ORIGINAL

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, FINANCIAL INCENTIVES, AND CARRYING CHARGES AND DEPRECIATION EXPENSE ON CAPITAL EXPENDITURES AND ASSOCIATED OPERATIONS AND MAINTENANCE EXPENSE.	)	**CAUSE NO. 44841** **APPROVED:** SEP 2 0 2017

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On August 26, 2016, Indiana Michigan Power Company ("I&M" or "Petitioner") filed its Verified Petition in this Cause as well as its direct testimony, attachments, and workpapers.

Citizens Action Coalition of Indiana, Inc. ("CAC"), the City of Fort Wayne, Indiana ("Fort Wayne"), and the I&M Industrial Group ("Industrial Group") intervened in this Cause.

On November 21, 2016, the Indiana Office of Utility Consumer Counselor ("OUCC"), the Industrial Group, and CAC filed their respective testimony and attachments. CAC also filed a Motion for Administrative Notice. On November 23, 2016, Fort Wayne filed its testimony.

By Order dated December 7, 2016, the Commission established a procedural schedule and authorized I&M to continue to offer its 2016 DSM Plan and to continue to recover costs consistent with the Commission's Order in Cause No. 43827 DSM 5 pending further order of the Commission.

On December 16, 2016, I&M submitted its rebuttal testimony and attachments. On December 22, 2016, the OUCC, the Industrial Group, CAC and Fort Wayne filed a Joint Motion to Strike portions of Petitioner's rebuttal testimony and exhibits, to which the Petitioner responded on January 5, 2017.

By docket entry dated January 5, 2017, the Presiding Officers requested information from I&M, which was provided on January 9, 2017.

On January 20, 2017, I&M, the OUCC, the Industrial Group and Fort Wayne (collectively, the "Settling Parties") submitted a Stipulation and Settlement Agreement ("Settlement Agreement"). The Settlement Agreement reflects a compromise among the Settling Parties

whereby, among other things, I&M agreed to withdraw the portions of rebuttal testimony at issue in the Joint Motion to Strike filed on December 22, 2016. The OUCC filed testimony in support of the Settlement Agreement on January 24, 2017, and I&M and Fort Wayne filed their Settlement Agreement supporting testimony on January 25, 2017. On February 22, 2017, CAC, the only non-Settling Party in this proceeding, filed testimony opposing Commission approval of the Settlement Agreement. On March 13, 2017, I&M filed settlement rebuttal testimony in response to CAC's filing.

The Commission held an evidentiary hearing in this Cause commencing at 9:30 a.m. on April 13, 2017, in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. I&M, the OUCC, CAC and the Industrial Group appeared and participated at the hearing. CAC's Request for Administrative Notice was granted. All parties' respective evidence was admitted into the record without objection. No members of the general public attended the hearing.

Based upon applicable law and evidence presented, the Commission 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 demand side management ("DSM") and energy efficiency ("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, is a corporation organized and existing under the laws of the State of Indiana, with its principal office in Fort Wayne, Indiana. I&M renders electric utility service in the State of Indiana and owns and operates plant and equipment within the State of Indiana 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 requests Commission approval of a DSM Plan for the three-year period of 2017 through 2019 ("DSM Plan"). The DSM Plan includes EE 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 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"), which includes 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.

With respect to the DSM Rider, I&M requests program cost recovery authority encompassing the three-year forecast period of 2017, 2018, and 2019 and authority to adjust DSM Rider factors based on the three-year revenue requirement presented in I&M's case-in-chief. This request differs slightly from its past DSM petitions. In this case, I&M calculated rider factors reflecting the DSM Plan revenue requirement and legacy net lost revenue. I&M did not include a reconciliation of 2015 costs in the calculation of these factors. I&M filed a separate petition for

reconciliation of 2015 costs, which was addressed in the Commission's December 28, 2016 Order in Cause No. 43827 DSM 6 ("DSM 6").

In its Petition, I&M requests that the Commission approve the DSM Plan in its entirety under Ind. Code § 8-1-8.5-10 ("Section 10"). I&M alternatively requests that the Commission approve the 2017 Plan year under Ind. Code § 8-1-8.5-9 ("Section 9") and the 2018-2019 Plan years under Section 10 if the Commission should have concerns as to whether the energy savings goal for 2017 is compliant with Section 10.

4. **Evidence.**

A. **I&M.**

1. **DSM Plan.** Jon C. Walter, Manager of Regulatory Support for I&M, presented Petitioner's proposed DSM Plan. He identified the DSM Plan programs, goals, budgets, and costs, and discussed the demand and energy impact of and cost/benefit analysis for the DSM Plan. I&M's three-year DSM Plan contains offerings to all customer classes, including low income customers, with many of the same measures offered in 2015 and 2016 programs:

- Home Energy Products,
- Income Qualified Weatherproofing,
- Schools Energy Education,
- Home Appliance Recycling,
- Home New Construction,
- Home Weatherproofing,
- Home Energy Engagement,
- Work Custom Rebates,
- Work Direct Install Rebates,
- Work Prescriptive,
- Work Energy Management ("WEM"),
- Public Efficient Streetlighting ("PES"),
- Home Energy Management ("HEM"), and
- Electric Energy Consumption Optimization ("EECO").

Mr. Walter explained the above list includes two new programs (WEM and PES) and two revised programs (Home Energy Engagement and HEM).

Mr. Walter explained how the DSM Plan is consistent with the state energy analysis developed by the Commission and Petitioner's 2015 Integrated Resource Plan ("IRP"). He testified that the DSM Plan is also consistent with Petitioner's 2016 Market Potential Study ("MPS").

Mr. Walter explained that I&M performed a cost and benefit analysis of the DSM Plan using the standard Utility Cost Test ("UCT"), Total Resource Cost ("TRC") test, Ratepayer Impact Measure ("RIM") test and Participant Cost test. He described the tests and summarized the benefit cost scoring in Attachment JCW-6 of Petitioner's Exhibit 1. He testified that I&M's DSM Plan portfolio is reasonable because it is cost effective from a TRC perspective with a score of 2.18 and from a UCT perspective with a score of 2.68 (three-year portfolio scores).

Mr. Walter also discussed program implementation, EM&V, large customer opt out, and Petitioner's plans for stakeholder input. He stated that I&M is committed to an outside EM&V review and that the independent evaluator will perform a process and an impact evaluation for each year of the DSM Plan. He said EM&V results to date support the DSM Plan.

2. **Oversight and Stakeholder Input.** Mr. Walter testified that I&M proposes to continue for 2017–2019 the oversight and stakeholder input approach that was approved by the Commission in Cause Nos. 44486 and 43827 DSM 5. He said this approach is aligned with that used in the IRP process, and has worked well to garner input on I&M's DSM/EE offerings from both voting members of the Oversight Board ("OSB") and non-voting members of the public. He said I&M proposes to continue reporting the OSB scorecard information to the Commission consistent with the Order in Cause No. 43827 DSM 5.

3. **Accounting and Ratemaking.** Mr. Walter explained Petitioner's proposed accounting and ratemaking for the DSM Plan. He testified that I&M requests authority to recover all program costs as defined in Section 10 through the DSM Rider, including direct and indirect costs of operating the programs, net lost revenue, shared savings, and EM&V costs. Mr. Walter stated this request includes cost recovery for the WEM and EECO DSM programs consistent with that approved by the Commission in Cause No. 44486.

Mr. Walter stated that Petitioner requests authority for program cost recovery encompassing the three-year forecast period of 2017, 2018, and 2019, and to adjust DSM Rider factors based on the three-year revenue requirement shown in Petitioner's Exhibit 1, Attachment JCW-3. He said the reconciliation filing in DSM 6 would update the DSM Rider factors to reflect the result of the 2015 period reconciliation and the cumulative prior over/under recovery balance. He said annual future reconciliations will update the DSM Plan revenue requirement with the adjustments required to true up the annual program cost, net lost revenue and shared savings with final annual verified performance and the respective cumulative historical reconciliation balance. Mr. Walter explained I&M also requests continued authority to defer the over/under recoveries of projected DSM/EE program costs through the DSM Rider pending reconciliation in subsequent rider periods and approval to defer any costs incurred in implementing the DSM/EE programs prior to the time the Commission issues an order authorizing I&M to recognize these costs through the ratemaking process.

Mr. Walter discussed the methodology and provided the calculations used to develop the DSM Rider factors, including the reconciliation of DSM Rider revenues against actual program costs, verified net lost revenue, and verified shared savings performance. He explained the inclusion of the Gross Revenue Conversion Factor used in the calculation of the DSM Rider revenue requirement and discussed the impact and treatment of large customer opt out under Senate Enrolled Act 340 ("SEA 340").

Shermetre A. Smith, Regulatory Consultant in Regulated Pricing and Analysis for American Electric Power Service Corporation, supported the rate design associated with recovery of Petitioner's proposed DSM Plan costs through the DSM Rider. She provided the calculation of Petitioner's proposed DSM Rider factors and the resulting rate impacts on I&M customers along with a sample tariff sheet. Finally, she identified Petitioner's proposed clarifications to the text of the DSM Rider.

4. Lost Revenues. Mr. Walter discussed I&M's proposed lost revenue recovery and explained why I&M's proposal is reasonable and necessary. He stated that I&M does not propose to change the methodology that is currently in place to calculate lost revenue, including continued reliance upon DSM measure life tracking. I&M proposes that the recovery of net lost revenue would continue through the DSM Rider using forecasted information subject to reconciliation.

The lost revenues associated with the proposed DSM Plan are shown on Attachments JCW-9 (2017), JCW-10 (2018), and JCW-11 (2019) of Petitioner's Exhibit 1. Mr. Walter explained that all of the programs in the DSM Plan are eligible for lost revenue recovery with the caveat that Petitioner's filing reflects zero lost revenue for the PES program. Mr. Walter testified that I&M's net lost energy savings and resulting net lost revenue forecast is reasonable because it reflects accumulated lost energy savings only for those measures whose useful life persists for each year of the forecast and the approach to the lost revenue calculation uses actual sales reductions based on EM&V actual results and aligns the net lost revenue calculation with the costs reflected in the revenue requirement used to establish I&M's basic rates. He stated because net lost revenue is reconciled annually using measure life tracking, the reconciliation process will further adjust for any measures with life less than four years contained within other programs but not material enough to adjust for in the forecast. Mr. Walter explained that other programs in the DSM Plan have a mix of long life measures (longer than four years) and short life measures (less than or equal to four years) where the weighted average measure life of the program is longer than four years and where the short life measures contained within the measure mix are not easily discernable. He said it is appropriate to allow the reconciliation process to adjust out these short life measures as results are verified.

In an effort to provide the Commission a full picture of the net lost revenue for the three DSM Plan years, Mr. Walter also provided the respective year forecast of "legacy" lost revenue, *i.e.,* net lost energy savings and net lost revenue resulting from the remaining effect of net lost savings from prior year DSM plan implementation and verified measure installations.

5. Financial Incentive. Mr. Walter testified that the DSM Plan continues the shared savings construct from the settlement agreement approved in Cause No. 44486 ("44486 Settlement Agreement"). He testified that the shared savings construct is reasonable because: (1) earnings are based on annual program cost-effectiveness performance that is aligned with the IRP resource selection process; (2) I&M shared savings earnings are capped while customer benefits are not; (3) the DSM/EE goals are determined from the optimal supply side resource selection from the most recent IRP, not independently by I&M; (4) I&M's opportunity to earn a return is based on how well customers' benefits are provisioned; (5) I&M has removed the programs that inherently allow I&M the opportunity to earn its authorized rate of return (EECO and WEM) from eligibility for shared savings consideration; and (6) I&M's share of the shared savings is treated as above-the-line for ratemaking purposes and included in the earnings test under the fuel adjustment clause. Under I&M's proposal, the Income Qualified Weatherproofing, WEM, EECO and PES programs are not included as eligible for shared savings earnings. Mr. Walter discussed the shared savings cap and estimated that, based on each sector's net benefits and program operating costs, the annual forecast shared savings performance for each year of the DSM Plan is $2.69 million, $2.2 million, and $1.9 million, respectively.

B. OUCC. Edward T. Rutter, Chief Technical Advisor in the OUCC's Resource Planning and Communications Division, testified that I&M's use of the term "program cost" is inconsistent with Indiana law because, while it includes the direct and indirect cost components that I&M will incur, it does not recognize cost components that the ratepayer is being asked to pay, such as lost revenues and financial incentives. He discussed the difference between the cost to I&M and the cost to ratepayers.

Mr. Rutter discussed his opinion of what lost revenue is and expressed the OUCC's concerns with I&M's proposed lost revenue recovery. He explained that DSM/EE lost sales are not the only cause, or most likely even the largest cause, of I&M potentially not recovering its Commission-authorized fixed costs or earning its authorized return. He stated that when I&M's fixed costs rise, or they are not achieving their authorized return, I&M should file a base rate case, as utilities have done for decades, and not expect to correct that problem through a DSM lost revenue recovery mechanism. With respect to financial incentives, Mr. Rutter stated the OUCC supported I&M's request, but recommended that incentives be awarded only to programs that meet or exceed I&M's savings goals. In addition, he recommended the Commission cap the total lost revenues and financial incentives recovery at 50% of the UCT net benefit.

