

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ober	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE VERIFIED PETITION )  
 OF INDIANA MICHIGAN POWER COMPANY FOR )  
 APPROVAL OF DEMAND SIDE MANAGEMENT )  
 (DSM) PLAN, INCLUDING ENERGY EFFICIENCY )  
 (EE) PROGRAMS, AND ASSOCIATED )  
 ACCOUNTING AND RATEMAKING TREATMENT, )  
 INCLUDING TIMELY RECOVERY THROUGH )  
 I&M’S DSM/EE PROGRAM COST RIDER OF )  
 ASSOCIATED COSTS, INCLUDING PROGRAM )  
 OPERATING COSTS, NET LOST REVENUE, AND )  
 FINANCIAL INCENTIVES. )**

**CAUSE NO. 45285**

**APPROVED: FEB 3 2021**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Brad J. Pope, Administrative Law Judge**

On August 26, 2019, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. I&M also filed its Request for Administrative Notice as well as its direct testimony and attachments. On August 27, 2019, I&M filed its workpapers.

Citizens Action Coalition of Indiana, Inc. (“CAC”) and the City of South Bend, Indiana (“South Bend”) filed Motions to Intervene in this Cause, which were granted by docket entry.

The procedural schedule was established by Prehearing Conference Order dated October 29, 2019, following the October 4, 2019 Prehearing Conference and Preliminary Hearing.

On November 27, 2019, I&M, the Indiana Office of Utility Consumer Counselor (“OUCC”), and CAC filed a Joint Motion for Expedited Approval of Agreed Interim Relief (“Joint Motion”). In the Joint Motion, the parties requested that the Commission enter an Order granting I&M interim authority to continue offering its current portfolio of Demand Side Management (“DSM”)/Energy Efficiency (“EE”) programs and associated cost recovery as approved in Cause No. 44841, to be adjusted after a final Order is issued in this Cause. After holding an Evidentiary Hearing on December 16, 2019, the Commission issued its December 27, 2019 Interim Order granting the relief requested in the Joint Motion and authorizing I&M on an interim basis to continue offering its current DSM programs and recovering the associated costs as approved in Cause No. 44841 until the Commission issues a final Order in this Cause.

On January 31, 2020, the OUCC and South Bend filed their respective testimony and attachments. On February 3, 2020, CAC filed its testimony and attachments, and on February 4, 2020, CAC filed its workpapers.

The OUCC filed corrections to John E. Haselden's testimony on February 10, 2020. CAC filed corrections to Dan Mellinger's testimony on February 17, 2020, and Anna Sommer's testimony on February 27, 2020.

On March 2, 2020, I&M filed its rebuttal testimony, attachments, and workpapers. Also on March 2, 2020, the OUCC submitted cross-answering testimony of John E. Haselden, CAC submitted cross-answering testimony and workpapers of Anna Sommer, and South Bend submitted cross-answering testimony of Theodore Sommer and William Seelye.

On March 13, 2020, I&M filed revisions to the rebuttal testimony of Jon C. Walter.

On May 18, 2020, the Presiding Officers issued a docket entry requesting additional information from I&M, to which I&M responded on May 26, 2020.

On May 28, 2020, South Bend filed corrections to Mr. Sommer's and Mr. Seelye's respective testimonies.

On May 29, 2020, the Presiding Officers issued a second docket entry requesting information from I&M, to which I&M responded on June 5, 2020. On June 15, 2020, CAC filed their Notice of Correction to I&M's response.

On June 5, 2020, CAC filed a Notice of Correction to I&M's May 26, 2020 submission. I&M responded to CAC's Notice on June 10, 2020, and CAC replied to I&M's response on June 15, 2020.

On June 9, 2020, the Presiding Officers issued a third docket entry requesting additional information from I&M, to which I&M responded on June 15, 2020. CAC filed their Notice of Correction to I&M's submission on July 7, 2020.

On July 28, 2020, I&M filed a Joint Motion for leave to submit settlement agreements and related relief on behalf of itself, the OUCC and South Bend. The Presiding Officers granted leave to file the settlement agreements by docket entry dated July 30, 2020.

On August 3, 2020, I&M submitted the Stipulation and Settlement Agreement between the OUCC and I&M ("OUCC-I&M Settlement") and the Stipulation and Settlement Agreement between South Bend and I&M ("South Bend-I&M Settlement").

On August 4, 2020, the Presiding Officers modified the procedural schedule establishing dates for settlement testimony, responsive testimony, and rebuttal testimony. The modified procedural schedule continued the Evidentiary Hearing to October 9, 2020 and October 15, 2020.

On August 24, 2020, I&M filed its settlement testimony, attachments, and workpapers. Also on August 24, 2020, the OUCC and South Bend filed their testimony in support of the respective settlement agreements.

On September 15, 2020, CAC filed testimony in opposition to the OUCC-I&M Settlement. CAC filed its workpapers on September 17, 2020. Corrections to CAC's testimony in opposition were filed on September 21, 2020, and September 23, 2020.

On September 25, 2020, I&M and the OUCC filed their respective settlement rebuttal testimony and workpapers.

The Presiding Officers issued a docket entry requesting additional information from I&M on October 1, 2020, to which I&M responded on October 5, 2020.

On October 14, 2020, I&M filed a correction to Mr. Walter's settlement testimony. Also on October 14, 2020, CAC filed several stipulations of facts and evidence in lieu of cross-examination of OUCC and I&M witnesses.

The Commission set this matter for an Evidentiary Hearing to be held at 9:30 a.m. on October 9, 2020, and at 9:30 a.m. on October 15, 2020, in Room 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. A Docket Entry was issued on October 7, 2020, continuing the hearing scheduled for October 9, 2020, to October 15, 2020, and advising that in accordance with Indiana Governor Holcomb's Executive Orders concerning the COVID-19 pandemic, the hearing would be conducted via video conference. At the hearing, I&M, the OUCC, CAC, and South Bend appeared by counsel, and the parties' respective exhibits were admitted into evidence without objection. Following the hearing, proposed orders and briefs were filed in accordance with an agreed-upon post-hearing briefing schedule.

Based upon the applicable law and evidence presented, the Commission now finds:

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published as required by law. I&M is a "public utility" under Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1, and an "electricity supplier" pursuant to Ind. Code ch. 8-1-8.5. Under Ind. Code §§ 8-1-2-4, -42, -68, -69, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8, the Commission has jurisdiction over I&M's DSM/EE program offerings and associated cost recovery. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

**2. Petitioner's Characteristics.** I&M, a wholly-owned subsidiary of American Electric Power Company, Inc., is a corporation organized and existing under the laws of the State of Indiana, with its principal office located at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M renders electric utility service in the State of Indiana, and owns and operates plant and equipment within the state that are used for the generation, transmission, delivery, and furnishing of electric utility service to the public.

**3. Relief Requested.** In its Petition, I&M requested Commission approval of a DSM Plan for the three-calendar-year period of 2020 through 2022. As a practical matter, I&M's 2020 DSM/EE programs reflected a continuation of its previous plan, pursuant to the interim authority to continue such programs granted by the Commission's December 27, 2019 Interim Order. As further discussed below, the DSM Plan includes EE goals and demand savings goals; a portfolio of EE programs and other DSM Programs designed to achieve the EE goals and demand savings goals; program budgets and program costs; and procedures for independent Evaluation, Measurement, and Verification ("EM&V"). The goals and supporting programs were modified by the OUCC-I&M Settlement and the South Bend-I&M Settlement.

As discussed below, the DSM Plan cost recovery proposal includes a request for continued accounting and ratemaking procedures to recover costs through I&M's DSM/EE Program Cost

Rider (“DSM Rider”), including the direct costs (including EM&V) and indirect costs of the EE and DSM programs, net lost revenue, and shared savings financial incentive as approved in Cause No. 44486. I&M requested continued authority to defer the over and under recoveries of projected DSM/EE Program costs through the DSM Rider pending reconciliation in subsequent rider periods. As such, the DSM Rider factors would include a component associated with the DSM Rider Plan and a component reflecting the DSM Rider Reconciliation.

#### **4. Evidence.**

##### **A. I&M’s Evidence.**

1. DSM Plan. Jon C. Walter, Manager of Regulatory Support for I&M, presented I&M’s proposed 2020-2022 DSM Plan. He explained the DSM Plan programs, goals, budgets, and costs and discussed the demand and energy impact of and cost/benefit analysis for the DSM Plan. He also explained how the DSM Plan is consistent with the Market Potential Study (“MPS”), as updated to reflect certain market changes as well as I&M’s most recent Integrated Resource Plan (“IRP”).

G. Scott Fisher, Resource Planning Manager for American Electric Power Service Corporation (“AEPSC”), presented the IRP modeling and results and discussed the IRP’s use as a planning tool. He explained that I&M’s Preferred Plan was the least-cost plan for I&M’s customers selected by the model that met I&M’s capacity obligations over a 20-year period. Mr. Fisher testified that lower avoided costs were a key driver in the IRP model. He explained that as such, the model selected less energy savings compared to the prior IRP.

Mr. Walter testified I&M’s three-year DSM Plan contains offerings to all customer classes, including low-income customers. He stated that the proposed DSM Plan continues many of the programs previously approved by the Commission and discussed each program and specific program revisions included within the DSM Plan.

Mr. Walter explained that I&M performed the standard Utility Cost Test (“UCT”), Total Resource Cost (“TRC”) test, Ratepayer Impact Measure (“RIM”) test, and Participant test to assess the cost-effectiveness of its DSM Plan portfolio. He described the tests and summarized the benefit cost scoring in Attachment JCW-6. He noted that I&M’s DSM Plan portfolio is cost effective from a UCT perspective with a score of 1.46.

Mr. Walter also discussed program implementation, EM&V, large customer opt outs, and I&M’s plans for stakeholder input. He stated that I&M will continue to use an independent EM&V evaluator to perform a process and impact evaluation for each year of the plan. He stated that I&M is requesting to implement the same stakeholder input and Oversight Board approved by the Commission as part of the settlement in Cause No. 44841.

2. Accounting and Ratemaking Treatment. Bryan S. Owens, Regulatory Analysis & Case Manager for I&M, explained I&M’s proposed accounting and ratemaking for the DSM Plan. He testified that I&M was seeking approval of associated cost recovery through I&M’s existing DSM/EE Rider, including recovery of direct and indirect costs of the DSM/EE programs, EM&V costs, reasonable net lost revenue, and shared savings. He also testified I&M was seeking continued authority to defer the over and under recovery of DSM/EE

program costs through the DSM Rider pending reconciliation in subsequent rider periods, consistent with current practice.

Mr. Owens testified the revenue requirement is the sum of program costs, net lost revenues, shared savings, and gross revenue conversion factor costs (“GRCF”) associated with the three-year plan period. He explained that I&M’s requested DSM/EE Rider revenue requirement and rates would be modified to reset net lost revenue to \$0 and remove Electric Energy Consumption Optimization (“EECO”) costs recovered through base rates when new base rates are implemented as a result of Cause No. 45235.

Theresa A. Caudill, Regulatory Consultant in Regulated Pricing and Analysis at AEPSC, supported the customer class revenue allocation and rate design associated with recovery of the costs of I&M’s proposed DSM Plan through the DSM Rider. She provided the calculation of I&M’s proposed DSM Rider factors for each year of the three-year plan and the resulting rate impacts on I&M customers. She and Mr. Owens supported a revision to I&M’s current commercial and industrial (“C&I”) cost allocation methodology, which is based on the number of customers within each class, to one based on the relative amount of C&I customer class demand (kW) and energy (kWh). Mr. Owens stated this revision would more proportionately allocate costs among small and large C&I customers. Mr. Owens and Ms. Caudill both testified this proposal is consistent with I&M’s proposal in Cause No. 43827 DSM 9, I&M’s last DSM reconciliation case.

3. Lost Revenues. Mr. Owens testified that I&M is requesting to recover net lost revenues associated with the lost fixed cost recovery over the full life of measures installed. He stated that I&M’s proposal will ensure recovery of costs previously approved as reasonable and necessary, provide the opportunity to earn a reasonable return, and not disadvantage DSM/EE opportunities over supply-side options. Mr. Walter presented the projected net lost revenues for each year of the DSM Plan and testified that I&M’s net lost revenue methodology is the same methodology authorized by the Commission in prior DSM filings.

4. Shared Savings. Mr. Owens testified that shared savings is a reasonable and necessary component of the overall ratemaking package associated with DSM/EE programs to ensure the DSM/EE programs are not disincentivized when compared to supply-side options. Mr. Walter testified that the approach to shared savings remains the same as that approved by the Commission in the settlement agreement in Cause No. 44841. Specifically, he said shared savings would be earned at 15% of 90% of each sector’s total net benefits, subject to a cap of 15% of program operating costs.

**B. OUCC**. John Haselden, Senior Utility Analyst in the OUCC’s Electric Division, testified that no residential programs were selected by the IRP model as part of the Preferred Portfolio, and that only one residential program was estimated to be cost effective. He recommended that the Commission deny approval of the proposed programs that are not cost-effective, except for the Income Qualified Weatherproofing Program. He noted the programs could be offered for a limited duration with concurrent evaluation activities and scaled-back budgets.

Mr. Haselden discussed the IRP process, the selection of economic DSM resources, and the cost-effectiveness analysis that is applied to individual programs. He testified I&M should discount the avoided capacity cost attributed to DSM programs in the cost-effectiveness analyses

until the year of avoided supply-side capacity additions and that such an approach was needed to comply with the definition of the UCT provided in the California Standard Practice Manual.

Lastly, Mr. Haselden addressed I&M's proposed use of the shared savings formula approved in Cause No. 44841 and recommended that the Commission change the formula by reducing the use of 15% of the net present value ("NPV") of the UCT to 10% of the NPV of the UCT in order to align I&M's shared savings calculation with other electric utilities in Indiana. He stated that shared savings were calculated using estimated energy savings without a true-up mechanism. Mr. Haselden proposed a new financial incentive that would utilize an "enhanced [Return on Equity]" on the foregone supply-side investment, discounted to the year the DSM measures are deployed.

Caleb Loveman, Utility Analyst in the OUCC's Electric Division, addressed I&M's proposed DSM Plan component factors to be billed through the DSM/EE Rider. He testified that he reviewed I&M's calculation and found no irregularities. However, he recommended the Commission make adjustments: (1) for the DSM 9 reconciliation component of the factors that were approved after I&M filed its case; and (2) for Mr. Haselden's proposed adjustments to deny certain programs and change the shared savings methodology. Mr. Loveman also testified in support of I&M's proposal to modify its C&I cost allocation methodology.

C. **CAC.** Dan Mellinger, Principal at Energy Futures Group, testified that the savings from I&M's proposed DSM Plan are unreasonable because they are lower than historical EE/DSM savings and lower than those achieved by other electric utilities. He stated I&M's MPS, completed in 2016, did not reflect more recent experience, alternative program designs, or current and emerging technologies and that the proposed DSM Plan will reduce nearly all programs relative to 2017-2019 actuals. He also expressed concern with the MPS vendor and past data integrity issues, the lack of consideration of savings from emerging technology or alternative program designs, and the absence of EECO savings from the MPS, which therefore should not be included in the DSM Plan. He added that MSPs are inherently conservative, citing 40 EE potential studies completed between 2009 and 2013 in multiple states.

With respect to I&M's proposed DSM programs, Mr. Mellinger testified that it is unreasonable for I&M to claim incremental annual savings from previously deployed EECO equipment, but that I&M could include EECO savings resulting from improved equipment performance. He also recommended several new measures, program designs, and customer engagement strategies to achieve greater levels of energy savings. Mr. Mellinger disputed that I&M's baseline standard for measuring residential lighting savings was appropriate. He also testified that EECO savings from prior deployments should not be included in the shared savings calculation and expressed concern that shared savings are based on program operating costs rather than EE/DSM savings achieved.

Anna Sommer, Principal at Energy Futures Group, identified concerns with I&M's IRP and testified that I&M's IRP does not provide an optimal balance of energy resources. Ms. Sommer testified that I&M's degradation model causes EE potential to look smaller than it is. She stated that naturally occurring EE and free ridership are already netted out of the MPS and, therefore, degradation double-adjusts for these factors. Ms. Sommers provided an example of how savings

are actually modeled in PLEXOS<sup>1</sup> and concluded that while the near-term differences are relatively small, over the life of the bundles, Petitioner's methodology results in 25% fewer savings actually modeled. Ms. Sommer testified that DSM measure savings must be converted to "undegraded" savings for the DSM Plan to be consistent with the IRP.

