

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF SOUTHERN)
INDIANA GAS AND ELECTRIC COMPANY)
D/B/A CENTERPOINT ENERGY INDIANA)
SOUTH (“CEI SOUTH”) FOR (1) AUTHORITY)
TO MODIFY ITS RATES AND CHARGES FOR)
ELECTRIC UTILITY SERVICE THROUGH A)
PHASE-IN OF RATES, (2) APPROVAL OF NEW)
SCHEDULES OF RATES AND CHARGES, AND)
NEW AND REVISED RIDERS, INCLUDING)
BUT NOT LIMITED TO A NEW TAX)
ADJUSTMENT RIDER AND A NEW GREEN)
POWER RIDER (3) APPROVAL OF A)
CRITICAL PEAK PRICING (“CPP”) PILOT)
PROGRAM, (4) APPROVAL OF REVISED)
DEPRECIATION RATES APPLICABLE TO)
ELECTRIC AND COMMON PLANT IN)
SERVICE, (5) APPROVAL OF NECESSARY)
AND APPROPRIATE ACCOUNTING RELIEF,)
INCLUDING AUTHORITY TO CAPITALIZE AS)
RATE BASE ALL CLOUD COMPUTING COSTS)
AND DEFER TO A REGULATORY ASSET)
AMOUNTS NOT ALREADY INCLUDED IN)
BASE RATES THAT ARE INCURRED FOR)
THIRD-PARTY CLOUD COMPUTING)
ARRANGEMENTS, AND (6) APPROVAL OF AN)
ALTERNATIVE REGULATORY PLAN)
GRANTING CEI SOUTH A WAIVER FROM 170)
IAC 4-1-16(f) TO ALLOW FOR REMOTE)
DISCONNECTION FOR NON-PAYMENT)

CAUSE NO. 45990

PUBLIC’S EXHIBIT NO. 7

REDACTED TESTIMONY OF CYNTHIA M. ARMSTRONG

ON BEHALF OF

THE INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

March 12, 2024

Respectfully submitted,

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

A handwritten signature in black ink, appearing to read "Adam J. Kashin". The signature is written in a cursive style and is positioned above a horizontal line.

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CERTIFICATE OF SERVICE

This is to certify that a copy of the *Public's Exhibit No. 7 – Redacted Testimony of Cynthia M. Armstrong on behalf of the OUCC* has been served upon the following in the captioned proceeding by electronic service on March 12, 2024.

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**REDACTED TESTIMONY OF OUCC WITNESS
CYNTHIA M. ARMSTRONG
CAUSE NO. 45990
SOUTHERN INDIANA GAS AND ELECTRIC COMPANY D/B/A
CENTERPOINT ENERGY INDIANA SOUTH**

1 **Q: Please state your name and business address.**

2 A: My name is Cynthia M. Armstrong, and my business address is 115 W. Washington
3 St., Suite 1500 South, Indianapolis, IN, 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed as an Assistant Director in the Electric Division for the Indiana
6 Office of Utility Consumer Counselor (“OUCC”). A summary of my qualifications
7 can be found in Appendix A.

8 **Q: Have you previously provided testimony to the Indiana Utility Regulatory**
9 **Commission (“Commission”)?**

10 A: Yes.

I. INTRODUCTION

11 **Q: What is the purpose of your testimony in this proceeding?**

12 A: The purpose of my testimony is to address several environmental-compliance-cost
13 related rate base items and operation and maintenance (“O&M”) expenses
14 CenterPoint Energy Indiana South (“CEI South” or “Petitioner”) includes in its
15 request for new base rates. First, I explain how CEI South has not adequately
16 supported its emission allowance inventory included in rate base and test year
17 allowance expense, and how the 2022 historical year is an unsuitable basis for
18 projecting CEI South’s emission allowance inventory. I support adjustments that
19 decrease both CEI South’s emission allowance inventory and test year allowance
20 expense. Next, I address CEI South’s inclusion of several capital expenditures

1 influencing rate base. Specifically, I recommend adjustments to remove costs the
2 Commission denied in Cause No. 45903 from the Culley East Ash Pond Closure
3 by Removal ("CBR") Project costs, additional costs CEI South incurred with
4 respect to the Urban Living Research Center ("ULRC")¹ the Commission denied
5 in Cause No. 44909 CECA-5, and unexplained land acquisitions around the A.B.
6 Brown Generating Plant. Finally, I address CEI South's pro-forma adjustment to
7 decrease test year Integrated Resource Planning ("IRP") expense. My testimony
8 supports OUCC witnesses Mr. Gregory Krieger, Mr. Kaleb Lantrip, and Mr. Brian
9 Latham.

10 **Q: What did you do to prepare your testimony?**

11 A: I reviewed the Verified Petition, Direct Testimony, Exhibits, and Data Responses
12 submitted by CEI South in this Cause. I also reviewed CEI South's generating unit
13 emissions data and allowance holdings reported in the U.S. Environmental
14 Protection Agency's ("EPA") Clean Air Markets Program Database ("CAMPD").
15 I researched the Indiana Department of Environmental Management's ("IDEM")
16 Virtual File Cabinet ("VFC") and news articles relevant to CEI South's
17 environmental compliance activities. I participated in a pre-filing meeting with CEI
18 South staff on November 21, 2023, and a tech-to-tech discussion regarding CEI
19 South's schedules on January 31, 2024.

20 **Q: To the extent you do not address a specific item, does this mean you agree with**
21 **those portions of CEI South's proposal?**

¹ The project was also referred to as the Urban Living Resource Center in Cause No. 44909. (Cause No. 44909 Final Order, p. 2, August 16, 2017.)

1 A: No. Excluding any specific issues, adjustments, or amounts CEI South proposes
2 does not indicate my approval of those adjustments or amounts. Rather, the scope
3 of my testimony is limited to the specific items addressed herein.

4 **II. EMISSION ALLOWANCE INVENTORY AND EXPENSE**

5 **Q: Please explain CEI South's inclusion of emission allowance inventory and costs**
6 **in this Cause.**

7 A: CEI South includes \$1,282,707 of emission allowance inventory in rate base.² This
8 amount is based on a 13-month average from December 2021 through December
9 2022.³ CEI South also forecasts \$3,519,952 in allowance expense, which is
10 included in test year O&M expense.⁴

11 **Q: Is CEI South's proposed test year emission allowance inventory level and**
12 **allowance expense reasonable?**

13 A: No. First, the 2022 historical period CEI South uses to forecast allowance inventory
14 is not representative of what CEI South's operations are likely to be going forward.
15 Unusual events that occurred during 2022 inflated CEI South's monthly allowance
16 inventory balances recorded during the historical year.

17 Second, CEI South's allowance cost assumptions to determine its forecasted
18 allowance expense do not reflect significant price decreases in the allowance
19 market or the effect of zero-cost allowances allocated to CEI South's generating
20 units. Because these effects are ignored, CEI South's forecasted emission
21 allowance expense is likely to be overstated.

22 **Allowance Inventory**

² Petitioner's Exhibit No. 20, Schedule B-4, I. 3, and Workpaper WPB-4.1, I. 6.

³ *Id.*

⁴ *Id.*, Schedule C-1.1 I. 44, and Workpaper WPC-1.1a, I. 15.

1 **Q: Why is the 2022 historical period unlikely to represent what CEI South's**
2 **emission allowance inventory requirement will be in the future?**

3 A: There are two main reasons why the 2022 historical period is not representative of
4 CEI South's likely future allowance inventory requirement. First, the Seasonal NOx
5 market experienced historically high prices in 2022. <CONFIDENTIAL>

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED] <CONFIDENTIAL> coincided with the significant increase in
10 CEI South's monthly ending inventory balances beginning in August 2022.⁶

11 Because CEI South did not <CONFIDENTIAL> [REDACTED]

12 [REDACTED]⁷

13 <CONFIDENTIAL> CEI South's total monthly allowance inventory balances
14 remained high throughout the second half of 2022.

15 Second, due to CEI South's retirement of its coal-fired units as part of its
16 Generation Transition Plan, its system-wide emissions will significantly decrease
17 over the next three years. These emission reductions minimize CEI South's need to
18 purchase emission allowances for compliance in the future.

19 **Q: Why did the Seasonal NOx market prices increase in 2022?**

⁵ OUCC Attachment CMA-1-C, CEI South's Response to OUCC Data Requests 19-1 and 38-3. 45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx, tab <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL>

⁶ Petitioner's Exhibit No. 20, Workpaper WPB-4.1, 1. 6.

⁷ OUCC Attachment CMA-1-C, 45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx, tab <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL>

1 A: During 2022, the EPA proposed the Good Neighbor Plan, which would have
2 imposed significant reductions in Ozone Season NOx emissions on fossil-fuel-fired
3 electric generating units and other industry sources. After the proposal was
4 released, NOx Seasonal Allowance prices soared from below \$3,000/ton to a record
5 high of almost \$48,000/ton.⁸ As noted previously, <CONFIDENTIAL> [REDACTED]
6 [REDACTED]⁹ <CONFIDENTIAL>

7 **Q: How has the NOx Seasonal Allowance market changed since 2022?**

8 A: Since 2022, the market price has significantly dropped to below
9 <CONFIDENTIAL> [REDACTED].¹⁰ <CONFIDENTIAL> By the time EPA
10 finalized the Good Neighbor Plan in March 2023, Seasonal NOx Allowance prices
11 had fallen below <CONFIDENTIAL> [REDACTED].¹¹ <CONFIDENTIAL>
12 Prices have continued to fall after several states have challenged the rule, and the
13 Supreme Court of the United States heard oral arguments on February 21, 2024, for
14 an emergency stay of rule implementation while litigation continues in lower

⁸ OUCC Attachment CMA-2, Martin, C. (Sept. 26, 2022) *Seasonal NOx prices fall after summer surge*. Argus. <https://www.argusmedia.com/en/news/2374451-seasonal-nox-prices-fall-after-summer-surge>.

⁹ OUCC Attachment CMA-1-C, 45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx, tab <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL>

¹⁰ See OUCC Attachment CMA-3-C, S&P Market Intelligence NOx Seasonal Emission Allowance prices. As of February 26, 2024, Cross State Air Pollution Rule ("CSAPR") Group 3 NOx Seasonal allowances were trading at <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL>. However, the market price is likely to increase once the 2024 Ozone Season begins in May. 2023 CSAPR Group 3 Seasonal NOx allowance prices were approximately <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL> in February 2023, fell to approximately <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL> when the Ozone Season began in May 2023, and fell below <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL> after mid-July 2023. Information responsive to this request has been designated as Confidential – Not for Public Access and will be produced only to the appropriate Reviewing Representatives in accordance with the Confidentiality Agreement in effect in this docket. Sourced from S&P Global Market Intelligence via Capital IQ Pro.

¹¹ OUCC Attachment CMA-3-C.

1 courts.¹² <CONFIDENTIAL> [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] <CONFIDENTIAL> when compared to the 2022 historical year.

