STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA MICHIGAN POWER COMPANY, AN INDIANA CORPORATION, FOR AUTHORITY TO INCREASE ITS RATES AND CHARGES FOR ELECTRIC UTILITY SERVICE THROUGH A PHASE IN RATE ADJUSTMENT; AND FOR APPROVAL OF RELATED RELIEF INCLUDING: (1) REVISED DEPRECIATION RATES; (2) ACCOUNTING RELIEF; (3) INCLUSION IN RATE BASE OF QUALIFIED POLLUTION CONTROL PROPERTY AND CLEAN ENERGY PROJECT; (4) ENHANCEMENTS TO THE DRY SORBENT INJECTION SYSTEM; (5) ADVANCED METERING INFRASTRUCTURE; (6) RATE ADJUSTMENT MECHANISM PROPOSALS; AND (7) NEW SCHEDULES OF RATES, RULES AND REGULATIONS.	)	**CAUSE NO. 45235**

INDIANA COAL COUNCIL INC.'S EXCEPTIONS TO
INDIANA MICHIGAN POWER COMPANY'S PROPOSED ORDER

The Indiana Coal Council, Inc., (ICC) by counsel, respectfully submits the following exceptions to the Proposed Order filed by Indiana Michigan Power Company (I&M) in this Cause. The ICC has included only those sections of I&M's Proposed Order where the ICC has specific exceptions and edits. With respect to the remainder of the Proposed Order, the ICC accepts the summaries of the evidence proposed by the OUCC and other intervening parties. To the extent the ICC has not specifically addressed an issue in I&M's Proposed Order, such failure to address an issue should not be construed as tacit approval of I&M's Proposed Order.

Respectfully Submitted,

Jeffery A. Earl, Atty. No. 27821-64
BOSE MCKINNEY & EVANS LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
(317) 684-5209
jearl@boselaw.com

Attorney for the Indiana Coal Council, Inc.

7.C. Rockport Enhanced Dry Sorbent Injection (DSI) System.

1. I&M. Mr. Thomas explained both units of the Rockport Plant are equipped with flue gas scrubbing technology that uses DSI equipment to inject dry sorbent (sodium bicarbonate) into the flue stream to reduce hydrochloric acid ("HCl") and sulfur dioxide ("SO_2") emissions. Thomas Direct, 15. The Commission authorized the use of the DSI system at Rockport in Cause No. 44331. As stated by Mr. Kerns, the Rockport Plant utilizes the DSI system to meet reduced SO_2 emission limits required under the Plant's air permit. Kerns Direct, 24. He said this SO_2 limit becomes more stringent over multiple years, with lower SO_2 emission limit taking effect on January 1, 2018, and January 1, 2020. *Id.* He added that in response to the stepped reduction SO_2 limit, I&M will increase the injection rate of sodium bicarbonate. *Id.*

As discussed by Mr. Kerns, during the Test Year, the Company plans to place certain enhancements to the DSI system into service at an estimated capital cost of approximately $13.3 million, which is significantly less than the cost of the alternative control – a dry scrubber. Kerns Direct, 30; Thomas Direct, 17-18. Mr. Thomas testified this capital investment will enhance the performance of the DSI equipment by moving the injection point of the sodium bicarbonate into the flue gas stream upstream of its current location. Thomas Direct, 15. Mr. Kerns said the DSI enhancements will result in approximately an $8 million incremental increase in O&M expenses that is mostly consumables expense. Kerns Direct, 30-31. Mr. Thomas explained the enhanced DSI is required to comply with the Fifth Modification of the Consent Decree and stated that the project is a reasonable means of maintaining the availability of low cost, coal-fired generation that complies with environmental regulations, allows the plant to continue to serve customer needs provide jobs and taxes to the community, and does so in a manner that mitigates the rate impact on customers. Thomas Direct, 18-19.

2. OUCC.

The ICC adopts the OUCC's summary of its own evidence in this section.

3. Intervenors.

The ICC adopts the Industrial Group's summary of its own evidence in this section.

The ICC adopts Alliance Coal's summary of its own evidence in this section.