Ms. Sommer also explained that if the EE bundles were accurately characterized, it would imply that no residential efficiency programs should be implemented whatsoever. Instead, I&M's proposal would achieve about a third of the savings through residential measure. She concluded that this is a clear indication that EE was not accurately characterized in I&M's modeling and the MPS from which those bundles were derived is fatally flawed as described in Dan Mellinger's testimony. Finally, she disputed I&M's claim that that EE bundles in IRP modeling are proxies for actual DSM programs that produce total EE savings consistent with the IRP. She stated that the DSM Plan is inconsistent with the savings level actually picked by PLEXOS and concluded that I&M cannot demonstrate that its DSM Plan is consistent and comparable with its IRP.

**D. South Bend.** William Seelye testified that I&M is proposing two changes to its Public Efficient Streetlighting ("PES") Program: (1) eliminating the upfront customer contribution; and (2) setting the monthly PES rates equal to the rates for high pressure sodium ("HPS"), mercury vapor ("MV"), and incandescent lights with similar lumens. He recommended lower PES rates but agreed with I&M's proposal to eliminate the upfront municipal customer contribution to replace I&M-owned streetlights with efficient LED lighting. He recommended that I&M reduce the monthly PES charge to reflect lower maintenance expenses and energy cost savings from LED lights. He testified that the current monthly rates for HPS, MV, and incandescent lights, on which I&M proposed PES Program are based, would unfairly overstate PES LED operation & maintenance ("O&M") and energy costs based on I&M's most recent cost of service study presented in Cause No. 45235. He testified the proposed PES rates do not provide adequate financial incentive for municipalities to take on mass LED conversion and do not provide the needed period of rate certainty. He noted that there are streetlight photocells available that last 15 or more years rather than the five-year life of those I&M proposes to use in its PES Program.

Ted Sommer, a Partner with the Firm of LWG CPAs and Advisors, supported I&M's PES retrofit cost in the DSM/EE Rider so long as it is matched with reasonable monthly PES streetlight rates for LEDs. He testified the proposed PES rates should be reduced to South Bend's proposed rates to reflect LED's lower energy and O&M costs and to promote municipal participation in PES. He detailed the public safety and economic development benefits and the reduced emissions attributable to energy-saving LED streetlighting. He testified all I&M's customers benefit from the safety, economic, and environmental improvements provided by LED streetlight retrofits.

Mr. Sommer stated that non-profit municipalities, with very limited budgets, strive to maintain and improve their diverse public services, thus making municipalities unique among I&M's customers. He explained that the savings from lower PES LED rates will be used to meet the municipality's diverse public services. Mr. Sommer stated the monthly rates proposed by I&M need to be adjusted downward to reflect lower LED operating costs and energy use. He explained I&M's PES rates are essentially the same rates for current old technology lights and fail to reflect the much longer lives, much lower maintenance costs of LEDs with modern photocells and the

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<sup>1</sup> I&M's IRP modeling program.

increased LED durability against fixture damage. He pointed out a recent Vectren South 30-day LED filing that reflects a 75% LED decrease in O&M costs relative to HPS O&M costs. He also stated LED streetlights use about 70% less energy than old HPS lights.

**E. I&M's Rebuttal.**

1. DSM Programs. Mr. Walter responded to certain matters raised by witnesses for the OUCC and CAC. He explained the overall level of savings proposed was reasonable, given the output of the IRP analysis and the current landscape for energy supply for I&M, as a member of PJM Interconnection LLC. He testified that residential lighting savings is less competitive than in years past due to market transformation, energy savings baseline changes, and lower avoided costs. He also testified that comparisons to other utilities ignore important differences such as avoided supply cost markets (e.g., PJM versus Midcontinent Independent System Operator). He explained a comparison to I&M's projected savings in Michigan is inappropriate because Michigan EE savings are set at 1% of sales, regardless of whether that is the solution modeled by the IRP. Mr. Walter stated that if the Commission wanted to consider comparative performance, dollars per energy saved would be a better metric, and I&M has performed quite well – ranking in the 21st percentile.

Mr. Walter explained that, although no residential programs were selected by the IRP, offering residential programs is appropriate because the proposed DSM portfolio as a whole is cost effective. He testified the DSM Plan was consistent with the IRP because the three-year average energy savings produced by the plan would be within 0.03% of the savings selected by the IRP for the Preferred Plan. He also described the efforts I&M had made to improve the cost-effectiveness of the residential programs.

Mr. Walter testified I&M's presentation of DSM Plan costs, which excludes lost revenues and shareholder incentives, is consistent with Ind. Code § 8-1-8.5-10(g). He also testified I&M's avoided capacity cost assumptions were consistent with 170 IAC 7, and that it should not be "zero" when I&M is long on capacity. He also defended I&M's calculation of shared savings.

Mr. Walter responded to Mr. Mellinger's assertion that the cost of EE modeled in the IRP was higher than I&M's past experience by noting that the cost assumptions in the IRP include overhead, while the past costs cited by Mr. Mellinger do not. He explained that Mr. Mellinger had incorrectly compared IRP measure levelized cost inputs to the IRP with the cost outputs from the IRP that had been screened for cost-effectiveness. He demonstrated the impact of residential lighting baseline changes on the cost of those measures on a cents per kWh basis. He explained that even if it was appropriate to use historical costs, the IRP would not have selected additional EE resources.

Mr. Walter explained why it was appropriate to include new savings from deployed EECO technology, and that lost revenues associated with EECO do adhere to the three-year cap ordered by the Commission. Mr. Walter explained I&M's overall DSM strategy and responded to individual recommendations made by Mr. Mellinger, stating the proposed plan includes new technologies and new delivery channels, captures savings from strategic energy management, and that I&M modeled various measures Mr. Mellinger said were missing. He also discussed difficulties associated with mid-stream program models. Mr. Walter testified it would not be



reasonable to reflect Mr. Mellinger's recommended changes to the residential lighting program, because those changes do not reflect the dramatic market transformation to LED lighting that has already occurred. Regarding the PES Program, Mr. Walter testified actual savings achieved will depend on the participant customer's choice of fixture size and whether the tariff rate is acceptable to the customer.

David Roush, Managing Director – Regulated Pricing and Analysis for AEPSC, testified the proposed LED rebate was reasonable because it covered the incremental cost of an LED fixture as compared to a comparable HPS fixture, thus managing the costs of the program to be borne by other customer classes. Mr. Roush explained the non-rebate portion of the LED capital costs will place upward pressure on streetlighting rates, but that the potential O&M and energy savings will place downward pressure on streetlighting rates. These opposite pressures led to I&M's PES program rate proposal. He testified that Mr. Seelye's rate subsidy concern was being addressed in Cause No. 45235. He also explained the percentage of O&M savings is not as low as Mr. Seelye indicated, and stated I&M's assumed hours of operation was reasonable.

2. Market Potential Study. Mr. Walter addressed several of Mr. Mellinger's concerns with the MPS. He testified the MPS is not "outdated" because I&M adjusted it prior to IRP modeling. He stated that the most significant update revised the annual savings forecast and baseline life for savings persistence for residential lighting. He stated the measures Mr. Mellinger testified were omitted from the MPS were in fact included. He explained the proposed DSM Plan is not heavily reliant on EECO or behavior savings. He testified differences in MPS results do not demonstrate that I&M's MPS was flawed; rather it demonstrates that differences in inputs reflecting service territory, demographics, customer usage profiles, and avoided cost structure can create large differences in savings estimates across different utilities.

Andrew Cottrell, Managing Director at Applied Energy Group ("AEG"), responded to Mr. Mellinger regarding the reasonableness of I&M's MPS. He stated that AEG independently analyzed the EE market potential for I&M's Indiana service territory and worked with I&M to develop the IRP EE bundles. He testified that to ensure the 2016 study's relevance for the 2018-19 IRP, the results were modified to accommodate specific changed assumptions.

Mr. Cottrell explained the data integrity issues to which Mr. Mellinger testified are not supported by the report Mr. Mellinger cites. He explained the criticisms included in the report address studies performed for utilities with different service territories, under different circumstances, by a different AEG project team, and thus have no relevance to the I&M MPS.

Mr. Cottrell testified that MPS studies in general are not conservative, and AEG developed a well-tested, proven, and valid approach to conducting such studies in many jurisdictions. He explained that the actual I&M results achieved in 2017 through 2019 align with the market potential estimated by the 2016 MPS, demonstrating the reasonableness of the MPS results. He stated that comparisons to EE savings in other MPSs are insufficient to demonstrate that I&M's MPS is conservative, as each utility has different market characteristics that must be modeled. With respect to comparisons to Massachusetts, Mr. Cottrell presented the large DSM annual budgets and policy considerations that support high EE savings in that state. He testified that measures Mr. Mellinger identified as missing were included in various places within the MPS and explained that it was appropriate to exclude "early retirement measures." He testified the MPS

accounts for shifting costs and savings over time; the MPS is agnostic to program design; and penetration rates were developed using market research results.

3. IRP and Load Forecasting. Mr. Fisher testified that I&M's Preferred Plan modeled by the IRP is balanced in both the near-term and long-term, and produced a reasonable, economic level of EE resources to be added over the planning period. He stated a key driver of the model's selection of less DSM savings as compared to prior IRPs is the impact from lower avoided costs at this time – not flaws in the inputs or modeling. He testified that for the year 2020, there is a 26% decrease in the forecasted avoided energy cost as compared to the 2015 IRP and that for the year 2022, that comparison grows to a 46% decrease in avoided energy costs.

Mr. Fisher testified that reasonable, simplifying assumptions were used such as applying either a 10- or 15-year measure life rather than using the weighted average measure life of each EE bundle, and estimating EE bundle savings on an annual basis. He testified one such assumption – rounding savings to the nearest 1,000 MWh – had the effect of including an additional 2,600 MWh of available potential as compared to the MPS. He testified the lack of residential bundles selected by the model did not demonstrate a flaw in modeling but demonstrates that other resources available to the model provide greater customer benefits. He also explained that all resources modeled in the IRP are proxies, as compared to the DSM Plan, which is a shorter duration and a commitment to deploy particular programs. In response to CAC's IRP modeling criticisms, Mr. Fisher testified those criticisms would have minimal impact on the resources selected in the various cases considered over the planning period.

Chad Burnett, Director of Economic Forecasting for AEPSC, responded to the testimony of Ms. Sommer regarding the load forecast and AEPSC's use of degradation to remove the double counting of EE savings already reflected in the load forecast. He testified that I&M's load forecast methodology is proven to produce accurate and reliable projections and is the same methodology accepted by the Commission in various regulatory proceedings. Mr. Burnett stated each of I&M's load forecasts over the past decade has been within 0.8% of actual results experienced through the first six years of the forecast.

Mr. Burnett explained that “degradation” refers to I&M's process to adjust its load forecast to avoid double counting EE savings already reflected in the load forecast, and that this concept is well-recognized. He stated that I&M uses Itron's Statistically Adjusted End-Use (“SAE”) models for long-term planning, and those initial forecasts already include the effects of market and industry efficiency standards. He stated that if I&M were to then subtract from the forecast gross (undegraded) DSM savings, it would be double counting the EE impact already in the load forecast. The result would be understated long-term load projections and capacity requirements. He stated this load forecasting approach has been used by I&M since 2010 and noted that other utilities make similar adjustments.

Mr. Burnett disagreed with Ms. Sommer's residential water heating example of how customers invest in efficiency. She stated that if a customer participates in a program and purchases a new water heater with a rebate, the customer is either a free rider or they are not. Savings either persist – unchanged – for the entirety of the water heater life, or they are zero. Mr. Burnett testified that he believes her assumptions do not accurately describe how SAE models account for EE because her example should account for declining consumption already included in the load

forecast. He stated that naturally occurring EE savings netted from the MPS reflect forecasted impacts of codes and standards at the time, whereas I&M's SAE models are updated annually to capture the latest projections and results from appliance saturation surveys. He also testified the IRP modeling inputs are measure level inputs and do not reflect a smaller net-to-gross adjustment than the degradation factor impact as Ms. Sommer suggested. Mr. Burnett testified, that for these reasons, the MPS does not already net out the factors addressed by the degradation adjustment to the load forecast.

4. Shared Savings. Mr. Owens responded to Mr. Haselden's recommendation to replace the current shared savings mechanism with one more directly related to the lost opportunity to invest in supply-side resources. He testified the existing shared savings mechanism has worked well to incentivize the delivery of cost-effective EE and DSM programs, and that the current mechanism links the magnitude of the reward with delivery of cost-effective programs based on the UCT score. He testified that the proposed alternative would be imprecise and would overlook the impact of other economic factors on the timing of supply-side resources. Mr. Owens stated that Mr. Haselden's recommended approach, which excludes energy savings, is not consistent with the definition of "avoided cost" found in 170 IAC 4-7-1. In response to Mr. Haselden's testimony that there is no true-up mechanism, Mr. Owens testified that I&M proposes to continue its DSM reconciliation mechanism, which reconciles forecasted costs and energy savings with the EM&V of actual costs and energy savings.

5. Cross-Answering Testimony. Mr. Haselden responded to CAC witness Mellinger's testimony regarding residential lighting. He stated that the OUCC disagrees with Mr. Mellinger's conclusion that halogen general service lamps ("GSL") should be considered the baseline with which LED energy savings should be compared, explaining Mr. Mellinger's conclusion relies on fluctuating federal standards and on the notion that a legal mandate is necessary to change a baseline when it has not already been voluntarily changed. He stated that Mr. Mellinger ignores the transformation that is occurring in the market. He stated the average customer is fully capable of making an informed economic choice to purchase LED lighting, regardless of what federal lighting standards might require. Mr. Haselden discussed the results of an August 2019 study reporting changes in pricing, market share, and retail shelf stocking trends since 2012 for LED, compact fluorescent lamp ("CFL"), halogen, and incandescent lighting. He said the primary take-away in that report regarding GSL is that the total market share of LEDs continues to grow rapidly, while prices have decreased significantly. In contrast, CFLs are almost gone from retail shelves. He said this reflects trends anyone can observe in retail stores in Indiana as well, and testified he personally observed the continuation of these trends, including the pricing of LED GSLs, now equal to or less than halogen GSLs. He testified that the OUCC agreed with I&M's decision to phase out incentives for LED GSLs and noted other Indiana utilities are similarly acknowledging the market transformation taking place.

South Bend witness Sommer testified that the OUCC did not oppose PES approval and explained Section 10 does not necessarily preclude DSM programs whose cost effectiveness scores are below that which is considered cost effective. He stated that the use of EE streetlighting benefits all users of the public right-of-way and has the benefits of additional safety, more directed lighting, and cost savings. He added these benefits should more than balance out cost effectiveness concerns.

Responding to Mr. Mellinger's testimony, Mr. Sommer noted that I&M expressed a willingness to allow PES participants to use lower wattage LEDs if desired and stated this could lead to additional savings above I&M's projection for the PES Program. South Bend witness Seelye similarly noted the potential for additional savings if I&M were to use lower lumen LED fixtures. He noted this would require interaction between I&M and its customers to ensure the municipality is getting the light fixtures that best matches safety, security, needs, and preferences of its citizens. He noted that in discovery, I&M seemed open to the potential for a more flexible approach and recommended I&M allow municipal customers to choose from the LED fixtures offered by I&M. He testified that based on the DSM scorecards of other utilities, I&M's DSM Plan as filed is not adequate and not fully consistent with energy savings opportunities.

Mr. Seelye testified that he agreed with Mr. Mellinger's assessment of greater energy savings opportunities under PES by making lower lumen output LEDs available. He provided details on LED lower lumen output fixtures that I&M could include in its LED streetlight portfolio. He explained that customer / I&M interaction and LED selection flexibility by I&M will be needed to ensure the municipality is getting the LED lights that best match the safety, security, and citizen preferences of different locations.

**6. Overview of Settlement Agreements and Supporting Testimony.** The OUCC-I&M Settlement and the South Bend-I&M Settlement are attached to this Order and are incorporated by reference. CAC has not joined in either settlement. We summarize the testimony supporting and opposing the two settlement agreements below.

**A. OUCC-I&M Settlement.**

1. **DSM Plan Revisions.** In their supporting testimony, Mr. Walter and Mr. Haselden summarized the OUCC-I&M Settlement and concluded that it is reasonable and in the public interest. Mr. Walter testified that the OUCC-I&M Settlement improved all cost-benefit test scores. Regarding customer rate impact, he testified the OUCC-I&M Settlement improved the RIM cost-effectiveness score by about 2% as compared to the originally proposed DSM Plan. He stated that in addition to resolving concerns raised by the OUCC, and even though CAC did not join, he deems that several of CAC's concerns are addressed by the OUCC-I&M Settlement.

Mr. Walter explained that Section 1.A.1 modifies I&M's residential programs as compared to those filed in the proposed DSM Plan, presenting a reasonable compromise between the OUCC's desire to eliminate programs that are not cost-effective individually and I&M's desire to continue providing a robust set of DSM/EE opportunities to its customers. Mr. Haselden testified it was reasonable to terminate non-cost-effective programs, to modify the Home Energy Products (appliances component) program, and to continue offering the Income Qualified Weatherization program. Mr. Walter stated that Section 1.A.2 obligates the OUCC and I&M to work collaboratively to educate customers as to why certain programs will be concluded.

