

**FILED**  
August 24, 2016  
INDIANA UTILITY  
REGULATORY COMMISSION

**Petitioner's Exhibit 5**

**VERIFIED REBUTTAL TESTIMONY**  
**OF**  
**LESTER H. ALLEN**  
**ON BEHALF OF**  
**INDIANAPOLIS POWER & LIGHT COMPANY**

**SPONSORING PETITIONER'S ATTACHMENT LHA-3**

**VERIFIED REBUTTAL TESTIMONY OF LESTER H. ALLEN**

**I. INTRODUCTION**

1   **Q1   Please state your name, employer and business address.**

2   A1   My name is Lester H. ("Jake") Allen. I am employed by Indianapolis Power & Light  
3       Company ("IPL" or "Company"), One Monument Circle, Indianapolis, Indiana 46204.

4   **Q2   Are you the same Lester H. Allen who sponsored direct testimony in this**  
5       **proceeding?**

6   A2   Yes.

7   **Q3   What is the purpose of your rebuttal testimony?**

8   A3   The purpose of my rebuttal testimony is to address issues raised by the testimony of  
9       Shawn M. Kelly, on behalf of the Citizens Action Coalition of Indiana, Inc., relating to  
10       lost revenues, financial incentives, the development of IPL's 2017 DSM Plan, the  
11       administration of EM&V vendors, and the composition of IPL's DSM Oversight Board  
12       ("OSB").

13   **Q4   What exhibits are you sponsoring in this proceeding?**

14   A4   I am sponsoring the following exhibits which were prepared by me or under my  
15       supervision:

16       Petitioner's Attachment LHA-3 Transcribed Excerpt of the House Debate Over Senate  
17       Bill 412

18  
19

**Q5 Please provide a summary of your testimony responding to Mr. Kelly's testimony and the positions taken by the CAC in this proceeding.**

A5 Some of Mr. Kelly's testimony positions are disappointing and at odds with IPL's long-time and consistent commitment to providing DSM opportunities for our customers. IPL has consistently been a good actor in DSM program proposals, delivery and results for the benefit of our customers. Our track record of program success while providing a broad range of DSM offerings is well documented, starting with our efforts in the early 1990s. IPL has been a leader in the state in terms of scale and scope of DSM program delivery and IPL's proposal to extend the current DSM programs continues our good faith efforts to provide energy savings options for our customers and, we thought, satisfy the interests of our stakeholders. The CAC's punitive suggestions do not give recognition to IPL's history and results. IPL expects that the current DSM programs being delivered under approvals received in Cause No. 44497 will meet or exceed the targeted savings that were proposed in that filing<sup>1</sup>. The CAC's request that the Commission place limits on the reasonable recovery of appropriate costs to deliver DSM does not reflect the collaborative approach that we have taken with the CAC over the years to bring this current proposed plan and prior plans to the Commission.

More specifically, IPL believes that performance incentives, such as a Shared Savings incentive, are both necessary and appropriate. Incentives are necessary to truly put DSM on a level playing field with supply-side resources from the utility perspective, and

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<sup>1</sup> As I mentioned in my direct testimony in this proceeding, IPL through the five-year period that ended December 31, 2014 achieved approximately 95% of the cumulative goal established by the Commission in the Generic DSM Order (Petitioners Exhibit 1, p. 10), despite the approximately one-year delay in working through the process to receive approval of programs.

1 incentives are appropriate in this particular case because IPL's 2017 DSM Plan is simply  
2 the third year of a three-year plan that includes a Shared Savings incentive. Nothing has  
3 changed in the last two years that somehow makes IPL's Shared Savings incentive  
4 unnecessary or inappropriate.

5 IPL also believes that lost revenue recovery calculated using independent EM&V results  
6 that are consistent with longstanding industry and Commission practice is eminently  
7 reasonable. The CAC's criticism of the current EM&V approach of calculating lost  
8 revenues, in favor of an alternative billing analysis approach, comes as a surprise and  
9 seems to be another attempt to deprive utilities of lost revenue recovery in cases where  
10 sales volumes may have increased for reasons entirely unrelated to DSM.

11 Additionally, IPL believes that lost revenue recovery should not be artificially capped  
12 (e.g., at three or four years). Full lost revenue recovery for the life of the measure is  
13 necessary to avoid penalizing the utility for implementing DSM. If lost revenue recovery  
14 is artificially capped at something less than the applicable measure lives, IPL believes  
15 that the cost-effectiveness and IRP analyses should also reflect the consequences of such  
16 artificial caps – by taking into account the lost revenue costs the utility will be forced to  
17 bear above the cap, and by reflecting the reduced benefits that would accrue to customers  
18 if measures are burdened with shorter lives.

19 Contrary to Mr. Kelly's assertions, IPL's development of its 2017 Plan was reasonable. It  
20 is the third year of the previously filed three-year plan, developed using a methodology  
21 that has been in use in Indiana for years. IPL is addressing the DSM methodology  
22 concerns cited in the 2014 IRP Director's Report in the current 2016 IRP process.

1 Moreover, it would simply not make sense (efficiency and cost-wise) for IPL to develop  
2 a separate, interim IRP analysis, just for this 2017 DSM Plan case. Nor is such required  
3 by Indiana law or Commission directive.

4 Finally, IPL continues to believe that its OSB should continue as currently constituted.  
5 The OSB functions well and the appropriate voting members are the utility who is  
6 accountable for its DSM programs (IPL), and the statutory representative of all utility  
7 customers in the State (OUCC). CAC has ample opportunity as a non-voting member to  
8 provide input, review proposals, etc., but including CAC as a voting member would be  
9 duplicative of the OUCC's role and would leave IPL, the party ultimately responsible for  
10 its DSM programs, as a potentially minority member.

11 In sum, IPL believes that its proposal to extend its existing DSM plan for one year, along  
12 with the existing ratemaking treatment associated with that plan, is reasonable and should  
13 be approved as proposed. Although the CAC has raised issues, our rebuttal testimony  
14 addresses those issues in full. Moreover, the CAC does not ultimately oppose approval of  
15 the plan, and the OUCC – the statutory representative of all utility customers in the State  
16 – has not filed any testimony objecting to IPL's proposed 2017 DSM Plan.