Mr. Rutter testified the PES Program is not an appropriate DSM program and should not be included. While he agreed that replacing existing streetlights with LED fixtures will result in energy savings, he believed the program was being funded with inappropriate inter-class subsidies.

With respect to the OSB, Mr. Rutter stated the other four investor owned electric utilities' OSBs require a favorable majority vote before any funds can be moved between programs or sectors and before they can spend more than their approved program budgets. He stated that there should be greater uniformity in how the DSM offerings are treated and overseen by the OSBs and recommended that OSB pre-approval be required for all proposed funding transfers and increases in program spending.

Crystal L. Thacker, Utility Analyst in the OUCC's Electric Division, testified concerning the DSM Plan cost component of I&M's proposed adjustment to the DSM Rider factor presented for Commission approval in DSM 6. Ms. Thacker testified that the DSM Plan cost component is made up of forecasted program costs, forecasted shareholder incentives, and forecasted lost revenues. She explained that under I&M's proposed DSM Rider, I&M will continue to request new DSM factors through the DSM Rider proceeding, but the two cost recovery components (the reconciliation cost component and the DSM Plan cost component) will be calculated separately. She stated that if the Commission agrees with all or part of the OUCC's recommendations in this Cause, the Commission should require I&M to re-calculate its proposed DSM Plan cost component and require I&M to make a compliance filing in DSM 6 as soon as possible.

C. Industrial Group. Michael P. Gorman, Managing Principal of Brubaker & Associates, Inc., addressed I&M's proposal to recover DSM program costs and lost revenues and the provision of DSM performance incentive payments to Petitioner's shareholders. He also recommended that the Commission reject I&M's request for approval of the new PES and WEM programs and associated cost recovery.

With respect to lost revenues, Mr. Gorman testified that Petitioner was seeking approximately $5 million in annual incremental lost revenues for each year of the DSM Plan. With

the projected recovery of legacy lost revenues over the same three-year period, he testified that the total lost revenue recovery amounted to approximately $99.82 million. Mr. Gorman testified that I&M's proposed lost revenue recovery is unreasonable. He pointed out the Commission's concern with "pancaking" in recent DSM proceedings was present in this case, with 48% of the total $174.81 million three-year DSM Plan revenue requirement comprised of legacy lost revenues. He also testified that by using I&M's "weighted average measure life," in the absence of a rate case or some other check on the recovery of lost revenues, ratepayers could be paying for measures installed in 2017 as far out as 2042.

Mr. Gorman also compared the amount of legacy lost revenues and the overall DSM Plan budget to increases approved in recent base rate cases, concluding that the comparative level of recovery illustrates over time that continued recovery of legacy lost revenues produces unreasonable outcomes and justifies the imposition of limits on their recovery.

Mr. Gorman proposed that the Commission place a cap on the recovery of lost revenues and consider the effect of continued recovery of previously approved lost revenues in assessing the reasonableness of the DSM Rider. Mr. Gorman also suggested that the Commission reconsider the use of forecasts for the recovery of lost revenues; and impose specific requirements to ensure that collection of lost revenues end at the conclusion of a rate case.

Mr. Gorman testified the Commission should require I&M to seek recovery of any lost revenues on a retrospective basis instead of a forecast basis. He stated that a base rate case proceeding would be the preferable means of addressing any concerns pertaining to the recovery of lost revenues because it would better address all the drivers which affect sales and allow the Commission to assess all aspects of I&M operations and revenues, including any verifiable reduction in sales associated with DSM, and ensure I&M's overall rate level is fair, just, and reasonable comprehensively, rather than a part of a single issue ratemaking proceeding.

Mr. Gorman also testified in support of a recommendation to fully "zero out" the lost revenue collection at the conclusion of the next base rate case, and to address continued, ongoing, recovery of prior period variances following the conclusion of the rate case.

With respect to performance incentives, Mr. Gorman disagreed with I&M's rationale for their recovery, testifying that the proposed incentive provides greater profit for less risk relative to supply side options. Mr. Gorman testified that in the absence of a bias in favor of supply side resources, and with the recovery of lost revenues, there was no reasonable level of incentive to recover.

Mr. Gorman testified that if the Commission allows recovery of lost revenues and DSM performance incentives, it should also reduce I&M's allowed return on equity in I&M's next base rate proceeding to recognize the reduction in business risk associated with such recoveries, particularly when such recoveries are considered in conjunction with the overall proliferation of trackers in Petitioner's tariff.

Mr. Gorman generally testified against approving the use of the DSM Rider to recover capital costs associated with the PES and WEM programs. With respect to the PES program, he testified that there was no cost-of-service basis to impose the program costs on retail ratepayers, and

recommended it be rejected. Similarly, he recommended the WEM program be rejected in the absence of evidence that the incentive paid to customers reflects the value of the reduced load.

D. Fort Wayne. Douglas Fasick, Senior Program Manager, Utilities Energy Engineering and Sustainability Services, for Fort Wayne's City Utilities Division, discussed the capital requirements Fort Wayne faces in modernizing its water and wastewater utility systems and the impact on municipal utility ratepayers. He said that Fort Wayne and I&M need to work together in reviewing their capital improvement programs to identify opportunities to reduce electric usage and demand. He stated Fort Wayne believes that the DSM Plan and EE programs can support better communication regarding the engineering of planned capital improvements. He made several recommendations regarding outreach, the addition of a demonstration project program, and greater flexibility in custom programs.

E. CAC. Shawn M. Kelly, an independent consultant, addressed the reasonableness and cost effectiveness of I&M's DSM Plan. He provided his analysis and recommendations to enhance I&M's proposed programs, EM&V procedures, and cost recovery designs. He concluded that the DSM Plan should be rejected because it does not meet the statutory definition of EE goals and does not pass the overall reasonableness threshold required in Section 10.

Mr. Kelly discussed how I&M developed its EE goals. He stated that no EE savings were "baked in" as a load reduction in 2017, nor was EE available to be chosen by I&M's IRP planning model in 2017. He stated that even if I&M had reflected EE savings as a reduction from its load forecast in the IRP, accounting for EE as a load reduction, as opposed to allowing the model to choose the optimal level of EE in 2017, is inappropriate and runs counter to the Commission's October 4, 2012 IRP Draft Proposed Rule. Mr. Kelly disagreed with I&M's treatment of 2017 as a transition year in the IRP modeling and explained why he believes that I&M's approach to determining its EE goals for 2018 and 2019 was flawed. He stated that the translation of savings selected in the IRP into DSM goals is not necessarily flawed, but it should raise red flags that a utility has not accurately and fairly assessed EE when I&M's IRP only picked residential lighting as a cost-effective EE resource. Citing to the report on I&M's 2015 IRP by Sommer Energy, LLC, and Mims Consulting, LLC, Mr. Kelly identified several issues with I&M's EE modeling and discussed the Commission's Electricity Director's Final Report on 2015–2016 IRPs. He also highlighted some examples of what he viewed as the most flawed points in I&M's IRP modeling of EE and discussed how the residential IRP bundle cost assumptions compare to I&M's proposed DSM Plan. Mr. Kelly stated that the DSM cost-benefit assumptions are not consistent between the IRP and DSM Plan because they use different energy and capacity prices.

Mr. Kelly acknowledged I&M's DSM Plan includes a decent mix of program options, but expressed concern that more than two-thirds of the proposed residential savings would be coming from the Home Energy Engagement program, which is a behavioral program. He stated that he was not arguing that I&M's behavioral programs are not cost effective, but when such a high percentage of savings comes from one program, if the results from that program do not meet expectations, the risk of falling short of savings goals is exacerbated. He recommended I&M increase the savings goals by incorporating new programs as well as increasing the savings levels of current proposed programs, excluding Home Energy Engagement.

Mr. Kelly compared the proposed DSM Plan savings to the standard established by the Order in Cause No. 42693 ("42693 Order") and I&M's past DSM plans. He stated that the proposed

annual energy savings is significantly below the average annual savings required by the 42693 Order. He acknowledged that some of this reduction is due to large customers at 1 MW and above no longer participating in the programs because of the statutory opt out provisions. However, even after backing out the sales of customers who have opted out, he said I&M's 2017–2019 goal is only 0.89% of eligible sales, compared to the former target in the 42693 Order of 1.7% for 2017.

Mr. Kelly also discussed the new programs included in the proposed DSM Plan and questioned whether I&M intended to include the two pilot programs, the Home Comfort & Efficiency Pilot and the Small Business Efficiency Pilot, approved in Cause No. 43827 DSM 5. Mr. Kelly stated that there are opportunities for additional savings within the existing EE budget and discussed what existing programs I&M can modify to increase savings.

Mr. Kelly stated that I&M should prioritize improving its residential Income Qualified Weatherproofing ("IQW") program and residential Home Weatherproofing program implementation. He added that based on I&M's 2015 performance, all program implementation can be significantly improved. Mr. Kelly stated that I&M should adopt a new delivery mechanism for the IQW program and added that I&M should be required to coordinate its low-income offering with the gas companies that serve its customers. He recommended that I&M significantly increase its budget for the IQW program, provide the funding directly to a Community Action Partnership ("CAP") agency, and allow one or more such agencies to implement the program for I&M. Mr. Kelly recommended that at the very least, I&M should add a "Health and Safety" funding component to the IQW program.

Mr. Kelly recommended that I&M offer a new manufactured home program and clarify that its Home Energy Products, Home Weatherproofing, Home Energy Engagement and IQW programs are available to manufactured home owners and renters. He recommended Petitioner offer a multi-family program and re-implement its School Audit Direct Install program. Mr. Kelly also suggested that I&M implement all of the recommendations from the 2015 EM&V reports to improve I&M's existing residential and commercial program offerings.

Mr. Kelly discussed CAC's concerns with I&M's OSB and stated that it should return to the pre-44486 Settlement Agreement requirements to ensure that the OSB has more oversight and I&M is actually delivering robust and effective programs.

Mr. Kelly discussed CAC's position on lost revenue and the cap on lost revenue recovery imposed by the Commission in other utility DSM cases. He stated CAC contends that the utilities are over collecting revenues from customers that are not truly "lost revenues," and that the accumulation of lost revenues from multiple program years and long periods between rate cases creates a harmful "pancake effect" that was never intended. Mr. Kelly recommended the Commission limit lost revenue recovery to: (1) four years or the life of the measure, whichever is less; or (2) until rates are implemented pursuant to a final order in I&M's next base rate case, whichever occurs earlier. He also recommended the Commission order EM&V to be performed by an independent evaluation monitor that is hired or employed by the Commission and paid for by ratepayers with money collected by the utility.

Mr. Kelly discussed I&M's proposed performance incentive and stated that it is not reasonable, mostly because it is an incentive that is not based on achieving any level of savings. He further testified that, if approved, I&M's performance incentives should mirror the one approved in

S. Ind. Gas & Elec. Co. d/b/a Vectren Energy Delivery of Ind., Inc., Cause No. 44645 (IURC March 23, 2016) ("Vectren DSM Order"), which limits incentives to 5-10 percent of the UCT benefits and connects it to energy savings.

Mr. Kelly discussed I&M's MPS and stated that it cannot reasonably be viewed as identifying the ceiling on cost-effective savings.

Finally, Mr. Kelly recommended the Commission initiate some type of formal process to develop a standard methodology for Indiana utilities to calculate lost revenues for an EE measure. He also recommended the Commission initiate an investigation into lost revenues and DSM cost recovery filings for the five investor-owned electric utilities in Indiana, similar to the Commission's Gas Cost Adjustment investigation in Cause No. 44374.

F. I&M Rebuttal.

1. Regulatory Framework and Policy. Marc E. Lewis, I&M Vice President Regulatory and External Affairs, responded to the direct testimony filed by the OUCC, Industrial Group, and CAC regarding Indiana's statutory framework and its relationship to I&M's requests in this case. He explained why I&M believes it is necessary for the Commission to continue to authorize full and timely cost recovery for I&M's DSM/EE programs, including lost revenue and shared savings. Mr. Lewis also responded to OUCC witness Mr. Rutter's testimony regarding I&M's use of the term "program cost," CAC's discussion of Senate Bill 383 in the context of I&M's IQW program and concerns regarding I&M's OSB.

Mr. Walter explained that I&M evaluated the cost effectiveness of its proposed DSM programs using the standard tests in accordance with their established definitions and I&M's previous filings. He said it is not appropriate to apply the Section 10(g) definition of "program costs" when performing the cost-effectiveness tests because the results would not be an accurate reflection of what each test is intended to measure. He noted that I&M's presentation of the costs associated with the DSM Plan is consistent with Section 10, which recognizes that lost revenues and shareholder incentives are separate from the direct and indirect costs of the programs.

2. Public Efficient Streetlighting. Mr. Walter also responded to concerns raised by Mr. Rutter and Mr. Gorman regarding the PES program. He explained the program is appropriately designed as an EE program and recognizes the cost barrier that inhibits upgrading of existing streetlight fixtures to more efficient LED fixtures. He also explained why he believes the PES program rebate is reasonably designed. He stated the PES program is not a capital recovery program because I&M will never earn a return of and on the amount of these rebates. He disagreed with the Industrial Group's suggestion that I&M defer the cost of LED streetlighting upgrades.