Mr. Walter testified Section 1.A.3 clarifies that all of the C&I programs and remaining residential programs not discussed in the OUCC-I&M Settlement will be implemented as proposed by I&M, and provides for a cost-effective budgetary increase in the C&I sector to compensate for residential EE savings lost due to the concluded programs. He explained the resulting DSM portfolio savings remain consistent with the IRP results and maintain a similar overall cost to the

original DSM Plan budget. He also explained the DSM plan as modified by the OUCC-I&M Settlement has an improved UCT cost-effectiveness score of 1.43.

Mr. Walter testified Section 1.A.4 authorizes the OSB to pursue additional, reasonably achievable, cost-effective energy savings above the OUCC-I&M Settlement targets by using spending flexibility (up to an additional 10% of the direct program operating budget) and carryover authority (funds remaining from 2020). Specifically, OSB members may work together to identify additional savings of approximately 0.2% of eligible retail sales. He stated this provision is responsive to CAC's desire for I&M to pursue additional EE savings. Section 1.A.5 allows the OSB to use I&M's next MPS as a source for these additional potential savings.

Mr. Walter explained that the remainder of Section 1.A confirms the continuation of timely cost recovery through the DSM/EE rider, the authority to defer over- and under- recovery balances, an independent EM&V process, and that resulting program budgets, costs, and DSM/EE goals will be approved as proposed. He also provided the revised costs, DSM Rider revenue requirements, program budgets, energy savings goals, and cost effectiveness scores. These revisions reflect updated retail energy sales and revenue forecasts to reflect the impact of COVID-19.

Mr. Walter testified Section 1.B of the OUCC-I&M Settlement presents the agreement to maintain the lost revenues cap approved in Cause No. 44841 and specifies that the net lost realization rate will be calculated from the order issued in Cause No. 45235. Section 1.C presents the agreement to modify the manner in which shared savings are calculated which endeavors to address a concern raised by the OUCC, by reducing the NPV of UCT input from 15% to 10% and by removing forecasted carbon taxes from the avoided cost estimates. Mr. Haselden testified a carbon tax is not modeled to occur during the DSM Plan's three-year life. Mr. Walter noted this term also endeavors to address a concern expressed by CAC witness Mellinger by creating a lower cap on potential shared savings.

Mr. Walter testified Section 1.D requires I&M to perform a review at the close of each calendar year to ensure C&I customers who receive a Work Custom Program incentive remain in business and their rebated measures persist. He explained that this type of review is reasonable given the economic impacts of COVID-19. Section 1.E states that all other matters will be adopted as filed by I&M and sets forth the OUCC's position that it does not object to the South Bend-I&M Settlement.

Mr. Walter explained I&M's current implementation of its DSM programs and the impact of COVID-19. He stated I&M has taken steps to alter program approaches and incentive levels to improve participation, in collaboration with the OSB. He stated uncertainty remains regarding how long the impacts of COVID-10 will last.

Mr. Walter added that, in attempting to address CAC witness concerns, the OUCC-I&M Settlement includes agreement for a mid-stream delivery pilot as urged by Mr. Mellinger, an expansion of the Income Qualified participant cap levels, and additional OSB engagement.

2. Consistency with IRP. Mr. Walter testified the revised EE savings resulting from the OUCC-I&M Settlement are consistent with the IRP in each of the three years of the DSM Plan. The revised savings exceed the IRP EE levels by 0.1%, 0.01% and 0.03% in

2020, 2021, and 2022 respectively. Mr. Fisher testified in support of the continued use of I&M's IRP. He stated the IURC Director's Draft Report identified no material concerns or issues with the IRP but rather identified "Future Enhancements" that I&M intends to work through with stakeholders to improve the next IRP.

Mr. Fisher testified that current avoided energy costs are even lower than the energy cost forecasts used in the IRP, which demonstrates that CAC's proposal to increase EE goals above those selected by the IRP is unreasonable. Mr. Burnett presented an updated load forecast due to the COVID-19 recession. He testified that the drop in I&M's projected load not only makes it more difficult to achieve incremental DSM/EE savings but also reduces the need for additional DSM/EE savings. He stated I&M's updated load forecast for 2020 is 5.9% lower than what was included in the IRP, and the 2021 and 2022 load forecasts are 4.8% lower and 2.3% lower than what was included in the IRP, respectively.

Mr. Fisher stated that I&M had not refreshed its IRP for lower avoided energy costs or a lower load forecast caused by COVID-19, but that it is reasonable to expect the IRP model would select a reduced level of resources, including EE, to meet a reduced load obligation. Mr. Burnett testified that when one considers these factors, in his opinion, the OUCC-I&M Settlement strikes a reasonable balance that serves the public interest.

3. Rate-making and Bill Impacts. Mr. Owens presented the revised revenue requirement for the DSM Plan years reflecting the two Settlement Agreements and the implementation of new base rates in Cause No. 45235. He testified the revised annual revenue requirements including gross revenue conversion factor costs total \$44,505,713 over the three-year plan period. Owens Settlement Direct at 5. Mr. Roush presented the revised DSM/EE Program Cost Rider factors that would result from the Settlement Agreements. He testified the typical residential monthly bill would be reduced by approximately 1.1% upon approval.

**B. South Bend-I&M Settlement.** Mr. Walter, Mr. Roush, and Ms. Dorau testified in support of the South Bend-I&M Settlement. Mr. Walter stated South Bend's number of I&M-owned streetlights significantly exceeds that of other municipalities served by I&M, supporting a customer-specific solution. Mr. Roush stated that South Bend represents approximately 30% of all I&M-owned streetlights in Indiana. He said I&M requested approval of the associated Streetlight Contract between I&M and South Bend for administrative efficiency.

Mr. Roush summarized the terms of the South Bend-I&M Settlement. He testified the Streetlight Contract provides rate certainty by fixing the base price for a period of five years, and South Bend will remain subject to all changes in riders and surcharges. He explained the DSM rebates that reduce streetlight rate base will be reflected only in the design of PES LED rates in future proceedings but not other streetlighting rates. He stated the parties' agreement clarifies the flexibility for South Bend to choose replacement LED lamps, and that at South Bend's election, I&M will install longer-life photocells, which will allow I&M to validate the negotiated lower maintenance assumption. Lastly, Mr. Roush testified the agreement requires I&M to make a 30-day filing to establish new LED rates for the installation of new lamps on existing poles.

Mr. Walter stated Section I.3 makes clear that South Bend may choose different wattage and lumen outputs than those recommended by I&M, which is consistent with I&M's position that

it will work with all PES participants to determine the desired replacement fixture size. I&M will work with South Bend to determine the cost-effectiveness of the fixtures South Bend selects. Mr. Walter testified he deems this provision also addresses a concern raised by Mr. Mellinger.

Ms. Dorau, Director of Sustainability for South Bend, testified that the Streetlight Contract results from collaboration, negotiation, and its integrated basis is the South Bend-I&M Settlement. She testified that South Bend's concerns have been: (1) streetlights subsidize other rate classes; (2) current lights are obsolete, energy wasteful, and provide inferior vision; and (3) the prior retrofit program was too costly and failed to reflect O&M and energy savings. She also noted PES failed to provide the rate certainty needed for municipal commitment to I&M LED retrofit. She stated that streetlight rates were adjusted in Cause No. 45235, reducing the subsidy. She testified the South Bend-I&M Settlement and Streetlight Contract: (1) provide South Bend five years of price certainty for contract renegotiation or extension; (2) require I&M to continue to allocate the PES rebate credits to those streetlights that were installed under the PES Program; (3) provide increased flexibility in selecting the LEDs and lumen output fixtures that best match municipal needs; (4) require I&M to separately record actual PES streetlight O&M and provide a reasonably accurate estimate of PES O&M and O&M savings at its next rate case and prior to the time for South Bend's contract extension meeting; (5) allow for a longer life photocell; and (6) propose a new subcategory of lighting – an Uplift or No Pole Rate.

Mr. Roush testified the South Bend-I&M Settlement benefits South Bend, I&M's other retail customers, and the public generally by supporting South Bend's conversion to LED technology.

C. CAC. CAC offered the testimony of Mr. Mellinger, Ms. Sommer, and Brian Horii, Senior Partner with Energy and Environmental Economics, Inc., opposing approval of the OUCC-I&M Settlement.

Mr. Mellinger testified the proposed DSM/EE savings from the OUCC-I&M Settlement are inadequate when compared to I&M's recent DSM/EE results and other Indiana utilities. He disagreed that I&M's evidence supports its claim that the residential lighting market has been transformed. He stated Department of Energy Saturation data demonstrates that halogen products remain a relevant baseline in competition with LED sales.

Mr. Mellinger disagreed with I&M's discussion of COVID-19 impacts to current program performance. He stated I&M's program management during the first few months of the year had a bigger impact on program performance. He stated the EECO, PES, and Home Energy Reports ("HER") are the programs most under I&M's control and are all lagging in performance. Regarding C&I programs, Mr. Mellinger testified a likely cause of the lower performance is I&M's incentive reductions made in 2019 and maintained into 2020.

In response to the increased C&I incentives included in the OUCC-I&M Settlement, Mr. Mellinger testified this approach would overpay for measures already experiencing strong adoption and that it reflected incentive "mismanagement." He testified there was no basis for the increased adoption of measures through the Work Prescriptive Program.

Mr. Mellinger expressed concerns with the market disruption that may occur as a result of the OUCC-I&M Settlement. He estimated there are more than 5,000 jobs directly or indirectly associated with the programs slated for closure. He also stated the changes to C&I incentives would have supply chain ramifications and erode trust with distributors and contractors.

Mr. Mellinger reiterated his concerns with the vintage of the MPS and stated that a similar concern was expressed in the Director's Draft Report. He recommended that I&M continue offering its current DSM programs under the interim authority until the results of the next MPS. Regarding the PES Program, Mr. Mellinger agreed his concerns are addressed in the South Bend-I&M Settlement but recommended I&M revise its default LED replacement plans for other municipal customers.

Ms. Sommer recommended the Commission reject the OUCC-I&M Settlement and require I&M to continue offering its current DSM programs until I&M's next MPS is published and next IRP is completed in November 2021. She also recommended any program changes be subject to a unanimous OSB vote.

Ms. Sommer testified that I&M had not justified its degradation approach. She stated I&M had not provided any quantitative basis for its degradation factors and that the qualitative rationale was changing and conflicting. She stated I&M was double counting naturally occurring savings and free ridership because they are already accounted for in I&M's MPS and in its application of net-to-gross ratios for EE bundles. Ms. Sommer testified that 58% of savings were eliminated from I&M's IRP model for largely unexplained reasons. She also testified the impact of degradation on modeling of EE is greatly outsized compared to its impact on I&M's load forecast. Ms. Sommer disputed that I&M adjusted the IRP savings to arrive at undegraded savings for the DSM Plan.

Ms. Sommer reiterated her position that the MPS and IRP are out of date. She stated the same reasons litigation of I&M's IRP was concluded in Michigan should apply to this Indiana DSM case. In response to Mr. Burnett's testimony on the impacts of COVID-19, she disagreed that a drop in projected load would make it more difficult to achieve DSM/EE savings.

Mr. Horii provided testimony summarizing methods that could be used to calculate avoided costs for EE/DSM programs. He testified it would be reasonable to include avoided generation capacity costs in all years, that a distribution capacity avoided cost that is broadly applied to all EE should be calculated and included, and that it is reasonable to include a carbon emissions avoided cost even absent a defined carbon tax or cap and trade regime.

#### **D. Settling Parties' Rebuttal.**

1. OUCC-I&M Settlement. Ms. Dona Seger-Lawson, Director Regulatory Services, provided testimony in response to CAC. She stated CAC's witnesses oppose the OUCC-I&M Settlement on several fronts and take inconsistent positions to support higher DSM/EE savings. She testified comparisons to historical savings are irrelevant because the cost-effective amount of DSM for customers will be based on current facts and analytical inputs. She stated that I&M's updated 2016 MPS and 2018-19 IRP represent the best, most robust analysis of DSM that can be cost-effectively added to I&M's system. She testified continuing existing DSM programs, as Mr. Mellinger and Ms. Sommer recommend, would be based on an IRP from 2015



that does not reflect current conditions. She also stated Mr. Mellinger's concerns for market disruption and challenges to program partners and trade allies is not an appropriate basis to reject the OUCC-I&M Settlement. Lastly, she testified that while the IRP did not need to continue to be litigated for long-term decision-making in Michigan, it was appropriate to continue to rely on it for the three-year DSM Plan.

Mr. Walter responded to Mr. Mellinger's criticisms of I&M's program management. He explained that reductions to C&I incentives in 2019 were appropriate to respond to decreasing cost-effectiveness, and that the OSB, including CAC's consultant at the time, did not oppose those changes. With respect to the increase in C&I incentives reflected in the OUCC-I&M Settlement, he testified that market conditions have changed as a result of COVID-19 and lighting measures are being emphasized because they are most convenient for small, medium, and large customers to install. He stated the rebate was increased to cover incremental measure cost and some portion of labor costs, and it does not reflect an overpayment. Mr. Walter testified the settlement's focus on C&I lighting rebates and rebates for other measures in the C&I Prescriptive and Custom programs aligns with the programs that are not doing well during COVID-19. He also stated Mr. Mellinger overstates I&M's control over the PES, EECO, and HER programs.

Regarding Mr. Mellinger's recommendation that I&M continue existing programs, Mr. Walter testified that using prior years as the basis in which to justify what is being done in future years, especially in light of the significant change that has occurred, is not appropriate and would not satisfy the statutory criteria. He explained this recommendation was contrary to the governing statute in Section 10, which directs EE to be based on the IRP. Further, the OSB's role is to provide oversight or program implementation only, not program or portfolio design. Lastly, Mr. Walter testified Ms. Sommer's recommendation to require unanimous OSB vote on program changes would significantly alter the OSB governance structure.

In response to Ms. Sommer, Mr. Fisher emphasized the effect of I&M's degradation adjustment for EE is not the driver of the IRP results; rather, the levels of EE selected by the IRP and included in the DSM Plan are primarily driven by lower avoided costs. He testified the IRP's degradation approach was the same as that used in the 2015 IRP and as a result, any difference in the level of EE selected in the current IRP cannot be the result of the degradation adjustment. He stated the selection of cost-effective resources by the IRP, incorporating degradation, aligned with the cost-effectiveness determinations of the independent evaluator, which used undegraded data – demonstrating the use of degradation did not have the impact Ms. Sommer claimed. Mr. Fisher testified that I&M cannot simply rely on Ms. Sommer's weighted average resource costs for resource planning but should rely on the IRP process and capacity expansion model.

Mr. Fisher responded to Ms. Sommer's statement that over the life of the bundles, I&M's methodology results in 25% fewer savings in the IRP model. He explained the difference between the MPS and IRP is only 1% over the 2020-2022 DSM Plan timeframe, and only 12% over the lifetime potential. He also explained the EE savings provided for the DSM Plan are undegraded.

Mr. Burnett responded to Ms. Sommer's discussion of degradation in load forecasting. He explained that I&M's use of degradation is important for load forecasting but is inconsequential to the DSM Plan selected or the OUCC-I&M Settlement. He testified that the MPS is a static document and does not reflect the assumptions included in the load forecast that is updated at least

annually. He summarized the stakeholder meetings and data responses in which degradation was explained. He stated the effects of degradation are not already accounted for in the effective useful life assumptions, the net-to-gross ratio, or the baseline efficiency assumptions because the IRP uses measure level values. He testified that if I&M were to not make the degradation adjustment at only subtract gross savings estimates for utility-sponsored DSM programs, the load forecast used in the IRP would be understated and less DSM savings would be selected. Mr. Burnett testified I&M's degradation approach is: (1) consistent with the developers recommendations; (2) consistent with how other utilities in the industry are modeling EE; (3) has proven to produce accurate and reliable results; and (4) described by Dr. Borum in the Director's Draft Report as "well done."

Mr. Fisher responded to Mr. Horii's testimony stating that Mr. Horii addressed modeling concerns in general, rather than the specific settlement agreements filed for approval in this case. He testified the IRP already conceptually reflects avoided generation capacity in each year. With respect to avoided distribution costs, Mr. Fisher agreed it is possible to calculate such costs but testified such costs would not be financially material. He also testified that avoided greenhouse gas emission costs were fully reflected in the IRP, and that such costs were only removed from the shared savings calculation in the OUCC-I&M Settlement.

2. South Bend-I&M Settlement. Mr. Walter provided testimony responding to Mr. Mellinger's concern with the PES Program that would be made available to customers other than South Bend. Mr. Walter clarified that any participating customer would have the ability to choose their desired size / lumen output of streetlight fixture, and this flexibility may resolve Mr. Mellinger's concerns.

