTON, BENNETT, FREEMAN, VELETA AND ZIEGNER CONCUR:

APPROVED: FEB 19 2025

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

________________________________ on behalf of
Dana Kosco
Secretary of the Commission

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION OF INDIANA MICHIGAN POWER COMPANY FOR APPROVAL OF MODIFICATIONS TO ITS INDUSTRIAL POWER TARIFF – TARIFF I.P.	))))))	**CAUSE NO. 46097** **APPROVED: FEB 19 2025**

CONCURRING OPINION OF CHAIRMAN JAMES F. HUSTON AND COMMISSIONER WESLEY R. BENNETT

It is impossible to ignore the changing environment with respect to large load customers. Large load customers are by far the most unique of all customers in the amount of electricity they consume, the risk they pose to a system should that load change suddenly, and the cost of investment needed to serve that load as utilities seek to fulfill their obligation to serve. The legislature may well have something to say about future treatment.

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION OF INDIANA MICHIGAN POWER COMPANY FOR APPROVAL OF MODIFICATIONS TO ITS INDUSTRIAL POWER TARIFF – TARIFF I.P.	**)))))**	**CAUSE NO. 46097**

STIPULATION AND SETTLEMENT AGREEMENT

Indiana Michigan Power Company ("I&M" or "Company"), the Indiana Office of Utility Consumer Counselor ("OUCC"), and all the Intervenors in this Cause, namely: Citizens Action Coalition of Indiana, Inc. ("CAC"), Amazon Data Services, Inc. ("Amazon"), Data Center Coalition ("DCC"), Google, LLC ("Google"), and Microsoft Corporation ("Microsoft"), (collectively the "Settling Parties" and individually "Settling Party"), solely for purposes of compromise and settlement and having been duly advised by their respective staff, experts and counsel, stipulate and agree the terms and conditions set forth below represent a fair, just and reasonable resolution of the matters set forth below, subject to their incorporation by the Indiana Utility Regulatory Commission ("IURC" or "Commission") into a final, non-appealable order ("Final Order")[1] without modification or further condition that may be unacceptable to any Settling Party. If the Commission does not approve this Stipulation and Settlement Agreement ("Settlement Agreement"), in its entirety, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties.

I. TERMS AND CONDITIONS.

A. The Settling Parties agree that I&M's proposed modifications to I&M Tariff Industrial Power ("Tariff I.P.") shall be approved as modified below and as shown in Settlement Agreement Attachment A, which sets forth the revised Tariff I.P. reflecting the Settlement Agreement Terms.

1. **Applicability:** Terms below shall apply to customers taking service on I&M Tariff I.P. with contract capacity greater than or equal to 70 MW at an individual plant or 150MW on an aggregated basis ("Large Load Customer"). The Company will exercise reasonable discretion when choosing to aggregate premises, with such discretion based on factors including, but not limited to, premises sharing one or more of the following: common owner(s), a common parent company, common local electrical infrastructure, and common control. Large Load Customer's Initial Contract

[1] "Final Order" as used herein means an order issued by the Commission as to which no person has filed a Notice of Appeal within the thirty-day period after the date of the Commission order.

Term, load ramp, Load Ramp Period, contract capacity, and other terms of service under this Tariff will be defined in the Electric Services Agreement(s) ("ESA(s)") executed between the Company and Large Load Customer. These terms shall only apply to new load, or an expansion of existing load, occurring on or after January 1, 2024.

2. **Mandatory Term:** The Large Load Customer's Initial Contract Term will be made for a period of not less than 12 years. A Large Load Customer may designate a Load Ramp Period, which can be no greater than five years. If a Load Ramp Period is designated by the Large Load Customer, the Initial Contract Term shall commence after the Load Ramp Period ends. The Load Ramp Period is the later period of time from when: (a) electric service is available to the Large Load Customer or (b) the Large Load Customer is scheduled to begin taking electric service, until the time the Large Load Customer's maximum contract capacity is billed. The Contract Term is the Load Ramp Period plus the Initial Contract Term.

3. **Monthly Billing Demand:** As shown by Settlement Agreement Attachment A, the proposed Tariff I.P. Monthly Billing Demand clause for Large Load Customers will be replaced by:

   > The Monthly Billing Demands for Large Load Customers in kW for each plant shall be taken each month as the single-highest 15-minute integrated peak in kW, as registered at such plant during the month by a demand meter or indicator, subject to the Off-Peak Hour Provision, but the monthly demand so established shall in no event be less than the greater of (a) 80 percent of the Large Load Customer's contract capacity specified for the applicable time period of the Contract Term; or (b) 80 percent of the Large Load Customer's highest previously established Monthly Billing Demand during the past 11 months. The Metered Voltage adjustment, as set forth above, shall not apply to the Large Load Customer's minimum Monthly Billing Demand.