17 **Q6 Are you surprised by some of the recommendations made by the CAC?**

18 A6 Frankly, yes. IPL and its OSB members maintain a collegial and collaborative  
19 relationship during the normal course of business. Whether it is OSB meetings, bi-  
20 weekly calls with the EM&V consultant, or ad hoc meetings, IPL's intention and actions  
21 are to always maintain a relationship rooted in transparency and inclusion. With  
22 transparency in mind, we presume that reciprocation of ideas and dialogue with our OSB

1 members is taking place during the normal course of business, and that stakeholders are  
2 bringing actionable ideas to the table as well as openly airing their grievances for any  
3 perceived shortcomings in program design or delivery. Given our OSB process and the  
4 discussions that have been held at the OSB meetings, we were surprised to learn through  
5 testimony in this proceeding that the CAC apparently takes issue with the EM&V  
6 procedures used to evaluate, measure and verify IPL energy efficiency savings and that  
7 the CAC apparently believes that EM&V results should not be used to validate IPL's  
8 calculation of lost revenues.

9 **Q7 Does Mr. Kelly recommend approval of IPL's 2017 DSM Plan?**

10 A7 Yes. While Mr. Kelly expresses certain concerns about IPL's proposal for a one-year  
11 extension of the current DSM programs, which will be addressed in my rebuttal  
12 testimony and the rebuttal testimony of IPL Witness Elliot, he does ultimately  
13 recommend that the Commission approve the IPL 2017 DSM plan.

14 **II. PERFORMANCE INCENTIVES**

15 **Q8 Let's first discuss the issue of financial or performance incentives. Mr. Kelly argues**  
16 **that IPL's proposal for approval of its existing Shared Savings incentive for its 2017**  
17 **DSM Plan should be rejected. What is your opinion about the reasonableness of**  
18 **financial incentives (such as the proposed shared savings incentive) for DSM**  
19 **program performance?**

20 A8 Witness Kelly provides no evidence to support his assertion that IPL's proposal to  
21 continue its existing Shared Savings incentive is unreasonable. His testimony simply cites  
22 recent Commission Orders, whereby other Indiana utilities were denied the ability to

1 recover a financial incentive for plans submitted under “Section 9” (Ind. Code § 8-1-8.5-  
2 9). IPL believes its situation is distinguishable from the Commission Orders cited and  
3 should be authorized to continue to be allowed to earn Shared Savings because:

- 4 • This is the third year of a three year plan filed in 2014 for which Shared Savings  
5 are approved for 2015 and 2016. The other utilities did not file three-year plans in  
6 2014.
- 7 • It is consistent and appropriate to authorize the same incentives for the third year  
8 of the three year plan, particularly as nothing material has changed with respect to  
9 IPL’s offering of DSM programs in 2017, as compared to 2015 and 2016.
- 10 • The Commission’s DSM rules which allow for performance incentives are still in  
11 effect.
- 12 • It would have been highly inefficient (and costly) for IPL to have developed a  
13 separate interim IRP analysis outside of the normal IRP cycle for the sole purpose  
14 of modeling DSM as a selectable resource in order to be in a position to present a  
15 “Section 10” (Ind. Code § 8-1-8.5-10) plan to the Commission in this proceeding  
16 -- especially when there was a three-year action plan filed in 2014 which included  
17 2017.

- 1           • The amount of DSM requested in 2017<sup>2</sup> is consistent with and in the range of the  
2           amount of DSM preliminarily selected as a resource in IPL's draft 2016 IRP for  
3           2018-2020 is an annual average of 96,800 MWh (as shared with stakeholders).
  
- 4           • The approach used to identify the target level of DSM for 2017 being requested in  
5           this proceeding is reasonable. In fact, it has been the standard approach to  
6           determining the appropriate amount of DSM for more than two decades. The new  
7           approach of making DSM a selectable resource corroborates IPL's requested level  
8           of DSM for 2017.
  
- 9           • IPL has been a consistent, long-time advocate and practitioner of DSM.

10       We believe IPL's long-time leadership is relevant as the Commission considers this case.  
11       In addition, IPL has a good historical perspective of DSM. For years, DSM advocates  
12       merely wanted DSM to be on a level playing field with supply-side resources. Having  
13       now effectively realized this objective (as demonstrated by the fact that the level of DSM  
14       requested for 2017 in this case is consistent with the level of DSM when it is a selectable  
15       resource), the CAC now seeks to deny utilities fair and balanced regulatory treatment for  
16       DSM. As a matter of equity and good public policy, IPL should be allowed performance  
17       incentives. A Shared Savings incentive is reasonable because it aligns IPL's interests  
18       with the interests of the customer. The Shared Savings construct is based on cost-  
19       effective DSM results. The incentive is earned when savings, as measured by the UCT  
20       (using independent EM&V results), are realized. Using cost-effective savings as the

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<sup>2</sup> 106,327 MWh as noted on p. 3 of IPL Witness Elliot Rebuttal testimony.



1 basis for the trigger to allow shareholder incentives aligns the incentive with the creation  
2 of net benefits that accrue to customers.

3 This construct also mitigates the financial disincentive to the Company to engage in DSM  
4 instead of investing in other capital based supply-side assets. As I have testified in  
5 previous proceedings, program cost recovery and lost revenue recovery are necessary to  
6 eliminate disincentives to utilities' pursuit of DSM, but they are not sufficient to truly put  
7 energy efficiency on a level playing field with supply-side resources from the utility's  
8 perspective. Financial incentives, such as the current IPL Shared Savings incentive, are  
9 the "third leg of the stool" necessary to truly encourage utilities to pursue energy  
10 efficiency, by providing a "return" on prudent energy efficiency investments analogous to  
11 the return available for prudent supply-side investments.

12 Notably, IPL has not proposed any changes to the current incentive approach in this  
13 request for a one-year extension of the current programs. In the spirit of requesting a  
14 one-year extension of existing programs, IPL is only seeking to apply the same construct  
15 previously approved by the Commission that encourages IPL to maximize the UCT  
16 benefits in the delivery of cost-effective DSM programs. It is important to base incentives  
17 on the appropriate success metric. Arbitrary DSM goals or targets only provide an  
18 incentive to spend money to get to a certain level of savings, regardless of cost-  
19 effectiveness. IPL is interested in cost-effective program implementation that seeks to  
20 maximize customer benefits by having the ability to earn incentives, like Shared Savings  
21 incentives. The challenge with incremental energy savings targets year after year is that  
22 either new participants are needed each year until the full customer base of a utility is

1 reached (saturated) with that program or measure, or past participants are induced to save  
2 even further with different or new efficient technologies or measures. The true challenge  
3 of utility DSM is actual cost-effective delivery and not whether a forecast target is  
4 achieved.