ICC witness Medine recommended that the Commission limit cost recovery related to the Fifth Modification of the Consent Decree. Medine Direct, pp. 4-5. She testified that the Consent Decree involves 16 plants across multiple AEP jurisdictions. *Id.* at 6. Ms. Medine submitted an attachment with her testimony that summarized the key changes in the Fifth Modification. Attachment ESM-2. Ms. Medine is concerned that in order to avoid a penalty for not complying with the deadline in the Third Modification to install an SCR unit on Rockport Unit 2, I&M improperly traded away the option to continue to operate one or both of the Rockport units in the Fifth Modification. Medine Direct, p. 7.

Ms. Medine attached and quoted a *Supplemental Motion and Memorandum in Support of Fifth Modification of Consent Decree*, which AEP filed in Federal Cause No. 2:99-cv-1182 and submitted to the Commission in Cause No. 44871. Attachment ESM-4. In the filing, AEP

proposed significant reductions to the Consent Decree's emission caps for NO_x and SO_2, both system-wide and specifically for the Rockport Units. Medine Direct, p. 9; ESM-4, pp. 7-8. But she noted that the actual Fifth Modification, in addition to significantly reducing the system-wide and Rockport-specific emission caps, also required I&M to close Rockport Unit 1 by the end of 2028, which AEP had not proposed in its motion for the Fifth Modification. Medine Direct, pp. 10-12. The Fifth Modification also reflected an extension of the deadline to install NO_x controls on Rockport Unit 2 from December 31, 2019, to June 1, 2020, and added the requirement to install enhanced DSI on both Rockport units. *Id*. at 12; Attachment ESM-3, pp. 8 and 12. Ms. Medine testified that these changes would not have been necessary had AEP not needed to change the compliance deadline for Rockport Unit 2. Medine Direct, p. 12.

On cross-examination, Ms. Medine was provided with a copy of the Commission's March 26, 2018 Order in Cause No. 44871, which included a footnote stating: "On November 16, 2017, the United States District Court for the Southern District of Ohio issued an order tolling the deadline to install a SCR system at Rockport Unit 2 until June 1, 2020." Tr. p. P-23. Ms. Medine acknowledged that the Fifth Modification included the June 1, 2020 compliance deadline for Rockport Unit 2 that had been previously tolled by the federal court, and Ms. Medine then testified that it is inexplicable why there was a Fifth Modification to the Consent Decree. *Id*. at P-29-P30.

In her direct testimony, Ms. Medine testified that in reviewing I&M's request to seek recovery of costs incurred as a result of the Fifth Modification, the Commission should consider what prompted the Fifth Modification and the extent to which the related costs should be recovered from ratepayers. Medine Direct, p. 13. Ms. Medine noted several prior Commission orders that addressed the recovery of consent decree-related costs. *Id*. at 13-14. Ms. Medine summarized based on those cases that the Commission considers whether the costs incurred as a result of a utility's decision to enter into a consent decree are prudent, and it is the utility's burden to establish that the costs are prudent and the recovery of such costs in customer rates is just and reasonable. *Id*. Ms. Medine also summarized that it is the utility's responsibility, and not its customers', to provide utility service that complies with federal law and regulations and to pay the costs that arise from failure to comply. *Id*. Ms. Medine testified that in this case, the Fifth Modification obligated I&M to install additional technology that was not previously required, specifically, enhanced DSI technology and that the additional obligations in the Fifth Modification did not arise from the imposition of any new federal or state regulations. *Id*. at 14 and 16. As such, she viewed the additional requirements as more akin to a fine or penalty than a regulatory requirement. *Id*. at 16.