4. **Minimum Charge:** As shown by Settlement Agreement Attachment A, the proposed Tariff I.P. Minimum Charge clause for Large Load Customers will be replaced by:

   > Large Load Customers are subject to a minimum monthly charge for each plant equal to the sum of: (a) the Monthly Service Charge; (b) the product of the Minimum Demand Charge and the Monthly Billing Demand; (c) the product of the Step 1 Embedded Capacity Charge and the Monthly Billing Demand; and (d) the sum of the product of each

demand charge in all applicable demand related riders in effect at the time and the Monthly Billing Demand. The Step 1 Embedded Capacity Charge rate will be computed as follows: (Block 1 Energy Rate less Block 2 Energy Rate) multiplied by Block 1 Energy Hours less (Minimum Demand Charge less Demand Charge).

The Step 1 Embedded Capacity Charge under this tariff shall be as follows:

Tariff Code	Service Voltage	Step 1 Embedded Capacity Charge ($/kW)
327	Secondary	13.289
322	Primary	12.427
323	Subtransmission	12.271
324	Transmission	10.959

By way of example, the Step 1 Embedded Capacity Charge, under Tariff I.P. as of November 14, 2024, for Transmission Service Voltage: ($0.05058/kWh - $0.01286/kWh) *410 hrs - ($14.70/kW-mo – $10.194 /kW-mo) = $10.959/kW.

5. **Collateral Requirements:** The Settling Parties agree the Collateral Requirement I&M proposes in its Petition and Direct Testimony shall be adopted, however, a Large Load Customer with a credit rating of at least A- from S&P and A3 from Moody's and liquidity greater than ten times the Collateral Requirement shall be exempt from the Collateral Requirements. A Large Load Customer that does not have a credit rating from S&P and Moody's but maintains liquidity greater than ten times the Collateral Requirement (evidenced by providing quarterly financial statements and certification that on the date financial statements are provided that the Large Load Customer's liquidity meets the ten times threshold) shall be exempt from 50 percent of the Collateral Requirements not to exceed an exemption of more than $250 million. The Settling Parties agree the Collateral Requirement must be provided in one or more of the following forms:

    a. A guarantee from the ultimate parent or a corporate affiliate of the Large Load Customer for the full Collateral Requirement, so long as the guarantor has both (a) a credit rating of at least A- from S&P and A3 from Moody's and (b) liquidity greater than ten times the Collateral Requirement; or

    b. A standby irrevocable letter of credit ("Letter of Credit") for the full Collateral Requirement. The Letter of Credit must be issued by a U.S. bank or the U.S.

branch of a foreign bank, which is not affiliated with the Large Load Customer or its guarantor, with a Credit Rating of at least A- from S&P and A3 from Moody's. Such security must be issued for a minimum term of 360 days. The Large Load Customer must cause the renewal or extension of the security for additional consecutive terms of 360 days or more no later than 30 days prior to each expiration date of the security. If the security is not renewed or extended as required herein, the Company will have the right to draw immediately upon the Letter of Credit and be entitled to hold the amounts so drawn as security. The Letter of Credit must be in a format acceptable to and approved by the Company; or

c. Cash for the full Collateral Requirement.

6. **Contractual Flexibility:** As shown in Settlement Agreement Attachment A, the Settling Parties agree Tariff I.P. shall provide contract flexibility as follows:

   a. Large Load Customer may, without payment of an Exit Fee or any penalty, reduce its contract capacity at any time after the first five years by up to 20%, in total, by giving I&M at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction is sought. For the avoidance of doubt, regardless of the number of notices provided, the total capacity reduction under this provision 6(a) shall not exceed 20%, unless by mutual agreement between the Large Load Customer and the Company, which the Company shall only grant in circumstances that are beneficial, or at least not detrimental, to the Large Load Customer, the Company, and all other customers.

   b. Large Load Customer may terminate its contract or reduce its contract capacity beyond 20% at any time after the first five years of the contract by giving I&M at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought, subject to payment of a capacity reduction/termination fee ("Exit Fee"). The Exit Fee shall be due and payable to I&M upon the effective date of the contract termination or the effective date of the capacity reduction. The Exit Fee shall be calculated as the nominal value of the remaining Minimum Charge for the terminated/reduced capacity in excess of the 20% allowed reduction for the first year of the Exit Fee Period; and for any remaining year of the Exit Fee Period the Exit Fee shall be calculated in the same manner as the first year, minus the OSS/PJM Rider's (or the same cost addressed in another rider's) contribution to the Minimum Charge. The Exit Fee Period is defined as the

Large Load Customer's then remaining Initial Contract Term, or any agreed extension. The Exit Fee Period shall not be less than one year and shall not exceed five years.