5 **III. LOST REVENUES**

6 **Q9 With regard to lost revenues, Mr. Kelly takes the position that calculation of lost**  
7 **revenues as determined by evaluation, measurement and verification (“EM&V”)**  
8 **studies is flawed and does not meet an appropriate burden of proof. How do you**  
9 **respond to this assertion?**

10 **A9** I disagree with Mr. Kelly’s position. IPL has completed EM&V on all DSM programs,  
11 consistent with the Commission’s rules and orders<sup>3</sup> approving our DSM programs. IPL’s  
12 EM&V procedures for 2017 are consistent with procedures recognized and used in the  
13 past. The key question should be, is the EM&V compliant with best practices, standard  
14 protocols, and, most importantly, transparency? The EM&V vendor should be able to  
15 demonstrate how every number was computed and all numbers should be reproducible by  
16 others. Algorithms should be clear and data sources should be made available as needed.  
17 IPL’s independent EM&V vendor and its studies meet these requirements.

18 IPL’s third party evaluator, Cadmus, takes a very disciplined and rigorous approach to  
19 EM&V. Cadmus utilizes an EM&V approach that is consistent with the IPL EM&V

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<sup>3</sup> See 170 IAC 4-8-4 and 4-8-6; see also, *Verified Petition of Indianapolis Power & Light Co.*, Cause No. 43623, 2010 Ind. PUC LEXIS 52 (IURC; 2010); *In re Indianapolis Power & Light Co.*, Cause No. 44497, 2014 Ind. PUC LEXIS 379 (IURC; 2014).

1 framework that was initially adopted several years ago by the Demand Side Management  
2 Coordination Committee (“DSMCC”). The approach is consistent with industry practice.  
3 IPL’s vendor is willing to expand on the narrative included in the EM&V reports filed  
4 with the Commission and further explain to stakeholders how their studies were  
5 conducted, the algorithms used and the values calculated.

6  
7 In 2015, IPL did propose modifications to the Indiana statewide EM&V framework. IPL  
8 sought and received the approval of the IPL OSB to use the modified framework.<sup>4</sup> CAC  
9 provided suggested edits to the IPL EM&V framework (on issues unrelated to the issues  
10 it raises in this proceeding) but ultimately registered an “abstain” vote (although  
11 technically not a voting member it is our practice to seek consensus with CAC whenever  
12 possible) on the framework’s adoption. CAC had every opportunity to propose  
13 alternative methodologies during the framework’s adoption, but did not. The CAC could  
14 have more timely and effectively questioned the EM&V framework had it more actively  
15 participated in the OSB discussion rather than waiting to litigate.

16 **Q10 What do the Commission rules say about the recovery of DSM related lost revenues**  
17 **as verified by EM&V?**

18 A10 Since the early 1990s, the IURC has relied on EM&V to ensure the appropriate  
19 calculation of lost revenues.<sup>5</sup> Consistent with this, the Commission rules (both existing

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<sup>4</sup> See testimony at Petitioner’s Exhibit 3 and Petitioner’s Attachment EM-2 in this proceeding.

<sup>5</sup> See, for example: *In re PSI Energy*, Cause No. 38986, 1991 Ind. PUC LEXIS 368, 128 P.U.R.4th 84, 128 P.U.R.4th 84 (IURC; 1991); *In re Southern Indiana Gas and Electric*, Cause No. 39201, 1991 Ind. PUC LEXIS 360 (IURC; 1991); *In re Indianapolis Power & Light*, Cause No. 39672, 1993 Ind. PUC LEXIS 370 (IURC; 1993). See also, *In re Indianapolis Power & Light* Cause No. 44497, 2014 WL 7326585, at \*24 (Dec. 17, 2014); *In re Northern Indiana Public Service*, Cause No. 43912, 299 P.U.R.4th 80 (Aug. 8, 2012); *In re Vectren*, Cause No. 44495, 2014

1 and the draft as proposed) contemplate the use of EM&V to calculate lost revenues. For  
2 example, Section 6(a) and (b) of the existing rules provides:

3 Sec. 6. (a) The commission may allow the utility to recover the utility's lost  
4 revenue from the implementation of a demand side management program  
5 sponsored or instituted by the utility. The calculation of lost revenue must account  
6 for the following: (1) The impact of free-riders. (2) The change in the number of  
7 DSM program participants between base rate changes and on the revised estimate  
8 of a program specific load impact that result from the utility's measurement and  
9 evaluation activities under sections 4 and 5(e) of this rule.

10  
11 (b) A utility seeking recovery of lost revenue shall propose for commission  
12 review a methodology or process for incorporating a lost revenue recovery  
13 mechanism which includes the following: (1) The level of free-riders in a DSM  
14 program. (2) A revised estimate of a DSM program specific load impact **resulting**  
15 **from regular utility measurement and evaluation activities.** (Emphasis added.)  
16

17 And Section 6 of the proposed DSM rules provides:

18  
19 Sec. 6. (a) The commission shall approve the recovery of reasonable lost revenues  
20 for energy efficiency programs and may approve the recovery of reasonable lost  
21 revenues for demand response programs.

22 (b) A utility seeking recovery of lost revenue shall propose for commission  
23 review a methodology or process for calculating lost revenue that accounts for the  
24 following:

25 The impact of free-riders.

26 Spillover.

27 The change in the number of program participants between base rate  
28 changes

29 A revised estimate of the energy efficiency program's and demand  
30 response program's specific load impact **resulting from the utility's**  
31 **EM&V activities.** (Emphasis added.)  
32

33 The EM&V performed by IPL's independent third party evaluator fully complies with  
34 these criteria.

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WL 5339323, at \*11 (Oct. 15, 2014); *In re Northern Indiana Public Service* Cause No. 44496, 2014 WL 6466719, at \*22 (Nov. 12, 2014); *In re Indiana & Michigan Power*, Cause No. 44486, 2014 WL 7006337, at \*15 (Dec. 3, 2014).

1 Moreover, the discussions held in the General Assembly during the passage of Senate  
2 Enrolled Act 412 indicate that the legislature expects EM&V to be used to calculate lost  
3 revenues. For example, the House Sponsor of Senate Bill 412 stated that “lost revenues  
4 were a feature of the old plan and under this bill are subject to very stringent EM&V  
5 requirements.” (See Attachment LHA-3, which is a transcribed excerpt of the House  
6 debate over Senate Bill 412.)