4. Rebuttal. Mr. Thomas explained the OUCC recommendations are based on a flawed understanding of the Consent Decree and the manner in which it came about. Thomas Rebuttal, 21-22. He testified the execution of and modifications to the Consent Decree are not the result of "questionable management decisions," as alleged by Ms. Armstrong, but have been a series of actions taken by AEP to comply with evolving environmental requirements in a cost effective manner that have avoided the expenditure of billions of dollars. Mr. Thomas explained that the Rockport Units have gained a significant advantage by participating in the Consent Decree as the Rockport Units have the latest compliance dates of any units in the AEP system for installing post-combustion SO_2 and NO_X controls and this means I&M customers will benefit from the proven performance of lower-cost DSI technologies that have only recently become

available. Thomas Rebuttal, 22. Mr. Thomas testified regardless of whether the lease is renewed or not, the modest adjustment to the DSI system is reasonable because it optimizes the use of the existing equipment, relocates the injection point for the dry sorbent, takes advantage of mixing plates that are included in the SCR design for both units, and thereby significantly increases the achievable SO_2 removal efficiency. Mr. Thomas noted the continued uncertainty about future environmental requirements and said the DSI enhancements provide additional compliance margin for a new standard currently under review by the U.S. EPA. Thomas Rebuttal, 23-24.

Mr. Thomas stated the consequences of non-compliance with the terms of the Consent Decree would be severe because the units cannot comply with the thirty-day average emission rates if the DSI Enhancement Project is not in operation by the end of 2020. Thomas Rebuttal, 24. He said the lease requires I&M to return Rockport Unit 2 to the lessors at the end of the lease term in a condition to comply with all of the applicable environmental requirements. Thomas Rebuttal, 24. He added the lease was approved by the Commission and I&M must continue to comply with the lease through its full term. Thomas Rebuttal, 24. Mr. Thomas stated I&M's customers benefit more from the enhanced DSI system than they would from any alternative means of complying with the terms of the lease. Thomas Rebuttal, 24.

Mr. Thomas stated Ms. Armstrong confused two different versions of the Fifth Modification of the Consent Decree, explaining that Ms. Armstrong discussed a contested motion filed by AEP, not the settlement agreement among all parties that became the Fifth Joint Modification. *Id.*, 24-25.

With respect to the IG recommendation, Mr. Thomas stated that while it may be appropriate to credit I&M's depreciation accounts with amounts receive from the transfer of assets to the Lessors upon the expiration of the Rockport Unit 2 lease, it would be inappropriate to create a refund obligation to customers. Thomas Rebuttal, 25-26. He added that I&M will act in accordance with the requirements of the Lease and good accounting practice to reflect the appropriate amounts in the appropriate accounts.

5. Discussion and Findings. In the November 13, 2013 Order in Cause No. 44331, the Commission authorized the use of DSI systems at both Rockport Units. In that proceeding, Ms. Armstrong testified that "[t]he DSI systems are necessary for I&M to comply with, MATS, CAIR, CSAPR, and the NSR Consent Decree." Thomas Rebuttal, p. 23, fn. 8 (citing Cause No. 44331, Public's Exhibit No. 2, p. 16). The Order in Cause No. 44331 found that I&M considered several alternative plans for compliance with the federally mandated requirements, in addition to the SCR and FGD projects originally required by the Consent Decree and that the evidence demonstrated that the Rockport CCT Project is a cost-effective method to achieve compliance with the MATS Rule. *Ind. Mich. Power Co.*, Cause No. 44331, 2013 WL 6092508, at *27 (IURC Nov. 13, 2013).[1] The Commission also found that the installation of the Rockport CCT Project will preserve, if not extend, the remaining lives of the Rockport Units, *id.*, and the "Rockport CCT Project is the best option to permit Rockport to continue to provide generation needed to serve I&M's customers' needs" *id.* at *29.

[1] We note, however, that the Commission explicitly did not address whether the Consent Decree or its underlying environmental compliance obligations qualify as a federally mandated requirement as defined in Ind. Code § 8-1-8.4-5. *Ind. Mich. Power Co.*, 2013 WL 6092508, at *26.