5 **Q: Why will CEI South's need to purchase emission allowances decrease in future**
6 **years?**

7 A: CEI South will be retiring all but one of its coal units by 2026.¹³ Petitioner's
8 interest in Warrick Unit 4 ended December 31, 2023.¹⁴ Brown Units 1 and 2 were
9 retired in October 2023, and Culley Unit 2 will retire by December 31, 2025.¹⁵
10 While Brown Units 1 and 2 will be replaced by two combustion gas turbines
11 ("CT"), coal emits considerably more NOx than natural gas. The Brown CTs are
12 projected to operate at much lower capacity factors than Brown Units 1 and 2,
13 which will further reduce Brown's NOx emissions.

14 Based on CEI South's 2018-2023 historical emissions from its coal and gas
15 generating units,¹⁶ the emission reductions from these retirements will be
16 significant.

17 **Q: Did you see any other issues regarding CEI South's historical allowance**
18 **inventory balances?**

¹² OUCC Attachment CMA-4. Daly, M. (February 21, 2024). *Supreme Court seems skeptical of EPA's 'good neighbor' rule on power plant pollution.* Associated Press. <https://apnews.com/article/supreme-court-epa-good-neighbor-air-pollution-rules-9d29c120d276f4bad5b3ea2c75d107ff>.

¹³ CEI South's 2023 Integrated Resource Plan (IRP) Short-term Action Plan included converting Culley Unit 3 to burn natural gas (CEI South 2022/2023 Integrated Resource Plan, Vol. 1, p. 283). While CEI South has not yet filed a Certificate of Public Convenience and Necessity ("CPCN") for the Culley 3 Gas Conversion Project, if approved, CEI South's generating fleet will contain no coal by 2028. This will further reduce CEI South's NOx emissions.

¹⁴ Petitioner's Exhibit No. 7, Direct Testimony of F. Shane Bradford, p. 17, ll. 1-6.

¹⁵ *Id.*, p. 5.

¹⁶ OUCC Attachment CMA-5, CEI South's 2018 – 2023 historical emissions.

1 A: Yes. CEI South's filed exhibits and workpapers do not provide detailed monthly
2 emission allowance inventory calculations by allowance type. These calculations
3 are necessary to verify CEI South's monthly allowance inventory balances and
4 expense. When the OUCC initially requested this information, Petitioner responded
5 that it does not keep this information on a monthly basis.¹⁷ After the OUCC
6 followed up on CEI South's initial response, CEI South clarified that it did not have
7 the information consolidated in one format in the form requested,¹⁸ and provided
8 an additional breakdown inventory balance items for January 2020 through
9 December 2023.¹⁹

10 **Q: Why is it necessary to have records of separate allowance inventories by**
11 **allowance type?**

12 A: The three main allowance types that utilities must track are sulfur dioxide (SO₂),²⁰
13 Annual Nitrogen Oxides (NO_x), and Ozone Season NO_x ("Seasonal NO_x"). Each
14 allowance type is a separate compliance instrument. For every ton of a particular
15 pollutant CEI South's fossil-fuel fired units emit, it must hold and surrender an
16 emission allowance associated with that pollutant. Annual NO_x allowances cover
17 NO_x emissions over the entire year, and Seasonal NO_x allowances cover NO_x
18 emissions over the Ozone Season, which occurs from May through September of
19 each year. During the Ozone Season, coal and natural gas generators must surrender

¹⁷ OUCC Attachment CMA-1-C, p. 1.

¹⁸ OUCC Attachment CMA-6, CEI South's Response to OUCC DR 38.5.

¹⁹ OUCC Attachment CMA-1, 45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx.

²⁰ SO₂ allowances can be further divided into Acid Rain Program allowances and Cross State Air Pollution Rule ("CSAPR") allowances.

1 both one Seasonal NO_x allowance and one Annual NO_x allowance for every ton of
2 NO_x emitted. They are not interchangeable.

3 The EPA and IDEM allocate a certain number of zero-cost allowances to
4 each affected generating unit each year, and these allocations vary significantly
5 among each allowance type. Each allowance type also has its own market, and these
6 market prices vary considerably among the different allowance types. For example,
7 Seasonal NO_x allowances tend to have a tighter supply and are in higher demand,
8 so Seasonal NO_x allowance market prices are usually much higher than Annual
9 NO_x or SO₂ allowance prices. Depending on a utility's reliance on the market for
10 compliance, its Annual NO_x inventory value can significantly differ from its
11 Seasonal NO_x inventory value.

12 Monthly allowance expense is dependent on the number and value of
13 allowances held in inventory for each allowance type. According to the FERC
14 Uniform System of Accounts ("USoA") General Instruction No. 21, issuances from
15 inventory should be accounted for on a vintage basis using a monthly weighted-
16 average method of cost determination.²¹ Allowance expense is determined by
17 multiplying monthly emissions by the weighted-average cost of inventory
18 ("WACI"). Therefore, the cost of consuming an allowance will also vary by
19 emission type.

20 **Q: Was the additional detailed allowance inventory breakdown that CEI South**
21 **provided sufficient to verify its monthly allowance inventory balance and**
22 **consumption?**

²¹ 18 C.F.R. §101, General Instruction No. 21 (D).

1 A: No. CEI South's records do not show the total number of allowances that it holds
2 and issues from inventory for each month.²² Zero cost allowances do not appear in
3 its unit balances.²³ The only allowances that show in its inventory records are those
4 associated with purchases.²⁴ Even if CEI South's inventory during a particular
5 month only includes zero-cost allowances and is valued at zero, it should still
6 provide the total number of allowances it held and used during the month. Because
7 CEI South did not provide this information, I cannot match its monthly emissions
8 reported to the EPA to the number of allowance units CEI South recorded it used
9 in a particular month. Furthermore, because CEI South does not show the zero-cost
10 allowances in inventory, I cannot determine if it is recording its monthly allowance
11 expense at the appropriate WACI. Therefore, I cannot confirm the accuracy of
12 recorded allowance expense or monthly ending allowance inventory balances
13 during the 2022 historical period.

14 **Q: If the 2022 historical period is an inaccurate representation of what CEI**
15 **South's allowance inventory balance is likely to be in future years, what would**
16 **be an appropriate amount to include in rate base for allowance inventory?**

17 A: To reflect the changes in the NOx Seasonal market and the benefits of CEI South's
18 Generation Transition Plan, it is reasonable to value test year allowance inventory
19 at zero. CEI South's allowance inventory balance at the end of 2023 was \$23,269.
20 Therefore, CEI South has <CONFIDENTIAL> [REDACTED]
21 [REDACTED] <CONFIDENTIAL> during the 2022
22 historical year. <CONFIDENTIAL> [REDACTED]

²² OUCC Attachment CMA-1, 45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx.

²³ *Id.*

²⁴ *Id.*

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Allowance Expense

10

Q: How does CEI South forecast its test year emission allowance expense?

11

A: To determine test year allowance expense, CEI South states it calculated NOx emissions in tons based on forecasted generation for coal units.²⁵ For the seasonal NOx months, the NOx tons emitted were multiplied by an estimated NOx allowance cost per ton to calculate the forecasted allowance expense.²⁶ Seasonal allowance costs were reduced for any NOx costs forecasted to be reimbursed through WPM (Wholesale Power Margin) sales.²⁷ The net remaining NOx cost is what is reflected in the allowance forecast for 2025.²⁸

18

Q: Are CEI South's assumptions regarding forecasted test year allowance expense reasonable?

19

20

A: No. First, while CEI South's estimated Seasonal NOx emissions seem to be reasonable based on historical emissions for CEI South's coal and natural gas units

21

²⁵ OUCC Attachment CMA-7-C, CEI South's Response to OUCC 38.6.

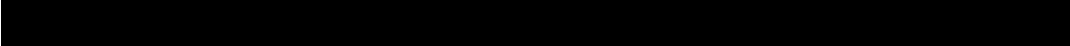
²⁶ *Id.*

²⁷ *Id.*

²⁸ *Id.*

1 continuing operation in 2025,²⁹ Petitioner does not appear to account for zero-cost
2 allowances that will be allocated to its units during the test year. CEI South's
3 method for estimating test year allowance expense assumes that it will need to
4 purchase NOx allowances for every ton of NOx it will emit. This method likely
5 overstates the total cost of CEI South's allowance purchases in 2025.

6 Second, CEI South's assumed cost per allowance is <CONFIDENTIAL>

7 

8 <CONFIDENTIAL> If NOx Seasonal market prices continue to trend downward
9 or remain the same, CEI South's forecasted allowance expense will be significantly
10 greater than its actual 2025 annual allowance expense.

11 **Q: What does the OUCC recommend regarding CEI South's forecasted test year**
12 **allowance expense?**

13 **A:** Since CEI South's actual allowance expenses are tracked through its Reliability
14 Cost and Revenue Adjustment ("RCRA"), it is reasonable to remove all forecasted
15 allowance expense from the test year. This mitigates the risk of embedding
16 overstated allowance expense in test year O&M, while providing CEI South the
17 ability to recover allowance costs if future allowance prices increase substantially
18 in reaction to changes in federal air rules. This results in a \$3,519,952 decrease to
19 test year O&M, which OUCC witness Latham reflects in his schedules. My
20 recommendation is also consistent with OUCC witness Lantrip's recommendations
21 for RCRA test-year revenues and expenses.

22 **III. CULLEY EAST ASH POND CLOSURE COSTS**

²⁹ OUCC Attachments CMA-5 and CMA-7-C.

1 **Q: Please explain the costs CEI South includes for the Culley East Ash Pond**
2 **Closure which the OUCC opposes in this Cause.**

3 A: CEI South includes costs for the Culley East Ash Pond closure in the reserve
4 balances and annual amortization expense.³⁰ The Culley East Ash Pond Closure by
5 Removal Project ("Culley CBR Project") was approved in Cause No. 45903. CEI
6 South originally requested approval of a Federally Mandated Certificate of Public
7 Convenience and Need ("CPCN") under Ind. Code ch. 8-1-8.4 for the Culley CBR
8 Project in Cause No. 45795. However, when the Indiana General Assembly made
9 changes to the Federal Mandate Statute, CEI South withdrew its filing and re-filed
10 its request in Cause No. 45903 so that the statutory changes would apply to its
11 request for the Culley CBR Project. CEI South included <CONFIDENTIAL>
12 [REDACTED] <CONFIDENTIAL> legal fees associated with the Cause No. 45795
13 filing in its request in Cause No. 45903.³¹

14 **Q: Did the Commission approve CEI South's inclusion of Cause No. 45795 legal**
15 **costs in Cause No. 45903?**

16 A: No, the Commission denied CEI South's recovery of these costs.³² Therefore, the
17 OUCC recommends these costs be removed from the Culley CBR Project's costs
18 reflected in accumulated depreciation and annual amortization expense.