7  
8 **Q11 Are you aware of any other states and utilities that verify the amount of lost**  
9 **revenues using the results of third party EM&V evaluations?**

10 A11 Yes. It is my understanding that the EM&V methodology used by IPL’s independent  
11 third party evaluator is similar to the approach used by other utilities in Indiana and  
12 across the country. According to E Source, there are 30 publicly available Technical  
13 Resource Manuals (“TRMs”) that guide planning and evaluation efforts across the  
14 country. The intention of TRMs is to provide clarity to utilities, public service  
15 commissions, evaluators, and stakeholders on the most currently available energy  
16 efficiency and demand response savings methodologies. In other words, TRMs provide a  
17 consistent reference to all parties. Witness Kelly’s position on IPL’s methodology of  
18 calculating savings, and ultimately lost revenues, is inconsistent with the well-established  
19 and accepted practices of an entire industry with years of experience and expertise.

20 **Q12 Mr. Kelly’s testimony appears to recommend that utilities utilize a billing analysis**  
21 **approach to calculate lost revenues rather than the EM&V approach used by IPL.**  
22 **Does IPL use any billing analyses to verify its energy efficiency program savings?**

1 A12 Yes, IPL's evaluator performs billing analysis to verify the savings achieved by  
2 participants in the IPL Peer Comparison Report program. This approach is appropriate  
3 for the Peer Comparison Report program because, rather than relying on implementation  
4 of specific energy efficiency measures, the Peer Comparison Report program relies on  
5 "peer pressure" and customer psychology and behavior. It is important to note, however,  
6 that the Peer Comparison Report program's savings methodology employs a common  
7 statistical methodology, random control trial, to calculate savings. Using this  
8 methodology, it is imperative by design to randomly select a control group and treatment  
9 group that are statistically equivalent. If this savings methodology was expanded to  
10 IPL's entire DSM portfolio, IPL would necessarily be required to randomly select control  
11 groups for each program. In addition to being impractical, this would render a large  
12 portion of IPL's customer base ineligible to participate in our energy efficiency  
13 programs.

14 **Q13 Do you have any opinion concerning what downsides there would be to trying to**  
15 **calculate lost revenues as Mr. Kelly suggests?**

16 A13 Yes. In addition to the limitation described above, Witness Kelly's high level analysis of  
17 IPL's year over year sales has several shortcomings. First, his example in Table 3 of his  
18 testimony fails to account for changes in load (e.g. load growth in absence of DSM  
19 programs) during the period in question. In other words, he is recommending using prior  
20 year sales as a static baseline, which does not address what would have happened to load  
21 absent DSM program delivery.

1 In contrast, the end use engineering analysis used by IPL's EM&V vendor is a well-  
2 accepted and rigorous approach to calculate energy savings. By employing end use  
3 analysis, the savings methodology focuses exclusively on direct energy efficiency  
4 interventions, thereby avoiding the necessity to define what would have happened in  
5 absence of the program. In statistics, defining what would have happened absent an  
6 intervention (i.e. counterfactual analysis) requires significant judgment to be applied.  
7 Admittedly, counterfactual analysis is part of net-to-gross analysis, but defining what  
8 would have happened absent energy efficiency interventions in the net-to-gross analysis  
9 is limited narrowly to end use measure adoption, thus limiting the number of statistical  
10 judgments made.

11 Secondly, Witness Kelly's methodology does not account for the temporal nature of  
12 energy efficiency installations and corresponding lost revenue. The savings amounts  
13 listed in Table 3 of his testimony show savings amounts that are "annualized." In other  
14 words, energy efficiency impact reporting and evaluation reflect energy and demand  
15 savings that assume twelve (12) months of being in service. Lost revenue, however,  
16 occurs when measures are installed (i.e. are placed into service). For example, consider a  
17 measure with an annual savings of 120 kWh. Regardless of when the measure is  
18 installed, savings will be reported as 120 kWh. However, for lost revenue purposes the  
19 timing of installation is reflected in the calculation methodology. If the measure is in  
20 service in January of a calendar program year, the full 120 kWh will be used as the basis  
21 for calculating lost revenue in that year. If the measure was not installed and in service  
22 until July, however, only 6 months of savings are fully realized (60 kWh). The annual  
23 reporting and evaluation methodology by design reflects the full annualized amount, but

1 lost revenue methodology adjusts for the temporal nature of energy efficiency delivery.  
2 In this example, IPL would only calculate lost revenues for 6 months if the measure was  
3 installed in July.

4 Finally, Mr. Kelly's recommendation for use of billing analyses instead of the current  
5 approach to EM&V appears to be simply another way of arguing that if a utility's sales  
6 increase, lost revenue recovery should be eliminated. The Commission has previously  
7 rejected this argument, emphasizing that the purpose of lost revenue recovery is to return  
8 the utility to the position it would have been in absent implementation of DSM. (*See In re*  
9 *Duke Energy Indiana, Inc.*, Cause No. 43955-DSM-2 (IURC; 2014)(Note that in that  
10 case, the IURC specifically relied upon the fact that lost revenues are subject to  
11 reconciliation based on independent EM&V results to support its decision to allow lost  
12 revenue recovery).

13 In sum, IPL's use of an independent third party evaluator to perform EM&V to measure  
14 and verify the energy savings achieved, and IPL's use of those EM&V results to calculate  
15 lost revenues, is consistent with good EM&V industry practice and longstanding Indiana  
16 practice. EM&V focuses on measuring and verifying actual energy efficiency savings  
17 from specific measures and thus avoids the possibility of double counting energy savings.  
18 In contrast, Mr. Kelly's recommended billing analysis approach appears to be another  
19 attempt to deny utilities recovery of actual lost revenues if sales volumes increase for  
20 other reasons.

21 **Q14 What about CAC's suggestions that the Commission should hire and manage the**  
22 **EM&V vendor?**



1 A14 IPL does not agree with this suggestion. There is no indication or evidence that such a  
2 change is necessary. The independent EM&V vendor utilized by IPL is professional,  
3 expert, independent, transparent, and open to working with stakeholders. The vendor is  
4 not simply selected by IPL; they are selected by the IPL OSB and the CAC has input into  
5 that selection process (as does the OUCC, of course). Moreover, I would note that while  
6 the CAC takes issue with the methodology used to calculate lost revenues (and we  
7 obviously disagree with the CAC on this point), the CAC has not pointed to any  
8 deficiencies in the EM&V vendor or EM&V studies themselves. Finally, the CAC's  
9 suggestion would add administrative burdens to the Commission's already significant  
10 workload and would not noticeably decrease the utility workload (because the utility and  
11 the implementation contractors would still have the same level of effort to provide the  
12 necessary information to the EM&V vendor).