In Cause No. 44331, I&M assured the Commission that the installation of DSI systems on both Rockport units, coupled with the future installation of SCR control equipment on both units, would allow AEP to satisfy its near-term emission reduction obligations and the more restrictive system-wide emission caps on the AEP units subject to the Consent Decree. *Id*. at *3. Yet, in this case, I&M seeks recovery associated with the construction of enhanced DSI systems on both Rockport units based on a Fifth Modification to the Consent Decree. Mr. Thomas testified on cross-examination that I&M "had other technology or better utilization of technology that we believed we could use to serve customers at a lower cost" and that I&M "wanted to preserve the environmental benefits of the original Consent Decree." Tr., pp. B34-B35.

However, Mr. Kerns testified on cross examination that the capital cost of the enhanced DSI project required by the Fifth Modification is about $13.3 million (Indiana jurisdictional share) and that the additional SO_2 removal requirements of the Fifth Modification will cause higher variable operating costs of approximately $8 million (total company). *Id*. at D51-D54. Mr. Kerns testified that it is questionable whether I&M could meet with more stringent SO_2 limits in the Fifth Modification without installing the enhanced DSI system required by the Fifth Modification. *Id*. at D52-D53. Mr. Kerns testified that I&M had no discussion about adding the enhanced DSI system to the Rockport units prior to enhanced DSI being required by the Fifth Modification. *Id*. at D57.

In light of the evidence presented, we are unable to determine why I&M agreed to the Fifth Modification to the Consent Decree. I&M has provided shifting explanations for the Fifth Modification. Although it seemed initially to be required to secure an extension of the deadline to install an SCR system on Rockport 2 in light of the delay imposed by the lease litigation, I&M provided evidence in its cross-examination of Ms. Medine, that the federal court had already tolled that deadline until June 1, 2020.

I&M also testified that the Fifth Modification was necessary to take advantage of new emission control technologies. Mr. Kerns testified that the enhanced DSI system will be able to remove SO_2 more efficiently and economically than the currently installed DSI system, and would result in a lower variable operating cost to remove the same amount of SO_2. Tr. p. D53. However, there is no evidence to show whether such O&M savings support the capital costs to install the enhancements. This is especially true given I&M's current assumption that it will terminate the lease on Rockport Unit 2 in 3 years and will retire Rockport Unit 1 in 9 years. Further, while the evidence shows that the enhanced DSI would substantially lower the cost of environmental compliance at Rockport, all other things being equal, Mr. Kerns testified that the more stringent emission reduction requirements of the Fifth Modification will actually result in an $8 million (total company) increase in variable operating costs on top of the over $13 million (Indiana jurisdiction) capital investment to install the enhancements.

Even if we accept I&M's contention that the benefits of the enhanced DSI system justify its costs, I&M has not demonstrated why the Fifth Modification was necessary to allow it to install the DSI system or why it agreed to more stringent emission reduction requirements in return for being allowed to install a more efficient pollution control system. Accordingly, as discussed further below, we agree with Ms. Medine that based on the evidence presented, it is inexplicable why I&M voluntarily sought and agreed to the Fifth Modification, and we find that a Subdocket should be opened so that the Commission may receive evidence from all parties

regarding the propriety of the Fifth Modification, the reasonableness of the costs related to compliance with the Fifth Modification, and the extent to which such costs may be recovered through I&M's rates and charges.

8.F. Rockport.

1. I&M. Petitioner proposed to change depreciation accrual rates for steam production from 7.52% to 7.77%. The depreciable investment in steam production plant is for the Rockport Generation Plant, as shown in Attachment JAC-1. The estimated retirement date for Rockport Unit 1 is 2028, which is the same retirement date that was assumed for that unit for purposes of the depreciation rates approved in Cause No. 44967. The estimated retirement date for Rockport Unit 2 is 2022, which is the expiration of the lease agreement for that unit. *Id*., 8. The reason for the change in depreciation rates for steam production is the investment of $21.7 million in the Rockport plant since the last depreciation study. *Id.*

2. ICC. ICC witness Medine testified that I&M is proposing to change certain Rockport-related depreciation schedules, which align with its preferred case in its IRP. Medine Direct, p. 6. Ms. Medine noted, however, that I&M stated that the IRP and this case are two separate matters and that the petition in this case makes no mention of the IRP. *Id*. at 5-6. Ms. Medine also noted that I&M provided no evidence in this case to support the Rockport retirement dates, and that absent a justification of the retirement dates in this case, it would be inappropriate to adjust the depreciation schedules. *Id*. at 6.