c. Following receipt of proper notice, through the Exit Fee Period, I&M will use reasonable efforts, consistent with its obligations as a public utility, to mitigate the Exit Fee amount owed or paid by the Large Load Customer by evaluating the opportunity to assign the terminated/reduced capacity to serve new Large Load Customers, to expand service to existing Large Load Customers, or otherwise secure offsetting expected revenues. The remainder of any mitigating amounts owed to the Large Load Customer shall be delivered to the Large Load Customer, or its designated successor, after all outstanding balances have been resolved.

d. If there is an issue concerning the calculation of the Exit Fee or delivery of any mitigation amounts, that either I&M or Large Load Customer view as in need of escalation, either I&M or Large Load Customer may request escalation. Such request shall be made in writing and within 14 business days of the Large Load Customer being notified regarding the Exit Fee calculation. In such instance, management representatives for I&M and for the Large Load Customer will discuss and seek to resolve any issues. The management discussion shall occur within 14 business days of a request, unless otherwise agreed to in writing by I&M and Large Load Customer. I&M and Large Load Customer agree to use this escalation process in good faith, escalating only those matters appropriate for management's consideration. This dispute resolution process does not limit or otherwise affect the ability of either Large Load Customer or the Company to file a formal proceeding requesting the Commission to resolve the dispute.

e. Large Load Customer shall not assign any of its rights or delegate any of its obligations under the Contract without the written consent of the Company. An assignment or delegation in violation of this Section is null and void.

7. **Special Contracts:** Special contract requests from potential and existing Large Load Customers shall continue to be addressed by I&M consistent with the Company's existing practices. I&M will bring those special contracts to the Commission for review and approval in accordance with Indiana Code §§ 8-1-2-24 and -25.

8. **Full Planning Studies:** Full Planning Studies, including steady-state and dynamic studies, required because of the potential addition of a Large Load Customer shall be paid solely by the Large Load Customer.

9. **Collaboration:**

    a. Clean Transition Tariff: I&M will work collaboratively with the Settling Parties to develop a new customer program tariff proposal that enables participants to support investment in carbon-free resources while ensuring that all program costs are covered by program participants and remaining consistent with the Five Pillars in Ind. Code § 8-1-2-0.6. I&M will target October 1, 2025 as the date for I&M to petition the Commission for approval of a proposal. I&M retains the right to make the ultimate decision as to whether to file the proposal with the Commission for approval and this decision will be informed by the collective support for the proposal among the collaborative participants. If I&M elects not to petition the Commission for approval of a proposal, I&M will notify the Commission through a compliance filing in this Cause. In doing so, I&M will explain its decision and provide the Commission with comments solicited from the collaborating participants regarding their position on the proposal.

    b. Load Shedding Events and Demand Response: I&M will continue to prioritize public safety in its emergency load reduction plans. I&M will convene a meeting, and more if needed, of the Settling Parties to discuss 1) the Company's emergency response procedures, including required system actions that would be necessary to respond to an emergency load shedding event required by PJM that is caused by deficiencies in either transmission and/or generation capacity and consider the potential need to modify such procedures due to the Large Load Customers; and 2) existing and potential demand response opportunities for Large Load Customers. The Settling Parties welcome a Commission representative to participate in this meeting. The Company will convene the meeting(s) within ninety-days of a Commission Final Order approving this Settlement Agreement and will file a report in this proceeding with the Commission upon conclusion of the discussion.

10. **Reporting:**

    a. The Settling Parties agree that I&M will report to the Commission on a semi-annual basis the information identified below subject to the protection of

confidential and competitively-sensitive information ("Confidential Information") in the report. The reported Confidential Information shall be exempt from public disclosure. The confidential portions of the report shall not be provided to the Large Load Customers or other competitively interested stakeholders. The confidential portion of the report will be provided to the OUCC and CAC subject to agreed procedures (or, in the absence of agreement, Commission ordered procedures) for the protection of the Confidential Information.

b. The Settling Parties agree the confidential report shall include the following with respect to Large Load Customers:

   i. The number of executed ESAs and transmission letters of agreement ("LOAs") (semi-annual additions and cumulative total);
   ii. Contract Termination Fees assessed (number of fees assessed and dollar amount of each);
   iii. Notices of reduction to contract capacity with each MW reduction separately identified;
   iv. Status update on prospective Large Load Customers providing the number of customers and total load at the following development stages: (1) expressed interest; (2) undergoing AEP Transmission Planning internal analysis; (3) Executed LOA; (4) executed electric service agreement; (5) site in service.
   v. Summary information regarding aggregate investments made by I&M to serve Large Load Customers including, but not limited to, direct connect facilities, local network upgrades, other transmission investment, and other distribution system investment (if applicable) as quantified in executed LOAs;
   vi. Aggregate Large Load Customer MW in service; and
   vii. Aggregate Large Load Customer MWh in service.