19 **Q: What adjustment does the OUCC recommend for the Culley CBR project**
20 **costs included in the forecasted test year?**

21 A: The OUCC recommends an increase of <CONFIDENTIAL> [REDACTED]
22 <CONFIDENTIAL> to accumulated depreciation to remove the disallowed legal

³⁰ OUCC Attachment CMA-8-C, CEI South's Response to OUCC DR 38.1.

See also, Petitioner's Exhibit No. 7, Direct Testimony of F. Shane Bradford, Attachment FSB-1.

³¹ OUCC Attachment CMA-8-C.

³² Cause No. 45903, Final Order, pp. 12-13.

1 costs for the Culley CBR project and an associated reduction of
2 <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL> to test year amortization
3 expense. OUCC witness Latham has incorporated the increase to accumulated
4 depreciation and the associated amortization expense reduction calculation in his
5 schedules.

6 **IV. URBAN LIVING RESEARCH CENTER**

7 **Q: Please explain the costs CEI South includes for the ULRC.**

8 A: In Cause No. 44909, the Commission approved CEI South's (formerly Vectren
9 South Electric ("VSE")) \$2.0 million estimate to construct a 300 kWac rooftop
10 solar project in conjunction with an approximately 400 kWh Battery Energy
11 Storage System ("BESS") and recover its costs through a Clean Energy Cost
12 Adjustment ("CECA").³³ After several scope changes and delays in the project
13 schedule, the ULRC was placed in service on December 2, 2022, with a final
14 installed solar array output of 105 kWac.³⁴ CEI South requested recovery for the
15 final project cost at \$1,465,288 in Cause No. 44909 CECA-5.³⁵ The OUCC
16 challenged recovery of the final ULRC cost, as CEI South had revised the cost
17 estimate in Cause No. 44909 CECA-4 to \$1.15 million.³⁶ The Commission agreed
18 with the OUCC and granted recovery of \$1.15 million associated with the ULRC,
19 but disallowed recovery of the remainder of the project costs.³⁷

³³ Cause No. 44909, Final Order, pp. 3-4, 12-14, and 16.

³⁴ Cause No. 44909 CECA-5, Final Order, p. 7.

³⁵ *Id.*, p. 8.

³⁶ *Id.*, p. 12.

³⁷ *Id.*, pp. 13-14.

1 After updating the final ULRC project cost to account for additional DOE
2 funding and a mischarge of overhead costs to the project, CEI South requests to
3 recover the additional \$219,348 in additional project cost in this Cause.³⁸

4 **Q: What is CEI South's justification for recovering these additional project costs**
5 **in this Cause?**

6 A: CEI South witness F. Shane Bradford claims that because the ULRC was a pilot
7 project, CEI South ran into unforeseen challenges beyond its control to bring the
8 project to fruition.³⁹ He cited safety concerns with lithium ion batteries in
9 residential buildings, changes to original architectural plans and Occupational
10 Health and Safety Administration ("OSHA") requirements to install a fall
11 protection system, and COVID pandemic delays for the reasons CEI South was
12 unable to bring the ULRC project online in time and within its original scope and
13 price.⁴⁰

14 **Q: After reviewing the evidence provided in CECA-5, why did the Commission**
15 **deny the costs associated with the ULRC beyond the \$1.15 million project cost**
16 **stated in CECA-4?**

17 A: In the final order in CECA-5, the Commission stated:

18 The Commission was unequivocal in approving the 44909
19 Clean Energy Projects that material changes in the size of
20 the solar and BESS installations approved in Cause No.
21 44909 'may require a prorated deviation in the costs
22 ultimately approved for timely recovery.' 44909 Order at p.
23 13. *The BESS that was integral to the ULRC project when*
24 *it was originally approved has been removed. The prospect*
25 *of significant DOE grant funds to allocate toward ULRC*
26 *costs has dimmed, and the completed project has*
27 *significantly less capacity than the 200 kWdc project for*
28 *which a \$1.5 million cost estimate was approved in CECA*

³⁸ Bradford Direct, p. 21, ll. 17-23.

³⁹ *Id.*, ll. 29-31.

⁴⁰ *Id.*, p. 21, l. 31, - p. 22, l. 12.

1 2. As the ULRC project scope changed, the OUCC has
2 reserved the option to question the propriety of related cost
3 recovery when such approval is sought; therefore, the
4 Commission finds Mr. Lantrip's reservations about
5 approving ULRC costs of almost \$1.5 million are properly
6 before us, and his recommendation to limit ULRC recovery
7 to the final project cost that CEI South witness Rosario
8 identified in CECA 4 (CECA 4 Order at p. 7) should be
9 approved. *The Commission finds this equates to a more*
10 *reasonable cost per kilowatt than what Petitioner now*
11 *seeks for a ULRC project that has materially changed since*
12 *its approval...*

13 ...In rebuttal, Mr. Bradford testified that CEI South's final
14 proposed ULRC project costs are within the estimate
15 approved in CECA 2, but *the Commission finds he failed to*
16 *establish such costs are reasonable or appropriate for a*
17 *project with significantly less capacity than was projected*
18 *in CECA 2* (emphasis added).⁴¹

19 Although Mr. Bradford presents a detailed breakdown and associated justification
20 of the additional ULRC costs in this Cause in an attempt to address the
21 Commission's finding in CECA-5 that CEI South failed to establish such costs were
22 reasonable or appropriate,⁴² the Commission already had this information when it
23 made its decision in CECA-5. In making its determination regarding the
24 reasonableness of ULRC costs, the Commission did not indicate CEI South's lack
25 of information was the reason the Company did not establish the costs were
26 reasonable or appropriate. Rather, the Commission specifically noted the cost per
27 kW and the reduced project capacity as determinants for the reasonableness of the
28 ULRC's final project cost.⁴³ Therefore, the Commission had the information

⁴¹ Cause No. 44909 CECA-5, Final Order at pp. 13-14.

⁴² Bradford Direct, p. 22, l. 19 – p. 23, l. 5.

⁴³ Cause No. 44909 CECA-5, Final Order at pp. 13-14.

1 necessary to make its decision in CECA-5—it simply was not persuaded these
2 additional costs were reasonable.

3 **Q: Did CEI South file a petition for reconsideration or otherwise appeal the Cause**
4 **No. 44909 CECA-5 final order?**

5 A: No. Mr. Bradford states that CEI South instead chose to include the difference in
6 ULRC Project costs in this case.⁴⁴

7 **Q: Does Mr. Bradford present new issues the Commission has not yet had an**
8 **opportunity to consider in previous CECA filings?**

9 A: No. All issues Mr. Bradford cited in his testimony have already been presented to
10 the Commission in previous CECA filings.

11 When CEI South revised its cost estimate for the ULRC to \$1.5 million in
12 Cause No. 44909 CECA-2, CEI South stated it abandoned the BESS due to the
13 planned BESS supplier exiting the market and a new battery storage standard issued
14 by the National Fire Protection Association.⁴⁵ It also listed architectural changes to
15 the building rooftop as the reason it downgraded the solar capacity to 200 kWac
16 and added a fall protection system to comply with Occupational Health and Safety
17 Standards.⁴⁶ As a result of dropping the BESS from the project, CEI South lost a
18 significant portion of the project's DOE grant.⁴⁷

19 CEI South also informed the Commission of the COVID pandemic causing
20 delays in the ULRC Project schedule in both CECA-3 and CECA-4.⁴⁸ In fact, CEI

⁴⁴ Bradford Direct, p. 21, ll. 13-16.

⁴⁵ Cause No. 44909 CECA-2, Direct Testimony of Vectren South witness Robert C. Sears, pp. 6-8.

⁴⁶ *Id.*, p. 9.

⁴⁷ *Id.*, p. 12.

⁴⁸ Cause No. 44909 CECA-3, Direct Testimony of CEI South witness Roland A. Rosario, p. 5, ll. 4-6, and Cause No. 44909 CECA-4, Rosario Direct, p. 5, ll. 6-8.

1 South was already aware of these issues when it informed the Commission the final
2 project cost would be approximately \$1.15 million in CECA-4.⁴⁹

3 **Q: Has CEI South presented substantially new information in this Cause**
4 **regarding the additional ULRC final project costs in this Cause?**

5 A: No. As addressed by OUCC witness Lantrip, other than the additional DOE funding
6 and mischarge of overheads, CEI South presents the same detailed cost information
7 Mr. Lantrip provided in his direct testimony and the Commission previously
8 reviewed in CECA-5.

9 **Q: Are there other arguments Mr. Bradford makes in justifying CEI South**
10 **recovery of the additional ULRC project costs?**

11 A: Yes. Mr. Bradford repeats his same argument from CECA-5 that although CEI
12 South estimated the final project cost would be approximately \$1.15 million in
13 CECA-4, it did not ask the Commission to approve revisions to the \$1.5 million
14 cost estimate approved in CECA-2. Therefore, he asserts the estimate approved in
15 the CECA-2 Order was still the approved estimate for the ULRC Project.⁵⁰

16 **Q: Is it relevant that CEI South did not request a modification to the ULRC's**
17 **approved project estimate in CECA-2?**

18 A: No, it is not relevant because the ULRC's scope and capacity significantly changed
19 from the estimate approved in CECA-2. In Cause No. 44909, when the Commission
20 originally approved the ULRC to be eligible for financial incentives pursuant to
21 I.C. § 8-1-8.8-11, the Commission stated:

22 The Commission finds the estimated cost for each of Vectren
23 South's solar facilities is reasonable and the best cost
24 estimate available, and we find *these estimates are linked as*
25 *a condition to our reasonable and necessary*

⁴⁹ Cause No. 44909 CECA-4, Rosario Direct, p. 7, ll. 24-26.

⁵⁰ Bradford Direct, p. 20, ll. 20-28.

1 *determination.* The Commission recognized in the 44511
2 Order that open-ended project preapproval is not reasonable
3 and that the Commission values evidence identifying the
4 expected range of costs when deliberating upon the
5 reasonableness of a project to understand the risk each
6 project preapproval transfers to ratepayers...The
7 Commission finds it reasonable to require Petitioner to seek
8 a modification of our reasonable and necessary
9 determination for any increases from the cost estimates
10 identified above for each of the three projects. *Also,*
11 *deviating from the number or size of solar and BESS*
12 *installations presented in this Cause will require Vectren*
13 *South to present project specific deviations to the*
14 *Commission, and material changes may require a prorated*
15 *deviation in the costs ultimately approved for timely*
16 *recovery* (emphasis added).⁵¹

17 As the Commission noted its order in CECA-5, the ULRC's final capacity had
18 significantly decreased from the updated cost estimate it approved in CECA-2. The
19 Commission took this deviation in capacity into account when it limited recovery
20 for the ULRC to \$1.15 million estimate presented in CECA-4. Therefore, the
21 Commission's decision in CECA-5 to prorate the amount the CEI South was
22 eligible to recover for the ULRC from the updated estimate approved in CECA-2
23 is reasonable and consistent with its findings in Cause No. 44909.