3. Rebuttal. Mr. Cash testified that there was no change in the estimated useful life of the Rockport units in his depreciation study presented in this case. He reiterated that additional investment has been made to both Rockport units since the last depreciation study, and the depreciation rates need to be updated to reflect that additional investment. Cash Rebuttal, 4.

4. Discussion and Findings. In its May 30, 2018 Order in Cause No. 44967, the Commission approved a settlement agreement that included the following terms relevant to the Rockport Units: depreciate Rockport Unit 1 through 2028; depreciate the Rockport Unit 2 DSI project through 2025 or through the Unit 1 depreciation if the Unit 2 lease is not extended; depreciate all other Unit 2 plant through 2022. In its March 26, 2018 Order in Cause No. 44871, the Commission approved a 10-year depreciation period for the Unit 2 SCR project.

In these prior cases, the question of whether I&M would renew the lease on Rockport Unit 2, thus extending the operating life of the unit, has been left open. In its prefiled testimony in this case, including Mr. Cash's testimony regarding I&M's proposed depreciation rates, I&M now treats the expiration of the Unit 2 lease as a foregone conclusion. However, under cross-examination, Mr. Thomas stated that I&M continues to "explore options related to the Lease as we look forward …" tr., p. A-28; and that I&M is working through and doing its due diligence as to whether or not that makes sense *id*., p. A-31; that I&M has "made no decisions on Rockport Unit 2" *id*., p. A-71. In light of this testimony, we are not convinced that the expiration of the Unit 2 lease in 2022 is a certainty.

Possibly more concerning, Mr. Thomas testified on rebuttal, and reiterated upon cross-examination, that it would be inappropriate for the Commission to require I&M to reimburse

customers for any costs of the Unit 2 DSI Enhancement project. On cross-examination, he explained that such a requirement would be "premature and unreasonable" and that the issue would not be ripe until I&M makes a decision of what happens with Unit 2. *Id.* at A-70. Mr. Thomas also agreed on cross-examination that one benefit of the Fifth Modification is that no retirement condition was placed onto Rockport 2, so that as long as the enhanced DSI is installed on Rockport Unit 2 by the deadline in the Fifth Modification, the unit could continue to operate into the future. *Id*. at B-36.

There is no dispute regarding the change in steam production depreciation rates based on the additional investment that has been made since depreciation rates were last approved. However, in light of the evidence presented, we see no reason to definitively assume for the purposes of setting depreciation rates that the lease on Rockport Unit 2 will not be renewed in 2022. If, as Mr. Thomas testified, it would be premature and unreasonable to make such an assumption for the purposes of obligating I&M to refund certain funds it may receive at lease-end to customers, then it is equally unreasonable to accelerate I&M's recovery of depreciation on the same assumption. Therefore, we find that I&M shall continue to utilize the depreciation schedules approved in the 44967 and 44871 Orders, adjusted to include the additional investment that has been made since the effective date of those orders.

15.C.2. <u>Environmental Cost Recovery ("ECR") Rider</u>.

(a) <u>I&M</u>. Mr. Williamson proposed the ECR be used to track the consumables and net allowances costs I&M incurs in operating its generating assets for the benefit of its customers. Specifically, he proposed to embed the forecasted Test Year level of consumables and allowances costs in base rates of $21,785,467 (Total Company) and track any annual over/under variances in the ECR from the embedded level in base rates.

(b) <u>OUCC</u>.

The ICC accepts the OUCC's summary of its own evidence in this section.

(c) <u>ICC</u>. ICC witness Medine testified that typically test-year pollution-control consumables and emission allowances are embedded in base rates, but that I&M is proposing an ECR to track such expenses going forward. Medine Direct, p. 17. Ms. Medine stated that she does not object to the recovery of such costs in a rider provided that I&M does not include the costs in its offer price. *Id*. Ms. Medine testified that DSI has comparatively high operating costs compared to dry and wet scrubbers. *Id*. at 18. The inclusion of high operating costs in I&M's offer price suppresses generation from the Rockport units, which further disadvantages the units. She testified that lower utilization reduces plant efficiency, increases operating and maintenance costs, and increases wear and tear on the units. *Id*.