7. Discussion and Commission Findings. The Settling Parties seek Commission approval of the OUCC-I&M Settlement and the South Bend-I&M Settlement. Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Any Commission decision, ruling, or order – including approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Ind., Inc. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement Agreements, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the OUCC-I&M Settlement and the South Bend-I&M Settlement are reasonable, just, and consistent with the purpose of the governing statute and that such agreements serve the public interest.

Indiana law strongly favors settlement as a means of resolving contested proceedings. *See, e.g., Georgos v. Jackson*, 790 N.E.2d 448, 453 (Ind. 2003) ("Indiana strongly favors settlement agreements."); *Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) ("The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes.") (citation omitted). A settlement agreement "may be adopted as a resolution *on the*

*merits*, if [the Commission] makes an independent finding supported by substantial evidence on the record as a whole that the proposal will establish just and reasonable rates.” *Mobil Oil Corp. v. Fed. Power Comm’n*, 417 U.S. 283, 314 (1974) (emphasis in original) (internal quotation marks omitted); *see also, e.g., Indianapolis Power & Light Co.*, Cause No. 39938 (IURC Aug. 24, 1995) (quoting *Mobil Oil Corp.*, 417 U.S. at 314).

While our decision is based on the entire record, the foregoing summary of the evidence facilitates our consideration.

In 2015, the Indiana Legislature enacted Section 10 establishing that:

Beginning not later than calendar year 2017, and not less than one (1) time every three (3) years, an electricity supplier shall petition the commission for approval of a plan that includes:

- (1) energy efficiency goals;
- (2) energy efficiency programs to achieve the energy efficiency goals;
- (3) program budgets and program costs; and
- (4) evaluation, measurement, and verification procedures that must include independent evaluation, measurement, and verification.

Section 10(h). Once such a plan has been submitted, the Commission is required to consider the following ten factors enumerated in Section 10(j) to determine the overall reasonableness of the proposed plan:

- (1) Projected changes in customer consumption of electricity resulting from the implementation of the plan.
- (2) A cost and benefit analysis of the plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan.
- (3) Whether the plan is consistent with the following:
  - (A) The state energy analysis developed by the commission under section 3 of this chapter.
  - (B) The electricity supplier’s most recent long-range integrated resource plan submitted to the commission.
- (4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the energy efficiency programs included in the plan, including the alignment of the procedures with applicable environmental regulations, including federal regulations concerning credits for emission reductions.
- (5) Any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of an energy efficiency program or from the overall design of a plan.

(6) Comments provided by customers, customer representatives, the office of utility consumer counselor, and other stakeholders concerning the adequacy and reasonableness of the plan, including alternative or additional means to achieve energy efficiency in the electricity supplier's service territory.

(7) The effect, or potential effect, in both the long term and the short term, of the plan on the electric rates and bills of customers that participate in energy efficiency programs compared to the electric rates and bills of customers that do not participate in energy efficiency programs.

(8) The lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier.

(9) The electricity supplier's current integrated resource plan and the underlying resource assessment.

(10) Any other information the commission considers necessary.

After making its determination of overall reasonableness, Sections 10(k), (l), and (m) establish three possible actions the Commission may take concerning the proposed plan.

Given this background, we begin by considering the request for approval of the DSM Plan agreed to in the OUCC-I&M Settlement under Section 10.

**A. Section 10 – Presentation of a Plan.** The evidence is uncontroverted that I&M is an electricity supplier as defined by Section 10(a) and that it has made a submission under Section 10(h) seeking approval of a proposed plan. I&M's Petition initiating this Cause set forth the elements required to satisfy Section 10(h). I&M witness Jon C. Walter presented the DSM Plan including programs, goals, budget, and costs as modified by the OUCC-I&M Settlement and summarized the proposed plan in Tables 1S and 2S. The reasonableness of a plan submitted under Section 10(h) must be addressed by the Commission in accordance with Section 10(j). Accordingly, we analyze the issues raised in determining the reasonableness of the DSM Plan under Section 10(j) below. We begin by addressing the four elements of the proposed DSM Plan:

1. EE Goals. Section 10(c) defines "energy efficiency goals" as:

All energy efficiency produced by cost effective plans that are:

- (1) reasonably achievable;
- (2) consistent with an electricity supplier's integrated resource plan; and
- (3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

While the Settling Parties agreed to approval of the DSM Plan as modified by the OUCC-I&M Settlement, CAC opposed it. CAC argued that the DSM Plan does not meet the definitional requirements of EE goals, Section 10 (c)(2) and (3) in particular. CAC recommended that the Commission reject the OUCC-I&M Settlement and require I&M to continue offering its existing DSM program portfolio at the levels consistent with the interim authority until an updated MPS is published and the IRP is completed in November 2021 in collaboration with I&M's interested stakeholders and OSB. CAC recommended that any program changes in the interim that are

supported by the 2021 MPS should be determined by unanimous vote of I&M's OSB. As discussed below, we conclude the DSM Plan includes EE goals as defined by Section 10(c).

a. Reasonably Achievable. Overall, the DSM Plan as modified by the OUCC-I&M Settlement provides for energy savings consistent with the IRP. Mr. Walter testified the likelihood of achieving the goals of the EE programs is good but added there is uncertainty for how long the effects of COVID-19 will last, the extent in which economic conditions will recover and return to prior levels, and the availability of large energy savings projects that have previously contributed toward program success. Mr. Burnett discussed the impact of COVID-19 on I&M's load forecast and testified the drop in I&M's projected load not only makes it that much more difficult to achieve incremental DSM/EE savings but also changes the need for additional DSM/EE savings given the lower capacity and energy obligation. Mr. Fisher explained that if I&M's load forecast is lower, one would expect total resources in the IRP to also be lower.

CAC witness Sommer noted the impact of COVID-19 on I&M's load forecast is different across sectors and stated that I&M is forecasting an increase in residential load. She argued the forecasted decline in sales is driven largely by the decline in the industrial sector, which undermines the suggestion that EE savings will be more difficult to achieve. Mr. Mellinger agreed that COVID-19 has affected the DSM programs but not to the extent suggested by I&M. He contended I&M's management of its DSM programs bears much of the responsibility for lower levels of DSM savings achieved in 2020.

There is no dispute that COVID-19 has impacted I&M's service territory. The evidence shows that I&M is now forecasting a lower overall load obligation, which decreases the need for additional resources, including EE. The evidence also shows COVID-19 impacted DSM program performance in 2020, although the parties disagree to the extent of that impact. With respect to CAC's contentions regarding the impact of COVID-19 on program performance, the record shows I&M acted in good faith, appropriately engaged and sought feedback from the OSB prior to taking any action, and used almost three years of program and measure history to evaluate program conditions and make adjustments. We conclude I&M reasonably managed its programs based on the information known to it and the OSB at the time the decisions were made. Finally, as further discussed below, the OUCC-I&M Settlement provides flexibility for the OSB to consider additional, reasonably achievable cost-effective EE savings (as market conditions warrant), using spending flexibility, and carryover authority. We find this is a reasonable approach to address the impact of COVID-19 on achievement of the EE goals.

Accordingly, the Commission finds the goals in the OUCC-I&M Settlement are reasonably achievable.

b. Consistency with IRP. The OUCC-I&M Settlement provides for a DSM Plan with a three-year average energy savings goal of 0.49% of I&M Indiana retail sales. As shown below, this is consistent with the 0.44% average identified in I&M's 2018-19 IRP:

Table 3S

<b>IRP Versus DSM Plan Summary</b>		
	<b>IRP Savings (% of I&amp;M IN Retail Sales)</b>	<b>DSM Plan Savings (% of I&amp;M IN Retail Sales)</b>
<b>2020</b>	0.47%	0.57%
<b>2021</b>	0.46%	0.47%
<b>2022</b>	0.40%	0.43%
<b>3 Year Average</b>	<b>0.44%</b>	<b>0.49%</b>

Walter Settlement at 12; also, Attachment JCW-5S (DSM Plan Goals Versus IRP Summary). I&M’s IRP did not select additional DSM and EE resources beyond 0.44% of I&M’s Indiana retail sales as a reasonable least-cost option for I&M’s customers for the program years covered in the DSM Plan. Mr. Walter and Mr. Fisher provided testimony in support of the DSM Plan development being consistent with the IRP and the DSM Plan goals being consistent with the 2016 MPS. Mr. Walter explained that during the IRP development, I&M worked with its MPS vendor to update the MPS.

Mr. Mellinger and Ms. Sommer testified the OUCC-I&M Settlement is inconsistent with I&M’s 2018-19 IRP. Ms. Sommer argued the OUCC-I&M Settlement is inconsistent with the IRP because: (1) there is no adjustment to remove degradation; and (2) the mix of savings selected versus savings picked is entirely different between the IRP and the DSM Plan.<sup>2</sup>

CAC argued that I&M’s DSM Plan, as modified by the OUCC-I&M Settlement, is not consistent with the IRP, in part, because I&M’s IRP optimization model selected zero residential bundles. CAC contends that if I&M accurately characterized EE bundles, then I&M should implement no residential EE programs. Instead, the DSM Plan is designed to achieve significant energy savings with residential customer programs.

In analyzing whether the DSM Plan is consistent with I&M’s most recent IRP, we focus on whether the DSM Plan can depend on attributing a significant portion of the total portfolio savings to residential programs when zero residential programs were selected by the IRP optimization process. I&M emphasizes that the Commission has always evaluated the cost-effectiveness of the EE portfolio instead of relying on the cost-effectiveness of each individual program.

The Commission concurs with the observation by I&M witness Fisher that “while EE bundles are proxy resources they are based on [I&M’s] MPS; they align with the retail customer classes; they align with the load shapes within the retail customer class; and they provide a cost and savings level that provides the IRP model over 29 different EE options over a 25-year planning

<sup>2</sup> CAC’s discussion of degradation relates to the issue of resource portfolio optimality since CAC argues the use of degradation causes EE to be under selected in the IRP optimization process.

horizon. Ultimately, the EE bundles provide insight into the development of [I&M's] proposed DSM Plan." Fisher Rebuttal, pages 9-10.

CAC witness Sommer argues that the bundles selected in the IRP do not align with retail customer classes or the DSM Plan, which warrants rejection of the DSM Plan. We note the Commission previously rejected this argument in I&M's last DSM Plan case. There, the Commission explained that "Section 10 requires the DSM Plan be consistent with, not the same as the IRP." *Re Ind. Mich. Power Co.*, Cause No. 44841 at 22 (IURC 9/20/2017). "Unlike, the DSM Plan, the IRP is a planning document, not an implementation plan. Thus, the results can differ between the IRP and the DSM Plan because the processes and methodologies used to develop the results differ between the IRP and the DSM Plan." *Id.* Further, the goal of an IRP is to present potential resource portfolios that may evolve, accounting for risks under multiple scenarios. The IRP resource portfolios are not intended to be prescriptive; rather they reflect the mix of resources likely to be used. *Re Indianapolis Power & Light Co.*, Cause No. 44945 at 33 (IURC Feb. 7, 2018). In rebuttal, Mr. Fisher explained the fact that the IRP modeling results do not include certain resource classes does not imply that the resource is unreasonable or flawed but instead shows that other resources provide a better solution for the customer (*i.e.*, are more cost-effective). We find that I&M's DSM Plan appropriately reflects the level of cost-effective EE selected in the IRP.

We find CAC's contentions do not demonstrate that I&M's DSM Plan is inconsistent with the IRP. Accordingly, we find the DSM Plan is consistent with I&M's 2018-19 IRP.

c. Optimal Balance. An integrated resource evaluation is undertaken to determine the optimal means to meet the future need for electricity, which includes an assessment of least-cost planning. *See* Ind. Code ch. 8-1-8.5. The Commission has previously defined "least-cost planning" as a "planning approach which will find the set of options most likely to provide utility services at the lowest cost once appropriate service and reliability levels are determined." *PSI Energy, Inc.*, Cause No. 42145, at 4 (IURC Dec. 19, 2002) (quoting *S. Ind. Gas & Elec. Co.*, Cause No. 38738, at 5 (IURC Oct. 25, 1989)). The Commission has "emphasized that the [CPCN] statute does not require the utility to automatically select the least cost alternative. Nor does the statute require the utility to ignore its obligation to provide reliable service or to disregard its exercise of reasonable judgment as to how best to meet its obligation to serve." *Id.* As the Commission has previously ruled: "[i]f an Indiana utility reasonably considers and evaluates the statutorily required options for providing reliable, efficient, and economic service, then the utility should, in recognition that it bears the service obligations of Ind. Code § 8-1-2-4, be given some discretion to exercise its reasonable judgment in selecting the option or options to implement which minimize the cost of providing such service." *PSI Energy, Inc.*, Cause No. 39175, at 14 (IURC May 13, 1992); *PSI Energy, Inc.*, Cause No. 42145, at 4. Consistent with this guidance, we consider CAC's contention that the DSM Plan does not provide an optimal balance of energy resources in I&M's service territory.

The record reflects substantial disagreement between CAC and I&M as to the need for, and appropriateness of, I&M's degradation adjustment. At the outset, we note that there is general agreement as to the need for some sort of adjustment to avoid "double counting" EE, as indicated in Mr. Burnett's Settlement rebuttal testimony and Ms. Sommer Settlement testimony. The Director's Draft Report on I&M's IRP also recognized the potential for double counting and states

it “must be addressed and there are only so many ways of doing this, none of which is ideal or demonstrably superior....” Sommer Settlement, Attachment AS-1 at 14. As explained below, we conclude that I&M’s use of degradation is reasonable and, more importantly, does not materially impact the level of EE selected in the IRP and proposed in the DSM Plan.

Mr. Fisher and Mr. Burnett testified in settlement rebuttal that I&M’s use of degradation, while important for load forecasting, is inconsequential to the level of EE selected in the IRP or reflected in the DSM Plan. Rather, the primary driver for the level of EE selected in the IRP is the lower forecasted avoided costs.

Ms. Sommer’s testimony did not dispute the significant decrease in avoided costs but suggested I&M is undercounting avoided costs, citing Mr. Horii’s testimony. We note Mr. Horii’s testimony, however, makes no specific recommendations regarding I&M’s IRP or DSM Plan, nor does he propose any specific adjustments to the DSM/EE savings targets supported by the OUCC-I&M Settlement. We find Mr. Horii’s testimony does not demonstrate that the forecasted avoided costs in I&M’s IRP are unreasonable, or that the avoided costs are not the primary driver for the level of EE selected in the IRP.

Ms. Sommer contended that I&M’s degradation approach was unnecessary because the factors it was intended to capture (*e.g.*, market adoption rates, operational efficiencies, net-to-gross savings, *etc.*) are already accounted for in the MPS. Mr. Fisher testified in settlement rebuttal that the degradation approach used in the current IRP is the same as that used in I&M’s 2015 IRP, which informed the levels of EE in I&M’s existing DSM Plan. Since the degradation approach is unchanged, we agree with I&M that any difference in the level of EE selected in the most recent IRP cannot be a result of the degradation adjustment. This conclusion is reinforced by our consideration of the two separate analyses performed by I&M, one with the degradation adjustment and one without, that support each study’s results. Mr. Fisher testified that in both evaluations, C&I EE measures were determined to be the more cost-effective EE resources. We find that two separate evaluations providing very similar results with and without degradation further supports the reasonable conclusion that lower avoided costs, not degradation, are the primary driver for the lower EE levels included in the proposed DSM Plan.

Were the Commission to accept CAC’s position regarding degradation, the result would be that the load forecast used in the IRP optimization would be understated. While Ms. Sommer argued the degradation adjustments to the load forecast were “modest,” Mr. Burnett’s settlement rebuttal counters that this contention is flawed because it only looks at the first year of the load forecast, rather than the full forecast time horizon. If the DSM savings estimates were not degraded before subtracting the impact from its load forecast, the result would have been a much lower load forecast that would have consistently under-forecast I&M’s actual load obligation. Burnett Settlement Rebuttal at 3-4, Figure CMB-1SR. This would, in turn, bias the load forecast used in the IRP optimization, resulting in less DSM savings being selected in the IRP optimization. If we accept CAC’s arguments regarding degradation, the result would be a lower level of EE savings than proposed under the OUCC-I&M Settlement.

The Commission acknowledges that lower avoided costs is the primary reason less EE is included in the preferred portfolio based on the IRP optimization compared to I&M’s previous DSM Plan. As I&M witness Fisher noted in his settlement direct and rebuttal testimony, the around



the clock (“ATC”) energy prices from the 2015 IRP are significantly higher than for the 2018-19 IRP. For 2020, the 2015 ATC was \$38.20 /MWh, and the 2019 forecasted ATC was \$28.07/MWh – a difference of over \$10/MWh or approximately 26%. This difference increases to approximately 46% for 2022. The main drivers of lower ATC energy prices are lower natural gas price expectations, a change in carbon price assumption, and lower load forecasts. Since the IRP methodology used by I&M is essentially the same that was used in the 2015 IRP, the primary driver of lower levels of EE is a forecast of lower avoided energy costs in the PJM market.