13 **Q15 Please summarize your view as to why you believe IPL's proposed calculation of lost**  
14 **revenues as determined by EM&V studies is reasonable and should be approved.**

15 A15 IPL's independent EM&V vendor takes a rigorous approach to evaluating the  
16 performance of IPL's programs. IPL's independent evaluator has completed numerous  
17 evaluations of DSM programs for Indiana utilities and has significant knowledge of the  
18 characteristics of Indiana utility customers. Each evaluation builds on prior knowledge  
19 gained. In addition, IPL's 2015 program evaluation met a 90% confidence and 10%  
20 precision level in all critical estimates. Finally, IPL's EM&V approach is consistent with  
21 longstanding industry practice, Commission practice, the Commission's DSM rules, and  
22 the expectations of the Indiana General Assembly.

1   **Q16   Mr. Kelly also takes the position that lost revenues should be “capped” at three or**  
2       **four years, both for lost revenues at issue in this proceeding (relating to the 2017**  
3       **DSM Plan), as well as for “legacy” lost revenues (lost revenues stemming from past**  
4       **programs and program years). What is your view on the concept of “capping” lost**  
5       **revenues in such a manner?**

6   **A16   We believe the issue of lost revenues should be treated consistently throughout the utility**  
7       DSM process. Lost revenues are a real cost of engaging in utility energy efficiency  
8       programs. Sales (and the resulting fixed cost recovery) are lost throughout the useful life  
9       of the measures, unless or until base rates are reset in a rate case. (And it is important to  
10      keep in mind that when rates are reset in a base rate case, lost revenues are not ignored.  
11      Rather, they are built into the new base rates through the use of updated kWh sales.) If  
12      the life of a measure is artificially shortened for one regulatory purpose it only makes  
13      sense to shorten the life for all regulatory purposes. For example, an LED bulb has a  
14      useful life of more than 10 years. If the lost revenue is capped at four years, the energy  
15      savings for purposes of the benefit costs tests should similarly be capped at four years. In  
16      other words, if IPL is not authorized to recover lost revenue beyond the four year  
17      measure life, any lost revenues beyond that period are borne by the utility as a cost, and  
18      should be reflected in the Utility Cost Test (UCT).

19      While IPL has not calculated the potential financial impact, we anticipate it would  
20      represent a significant sum of calculable lost revenue – plus, the artificially shortened  
21      measure life would reduce the calculated benefits of the measure. If those unrecoverable  
22      lost revenues are treated as a utility cost (as they should be), and the reduced benefits are  
23      also factored in, this would render many of IPL's DSM programs non-cost effective from

1 the TRC and UCT standpoint. Limiting the useful life of a measure to its “regulatory life”  
2 will result in some programs that would otherwise be cost effective not being undertaken,  
3 thereby resulting in fewer energy efficiency savings in Indiana for all utilities. The life of  
4 a measure cannot logically be treated one way to determine the cost-effectiveness of the  
5 program and then another to apply to the net lost revenue associated with the measure.  
6 The arbitrary action that Mr. Kelly proposes will also hurt the efficacy of DSM in an IRP  
7 process, as it would tend to increase the cost (and reduce the benefits) of DSM to serve as  
8 a comparable, ongoing, supply-side alternative. The regulatory policy that the CAC  
9 advocates, not allowing lost revenue recovery for the true life of the DSM measure, is  
10 likely to lead to a bias toward measures with lives that are equal to or match the  
11 regulatory prescribed recovery, limiting the potential for energy savings. To avoid this  
12 potential unintended consequence, the true life of the measure should continue to be used  
13 for both cost-effectiveness analysis and for lost revenue recovery.

14 **Q17 Do you believe the Commission should initiate an investigation into utility lost**  
15 **revenues?**

16 A17 No. IPL believes that such an investigation is not warranted. As supported by the  
17 recently enacted SEA 340, Commission rules and prior precedents, lost revenues are a  
18 real and calculable cost to utilities of implementing DSM programs. This reality is  
19 recognized by many experts, from utility regulators, to utility associations, to energy  
20 efficiency advocates themselves<sup>6</sup>. Moreover, this is not a new issue. The appropriateness

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<sup>6</sup> In addition to the specific references for the recognition of the need for utility incentives to pursue DSM efforts contained in my direct testimony, there are many other examples of organizations, including NARUC, the Regulatory Assistance Project and the American Council for an Energy Efficient Economy

1 of a utility recovering lost revenues has been discussed in Indiana since the early 1990s  
2 and generally supported by prevailing public policy. As we see it, there is nothing to  
3 investigate here. Rather, this is a question of law and regulatory policy, determined by  
4 the General Assembly and the Commission. As I mentioned previously, it appears to be  
5 another attempt by the CAC to deny lost revenue recovery if or when utility sales  
6 volumes increase.

7 **III. DEVELOPMENT OF IPL'S EE GOALS AND 2017 DSM PLAN**

8 **Q18 Mr. Kelly also criticizes IPL's development of its 2017 DSM energy efficiency goals**  
9 **and Plan, noting that the Plan and goals were inputs into the 2014 IRP, rather than**  
10 **being treated in the IRP in a manner comparable to traditional generating**  
11 **resources. Do you agree with his criticism?**

12 A18 No. IPL disagrees with Witness Kelly. IPL's prior IRP modeling which is the basis of its  
13 2015-2017 DSM Plan was performed prior to SEA 412's passage, and was completed

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acknowledging that this is appropriate and necessary public policy. *See National Action Plan for Energy Efficiency*, 15 U.S.C. §2621(d)(8); *see also* 15 U.S.C. §3203(b)(4) ("The rates allowed to be charged by a State regulated electric utility shall be such that the utility's investment in and expenditures for energy conservation, energy efficiency resources, and other demand side management measures are at least as profitable, giving appropriate consideration to income lost from reduced sales due to investments in and expenditures for conservation and efficiency, as its investments in and expenditures for construction of new generation, transmission, and distribution equipment.") *See also* section 532 of the Energy Independence and Security Act of 2007. *See also, Benefits of Energy Efficiency*, STATE & LOCAL ENERGY EFFICIENCY ACTION NETWORK, <https://www4.eere.energy.gov/seeaction/benefits-energy-efficiency>; *Aligning Utility Incentives with Investment in Energy Efficiency*, ENVIRONMENTAL PROTECTION AGENCY, ES-3, (2007), <https://www.epa.gov/sites/production/files/2015-08/documents/incentives.pdf>; ANNIE GILLES ET AL., *Valuing Efficiency: A Review of Lost Revenue Adjustment Mechanisms* AMERICAN COUNCIL FOR AN ENERGY-EFFICIENT ECONOMY (2015), <http://aceee.org/sites/default/files/publications/researchreports/u1503.pdf>; *Chapter 7. Electric Utility Policies: Policies That Sustain Utility Financial Health*, EPA Energy and Environmental Guide to Action, ENVIRONMENTAL PROTECTION AGENCY, 7-47, (2006), [https://www.epa.gov/sites/production/files/2015-08/documents/gta\\_chapter\\_7.2\\_508.pdf](https://www.epa.gov/sites/production/files/2015-08/documents/gta_chapter_7.2_508.pdf).