c. The first semi-annual report will be filed within six months of a Commission Final Order approving this Settlement Agreement. Upon Commission request following the filing of any semi-annual report, copies of executed ESAs and transmission LOAs shall also be provided to the Commission, the OUCC, and CAC subject to agreed-upon or, in the absence of agreement, Commission ordered terms of protection of the Confidential Information.

d. The Settling Parties agree to the filing in this Cause of a joint motion or other request in accordance with 170 Ind. Admin. Code 1-1.1-4(i)(2) to support the

confidential treatment of the Confidential Information identified above so that the Commission order in this case may exempt the future filing of the reports agreed to herein from public disclosure and from disclosure to Large Load Customers or other competitively interested stakeholders.

e. Prior to the filing of the initial report, the Settling Parties will work together to: (1) reach agreement on the terms of non-disclosure agreements; and then (2) on the content and format of a public version of the report and any other information provided to the Commission under this provision to be filed pursuant to 170 IAC 1-1.1-4(i)(2). In the event the Settling Parties are not able to reach agreement on either (1) or (2), a request for the Commission to establish such terms may be made to the Commission.

f. The Settling Parties agree that this Settlement Agreement does not limit the ability of the Commission or any Settling Party in any future proceeding or other venue to seek information through discovery or requests for same or similar information or to request the Commission to modify or discontinue the reporting requirements.

11. **Grid-Enhancing Technologies:** Following the submittal of its 2024 Integrated Resource Plan ("IRP") and prior to I&M's next IRP, I&M will conduct a study, with input from interested Settling Parties as to the scope of the study and with opportunities for stakeholder feedback during the course of the study, to evaluate the potential of: grid-enhancing technologies, such as sensors, power flow control devices, and analytical tools that maximize the transmission of electricity across the existing system. The results of the study, to the extent applicable, will be shared (subject to agreed provisions for the protections of confidential and competitively-sensitive information, including customer specific data) as part of the IRP stakeholder process and may be incorporated into the resource options considered in I&M's next IRP(s).

12. **Grid-Reliability and Addition of Large Customer Load:** I&M (and its technical experts) will meet with interested stakeholders to discuss the process and implications of interconnecting Large Load Customers and provide an opportunity for questions and feedback from parties, including but not limited to the appropriate bar for entry into I&M's queue, queue management, interconnection requirements, and load ramping requirements. I&M will make a good faith effort to implement reasonable improvements to this process that are identified from this discussion.

13. **Cost Allocation:** The Settling Parties agree that this Settlement Agreement does not limit the ability of the Commission or the Settling Parties to address cost allocation issues in a subsequent proceeding.

14. **Cost of Service Study:** Prior to filing its next basic rate case, I&M agrees to prepare an analysis applying a 12 Coincident Peak ("CP") demand allocator to the class cost-of-service study ("CCOSS"). The Settling Parties agree that I&M is not obligated to propose use of the 12 CP CCOSS analysis or take a position in support of or against the analysis in its next basic rate case. The Company will include the aforementioned analysis in its workpapers filed with the Commission in its next basic rate case. The Settling Parties agree that all parties, including I&M, will have the opportunity to take any position with respect to the aforementioned analysis as they deem appropriate in the next basic rate case and each reserves the right to present their own alternative analysis and proposals.

15. **Contribution to INCAA:** Amazon, Microsoft, and Google each agree that, no later than six months after their respective service energization within I&M's service territory, each will provide $500,000 per year for a period of five years to Indiana Community Action Association ("INCAA") to support income qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities.

16. **Other Matters:** Any matters not addressed by this Settlement Agreement will be adopted as proposed by I&M in its direct case.

II. PRESENTATION OF THE SETTLEMENT AGREEMENT TO THE COMMISSION.

A. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement.

B. The Settling Parties may file testimony specifically supporting the Settlement Agreement. The Settling Parties agree to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement and to consider the input of the other Settling Parties. Such evidence, together with the direct and rebuttal evidence previously prefiled in this Cause will be offered into evidence without objection and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties propose to submit this Settlement Agreement and related evidence conditionally, and if the Commission fails to approve this Settlement Agreement in its entirety without any change or condition(s) unacceptable to any Settling Party, the Settlement and supporting evidence shall be withdrawn,

and the Commission will continue to hear this Cause with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

C. A Commission Order approving this Settlement Agreement shall be effective immediately, and the agreements contained herein shall be unconditional, effective and binding on all Settling Parties as an Order of the Commission.

