

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED )  
PETITION OF INDIANAPOLIS POWER & )  
LIGHT FOR APPROVAL OF DEMAND SIDE )  
MANAGEMENT (DSM) PLAN, INCLUDING )  
ENERGY EFFICIENCY (EE) PROGRAMS, )  
AND ASSOCIATED ACCOUNTING AND )  
RATEMAKING TREATMENT, INCLUDING )  
TIMELY RECOVERY, THROUGH IPL'S )  
EXISTING STANDARD CONTRACT RIDER )  
NO. 22, OF ASSOCIATED COSTS )  
INCLUDING PROGRAM OPERATING )  
COSTS, NET LOST REVENUE, AND )  
FINANCIAL INCENTIVES. )

FILED  
September 22, 2020  
INDIANA UTILITY  
REGULATORY COMMISSION

CAUSE NO. 45370

**UNOPPOSED JOINT MOTION FOR LEAVE TO FILE SETTLEMENT  
AGREEMENT AND REQUEST FOR SETTLEMENT HEARING**

Petitioner, Indianapolis Power and Light Company (“Petitioner” or “IPL”), by counsel and on behalf of itself and the following parties, Indiana Office of Utility Consumer Counselor (“OUCC”), and Citizens Action Coalition of Indiana, Inc. (“CAC”), (collectively the “Settling Parties” and individually “Settling Party”), in accordance with 170 IAC 1-1.1-12 and 170 IAC 1-1.1-17, respectfully move the Commission for leave to submit a Stipulation and Settlement Agreement (“Settlement Agreement”) and supporting settlement testimony. The Settling Parties further request the Commission proceed to hearing as requested below. In support of this Joint Motion, the Settling Parties state as follows:

1. The Settling Parties have engaged in extensive settlement negotiations.
2. The Settling Parties have reached a Settlement Agreement that resolves all issues pending in this proceeding. A copy of the written Settlement Agreement is attached hereto as Exhibit A.

3. This is a settlement of all the issues among all the parties to this proceeding.
4. The Settling Parties ask that they be allowed to file testimony supporting the Settlement Agreement on or before September 29, 2020.
5. The Settling Parties ask that the evidentiary hearing set for September 28, 2020 be continued to a date on or about October 8, 2020 and converted to a settlement hearing.
6. The Settling Parties propose to file an agreed proposed order on or about the date of the settlement hearing. No other post hearing briefing will be necessary.
7. This Joint Motion is not filed for purposes of undue delay. Rather, if approved the process requested herein should facilitate the timely processing of this proceeding.
8. This Joint Motion and the submission of the Settlement Agreement are subject to the condition that if the Commission fails to approve the Settlement Agreement in its entirety and without any change or condition(s) unacceptable to any Settling Party, the Settlement Agreement and supporting evidence shall be deemed withdrawn and the Commission will promptly schedule an evidentiary hearing and continue to hear this Cause with the proceedings resuming at the point they were suspended.

WHEREFORE, the Settling Parties respectfully move this Joint Motion be promptly granted; that the procedural schedule be revised as proposed herein; and that the Commission grant to the Settling Parties all other relief as may be reasonable and appropriate in the premises.

Respectfully submitted on behalf of all Settling Parties,



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ATTORNEYS FOR PETITIONER, INDIANAPOLIS POWER  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing was served this 22nd day of September, 2020, via email transmission to:

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ATTORNEYS FOR PETITIONER  
INDIANAPOLIS POWER & LIGHT COMPANY

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**STIPULATION AND SETTLEMENT AGREEMENT**

Indianapolis Power & Light Company (“IPL” or “Company”), the Indiana Office of Utility Consumer Counselor (“OUCC”), and Citizens Action Coalition of Indiana, Inc. (“CAC”), (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 IPL’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 the matters pending in this Cause, subject to their incorporation by the Indiana Utility Regulatory Commission (“Commission”) into a final, non-appealable order (“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

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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.