1 using a methodology that has long been considered the industry standard. IPL is  
2 currently modeling DSM as a selectable resource in its 2016 IRP and has gone to great  
3 lengths to be as inclusive and transparent as possible in its approach. IPL contends that  
4 the one-year extension of the current DSM programs, with adjustment for improved  
5 market knowledge (as described in Mr. Elliot's testimony) is consistent with IPL's 2014  
6 IRP. The 2017 Action Plan Update used as support in this proceeding (Petitioner's  
7 Attachment ZE-1) is an update to the 2015-2017 Action Plan which is consistent with the  
8 2014 IRP short term action plan. While the Commission has made clear its desire that  
9 prospective IRPs and DSM plans should consider DSM as a selectable resource, it has  
10 also made clear that it understands that until the utility's next IRP is completed, the utility  
11 cannot accomplish that. Again, I would emphasize that IPL is not seeking Commission  
12 approval in this proceeding under "Section 10" of SEA 412 (Ind. Code § 8-1-8.5-10).  
13 Rather, IPL is seeking a one-year extension of its current DSM programs and associated  
14 ratemaking treatment and in 2017, IPL will be in a position to present to the Commission  
15 a "Section 10" proposal using a new (2016) IRP that considers DSM as a selectable  
16 resource.

17 **Q19 Mr. Kelly also suggests, on page 18 of his testimony, that IPL's and other Indiana**  
18 **utilities' DSM Rider filings are not transparent. How do you respond to this?**

19 A19 I cannot speak for the other utilities filings seeking recovery of DSM expenses, but in my  
20 opinion the IPL semi-annual filings (Standard Contract Rider No. 22) are straight forward  
21 and readily understood. To the best of my recollection this concern has not been raised  
22 by the CAC in the IPL OSB meetings or other forums. If the CAC has specific issues or  
23 questions regarding IPL's semi-annual DSM Rider filings, IPL is willing to meet with the

1 CAC and review the filings and respond to these questions. IPL would also consider  
2 suggestions by the CAC to improve clarity and reduce complexity to the extent practical.

3 **Q20 Mr. Kelly also argues for CAC's inclusion as a voting member of IPL's OSB. Does**  
4 **IPL agree? Why or why not?**

5 A20 IPL believes the CAC should not be made a voting member of the OSB. There is a  
6 significant difference between governance and being open to input. After the  
7 Commission approves a DSM plan, governance is appropriately taken on by the statutory  
8 representative of the public, the OUCC, and the Company who is ultimately responsible  
9 for design and delivery of programs. The CAC is a special interest group. They  
10 sometimes take extreme positions on issues. We are hard pressed to recall an occasion  
11 where the CAC called for less DSM. While IPL objects to the CAC having voting status,  
12 we wholeheartedly welcome their continued participation on the OSB. IPL's position of  
13 rejecting CAC voting status in no way disparages the CAC's past contribution to the  
14 OSB. The CAC is currently a non-voting member of IPL's OSB, and has the opportunity  
15 to (and often does) provide meaningful feedback and information. As noted by the CAC  
16 in a formal discovery request in Cause No. 44497, "[t]he operation of the OSB has  
17 worked well as IPL has been more than willing to share information, collaborate, and ask  
18 for CAC's input. A great example of this is our inclusion and involvement in past RFPs  
19 as CAC was given a seat at the table in scoring bidders." (See the CAC's response to  
20 IPL's Discovery Request 1.6 attached to my rebuttal testimony in Cause No. 44497 as  
21 Exhibit B). The dynamic of the IPL OSB has not changed since this statement was made.  
22 The OSB has continued to meet in a cordial and collaborative manner – with no  
23 indication that the current process for getting input from the CAC into DSM matters is

1 not working. It is important to note that in the OUCC's testimony in Cause No. 44497,  
2 the OUCC recommended that the Commission approve continuation of IPL's OSB as IPL  
3 had proposed. The OUCC also noted in informal discovery in Cause No. 44497 that in  
4 its opinion, the operation of the IPL OSB had worked well. (See the OUCC's response to  
5 IPL's Discovery Request 1.8, attached to my rebuttal testimony in Cause No. 44497 as  
6 Exhibit C). IPL believes that the OUCC represents the interest of all ratepayers, and is a  
7 voting member on the IPL OSB. Moreover, at the end of the day, these are IPL's  
8 programs, for which IPL is accountable. Changing the composition of the OSB such that  
9 IPL is left as a potentially minority member is inconsistent with the fact that IPL is the  
10 utility in charge of and accountable for these programs. In summary, why fix what isn't  
11 broken? IPL strongly advocates for maintaining the composition of the current OSB  
12 which has served all parties well.

13 **Q21 Does IPL, despite CAC not being a voting member, take seriously the input and**  
14 **suggestions of the CAC?**

15 A21 Very much so. Currently, for instance, IPL is considering language that CAC  
16 recommended and provided for the annual customer opt-out letter. Understandably, CAC  
17 feels strongly about the framing of the customer communication, and has advocated for  
18 describing the benefits of energy efficiency in the letter with the end goal of mitigating  
19 customer opt-out. IPL's past efforts and future aim regarding opt-out have been to  
20 maintain a position of neutrality with customers, not encouraging or discouraging opt-  
21 out. Nonetheless, IPL is considering CAC's opt-out communication language, and will  
22 very likely make changes. We would be remiss to omit, however, that in a collaborative  
23 environment there needs to be a spirit of compromise – not all suggestions will be

1        adopted in whole. Nonetheless, IPL takes seriously any and all considerations, and  
2        considers feedback of great benefit for program enhancement. Ultimately, IPL believes it  
3        is its responsibility to maintain the role of program administrator in an effort to achieve  
4        cost effective programs that consider the perspectives of all customers (not just one  
5        perspective).