24 **Q: Are there other considerations in determining whether CEI South's**
25 **contention that the estimate approved in CECA-2 should apply to the final**
26 **project amount CEI South is allowed to recover for the ULRC?**

27 A: Yes. I.C. ch. 8-1-8.5, "the Utility Powerplant Construction Act," offers eligible
28 Indiana electric utilities guaranteed cost recovery for utility generation projects that
29 receive a CPCN from the Commission. I.C. § 8-1-8.5-6.5 requires that "absent
30 fraud, concealment or gross mismanagement," a utility shall recover the actual costs

⁵¹ Cause No. 44909, Final Order at p. 13.

1 the utility has incurred in reliance on a CPCN issued under I.C. ch. 8-1-8.5,
2 including any modifications to the certificate made pursuant to I.C. §§ 8-1-8.5-5.5
3 and 8-1-8.5-6. The financial incentives for clean energy sources offered under I.C.
4 § 8-1-8.8-11 can operate in tandem with I.C. ch. 8-1-8.5. Indiana Code § 8-1-8.8-
5 11(b) makes it clear that an eligible business is not relieved of the duty to obtain a
6 certificate required under I.C. ch. 8-1-8.5 and allows a utility to file a single
7 application for clean energy incentives and all applicable necessary certificates.

8 A CPCN issued for the ULRC under I.C. ch. 8-1-8.5 may have offered CEI
9 South reasonable assurance to recover ULRC project costs at the CECA-2 approved
10 estimate. However, in Cause No. 44909, CEI South (Vectren South) requested the
11 Commission decline to exercise its jurisdiction under I.C. ch. 8-1-8.5 for the ULRC
12 and other solar projects pursuant to I.C. ch. 8-1-2.5, the “Alternative Utility
13 Regulation” statute.⁵² While the Commission considered factors outlined in I.C. ch.
14 8-1-8.5 to determine if the ULRC and other clean energy projects met the
15 “reasonable and necessary” standard at I.C. § 8-1-8.8-11(a) to qualify for financial
16 incentives, it granted Vectren South’s request for declination.⁵³

17 CEI South made the decision to request the ULRC to be exempt from the
18 requirements under I.C. ch. 8-1-8.5. Therefore, it should also not be entitled to
19 benefits similar to the guaranteed rate recovery under I.C. § 8-1-8.5-6.5 afforded to
20 projects that have provided enough evidence to persuade the Commission to issue
21 a CPCN under I.C. § 8-1-8.5-5(b) and (d).

⁵² Cause No. 44909, Final Order at pp. 2, 9.

⁵³ Cause No. 44909, Final Order at pp. 10–13.

1 **Q: What does the OUCC recommend with respect to the recovery of the ULRC**
2 **in this Cause?**

3 A: For the reasons OUCC witness Lantrip and I present, the OUCC recommends the
4 Commission reject CEI South's inclusion of ULRC Project costs in rate base above
5 \$1.15 million. The Commission has previously reviewed the same evidence and
6 arguments that CEI South makes in this Cause in CECA-5 and ruled that cost
7 recovery for the ULRC should be limited to \$1.15 million, as this is a more
8 reasonable cost per kW for a solar project of the ULRC's final size.⁵⁴ CEI South
9 could have requested the Commission reconsider its CECA-5 order or appealed the
10 Commission's decision, but it chose not to seek that relief. Because the
11 Commission has already ruled on these issues, Petitioner should be precluded from
12 inappropriately relitigating these issues in this Cause.

13 Removing these costs results in a \$219,348 reduction to CEI South's proposed
14 rate base. My recommendation is consistent with OUCC witness Lantrip's. OUCC
15 Witness Latham reflects the impact of this rate base reduction in his schedules.

16 **V. BROWN LAND ACQUISITIONS**

17 **Q: Please explain the land acquisitions CEI South has included in rate base.**

18 A: When reviewing the capital expenditures as of the end of 2022, there was
19 <CONFIDENTIAL> [REDACTED] <CONFIDENTIAL> in land acquisitions
20 around the A.B. Brown Generating Station occurring over the
21 <CONFIDENTIAL> [REDACTED]⁵⁵<CONFIDENTIAL> that were

⁵⁴ Cause No. 44909 CECA-5, Final Order at pp. 13-14.

⁵⁵ Petitioner's Exhibit No. 7, Workpaper FSB-1 (CONFIDENTIAL), <CONFIDENTIAL> [REDACTED]
[REDACTED] <CONFIDENTIAL>

See also, OUCC Attachment CMA-9-C.

1 unexplained in Petitioner's Case-in-Chief. These land acquisitions were associated

2 with <CONFIDENTIAL> [REDACTED]

3 [REDACTED]

4 [REDACTED]⁵⁶ <CONFIDENTIAL>

5 **Q: Did CEI South provide a reason for these land acquisitions?**

6 A: CEI South stated they were for land purchases bordering the A.B. Brown
7 Generating Station but did not initially specify why it made these purchases.⁵⁷ The
8 purchases included dwellings that were removed once the purchase was final.⁵⁸ CEI
9 South also stated the land was not being used at this time and not expected to be
10 used in 2025.⁵⁹

11 **Q: Are you aware of why CEI South would make these purchases?**

12 A: Yes. In November 2017, the Courier & Press published an article reporting that
13 Vectren was purchasing residential properties around the A.B. Brown plant.⁶⁰
14 When asked for comment, Vectren officials indicated the land purchases were
15 related to the eventual shut down of the A.B. Brown plant and closure of the ash
16 ponds. However, the Company did not give further details on this matter.⁶¹ The
17 landowners interviewed in the article match the names of the landowners CEI South
18 provided in its Response to OUCC Data Request 33.3. (OUCC Attachment CMA-
19 10.)

⁵⁶ *Id.*

⁵⁷ OUCC Attachment CMA-10-C, CEI South Response to OUCC DR 33.3.

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ OUCC Attachment CMA-11. Wilson, M. (Nov. 1, 2017.) Courier & Press. *Why is Vectren buying houses near power plant?* Accessible at: <https://www.courierpress.com/story/news/local/2017/11/01/why-vectren-buying-houses-near-power-plant/796697001/>.

⁶¹ *Id.*

1 When the OUCC issued a follow-up data request on the Brown land
2 acquisitions, CEI South stated that the land associated with four work orders was
3 purchased as a buffer property and that these properties may be impacted from a
4 nuisance perspective by activities related to completing closure of the ash pond.⁶²

5 **Q: Is it reasonable to include these land acquisitions in rate base?**

6 A: No. First, CEI South does not adequately justify the need for these land purchases
7 nor show why they benefit ratepayers. Even in the case of the four “buffer”
8 properties, CEI South does not specify what ash pond closure activities create a
9 possible nuisance nor does it indicate if it evaluated the cost of alternative
10 mitigation measures.

11 Second, none of these land acquisitions are currently used and useful for the
12 provision of electric service. CEI South has admitted it is not currently using the
13 land located near the Brown plant site and does not expect to use it during the test
14 year.⁶³ With CEI South’s admission that four of these five properties were
15 purchased as buffer properties to address ash pond closure activities that may cause
16 nuisance to these properties,⁶⁴ CEI South’s prospects of developing this land for
17 future investments seem low. Petitioner’s ability to improve the land would be
18 further limited if it chooses to place environmental restrictive covenants on
19 groundwater usage for these parcels.⁶⁵

⁶² OUCC Attachment CMA-12-C, CEI South Response to OUCC DR 41.1.

⁶³ OUCC Attachment CMA-10-C.

⁶⁴ OUCC Attachment CMA-12-C.

⁶⁵ *Id.*

1 Finally, allowing CEI South to recover the cost of these “buffer” properties
2 unreasonably burdens ratepayers with reducing CEI South’s potential liability
3 associated with the Brown Ash Pond. While CEI South did not specify what ash
4 pond closure activities could create a nuisance to the adjacent properties, previous
5 landowners reported occasional problems with coal ash blowing onto their
6 properties and offensive odors in the area.⁶⁶ CEI South’s indication that these
7 purchases will allow it to place environmental restrictive covenants on groundwater
8 usage⁶⁷ indicates the Company was likely concerned about groundwater
9 contamination stemming from the unlined Brown Ash Pond when it decided to
10 acquire these neighboring properties. Purchasing these properties likely reduced
11 CEI South’s future litigation risk. However, allowing CEI South to recover these
12 costs shifts the risk of CEI South’s management decisions and business operations
13 from its shareholders onto its customers.

14 **Q: Is there a circumstance where it may be appropriate for CEI South to recover**
15 **the costs associated with these land acquisitions?**

16 A: If the Company invests in future improvements to the property that are found to be
17 reasonable and prudent for providing electric service to customers, then it may be
18 appropriate seek recovery of the land as part of its request to recover these
19 investments. However, it is premature for the Company to recover these land
20 purchases now.

21 **Q: What does the OUCC recommend with respect to the Brown land**
22 **acquisitions?**

⁶⁶ OUCC Attachment CMA-11.

⁶⁷ OUCC Attachment CMA-12-C.

1 A: The OUCC recommends removal of CEI South's costs to acquire the five properties
2 surrounding the A.B. Brown Generating Plant. This adjustment results in a
3 <CONFIDENTIAL> \$ [REDACTED] <CONFIDENTIAL> reduction to test year rate
4 base. OUCC witness Latham reflects the impact of this adjustment in his schedules.
5

6 VI. IRP EXPENSES

7 **Q: Please summarize CEI South's proposed adjustment to test year Integrated**
8 **Resource Plan ("IRP") expense.**

9 A: CEI South includes a proforma adjustment to reduce its test year IRP expense by
10 \$560,000 through normalizing it over a three-year period.⁶⁸ CEI South witness
11 Matthew Rice indicates Petitioner's IRP Expense Forecast is based on the 2025 IRP
12 review cycle, with the process likely beginning in November 2024 and continuing
13 into early 2026.⁶⁹ He estimates that the total expense over the three year period will
14 be \$1,025,000, with \$900,000 occurring during the 2025 test year.⁷⁰ When
15 averaged over three years, this equates to \$341,667,⁷¹ which CEI South rounds to
16 \$340,000. The difference between the forecasted test year IRP expense of \$900,000
17 and the normalized IRP expense of \$340,000 results in a test-year reduction to IRP
18 expense of \$560,000.⁷²

19 **Q: Is the three-year averaging period CEI South proposes reasonable?**

⁶⁸ Petitioner's Exhibit 19, Direct testimony of Matthew A. Rice, p. 35, ll. 1-4, and Petitioner's Exhibit 20, Schedule C-3.26.

⁶⁹ Rice Direct, p. 34, ll. 18-21.

⁷⁰ *Id.*, p. 34, Table MAR-6 – IRP Expense Forecast.

⁷¹ *Id.*

⁷² *Id.*, p. 34, ll. 1-4.