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

**I. TERMS AND CONDITIONS.** The Settling Parties agree to Commission approval of the Company's proposed 2021-2023 DSM Plan and associated accounting and ratemaking treatment modified as follows:

**A. DSM Programs and Implementation.**

1. Lighting.

- a. Effective Useful Life ("EUL") for lighting measures. The EUL for LED General Service Lighting ("GSL") bulbs (*i.e.* standard, pear-shaped, screw-based bulbs) shall be two years from the date of installation when replacing halogen or incandescent bulbs. Notwithstanding the foregoing, should a statewide approach be adopted through an update of the Indiana Technical Resource Manual ("TRM"), the Indiana EUL's will be used on a prospective basis for 2022 and 2023 planning and evaluation.
  - b. Baseline for Residential LED GSL. LED GSLs will be removed from all programs other than the Income Qualified Weatherization Program effective 1/1/21. Should the Indiana TRM be updated during the term of the DSM Plan, the baseline for the Residential LED GSL program will be updated on a going-forward basis for Evaluation, Measurement & Verification ("EM&V") and planning purposes.
  - c. C&I Lighting. The IPL Oversight Board ("OSB") will work in good faith to monitor LED market pricing and efficiencies and will re-evaluate lighting measures offered through the C&I program should conditions change significantly. Any changes in the estimated life of a LED or other program assumptions during the life of IPL's 2021-2023 DSM Plan will be applied on a going-forward basis for EM&V and planning purposes.
  - d. School Education Kits. The Settling Parties agree that the School Education Kits program will not provide GSL measures in kits for the 2021-2023 program delivery period. The OSB will collaborate on specialty lighting and/or other measures to include in the School Education Kits program.
2. Distributor Midstream Incentive Mechanism. The OSB will work in good faith to explore and expand the use of distributor midstream incentive mechanisms for energy efficiency programs, including residential measures.
3. Income Qualified Weatherization ("IQW") program eligibility. IPL will use best efforts to meet the filed energy savings projections of the IQW program while retaining the 200% of Federal Poverty Level guideline for program eligibility. The OSB will explore ways to

improve program reach and participation. Any change in the eligibility criteria must be approved by unanimous vote of the OSB.

4. Opt-Out Management: IPL agrees to offer a workshop to opt-out customers to teach them about the C&I programs and encourage them to opt back into the program. IPL will also be authorized to offer a one-time 10% increase in incentives to any customer that opts back into the DSM program, as long as it is cost effective to do so. Additionally, the 10% bonus incentive will apply to the first project only.

**B. Spending Flexibility.**

1. The OSB will be authorized to pursue additional reasonably achievable, cost effective energy savings by exercising spending flexibility. The Settling Parties agree to work collaboratively in good faith through the OSB to prudently exercise the spending flexibility and to use best efforts to achieve an additional 50,000 MWh (net) of energy savings that are cost effective at the “incremental portfolio level” (meaning the sum of all dollars spent above IURC-approved budgeted amounts, from both the Residential and C&I portfolios, considered as a whole), over the three year DSM Plan with best efforts to have approximately 40% of these additional net savings coming from the residential programs. In total, the 50,000 reflects a projection of the net MWh that may be achievable through the exercise of this spending flexibility over the three-year term of the Plan. The spending flexibility includes the ability to spend up to and including an additional 10% of direct program operating costs. The Settling Parties through the OSB will use best efforts to increase the scale of programs and/or identify new programs to produce reasonably achievable, cost effective energy savings; however, the Settling Parties agree not to consider additional behavioral savings. Additionally, the Settling Parties agree that an additional tier of flexible spending, up to five million dollars (\$5M), will also be available to the IPL OSB in the event all of the original Flexible Spending amounts have been utilized. Funds in this additional tier are eligible only for cost effective programs. The Settling Parties explicitly agree that all Flexible Spending amounts included within this Plan are specific to this Plan and are not eligible for transfer or “carry-over” from any prior DSM Plan or to any subsequent DSM Plan. In the exercise of this spending flexibility, the Settling Parties, through the OSB, agree that a unanimous vote from the OSB members will be required (and that approval of the exercise of spending flexibility authority will not be unreasonably withheld if cost-effective), and the Settling Parties, through the OSB, will use the *DSMore* energy efficiency modeling tool (or successor program) to verify cost-effectiveness.
2. To facilitate and assist the OSB in the pursuit of cost effective energy savings provided in this Settlement Agreement, IPL will make its program implementation and EM&V vendors available to meet with the OSB to discuss program implementation and potential cost effective ways to pursue energy savings. These efforts may result in new measures, new programs and/or the redesign of existing programs. Such meetings are anticipated to occur quarterly unless otherwise determined by the OSB.