3. DSM Plan Goals and IRP. G. Scott Fisher, Resource Planning Manager for American Electric Power Service Corporation, addressed the issues raised by CAC regarding the consideration of DSM/EE in I&M's 2015 IRP. He explained why the IRP is not flawed and how it adequately assesses all new resource options, including DSM and EE. Mr. Fisher testified that the IRP's Preferred Plan is a reasonable path forward and is balanced with respect to the planned resource additions. He said the IRP provides I&M's DSM/EE planners a reasonable

economic level of EE resources to be added over the planning period based on all of the inputs considered within an IRP.

Mr. Walter testified that I&M has correctly calculated and transparently presented the DSM Plan costs and impact on rates. He said the 2018 and 2019 levels of savings reflected in the DSM Plan were selected by the IRP. In addition, while the IRP did not select the level of DSM for 2017, he said this does not mean the entire DSM Plan should be rejected. He referred back to his direct testimony where he explained why it is reasonable to recognize that 2017 would be a transition year and why the proposed DSM Plan goals are reasonably achievable, consistent with the IRP, and designed to achieve an optimal balance of energy resources in I&M's service territory. He stated that should the Commission have concerns about the energy savings goal for 2017, I&M asks the Commission to approve the 2017 DSM Plan year under Section 9 and the 2018-2019 DSM Plan years under Section 10. He explained the method used to establish the energy savings goal for 2017 is consistent with the method used for the 2016 DSM Plan approved by the Commission under Section 9 in Cause No. 43827 DSM 5 and is also corroborated by the IRP modeling and I&M's MPS.

Mr. Walter stated that Mr. Kelly's comparison of the DSM Plan goals to the former EE goals established in the 42693 Order is inappropriate because the former goals were removed as part of SEA 340. He stated that under Section 10, the IRP is the basis for utilities to determine the appropriate level of cost-effective EE. He concluded that I&M is proposing a level of savings that is reasonable and satisfies the requirements of Section 10(c).

4. **DSM Programs.** Mr. Walter disagreed with the Industrial Group regarding the WEM Program incentives, stating they are appropriately designed and their availability to participating customers is aligned with the value of the reduced load. He said the Commission should approve the WEM program as proposed by I&M.

With respect to I&M's Home Energy Engagement program, Mr. Walter stated the program is reasonable as a significant portion of the residential portfolio because it cost effectively engages about 36% of I&M's Indiana residential customer base in energy education, efficiency, and other program cross promotion. He said that no other program has reasonably scaled to this level of participation and engagement opportunity, and that cost effectiveness is a barrier for longer life measures. With respect to the IQW program, Mr. Walter explained I&M has dedicated significant effort to participation in this program. He discussed the trends in participation levels and I&M's efforts to expand what can be done in each home visited. He noted the program's budget allows for reasonable health and safety issues to be addressed and does not need to be increased. Mr. Walter said Mr. Kelly's recommendations regarding a new manufactured home program and a non-residential school audit direct install program are not new recommendations and do not rise to the level of needing a specifically dedicated program to offer the measures Mr. Kelly recommends.

5. **Lost Revenue and Financial Incentive.** Mr. Lewis responded to the OUCC and Intervenors' proposals regarding lost revenue and explained why they are unreasonable and inconsistent with Section 10. He said legacy lost revenues represent fixed costs found to be just and reasonable in prior rate cases that become unrecoverable through I&M's Commission-approved basic rates due to the success of I&M's prior DSM/EE plans. He stated that had I&M's previous plans been a total failure resulting in zero energy savings, the amount of legacy lost revenues would likewise have been zero. He said if the OUCC wants I&M to conduct successful DSM/EE

programs, it must recognize the impact of lost revenues as provided in statute. Mr. Lewis testified that to do otherwise would prevent I&M from recovering fixed costs found to be reasonable in past cases, which would effectively deny I&M a reasonable opportunity to earn its authorized return.

Mr. Walter testified I&M's DSM Plan lost revenue and financial incentive proposals are reasonable and should not be capped. He stated that I&M's shared savings construct already provides a reasonable cap on performance incentives. He noted that only ten of the 14 programs are eligible for shared savings under this construct. He stated the shared savings mechanism provides a reasonable financial incentive for I&M to engage and influence customer decisions regarding EE. He testified the mechanism is reasonably structured because the financial incentive is earned only if the energy savings are achieved cost effectively, independently verified to be cost effective, and the total amount of incentive is capped. With respect to independent verification, Mr. Walter testified that I&M has been contracting with independent EM&V vendors for years. He said that CAC failed to demonstrate cause for concern with this approach, and therefore the creation of an independent evaluation monitor would increase costs unnecessarily.

6. Oversight and Stakeholder Input. Mr. Walter presented his view that the current OSB construct is reasonable and affords ample stakeholder input opportunity. He stated the concerns raised by the OUCC and CAC do not warrant a change at this time. He said the current construct for the OSB operates in a reasonable manner, and that expanding the process would increase the cost of the process unnecessarily and shift the accountability for the program success away from I&M.

Mr. Lewis noted the existing I&M process requires a vote on material decisions. He explained the voting process reasonably balances I&M's need for flexibility to timely implement changes to programs that serve its customers with the stakeholders' desire to oversee program implementation. He said the fact that other OSBs have agreed to operate in a different manner does not justify a Commission order requiring a change in the OSB structure that has worked well. He noted that Mr. Kelly's statement that the OSB should return to the pre-44486 Settlement Agreement requirements was also raised in Cause No. 43827 DSM 5, where the Commission found the existing process should continue. Mr. Lewis testified that I&M values having constructive input on the development and direction of its DSM Plan, but believes it is important to establish an OSB structure that recognizes the state's policy that DSM/EE plans should be more utility-driven, and not simply administered by third parties.

5. Settlement Agreement and Supporting Testimony. A Settlement Agreement was entered into among I&M, the OUCC, the Industrial Group, and Fort Wayne. The Settlement Agreement is not unanimous, as CAC did not join. Testimony supporting and opposing the Settlement Agreement are summarized below.

A. Settling Parties. Mr. Walter and Mr. Rutter provided additional testimony in support of the Settlement Agreement terms. Mr. Walter explained that under Section I of the Settlement Agreement, the Settling Parties agree to the approval of I&M's requested DSM Plan and associated accounting and ratemaking treatment, with the modifications outlined in the rest of the Settlement Agreement.

Mr. Walter stated that Section I A.1, together with Section I A.2, presents a reasonable compromise concerning lost revenues arising from the DSM Plan measures, thereby addressing one

of the main issues. He explained these settlement terms and provided an example of how the provisions would work. In his example, over the time period of 2020 through 2023, lost revenue under the three-year cap proposed in the Settlement Agreement is approximately $29.6 million less than it would have been under the life-of-measure approach originally proposed by I&M, and $13.8 million less than it would have been if a four-year cap were applied. Mr. Rutter added that all customers benefit by limiting lost revenue recovery to the earlier of: (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. Mr. Walter stated that Section I A.2 clarifies how I&M will treat lost revenue in its next base rate case and provided an example of how this provision would work in the context of a rate case. Mr. Rutter stated that the terms of the Settlement Agreement addressing lost revenue treatment in I&M's next rate case for both legacy and future DSM measures also provide additional certainty as well as potential additional savings.

Mr. Walter and Mr. Rutter discussed the Settlement Agreement provisions addressing the performance incentive. Mr. Walter testified that Section I B.1, together with Section I B.2, presents a reasonable compromise and addresses concerns raised by the parties. Mr. Rutter stated that I&M benefits from the opportunity to earn an incentive based on program performance. He said a slightly revised structure provides I&M with a chance to earn additional incentives if savings targets are exceeded, but also includes a reciprocal penalty reducing the incentive unless at least 85% of the savings target is achieved. He said the Settlement Agreement also requires I&M to calculate separate incentives for the residential and the commercial and industrial ("C&I") sectors, which will prevent the potential of strong performance in one sector artificially increasing the incentive for underperformance in the other.

Mr. Walter testified that Sections I A.1, I A.2 and Section I. B.1 would not require I&M to change the proposed DSM revenue requirement. He also presented attachments demonstrating the impact of Section I B.1 and B.2 on the DSM revenue requirement.

Mr. Walter testified that Section I C addresses specific concerns raised by the OUCC and Industrial Group regarding the rebate level included in the PES program. He also discussed the changes to I&M's filing necessitated by Section I C and presented revised tariff sheets to reflect this section of the Settlement Agreement. Mr. Rutter testified that all customers contributing to the DSM tracker benefit from the agreed cost allocation for the PES program. He said moving 20% of the program cost to customers taking service under I&M's Street Lighting tariff not only saves DSM customers more than $1 million, but also more closely aligns program costs with cost-of-service principles. He testified that requiring municipalities to front one-half of their share as a pre-requisite to participation further increases their commitment. He also said the agreed accounting treatment makes it plain that the capital improvements from this program will only be added to rate base as zero-cost capital.

Mr. Walter and Mr. Rutter each addressed the revised OSB voting procedures set forth in Section I D. The Settlement Agreement provides that an OSB vote, i.e., a simple majority of current OSB members will be required: (1) before any funds are moved between different customer sectors, which is a continuation of current practice; (2) before I&M reassigns more than 15% (down from 25% under the prior structure) of a sector's total budget to other programs within the same sector; and (3) before I&M exceeds its approved sector budget by more than 5% (down from 10% under the prior structure) of the estimated total budget by sector. Mr. Walter stated that the Settling Parties

further stipulated that any unspent carryover funds from a previous plan year will be used before I&M reassigns current-year funds or seeks to exceed the sector budget.

Mr. Rutter stated that the Settlement Agreement gives the OSB more say in how and when funds may be shifted between programs. He added that this brings I&M more in line with other OSBs. He explained that the Settlement Agreement also reduces the likelihood of perpetuating annual unspent "carryover" funds by requiring those dollars to be spent prior to transferring current year budget amounts between programs or increasing a sector budget. He said this should help reduce annual program year cost reconciliations and the number of requests to increase the DSM Plan's budget.

Mr. Walter testified that Section I E responds to concerns raised by the Industrial Group concerning the continued recovery of over/under reconciliation balances from opt-out customers and explained that Section I F reflects a compromise by I&M in which it will voluntarily withdraw the portions of rebuttal testimony at issue in the Joint Motion to Strike filed on December 22, 2016. Mr. Rutter stated that opted-out industrial customers will benefit from a new mechanism designed to address the final collection/refund of over/under reconciliation balances and eliminate any variance following the conclusion of I&M's next base rate case. He said this not only effectively brings an end to a tracker for those customers, but also brings them greater cost certainty, and facilitates their annual budget planning.

Mr. Walter, Mr. Fasick, and Mr. Rutter explained how Section I G addresses the issues raised by Fort Wayne concerning potential opportunities for energy saving partnerships between Fort Wayne and I&M. Mr. Fasick testified that the approach provided for under the Settlement Agreement recognizes the potential long-term EE opportunities, the need for coordination of long-term capital project planning, and the potential benefits to I&M's and Fort Wayne's ratepayers.

Mr. Walter also presented a clarification to Rider W.E.M. and stated that the revision clarifies that customers participating in I&M's existing emergency demand response program, Rider D.R.S.1, may switch to the WEM program and service under Rider W.E.M. on May 31 of each year, once their registration under Rider D.R.S.1 expires.

Mr. Walter presented the revised three-year revenue requirement (including legacy lost revenues) under the Settlement Agreement. He explained that the Settlement Agreement does not change the EE and demand savings goals for the DSM Plan, and testified that the DSM Plan, as modified by the Settlement Agreement, remains consistent with the state energy analysis and Petitioner's IRP. Mr. Walter stated that the Settlement Agreement does not modify I&M's proposed EM&V procedures, and I&M remains committed to an independent, outside review. Mr. Walter testified that the Settlement Agreement does not result in any undue or unreasonable preference to any customer class and discussed the impact of the Settlement Agreement in both the long term and the short term on electric rates.

I&M witness Ms. Smith presented the revised rate design and DSM Rider factors. She stated that the Settlement Agreement did not change the rate design process, but new factors were established to comply with the Settlement Agreement terms. Ms. Smith included the reconciliation factors approved by the Commission in DSM 6 in the total DSM Rider factors presented. She also identified the large customer opt-out/opt-in status for 2017 and discussed the impact of the revised DSM Rider factors on customer bills.

Mr. Walter testified that after good faith efforts and the give and take of settlement negotiations, the Settling Parties were able to settle on a reasonable resolution that would reduce the time and resources of the Commission in litigating the contested issues to a conclusion. He stated that the Settlement Agreement incorporates several substantial concessions by I&M and the Settling Parties and reflects a reasonable compromise of the issues raised in this proceeding, including lost revenue, performance incentives, LED streetlighting, and OSB oversight. He testified that the Settlement Agreement will allow I&M to offer many beneficial, cost-effective DSM/EE programs to customers and mitigate the rate impact to customers. While CAC did not join the Settlement Agreement, Mr. Walter said the Settlement Agreement is supported by substantial evidence and is a reasonable resolution of this Cause. He recommended the Commission conclude that the Settlement Agreement is in the public interest and approve it without modification.

Mr. Rutter agreed, testifying that all ratepayers will benefit from the Settlement Agreement. He said the breadth of customer interests represented by the Settling Parties covers all of I&M's DSM ratepayers. He stated that coupled with the benefits I&M receives from the Settlement Agreement, the collective public interest will benefit. He noted that while no party received everything it may have hoped to win, the ultimate balancing of compromise from the Settling Parties is another indicator of the reasonableness and benefit to all customers and the public interest.