1 A: Yes. The estimated timeframe for the 2025 IRP review cycle is consistent with the
2 expected timeframe to complete expected activities within the IRP process. These
3 activities include but are not limited to: conducting a public stakeholder process,
4 modeling, reviewing modeling results to select the preferred resource portfolio,
5 drafting the IRP document, submitting the IRP, responding to informal data
6 requests from stakeholders regarding the submitted IRP, and responding to the
7 IURC Director of Research, Policy, and Planning's ("the Director") IRP Report as
8 well as stakeholder comments submitted to the Director.

9 **Q: Is CEI South's forecasted IRP expense reasonable?**

10 A: Yes, CEI South's forecasted IRP expense appears to be reasonable. With the
11 changes that have occurred in utility IRP requirements and improvements to
12 modeling technologies and methods since CEI South's last base rate case, the
13 OUCC recognizes Petitioner's cost to complete an IRP has increased. CEI South's
14 decision to retain outside consulting services to model and conduct the IRP
15 process⁷³ is reasonable and consistent with other Indiana investor-owned utilities'
16 practices for completing IRP reviews.

17 To compare Mr. Rice's 2025 forecasted IRP expenses to CEI South's
18 historical expenses for outside services, I reviewed CEI South's general ledger
19 charges to FERC Account 923 (Outside Services Employed) recorded in January
20 2022 through September 2023.⁷⁴ CEI South submitted its most recent IRP in May

⁷³ OUCC Attachment CMA-13, CEI South's Response to OUCC DR 38.7.

⁷⁴ I reviewed CEI South MSFR 170 IAC 1-5-7(2) GL Expenses-Part 1 through Part 6 for 2022 expenses. For 2023 general ledger expenses, I reviewed CEI South's Response to OUCC DR 02.47. Due to the lengthy nature of the excel document provided in response to OUCC DR 02.47 and my limited scope of review for that document, I am not sponsoring it as an attachment to my testimony.

1 2023, and it began its stakeholder process in the second half of 2022,⁷⁵ so this
2 historical period would reflect a significant portion of the 2022/2023 IRP Review
3 Cycle. Based on my review of 2022 and 2023 expenses, I do not question the
4 accuracy of Mr. Rice's forecasted IRP expense for the 2025 IRP Review Cycle.

5 **Q: Does the OUCC agree with CEI South's proforma adjustment to test year IRP**
6 **expense?**

7 A: Yes. Test year IRP expense is likely to be inflated because CEI South's next IRP
8 review cycle is expected to occur during the 2025 forecasted test year. It is
9 appropriate to normalize these costs over a three-year period to account for the
10 timing between CEI South's IRP submissions. The OUCC recommends acceptance
11 of CEI South's proforma adjustment to decrease test year IRP expense, which
12 results in a \$560,000 decrease to test year O&M.

13 **Q: Did the OUCC evaluate other concerns regarding CEI South's IRP expense?**

14 A: Yes. The OUCC was initially concerned that these expenses could also be reflected
15 in the planning costs included in the best estimates for new generation projects that
16 will be rolled into rate base in this case. However, CEI South clarified that the IRP
17 expense costs included in Schedule C-3-26 are associated with conducting and
18 performing the IRP, while the planning costs included in the best estimates
19 approved in Cause Nos. 45564, 45754, 45501, and 45847 include preliminary
20 survey costs and research and development costs to develop IRP strategy and
21 specific generation asset selection under the IRP.⁷⁶ In other words, while related to
22 the IRP, these planning costs include studies or activities necessary to evaluate a

⁷⁵ CenterPoint Energy Midwest (Indiana and Ohio Service Areas), Integrated Resource Planning website.
<https://midwest.centerpointenergy.com/reporting/irp>.

⁷⁶ OUCC Attachment CMA-13, CEI South Response to OUCC DR 38.7.

1 specific resource selection under the IRP. CEI South further confirmed that it does
2 not intend to allocate test year IRP expenses in cost estimates for future generation
3 requests.⁷⁷

VII. CONCLUSION

4 **Q: Please summarize your recommendations.**

5 **A:** I recommend the Commission:

6 1. Regarding emission allowance inventory and expenses:


7 a. Accept the OUCC's adjustment to CEI South's test year emission
8 allowance inventory. This results in a \$1,282,707 decrease to test year
9 rate base.

10 b. Accept the OUCC's adjustment to CEI South's forecasted emission
11 allowance expense. This results in a \$3,519,952 decrease to test year
12 O&M.

13 2. Require CEI South to remove any costs it incurred to file and litigate Cause No.
14 45795 from the project costs for the Culley East Ash Pond Closure by Removal
15 project. This results in a <CONFIDENTIAL> \$ [REDACTED]
16 <CONFIDENTIAL> reduction to test year rate base and associated reduction
17 of <CONFIDENTIAL> \$ [REDACTED] <CONFIDENTIAL> to test year
18 amortization expense.

⁷⁷ *Id.*

1 3. Accept the OUCC's removal of the additional costs associated with the Urban
2 Living Research Center (ULRC) the Commission previously denied in Cause
3 No. 44909 CECA-5. This results in a \$219,348 reduction to test year rate base.

4 4. Accept the OUCC's removal of land acquisition costs surrounding the A.B.
5 Brown Generating Plant. This results in a <CONFIDENTIAL> \$ 
6 <CONFIDENTIAL> reduction to test year rate base.

7 5. Accept CEI South's adjustment to test year IRP expense (Schedule C-3.26).
8 This results in a \$560,000 reduction to test year O&M.

9 **Q: Does this conclude your testimony?**

10 A: Yes.

APPENDIX A

1 **Q: Summarize your professional background and experience.**

2 A: I graduated from the University of Evansville in 2004 with a Bachelor of Science
3 degree in Environmental Administration. I graduated from Indiana University,
4 Bloomington in May 2007 with a Master of Public Affairs degree and a Master of
5 Science degree in Environmental Science. I have also completed internships with
6 the Environmental Affairs Department at Vectren in the spring of 2004, with the
7 U.S. Environmental Protection Agency in the summer of 2005, and with the U.S.
8 Department of the Interior in the summer of 2006. During my final year at Indiana
9 University, I served as a research and teaching assistant for a Capstone course
10 offered at the School of Public and Environmental Affairs. I also have obtained my
11 OSHA Hazardous Operations and Emergency Response ("HAZWOPER")
12 Certification. I have been employed by the OUCC since May 2007. During my time
13 at the OUCC, I was promoted to a Senior Utility Analyst in 2012, to a Chief
14 Technical Advisor in June 2022, and to an Assistant Director in August 2023. As
15 part of my continuing education at the OUCC, I have attended both weeks of the
16 National Association of Regulatory Utility Commissioners' ("NARUC") seminar
17 in East Lansing, Michigan, the Indiana Chamber of Commerce's ("Indiana COC's")
18 Environmental Permitting Conference, and the Indiana COC's annual
19 Environmental Conferences since 2014.

20 **Q: Describe some of your duties at the OUCC.**

21 A: I review and analyze utilities' requests and file recommendations on behalf of
22 consumers in utility proceedings. Depending on the case at hand, my duties may

1 also include analyzing state and federal regulations, evaluating rate design and
2 tariffs, examining books and records, inspecting facilities, and preparing various
3 studies. Since my expertise lies in environmental science and policy, I assist in
4 many cases where environmental compliance is an issue.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.



Cynthia M. Armstrong

Assistant Director, Electric Division
Indiana Office of Utility Consumer Counselor

Cause No. 45990

March 12, 2024

Date

- Q 19.1:** Please refer to Petitioner CEI South’s emission allowance inventory provided in [Petitioner’s Financial Exhibit 20, Schedule B-4 and Workpaper WPB-4.1.
- a. Please provide the detailed emission allowance inventory calculations, by allowance type (SO₂, NO_x Annual, and NO_x Seasonal), for the past five (5) calendar years. Please continue providing this information as CEI South makes its final allowance inventory calculations each month. As part of these detailed calculations, please provide:
- i. The monthly beginning balance of allowances held and the value of those allowances;
 - ii. The number and the price (or value if added/transferred) of allowances
 1. added,
 2. purchased,
 3. sold,
 4. allocated from governmental entities,
 5. otherwise transferredduring each month broken down by individual transactions.
 - iii. Brokerage fees associated with each allowance sale or purchase;
 - iv. Monthly loss or gains on allowance sales per month;
 - v. The number and cost of allowances consumed each month;
 - vi. The number and cost associated with each emission allowance surrendered each month;
 - vii. The monthly ending balance of allowances held and associated value of those allowances.

Objection: CEI South objects to the Request on the grounds and to the extent that it is unreasonable and unduly burdensome and purports to impose an obligation greater than that required by Ind. Tr. R. 26(E) (1) and (2) to the extent it seeks the production on a continuous basis.

CEI South objects to the Request on the grounds and to the extent it seeks a calculation, compilation or analysis that CEI South has not completed and to which CEI South objects to performing.

CEI South objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between CEI South and the receiving parties.

Response: Subject to and without waiver of the foregoing objections, CEI South responds as follows: Please see attachment. CEI South does not have this information on a monthly basis; see objection.

Attachment:

- 45990 OUCC DR19 19.1a (CONFIDENTIAL) Attachment - NO_x and SO₂.xlsx

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- Q 38.3:** Please refer to Exhibit No. 20, Workpaper WPB-4.1, line 6, “Allowance Inventory”.
- a. Please provide a detailed breakdown of the items included in the Allowance Inventory by month.
 - b. Please provide detailed calculations and supporting documentation of how CEI South determined the monthly end balances of the Allowance Inventory.
 - c. Please provide the monthly end balances for the Allowance Inventory for the months January 2020 through November 2021. Please also provide a detailed breakdown of items included in the Allowance Inventory, calculations to determine the monthly end balances of the Allowance Inventory, and supporting documentation for these calculations.
 - d. Please provide the monthly end balances for Allowance Inventory for the months January 2023 through December 2023. Please also provide a detailed breakdown of items included in the Allowance Inventory, calculations to determine the monthly end balances of the Allowance Inventory, and supporting documentation for these calculations.
 - e. As information becomes available for the monthly end balances for 2024, please provide the monthly end balances of the Allowance Inventory available until April 30, 2024. Please also provide a detailed breakdown of items included in the Allowance Inventory, calculations to determine the monthly end balances of the Allowance Inventory, and supporting documentation for these calculations.

Objection: CEI South objects to the foregoing Request to the extent it calls for speculation and/or a calculation, compilation, or analysis CEI has not performed and objects to performing.

CEI South further objects to this Request on the separate and independent grounds that it is unreasonable and unduly burdensome and purports to impose an obligation greater than that required by Ind. Tr. R. 26(E)(1) and (2) to the extent it seeks production on a continuous basis.

CEI South further objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between CEI South and the receiving parties.

Response: Subject to and without waiving the foregoing objections, CEI South provides the following response:

- a. Please see the attachment listed below. The NO_x seasonal allowance is provided on a monthly basis.
- b. See response to subpart a.