(d) <u>Rebuttal</u>. Messrs. Williamson and Kerns responded to the OUCC and ICC contentions and identified the numerous factors contributing to the uncertainty and volatility around future consumables and allowances costs. Williamson Rebuttal, 19-21; Kerns Rebuttal, 2-5. Mr. Kerns also responded to Ms. Medine's testimony and said I&M's PJM offer prices for Rockport in the wholesale power market should not be a basis for determining whether a cost reasonably and necessarily incurred to provide retail service is tracked or not through the prices

I&M charges for retail services. Kerns Rebuttal, 5. He said the Commission should not pre-define how I&M offers its power into PJM as doing so could increase the cost of generation for I&M's customers by eliminating I&M's ability to manage costs. Kerns Rebuttal, 5.

(e) Discussion and Findings. I&M's testimony shows that consumables and allowances expenses, much like fuel costs, vary considerably based on how much the Rockport units operate. Consumables expenses have varied historically, are projected to continue to vary significantly (both up and down) over time. I&M did not rebut Ms. Medine's testimony that DSI has relatively high operating costs versus wet and dry scrubbing, or that the relatively high variable costs have a negative impact on unit dispatch into the PJM market, or that low dispatch rates reduce plant efficiency, increase O&M costs, and increase wear and tear on the units.

I&M chose to install DSI systems, and now enhanced DSI systems, to avoid the larger initial capital cost of installing FGD systems on the Rockport units. However, although FGD systems have a higher initial capital cost, they have a much lower variable operating costs. Thus, if variable operating costs are included in the offer price for generation, then the installation of DSI systems rather than FGD systems can impair the dispatch rate of the units, which can lead to lower capacity factors, higher heat rates, increased wear and tear, and, ultimately, can lead to the need to retire a generation asset before the expected end of its useful life. The removal of variable consumables and allowance costs from dispatch serves to level the playing field, which can lead to improved plant performance. Therefore, we approve I&M's request to track consumables and allowances for the Rockport units through an ECR, provided that variable operating costs that are recovered through base rates or through the tracker are not included in the offer price for dispatch of the Rockport units.

16.A. ICC Investigation Request.

1. ICC. ICC witness Medine contended the Fifth Modification obligation arose out of AEP's failure to timely install SCR on Rockport Unit 2 and therefore the requirements of the Fifth Modification are more akin to a fine or penalty than a regulatory requirement. Medine Direct, pp. 4-5, 14. She requested the Commission (1) direct I&M to investigate options for keeping Rockport Unit 2 on line past 2028 when Rockport Unit 1 is required to be closed under the Fifth Modification, (2) direct I&M to calculate the incremental costs of compliance as a result of the Fifth Modification, and that (3) the Commission should determine what if any of these incremental costs should be recoverable. *Id*. at 5.

2. Rebuttal. Mr. Thomas said Ms. Medine's recommendations are based on her findings and statements that are simply wrong. Thomas Rebuttal, 26. He said there is absolutely no truth to Ms. Medine's assertion that "I&M admitted that the Fifth Modification to the Consent Decree was only necessary due to I&M's failure to timely install SCR on Rockport Unit 2." *Id.*, 26-27. He said the installation of the Rockport Unit 2 SCR is proceeding on track and is fully expected to be in operation by the time set forth in the Consent Decree. *Id.*, 27. He said while that deadline was extended by six months by agreement of the parties to allow negotiations to be completed, there has been no failure to timely install the Rockport Unit 2 SCR. Moreover, he said as supported by the testimony of Mr. McManus in Cause No. 43992 S1, the Consent Decree cannot be construed to be a penalty because "[t]he AEP Companies admitted no violations of law and all claims against them were released." Thomas Rebuttal, 27; Attachment TLT-1R. Mr.