I&M witness Burnett testified that I&M updated its load forecast as a result of the COVID-19 recession to demonstrate how I&M’s projected load obligation has changed from that which was used in its 2019 IRP. On page 2 of his testimony, he stated, “The drop in I&M’s projected load not only makes it that much more difficult to achieve incremental DSM/EE savings but also changes the need for additional DSM/EE savings given the lower capacity and energy obligation.” He further stated that I&M has not fully recovered from the 2008 Great Recession. Mr. Burnett concluded that if I&M were to refresh its IRP to reflect the new lower load forecast coupled with the continuing low PJM energy costs, the refreshed IRP would show a reduction to the amount of DSM/EE that could be pursued cost-effectively.

The Commission acknowledges the sharp disagreement between I&M and CAC regarding the impact of I&M’s degradation adjustment on the selection of DSM as a resource. Long-term resource planning by necessity depends on numerous assumptions, data, and policy judgments. As expected in a rapidly changing and complex world, numerous assumptions and data inputs changed between the 2015 IRP and the 2019 IRP. Nevertheless, one aspect of I&M’s IRPs did not change – the use of the degradation factor in adjusting the load forecast. As such, the significant cause for the change in the DSM/EE programs selected in the 2018-19 IRP was necessarily driven by other factors. As discussed above, the primary driver of these changes is the significantly lower projection of avoided energy and capacity costs in the PJM market.

Long-term resource planning in a rapidly changing technology and economic utility environment involves accounting for a large degree of uncertainty. With this in mind and given the considerations above, emphasizing the critical impact of lower avoided costs in the PJM market and the likely impact of a lower load forecast on resource obligations, the Commission concludes that the DSM Plan is the result of a process designed to achieve an optimal balance of energy resources in I&M’s service territory.

We find that the DSM Plan as modified by the OUCC-I&M Settlement includes EE goals and provides for EE that is reasonably achievable, consistent with I&M’s IRP, and reasonably designed to achieve an optimal balance of energy resources over time.

2. EE Programs. As provided in the OUCC-I&M Settlement, I&M’s DSM Plan contains residential and C&I programs designed to achieve the specified EE goals. The proposed portfolio reflects I&M’s DSM program experience, customer feedback, evaluation results, and I&M’s utility system characteristics.

Mr. Walter testified regarding the elimination of the Lighting component of the Home Energy Products Program, the Home Appliance Recycling Program, and the Home Energy Engagement Program, all on December 31, 2020. He stated eliminating these programs is a

reasonable compromise between the OUCC's desire to eliminate any individual program that is not cost-effective and I&M's plan to continue providing a robust set of DSM/EE opportunities to its residential customers that – while not cost-effective in isolation – are included within a DSM/EE portfolio of programs that is cost effective overall.

Mr. Walter testified the Appliances component of the Home Energy Products Program will continue with no modification to the way non-HVAC measures are offered. However, HVAC measures will be implemented through a mid-stream delivery pilot, with a target launch date of March 2021 and a conclusion date of December 31, 2022. Mr. Haselden testified that this change is the result of the OUCC's and I&M's belief that a mid-stream appliance program could be a cost-effective EE program and provide additional energy savings. He further noted that CAC witness Mellinger recommended that I&M pursue a mid-stream program similar in concept to this one.

Mr. Walter also discussed changes proposed for the Income Qualified Weatherproofing Program to recognize the impact of COVID-19 and to position the OSB to explore ways to improve the reach of this program. Mr. Haselden testified there are societal benefits associated with this program that warrant its continued inclusion in I&M's DSM portfolio and that the program has long been a means for lower income customers to participate in EE programs that otherwise would be cost prohibitive to them.

CAC witness Sommer recommended the Commission reject the OUCC-I&M Settlement and require I&M to continue offering its existing DSM program portfolio at the levels consistent with the interim authority until an updated MPS is published and the IRP in November 2021 is completed. Mr. Mellinger further objected to the elimination of the lighting measures from the Home Energy Products Program and recommended changes to the PES Program. He also raised concerns regarding the proposed C&I incentives as well as potential market disruption resulting from program changes proposed in the OUCC-I&M Settlement.

Addressing CAC's objection to the elimination of certain lighting measures from the DSM Plan, we find this criticism reflects CAC's disagreement with I&M and the OUCC regarding the impact of changes in lighting technology on future savings targets. Decreases in LED cost and market transformation progress in I&M's service area support the view that less reliance on lighting measures in I&M's utility-sponsored DSM is an appropriate path forward so that other program measures and markets can be developed further. We note that Mr. Walter and Mr. Haselden both described the local market conditions for LED and less-efficient lighting technology options, rather than the national trends and data relied on by Mr. Mellinger. Mr. Mellinger's assertion that there is no reason to believe the I&M market is any different than the national market was rebutted by Mr. Walter, who stated other evidence indicates local store pricing and availability in I&M's service territory is not reflective of national trends. Mr. Walter further noted that residential LED discount programs are not ubiquitous across the country, noting some utility LED rebate programs have stopped. While CFL and LED lighting measures have historically been "low hanging fruit" enabling substantial cost-effective EE savings, the record shows Indiana's utilities are acknowledging the market transformation taking place and are phasing out GSL lighting measures from their DSM programs. Therefore, the Commission finds that, given the market transformation within I&M's service area and I&M's lower forecasted avoided costs, the OUCC-I&M Settlement's modifications to I&M's lighting programs are reasonable and appropriate.

CAC witness Mellinger expressed concern with the C&I incentive levels proposed in the OUCC-I&M Settlement and suggested I&M “plans to overpay” for measures that are already performing well. In response, Petitioner argued that I&M chose to enhance C&I rebates to respond to market conditions and the impact of COVID-19 on I&M’s program offerings. Mr. Walter testified that as COVID-19 continued to linger throughout 2020, measures that had previously experienced strong adoption were not being adopted because businesses were closed, trade allies were not allowed on customer premises, and customer cash flow was constrained and thus not available for customer efficiency projects. We find I&M reasonably decided to respond to market conditions with a different perspective than what was used in 2019, when program conditions were different and business conditions were more tenable. Petitioner argued that I&M increased C&I lighting measure rebates because they were most affordable and most convenient and easy for customers to install. We find the OUCC-I&M Settlement allows C&I customers to access rebates for measures that were discontinued under the Work Direct Install Program under the revised higher rebate structure that is responsive to COVID-19 than they would have under the case-in-chief rebate levels. We also find the OUCC-I&M Settlement provides reasonable adjustments to the C&I incentive levels to respond to the COVID-19 circumstances while maintaining cost effectiveness. Mr. Walter testified in settlement rebuttal that I&M will continue to have cost controls, including requiring cost reporting and invoice verification. Accordingly, we find the C&I incentive levels provided for in the OUCC-I&M Settlement are reasonable.

In his settlement testimony, Mr. Mellinger raised a concern regarding I&M’s PES Program, contending that I&M proposed LED streetlighting equipment that would deliver higher light output and require more energy than necessary for a one-for-one retrofit of existing streetlight fixtures. He recommended changes to the default streetlight fixtures identified in the PES Program. In settlement rebuttal, Mr. Walter stated the PES Program recognizes and allows customer choice in LED streetlight fixture selection on a location-by-location basis giving participating PES customers the ability to choose their desired size of streetlight fixture (including 3000K temperature lights, as South Bend has selected). I&M further indicated that it intends to work with each municipality that has interest in the PES Program and wants to choose their specific fixtures by location. Accordingly, the Commission finds Mr. Mellinger’s recommended changes to the PES Program are unnecessary.

In addressing CAC’s concerns regarding indirect employment and market disruptions, we first note that none of the required Section 10 findings require the Commission to consider the impact of the DSM Plan on third-party supply chain and distribution vendors. While I&M witness Seger-Lawson testified that I&M is supportive of its DSM Plan vendors and appreciates their help in bringing programs to I&M’s customers, vendor business decisions to keep or not keep inventory is an unnecessary consideration to determine whether the OUCC-I&M Settlement is appropriate.

Finally, we note the DSM Plan is not limited to EE programs but includes two DSM programs (i.e., Home Energy Management and EECO) that contribute energy savings toward the goals and demand savings. The Commission has authority under Ind. Code ch. 8-1-8.5 and the DSM Rule to consider and approve these DSM programs and associated cost recovery. *See also* Ind. Code §§ 8-1-2-10, -12 and -42. We find that the evidence supports the inclusion of the demand savings and programs in the DSM Plan, and we approve I&M’s offering of these programs in accordance with the OUCC-I&M Settlement.

Accordingly, we find the DSM Plan, as modified by the OUCC-I&M Settlement, includes EE programs designed to achieve the EE goals.

3. Program Budgets and Costs. Mr. Walter identified the annual operating budget associated with the DSM Plan and the costs associated with each of the programs. He explained that I&M's program budgets reflect the direct (including EM&V) and indirect costs of the DSM Plan programs. Attachment JCS-15S to his settlement testimony shows that as modified by the OUCC-I&M Settlement, the program operating budgets associated with the DSM Plan's savings goals total approximately \$31.28 million over the three-year period, not including net lost revenue and financial incentives (shared savings). I&M requests authority to roll forward into the next program year any unused and approved budget funds that remain unspent at the end of a plan year as well as the same spending flexibility for the DSM Plan as is currently in place. The OUCC-I&M Settlement authorizes the OSB to pursue additional reasonably achievable energy savings above the energy savings targets resulting from the OUCC-I&M Settlement by using spending flexibility and carryover authority (unencumbered funds remaining from the interim funding authority provided for 2020, estimated to be approximately \$5.1 million). The impact and effect of the proposed budgets and other costs are discussed further below in our consideration of the factors specified in Section 10(j).

4. Independent EM&V. The DSM Plan agreed to by the Settling Parties includes EM&V with a process for independent evaluation of programs. Walter Settlement at 8, 24. Mr. Walter testified that the independent evaluator will perform a process evaluation and an impact evaluation for each year of the DSM Plan. I&M also proposes to submit its OSB scorecard information to the Commission consistent with the directive in the Commission's Order in Cause No. 44841. CAC witnesses did not challenge this part of the OUCC-I&M Settlement. Based on the evidence presented, we find that the proposed EM&V procedures to independently verify the results of the DSM programs and the estimated EM&V costs are reasonable. Accordingly, we find that the EM&V provided under the OUCC-I&M Settlement is reasonable and compliant with Section 10.

**B. Reasonableness of the Plan.** Having determined that I&M has submitted an EE plan as required by Section 10(h), Section 10(j) identifies ten factors the Commission must consider in determining the plan's overall reasonableness. Although the DSM Plan as modified by the OUCC-I&M Settlement includes both EE and other DSM programs, the factors enumerated in Section 10 are similar to the factors that the Commission has historically considered in determining whether to approve DSM programs and associated cost recovery under its DSM Rules. Accordingly, we consider both types of programs included in I&M's Plan. For the reasons set forth below, we find that I&M's DSM Plan, as modified by the OUCC-I&M Settlement, is reasonable and should be approved.

1. Projected Changes in Customer Consumption. Mr. Walter identified the annual projected energy and demand savings resulting from the implementation of the Settling Parties' DSM Plan, which are reflected in the table below:

Table 1S

	DSM Plan Summary		
	Direct Program Cost (\$)	Program Energy Savings (kWh)	Program Demand Savings (kW)
2020	9,863,828	80,554,448	27,936
2021	9,107,360	67,554,830	15,503
2022	8,522,324	63,873,073	15,804
<b>Total</b>	<b>27,493,512</b>	<b>211,982,351</b>	<b>59,243</b>

Walter Settlement Direct at 9. As shown on this table, over the three-year period the proposed plan is designed to achieve gross energy savings of 211,982,351 kWh and gross demand savings of 59,243 kW. These projections indicate how customer consumption is expected to change as a result of I&M's implementation of the DSM Plan agreed to in the OUCC-I&M Settlement. Since I&M's proposed programs are designed to result in energy savings of 0.49% of eligible retail sales (three-year average), we expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs.

2. Cost-Benefit Analysis. This Commission has traditionally required the use of the UCT, TRC, RIM, and PCT tests in evaluating the cost-effectiveness of DSM programs. In fact, the Commission's IRP rule at 170 IAC 4-8-2 requires the use of at least one of these four tests, or any other test the Commission may find to be reasonable, when evaluating DSM resource options. Each of these tests is designed to compare various costs and benefits from a different perspective. The TRC test helps determine whether EE is cost-effective overall, whereas the PCT, UCT, and RIM help to determine whether the program design and efficiency measures provided by the program are balanced from the perspective of the participant, utility, and non-participants, respectively. The purpose of applying several different tests is to provide a more comprehensive analysis of the cost-effectiveness than that which can be accomplished with just one of the tests. Hence, consideration of multiple cost-effectiveness tests allows us to better evaluate the reasonableness of individual programs and the overall DSM portfolio.

I&M evaluated the cost effectiveness of its proposed portfolio and individual programs using these standard tests, as demonstrated in Mr. Walter's direct and settlement testimony. Mr. Walter testified that the DSM Plan portfolio, as modified by the OUCC-I&M Settlement is cost effective, with a two-year UCT score of 1.43.

While OUCC witness Haselden initially raised a concern regarding the calculation of cost-effectiveness, particularly the treatment of the benefits of avoided capacity, this concern was resolved under the negotiated OUCC-I&M Settlement. The modifications to the DSM Plan agreed upon in the OUCC-I&M Settlement improved the cost-effectiveness of the EE Portfolio and overall DSM Plan Portfolio scores for the TRC, UCT, and RIM tests, as shown on Attachment JCW-6S to Mr. Walter's settlement testimony. CAC witnesses did not identify the DSM Plan portfolio cost-benefit analyses as a basis for their objection to Commission approval of the OUCC-I&M Settlement.

Despite the improvement in cost-effectiveness tests resulting from the OUCC-I&M Settlement, the Commission notes that no programs pass the TRC test. Under the OUCC-I&M Settlement, only one of the five proposed residential programs pass the UCT while two of the three C&I programs pass the UCT. The result is that the residential program portfolio for the two-year program implementation fails both the TRC and the UCT tests. However, the combined residential and C&I portfolio pass the UCT.

In evaluating past DSM Plans, the Commission has emphasized the cost-effectiveness of the entire program portfolio to support the availability of a suite of programs. This approach creates the opportunity for a broad range of customers to participate in utility-sponsored EE programs. Furthermore, it is critical that EE programs be offered on a continued basis given that program infrastructure must be kept in place if EE is to remain a potentially cost-effective resource over time. EE programs slowly aggregate energy and demand savings over time and cannot easily be turned off and on in response to what might be short-term changes in economics. The Commission also acknowledges the considerable disagreements about estimation of avoided costs and other drivers of program evaluation, which would possibly impact benefit/cost test results.

Given the above considerations and based on the evidence presented in support of the OUCC-I&M Settlement, we find that the DSM Plan portfolio of programs is cost effective.

3. Consistent with State Energy Analysis and Utility IRP. Ind. Code § 8-1-8.5-3 requires the Commission to develop, publicize, and keep current an analysis of the long-range need for the expansion of electric generation facilities and establishes certain requirements that the analysis must include. In his direct testimony, Mr. Walter explained why I&M's original DSM Plan was consistent with the state energy analysis. He stated that the DSM Plan, as modified by the OUCC-I&M Settlement, continues to be consistent with that analysis, as the forecasted level of energy savings remains the same while the cost effectiveness has improved. No party challenged this evidence. As such, we find that appropriate consideration has been given to consistency with the State Energy Plan and find this statutory criterion is satisfied.

We addressed above the consistency of the DSM Plan with I&M's most recent IRP.

4. EM&V. As indicated above and in Mr. Walter's direct and settlement testimony, I&M proposes to continue the use of an outside EM&V review and that the DSM Plan agreed to by the Settling Parties provides for a similar level of EM&V as used in prior administration and implementation efforts. As also indicated above, CAC presented no evidence challenging this proposal. Accordingly, the Commission finds that the Settling Parties' proposed EM&V processes for the DSM Plan are reasonable.

I&M also proposes to continue its submission of quarterly scorecard reports consistent with the Commission's Order in Cause No. 44841. No party took exception to I&M's proposal, and it is approved.

5. Undue or Unreasonable Preference to Customer Classes. In his direct testimony, Mr. Walter described steps I&M has taken steps within the DSM Plan design to build opportunities for proactive customer engagement in the programs while still balancing program cost. The proposed programs are aligned to either the residential sector or C&I sector and

including programs to help income qualified residential customers, and governmental entities including municipalities. There was no evidence presented identifying any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the DSM Plan as modified by the Settlement Agreements. Accordingly, we find that under current Indiana law, there is no undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the DSM Plan, as modified by the OUCC-I&M Settlement.