- c. See response to subpart a.
- d. See response to subpart a.
- e. At this time there have been no additional purchases in 2024. The ending balance of 2023 is still accurate.

Attachment:

45990 OUCC DR38 38.3 (CONFIDENTIAL)_Allowance Inventory.xlsx

OUCC Attachment CMA-1-C includes an Excel File which is CONFIDENTIAL.

File Name: "45990 OUCC Attachment CMA-1-C (CONFIDENTIAL).xlsx"



Seasonal NOx prices fall after summer surge

Market: Coal, Emissions | 09/26/22

Cross-State Air Pollution Rule (CSAPR) ozone season NOx allowances have declined considerably this month, retreating from record price increases earlier in the year as market participants continue grappling with planned changes to the program.

Group 3 allowances have soared this year, rising to a record high of \$48,000/short ton last month after beginning 2022 at \$2,500/st. But the allowances have since retreated and finished last week at \$16,000/st.

Allowances in the Group 2 program — which involves a less stringent NOx emissions cap — have experienced similar but less dramatic price shifts this year, rising to \$4,500/st from \$275/st at the start of the year before retreating to \$4,000/st in recent days.

Regulatory uncertainty

The allowances increased largely in response [to a proposal](#) from the US Environmental Protection Agency (EPA) that would expand the scope of the CSAPR program. Under current plans, EPA would grow the Group 3 program from 12 to 25 states and set more aggressive NOx caps in an effort to help downwind

states achieve the 2015 National Ambient Air Quality Standards for ozone.

In the eight Group 2 states poised to join the Group 3 program next year, power plant owners have also had to contend with the costs of joining the more stringent market. They may be able to collectively carry forward only about 18,500 allowances, if EPA requires them, as planned, to convert Group 2 allowances into Group 3 at a 5.9:1 ratio.

In future years, EPA has also proposed setting a daily NOx emissions rate limit for power plants, adding certain industrial sources into the program, and recalibrating the allowance bank each year to reduce surplus allowances. The program updates could up the costs of coal generation and make it harder for regulated entities to plan around potential future fluctuations in allowance prices, [industry groups have argued](#).

Allowance prices also began to increase against the backdrop of Russia's invasion of Ukraine, which put upward pressure on natural gas prices. Higher natural gas prices often lead utilities to dispatch more coal-fired generation, which could have induced more demand for seasonal NOx allowances. One industry group also predicted in a public comment that supply chain woes exacerbated by Covid-19 and the war in Ukraine could [delay retrofits](#) that would make it easier for plants to comply with the new rules without having to buy allowances.

Market interest ebbs

But as ozone season nears its end this week, bids and offers in the market have declined and allowances are trading at a lower value.

High allowance prices earlier this year — and uncertainty over how much they would increase — may have made coal [less cost-competitive](#) even as natural gas prices remained high. Coal generation was more expensive this summer for reasons besides the proposed CSAPR updates, including [other regulations](#) impacting coal plants and coal supply shortages across the US.

But while some power plant owners were starting to consider whether the surging allowance prices would force them to curtail or cease operations in the

future, for many generators the market conditions were favorable. The combination of higher power prices and more demand allowed coal units to operate with "very lucrative margins," according to a market source, and they could easily cover the higher NOx price.

Power plant NOx emissions in states affected by CSAPR were [also lower](#) during the first two months of this year's ozone season compared to the same time last year, according to preliminary EPA data. Ozone season runs from 1 May-30 September.

NOx emissions in the ten current Group 2 states declined slightly to more than 40,900st in May and June from 41,400st the same time a year ago, putting most states on track to remain within their emissions budgets. And while Group 3 states confront more stringent limits this year, their NOx emissions declined by nearly 17pc over the same time period, likely reducing the need for allowances.

Regulated entities have until June next year to meet their 2022 CSAPR obligations.

By Cole Martin

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WASHINGTON NEWS

Supreme Court seems skeptical of EPA's 'good neighbor' rule on power plant pollution



FILE - Emissions rise from the smokestacks at the Jeffrey Energy Center coal power plant as the sun sets, near Emmett, Kan., Sept. 18, 2021. The Supreme Court's conservative majority seemed skeptical Wednesday, Feb. 21, 2024, as a government lawyer argued that the Environmental Protection Agency should be allowed to continue enforcing its anti-air-pollution "good neighbor" rule. (AP Photo/Charlie Riedel, File)

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BY **MATTHEW DALY**

Updated 5:52 PM EST, February 21, 2024

WASHINGTON (AP) — The Supreme Court's conservative majority seemed skeptical Wednesday as the Environmental Protection Agency sought to continue enforcing an anti-air-pollution rule in 11 states while separate legal challenges proceed around the country.



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The EPA's [“good neighbor” rule](#) is intended to restrict smokestack emissions from power plants and other industrial sources that burden downwind areas with smog-causing pollution.

Three energy-producing states — Ohio, Indiana and West Virginia — challenged the rule, along with the steel industry and other groups, calling it costly and ineffective. The rule is on hold in a dozen states because of the court challenges.

The Supreme Court, with a 6-3 conservative majority, has increasingly reined in the powers of federal agencies, including the EPA, in recent years. The justices have restricted EPA's authority to fight air and water pollution — including a [landmark 2022 ruling](#) that limited EPA's authority to regulate carbon dioxide emissions from power plants that contribute to global warming. The court also shot down a vaccine mandate and blocked President Joe Biden's student loan forgiveness program.

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The court is currently weighing whether to [overturn its 40-year-old Chevron decision](#), which has been the basis for upholding a wide range of regulations on public health, workplace safety and consumer protections.

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Half of US states join GOP lawsuits challenging new EPA rule on deadly soot pollution



Wisconsin appeals court says regulators must develop PFAS restrictions before mandating clean-up



Homes near St. Louis County creek are being tested after radioactive contamination found in yards

A lawyer for the EPA said the “good neighbor” rule was important to protect downwind states that receive unwanted air pollution from other states. Besides the potential health impacts, the states face their own federal deadlines to ensure clean air, said Deputy U.S. Solicitor General Malcolm Stewart, representing the EPA.

States such as Wisconsin, New York and Connecticut can struggle to meet federal standards and reduce harmful levels of ozone because of pollution from power plants, cement kilns and natural gas pipelines that drift across their borders.

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— Tim Lee, CISO, City of Los Angeles

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Judith Vale, New York’s deputy solicitor general, said as much as 65% of some states’ smog pollution comes from out of state.

The EPA plan was intended to provide a national solution to the problem of ozone pollution, but challengers said it relied on the assumption that all 23 states targeted by the rule would participate.

Justice Brett Kavanaugh seemed sympathetic to that argument, saying the EPA plan could impose unreasonable costs on states that remain under its authority, because it was initially designed for 23 states.

“EPA came back and said, ‘Even if we have fewer states, we’re going to plow ahead anyway,’” Kavanaugh said. “Let’s just kind of pretend nothing happened and just go ahead with the 11 states.”

The EPA proceeded “without a whole lot of explanation, and nobody got a chance to comment on that” as part of the rule-making process, added Justice Neil Gorsuch.

“What (states) are asking for is simply an opportunity to make the argument before the agency,” said Chief Justice John Roberts.

Stewart responded that requirements for states to control air pollution don’t change based on the number of states subject to the rule. “The requirements are exactly the same,” he said.

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Justice Ketanji Brown Jackson questioned why the Supreme Court was hearing the case before the other legal challenges were completed. A lawyer for industry groups challenging the rule said it imposes significant and immediate costs that could affect the reliability of the electric grid.

"There are hundreds of millions, if not billions of dollars, in costs over the next 12 to 18 months," with only a small reduction in air pollution and no guarantee the final rule will be upheld, said industry lawyer Catherine Stetson. "There are over-control issues here," she said.

The EPA has said power-plant emissions dropped by 18% in 2023 in the 10 states where it has been allowed to enforce its rule, which was [finalized last March](#). Those states are Illinois, Indiana, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia and Wisconsin. In California, limits on emissions from industrial sources other than power plants are supposed to take effect in 2026.

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The rule is on hold in another dozen states because of separate legal challenges. The states are Alabama, Arkansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Nevada, Oklahoma, Texas, Utah and West Virginia.

States that contribute to ground-level ozone, or smog, are required to submit plans ensuring that coal-fired power plants and other industrial sites don't add significantly to air pollution in other states. In cases where a

state has not submitted a “good neighbor” plan — or where EPA disapproves a state plan — the federal plan was supposed to ensure that downwind states are protected.

Ground-level ozone, which forms when industrial pollutants chemically react in the presence of sunlight, can cause respiratory problems, including asthma and chronic bronchitis. People with compromised immune systems, the elderly and children playing outdoors are particularly vulnerable.

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Environmental and public health advocates have praised the EPA plan as a life-saving measure for people who live hundreds of miles away from power plants, cement factories, steel mills and other industrial polluters.

Industry groups criticize it as having an anti-coal bias that would drive up the cost of electricity.

Associated Press writer Mark Sherman contributed to this story.



MATTHEW DALY

Matthew Daly covers climate, environment & energy policy



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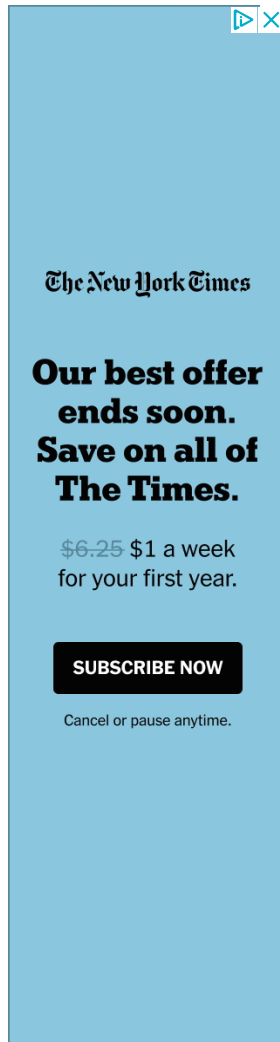
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**OUCC ATTACHMENT CMA-5
IS FILED AS AN EXCEL DOCUMENT**

Q 38.5

Please refer to CEI South’s Response to OUCC Data Request 19.1. In its response, CEI stated “Subject to and without waiver of the foregoing objections, CEI South responds as follows: Please see attachment. CEI South does not have this information on a monthly basis; see objection.”

- a. If CEI South does not keep this information on a monthly basis, please explain how it complies with 18 C.F.R., Part 101, General Instruction No. 21.
- b. If CEI South does not keep this information on a monthly basis, please explain how it is able to present monthly end balances for Emission Allowance Inventory in Exhibit No. 20, Workpaper WPB-4.1, line 6, Allowance Inventory.
- c. If CEI South does not keep this information on a monthly basis, please explain how it is able to present monthly allowance expenses in Exhibit No. 20, Schedule C-1.1, line 44, and Workpaper WPC 1.1(b), lines 25 and 39.
- d. In CONFIDENTIAL Attachment 19.1a, CEI South [REDACTED]
 - i. [REDACTED]
 - ii. If CEI South [REDACTED] please explain how it complies with 18 C.F.R., Part 101, General Instruction No. 2 and General Instruction No. 21.
 - iii. Please provide the information for each [REDACTED]
[REDACTED]

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between CEI South and the receiving parties.