6        **Q22    Does this conclude your rebuttal testimony as this time?**

7        **A22    Yes, it does.**



### VERIFICATION

I, Lester H. Allen, of Indianapolis Power & Light Company, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Lester H. Allen

Dated: 8/24/16

## **PETITIONER'S ATTACHMENT LHA-3**

Excerpt from Transcription of  
Indiana General Assembly  
Legislative Hearing  
Regarding Senate Bill 412  
As Submitted Into Evidence  
In IURC Cause No. 44645

**In The Matter Of:**

*Senate Bill 412*

*Legislative Hearing*

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*March 24, 2015*

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Min-U-Script® with Word Index

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">LEGISLATIVE HEARING</p> <p style="text-align: center;">SENATE BILL 412</p> <p style="text-align: center;">MARCH 24, 2015</p> <p style="text-align: center;">A TRANSCRIBED RECORD</p> <p style="text-align: center;">BY: NANCY A. TROTTER</p>	<p style="text-align: right;">Page 3</p> <p>1 expense and whether it was appropriate to have a</p> <p>2 state-wide goal when each service territory is</p> <p>3 unique. Consequently, during the 2014 session,</p> <p>4 Senate Enrolled Act 340 was enacted into law so that</p> <p>5 the General Assembly could put a pause on the program</p> <p>6 and further explore the concept. That's what brings</p> <p>7 us here today.</p> <p>8 Following the passage of SEA 340, the</p> <p>9 Governor asked the IURC to provide recommendations on</p> <p>10 DSM, demand-side management, and energy efficiency</p> <p>11 policies and programs so that they may serve as a</p> <p>12 framework for potential legislation in the upcoming</p> <p>13 2015 session of the General Assembly, which we're now</p> <p>14 in. Knowing how important energy efficiency is to a</p> <p>15 number of stakeholders, the IURC solicited feedback</p> <p>16 and in return received hundreds of comments and</p> <p>17 response. The process was open and transparent and</p> <p>18 those comments, all of which were taken into</p> <p>19 consideration, are still available online.</p> <p>20 After conducting its review, the Commission</p> <p>21 made the following recommendations. First, codify</p> <p>22 the submission of Integrated Resource Plans, IRPs, by</p> <p>23 the state's utilities. This practice is already</p> <p>24 underway at the administrative level. Second was to</p> <p>25 tie energy efficiency goals to the utility's IRPs,</p>
<p style="text-align: right;">Page 2</p> <p>1 <b>MR. SPEAKER:</b> Senate Bill Number 412.</p> <p>2 Representative Koch.</p> <p>3 <b>CLERK:</b> A bill for enactment to Indiana Code</p> <p>4 concerning utilities.</p> <p>5 <b>MR. SPEAKER:</b> Representative Koch recognized</p> <p>6 to speak on Senate Bill 412.</p> <p>7 <b>REPRESENTATIVE KOCH:</b> Thank you,</p> <p>8 Mr. Speaker, ladies and gentlemen of the House. I</p> <p>9 bring you Senate Bill 412 which comes to us from</p> <p>10 Senators Merritt, Head, and Breaux. I'd like to</p> <p>11 thank my co-sponsor, Representative Morrison. The</p> <p>12 bill came from the Senate on a bipartisan basis and</p> <p>13 came through house committee also bipartisan.</p> <p>14 Following a -- just first some history.</p> <p>15 Following a 2004 proceeding based on the Certificate</p> <p>16 of Need law, the IURC issued a decision in 2009 that</p> <p>17 required our state's investor-owned electric</p> <p>18 utilities to achieve an energy savings target of two</p> <p>19 percent within ten years. Additionally, the</p> <p>20 commission established the need for two, third-party</p> <p>21 administrators, one for program implementation and</p> <p>22 another for the evaluation, measurement, and</p> <p>23 verification of the reported statistics.</p> <p>24 Since the issuance of the IURC's decision,</p> <p>25 concerns were raised about the program's overall</p>	<p style="text-align: right;">Page 4</p> <p>1 and third, to make sure that the utility programs are</p> <p>2 cost effective.</p> <p>3 So why is energy efficient important? It</p> <p>4 reduces demand for electricity which reduces the need</p> <p>5 to build new generation facilities and avoids the</p> <p>6 costs associated with those facilities. It also</p> <p>7 keeps electricity bills lower by reducing the amount</p> <p>8 of electricity a ratepayer consumes. It's all part</p> <p>9 of and above -- all of the above approach to energy.</p> <p>10 Now, this bill before you essentially does</p> <p>11 four things. First, it codifies the submission of</p> <p>12 IRPs by the utilities per the Commission's</p> <p>13 recommendation. Next, it requires investor-owned</p> <p>14 utilities to file a petition with the IURC at least</p> <p>15 once every three years requesting approval for each</p> <p>16 utility's energy efficiency goals and programs.</p> <p>17 Third, it establishes the regulatory framework for</p> <p>18 those cases and gives the IURC discretion to approve</p> <p>19 or deny a utility's proposal based on its</p> <p>20 reasonableness, and finally, it preserves the</p> <p>21 industrial opt-out provision.</p> <p>22 Now, an IRP is a plan by a public utility</p> <p>23 that assesses energy needs and the generation</p> <p>24 resources needed to meet those needs in both the</p> <p>25 short and long term. Because this is a holistic look</p>