B. **CAC.** CAC witness Mr. Kelly opposed approval of the Settlement Agreement. Mr. Kelly testified that the Settlement Agreement fails to address the fatal flaw in I&M's DSM Plan because it still is not consistent with I&M's most recent IRP nor is it designed to achieve an optimal balance of energy resources in I&M's service territory. He testified that if I&M's IRP modeling had properly characterized DSM programs, it would not have concluded that only residential lighting was cost effective and the fact that it did so should have been a red flag to I&M that the IRP was flawed. He also explained why he disagreed with I&M's assertion that it is not appropriate to compare the IRP DSM levelized costs to the DSM Plan levelized costs.

Mr. Kelly further testified that the DSM Plan does not meet the overall reasonableness threshold with its proposed performance incentive because: (1) it is opaque on its face, and is functionally a performance incentive based on program expenditures; (2) I&M does not have to achieve a minimum threshold to be awarded performance incentives; and (3) I&M does not discuss how the proposed performance incentive will motivate them to encourage participation in, and promotion of, DSM programs.

Mr. Kelly stated that while the DSM Plan and Settlement Agreement should be rejected for other reasons, the Settlement Agreement meets the overall reasonableness threshold with regard to the proposed lost revenue recovery. He added that CAC continues to respectfully disagree with the Commission's determination that the net lost revenue cap should only apply to program years 2016 and beyond, and not apply to past program years, otherwise known as legacy lost revenues.

Mr. Kelly recommended that the Commission reject I&M's 2017–2019 DSM Plan as modified by the Settlement Agreement because it still cannot meet the requirements of Sections 10(c), 10(j), or 10(h), and furthermore, because even if it were reasonable under these sections, it does not include reasonable performance (financial) incentives as required under Section 10(o). Mr. Kelly repeated the recommendations in his direct testimony regarding separate actions the Commission should take regarding the standardization of lost revenue calculations and the investigation of lost revenue and DSM cost recovery filings.

C. Settling Parties' Rebuttal.

1. Compliance with Section 10. Mr. Walter disagreed with CAC's contention that I&M has failed to meet the definition of "energy efficiency goal" in Section 10 for three reasons. First, I&M's case-in-chief demonstrated that the three-year average DSM Plan goals of 0.89% of I&M Indiana retail sales is consistent with the 0.84% average identified in the 2015 IRP and the Settlement Agreement retains this consistency. Second, I&M's IRP is not flawed because it appropriately evaluated both supply and demand side resource options. And third, I&M's IRP was allowed to determine the appropriate balance of new supply and demand side resources taking account of risks and uncertainty. I&M did not assume or "bake in" a given level of EE in its IRP.

Mr. Walter testified that Mr. Kelly's continued focus on comparing levelized costs between the IRP and the DSM Plan mixes apples and oranges and ignores the consistency between the IRP and DSM Plan with respect to energy savings.

Mr. Fisher explained that the review of I&M's IRP presented in the Commission's Electricity Director's Final Report does not support Mr. Kelly's assertion that I&M's IRP was flawed. He explained that the IRP EE bundles are simply a proxy of cost and savings needed for any EE measure to be considered as a viable resource to be included in a DSM program plan design. He stated that the goal of the IRP is to develop an optimal suite of proxy resources that meet Petitioner's long-term resource needs. He said that the costs and savings of numerous EE measures were considered in the IRP.

He disagreed with Mr. Kelly's suggestion that I&M should have revisited its EE assumptions so that a more diverse number of EE bundles would be selected. He also disagreed with Mr. Kelly's suggestion that the Residential Heating/Cooling Bundle should have been divided up into its individual measures so that the lower cost measures could be selected and not handicapped by the higher cost measures. In particular, he stated that bundling is reasonable and improves the performance of the IRP model. He stated that the elimination of any of the measures within the Heating/Cooling bundle would not materially change the cost of the bundle and would unlikely change the bundle selection results.

Mr. Fisher also disagreed that Mr. Kelly's levelized cost comparisons are a reasonable measure of consistency between an IRP and a DSM Plan. In response to Mr. Kelly's contention that at least some of the EE bundle costs in the IRP modeling were too high, Mr. Fisher explained that the EE bundles that were selected by the IRP modeling had lower levelized costs than the programs in the DSM Plan. He stated that the IRP did not select the next least expensive energy efficiency bundle until 2025, well beyond the DSM Plan years. He testified that the wide range of levelized costs considered in the IRP allowed for a diverse set of EE measures over the 15-year IRP planning period. He said this range reasonably bounds the programs included in the DSM Plan.

2. Performance Incentive. Mr. Walter disagreed with CAC's suggestion that the performance incentive agreed to by the Settling Parties lacks transparency and stated that the agreed mechanism is a straightforward modification of what is currently in place. He also disagreed with Mr. Kelly's contention that the agreed performance incentive is functionally based on program expenditures. He stated that Mr. Kelly overlooks an important prerequisite to the award of the incentive—namely that the energy savings must be cost effective. He added that in

order for I&M to earn a performance incentive, the Settlement Agreement requires Petitioner to achieve a designated percentage of the DSM Plan goals. Mr. Walter testified that Mr. Kelly's testimony also demonstrates that the incentive structure proposed in the Settlement Agreement provides additional benefits to customers because it incents I&M to deliver cost-effective programs. He said this is a benefit of the incentive structure; not a flaw.

Mr. Walter disagreed that the mechanism agreed to by the Settling Parties is not reasonably designed to incentivize performance. He stated that I&M's programs must be cost effective in order for I&M to begin realizing a financial incentive under the Settlement Agreement; in other words, I&M does not earn a reward unless the energy savings it produces are cost effective. Mr. Walter explained that this structure is designed to assure that the Petitioner spends its program budgets with an eye toward cost effectiveness and prudent program implementation, not simply with an eye toward producing energy savings.

Mr. Walter stated that the Settling Parties' agreed performance incentive structure reasonably balances two tiers, or hurdles, in cost-effective program delivery and energy savings achievement. He said the presence of the first tier, UCT cost effectiveness and sharing of net benefits, encourages I&M to provision net benefits from programs through energy savings attainment and cost control. He said the second tier, or hurdle, is to achieve at least a certain amount of total energy savings. He explained that the confluence of these two tiers encourages I&M to achieve net benefits to customers, with regard to cost, and to hit a target level consistent with the selected amount of savings from the IRP. He added that if the purpose of the performance incentive is to remove the disincentive associated with not building a power plant or other supply side resource, it does not seem reasonable to limit the financial incentive to achievement of the identified savings target. Rather, the incentive should encourage implementation of cost-effective energy savings. He said the Settlement Agreement's proposed incentive structure is a reasonable way to accomplish this. Mr. Walter stated that the additional threshold added as part of the Settlement Agreement further incents I&M to achieve the DSM Plan savings targets. He stated that if I&M fails to achieve at least 85% of either sector's energy savings goal in any program year, the amount of that sector's performance incentives calculated in "step one" will be reduced by 15%. He said the Settlement Agreement therefore reasonably addresses Mr. Kelly's concern that the financial incentive should be based on I&M achieving the overall energy savings goal.

Mr. Walter explained that cost-effective program implementation is a continual challenge for all of I&M's programs, especially when both the TRC and the UCT cost tests are applied. He stated that another challenge is that I&M does not control customer decisions and noted that if customers choose not to participate in DSM programs offered by I&M, those programs will not be cost effective. Mr. Walter testified that when one realistically views the true challenges with DSM programming, one can see the alignment of the Settlement Agreement's incentive structure with the provisioning of DSM program net benefits for I&M's customers. He said overall, the Settling Parties' proposed incentive structure is reasonable in that it balances savings and cost, allows I&M to earn a reasonable return for cost-effective effort, and encourages I&M to achieve the level of savings targeted by the DSM Plan goals.

6. Commission Discussion and Findings. The Settling Parties request the Commission to approve the Settlement Agreement. Commission policy favors settlement. Settlements help advance matters with far greater speed and certainty and far less drain on public and private resources than litigation or other adversarial proceedings. That said, 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 Coal. 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 Coal.*, 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 Coal. of Ind., Inc. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules also require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of the governing statute and that such agreement serves the public interest. While our decision is based on the record as a whole, the foregoing summary of the evidence facilitates our consideration of the Settlement Agreement.

We apply a reasonable least-cost standard for issuances of certificates of public convenience and necessity under Ind. Ch. 8-1-8.5. Both the DSM and IRP Rules were adopted to assist the Commission in implementing Ind. Code ch. 8-1-8.5. The IRP Rules require utilities to consider both supply and demand side resources to meet their long-term resource needs in a least-cost manner. The consideration of a utility's resource needs is performed through a long-range planning analysis, i.e., the IRP. The Commission's rules at 170 IAC 4-8 ("DSM Rules") provide guidelines for the Commission to identify and address any bias against DSM. The DSM Rules also address cost recovery related to all DSM activities, including the subset of EE improvements.[1] Consequently, the Commission has historically considered and approved utility DSM programs and associated cost recovery under Ind. Code ch. 8-1-8.5 and its DSM Rules. *See, e.g.*, *Indianapolis Power & Light*, Cause No. 43623, Phase I Order (IURC Feb. 10, 2010), and *Ind. Michigan Power Co.*, Cause No. 44486 (IURC Dec. 3, 2014).

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.

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[1] EE improvements have been traditionally limited to activities that reduce energy use for a comparable level of energy service. 170 IAC 4-8-l(j) and Ind. Code §§ 8-1-8.5-9(c) and -10(b). Whereas, a demand side resource is broader and encompasses any activity that reduces the demand for electric service, *e.g.*, air conditioning load management, time-of-use, and demand response programs.

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. Consequently, beginning not later than calendar year 2017, electricity suppliers are statutorily required to submit an EE plan to the Commission for approval.

Given this background, we begin by considering the request for approval of the DSM Plan agreed to in the Settlement Agreement under Section 10.

A. 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. That submission was made prior to calendar year 2017. However, CAC contends that I&M failed to submit a plan that includes all four of the criteria required by Section 10(h), i.e., goals, programs to achieve goals, budgets and program costs, and independent EM&V.

The Verified Petition in this Cause set forth the elements required to satisfy Section 10(h). Pet. Ex. 1, Attachment JCW-1 at 3-6. 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 I&M's 2017–2019 DSM Plan as follows:

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.

The Settlement Agreement provides for a DSM Plan with a three-year average energy savings goal of 0.89% of I&M Indiana retail sales. As shown below, this is consistent with the 0.84% average identified in the 2015 IRP.

IRP Versus DSM Plan
Summary (% of I&M IN Retail Sales)

Year	IRP Savings	DSM Plan Goals
2017	0.87%	0.92%
2018	0.82%	0.88%
2019	0.83%	0.87%
3 Year Average	**0.84%**	**0.89%**

	IRP		DSM Plan Goals	
	Energy Savings (kWh)	**Demand Savings (kW)**	**Energy Savings (kWh)**	**Demand Savings (kW)**
2017	148,253,286	23,489	157,451,938	35,366
2018	140,464,864	6,330	150,471,438	46,145
2019	140,382,396	6,327	148,484,064	51,493
Total	**429,100,546**	**36,146**	**456,407,441**	**133,003**

Pet. Ex. 1-R at 23. The 2015 IRP did not select additional DSM and EE resources beyond 0.84% of I&M Indiana retail sales as a least-cost option for I&M's customers for the program years covered in the DSM Plan. Mr. Walter and Mr. Fisher explained Petitioner's process for developing its DSM

Plan to be consistent with its 2015 IRP. Mr. Walter also explained that the DSM Plan goals are consistent with Petitioner's 2016 MPS.

While the Settling Parties agreed to the DSM Plan as modified by the Settlement Agreement, CAC opposed it. Mr. Kelly argued that the Settlement Agreement fails to address the fatal flaw in I&M's DSM Plan because it still is not consistent with I&M's IRP and designed to achieve an optimal balance of energy resources in its service territory. Accordingly, CAC argued that the DSM Plan does not meet the definitional requirements of EE goals.

Mr. Kelly argued that the DSM Plan goals are unreasonable because they target energy savings that are less than the level that would have been required had the 42693 Order remained in effect. However, the Commission can exercise only that power which has been conferred upon it by statute. *N. Ind. Pub. Serv. Co. v. U.S. Steel Corp.*, 907 N.E.2d 1012, 1015 (Ind. 2009). Ind. Code § 8-1-8.5-9(j) provides the Commission may not, after December 31, 2014, require an electricity supplier to meet a goal or target established in the 42693 Order. Under Section 10, the utility's most recent IRP is the basis for determining the appropriate level of cost-effective EE. Therefore, we decline CAC's invitation to assess the DSM Plan goals based on the 42693 Order.

An integrated resource evaluation is undertaken to determine the optimal means to meet the future need for electricity. *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)). While DSM can delay or avoid the need to expand generation facilities, the deployment of any resource must still be assessed in light of the need for resources. For example, if resources are not needed within the life of the DSM resource, then the deployment of additional DSM would not delay or avoid the expansion of generation facilities. Similarly, if EE resources are not comparatively lower in cost, their deployment would not achieve an optimal balance of energy resources in the utility's service area. While we are not suggesting that resource deployment decisions are without discretion, these considerations illustrate the flaws in CAC's suggestion that EE should be aggressively pursued for the mere sake of it and without consideration of whether its use is optimal.