6. Stakeholder Comments. This provision requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders concerning the adequacy and reasonableness of the proposed DSM Plan. Such comments were provided through the evidence presented in this proceeding, including the Settlement Agreements and testimony regarding the Settlement Agreements, and the public comments submitted by the OUCC, which the Commission has considered and addressed in making its determinations in this Order.

7. Effect or Potential Effect of the DSM Plan on Electric Rates and Customer Bills of Participants and Non-Participants. I&M provided evidence of the bill impacts on customers as well as various cost-effectiveness tests – some of which are designed to evaluate the long-term effect of the proposed programs on the electric rates and bills of participating and non-participating customers. Walter Direct at 58; Caudill at 6; Attachment TAC-3. The record further shows that I&M presented both the plan impact (including projected lost revenue and financial incentives) and the legacy lost revenue to provide the Commission with complete information regarding the proposed plan and the full rate impact of DSM on I&M’s customers. In his settlement testimony, Mr. Walter explained that the OUCC-I&M Settlement improves all cost-benefit test scores of the DSM Plan, with the RIM test score improving by approximately 5%. Mr. Roush calculated the revised DSM Plan bill impact on the typical residential customers using 1,000 kWh per month and I&M’s major tariff classes. While CAC opposed approval of the OUCC-I&M Settlement, CAC witnesses presented no evidence disputing I&M’s evidence on this issue. Based on I&M’s estimated impact information and testimony supporting the OUCC-I&M Settlement, we find the effects or potential effects of the DSM Plan on electric rates and customer bills of participants and non-participants to be reasonable.

8. Lost Revenues and Performance Incentives. In assessing the overall reasonableness of the DSM Plan and the OUCC-I&M Settlement, we are required to take into account the “lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier.” Ind. Code § 8-1-8.5-10(j)(8).

The Settling Parties agreed to maintain the existing lost revenue cap as approved in Cause No. 44841, such that lost revenue recovery for all measures installed in 2021-2022 will be limited to: (1) three years; (2) the life of the measure; or (3) until new rates are implemented following the conclusion of I&M’s next base rate case, whichever occurs earlier. The OUCC-I&M Settlement specifies that the net lost realization rate will be calculated based on I&M’s rate case order issued in Cause No. 45235. Mr. Walter testified that the continued application of the previously authorized cap is reasonable. Mr. Walter and Mr. Haselden added that Section I.D. of the OUCC-I&M Settlement requires I&M to review the persistence of measures delivered through the Custom

Work Program. CAC did not challenge the lost revenue provisions of the OUCC-I&M Settlement. We find the continued lost revenue cap as set forth in the OUCC-I&M Settlement is reasonable.

With respect to the proposed financial incentive, the OUCC-I&M Settlement modifies the manner in which shared savings are calculated for Program Years 2021 and 2022, such that: (1) 10% of the NPV of the UCT is utilized in the calculation; and (2) forecasted carbon taxes are removed from the avoided cost estimates. Each modification has the effect of reducing I&M's potential shared savings incentive for measures implemented in 2021 and 2022. Mr. Haselden noted that the OUCC-I&M Settlement removes the forecasted carbon tax from the financial incentive calculation. He added that I&M also agreed not to propose any shared savings performance incentive for the Home Energy Products Program during the pilot. The evidence reflects that the settlement terms relating to shared savings reflect a compromise on the financial incentive concerns expressed by OUCC witness Haselden and are reasonable as part of the negotiated settlement package. The terms reasonably address CAC witness Mellinger's concerns regarding I&M's shared savings methodology by creating a lower cap on potential shared savings. As Mr. Walter explained, the settlement terms reflect accommodations that require cost-effective program implementation, leading to benefits accruing to all customers as a result.

In sum, we conclude the OUCC-I&M Settlement encourages I&M to achieve its savings goals by reducing the incentive for achievement below a base threshold. Similarly, it encourages pursuit of cost-effective savings by increasing the available incentive for exceeding specific targets. We find that this is a reasonable resolution of the issues presented on the recovery of incentives.

9. Utility's IRP. As noted above, CAC made several arguments that the DSM Plan was not consistent with I&M's IRP nor designed to achieve an optimal balance of energy resources.

As discussed in further detail above, we considered those arguments and ultimately concluded that the manner in which I&M addressed DSM in its IRP was reasonable. While CAC was critical of I&M's IRP and the resultant DSM Plan, CAC has not demonstrated that the DSM Plan is inconsistent with the IRP. Based on our review of the evidence, the governing statute, and the discussion above, we find that the evidence demonstrates that the DSM Plan builds on, and is consistent with, I&M's 2018-19 IRP results.

**C. Conclusion on DSM Plan.** Based on the evidence presented and having assessed the overall reasonableness of the DSM Plan and considered the factors enumerated in Section 10(j), we find and conclude that I&M's DSM Plan, as modified by the OUCC-I&M Settlement, is reasonable in its entirety and is approved.

**D. Program Cost Recovery.** I&M requests that it be authorized to recover program costs through its approved DSM/EE Rider. I&M witnesses Owens and Caudill described the proposed revisions to the cost allocation method for C&I customer classes. OUCC witness Loveman agreed I&M's proposed revisions are a more fair and equitable allocation methodology and would allow for conformity between the C&I cost allocation methodology of both the DSM Plan and Reconciliation components. None of CAC's witnesses raised concerns with I&M's proposed program cost recovery.



Ind. Code § 8-1-8.5-10(k)(2) provides that once an electricity supplier's EE plan is approved, the Commission shall allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustments mechanism. The Commission's DSM Rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5. Having found I&M's DSM Plan to be reasonable in its entirety, we therefore find that I&M shall be authorized to recover its associated program costs, including direct and indirect costs of operating the programs, net lost revenue, shared savings, and EM&V costs, in conformity with the OUCC-I&M Settlement.

**E. Lost Revenues and Performance Incentives.** If the Commission finds that an electricity supplier's EE plan is reasonable, Section 10(k) & (o) provide for the recovery through a rate adjustment mechanism of amounts the Commission determines to be:

- (1) Reasonable financial incentives that:
  - (A) encourage implementation of cost effective energy efficiency programs; or
  - (B) eliminate or offset regulatory or financial bias:
    - (i) against energy efficiency programs; or
    - (ii) in favor of supply side resources.
- (2) Reasonable lost revenues.

Since we have found I&M's DSM Plan as modified by the OUCC-I&M Settlement is reasonable, we must consider whether the Settling Parties' proposal provides for reasonable lost revenue and reasonable financial incentives for EE programs.

1. Lost Revenue. Lost revenue means the difference, if any, between: (1) revenues lost; and (2) the variable O&M costs saved; by an electricity supplier as a result of implementing EE or other DSM programs. Section 10(e); 170 IAC 4-8-1(u).

As summarized above, I&M sought to recover lost revenues associated with its DSM Plan through the DSM Rider using the same methodology and forecast/reconciliation process for the life of the measure. The OUCC-I&M Settlement provides that lost revenue recovery for all measures installed in 2021-2022 will be limited to: (1) three years; (2) the life of the measure; or (3) until new rates are implemented pursuant to a final order in I&M's next base rate case, whichever occurs earlier. The OUCC and I&M agreed the calculation of lost revenues shall use the net lost realization rate calculated based on I&M's recent rate case order in Cause No. 45235.

While Mr. Mellinger raised a concern that the lost revenues associated with EECO are not held to the three-year cap established in accordance with the settlement agreement in Cause No. 44841. Mr. Walter testified that as shown in Attachments JCW-9, JCW-10, and JCW-11, because EECO savings are treated in I&M's lost revenue tracking as new, incremental savings for each year of operation, I&M applies a one-year life for savings persistence. We find this treatment inherently complies with the purpose of the cap in that savings do not last longer than one year. Furthermore, Mr. Walter explained the lost revenue tracking model uses EECO monthly savings values to effectively determine annualized savings for each year. The combined result from the application of this treatment approach is reflected in Attachment JCW-10 where no legacy savings is listed for EECO in columns 6 and 8, and in Attachment JCW-11, where no legacy savings is

listed for EECO in columns 6, 8, and 10. Accordingly, we find I&M's calculation of lost revenues associated with its EECO program is reasonable and consistent with the three-year cap approved in Cause No. 44841.

Attachment JCW-10S to Mr. Walter's settlement testimony reflects the change in forecast Net lost revenue for 2021 from application of the program-related settlement terms to the forecast current year (*i.e.* non-Legacy) programs and measures while Attachment JCW-11S reflects the same for 2022. Both Attachments reflect the application of the most recent base rate case net lost realization rates used to calculate net lost revenue from net lost energy savings. In settlement testimony, Mr. Walter stated that application of the most recently approved rate factors from the last I&M base rate case is consistent with settlement terms and is consistent with standard practice for I&M. Accordingly, the Commission finds the net lost revenue estimates shown on Attachment JCW-10S for 2021 and on Attachment JCW-11S for 2022 are reasonable and consistent with the OUCC-I&M Settlement approved here, comport with I&M's standard net lost revenue procedures for EE measure savings identification and tracking, and are consistent with accounting methods previously authorized by the Commission. As such, the net lost revenue estimates represent the application of previously approved caps and the new cap set forth in the OUCC-I&M Settlement.

Based on the evidence presented, we find the recovery of lost revenue as provided in the OUCC-I&M Settlement is reasonable and is approved.

2. Performance Incentives. Section 10(o) authorizes the Commission to award reasonable financial incentives when it finds a plan to be reasonable. The DSM Rules at 170 IAC 4-8-7(a) also recognize the role of reasonable performance incentives to encourage the implementation of DSM programs to address financial bias against such programs. As indicated above, the Settling Parties reached a compromise regarding performance incentives that modifies the two-step manner in which shared savings are calculated for Program Years 2021 and 2022. For purposes of calculating I&M's shared savings, the OUCC and I&M agreed that forecasted carbon taxes will be removed from the avoided cost estimates. In addition, the OUCC-I&M Settlement provides that I&M will not propose any performance incentives for the Home Energy Products mid-stream program for the duration of the pilot.

The agreed performance incentive is a modification to the mechanism currently in place. CAC's witnesses did not specifically challenge the performance incentive mechanism as modified by the OUCC-I&M Settlement. We find the performance incentives proposed in the OUCC-I&M Settlement reasonably build upon I&M's previous Commission-approved shared savings mechanism. Mr. Haselden explained the change to "step one" of the calculation makes I&M's calculation more like other utilities' formulas. The reduced cap also reasonably responds to Mr. Mellinger's concern raised in direct testimony regarding the shared savings mechanism.

We find the financial incentive agreed to in the OUCC-I&M Settlement is reasonably designed to incentivize performance. I&M's programs must be cost effective for I&M to begin realizing a financial incentive under the negotiated settlement structure. This structure is designed to assure that I&M spends its program budgets with an eye toward cost-effectiveness and prudent program implementation, not simply with an eye toward producing energy savings. Under the OUCC-I&M Settlement, I&M's performance is not measured solely against the cost-effective energy savings levels achieved, which appropriately encourages I&M to focus on cost-effective

program delivery to the benefit of customers. As proposed by the OUCC and I&M, the performance incentive is directly tied to the achieved cost-benefit results and under this approach, customers will benefit.

The Settling Parties' agreed performance incentive structure reasonably balances the two goals of cost-effective program delivery and energy savings achievement. The presence of the first tier, UCT cost effectiveness and sharing of net benefits, encourages I&M to deliver net benefits from programs through energy savings attainment and cost control. The second tier is to achieve a minimum amount of total energy savings. These two tiers encourage I&M to achieve net benefits for customers and to hit a target level consistent with the selected amount of savings from the IRP.

Accordingly, we find that the OUCC and I&M's agreement on performance incentives is reasonable and in the public interest. The stipulated methodology provides incentives for I&M to administer programs cost effectively by basing performance incentives on net benefits and also contains customer protections in the form of the 15% program cost cap. It also provides an extra layer of incentive based on I&M's energy savings goals. This stipulation reasonably addresses the concern that the financial incentive should be based on I&M achieving the overall goal. Therefore, the Commission finds I&M's proposal to continue the shared savings mechanism, with the modifications set forth in the OUCC-I&M Settlement, is reasonable and is approved.

**F. Oversight and Stakeholder Input.** As discussed above, I&M requests that the OSB continue to remain in place. This authority includes the ability to authorize exceedances of the Commission-approved budgets for DSM programs by up to 10% without having to seek additional approval from the Commission and authority to continue shifting funds between programs.

We note the OUCC-I&M Settlement authorizes the OSB to pursue additional, reasonably achievable cost-effective energy savings above the energy savings targets resulting from the OUCC-I&M Settlement (as market conditions warrant) by using spending flexibility and carryover authority. This provision will allow I&M and the OSB to react to changing market conditions and the impacts of COVID-19 on I&M's achievement of its EE goals. The OUCC-I&M Settlement allows the OSB members to work collaboratively to use best efforts to identify and achieve additional cost-effective energy savings and to strategize other energy efficient programs.

CAC recommended that I&M continue offering its existing DSM program portfolio and that any program changes in the interim that are supported by the 2021 MPS should be determined by unanimous vote of I&M's OSB. We find CAC's proposal to require unanimous vote on program changes would significantly alter the long-standing OSB governance structure. We note no party challenged the governance structure prior to settlement. In light of our approval of the OUCC-I&M Settlement, we find it reasonable to allow the existing OSB governance structure, as modified by the OUCC-I&M Settlement, to continue for the 2020-2022 DSM Plan period.

**G. Conclusion on OUCC-I&M Settlement.** Based on the discussion and findings above, the Commission finds that the OUCC-I&M Settlement is reasonable and consistent with the governing regulatory framework. The resolution of the pending matters set forth in the OUCC-I&M Settlement is within the scope of the evidence presented by the parties. The OUCC-I&M Settlement incorporates substantial concessions by I&M and the OUCC and reflects a

reasonable compromise on all issues raised in this proceeding, including those issues raised by CAC. While not all parties to this proceeding have joined the OUCC-I&M Settlement, the evidence offered in support of the OUCC-I&M Settlement demonstrates that I&M and its ratepayers will benefit from the agreement and that the breadth of customer interests represented by the Settling Parties covers all of I&M's DSM ratepayers. We find the OUCC-I&M Settlement will allow I&M to offer cost-effective EE and demand response programs to customers, while mitigating the impact on customer rates for electric service.

Despite our approval of the OUCC-I&M Settlement, we recognize that it was only finalized after a prolonged period of time and extensive litigation well into the first year of the 2020-2022 DSM Plan period. We understand that settlement conversations and discovery requests were likely delayed by the COVID-19 pandemic. Absent this unforeseen interruption, I&M's initial filing date of August 26, 2019, still would have prevented the creation of a procedural schedule that ultimately resulted in a final disposition of this proceeding before the start of the 2020-2022 DSM Plan period. To better accommodate timely review of I&M's next DSM Plan by the OUCC, the Commission, and any intervenor, we instruct I&M to file its next DSM Plan for 2023-2025 by March 31, 2022. This filing date will also provide time for the development of I&M's next MPS and IRP before the plan is filed.

In sum, the record shows and we find that the OUCC-I&M Settlement presents a balanced and comprehensive resolution of the issues in this case. Therefore, the Commission further finds that the OUCC-I&M Settlement is reasonable and in the public interest and is approved. With regard to future citation of this Order, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at \*7-8 (IURC March 19, 1997).

**H. South Bend-I&M Settlement.** I&M and South Bend request Commission approval of the South Bend-I&M Settlement, as well as the Streetlight Contract that incorporates the relevant terms of the South Bend-I&M Settlement into a contract between I&M and South Bend. No party opposed the relief sought by I&M and South Bend and, as discussed below, we approve both the South Bend-I&M Settlement and associated Streetlight Contract.

Ind. Code § 8-1-2-24 provides in pertinent part that:

Nothing in this chapter shall be taken to prohibit a public utility from entering into any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter.

Ind. Code § 8-1-2-25 provides as follows:

The commission shall ascertain, determine and order such rates, charges and regulations as may be necessary to give effect to such arrangement, but the right

and power to make such other and further changes in rates, charges and regulations as the commission may ascertain and determine to be necessary and reasonable, and the right to revoke its approval and amend or rescind all orders relative thereto, is reserved and vested in the commission, notwithstanding any such arrangement and mutual agreement.

Thus, customer-specific contracts, such as the Streetlight Contract, are lawful if the Commission finds their provisions to be reasonable and just, practicable, and advantageous to the parties, and not inconsistent with the purposes of the Public Service Commission Act.