3. The Settling Parties agree that the exercise by the OSB of the authority agreed to in Section B-1 above shall not change the energy savings goals for 2021-2023 but will allow for the pursuit of additional cost effective energy savings above those goals.
4. The Settling Parties agree that the OSB's allocation of spending flexibility will require unanimous affirmation. OSB members abstaining from a vote will not be counted against the final vote tally.

C. **Market Potential Study.** IPL will work with the other members of the OSB to reach a consensus in the selection of the consultant to conduct the next Market Potential Study.

D. **IRP Modeling of DSM/EE Analysis.** Prior to IPL's modeling efforts and public advisory meetings, IPL will invite the Settling Parties' technical staff and/or consultants to participate in an IRP stakeholder core team to provide input, including a) scenario development for its next IRP filing; and b) avoided T&D costs. This will allow the Settling Parties as well as other IRP stakeholders to have timely input on these matters and review of the data to be used in the modeling of DSM/EE during the course of the modeling process and before any modeling results are finalized. IPL will provide transparent supporting data and assumptions in a timely manner throughout the IRP stakeholder process upon execution of non-disclosure agreements if needed.

E. **Lost Revenues.** The Settling Parties agree:

1. The lost revenues for measures installed during the DSM Plan (2021-2023) period will be recovered through the IPL DSM Rider for (a) the life of the measure, (b) three years from implementation of any measure installed, or (c) until measure related energy savings are reflected in new base rates and charges, whichever occurs earlier.
2. 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 IPL's next base rate case, whichever occurs earlier, IPL will perform a billing system review at the close of each program year for C&I customers that receive program incentives through IPL's Prescriptive and/or Custom C&I programs. If IPL determines that any such customer service is in close status, IPL will adjust the useful life of the measure(s) for purposes of lost revenue tracking.
3. IPL will zero out in the IPL DSM Rider (Standard Contract Rider No. 22) all lost revenue recovery approved for the DSM Program years prior to and including the test year adopted for the setting of base rates in IPL's next base rate filing.

F. **Opportunity to Earn Financial Incentive.**

1. The Settling Parties agree that IPL's proposed financial incentive shall be approved with the following modification:



Portfolio Performance Level Achievement	% of Direct Program Costs
110%	13.5%
100-109.99%	12%
90-99.99%	10%
80-89.99%	8%
75-79.99%	6%
70-74.99%	4%
<70%	0%

2. Consistent with the treatment of financial incentives in Cause No. 44945, the Settling Parties agree that IPL will not adjust its net operating income for the purposes of the FAC earnings test by the amount of actual financial incentives received.
3. The Settling Parties agree that the additional tier of \$5M Flexible Spending will not contribute towards IPL's financial incentive.

**G. Other Matters.**

1. Any matters not addressed by this Settlement Agreement will be adopted as proposed by IPL in its direct and rebuttal case.
2. The Settling Parties agree to work cooperatively to seek Commission approval of this Settlement Agreement so that IPL may implement new DSM programs no later than January 1, 2021.

**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.

2. The Settling Parties may file testimony specifically supporting the Settlement Agreement. The Settling Parties agree to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement and to consider the input of the other Settling Parties. Such evidence, together with the evidence previously prefiled in this Cause, will be

offered into evidence without objection and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties propose to submit this Settlement Agreement and 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 and supporting evidence shall be withdrawn and the Commission will continue to hear the matters pending in this Cause with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

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

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

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

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

3. This 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 this Settlement Agreement.

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

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

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

7. 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 successor and assigns, which will be bound thereby.

8. The Settling Parties shall not appeal or seek rehearing, reconsideration or a stay of the Commission Order approving this Settlement Agreement in its entirety and without change or

condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement Agreement).

9. The provisions of this Settlement Agreement shall be enforceable by any Settling Party first before the Commission and thereafter in any state court of competent jurisdiction as necessary.

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

**ACCEPTED and AGREED as of the 22nd day of September, 2020.**

INDIANAPOLIS POWER & LIGHT COMPANY



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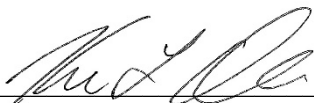
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CITIZENS ACTION COALITION OF INDIANA, INC.



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