CAC also took issue with Petitioner's treatment of 2017 as a transition year in the IRP. Mr. Kelly argued that the DSM Plan is flawed because the IRP model did not select the level of EE proposed for 2017. In his view, this means the demand and supply side resource alternatives were not evaluated on a consistent and comparable basis. We disagree.

Mr. Walter stated I&M's approach allows a smooth transition to the new Section 10 statutory framework where the IRP model selects the optimal level of EE. He explained that the initial modeling year of 2018 was chosen due to the time to plan, design, and gain approval of a DSM/EE plan based on the new modeling approach output. We find that I&M's consideration of the amount of time that is necessary to seek approval of a DSM Plan and deploy the Commission-approved programs is reasonable and consistent with the consideration of other resources in the IRP context.

Mr. Walter also explained that the DSM Plan's 2017 EE goal is consistent with the historical level of I&M's Modified Action Plan, which stemmed from an earlier MPS, as well as the 2016

MPS. He added that the IRP energy savings for 2018 and 2019 were selected by the model and represent the optimal resource selection levels for DSM for those years. He said the level of DSM selected by the model beginning in 2018 is slightly less than the level of future DSM activity reflected for 2017. We find this indicates that the level of DSM activity included in the DSM Plan for 2017 is reasonable and consistent with the 2015 IRP.

Mr. Kelly also took issue with how I&M determined its EE goals for 2018-2019. While conceding that I&M's translation of savings selected in the IRP into DSM goals is not necessarily flawed, he argued that it should raise red flags that a utility has not accurately and fairly assessed EE when its IRP only picked residential lighting as a cost-effective EE resource, which was ignored by I&M. CAC also argued that the cost of some of the EE bundles modeled in the IRP by I&M were too high, especially when compared to those used in the DSM Plan, and this in turn limited the IRP model's selection of EE. The result being that the IRP is not consistent with the analysis used to develop the DSM Plan.

We find these concerns do not accurately characterize I&M's IRP modeling of EE. The IRP EE bundles are a proxy of cost and savings needed for any EE measure to be considered a viable resource to be included in a DSM program plan design. Thus, it is more accurate to say that the IRP selected the lowest cost EE resources during the DSM Plan years and identified the next least expensive cost EE resource starting in 2025, well beyond the DSM Plan years. Pet. Ex. 4-SR at 9. Moreover, Mr. Kelley appears to concentrate his critique on the level of EE reflected in the Preferred Portfolio in the IRP. But it must be recognized that the Preferred Portfolio was determined based on the totality of the IRP analysis over a range of cases and optimization scenarios. The level and timing of EE resource additions selected by the IRP model over the planning period varied as the specific case and scenarios varied. Based on the totality of this analysis I&M prepared a Preferred Portfolio that it thought reasonably reflected the results of the complete analysis. Given that there is not a driving need for additional resources to meet the demand for electricity in I&M's service area, it is not unreasonable that the modeling selected only the least-cost EE resources during the DSM Plan years.

While CAC argued that some of the IRP bundle costs are too high, this argument fails to invalidate the IRP modeling because the modeling includes a wide range of low, medium, and high cost EE resource bundles. In the IRP modeling process, it is reasonable to model resources based on a representative cost. Mr. Kelly also indicated a desire for additional EE resources in the cost range selected by the IRP, but he failed to demonstrate that such resources reasonably exist. In addition, the record shows that the levelized costs of a given bundle or program represent the weighted average cost of the measures included within that program. Pet. Admin Notice 2 (I&M IRP Reply Comments at 18). Thus, the fact that a particular program has a lower levelized cost than one of the measures within the program does not indicate a flaw in the modeling. We find I&M reasonably considered not only the costs of measures, but also their potential for savings, in developing a wide range of EE bundles for the IRP model to consider.

CAC also argued that the DSM Plan is noncompliant because the energy and capacity prices used in the IRP modeling are not the same as those used in the cost-benefit analysis of the DSM Plan. As discussed further below, Section 10 requires the DSM Plan be consistent with, not the same as, the IRP. 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. Accordingly,

we find Mr. Kelly's contention does not demonstrate that the DSM Plan or its goals are flawed or inconsistent with the IRP. In each analysis, the current forecast of energy and capacity prices was utilized, which is the appropriate approach. The DSM Plan was completed several months after the IRP was completed, and much of the IRP analysis was based on data and assumptions developed several months prior to the IRP submittal date. Given the timing, it is to be expected there will be differences in some data and assumptions between the IRP and DSM Plan. Mr. Fisher adequately explained the reason for the change in the forecast prices and showed that the IRP did assess the preferred DSM Plan against a plan with higher pricing, and the change in the amount of EE selected was minimal.

Accordingly, we find that CAC has not demonstrated that the DSM Plan as modified by the Settlement Agreement fails to provide EE goals as defined by Section 10.

2. EE Programs. As provided in the Settlement Agreement, I&M's 2017–2019 DSM Plan contains both residential and C&I programs designed to achieve the specified EE goals. Many of the programs generally contain the same list of measures and approaches reflected in the 2016 DSM offering but may reflect a change in the measures mix planned for customer participation or the cost of customer incentive levels needed to drive participation.

The DSM Plan is not limited to EE programs and includes three DSM programs (HEM, WEM, and EECO) that contribute both energy savings toward the EE goals and demand savings. We have previously found that the EECO program is a DSM program but not an EE program. *Ind. Michigan Power Co.*, Cause No. 44486 at 13 (IURC Dec. 3, 2014). While the EECO program is operational during the time of I&M's peak, it results in both demand and energy savings. Similarly, the HEM and WEM programs are designed to provide demand and potential energy savings. The HEM program evolved from and supersedes the Residential Peak Reduction program. It retains the load management attributes of the former program, and by relying on new technology, it expands the energy savings potential by operating on an ongoing basis to produce participating customer energy use reduction. The WEM program is a demand response DSM program designed for I&M's C&I sector of customers that will exercise control over qualifying participant end-use load through the use of load management equipment installed beyond the utility meter but owned by I&M. The WEM program is expected to alter I&M's load shape through peak demand reduction and produce energy savings for the number of targeted control hours for the year. The inclusion of demand savings in the DSM Plan is consistent with I&M's IRP. Pet. Ex. 1 at 69. The Commission has authority under Ind. Code ch. 8-1-8.5 and the DSM Rules to consider and approve these DSM programs and associated cost recovery. *See also* Ind. Code §§ 8-1-2-10, 12, and 42. This was not changed by Sections 9 or 10. The Settling Parties have agreed in the Settlement Agreement to the inclusion of the HEM, WEM, and EECO programs in the DSM Plan, with certain modifications to the treatment of those programs for purposes of calculating performance incentives.

CAC suggests the Commission should require I&M to expand its DSM Plan so as to decrease the percentage of the overall DSM Plan attributable to the Home Energy Engagement program; provide support for health and safety expenditures in the IQW Program; and add a new manufactured home program, multi-family building program, and non-residential school audit direct install program. CAC Ex. 1 at 16-19, 28-38. However, Section 10 does not authorize the Commission to require the addition of certain programs in an EE plan. Rather, Section 10 requires the Commission to either approve or disapprove a proposed plan based on whether the Commission finds the plan to be reasonable.

Based on the evidence presented, we find that I&M's DSM Plan has a reasonable mix of measures and reasonably considers cost effectiveness. The record reflects that I&M's Home Energy Engagement program is reasonable as a significant portion of the residential portfolio because it cost effectively engages about 36% of I&M's Indiana residential customer base in energy education, efficiency, and other program cross promotion. The record also shows that I&M already funds minor health and safety type improvements, and the total budget for the IQW program reasonably allows for this. The proposed IQW program takes conditions in the field into consideration and includes new measures recommended from I&M's MPS in an effort to expand what can be done in each home visited. Pet. Ex. 1-R at 34-35. I&M provides program services to some multi-family unit complexes through its IQW program and Home Weatherproofing program as long as the units are electrically heated. *Id.* I&M's proposal reasonably provides for school audits in the C&I programs and has a Work Direct Install program that schools can participate in for direct install measures. *Id.* Mr. Walter also explained that I&M services existing manufactured home customers through its Home programs, and the manufactured home volumes in I&M's service territory do not justify a stand-alone program. *Id.* at 36-37.

The clarification regarding the customer's ability to choose between Rider D.R.S.1 and Rider W.E.M. explained in Mr. Walter's settlement testimony was not opposed by any of the parties. Additionally, CAC did not raise any objection to the tariff revisions that Mr. Walter presented to reflect the Settlement Agreement. We find these tariff changes are supported by substantial evidence showing the revisions to be reasonable and further find the changes should be approved.

In addition, we find that the Settling Parties' agreement with respect to the PES Program is a reasonable resolution of the issues raised by OUCC witness Mr. Rutter and Industrial Group witness Mr. Gorman. The record shows that a change to LED streetlighting produces "energy efficiency" as that term is defined in Section 10(b). The evidence also shows the program is cost effective. Pet. Ex. 1 at 57-58 and Attachment JCW-30. The Settlement Agreement strikes the agreed balance between using rebates to offset the incremental cost of the program and requiring participating customers to contribute toward the up-front costs. CAC presented no evidence contradicting the recitation in the Settlement Agreement that requiring participating customers to pay half of their share of the program costs up-front in order to participate ensures an increased level of commitment on behalf of participating customers. Updating the streetlighting tariff rates to reflect the remaining 10% of the LED fixture incremental measure costs as proposed in the Settlement Agreement addresses the OUCC's concerns regarding proper allocation of the cost of the program on a cost-of-service basis. Additionally, I&M forecasted zero net lost revenue on this program and does not request authority to earn shared savings on this program. As discussed below, the Settling Parties have expressly agreed that the PES Program will be removed from the energy savings goals and net benefit calculation for 2017–2019 for purposes of calculating performance incentives. Settlement Agreement, Section I B.2.a.

We find the DSM Plan, as modified by the Settlement Agreement, includes EE programs designed to achieve the EE goals.

3. <u>Program Budgets and Costs.</u> Mr. Walter identified the annual operating budget associated with the DSM Plan and the costs associated with each of the programs, which are reflected in the tables below.

3-Year DSM Plan Budget Summary

	Direct Operating Cost ($)	Indirect Operating Cost ($)	Total Operating Cost ($)
2017	20,513,595	1,245,000	21,758,595
2018	19,935,453	1,395,000	21,330453
2019	19,391,951	1,495,000	20,886,951
Total	**59,840,999**	**4,135,000**	**63,975,999**

3-Year DSM Plan Total Savings

	Direct Program Cost ($)	Program Energy Savings (kWh)	Program Demand Savings (kW)
2017	20,513,595	157,451,938	35,366
2018	19,935,453	150,471,438	46,145
2019	19,391,951	148,484,064	51,493
Total	**59,840,999**	**456,407,441**	**133,003**

He explained that I&M's program budgets reflect the direct (including EM&V) and indirect costs of the DSM Plan programs. Petitioner's Exhibit 1-S, Attachment JCW-15S shows that as modified by the Settlement Agreement, the program operating budgets (direct and indirect costs) associated with the DSM Plan's savings goals total approximately $63.976 million over the three-year period not including net lost revenue and financial incentives. Mr. Walter explained that 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. I&M also asked that the Commission grant it the same spending flexibility for the DSM Plan as is currently in place. Such spending flexibility includes the ability to spend up to and including 10% above the approved costs for its DSM Plan and programs and approval to transfer up to 25% of unencumbered program operating costs between programs in the same customer class. In addition, any unspent carryover funds from a previous Plan year will be used before I&M reassigns current-year funds or seeks to exceed a sector budget. Thus, we find the proposed DSM Plan includes program budgets and costs with estimates of future lost revenue and shared savings. We further find that the Settlement Agreement reasonably addresses the concerns raised by the parties. In particular, the Settlement Agreement addresses the concerns with respect to OSB voting requirements for changes to program budgets. 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 2017–2019 DSM Plan agreed to by the Settling Parties includes EM&V with a process for independent evaluation of programs. Mr. Walter testified that the independent evaluator will perform a process evaluation and an impact evaluation for each year of the DSM Plan. The Settlement Agreement does not modify the procedures for EM&V set forth in I&M's case-in-chief. CAC recommended the Commission retain and manage utilities' EM&V vendors in support of ensuring "independent" EM&V procedures. We agree with I&M that CAC has failed to demonstrate why such a change is necessary or beneficial. On the contrary, the record shows I&M has developed a consistent process in which program design is informed through evaluation, and verified savings are confirmed through independent means. Pet.

Ex. 1 at 73-74. If evidence later suggests that an EM&V vendor is exhibiting a bias that suggests its decisions are not independent, the Commission could address that issue at that time.

I&M also proposes to submit its OSB scorecard information to the Commission consistent with the directive in Cause No. 43827 DSM 5. After further review of the information that has been provided in the past, we find that additional information is necessary to provide the Commission and other interested parties a better understanding of the savings being achieved. Accordingly, the following quarterly reporting requirements shall be effective immediately upon Commission approval of this Order. A scorecard containing the required reporting information shall be submitted on a quarterly basis (i.e., April 30, July 30, October 30, and January 30) with the fourth quarter scorecard also including the information for the full year. I&M's first scorecard should be filed on October 30, 2017. Scorecards shall be filed in I&M's DSM tracker proceedings. If a DSM tracker is not pending before the Commission, then the scorecard shall be filed in I&M's most recently concluded DSM tracker case.