III. EFFECT AND USE OF SETTLEMENT AGREEMENT.

A. It is understood that this Settlement Agreement is reflective of a negotiated settlement and neither the making of this Settlement Agreement nor any of its provisions shall constitute an admission by any Settling Party in this or any other litigation or proceeding. It is also understood that each and every term of this Settlement Agreement is in consideration and support of each and every other term.

B. Neither the making of this Settlement Agreement (nor the execution of any of the other documents or pleadings required to effectuate the provisions of this Settlement Agreement), nor the provisions thereof, nor the entry by the Commission of a Final Order approving this Settlement Agreement, shall establish any principles or legal precedent applicable to Commission proceedings other than those resolved herein.

C. The Settling Parties agree that this Settlement Agreement and each term, condition, methodology, and exclusion contained herein reflect a fair, just, and reasonable resolution and compromise for the purpose of settlement in this proceeding. The Settlement Agreement shall not constitute, and shall not be used as, precedent or be deemed an admission by any person or entity in any other proceeding before the Commission except to the extent necessary to implement or enforce this Settlement Agreement.

D. This Settlement Agreement is solely the result of compromise in the settlement process and except as provided herein, is without prejudice to and shall not constitute a waiver of any position that any Settling Party may take with respect to any or all of the items resolved here and in any future regulatory or other proceedings.

E. The Settling Parties agree the evidence in support of this Settlement Agreement constitutes substantial evidence sufficient to support this Settlement Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Settlement Agreement, as filed. The Settling Parties shall prepare and file an agreed proposed order with the Commission as soon as reasonably possible after the filing of this Settlement Agreement and the final evidentiary hearing.

F. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning this Settlement Agreement all relate to offers of settlement and shall be confidential, without prejudice to the position of

any Settling Party, and are not to be used in any manner in connection with any other proceeding or otherwise.

G. The Settling Parties agree to work collaboratively on form, wording, and timing of a joint media/public announcement of this Settlement Agreement and terms thereof. No Party will release any information to the public or media prior to the aforementioned announcement. The Settling Parties may respond individually without prior approval of the other Settling Parties to questions from the public or media related to the Settlement Agreement, provided that such responses are consistent with such announcement and do not disparage any of the Settling Parties with respect to the Settlement Agreement. Nothing in this Settlement Agreement shall limit or restrict the Commission's ability to publicly comment regarding this Settlement Agreement or any Order affecting this Settlement Agreement.

H. The Settling Parties have represented and agreed that they are fully authorized to execute the Settlement Agreement on behalf of their respective clients, and their successor and assigns, which will be bound thereby.

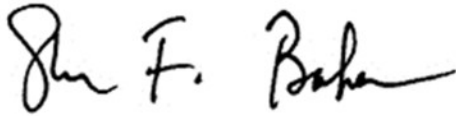
I. The undersigned Settling Parties shall not appeal or seek rehearing, reconsideration or a stay of the Commission Order approving this Settlement Agreement in its entirety and without change or condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement Agreement).

J. The provisions of this Settlement Agreement shall be enforceable by any Settling Party upon approval and incorporation into a Final Order first before the Commission and thereafter in any state court of competent jurisdiction as necessary.

K. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

ACCEPTED AND AGREED AS OF THE 22ND DAY OF NOVEMBER, 2024.

INDIANA MICHIGAN POWER COMPANY



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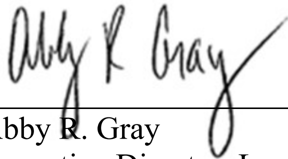
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR



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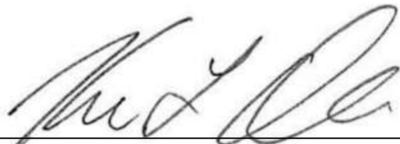
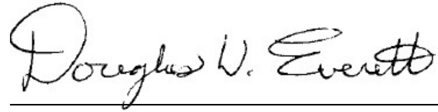
Indianapolis, Indiana 46204

CITIZENS ACTION COALITION OF INDIANA, INC.



Kerwin L. Olson
Executive Director
Citizens Action Coalition of Indiana, Inc.
1915 West 18th Street, Suite C
Indianapolis, Indiana 46202

AMAZON DATA SERVICES, INC.



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Michael T. Griffiths
Lora L. Manion
DENTONS BINGHAM GREENEBAUM LLP
2700 Market Tower, 10 West Market Street
Indianapolis, Indiana 46204

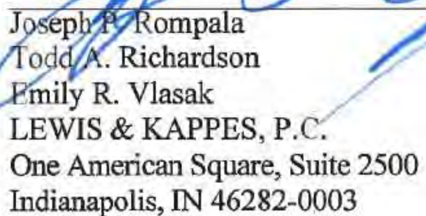
DATA CENTER COALITION

/s/ Mark Valentine

____

Mark Valentine
Keyes & Fox LLP
1580 Lincoln St., Ste. 1105
Denver, CO 80203

GOOGLE, LLC



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MICROSOFT CORPORATION

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Cleveland, OH 44114-1607

TARIFF I.P.
(Industrial Power)

Availability of Service.