Thomas stated I&M leases Rockport Unit 2 and a decision to retire Rockport Unit 2 will be made by the owners of the unit, not a lessee. Thomas Rebuttal, 27. He noted the Fifth Joint Modification does provide that optionality for the owners to exercise if they choose. He testified the appropriate forum to consider the resources to serve I&M's customers is through its periodic IRP process, not a general rate case. *Id.* He explained the ICC has participated in I&M's current IRP stakeholder process and may participate going forward as there will likely be three IRPs developed before Rockport Unit 1 will retire. He concluded there is no need for the Commission to order an investigation as part of this proceeding. *Id.*

3. Discussion and Findings. I&M asserts that AEP did not enter into the Fifth Modification as a result of its failure to timely install an SCR system on Rockport Unit 2. In its cross-examination of Ms. Medine, I&M offered into the record the federal court's order tolling the SCR deadline until June 1, 2020, and this order was issued prior to AEP seeking approval of a Fifth Modification. If this is true, we find no reasonable explanation in the evidence for why AEP sought approval of a Fifth Modification that imposed substantial additional conditions on I&M but seems to provide little to now benefit to the company or its customers.

According to AEP's filing seeking approval of a Fifth Modification, "All of the other obligations of the Third Modification have been satisfied." ESM-4, internal p. 8. Specifically, AEP asserted that, the DSI installations were completed at both Rockport Units in 2015 and SO_2 emissions have been maintained below the new tonnage caps. *Id*. Based on these assertions, it does not appear to us that the Fifth Modification was required to allow AEP to comply with the Third Modification to the Consent Decree. Rather, AEP asserted that the proposed Fifth Modification would "secure the same or greater emission reductions across the AEP system, sooner than otherwise required by the Consent Decree as modified through the Third Joint Modification." *Id*. at internal p. 4. Further, AEP asserted that the Fifth Modification would allow it to achieve the final Plant-Wide Tonnage limitation for SO_2 a full 8 years earlier that currently required and within the initial lease term for Rockport 2. *Id*. at internal p. 6.

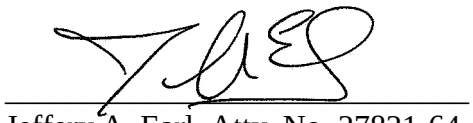
We are faced, then, with requests from I&M to approve the recovery of costs associated with the installation of enhanced DSI systems and the additional variable operating costs associated with more stringent emission reduction requirements that were not required by the Consent Decree until the Fifth Modification, which I&M voluntarily requested and in which I&M voluntarily agreed to install the enhanced DSI systems and voluntarily agreed to the more stringent emission reductions. I&M also requests approval to adjust depreciation rates based on its assertion that it will not renew the Rockport Unit 2 lease in 2022, while simultaneously testifying that it is still exploring the option to renew the lease. Possibly most concerning, as discussed above, I&M argues it should not be required to refund any end-of-lease funds it receives at the termination of the Rockport Unit 2 lease because such a requirement would be "premature and unreasonable" and that the issue would not be ripe until I&M makes a decision of what happens with Unit 2.

Considering this shifting, uncertain, and at times contrary evidence regarding the reasonableness of the Fifth Modification, the treatment of related costs and depreciation, the reasonableness of committing to the retirement of Rockport Unit 1, and the reasonableness of renewing or terminating the lease agreement for Rockport Unit 2, we find that the establishment of a Subdocket is necessary to further explore these issues. We instruct I&M to present evidence

regarding at least the following issues: the purpose for and necessity of the Fifth Modification, including the extent to which the Rockport Units were in compliance with the Third Modification with the tolled SCR deadline; the incremental capital and operating costs associated with the terms of the Fifth Modification, including the extent to which it is reasonable for I&M to recover such incremental costs from ratepayers; the lost opportunity cost to ratepayers caused by the requirement in the Fifth Modification to retire Rockport Unit 1 by 2028; and any options available to I&M to restore the option to operate Rockport Unit 2 past 2028. Any party to this Cause who wishes to intervene in the Subdocket may file a petition to intervene in the Subdocket, which will be granted by the Presiding Officers.