The Commission has previously recognized that public street lighting service “is not for the exclusive or separate benefit of the governmental authorities which pay the charges, but it is really for the benefit of the travelling public.” *Indianapolis Power & Light Co.*, Cause No. 44981 (IURC Dec. 13, 2017) (quoting *Indianapolis Power & Light Co.*, Cause No. 33735, 1975 WL 410471, 9 P.U.R. 4th 86, 97 (IURC April 1, 1975)). The Commission has also encouraged the cost-effective implementation of advanced lighting technology. *Indianapolis Power & Light Co.*, Cause No. 44576 at 69 (IURC March 16, 2016). More recently, in I&M’s rate case order in Cause No. 45235, the Commission directed I&M to “meet and attempt to work with South Bend regarding its concerns with the design and implementation of the PES Program ... so as to not delay the prospect of reasonable LED conversion rates.” *Ind. Mich. Power Co.*, Cause No. 45235 at 116 (IURC March 11, 2020). The record shows that I&M has done so, resulting in the South Bend-I&M Settlement and Streetlight Contract presented here for our approval.

As noted in the summary of evidence above, South Bend originally raised concerns with I&M’s proposed PES Program design. I&M and South Bend have resolved those concerns through the South Bend-I&M Settlement and Streetlight Contract, which provide that rates for PES LED lights shall not increase for five years from the date of the last retrofit. The parties’ agreement further provides that South Bend shall be allowed to select the fixture output that best meets South Bend’s needs in each location, rather than requiring a 1:1 fixture replacement based on lumens. The South Bend-I&M Settlement also provides that in future rate cases, I&M will not propose to credit or allocate the respective PES DSM Program per fixture rebate to any other LED or old technology streetlight rates or class, and that I&M will propose that the PES DSM LED retrofit capital cost rebate for LEDs funded by the DSM program shall remain a reduction in the underlying costs used to set rates for PES-installed LED streetlights only. The South Bend-I&M Settlement requires I&M to separately record actual PES streetlight O&M and provide a reasonably accurate estimate of PES O&M and O&M savings at its next rate case and prior to the time for South Bend’s contract negotiation and extension meeting.

The record reflects that the South Bend-I&M Settlement addresses the South Bend’s concerns by finely tuning the approved PES rate into a rate that provides South Bend with a necessary degree of price certainty and technology flexibility and ensuring collaboration between I&M and South Bend during the retrofit process. Ms. Dorau testified that the South Bend-I&M Settlement, in concert with the Commission-approved PES rates, will allow South Bend to bring the benefits of LED streetlighting technology to its residents without undue capital or monthly expense to the taxpayers. She stated that these agreements also benefit the businesses and organizations in South Bend as well as those who work in, live, or visit South Bend and make use of South Bend’s public streets. She added that approving the Streetlight Contract now will reduce

administrative and cost burdens on I&M, South Bend, and the Commission, and will accelerate installation of these efficient and environmentally friendly LED fixtures. The record further reflects the agreed-upon rates for a new No Pole LED Uplift rate will add in improving municipal lighting service and offer an opportunity for municipal cost savings.

No party opposed approval of the South Bend-I&M Settlement and the Streetlight Contract. We find the use of a customer-specific contract is a reasonable approach to provide rate certainty in a unique situation as this, where the customer represents approximately 30% of all I&M-owned streetlights in Indiana and a significant portion of the costs of serving the customer are related to the new LED fixture costs and associated facilities. The record shows the basis for the rates are the standard PES rates as proposed by I&M, updated to reflect the outcome of Cause No. 45235, I&M's most recent rate case. Those rates include components related to the recovery of energy/variable costs, maintenance costs, and fixed/fixture costs. The Streetlight Contract modifies those rates slightly to reflect the potential maintenance cost benefit of a longer-life photocell. Even with this slight modification, the record shows the rates will continue to cover all energy/variable costs and provide a substantial contribution to fixed costs. We further note that only the base prices are fixed and South Bend remains subject to all changes in energy riders and surcharges, including fuel, during the contract term. Accordingly, we find the rates for service under the Streetlight Contract are reasonable and are approved. I&M should promptly initiate a 30-day filing for the agreed upon No Pole Uplift LED streetlight rates.

The record shows that the provision of service to South Bend under the Streetlight Contract will not adversely affect the provision of service to other retail customers served by I&M. The record further shows that approval of the South Bend-I&M Settlement and Streetlight Contract are beneficial to I&M's other customers and the public generally, including I&M's other South Bend customers and the general public that travels through South Bend. In addition, I&M will gain further knowledge and experience with LED lighting and photocells that may ultimately benefit all I&M lighting customers. Accordingly, the Commission finds the South Bend-I&M Settlement and Streetlight Contract are in the public interest and are approved.

**I. DSM Rider and Factors.** No party challenged the revision to the cost allocation method for C&I customer classes presented in Ms. Caudill's and Mr. Owens' direct testimony. We note this change in allocation method was approved with respect to the Reconciliation Component of the DSM/EE Rider in Cause No. 43827 DSM 9. Accordingly, the Commission finds this revision is reasonable and should be approved.

Mr. Roush presented the updated DSM/EE Rider rates incorporating the changes resulting from the OUCC-I&M Settlement and the outcome of Cause No. 45235, I&M's most recent base rate case. More specifically, he updated the net lost realization rate, updated the demand and energy allocation factors to use the newly approved factors, computed rates for the 2020 opt-out customers that did not exist at the time of the original filing in this Cause, and incorporated the reconciliation component factors approved in Cause No. 43827 DSM 9 instead of the previous DSM 8 factors.

The DSM Rider plan cost component factors for each customer class, giving effect to the OUCC-I&M Settlement, the Commission's Order in Cause No. 45235, legacy lost revenue, and the reconciliation component factors approved in the Commission's DSM 9 Order, are as follows:

	Non-Opt Out Customers	Opt-Out	
		Pre-January 1, 2020	January 1, 2020
Tariff Class	¢/kWh	¢/kWh	¢/kWh
RS	(0.2034)	N/A	N/A
GS, IS, and EHG	0.5247	0.0013	0.3793
LGS, MS, WSS, SL	0.3247	0.0011	0.1984
IP and CS-IRP2	0.2736	0.0010	0.1790

Rough Settlement, Attachment DMR-2S.

Giving effect to the DSM Rider factors resulting from the OUCC-I&M Settlement and based upon I&M’s current rates as of August 2020, which includes the Commission-approved factors from DSM 9, the overall bill for a typical residential customer using 1,000 kWh per month will decrease by approximately \$1.67 or 1.1%. No party disagreed with the calculation of the DSM Rider factors agreed to by the Settling Parties.

We find I&M’s total revenue requirement of \$44,505,713, inclusive of legacy lost revenue and a GRCF, is reasonable and should be approved. Owens Settlement at 5, Table BSO-3S. We further find I&M’s DSM Rider factors are supported by substantial evidence and should be approved. Therefore, we authorize I&M to apply its requested DSM/EE Rider adjustment to its Indiana retail tariffs as shown in Attachment DMR-2S, commencing as set forth below.

Pursuant to the Commission’s December 27, 2019 Interim Order, I&M was authorized to continue to offer its current DSM Plan and continue to recover the associated costs consistent with the Order in Cause No. 44841, with the DSM 10 reconciliation filing to address the period January 1, 2019 through the last day of the Extension Period or Month-to-Month Period (as applicable). We find that I&M shall include a reconciliation of the costs recovered pursuant to the Interim Order as part of its future DSM reconciliation filings. I&M’s future DSM filings will reconcile revenues and expenditures following the implementation of the new DSM adjustment factors approved herein, all in accordance with the December 27, 2019 Interim Order and the OUCC-I&M Settlement.

**J. Confidential Information.** On August 26, 2019, I&M filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information (“Motion”), which was supported by affidavit, requesting that certain information contained within I&M’s filing be treated as confidential and exempt from public disclosure. The Presiding Officers granted the Motion and found the information should be treated as confidential on a preliminary basis by docket entry dated September 10, 2019, after which the information was submitted under seal. I&M filed a second Motion for Protection and Nondisclosure of Confidential and Proprietary Information (“Second Motion”), supported by affidavit, requesting that certain information contained within the OUCC’s filing be treated as confidential and exempt from public disclosure. The Presiding Officers granted the Second Motion and found the information should be treated as confidential on a preliminary basis by docket entry dated February 19, 2020, after which the information was submitted under seal. After review of the information and consideration of the affidavit, we find

the information is trade secret information as defined in Ind. Code §§ 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, and shall be held as confidential and protected from public access and disclosure by the Commission.

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

1. The OUCC-I&M Settlement Agreement, a copy of which is attached, is approved.
2. The South Bend-I&M Settlement Agreement and associated Streetlight Contract, copies of which are attached and are herein incorporated, are approved. I&M shall as soon as reasonably possible make the No Pole Uplift LED streetlight rate a 30-day filing.
3. I&M's proposed 2020-2022 DSM Plan, as modified by the OUCC-I&M Settlement Agreement, including the proposed budgets, is approved.
4. I&M's request for timely recovery of costs associated with its 2020-2022 DSM Plan, including direct (including EM&V costs), and indirect costs of operating the programs, net lost revenue, and shared savings as provided in the OUCC-I&M Settlement Agreement is approved.
5. In accordance with the OUCC-I&M Settlement Agreement, I&M's requested accounting and ratemaking treatment, including the authority to defer the over/under recoveries of projected DSM/EE program costs through the DSM Rider pending reconciliation in subsequent rider periods is approved.
6. The accounting procedures necessary to implement the recovery of lost revenue and shared savings as provided in the OUCC-I&M Settlement Agreement are approved.
7. The revisions to Rider H.E.M and Tariffs E.C.L.S and S.L.S presented in Mr. Walter's Direct Testimony and the revisions to the DSM Rider presented in Ms. Caudill's and Mr. Owens' Direct Testimony are approved.
8. I&M is authorized to implement its requested DSM Rider factors as described in Finding Paragraph 7.I above.
9. Before implementing the DSM Rider factors approved in this Cause, I&M shall file a revised DSM Rider tariff sheet, including the DSM Rider factors, under this Cause for approval by the Commission's Energy Division.
10. In accordance with 170 IAC 4-8-4, I&M shall file quarterly scorecards and its EM&V reports under this Cause, with the first scorecard associated with the DSM Plan to be filed by April 30, 2022. Petitioner shall also file annually a final EM&V report for each program year with the Commission on or before April 30 under this Cause and post to its website, annually, a document containing information, data, and results from its EM&V activities.
11. The existing governance structure of I&M's OSB, as modified by the OUCC-I&M Settlement, shall continue for the 2020-2022 DSM Plan period.



12. The information filed in this Cause pursuant to I&M's motions for protective order is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

13. I&M shall file its next DSM Plan pursuant to Ind. Code § 8-1-8.5-10(h) for plan years 2023-2025 on or before March 31, 2022.

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

**HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:**

**APPROVED: FEB 3 2021**

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

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**Dana Kosco**  
**Secretary of the Commission**

**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE VERIFIED )  
PETITION OF INDIANA MICHIGAN POWER )  
COMPANY FOR APPROVAL OF DEMAND )  
SIDE MANAGEMENT (DSM) PLAN, )  
INCLUDING ENERGY EFFICIENCY (EE) )  
PROGRAMS, AND ASSOCIATED ) CAUSE NO. 45285  
ACCOUNTING AND RATEMAKING )  
TREATMENT, INCLUDING TIMELY )  
RECOVERY THROUGH I&M'S DSM/EE )  
PROGRAM COST RIDER OF ASSOCIATED )  
COSTS, INCLUDING PROGRAM )  
OPERATING COSTS, NET LOST REVENUE, )  
AND FINANCIAL INCENTIVES. )**

**STIPULATION AND SETTLEMENT AGREEMENT**

Indiana Michigan Power Company (“I&M”) and the Indiana Office of Utility Consumer Counselor (“OUCC”) (collectively the “Settling Parties” and individually “Settling Party”) solely for purposes of compromise and settlement and having been duly advised by their respective staff, experts, and counsel, stipulate and agree that I&M’s DSM Plan shall be approved as modified below and the terms and conditions set forth below represent a fair, just and reasonable resolution of all matters pending before the Indiana Utility Regulatory Commission (“Commission”) in this Cause, subject to their incorporation by the Commission into a Final Order<sup>1</sup> without modification or further condition that may be unacceptable to any Settling Party. If the Commission does not approve this Stipulation and Settlement Agreement (“Settlement Agreement”) in its

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<sup>1</sup> “Final Order” as used herein means an order issued by the Commission as to which no person has filed a Notice of Appeal within the thirty-day period after the date of the Commission order.

entirety, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties.

## I. TERMS AND CONDITIONS

As a settlement of this proceeding only and without serving as precedent for future proceedings, the Settling Parties agree to approval of I&M's requested relief in Cause No. 45285 (as set forth in I&M's petition, case-in-chief, and rebuttal) subject to the following modifications.

### A. DSM Programs.

1. For the period January 2021 through December 2022, I&M will implement the following modifications to its proposed residential programs:
  - a. Home Energy Products Program-Lighting Component
    - i. I&M will cease implementation of this program on December 31st, 2020 to allow for vendor contract completion and orderly shut- down of the program.
    - ii. Recovery of costs associated with implementation of the Home Energy Products Program in 2020, inclusive of program operating costs, net lost revenues, and shared savings, shall be as approved by the Commission in its December 27, 2019 Interim Order in Cause No. 45285, including any potential costs arising from vendor contract early termination (as applicable). All post-implementation EM&V costs shall be recovered by I&M through its DSM Program Cost Rider for the 2020 performance year.
  - b. Home Energy Products-Appliances Component
    - i. The Efficient Products (*i.e.*, appliances) component of the Home Energy Products Program will be altered as follows:
    - ii. Residential non-HVAC measures will be implemented according to the 2020-2022 DSM Plan design.
    - iii. All Residential HVAC measures proposed in the 2020-2022 DSM Plan will be implemented through a mid-stream program delivery pilot in order to ascertain the potential for improved cost effectiveness through distributor participation and satisfaction, increased measure participation and effective rebate cost management.
      - a. I&M will collaborate with the OSB to develop the midstream HVAC component and will target pilot implementation for March 1, 2021.

- b. I&M will be authorized cost recovery through its DSM Program Cost Rider for costs incurred for the midstream pilot development and start-up activities to prepare for the March 1, 2021 pilot launch.
    - c. The Residential HVAC midstream pilot will operate through the end of 2022. After one full year of implementation of the Residential HVAC midstream pilot, I&M and the OSB will jointly discuss the pilot's performance.
  - iv. I&M will use the funds set forth in the 2020-2022 DSM Plan Home Energy Products Program for 2021 and 2022 program and pilot administration, implementation and evaluation.
  - v. I&M will be authorized to use unencumbered funds remaining from the interim funding authority granted for 2020 residential sector program implementation in order to continue 2021 and 2022 program implementation for both program components.
  - vi. I&M will be authorized to timely recover Net Lost Revenue for the Home Energy Products Program.
  - vii. I&M will not propose any Shared Savings performance incentive for the Home Energy Products Program for the duration of the pilot.
- c. Home Appliance Recycling Program
  - i. I&M will cease implementation of the Home Appliance Recycling Program on December 31, 2020 to allow for vendor contract completion and orderly shut-down of the program.
  - ii. Recovery of costs associated with implementation of the Home Appliance Recycling Program in 2020, inclusive of program operating costs, net lost revenues, and shared savings, shall be as approved by the Commission in its December 27, 2019 Interim Order in Cause No. 45285, including any potential costs arising from vendor contract early termination (as applicable). All post-implementation EM&V costs shall be recovered by I&M through its DSM Program Cost Rider for the 2020 performance year.
- d. Home Energy Engagement Program
  - i. I&M will cease implementation of the Home Energy Engagement Program on December 31, 2020 to allow for vendor contract completion and orderly shut-down of the program.
  - ii. Recovery of costs associated with implementation of the Home Energy Engagement Program in 2020, inclusive of program operating costs, net lost revenues, and shared savings, shall be as approved by the Commission in its December 27, 2019 Interim Order in Cause No. 45285 for

2020 interim authority including any potential costs arising from vendor contract early termination (as applicable). All post-implementation EM&V costs shall be recovered by I&M through its DSM Program Cost Rider for the 2020 performance year.