Response: Subject to and without waiving the foregoing objection, CEI South provides the following response:

- a. The objection in CEI South’s Response to OUCC DR 19.1 should not have stated that CEI South does not have the information on a monthly basis but rather what CEI South intended to relay in the objection is that CEI South does not have it, consolidated in one format, in the form requested. We have the data in our system that allows us to comply on a monthly basis; we had just not compiled and consolidated all the information requested in each of the subparts in the form OUCC was requesting in OUCC DR 19.1. Please see the attachment provided with CEI South’s Response to OUCC DR 38.3 for the information in the format requested.
- b. Please see CEI South’s Response to subpart a.
- c. Please see CEI South’s Response to subpart a.

Cause No. 45990 – CEI South Response to OUCC DR38
Page **11** of **13**

- d. Please see the attachment referenced in CEI South's Response to OUCC DR 38.3.

Cause No. 45990 – CEI South Response to OUCC DR38
Page 12 of 13

Q 38.6 Please refer to Exhibit No 20, Schedule C1.1, line 44, and Workpaper WPC 1.1(b), lines 25 and 39.

- a. Please explain how CEI South forecasted or determined test year monthly Allowance expenses. Please provide supporting calculations, assumptions, methodology, and documents of this forecast.
- b. Please explain the difference between “RCRA PT” and “non PT” Allowance expenses.

Objection: CEI South further objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between CEI South and the receiving parties.

Response: Subject to and without waiving the foregoing objection, CEI South provides the following response:

- a. To determine the test year allowance expense, NOx emissions in tons were calculated based on the forecasted generation for coal units. For the seasonal NOx months, the NOx tons emitted were then multiplied by an estimated NOx allowance cost per ton to calculate the forecasted allowance expense. The seasonal allowance costs were then reduced for any NOx costs forecasted to be reimbursed through WPM sales. The net remaining NOx cost is what is in the allowance forecast for 2025. Please see the attachment listed below for the calculation of the NOx Allowance in test year O&M.
- b. CEI South’s Allowance expenses are all considered passthrough expenses and included in the RCRA mechanism. Line 39 shows \$0 in non-passthrough expenses because all Allowance expenses are included in the RCRA passthrough mechanism on line 25.

Attachment:

- 45990 OUCC DR38 38.6a (CONFIDENTIAL)_2025 Monthly Allowance Expenses.xlsx

OUCC Attachment CMA-7-C includes an Excel File which is CONFIDENTIAL.

File Name: "OUCC Attachment CMA-7-C (CONFIDENTIAL).xlsx"

Cause No. 45990 – CEI South Response to OUCC DR38
Page 4 of 13

- Q 38.1:** Please refer to the Commission’s Final Order in Cause No. 45903 issued on February 7, 2024.
- a. Does CEI South intend to file revisions to its Direct testimony, exhibits, or schedules in response to the 45903 final order? Please explain why or why not.
 - b. If the response to (a) is affirmative, please indicate when CEI South estimates it will file these revisions.
 - c. If the response to (a) is affirmative, please indicate the testimonial witnesses, exhibits, and schedules that require revision.
 - d. The Cause No. 45903 Final Order disallows costs related to Cause No. 45795 at pp. 12 and 16. Are these costs reflected in the revenue requirement in this Cause?
 - e. If the response to (d) is affirmative, please indicate the total cost associated with the disallowed costs incurred in relation to Cause No. 45795. Please also provide a detailed breakdown of these costs and supporting documentation of the costs incurred in connection with Cause No. 45795.
 - f. If the response to (d) is affirmative, please indicate which CEI South’s schedules and supporting workpapers reflect costs incurred in Cause No. 45795.
 - g. Will the Culley East Ash Pond Closure by Removal Project (“CBR Project”) be completed by the end of the future test year (December 31, 2025)?
 - h. If the response to (g) is affirmative, is CEI South including the 80% portion of the CBR Project costs tracked through the Environmental Cost Adjustment (ECA) in the revenue requirement for this Cause? Please explain why or why not.
 - i. If the response to (h) is affirmative, please identify the CEI South Exhibits, Schedules, and Workpapers that show how these Project costs are included in the revenue requirement in this Cause.
 - j. If the response to (h) is affirmative, will CEI South continue to track these costs through the ECA until it receives an order in this Cause approving their inclusion in the revenue requirement? Please explain your response.

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between CEI South and the receiving parties.

CEI South further objects on the separate and independent grounds and to the extent the Request is vague and ambiguous and provides no information from which CEI South can determine what information is sought in that it is unclear what is meant in subpart (h) when it asks whether CEI South is “including the 80% portion of the CBR Project costs tracked through the Environmental Cost Adjustment (ECA) in the revenue requirement for this Cause.”

Cause No. 45990 – CEI South Response to OUCC DR38
Page 5 of 13

Response: Subject to and without waiving the foregoing objections, CEI South provides the following response:

- a. The Commission approved CEI South’s request for a certificate of public convenience and necessity and the requested ratemaking and accounting treatment, but disallowed certain legal fees, of [REDACTED] which will not be recovered. CEI South does not plan to update direct testimony but will provide updated exhibits or schedules at rebuttal.
- b. Please see CEI South’s Response to subpart a.
- c. Petitioner’s Exhibit No. 20 will be updated.
- d. Yes, the legal costs for Cause No. 45795 are included in the total CBR Project costs reflected in this Cause.
- e. The total cost disallowed in relation to Cause No. 45795 is [REDACTED]. Please see the attachment listed below for detailed breakdown of costs.
- f. The legal costs for Cause No. 45795 are included within the reserve balances in Petitioner’s Exhibit, 20, SCH_B3.1, page 2 of 8, line 16. Additionally, the legal fees were included in the CBR Project’s total cost that was used to derive the annual amortization expense that is included in the adjustment on SCH_C3.23.
- g. Yes. The Culley East Ash Pond Closure By Removal project is scheduled to be completed by year-end 2025; however, the project could be delayed beyond 2025 due to unforeseen circumstances.
- h. The CBR Project has been approved to be recovered through the ECA mechanism. CEI South will include the authorized costs incurred through December 31, 2023 in the next ECA to be filed May 1, 2024. We anticipate the ECA rates to be in place in August 2024. Those rates will remain in place until CEI South receives an order in this Cause, approximately November 2024. At that time CEI South will file a compliance filing to remove the CBR project from ECA rates. As with the other approved projects in the ECA mechanism, CEI South is seeking to roll those projects into base rates in this Cause. The remaining costs incurred on the CBR Project through 2025 will be included in base rates through the Phase 2 and Phase 3 updates in this Cause. Costs for this project that extend beyond 2025 will be included for recovery in future ECA filings.
- i. The project costs are included within the reserve balances in Petitioner’s Exhibit 20, SCH_B3.1, page 2 of 8, line 16. Additionally, an amortization expense adjustment associated with the total CBR Project cost is included within SCH_C3.23, line 5.
- j. Yes, CEI South will continue to track the costs for the CBR Project through the ECA up until an order is received for this Cause. The CBR Project has been approved for a timely recovery through the ECA mechanism. CEI South will seek to recover through that Cause until the project can be added to base rates through this Cause.

Attachment:

- 45990 OUCC DR38 38.1 (CONFIDENTIAL)_Costs Incurred in Cause No. 45795.xlsx

**OUCC ATTACHMENT CMA-9-C (CONFIDENTIAL)
IS FILED AS AN EXCEL DOCUMENT**

Q 33.3:

- [REDACTED]
- [REDACTED]
- [REDACTED]
- a. [REDACTED]
- b. Please [REDACTED] of land.
- c. Please provide [REDACTED]
- d. Please provide [REDACTED]
- e. Please [REDACTED]
- f. Was any [REDACTED]?

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information that is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or third parties. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to Petitioner, its customers, or third parties. The responses are “trade secret” under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to nondisclosure agreements between Petitioner and the receiving parties.

CEI South objects to the Request on the grounds and to the extent the phrase “cost per acre” is vague and ambiguous and is undefined, therefore CEI South does not know how it is being used in this Request.

Response: Subject to and without waiver of the foregoing objections, CEI South responds as follows:

- a. Lines 814, 2149, 4251 & 8474 were land purchases bordering the A.B. Generating Station. Line 4058 was land purchase for the Volkman solar project approved in Cause No. 49909.
- b. All of the below purchases (with the exception of the Volkman site) included dwellings that were removed once the purchase was final.
- Line 814 – 8520 Welborn Rd. - [REDACTED] per acre
 - Line 2149 – 8600 Welborn Rd. - [REDACTED] per acre
 - Line 4058 – Volkman Solar site HWY 41/Volkman Rd - [REDACTED] per acre
 - Line 4251 – 8590 Welborn Rd. - [REDACTED] per acre
 - Line 8474 – 11969 Smith Diamond Rd. - [REDACTED] per acre
- c. Below is the legal description, location, annual property tax for 2022 for each parcel requested. As the parcels are locally assessed, CEI South does not forecast future years.
- Line 814 – 8520 Welborn Rd: Legal Description PT NE/4 SE/4 2.003A; 2022 tax value \$19,400; 2022 taxes \$316.40

¹ CEI South identifies this information as confidential because the question uses information derived from Confidential Workpaper FSB-1. As such, CEI South has added an additional redaction to OUCC’s Request.

Cause No. 45990 – CEI South (PUBLIC) Response to OUCC DR33
Page **9** of **15**

- Line 2149 – 8600 Welborn Rd; Legal Description PT NE SE 13-7-12 1.622A; 2022 tax value \$82,300; 2022 taxes \$363.36
 - Line 4058 – Volkman Solar HWY 41/Volkman Rd; Legal Description PT S1/2 NW NE & SW NE 29-4-10; 2022 tax value \$567,700; 2022 taxes \$14,012.66
 - Line 4251 – 8590 Welborn Rd; Legal Description PT NE/ SE/ 13-7-12 1.3A; 2022 tax value \$150,200; 2022 taxes \$2,449.62
 - Line 8474 – 11960 Smith Diamond Rd; Legal Description PT SE SE 13-7-12 2.56A; 2022 tax value \$21,800; 2022 taxes \$355.54
- d. For the land located near the AB Brown site, land is not being used at this time and not expected to be used in 2025. The land for the Volkman solar site was used for the project.
- e. 8520 Welborn Rd. - Randall Thomas; 8600 Welborn Rd. - William Birdwell; Volkman Solar site HWY 41/Volkman Rd - JAK Real Estate; 8590 Welborn Rd. - Michael Josey; 11969 Smith Diamond Rd. - Larry Smith
- f. No.