CERTIFICATE OF SERVICE

I certify that on December 3, 2019, this document was electronically filed with the Indiana Utility Regulatory Commission using the Electronic Filing System and was served electronically on the parties below.



Jeffery A. Earl, Atty. No. 27821-64

Teresa Morton Nyhart
Jeffrey M. Peabody
Barnes & Thornburg LLP
11 S. Meridian St.
Indianapolis, IN 46204
tnyhart@btlaw.com
jpeabody@btlaw.com

Matthew S. McKenzie
AMERICAN ELECTRIC POWER SERVICE CORP.
1 Riverside Plaza, 29thFloor
Columbus, OH 43215
msmckenzie@aep.com

Kurt J. Boehm
Jody Kyler Cohn
Boehm, Kurtz & Lowry
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202
kboehm@bkllawfirm.com
jkylercohn@bkllawfirm.com

Bette J. Dodd
Joseph P. Rompala
Lewis & Kappes, P.C.
One American Square, Suite 2500
Indianapolis, IN 46282
bdodd@lewis-kappes.com
jrompala@lewis-kappes.com

Robert K. Johnson
2454 Waldon Drive
Greenwood, IN 46143
rjohnson@utilitylaw.us

Randall C. Helmen
Lorraine Hitz-Bradley
Tiffany Murray
Office of the Utility Consumer Counselor
PNC Center
115 W. Washington St., Suite 1500 S
Indianapolis, IN 46204
rhelmen@oucc.in.gov
lhitzbradley@oucc.in.gov
timurray@oucc.in.gov
infomgt@oucc.in.gov

John P. Cook
John P. Cook & Associates
900 W. Jefferson Street
Franklin, Indiana 46131
john.cookassociates@earthlink.net

Kevin Higgins
ENERGY STRATEGIES, LLC
Parkside Towers,215 S. State St., Ste. 200
Salt Lake City, Utah 84111
khiggins@energystrat.com

Jennifer A. Washburn
Margo Tucker
Citizens Action Coalition
603 East Washington Street, Suite 502
Indianapolis, Indiana 46204
jwashburn@citact.org
mtucker@citact.org

Barry A. Naum
Spilman Thomas & Battle, PLLC
1100 Bent Creek Boulevard, Suite 101
Mechanicsburg, PA 17050
bnaum@spilmanlaw.com

Eric E. Kinder
Spilman Thomas & Battle, PLLC
300 Kanawha Boulevard East
P.O. Box 273
Charleston, WV 25321
ekinder@spilmanlaw.com

Anne E. Becker
Lewis & Kappes, P.C.
One American Square, Ste. 2500
Indianapolis, IN 46282
ABecker@Lewis-Kappes.com

Randolph G. Holt
Parr Richey
c/o Wabash Valley Power Alliance
6720 Intech Blvd.
Indianapolis, IN 46278
R_holt@wvpa.com

Jeremy L. Fetty
Liane K. Steffes
Parr Richey
251 N. Illinois Street, Suite 1800
Indianapolis, IN 46204
jfetty@parrlaw.com
lsteffes@parrlaw.com

Robert M. Glennon
Robert Glennon & Assoc., P.C.
3697 N. Co. Rd. 500 E.
Danville, IN 46122
robertglennonlaw@gmail.com

Mark W. Cooper
1449 N. College Avenue
Indianapolis, IN 46202
attymcooper@indy.rr.com

W. Erik Weber
Mefford Weber and Blythe
130 East Seventh Street
Auburn, IN 46706-1839
erik@lawmwb.com

Shaw R. Friedman
Friedman & Associates, P.C.
705 Lincolnway
LaPorte, IN 46350
sfriedman.associates@frontier.com

Kristina Kern Wheeler
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
kwheeler@boselaw.com

Nikki Shoultz
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
nshoultz@boselaw.com

Keith L. Beall
Beall & Beall
13238 Snow Owl Dr., Ste. A
Carmel, IN 46033
kbeall@indy.rr.com