Quarterly scorecards shall provide for each program gross MWh savings at the meter and gross MW savings at the meter. The savings to be reported are to include: ex ante savings, audited savings, verified savings, ex post gross, and net energy savings as these numbers become available. Minimally, this will require I&M to provide information from the year in which the quarterly reporting occurs as well as the previous year so that net energy savings information can be captured. The actual savings as a percent of the annual goal shall also be presented. The savings shall be compared to the Commission-approved amount of savings for the program as well as an updated goal, if applicable, to reflect program adjustments authorized by the OSB consistent with Commission-approved budget flexibility. It should be noted if the savings goal is not what the Commission originally approved and the change shall be explained.

To provide clarity and ensure receipt of consistent DSM information across utilities, I&M shall use the following definitions for each type of savings: (a) ex ante savings - energy savings from program tracking system, as reported by the third-party administrator or the utility; (b) audited savings – ex ante savings after deemed calculations and project/measure counts have been confirmed by the evaluation administrator; (c) verified savings - savings estimated following confirmation of the installation and use of a sample of a project/measure installations; (d) ex post gross - evaluated savings resulting from the installation and use of all program-incented or provided technologies; and (e) net energy savings - evaluated savings resulting from the installation and use of incented or provided technologies directly attributable to the program.

Information presented in the scorecard shall also include the amount of: customer incentives by program, direct program expenditures by program, total expenditures by program, indirect program expenditures, and EM&V expenditures. Direct costs will include vendor implementation costs and program-specific administrative costs incurred by the utility. Indirect costs are those costs not tied directly to a single program, but rather to multiple programs or an entire portfolio. Customer incentives and EM&V expenditures are not to be included in either the direct or indirect program expenditure data; each is to be presented separately. Actual expenditures for each cost type as a percent of the total annual budget should also be presented. Actual expenditures shall be compared to the Commission-approved budget for the program as well as an updated budget, if applicable, to reflect program adjustments authorized by the OSB consistent with Commission-approved budget flexibility. It should be noted if the budgeted amount is not what the Commission originally approved and the change shall be explained.

The scorecards for the portfolio shall also separately identify lost revenues and shared savings corresponding to ex ante savings, audited savings, verified savings, ex post gross, and net energy savings as these numbers become available. Minimally, this will require I&M to provide information from the year in which the quarterly reporting occurs as well as the previous year so that net energy savings information can be captured.

Accordingly, we find that the DSM Plan included EM&V procedures.

B. Reasonableness of the Plan. Section 10(j) identifies ten factors the Commission must consider in determining whether a plan submitted under Section 10(h) is reasonable. Although the DSM Plan as modified by the Settlement Agreement 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 in addressing I&M's DSM Plan under the following factors:

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

	DSM Plan Energy Savings Goals (kWh)	DSM Plan Demand Savings Goals (kW)
2017	157,451,938	35,366
2018	150,471,438	46,145
2019	148,484,064	51,493
Total	**456,407,441**	**133,003**

Pet. Ex. 1-S, Attachment JCW-2S. The proposed DSM Plan is designed to achieve gross energy savings of 456,407,441 kWh and gross demand savings of 133,003 kW over the three-year period. Mr. Walter testified that while participation levels in the PES program may be lower as a result of the Settlement Agreement, the DSM Plan goals remain reasonably achievable. Pet. Ex. 1-3 at 20-21. These projections indicate how customer consumption is expected to change in 2017–2019 as a result of I&M's implementation of the DSM Plan agreed to in the Settlement Agreement. Because I&M's proposed programs are designed to result in energy savings of 0.89% 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, as well as other state utility commissions, has traditionally required the use of the UCT, TRC, RIM, and Participant Cost tests in evaluating the cost-effectiveness of DSM programs. In fact, the Commission's IRP Rule at 170 IAC 4-7-7 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 as a whole.

I&M evaluated the cost effectiveness of its proposed portfolio and DSM programs using these standard tests. Although the Income Qualified Weatherproofing program failed each of the standard tests, Ind. Code § 8-1-8.5-10(h) authorizes the inclusion of such a program whether or not the program is cost effective. Mr. Walter testified that the likelihood of achieving the goals of the EE programs is good but acknowledged that I&M's ability to achieve the program goals will be challenged by rapidly changing market conditions, baseline savings erosion, and consumer skepticism of new and unfamiliar technology. Pet. Ex. 1 at 16. While CAC raised concerns about differences in the energy and capacity prices in the IRP and DSM cost-benefit analyses, it did not dispute that I&M's DSM Plan portfolio is cost effective when evaluated at the portfolio level under the TRC and UCT. While OUCC witness Mr. Rutter initially raised a concern regarding the calculation of cost-effectiveness, since lost revenue and shared savings were not included in the calculation, this concern appears to have been resolved through the OUCC's negotiation of the Settlement Agreement. In addition, the modifications to the PES program agreed upon in the Settlement Agreement improved the benefit cost score for the PES program, which in turn improved the EE portfolio and overall DSM Plan portfolio scores for the TRC, UCT, and RIM tests. Pet. Ex. 1-S at 16 and Attachment JCW-6S.

Based on the evidence presented in support of the Settlement Agreement, we find that the DSM Plan portfolio of programs is cost effective.

3. <u>Consistent with State Energy Analysis and Utility IRP</u>. 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 sets forth certain requirements that the analysis must include. Mr. Walter explained that the Commission previously acknowledged in its March 23, 2016 Order in Cause No. 43645 that a state energy analysis that meets all of the statutory criteria set forth in Ind. Code § 8-1-8.5-3 does not exist. He noted that while that case considered the State Utility Forecasting Group's ("SUFG") 2013 Forecast, he considered whether the DSM Plan is consistent with the 2015 SUFG Forecast. He explained that the 2015 SUFG Forecast differs from the 2013 Forecast with respect to the treatment of DSM because it recognizes the passage of SEA 340. He discussed the SUFG resource plans including the treatment of utility-sponsored EE and demand response and concluded that the DSM Plan is consistent with the state energy analysis. Pet. Ex. 1 at 70-71. Accordingly, we find that appropriate consideration has been given to consistency with the 2015 SUFG Forecast.

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

4. <u>EM&V</u>. As indicated above, the record reflects that 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. Also as indicated above, no evidence was offered to demonstrate that the proposed EM&V procedures were unreasonable or would not be independent. Accordingly, the Commission finds that I&M's proposed EM&V processes for 2017–2019 are reasonable.

5. **Undue or Unreasonable Preference to Customer Classes.** The evidence shows 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. I&M has included programs to help residential customers, including income qualified residential customers, small business customers, large C&I customers who have not opted out of DSM programs under Indiana law, and governmental entities, including municipalities. The DSM Plan includes both DSM and EE programs intended to help balance the different aspects of customer loads in I&M's supply side resources. With the exception of some concerns regarding the PES program (which were addressed above and resolved in the Settlement Agreement), 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. 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 Settlement Agreement.

6. **Stakeholder Comments.** This provision simply requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders concerning the adequacy and reasonableness of the 2017–2019 DSM Plan. Such comments were provided through the evidence presented in this proceeding, including the Settlement Agreement and testimony regarding the Settlement Agreement, 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 specifically to evaluate the long-term effect of the proposed programs on the electric rates and bills of both participating and non-participating customers. The record further shows that I&M presented both the DSM Plan impact (including projected lost revenue and shared savings during the three-year plan) and the legacy lost revenue so as to provide the Commission with complete information regarding the proposed DSM Plan and the full rate impact of DSM/EE on I&M's customers during the three-year DSM Plan. In his settlement testimony, Mr. Walter explained that the Settlement Agreement improves the cost-benefit analysis of the DSM Plan. Pet. Ex. 1-S at 22. Ms. Smith presented updated bill impacts to give effect to modifications made as a result of the Settlement Agreement and to incorporate the reconciliation component factor approved in DSM 6. Pet. Ex. 2-S at 2 and Attachment SAS-2S.

While CAC opposed approval of the Settlement Agreement, Mr. Kelly did not specifically present any evidence in his direct or settlement testimony that addressed bill impact. Based on I&M's estimated impact information and testimony supporting the Settlement Agreement, 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 in this case the Settlement Agreement, 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).

As summarized above, I&M initially sought to recover lost revenues associated with its 2017–2019 DSM Plan through the DSM Rider using the same methodology and forecast/reconciliation process for the life of the measure. This would have added approximately $15.85 million in incremental recovery over the life of the DSM Plan, or about $5 million annually in lost revenues associated with each Plan year. Together with the continued recovery of legacy lost revenues, the total estimated forecasted recovery of lost revenues over the three-year life of the DSM Plan would have been $99.82 million.

The OUCC, CAC, and Industrial Group all filed testimony expressing concern with the level of lost revenue recovery sought by I&M; the pancaking effect associated with continued recovery of legacy lost revenues and incremental lost revenues associated with the new DSM Plan, and the importance of implementing a cap on the recovery of lost revenues. In addition, those parties introduced testimony raising concerns with respect to the reasonableness of the requested recovery of lost revenues in comparison to the overall cost of the DSM Plan.

The Settlement Agreement addresses these concerns. Under the terms of the Settlement Agreement, I&M is limited to recovery of lost revenues for measures installed during 2017–2019 to the earlier of: (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. In addition, in I&M's next base rate proceeding, all net lost revenue recovery for measures installed prior to the test year and 50% of net lost revenue recovery for measures installed during the test year will be eliminated from the DSM Rider. I&M acknowledges the imposition of a cap does not alter its overall DSM Plan revenue requirement for 2017–2019 as measures installed in those years would not drop off until 2020. The agreed cap, however, does help to address concerns over the pancake effect by ending the recovery of lost revenues for measures installed in 2017–2019 within a reasonable timeframe. Indeed, the testimony indicates this term of the Settlement Agreement would reduce lost revenue recovery between 2020 through 2023 by an estimated $29.6 million versus the life-of-the-measure approach originally proposed by I&M. Pet. Ex. 1-S at 5. Over that same period, I&M estimates the three-year cap produces about $13.8 million less in lost revenues as compared to a four-year cap.[2] *Id.* The agreement to a cap along with the future elimination of certain net lost revenue recovery is, accordingly, a reasonable resolution to the issues raised by the various parties. We thus find the DSM Plan proposal for recovery of lost revenues, as modified by the Settlement Agreement, to be reasonable.

With respect to the proposed performance incentive, the Settlement Agreement imposes a two-step process related to its collection. First, each individual sector's performance incentives for a given year will be calculated under the methodology proposed by I&M (i.e., the lower of: (1) 15% of 90% 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 non-residential sector 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. This term encourages I&M to achieve its savings goals by reducing the incentive for achievement below a base threshold. Similarly, it encourages pursuit of achieved 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.

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[2] We also note that the three-year cap is consistent with the testimonial position advocated for by CAC.

9. Utility's IRP. As noted above, CAC made a number of 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 concur with the conclusions reached in the Electricity Director's Final Report that the manner in which I&M addressed DSM in its IRP was reasonable. *See* CAC Admin. Notice 2 at 13-14. 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. Further, Petitioner's treatment of 2017 as a transition year still provided for all resource options, including EE, to be selected through the consideration of a number of factors for the period 2018 and beyond. The EE savings in 2017 actually exceeds the annual EE selected by the IRP model for the period 2018–2019, demonstrating that the level of EE in 2017 is reasonable. This selection process resulted in the optimal balance of all resources. Nothing in the Electricity Director's Final Report suggests that an optimal balance of resources was not selected.

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, the 2015 IRP results.

C. Conclusion on DSM Plan. Based on the evidence presented in this case 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 Settlement Agreement 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 Rider. Section 10 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 adjustment mechanism. Section 10(k)(2). The DSM Rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5. CAC did not specifically challenge this part of the Settlement Agreement. Having found I&M's 2017–2019 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 Settlement Agreement.

E. Lost Revenues and Performance Incentives. If the Commission finds that an electricity supplier's plan is reasonable, Sections 10(k) and (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.

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

1. Lost Revenues. Lost revenues means the difference, if any, between: (1) revenues lost; and (2) the variable operating and maintenance 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 2017–2019 DSM Plan through the DSM Rider using the same methodology and forecast/reconciliation process for the life of the measure. The Settlement Agreement provides that lost revenue recovery for all measures installed in 2017–2019 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 stipulated three-year cap aligns with the position advocated by non-settling party CAC. Compared to I&M's proposed lost revenue recovery over the full useful life of each measure, I&M estimates this stipulated change will save ratepayers approximately $29.6 million. When compared to a four-year cap, the three-year cap in the Settlement Agreement is estimated to save ratepayers about $13.7 million. The Settlement Agreement further provides that in I&M's next base rate proceeding, all net lost revenue recovery for measures installed prior to the test year will be eliminated from I&M's DSM Rider and 50% of net lost revenue recovery for measures installed during the test year will be eliminated from the DSM Rider. The Settling Parties reserved the right to contest, in I&M's next base rate case, issues related to calculation of lost revenues, the appropriate allocation of lost revenues and energy savings to various customer classes, cost allocation, cost-of-service, or rate design.