- e. Income Qualified Weatherproofing Program
  - i. I&M will implement the IQ WP Program consistent with the 2020-2022 DSM Plan program design and will collaborate with the OSB on exploring ways to improve program reach and participation.
  - ii. The IQ WP Program will continue to not be subject to cost effectiveness determination for program continuation.
  - iii. I&M will be authorized to use unencumbered funds remaining from the interim funding authority granted for 2020 residential sector program implementation in order to continue 2021 and 2022 program implementation for both program components as the need arises from any potential increased participation and costs to implement the IQ WP Program and engage IQ customers.
  - iv. I&M will be authorized to increase IQ WP Program participant incentive caps to the amounts shown below, for the purposes of expanding the ability to fund program measures set forth in the 2020-2022 DSM Plan program only:
    - a. Single-family dwelling improvements and New Construction: \$4,000 from the current \$3,000 cap.
    - b. Multi-family dwelling improvements and New Construction: \$3,000 from the current proposed \$2,000 cap set forth in the 2020-2022 DSM Plan program design.
- 2. The Settling Parties agree to work collaboratively on press releases regarding the residential DSM programs that will not continue in 2021-2022 to help customers understand that these programs are being terminated because the costs to customers now outweigh the energy savings benefits.
- 3. All of the commercial and industrial (“C&I”) programs and the remaining residential programs will be implemented as proposed by I&M.
  - a. I&M will be authorized to use up to an additional \$897,007 in 2021 and \$730,185 in 2022 in order to achieve additional cost effective C&I energy savings, support 2021 and 2022 C&I program implementation, expand the potential for program participation, and offer short term promotions to spur participation during the continued economic impacts of the COVID pandemic.

4. The OSB will be authorized to pursue additional reasonably achievable, cost effective energy savings above the energy savings targets resulting from this Settlement Agreement as market conditions warrant by exercising spending flexibility and carryover authority. The spending flexibility includes the ability to spend up to and including an additional 10% of the direct program operating budget included in the DSM Plan budget resulting from this Settlement Agreement. The carryover authority provides the authority to use the unencumbered funds remaining from the interim funding authority granted for 2020 program implementation, which are estimated to total \$5,152,760. The OSB agrees to work collaboratively and in good faith to use best efforts to identify and achieve through the use of the spending flexibility and carryover funding additional cost effective energy savings of approximately 0.20% of eligible retail sales for the two-year period of 2021 and 2022.
5. I&M anticipates its next Market Potential Study (“MPS”) will be completed by the second quarter of 2021. Upon receipt of the MPS, I&M will convene a technical meeting with the OSB and the MPS vendor. The purpose of the meeting will be to inform the potential for and estimated cost of additional reasonably achievable, cost effective energy savings in 2021 and 2022 that could potentially be achieved through the use of the spending flexibility and carryover authority identified in Section 4 above.
6. Timely cost recovery through the DSM/EE Rider will be approved as proposed by I&M.
7. Continued authority to defer the over and under recovery of DSM/EE program costs through the DSM Rider pending reconciliation in subsequent rider periods will be approved as proposed by I&M.
8. Independent evaluation, verification, and measurement (EM&V) will be conducted as proposed by I&M.
9. The remaining program budgets, program costs, and energy efficiency goals for 2021 and 2022 will be approved as proposed by I&M. I&M’s settlement testimony will include a summary of the revised program budgets, program costs, and energy efficiency goals.

B. Lost Revenues.

1. The Settling Parties agree to maintain the existing lost revenue cap as approved in Cause No. 44841, such that lost revenue recovery for all measures installed in 2021-2022 will be limited to (a) three years, (b) the life of the measure, or (c) until new rates are implemented pursuant to a final order in I&M’s next base rate case, whichever occurs earlier.

2. The calculation of lost revenues shall use the net lost realization rate calculated based on the Company's recent rate case order approved in Cause No. 45235.
3. I&M's settlement testimony will show the calculation of the net lost realization rate and the forecasted lost revenues for measures installed in 2021 and 2022.

C. Shared Savings.

1. The Settling Parties agree to maintain the existing two-step shared savings mechanism as approved in Cause No. 44841 and proposed in I&M's case-in-chief, but modified such that 10% (rather than 15% of 90%) of the net present value of the utility cost test is used in "Step 1" of the shared savings calculation. As modified, the shared savings for 2021 and 2022 will be calculated as follows:

First, each individual sector's performance incentives for a given year will be calculated based on the lower of: (1) 10% of each individual sector's net benefits under the utility cost test, or (2) 15% of sector program costs. The second step reduces the amount of incentive earned from the residential or nonresidential sectors by 15% in any program year if I&M does not hit an 85% savings target threshold for the respective sector or increases the incentive by 10% in any program year if the utility exceeds 105% of the sector's portfolio savings goal.

2. The Settling Parties agree to further modify the Shared Savings calculation for the purposes of USCRT program score determination by applying an I&M avoided cost forecast (i.e. AEP Fundamentals Forecast) similar to that used in IRP modeling but with the effects of the forecasted carbon tax removed. This avoided cost change applies to the determination of Shared Savings for 2021 and 2022 only, and does not apply to the cost effectiveness calculation used for evaluating whether or not a program is cost effective as part of I&M's DSM/EE portfolio of programs.
3. I&M's settlement testimony will show the calculation of forecasted shared savings for measures installed in 2021 and 2022.

D. C&I Measure Savings Persistence

1. Beginning with the completion of the first full program year of this Plan and for (a) three years, (b) the life of the measure, or (c) until new rates are implemented pursuant to a final order in I&M's next base rate case, whichever occurs earlier, I&M will perform a billing system review at the

close of each calendar year for C&I customers that received a Work Custom Program incentive during 2021 or 2022. If I&M determines that any such customer account is in a closed status, I&M will adjust the useful life of the measure(s) rebated for the purposes of net lost revenue tracking and net lost revenue cost recovery to end December 31<sup>st</sup> of the calendar year for which the billing system review was performed.

E. Other Matters.

1. Any matters not addressed by this Settlement Agreement will be adopted as proposed by I&M in its direct and rebuttal case.
2. The Settling Parties agree to work cooperatively to seek Commission approval of this Settlement Agreement so that I&M may implement new DSM programs no later than January 1, 2021.
3. The OUCC does not object to the Settlement Agreement between I&M and the City of South Bend in this Cause.

**II. PRESENTATION OF THE SETTLEMENT AGREEMENT TO THE COMMISSION**

1. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement. The concurrence of the Settling Parties with the terms of the Settlement Agreement is expressly predicated upon the Commission's approval of the Settlement Agreement in its entirety without any modification or any condition that may be unacceptable by any Settling Party.

2. The Settling Parties shall jointly move for the Commission for leave to file the Settlement Agreement and supporting evidence. I&M and the OUCC will file testimony specifically supporting the Settlement Agreement. The Settling Parties agree to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement and to consider the input of the other Settling Parties. Such evidence, together with the evidence previously prefiled by the Settling Parties, will be



offered into evidence without objection from the Settling Parties, and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties will submit this Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Settlement Agreement in its entirety without any change or with condition(s) unacceptable to any Settling Party, the Settlement Agreement and supporting evidence may be withdrawn and the Commission will continue to hear Cause No. 45285 with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

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

### **III. EFFECT AND USE OF SETTLEMENT AGREEMENT**

1. It is understood that the Settlement Agreement is reflective of a negotiated settlement and neither the making of this Settlement Agreement nor any of its provisions shall constitute an admission by any Settling Party in this or any other litigation or proceeding except to the extent necessary to implement and enforce its terms. It is also

understood that each and every term of the Settlement Agreement is in consideration and support of each and every other term.

2. The Settlement Agreement shall not constitute and shall not be used as precedent by any person or entity in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce the terms of this Settlement Agreement.

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

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

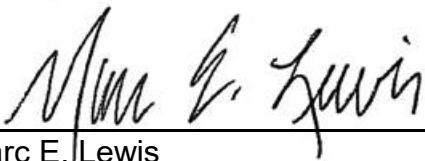
5. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning the Settlement Agreement all relate to offers of settlement and shall be privileged and confidential, without prejudice to the position of any Settling Party, and are not to be used in any manner in connection with any other proceeding or otherwise.

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

7. The Settling Parties shall not appeal or seek rehearing, reconsideration, or a stay of the Commission Order approving the Settlement Agreement in its entirety and without change or condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement Agreement). The Settling Parties shall support or not oppose the Settlement Agreement in the event of any appeal or a request for a stay by a person not a party to this Settlement Agreement or if this Settlement Agreement is the subject matter of any other state or federal proceeding. The provisions of the Settlement Agreement shall be enforceable by any Settling Party before the Commission and thereafter in any state court of competent jurisdiction as necessary.

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

ACCEPTED and AGREED as of the 3rd day of August, 2020.

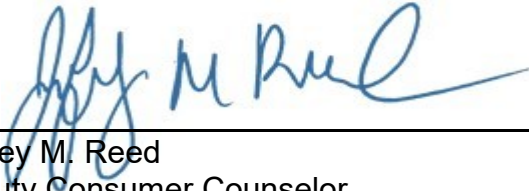


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Marc E. Lewis  
Indiana Michigan Power Company  
Vice-President Regulatory and External Affairs  
Indiana Michigan Power Center  
Fort Wayne, Indiana 46802

**Indiana Michigan Power Company**

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Jeffrey M. Reed  
Deputy Consumer Counselor  
Indiana Office of Utility Consumer Counselor  
115 West Washington St. Suite 1500 South  
Indianapolis, IN 46204-2215  
Phone: 317-232-4557  
Fax: (317) 232-5923  
Email: jreed@oucc.in.gov

**Attorney for Indiana Office of Utility Consumer Counselor**

17812764v1

**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

IN THE MATTER OF THE VERIFIED )  
PETITION OF INDIANA MICHIGAN )  
POWER COMPANY FOR APPROVAL OF )  
DEMAND SIDE MANAGEMENT (DSM) )  
PLAN, INCLUDING ENERGY )  
EFFICIENCY (EE) PROGRAMS, AND ) CAUSE NO. 45285  
ASSOCIATED ACCOUNTING AND )  
RATEMAKING TREATMENT, INCLUDING )  
TIMELY RECOVERY THROUGH I&M'S )  
DSM/EE PROGRAM COST RIDER OF )  
ASSOCIATED COSTS, INCLUDING )  
PROGRAM OPERATING COSTS, NET )  
LOST REVENUE, AND FINANCIAL )  
INCENTIVES. )

**STIPULATION AND SETTLEMENT AGREEMENT**

Indiana Michigan Power Company (“I&M”) and Intervenor City of South Bend (“City”) (collectively the “Settling Parties” and individually “Settling Party”) solely for purposes of compromise and settlement and having been duly advised by their respective staff, experts, and counsel, stipulate and agree that the terms and conditions set forth below represent a fair, just and reasonable resolution of the matters set forth below, subject to their incorporation by the Indiana Utility Regulatory Commission (“Commission”) into a Final Order<sup>1</sup> without modification or further condition that may be unacceptable to any Settling Party. If the Commission does not approve this Stipulation and Settlement Agreement (“Settlement Agreement”) in its entirety, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties.

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<sup>1</sup> “Final Order” as used herein means an order issued by the Commission as to which no person has filed a Notice of Appeal within the thirty-day period after the date of the Commission order.

## I. TERMS AND CONDITIONS

1. **Rate Certainty.** The City needs price certainty to make the commitment to retrofit their lights to LED. I&M and City agree that a negotiated customer specific contract solution should be used to address the City's concerns regarding the Public Efficient Streetlight (PES) DSM Program and the City's LED retrofit needs. A customer specific contract will provide that rates for PES LED lights shall not increase for five years from the date of the last retrofit. I&M and the City agree to meet no later than six months prior to the end of the five year term to negotiate the contract's extension. If the contract is not extended the City may then choose to take service under the then applicable PES rates or standard LED rates. The customer specific contract will provide that the rates for PES LED lights will remain subject to the Commission-approved tracker surcharges and tracker rate adjustments applicable to standard service customers.

2. **PES DSM Rebate Credit.** In future rate cases, I&M will not propose to credit or allocate the respective PES DSM Program per fixture rebate to any other LED or old technology streetlight rates or class. I&M will propose that the PES DSM LED retrofit capital cost rebate for LEDs funded by the DSM program shall remain a reduction in the underlying costs used to set rates for PES installed LED streetlights only and I&M will fully defend that position unless the City requests or agrees otherwise.

3. **Customer LED Choice.** The City shall be allowed to choose the wattage and lumen output of each replacement LED fixture from the portfolio of LED options listed by I&M in this Cause. Doing so allows the City to install the size of LED lumen output fixture that the City views as best meeting the City's nighttime safety and public use needs of each neighborhood or area. Fixture selections made by the City that deviate from I&M's recommended one-for-one replacement size could be subject to a higher or lower monthly tariff rate, depending upon the agreed-upon PES rate of the fixture selected. I&M and the City agree to collaborate to determine PES Program overall cost effectiveness, including an assessment of LED streetlight O&M and energy savings and the impact of City fixture size selections. I&M will continue to separately record actual streetlight O&M expense to FERC Accounts 585 and 596. I&M will provide a reasonably accurate calculation and estimate of the annual O&M expense and O&M savings resulting from the replacement of HPS fixtures with LED fixtures at the time of its next base rate case and reasonably prior to the meeting agreed to above in Paragraph 1.

4. **Photo Cell Rate Reduction.** I&M will allow the City to elect to have I&M install longer life approximate 15 year or longer photocells and thereby decrease the frequency and cost of photo cell replacements resulting in a per light monthly rate savings of \$0.685. Doing so reduces I&M's maintenance frequency and costs and in turn reduces the cost to be incurred by the City in participating in the PES Program.

5. **I&M DSM Plan.** Approval of this Stipulation resolves all of South Bend's concerns regarding I&M's pending DSM Plan. South Bend agrees to support Commission approval of this Stipulation in lieu of its opposition to the DSM Plan, including the PES Program.

6. **Uplift "No Pole" Rate.** For the installation of LED lamps at new locations on existing wood poles (i.e., new LED installations on existing wood poles not covered by the PES program), the Rate per Lamp per Month as set forth in Tariff E.C.L.S. shall be reduced by the pole cost in a 30-day filing to be promptly made with the Commission to establish new rates, as shown in the attached Exhibit 1 for new LED lamps on existing poles.

## **II. PRESENTATION OF THE SETTLEMENT AGREEMENT TO THE COMMISSION**

1. The Settling Parties will incorporate the terms of this Settlement Agreement into a streetlight contract to be approved in this Cause and included as an exhibit to the Settling Parties' testimony supporting the Settlement Agreement. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement and streetlight contract. The concurrence of the Settling Parties with the terms of the Settlement Agreement is expressly predicated upon the Commission's approval of the Settlement Agreement in its entirety without any modification or any condition that may be unacceptable by any Settling Party.

2. The Settling Parties shall jointly move for the Commission for leave to file the Settlement Agreement and supporting evidence. I&M and the City will file testimony specifically supporting the Settlement Agreement. The Settling Parties agree to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement and to consider the input of the other Settling Parties. Such evidence, together with the evidence previously prefiled by the Settling Parties, will be offered into evidence without objection from the Settling Parties, and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties will submit this Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Settlement Agreement in its entirety without any change or with condition(s) unacceptable to any Settling Party, the Settlement Agreement and supporting evidence may be withdrawn and the Commission will continue to hear Cause No. 45285 with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

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ability to publicly comment regarding this Settlement Agreement or any Order affecting this Settlement Agreement.

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the Settlement Agreement, as filed. The Settling Parties shall prepare and file an agreed proposed order with the Commission as soon as reasonably possible after the filing of this Settlement Agreement and the final evidentiary hearing.

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ACCEPTED and AGREED as of the 3rd day of August, 2020.

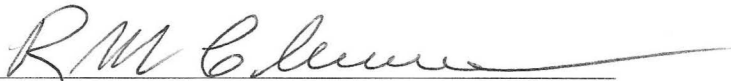


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Marc E. Lewis  
Indiana Michigan Power Company  
Vice-President Regulatory and External Affairs  
Indiana Michigan Power Center  
Fort Wayne, Indiana 46802

**Indiana Michigan Power Company**

I&M has not yet provided South Bend a draft Streetlight contract. Therefore South Bend conditionally accepts and signs this Settlement Agreement contingent on I&M providing South Bend an acceptable draft streetlight contract by August 7, 2020.



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Robert M. Glennon  
Robert Glennon & Assoc., P.C.  
3697 N. Co. Rd. 500 E.  
Danville, IN 46122  
Phone: 317-852-2723  
Email: robertglennonlaw@gmail.com

**Attorney for City of South Bend**

Lamp Type & Size (1)	Current Tariff ECLS Rate On Wood Pole with Overhead Circuitry (2)	Estimated Installed Cost of Pole (3)	Monthly Pole Cost (4)=(3)*0.95%	Proposed Rate On <b>Existing</b> Wood Pole with Overhead Circuitry (5) = (2) - (4)
LED				
4,800 Lumen - 41 Watt	\$12.05	\$531.19	\$5.05	\$7.00
8,500 Lumen - 88 Watt	\$13.05	\$531.19	\$5.05	\$8.00
14,000 Lumen - 139 Watt	\$14.70	\$531.19	\$5.05	\$9.65
23,000 Lumen - 219 Watt	\$17.50	\$531.19	\$5.05	\$12.45