Available for general service customers. Customer's monthly billing demands under this tariff shall not be less than 600 kW. The customer shall contract for a sufficient capacity to meet normal maximum requirements with written contracts being required for capacity levels of 1,500 kW and greater.

Rate.

Tariff Code	Service Voltage	Demand Charge ($/kW)	First 410 kWh per kW (¢/kWh)	Over 410 kWh per kW (¢/kWh)	Monthly Service Charge ($)
327	Secondary	16.474	5.703	1.359	180.00
322	Primary	14.089	5.413	1.313	275.00
323	Subtransmission	10.825	5.333	1.296	275.00
324	Transmission	10.194	5.058	1.286	275.00

Reactive Demand Charge / Credit

Reactive demand charge for each kVAr of leading or lagging reactive demand in excess of 50% of the kW metered demand will be charged at $1.50 / kVAr.

Reactive demand charge for each kVAr of leading or lagging reactive demand less than 50% of the kW metered demand will be credited at $1.50 / kVAr.

Minimum Charge.

This tariff is subject to a minimum monthly charge equal to the sum of the Monthly Service Charge, the product of the Minimum Demand Charge and the monthly billing demand, and all applicable riders.

The Minimum Demand Charge under this tariff shall be as follows:

Tariff Code	Service Voltage	Minimum Demand Charge ($/kW)
327	Secondary	20.995
322	Primary	18.472
323	Subtransmission	15.106
324	Transmission	14.700

(Cont'd on Sheet No. 21.1)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21)

Applicable Riders.

Monthly charges computed under this tariff shall be adjusted in accordance with the applicable Commission-approved rider(s) listed on Sheet No. 44.

Delayed Payment Charge.

All bills under this schedule shall be rendered and due monthly. If not paid within 17 days after the bill is mailed, there shall be added to bills of $3 or less, 10 percent of the amount of the bill; and to bills in excess of $3, there shall be added 10 percent of the first $3, plus 3 percent of the amount of the bill in excess of $3.

Monthly Billing Demand.

The billing demands in kW for each plant shall be taken each month as the single-highest 15-minute integrated peak in kW, as registered at such plant during the month by a demand meter or indicator, subject to the off-peak hour provision, but the monthly demand so established shall in no event be less than 60 percent of the greater of (a) the customer's contract capacity or (b) the customer's highest previously established monthly billing demand during the past 11 months or (c) 1,000 kW. The Metered Voltage adjustment, as set forth below, shall not apply to the customer's minimum monthly billing demand.

Off-Peak Hour Provision.

Demand created during the off-peak hours (as set forth below) shall be disregarded for billing purposes provided that the billing demand shall not be less than 60 percent of the maximum demand created during the billing month nor less than 60 percent of either (a) the contract capacity or (b) the customer's highest previously established monthly billing demand during the past 11 months.

For the purpose of this provision, the on-peak billing period is defined as 7 a.m. to 9 p.m., local time, Monday through Friday. The off-peak billing period is defined as those hours not designated as on-peak hours.

(Cont'd on Sheet No. 21.2)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.1)

Adjustments to Rate.

Bills computed under the rates set forth herein will be adjusted as follows:

Metered Voltage

The rates set forth in this tariff are based upon the delivery and measurement of energy at the same voltage, thus measurement will be made at or compensated to the delivery voltage. At the sole discretion of the Company, such compensation may be achieved through the use of loss-compensating equipment, the use of formulas to calculate losses, or the application of multipliers to the metered quantities. In such cases, the metered kWh, kVAr values will be adjusted for billing purposes. If the Company elects to adjust kWh, kW and kVAr based on multipliers, the adjustment shall be in accordance with the following:

(1) Measurements taken at the low-side of a customer-owned transformer will be multiplied by 1.01.

(2) Measurements taken at the high-side of a Company-owned transformer will be multiplied by 0.98.

Terms of Contract.

Contracts under this tariff will be made for an initial period of not less than two years and shall remain in effect thereafter until either party shall give at least one year's written notice to the other of the intention to discontinue service under the terms of this tariff. Where new facilities are required, the Company reserves the right to require initial contracts for periods of greater than two years.

A new initial contract period will not be required for existing customers who increase their contract requirements after the original initial period unless new or additional facilities are required.

The Company shall not be required to supply capacity in excess of that contracted for except by mutual agreement.

(Cont'd to Sheet No. 21.3)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.2)

Special Terms and Conditions.

This tariff is subject to the Company's Terms and Conditions of Service.