Our analysis under Section 10(o) also indicates that a rate adjustment mechanism may rely on forecasted data only if the rider includes a reconciliation process to "correct for any variance between" forecasted and actual costs. To address concerns raised by Industrial Group witness Mr. Gorman concerning the continued recovery of over/under reconciliation balances from customers who have opted out of the DSM Rider, the Settlement Agreement requires the Settling Parties to work together to develop a mechanism to end the ongoing variance collection for opt-out customers in a timely manner. The mechanism will be implemented once rates are established pursuant to a final order in I&M's next base rate case are placed into effect. Settlement Agreement, Section I E.

Further, we note that Mr. Kelly conceded the Settlement Agreement meets the overall reasonableness threshold with regard to lost revenue recovery. CAC Ex. 1-S at 17-20. Based on the evidence presented, we find the recovery of lost revenues as provided in the Settlement Agreement is reasonable.

We note that CAC also requested that the Commission initiate some type of formal process to develop a standard methodology for Indiana utilities to calculate lost revenues for an EE measure and initiate an investigation of Indiana utilities' lost revenue recovery filings. CAC made essentially the same request in Cause Nos. 43827 DSM 5 and 44645. The Commission has addressed CAC's position for a comprehensive generic review of lost revenue recovery calculation methodology. In both cases, the Commission declined to take action in the context of the utility-specific proceeding. There is nothing unique about the instant case that justifies the initiation of an additional process. Accordingly, we find these requests for separate Commission action exceed the scope of this proceeding and decline to adopt CAC's recommendations.

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 under which, for all three years of the DSM Plan, there will be a two-step process for calculating I&M's performance incentives.

For purposes of calculating I&M's shared savings, the Settling Parties agreed that the PES program will be removed from the applicable sector energy savings goals used in the step two calculation, and the PES Program will remain excluded from the net benefit calculation as proposed by I&M. Pet. Ex. 1-S at 11-12. Mr. Walter explained that because of other modifications agreed upon in the Settlement Agreement with respect to the PES program, it is likely participation in that program will be lower than I&M projected when it set its energy savings targets. He explained this makes it appropriate to remove the PES program from the energy savings target when calculating step two of the performance incentive structure. *Id.* at 13.

The Settling Parties also agreed that the HEM program will be removed from the energy savings goals and net benefits calculation in 2017 only. For 2018 and 2019, the HEM program will be included in the applicable sector energy savings goals and shared savings net benefit and program cost cap calculations. Mr. Walter explained these adjustments are necessary to reflect that the HEM program is new and with the inclusion of the stipulated step two in the methodology for calculating performance incentives, it is reasonable to remove the program from the calculation because new programs often involve higher costs and lower participation as the programs are ramped up and I&M attempts to gain new participants. Pet. Ex. 1-S at 13.

With respect to the WEM program, the Settlement Agreement provides that it will be removed from the energy savings goals in 2017 only. Consistent with I&M's original proposal, the WEM program will not be included in the net benefit calculation for 2017–2019, but will be included in the applicable sector energy savings goals for 2018 and 2019. Similar to the HEM program, Mr. Walter explained this stipulated treatment of the program is reasonable because it is new and will give Petitioner one plan year to get the program off the ground before it is included in the stipulated calculation. Pet. Ex. 1-S at 13-14.

CAC witness Mr. Kelly argued that the financial incentive agreed to by the Settling Parties is not reasonable as required under Section 10(o). CAC Ex. 1-S at 20. He did not challenge the amount of the forecasted financial incentive. Rather, he contended the financial incentive does not meet the overall reasonableness threshold because: (1) it is opaque on its face and is functionally a performance incentive based on program expenditures; (2) I&M does not have to achieve a minimum threshold to be awarded performance incentives; and (3) I&M does not discuss how the proposed performance incentive will motivate them to encourage participation in, and promotion of, DSM programs. CAC Ex. 1-S at 10-17. Mr. Kelly discussed the performance incentive approved in the Vectren DSM Order, which he viewed as simpler. Accordingly, he recommended I&M's performance incentive be modified to match that structure, which would also create consistency across utility DSM plans.

While the agreed mechanism is different from the structure approved in the Vectren DSM Order, the mechanism agreed to by the Settling Parties is similar to what is currently in place for

I&M. The Commission has not required performance incentives to be the same across the electric utilities. In fact, when the Commission originally approved I&M's shared savings mechanism the Commission specifically noted I&M's approach was different from a tiered-structure approved for two other electric utilities. *Ind. Mich. Power Co.,* Cause No. 43827, Order on Reconsideration at 2 (IURC Dec. 7, 2010). The Commission also noted that I&M's incentive structure "should incent I&M to keep program costs as low as possible because the incentive mechanism is tied to net benefits." *Id.* We find the performance incentives proposed in the Settlement Agreement reasonably build upon I&M's previous Commission-approved shared savings mechanism. The mere fact that the Settling Parties agreed to something different from what was approved in the Vectren DSM Order does not demonstrate that the proposal is unreasonable.

We find the financial incentive agreed to in the Settlement Agreement is reasonably designed to incentivize performance. As Mr. Kelly concedes, I&M's programs must be cost effective in order for I&M to begin realizing a financial incentive under the Settlement Agreement. CAC Ex. 1-S at 15-16. This structure is designed to assure that Petitioner 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 Settlement Agreement, I&M's performance is not measured solely against the energy savings levels achieved but rather against the cost-effective energy savings levels achieved. This appropriately encourages I&M to focus on cost-effective program delivery to the benefit of customers. By definition, customers benefit when the program benefits exceed program cost. As proposed by the Settling Parties, the performance incentive is directly tied to the achieved cost benefit results. Under this approach, customers still realize a majority of the benefits produced.

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, or hurdle, is to achieve a minimum amount of total energy savings. The confluence of these two tiers encourages I&M to achieve net benefits to customers and to hit a target level consistent with the selected amount of savings from the IRP.

Accordingly, we find the Settling Parties' agreement on performance incentives is reasonable and in the public interest. Step one of the stipulated methodology relies on a basis for calculating performance incentives previously approved by this Commission. It provides incentives to I&M to administer programs cost effectively by basing performance incentives on net benefits, but also contains customer protections in the form of the 15% program cost cap. Step two reflects 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. Compared to I&M's original proposal, the stipulated methodology for calculating shared savings results in a $465,569, or 32% reduction to the revenue requirement for 2017 shared savings. Pet. Ex. 1-S at 14 and Attachment JCW-15S. Therefore, the Commission finds I&M's proposal to continue the shared savings mechanism, with the modifications set forth in the Settlement Agreement, is reasonable and approved.

F. <u>Oversight and Stakeholder Input</u>. We find the Settlement Agreement reasonably addresses the concerns regarding oversight and stakeholder input. The stipulated modifications to the existing OSB structure allow for broad stakeholder input while affording I&M

the appropriate responsibility to operate its DSM/EE programs cost effectively as needed. As explained by Mr. Rutter, the Settlement Agreement gives the OSB more influence in how and when funds may be shifted between programs. The Settlement Agreement also reduces the likelihood of perpetuating annual unspent "carryover" funds by requiring those dollars to be spent prior to transferring current year budget amounts between programs or increasing a sector budget. Pub. Ex. 1-S at 2. It is expected that this will help reduce annual program year cost reconciliations and the number of requests to increase the DSM Plan's budget.

CAC did not specifically challenge the proposed resolution of these matters as set forth in the Settlement Agreement. Accordingly, we find it reasonable to allow the existing OSB system, as modified by the Settlement Agreement, to continue for the 2017–2019 DSM Plan period. We strongly encourage the parties to work within this system to address issues as they arise rather than waiting to raise them in a Commission proceeding. Accordingly, the proposal to continue in 2017–2019 the oversight and stakeholder input approach approved in Cause No. 44486, as modified by the Settlement Agreement, is approved.

G. Conclusion on Settlement Agreement. Based upon the above discussion and findings, the Commission finds that the Settlement Agreement is reasonable and consistent with the governing regulatory framework. The resolution of the pending matters set forth in the Settlement Agreement is within the scope of the evidence presented by the parties. The Settlement Agreement incorporates substantial concessions by Petitioner and the other Settling Parties and reflects a reasonable compromise on all issues raised in this proceeding. While not all parties to this proceeding have joined the Settlement Agreement, the resolution of the issues reflected in the Settlement Agreement is supported by substantial evidence. We find the Settlement Agreement will allow I&M to offer cost-effective EE and demand response programs to customers, while mitigating the impact on customers' rates for electric service.

In sum, the record shows and we find that the Settlement Agreement presents a balanced and comprehensive resolution of the issues in this case. Therefore, the Commission further finds that the Settlement Agreement 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. DSM Rider and Factors. No party challenged the DSM Rider text clarifications presented in Petitioner's Exhibit 2 at page 4 and Attachment SAS-3. We find these clarifications are reasonable and should be approved.

The Settlement Agreement made two modifications to the DSM Rider factors presented in I&M's case-in-chief. First, the net benefit related to the HEM program was removed for 2017 only. Second, the PES program operating cost was reduced. Both of those modifications caused a decrease in the total three-year revenue requirement. Pet. Ex. 2-S at 3 and Attachment SAS-1S. As a result of the Settlement Agreement, the revised DSM Plan cost component factors are lower than those originally proposed by I&M. In addition, there were no changes in opt-out/opt-in customers for 2017.

Ms. Smith included the DSM 6 approved reconciliation component in the total DSM Rider factors shown in Petitioner's Exhibit 2-S, Attachments SAS-1S and SAS 3S. The DSM Rider plan

cost component factors for each customer class, giving effect to the Settlement Agreement, legacy lost revenues, and the reconciliation component factors approved in DSM 6, are as follows:

	Non-Opt Out Customers Group N	Opt Out Customers			Opt In
		July 1, 2014 Group A	January 1, 2015 Group B	January 1, 2016 Group D	January 1, 2016 Group E
Tariff Class	¢/kWh	¢/kWh	¢/kWh	¢/kWh	¢/kWh
RS, RS-TOD, RS-TOD2 and RS-OPES	0.5923	N/A	N/A	N/A	N/A
GS (Excluding Unmetered), GS-TOD and GS-TOD2	1.9707	0.0260	0.2496	0.0317	6.8336
LGS and LGS-TOD	0.1026	0.00	0.0377	0.00	0.00
IP, and CS-IRP2	0.0058	0.0002	0.0054	0.00	0.0018
MS	0.8562	0.00	0.9777	0.00	0.00
WSS	0.3052	0.0087	0.0065	0.00	0.00
IS	7.3963	0.00	0.00	0.00	0.00
EHG	1.9800	0.00	0.00	0.00	0.00
SLS, ECLS, SLC, SLCM and FW-SL	0.9310	0.00	0.00	0.00	0.00

Giving effect to the DSM Rider factors resulting from the Settlement Agreement and based upon I&M's current rates as of January 1, 2017, which includes the Commission-approved factors from DSM 6, the overall bill for a typical residential customer using 1,000 kWh per month will increase by approximately $0.61 or 0.5%.

The record shows the methodology proposed by I&M regarding the separation of the plan component and reconciliation component is reasonable, and it is therefore approved. We find I&M's total revenue requirement of $173,248,104, inclusive of legacy lost revenues and a Gross Revenue Conversion Factor, is reasonable, and it also is approved. We further find I&M's DSM Rider factors are supported by substantial evidence and are approved. Therefore, we authorize I&M to apply its requested DSM Rider adjustment to its Indiana retail tariffs as shown in Petitioner's Exhibit 2-S, Attachment SAS-3S, commencing as set forth below.

Pursuant to the Commission's December 7, 2016 Prehearing Conference and Interim Order ("Interim Order"), I&M was authorized to continue to offer its 2016 DSM Plan and recover the associated costs consistent with the Order in Cause No. 43827 DSM 5, with the approved factors to be subsequently adjusted: (1) after a final Order is issued in DSM 6; or (2) after a final Order has been issued in this proceeding, whichever occurs first. In our DSM 6 Order, the Commission approved I&M's DSM Rider factors on an interim basis, subject to prospective adjustment based on the final Order issued in this proceeding. 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 implementation of the new DSM adjustment factors approved herein, all in accordance with the Settlement Agreement.

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

1. The Settlement Agreement, a copy of which is attached, is approved.

2. I&M's proposed 2017–2019 DSM Plan, as modified by the Settlement Agreement, including the proposed budgets, is approved as set forth in this Order.

3. I&M's request for timely recovery of costs associated with its 2017–2019 DSM Plan, including direct (including EM&V costs) and indirect costs of operating the programs, net lost revenue, shared savings, and carrying charges and depreciation expense associated with capital expenditures along with incremental operational and maintenance expense incurred for the EECO and WEM programs is approved as provided in the Settlement Agreement.

4. In accordance with the 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 and approving the deferral of any costs incurred implementing the DSM/EE programs, including the EECO and WEM programs, prior to the time the Commission issues an order authorizing I&M to recognize these costs through the ratemaking process is approved.

5. The accounting procedures necessary to implement the recovery of lost revenue and shared savings as provided in the Settlement Agreement is approved.

6. The revisions to Rider W.E.M. and Tariffs E.C.L.S. and S.L.S. presented in Petitioner's Exhibit 1-S and the revisions to the DSM Rider presented in Petitioner's Exhibit 2 are approved.