Courier & Press

LOCAL

Why is Vectren buying houses near power plant?



Mark Wilson

Evansville

Published 12:33 p.m. CT Nov. 1, 2017 | Updated 4:20 p.m. CT Nov. 1, 2017

EVANSVILLE — The caller had a question. Have you ever thought about selling your house?

Randee Thomas was at his job and the call on his personal cell phone caught him off guard.

"I said I was right in the middle of a remodel. He said go ahead and stop the remodel 'we're going to buy your house,'" Thomas said.

The caller worked for Vectren. The electric utility's generating station is visible from Thomas' front yard.

Thomas is one of several homeowners on Welborn Road near the A.B. Brown power plant in Posey County who Vectren has approached about selling their houses.

The company's interest in the properties has generated curiosity among area residents. The homes are located directly across the road from the pond where much of A.B. Brown's waste is disposed. Vectren officials say they are interested in the properties because they anticipate it may be necessary for eventually closing the power plant — and its ash pond.

Two of the homeowners, including Thomas, told the Courier & Press they were approached unexpectedly and felt compelled to sell. Only Thomas has sold so far.

"The way I take it, I didn't have a choice," he said.

Vectren officials told the newspaper the company is only seeking to acquire the properties if the owners are interested in selling or when homes come on the market.

More: State OK's Vectren plan to raise bills, upgrade grid

More: Settlement reached in class-action suit brought against Vectren

The company's long range plan, updated in December 2016 and approved by the Indiana Utility Regulatory Commission, calls for retiring the coal-fired A.B. Brown plant in Posey County by 2024.

The homes Vectren is interested in are directly across from the power plant's ash pond — a 156-acre repository of waste left over from burning coal. In 2016, the Hoosier Environmental Council raised concerns about the potential for groundwater contamination near the ash pond.

There is no documented water contamination linked to the A.B. Brown ash pond, although it is decades old and has no protective liner.

"The pond is in compliance with all the applicable rules," said Natalie Hedde, a Vectren spokeswoman.

However, some groundwater contamination has occurred near a dry landfill there for the waste from pollution scrubbers, according to records on file with the Indiana Department of Environmental Management.

Acquiring land adjacent to the power plant is in anticipation of its eventual shut down, said Lisa Messinger, director of environmental affairs at Vectren.

"It makes sense for the eventual closure of that (ash) pond," she said.

Messinger said Vectren already owns properties west of A.B. Brown and other nearby parcels.

Thomas eventually accepted the utility's offer, but not without some wrangling over price. He said he is still perplexed about Vectren's motives, which the representative he dealt with didn't share.

More: Vectren: Numerous grid improvement projects underway

More: Here's what report on Evansville's low cost of living didn't tell us

"Before we closed he said they would just knock it over and plant grass," Thomas said.

He said the sale contract initially called for him to vacate the house immediately but that he insisted it be amended to give him 30 days.

William Birdwell, another homeowner living near Thomas, said he received a call from Vectren too and was told they would send out an appraiser.

Unlike Thomas, Birdwell said he always viewed his house as a beginner home. However, he said had no specific plans to sell the property when he was called by Vectren.

"He asked if I had thought about selling and said it depends on the offer," Birdwell said.

Birdwell and Thomas both have experienced problems with coal ash blowing onto their homes from ash piles at the power plant.

Thomas recalled once calling Vectren about soot covering his yard and being told it wasn't harmful.

"It wasn't too bad most of the time but some days it smelled bad, like burning sulfur," he said.

Birdwell recalled driving home from work on a winter evening through what looked like a blizzard but was really a cloud of ash.

"Vectren came over and sampled it. They told me it wasn't harmful and to just hose it off," he said. "It was like a powder, a gray ash and it turned into a kind of mud when it got wet."

Coal ash encompasses several different types of byproducts left from burning the coal power plants use to generate electricity.

The U.S. Environmental Protection Agency, which regulates its disposal, says coal ash contains contaminants such as mercury, cadmium and arsenic that are associated with cancer and other serious health effects.

It is disposed in both dry landfills and in wet form in large surface impoundments called ash ponds.

When coal ash is stored without proper protections, the contaminants can leach into groundwater and potentially migrate to drinking water sources, posing public health concerns, the EPA says.

3/8/24, 12:38 PM

Vectren offering to buy homes by coal ash pond

Among the contaminants detected by groundwater monitoring wells near the dry landfill at A.B. Brown are chloride, sodium, sulfate and boron, according to Vectren monitoring reports filed with the IDEM.

However, levels of the contaminants in many of the monitoring wells are stable or decreasing and it appears the contamination has remained close to the landfill boundary, according to a May 2017 report.

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- a. For [REDACTED]:
- i. No. This land was purchased as a buffer property. While not directly required by CCR, RCRA or Indiana Solid Waste Management Statute, these properties may be impacted (from a nuisance perspective) by activities related to completing the closure of the ash pond.
 - ii. Not applicable.
 - iii. Not applicable.
 - iv. Not applicable.
 - v. Not applicable.
 - vi. No; however, the purchase will also allow CEI South to put environmental restrictive covenants on groundwater usage.

Q 41.1

Please refer to the Petitioner’s Exhibit 7, Workpaper FSB-1 (CONFIDENTIAL) Power Generation Capital Investments 2009-2025. [REDACTED]

[REDACTED]

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information which is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are "trade secret" under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between Petitioner and the receiving parties.

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Response: Subject to and without waiver of the foregoing objection, CEI South responds as follows:

- b. [REDACTED]
- i. No. This land was purchased as a buffer property. While not directly required by CCR, RCRA, or Indiana Solid Waste Management Statute, these properties may be impacted (from a nuisance perspective) by activities related to completing the closure of the ash pond.
 - ii. Not applicable.
 - iii. Not applicable.
 - iv. Not applicable.
 - v. Not applicable.
 - vi. No; however, the purchase will also allow CEI South to put environmental restrictive covenants on groundwater usage.

Q 41.1

Please refer to the Petitioner’s Exhibit 7, Workpaper FSB-1 (CONFIDENTIAL) Power Generation Capital Investments 2009-2025. [REDACTED]

[REDACTED]

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information which is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are "trade secret" under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between Petitioner and the receiving parties.

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Response: Subject to and without waiver of the foregoing objection, CEI South responds as follows:

- c. [REDACTED];
- i. No.
 - ii. Not applicable.
 - iii. Not applicable.
 - iv. Not applicable.
 - v. Not applicable.
 - vi. No.

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Q 41.1

Please refer to the Petitioner’s Exhibit 7, Workpaper FSB-1 (CONFIDENTIAL) Power Generation Capital Investments 2009-2025, [REDACTED]

[REDACTED]

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information which is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are "trade secret" under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between Petitioner and the receiving parties.

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Response: Subject to and without waiver of the foregoing objection, CEI South responds as follows:

- d. For [REDACTED]:
 - i. No. This land was purchased as a buffer property. While not directly required by CCR, RCRA, or Indiana Solid Waste Management Statute, these properties may be impacted (from a nuisance perspective) by activities related to completing the closure of the ash pond.
 - ii. Not applicable.
 - iii. Not applicable.
 - iv. Not applicable.
 - v. Not applicable.
 - vi. No; however, the purchase will also allow CEI South to put environmental restrictive covenants on groundwater usage.

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Q 41.1

Please refer to the Petitioner’s Exhibit 7, Workpaper FSB-1 (CONFIDENTIAL) Power Generation Capital Investments 2009-2025, [REDACTED]

[REDACTED]

Objection: CEI South objects to the Request on the grounds and to the extent the Request seeks information which is trade secret or other proprietary, confidential, and competitively sensitive business information of CEI South, its customers, or its vendors. CEI South has made reasonable efforts to maintain the confidentiality of this information. Such information has independent economic value and disclosure of the requested information would cause an identifiable harm to CEI South, its customers, or its vendors. The responses are "trade secret" under law (Ind. Code § 24-2-3-2) and entitled to protection against disclosure. See also Indiana Trial Rule 26(C)(7). All responses containing designated confidential information are being provided pursuant to non-disclosure agreements between Petitioner and the receiving parties.

Response: Subject to and without waiver of the foregoing objection, CEI South responds as follows:

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- e. For [REDACTED]:
- i. No. This land was purchased as a buffer property. While not directly required by CCR, RCRA, or Indiana Solid Waste Management Statute, these properties maybe impacted (from a nuisance perspective) by activities related to completing the closure of the ash pond.
 - ii. Not applicable.
 - iii. Not applicable.
 - iv. Not applicable.
 - v. Not applicable.
 - vi. No; however, the purchase will also allow CEI South to put environmental restrictive covenants on groundwater usage.

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Q 38.7: Please refer to Exhibit No. 20, Schedule C-3.26, Reduction to IRP expense.

Please provide a detailed breakdown of these expenses.

- a. Please indicate and explain if these costs are included in the estimates for the new generation projects added to rate base in this Cause, including cost estimates approved in Cause Nos. 45564, 45052, 44909, 45501, and 45847.
- b. Please explain why it is appropriate to transfer these expenses from FERC Account 920 to FERC Account 923.
- c. Please explain if these expenses, once transferred to Account 923, are recovered in the revenue requirement in this Cause. Please reference the Schedules, Workpapers, or Exhibits which would show their inclusion in the revenue requirement in this Cause.
- d. Please explain if CEI South intends to allocate IRP expenses to the cost estimate for future generation requests. Please further explain if the expenses shown in Exhibit No. 20, Schedule C-3.26 would be allocated to the cost estimate for future generation requests.

Response:

- a. No, the IRP expense costs included in Schedule C-3-26 are the O&M costs associated with conducting and performing the IRP. Please refer to Ms. Behme’s testimony, page 29, starting at line 10; and Mr. Rice’s testimony, page 33. The IRP expense is different than the planning costs included in the best estimates approved in the Cause Nos. 45564, 45754, 45501 and 45847. Please refer to the Commission’s September 6, 2023 Order in Cause No. 45847, at page 23 and 27, for an explanation of certain planning costs – referred to therein as “generation transition asset” allocation costs – which include, but are not limited to, preliminary survey costs and research and development costs to develop IRP strategy and specific generation asset selection under the IRP. An example of an IRP expense is typical modeling performed by an outside consultant. An example of a planning cost is the scrubber assessment at A.B. Brown or the All-Source RFP in the 2019/2020 IRP.
- b. The FERC Uniform System of Accounts state that FERC 920 should include A&G salaries for employees and FERC 923 is for outside services employed. Since IRP expense is comprised of outside services, CEI South corrected the FERC account for the IRP expenses in the 2025 test year.
- c. The expenses in FERC 923 are recovered in the revenue requirement and can be identified on SCH_C1.1, line 141. Additionally, the pro forma adjustment between the two FERC accounts can be identified in the column titled SCH C-3.26.
- d. Please refer to CEI South’s Response to subpart a. CEI South does not intend to allocate IRP expenses in the cost estimate for future generation requests which is different than certain planning costs that may be included.