<p style="text-align: right;">Page 13</p> <p>1 device, the light bulb, years and years and years 2 past that. Could you explain the lost recovery as it 3 is in the bill at this point?</p> <p>4 <b>REPRESENTATIVE KOCH:</b> I appreciate the 5 question, Representative Riecken, and we did spend a 6 great deal of time on that on second reading, but to 7 your specific question, the lost revenues are limited 8 to the life of the energy efficiency measure, and let 9 me give you some examples. A compact florescent 10 light bulb is five years, an HVAC tune-up is five 11 years, a residential refrigerator/freezer replacement 12 is eight, variable frequency drives for commercial 13 HVAC is 15, LED exit signs are 16, and residential 14 roof, attic, ceiling insulation is 25 years. Now, 15 these are not just pulled out of the air. There's a 16 manual used by the IURC of generally accepted 17 principles, so the lost revenues are limited to the 18 life of the energy efficiency major, and keep in 19 mind, it's fixed costs only, not the variable costs.</p> <p>20 So without repeating everything that we went 21 over yesterday on second reading, it is not unlimited 22 and it's not the full amount. It's limited to the 23 fixed costs and it's limited to the life of the 24 energy efficiency measure, and most importantly, it 25 was the same feature that we had in the old plan, the</p>	<p style="text-align: right;">Page 15</p> <p>1 but there is only one set of facts.</p> <p>2 We need a bill. We probably should not have 3 taken it out last year. We need a bill. This is a 4 good bill. There's been a lot of thought put into 5 it, a lot of testimony. Recovery. There is no state 6 in the union that has a state law that caps recovery 7 at 36 months. That is hyperbole out of one 8 organization on the Internet. Fact. Look it up. 9 There are four states that have a cap that was agreed 10 to in a settlement, litigation settlement, so we're 11 not -- we're not way out of step with the entire 12 universe here.</p> <p>13 The plans that the IURC is to approve, it's 14 deliberate that way. The region I live in is not the 15 same as Vanderburgh County. Different utilities, 16 different regions, different issues. Clearly a 17 reason to make it more flexible because one size does 18 not fit all.</p> <p>19 So the issue of reasonability in law is 20 called the reasonable man. The word reasonable is 21 used over and over and over in the law. I didn't go 22 to law school. I stayed in the Holiday Inn Express 23 once. The reasonable man is a principle of law. If 24 we were to strike it from all of our laws, we 25 wouldn't have much left and we wouldn't have much</p>
<p style="text-align: right;">Page 14</p> <p>1 Energizing Indiana Plan. So if it was good enough 2 for that, it's good enough for this, and thank you 3 for the question.</p> <p>4 <b>REPRESENTATIVE RIECKEN:</b> Thank you, sir, and 5 thank you, Representative Koch. I wish this whole 6 issue of the utility and the recovery and -- was a 7 lot easier, but it isn't, I think it's confusing for 8 all of us, but the one thing that I really do have a 9 problem with, and it's going to be ongoing until we 10 come to the term- -- until we come to terms with 11 terminology. Reasonable and reasonableness does not 12 include or does not suggest that it is affordable, 13 and until we come to the point that we actually have 14 reasonable and affordable, we're going to be looking 15 at costs that just keep going up, and it is a concern 16 for me. I do thank you for explaining that portion 17 in the bill and I respect that your opinion is 18 exactly what it says. Thank you.</p> <p>19 <b>MR. SPEAKER:</b> Further discussion on the 20 bill. Representative Soliday recognized to speak.</p> <p>21 <b>REPRESENTATIVE SOLIDAY:</b> Thank you, 22 Mr. Speaker, ladies and gentlemen of the House. Let 23 me just talk to you about a couple of practical 24 things and in some of the hyperbole get to what the 25 facts are. Everyone has their right to an opinion</p>	<p style="text-align: right;">Page 16</p> <p>1 left in the courts. This is a good bill. We've 2 spent a lot of time on it, heard a lot of testimony. 3 I'd urge you to vote for it.</p> <p>4 <b>MR. SPEAKER:</b> Further discussion. Chair 5 sees none. Author has the right to close.</p> <p>6 <b>REPRESENTATIVE KOCH:</b> Thank you, 7 Mr. Speaker. I appreciate very much the discussion 8 and debate both in committee and here on the floor. 9 I just want to underscore a few things.</p> <p>10 This bill is the product of an independent 11 study done last summer at the request of the IURC by 12 the Energy Center of Wisconsin, the Commission's own 13 work last summer. As we discussed, lost revenues 14 were a feature of the old plan and under this bill 15 are subject to very stringent EM&amp;V requirements, and 16 lost revenue -- request for lost revenues can and 17 will be denied by the Commission if they're not 18 appropriate.</p> <p>19 To my friend Representative Pierce's concern 20 that this plan will cost more, I see no evidence of 21 that. I would like to continue that discussion. If 22 you know something I don't, Representative Pierce, I 23 would certainly like to see that and share that with 24 the Senate author, but there's no evidence of that.</p> <p>25 And finally, I want to make perfectly clear,</p>

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1 this is not cart blanch for utilities to draft their  
2 own plan. Those plans must be subject to specific  
3 criteria and have required contents that are set  
4 forth in the bill on pages 9 and 10, and under the  
5 bill, the IURC can and will reject a plan that does  
6 not conform to those requirements.  
7 Thank you for your attention during this  
8 very important discussion. Thank you for the  
9 discussion Representative Pierce, Riecken, Soliday,  
10 and others. I'd urge your support.  
11 **MR. SPEAKER:** The question is on the final  
12 passage of the bill. All of those in favor will,  
13 when the machine is open vote aye, those opposed will  
14 vote no. Clerk will open the machine.  
15 (VOTE TAKEN.)  
16 **MR. SPEAKER:** All the members voted. Tally  
17 the roll. Tally shows 72 members voting aye, 26  
18 voting no. The bill has passed. Shall the title of  
19 the bill remain the title of the act? The clerk will  
20 inform the Senate of the passage of the bill.  
21  
22  
23  
24  
25

Page 18

1 STATE OF INDIANA )  
2 COUNTY OF VANDERBURGH ) SS:  
3 I, NANCY A. TROTTER, A NOTARY PUBLIC AT LARGE IN AND  
4 FOR THE STATE OF INDIANA, DO HEREBY CERTIFY:  
5 THAT I TRANSCRIBED THE DISCUSSIONS REGARDING SENATE  
6 BILL 412 FROM MARCH 24, 2015, AND THAT THE TYPEWRITTEN  
7 TRANSCRIPT ABOVE IS A TRUE RECORD OF THE STATEMENTS GIVEN,  
8 AND THAT I AM NOT A RELATIVE OR EMPLOYEE OR ATTORNEY OR  
9 COUNSEL OF ANY OF THE PARTIES, NOR A RELATIVE OR EMPLOYEE OF  
10 SUCH ATTORNEY OR COUNSEL, NOR AM I FINANCIALLY INTERESTED IN  
11 THIS ACTION.  
12 IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND  
13 AFFIXED MY NOTARIAL SEAL ON THIS THE 26TH DAY OF OCTOBER,  
14 2015.  
15  
16 NANCY A. TROTTER, NOTARY PUBLIC  
17 MY COMMISSION EXPIRES:  
18 FEBRUARY 9, 2017  
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25