7. I&M is authorized to implement its requested DSM Rider factors as described in Finding Paragraph 7.H above.

8. Before implementing the DSM Rider factors approved in this Cause, I&M shall file a revised DSM Rider tariff sheet, as shown in Petitioner's Exhibit 2-S, Attachment SAS-3S, under this Cause for approval by the Commission's Energy Division.

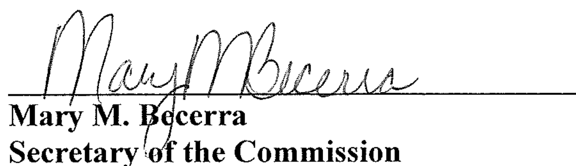
9. I&M shall file quarterly scorecards as required in Finding Paragraph 6.A.4.

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

ATTERHOLT, FREEMAN, HUSTON, AND ZIEGNER CONCUR; WEBER ABSENT:

APPROVED: SEP 2 0 2017

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



Mary M. Becerra
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 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, FINANCIAL INCENTIVES, AND CARRYING CHARGES AND DEPRECIATION EXPENSE ON CAPITAL EXPENDITURES AND ASSOCIATED OPERATIONS AND MAINTENANCE EXPENSE.	)	**CAUSE NO. 44841**

STIPULATION AND SETTLEMENT AGREEMENT

Indiana Michigan Power Company ("I&M" or "Company"), Indiana Office of Utility Consumer Counselor ("OUCC"), Intervenor I&M Industrial Group ("Industrial Group"), and Intervenor City of Fort Wayne (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 all matters pending before the Commission in this Cause, subject to their incorporation by the Indiana Utility Regulatory Commission ("Commission") into a final, non-appealable order ("Final Order") 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. .

I. TERMS AND CONDITIONS

On August 26, 2016, the Company filed an application and supporting testimony in this proceeding requesting approval of its proposed 2017-2019 Demand Side Management Plan ("DSM Plan") under Indiana Code § 8-1-8.5-10, with associated accounting and ratemaking treatment. As a resolution of all issues raised by the Company's filing, the Settling Parties recommend that the Commission approve the Company's requested DSM Plan and associated accounting and ratemaking treatment except as modified as follows:

A. Lost Revenues.

1. The Company's net lost revenue calculation, which as proposed was based on the full useful life of each measure, will be modified so that lost revenue recovery for all measures installed in 2017-2019 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 as set forth in Section A.2 below, whichever occurs earlier.

2. In I&M's next base rate proceeding, all net lost revenue recovery for measures installed prior to the test year will be eliminated from the Company's Demand Side Management and Energy Efficiency Program Cost Rider ("DSM Rider"), and 50% of net lost revenue recovery for measures installed during the test year will be eliminated from the DSM Rider. Except as expressly stated herein, the Settling Parties' agreement to the terms of this Section I.A.2 do not preclude them from taking any other position in the Company's next base rate case, including without limitation the

calculation of lost revenues, the appropriate allocation of lost revenues and energy savings to various customer classes, cost allocation, cost-of-service or rate design.

B. Performance Incentives.

1. The Company's proposed performance incentive calculation in a given year will be subject to a two-step process: First, each individual sector's performance incentives for a given year will be calculated under the methodology proposed by the Company in its application (i.e., the lower of (a) 15% of 90% of each individual sector's net benefits under the utility cost test or (b) 15% of sector program costs). Second, each individual sector's performance incentives will be adjusted if either of the following conditions are met: (a) the total amount of each individual sector's performance incentives will be reduced by 15% in any program year in which I&M fails to achieve at least 85% of that sector's portfolio energy savings goal for that year based on the final EM&V analysis, and (b) each individual sector's performance incentives will be increased by 10% in any program year if I&M achieves 105% of the sector portfolio energy savings goal for that year based on the final EM&V analysis.

2. The Company's proposed performance incentive calculation will be further modified as follows:

a. Solely for purpose of calculating performance incentives under Section B.1, the Public Efficient Street Lighting Program will be removed from the energy savings goals and net benefit calculation for 2017-2019. (For reference, as proposed in the Company's case-in-chief, I&M did not request authority to earn Shared Savings on this program and therefore it is already removed from the net benefit

calculation for 2017-2019. Further, as proposed in the Company's case-in-chief, I&M did not request authority to recover net lost revenues for this program.)

b. Solely for purpose of calculating performance incentives under Section B.1, the results of the Home Energy Management Program will be removed from the energy savings goals and net benefit calculation in 2017. As proposed in the Company's case-in-chief, this program will be included in the net benefit calculation in 2018-2019, and the Company will recover net lost revenues from this program in all years, subject to the provisions of Section (A) above.

c. Solely for purpose of calculating performance incentives under Section B.1, the Work Energy Management Program will be removed from the energy savings goals and net benefit calculation in 2017. As proposed in the Company's case-in-chief, this program will be included in the energy savings goals for 2018-2019, and the Company will recover net lost revenues from this program in all years, subject to the provisions of Section (A) above. (For reference, as proposed in the Company's case-in-chief, I&M did not request authority to earn Shared Savings on this program and therefore it is already removed from the net benefit calculation for 2017-2019.)

C. LED Streetlighting. The Company's proposed Public Efficient Street Lighting Program will be modified as follows: The proposed rebate levels will be reduced to 80% of total LED fixture incremental measure costs. Participating municipalities and other participating customers will be required to make an up-front contribution of 10% of the LED fixture incremental measure costs of the program, and the remaining 10% of the LED fixture incremental measure costs will be reflected in updated streetlighting tariff rates to be submitted as exhibits to testimony supporting this

Stipulation and Settlement Agreement. Customers will be prohibited from participating in this program unless they make the 10% up-front contribution referenced above. Further, as proposed in the Company's case-in-chief, the per unit capital costs booked as I&M electric plant in-service in FERC Account 373, Street Lighting and Signal Systems, will reflect the actual cost of conversion (material and labor) less the rebate that resulted from the PES program participation and the upfront contribution required by participating customers as part of the settlement agreement. Accordingly, when accounted for in this fashion, the net effect of this treatment is zero cost capital in I&M's Account 373 for the LED streetlight fixtures and bulbs. This approach also results in the PES program rebates and upfront participating customer contribution to offset the incremental material cost in parallel with the actual LED streetlighting conversion work to be booked under the streetlighting accounts.

D. Oversight Board. The rules governing the I&M DSM program implementation oversight board ("OSB") will be modified as follows (in all cases, "OSB vote" means a simple majority of current OSB members):

1. An OSB vote will be required before any funds are moved between different customer sectors, which is a continuation of the current practice.

2. An OSB vote will be required before I&M reassigns more than 15% of a sector's total budget to other programs within the same sector.

3. An OSB vote will be required before I&M exceeds its approval sector budget by more than 5% of the estimated total budget by sector.

4. Any unspent carryover funds from a previous plan year will be used before the Company reassigns current-year funds or seeks to exceed the sector budget.

E. Over-Under Recovery for Opt-Out Customers. I&M will work with the Settling Parties to develop a mechanism to address over-under reconciliation balances for customers who have opted out of the DSM Rider in order to eliminate any variance following the conclusion of I&M's next base rate case. This mechanism will be implemented once rates established pursuant to a final order in the Company's next base rate case are placed into effect.

F. Rebuttal Testimony Issue. Without conceding the merits of the motion and for purposes of this proceeding only, I&M will withdraw the portions of rebuttal testimony at issue in the Consumer Parties' Joint Motion to Strike filed on December 22, 2016 in this proceeding.

G. City of Fort Wayne Concerns. I&M and the City of Fort Wayne (City), including their respective technical engineering and operations experts, will substantively evaluate the City's utilities' long-term capital improvement program to identify opportunities to achieve cost-effective energy savings in the design and operation of the City's water and wastewater utilities and I&M's electric distribution system. If the City and I&M mutually agree upon a project or initiative, I&M may seek approval from the Commission to modify its approved three-year DSM and Energy Efficiency Plan (DSM Plan) to offer a program that can achieve cost-effective energy savings in the operation of the City's water and wastewater utilities if the program is not otherwise offered under I&M's DSM Plan. Prior to seeking approval of a modification of the DSM Plan, I&M will advise the Settling Parties and OSB of its intention, and I&M and the City will offer to explain the program to interested members of the Settling Parties or OSB.

With respect to any proposed modification of the DSM Plan, including those sought under this Section (G), the other Settling Parties expressly reserve the right to contest any such proposed modification. Such reservation of right includes, but is not limited to, contesting: the approval or introduction of a new program or programs; the substantial revision of existing program or programs; any request for increase program funds, lost revenues and shared savings; and the cost recovery and cost allocation of such modified or revised programs.

II. PRESENTATION OF THE SETTLEMENT TO THE COMMISSION

1. The Settling Parties shall support this Stipulation and Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Stipulation and Settlement Agreement. The concurrence of the Settling Parties with the terms of the Stipulation and Settlement Agreement is expressly predicated upon the Commission's approval of the Stipulation and 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 Stipulation and Settlement Agreement and supporting evidence. I&M and the OUCC will, and the Industrial Group and City may, file testimony specifically in support of the settlement. The Settling Parties will work collaboratively in the preparation of the testimony supporting the settlement agreement. Such evidence, together with the evidence previously prefiled by the Settling Parties, as modified by Section I F of this Agreement, will be offered into evidence without objection from the Settling Parties, and the Settling Parties agree to waive cross-examination of each other's witnesses. The

Settling Parties will submit this Stipulation and Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Amendment in its entirety without any change or with condition(s) unacceptable to any Settling Party, the Stipulation and Settlement Agreement and supporting evidence may be withdrawn and the Commission will continue to hear Cause No. 44841 with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement, including I&M's agreement to the filing of a reply in support of the Consumer Parties' Motion to Strike, and consideration of that Motion by the Commission.

3. The Settling Parties shall jointly agree on the form, wording and timing of public/media announcement (if any) of this Stipulation and 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 Stipulation and Settlement Agreement shall limit or restrict the Commission's ability to publicly comment regarding this Stipulation and Settlement Agreement or any Order affecting this Stipulation and Settlement Agreement.

III. EFFECT AND USE OF SETTLEMENT

1. It is understood that the Stipulation and Settlement Agreement is reflective of a negotiated settlement and neither the making of this agreement nor any of its provisions shall constitute an admission by any Settling Party in this or any other litigation or proceeding. It is also understood that each and every term of the Stipulation

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

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

3. The Stipulation and 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 of the Settling Parties 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 Stipulation and Settlement Agreement and the previously prefiled evidence constitute substantial evidence sufficient to support this Stipulation and 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 Stipulation and Settlement Agreement, as filed. The Settling Parties shall prepare and submit an agreed proposed order with the Commission as soon as reasonably possible.

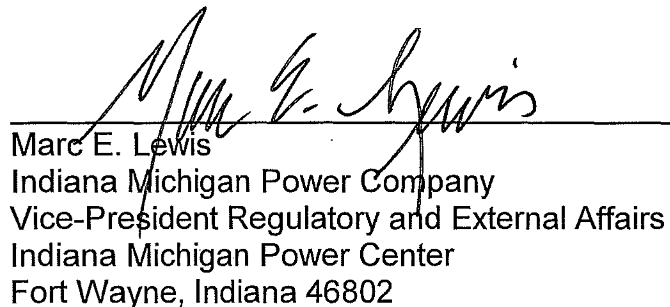
5. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning the Stipulation and Settlement Agreement all relate to offers of settlement and shall be privileged and confidential, without prejudice to the position of any Settling Party, 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 Stipulation and Settlement Agreement on behalf of their designated clients, and their successors and assigns, who will be bound thereby.

7. The Settling Parties shall not appeal or seek rehearing, reconsideration, or a stay of the Final Order approving the Stipulation and Settlement Agreement in its entirety and without change or condition(s) unacceptable to any Settling Party. The Settling Parties shall support or not oppose the Stipulation and Settlement Agreement in the event of any appeal or a request for a stay by a person not a party to this Stipulation and Settlement Agreement or if this Stipulation and Settlement Agreement is the subject matter of any other state or federal proceeding. The provisions of the Stipulation and 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 Stipulation and 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 20th day of January, 2017.



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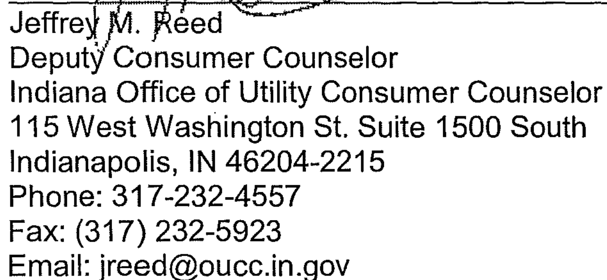

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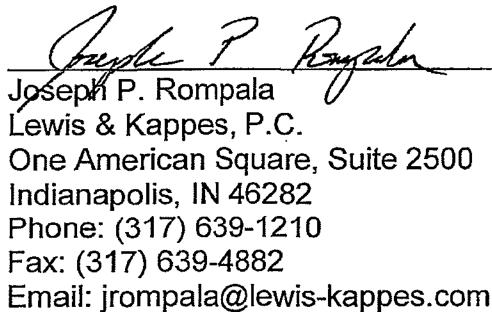

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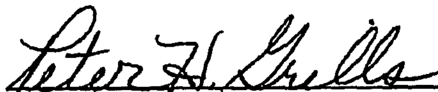

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