This tariff is also available to customers having other sources of energy supply who purchase standby or backup service from the Company. Where such conditions exist, the customer shall contract for the maximum amount of demand in kW which the Company might be required to furnish, but not less than 1,000 kW. The Company shall not be obligated to supply demands in excess of that contracted for.

Customers with cogeneration and/or small power production facilities shall take service under Rider NMS (Net Metering Service Rider), Tariff COGEN/SPP or by special agreement with the Company.

Terms and Conditions for Customer at or Over 70 MW Individually or 150 MW in the Aggregate.

Applicability.

These provisions apply to customers whose contract capacity is greater than or equal to 70 MW or is reasonably expected to grow to exceed 70 MW at an individual plant, or 150 MW or reasonably expected to grow to exceed 150 MW at one or more aggregated premises, each of 1 MW or larger ("Large Load Customer"). The Company will exercise reasonable discretion when choosing to aggregate premises, with such discretion based on factors including, but not limited to, premises sharing one or more of the following: common owner(s), a common parent company, common local electrical infrastructure, and common control. Large Load Customer's Initial Contract Term, load ramp, Load Ramp Period, contract capacity, and other terms of service under this Tariff will be defined in the Electric Services Agreement(s) ("ESA(s)"), executed between Company and Large Load Customer. These terms shall only apply to new load, or an expansion of existing load, occurring on or after January 1, 2024.

Contract Term.

The Large Load Customer's Initial Contract Term will be made for a period of not less than 12 years. A Large Load Customer may designate a Load Ramp Period, which can be no greater than five (5) years. If a Load Ramp Period is designated by the Large Load Customer, the Initial Contract Term shall commence after the Load Ramp Period ends. The Load Ramp Period is the later period of time from when: (a) electric service is available to the Large Load Customer or (b) the Large Load Customer is scheduled to begin taking electric service, until the time the Large Load Customer's maximum contract capacity is billed. The Contract Term is the Load Ramp Period plus the Initial Contract Term, and shall remain in effect thereafter unless cancelled or modified pursuant to the terms hereunder. Either party shall give at least 42 months written notice to the other of the intention to discontinue service under the terms of this tariff. Such notice shall not reduce the Contract Term except as provided for in the Exit Fee provision below.

(Cont'd to Sheet No. 21.4)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.3)

Contract Capacity Reductions.

Large Load Customer may, without payment of an Exit Fee or any penalty, reduce its contract capacity at any time after the first five (5) years of the Contract Term by up to 20%, in total, by giving the Company at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction is sought. For the avoidance of doubt, regardless of the number of notices provided, the total capacity reduction under this provision shall not exceed 20%, unless by mutual agreement between the Large Load Customer and Company, which the Company shall only grant in circumstances that are beneficial, or at least not detrimental, to the Large Load Customer, the Company, and all other customers.

Large Load Customer may terminate its contract or reduce its contract capacity beyond 20% at any time after the first five years of the Contract Term by giving the Company at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought, subject to payment of a capacity reduction/termination fee ("Exit Fee"). The Exit Fee shall be due and payable to the Company upon the effective date of the contract termination or the effective date of the capacity reduction. The Exit Fee shall be calculated as the nominal value of the remaining Minimum Charge for the terminated/reduced capacity in excess of the 20% allowed reduction for the first year of the Exit Fee Period; and for any remaining year of the Exit Fee Period the Exit Fee shall be calculated in the same manner as the first year, minus the OSS/PJM Rider's (or the same cost addressed in another rider's) contribution to the Minimum Charge. The Exit Fee Period is defined as the Large Load Customer's then remaining Initial Contract Term, or any agreed extension. The Exit Fee Period shall not be less than one (1) year and shall not exceed five (5) years. In the event of a permanent closure, the customer shall notify the Company within three (3) business days of making this determination.

Following receipt of proper notice, through the Exit Fee Period, the Company will use reasonable efforts, consistent with its obligations as a public utility, to mitigate the Exit Fee amount owed or paid by the Large Load Customer by evaluating the opportunity to assign the terminated/reduced capacity to serve new Large Load Customers, to expand service to existing Large Load Customers, or otherwise secure offsetting expected revenues. The remainder of any mitigating amounts owed to the Large Load Customer shall be delivered to the Large Load Customer, or its designated successor, after all outstanding balances have been resolved.

(Cont'd to Sheet No. 21.5)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.4)

If there is an issue concerning the calculation of the Exit Fee or delivery of any mitigation amounts, that either the Company or Large Load Customer view as in need of escalation, either the Company or Large Load Customer may request escalation. Such request shall be made in writing and within 14 business days of the Large Load Customer being notified regarding the Exit Fee calculation. In such instance, management representatives for the Company and for the Large Load Customer will discuss and seek to resolve any issues. The management discussion shall occur within 14 business days of a request, unless otherwise agreed to in writing by the Company and Large Load Customer. The Company and Large Load Customer agree to use this escalation process in good faith, escalating only those matters appropriate for management's consideration. This dispute resolution process does not limit or otherwise affect the ability of either Large Load Customer or the Company to file a formal proceeding requesting the Commission to resolve the dispute.

Large Load Customer shall not assign any of its rights or delegate any of its obligations under the Contract without the written consent of the Company. An assignment will not relieve the Large Load Customer of its financial obligation hereunder unless the Company so consents in writing. Such consent(s) shall not be unreasonably withheld. An assignment or delegation in violation of these Terms and Conditions is null and void.

Monthly Billing Demand.

The Monthly Billing Demands for Large Load Customers in kW for each plant shall be taken each month as the single-highest 15-minute integrated peak in kW, as registered at such plant during the month by a demand meter or indicator, subject to the Off-Peak Hour Provision, but the monthly demand so established shall in no event be less than the greater of (a) 80 percent of the Large Load Customer's contract capacity specified for the applicable time period of the Contract Term; or (b) 80 percent of the Large Load Customer's highest previously established Monthly Billing Demand during the past 11 months. The Metered Voltage adjustment, as set forth above, shall not apply to the Large Load Customer's minimum Monthly Billing Demand.

(Cont'd to Sheet No. 21.6)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.5)

Minimum Charge.

Large Load Customers are subject to a minimum monthly charge for each plant equal to the sum of: (a) the Monthly Service Charge; (b) the product of the Minimum Demand Charge and the Monthly Billing Demand; (c) the product of the Step 1 Embedded Capacity Charge and the Monthly Billing Demand; and (d) the sum of the product of each demand charge in all applicable demand related riders in effect at the time and the Monthly Billing Demand. The Step 1 Embedded Capacity Charge rate will be computed as follows: (Block 1 Energy Rate less Block 2 Energy Rate) multiplied by Block 1 Energy Hours less (Minimum Demand Charge less Demand Charge).

The Step 1 Embedded Capacity Charge under this tariff shall be as follows:

Tariff Code	Service Voltage	Step 1 Embedded Capacity Charge ($/kW)
327	Secondary	13.289
322	Primary	12.427
323	Subtransmission	12.271
324	Transmission	10.959

(Cont'd to Sheet No. 21.7)

TARIFF I.P.
(Industrial Power)

(Cont'd from Sheet No. 21.6)

Collateral Requirements.

In addition to the terms in Items 4 and 14 of the Company's Terms and Conditions of Service, the Large Load Customer shall provide collateral to the Company ("Collateral Requirement") based upon the creditworthiness of the Large Load Customer and as outlined below. The amount of collateral to be provided is equal to twenty-four (24) multiplied by: (a) during the first year of the contract, the maximum expected monthly non-fuel bill; or (b) after the first year of the contract, the Large Load Customer's previous maximum monthly non-fuel bill. The amount of collateral under the foregoing calculation will be recomputed annually, and the Large Load Customer shall have to provide the recomputed amount if it is 10% or more greater than the current amount held. A Large Load Customer with a credit rating of at least A- from S&P and A3 from Moody's and liquidity greater than ten times the Collateral Requirement shall be exempt from the Collateral Requirements. A Large Load Customer that does not have a credit rating from S&P and Moody's but maintains liquidity greater than ten times the Collateral Requirement (evidenced by providing quarterly financial statements and certification that on the date financial statements are provided that the Large Load Customer's liquidity meets the ten times threshold) shall be exempt from 50 percent of the Collateral Requirements not to exceed an exemption of more than $250 million. The Collateral Requirement must be provided in one or more of the following forms:

a. A guarantee from the ultimate parent or a corporate affiliate of the Large Load Customer for the full Collateral Requirement, so long as the guarantor has both (a) a credit rating of at least A- from S&P and A3 from Moody's and (b) liquidity greater than ten times the Collateral Requirement; or

b. A standby irrevocable letter of credit ("Letter of Credit") for the full Collateral Requirement. The Letter of Credit must be issued by a U.S. bank or the U.S. branch of a foreign bank, which is not affiliated with the Large Load Customer or its guarantor, with a Credit Rating of at least A- from S&P and A3 from Moody's. Such security must be issued for a minimum term of 360 days. The Large Load Customer must cause the renewal or extension of the security for additional consecutive terms of 360 days or more no later than 30 days prior to each expiration date of the security. If the security is not renewed or extended as required herein, the Company will have the right to draw immediately upon the Letter of Credit and be entitled to hold the amounts so drawn as security. The Letter of Credit must be in a format acceptable to and approved by the Company; or

c. Cash for the full Collateral Requirement.