ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC FOR APPROVAL OF (1) AN ADJUSTMENT TO ITS RATES THROUGH ITS STANDARD CONTRACT RIDER NO. 66-A FOR DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAM COST RECOVERY, INCLUDING RECONCILIATION OF COSTS IN ACCORDANCE WITH THE FINAL ORDERS IN CAUSE NOS. 43955, 43955 DSM-1, 43955 DSM-2, 43955 DSM-3, 43955 DSM-4, 43955 DSM-5 AND 43955 DSM- 6	)	**CAUSE NO. 43955 DSM 7**
	)	**APPROVED:** FEB 26 2020

ORDER OF THE COMMISSION

Presiding Officers:
Sarah E. Freeman, Commissioner
David E. Veleta, Senior Administrative Law Judge

On October 4, 2019, Duke Energy Indiana, LLC ("Petitioner" or "Duke Energy Indiana") filed its Petition with the Indiana Utility Regulatory Commission ("Commission") initiating this Cause. In its Petition, Duke Energy Indiana requested approval of an adjustment to its rates through Duke Energy Indiana's Standard Contract Rider No. 66-A ("Rider 66-A" or "EE Rider") recovering the costs associated with its Demand Side Management ("DSM")/Energy Efficiency ("EE") Programs, as approved most recently in Cause No. 43955 DSM 6 ("DSM 6"), with rate factors to be effective with the first billing cycle for the billing month following the Commission's Order.

Contemporaneous with its Petition, Petitioner filed its Direct Testimony, Exhibits, and its Public Workpapers, along with a Motion for Protection of Confidential and Proprietary Information. On October 17, 2019, the Commission issued a Docket Entry finding that Petitioner's confidential and proprietary information should be held as confidential on a preliminary basis. On October 17, 2019, Petitioner filed its Notice of Submission of Confidential Exhibit and Workpapers.

On December 4, 2019, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief. On December 18, 2019, Duke Energy Indiana filed its rebuttal testimony. On January 14, 2020, the OUCC and Duke Energy Indiana filed a Joint Motion for Submission of Stipulation of Testimony as to Duke Energy Indiana's witness, Karen Holbrook's Testimony.

A public evidentiary hearing was held in this Cause on January 16, 2020, at 9:30 a.m., in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing,

the parties offered their respective pre-filed testimony and exhibits, which were admitted into the evidentiary record without objection.

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

1. **Notice and Commission Jurisdiction.** Due, legal, and timely notice of the hearing in this Cause was given as required by law. Petitioner Duke Energy Indiana is a public utility within the meaning of that term as used in Ind. Code §§ 8-1-2-1 and 8-1-8.5-1. Under Ind. Code chs. 8-1-2 and 8-1-8.5 and 170 IAC 4-8, the Commission has jurisdiction over Petitioner's DSM and EE programs and associated cost recovery. Therefore, the Commission has jurisdiction over the Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Duke Energy Indiana is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office in Plainfield, Indiana, and is a second tier, wholly-owned subsidiary of Duke Energy Corporation. Petitioner is engaged in rendering electric utility service in the State of Indiana and owns, operates, manages, and controls, among other things, plant and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public. Duke Energy Indiana directly supplies electric energy to approximately 830,000 customers located in 69 counties in the central, north central and southern parts of the State of Indiana. It also sells electric energy for resale to other public utilities that in turn supply electric utility service to numerous customers in areas not served directly by Petitioner.

3. **Relief Requested.** In its Petition, Duke Energy Indiana requested approval to update its EE Rider adjustment factors to be billed to customers. The proposed factors reflect the reconciliation of 2018 actual costs and energy savings achievements with amounts billed to customers in 2018 in accordance with previous Commission Orders. The filing also included re-reconciliations for the application of evaluation, measurement, and verification ("EM&V") to lost revenue recovery for 2015, 2016, and 2017. In addition, Duke Energy Indiana requested continued authority to defer the over and under recoveries of projected DSM/EE Program costs, 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 Duke Energy Indiana to recognize these costs through the ratemaking process.

Finally, Petitioner sought confidential treatment of certain information submitted in its Testimony, Exhibits, and Workpapers.

4. **Petitioner's Case-in-Chief.** Duke Energy Indiana presented the testimony of two (2) witnesses in its case-in-chief: Ms. Karen K. Holbrook, Director, Portfolio Regulatory Strategy and Support, and Ms. Kathryn C. Lilly, Rates & Regulatory Strategy Manager.

A. **Ms. Holbrook's Testimony.** Ms. Holbrook presented the various calculations performed for this filing and testified regarding the sources used to develop actual costs of providing programs in the reconciliation for 2018. She also presented an update of programs that were previously used in the 2015, 2016, and 2017 reconciliations.

Ms. Holbrook testified regarding previous DSM orders in cases relevant to this filing, including Cause Nos. 43955, 43955 DSM 1, 43955 DSM 2 ("DSM 2"), 43955 DSM 3, 43955 DSM 3 S1, 43955 DSM 4, 43955 DSM 5, and 43955 DSM 6. She further testified that On December 19, 2018, the Commission approved, Duke Energy Indiana's forecasted 2019 program costs, including lost revenues and performance incentives, as well as, reconciliation of the 2017 costs incurred and re-reconciliations of prior years.

Ms. Holbrook testified that her group gathered actual program costs and calculated cost recovery revenue, performance incentive amounts and lost revenue for the 2018 reconciliation and updates to the 2015 – 2017 reconciliations accounting for lost revenue updates from subsequent EM&V.

Ms. Holbrook testified that this reconciliation is made pursuant to the Order in Cause No. 43955 DSM 4, in which the Commission approved the following shared savings performance incentive structure tied to tiered levels of energy savings achieved versus the as-filed target and the net present value of the net benefits for the Utility Cost Test ("UCT") for each of its programs.

Performance Incentives	
Achievement Level (kWh)	**Incentive Level (NPV of net benefits of UCT)**
110%	10%
100-109.99%	8%
90-99.99%	7%
80-89.99%	6%
75-79.99%	5%
0-74.99%	0%

Ms. Holbrook sponsored exhibits showing the calculations of the revenue requirement provided to Ms. Lilly for her rate calculations. As to the reconciliation, Ms. Holbrook testified that all relevant costs (expenses) for the programs are recorded in Petitioner's General Ledger as they are incurred, including program costs, EM&V, and administrative overhead costs by program and type of cost. For purposes of the 2018 reconciliation, all relevant charges recorded to the programs in 2018 were taken from the General Ledger.

Ms. Holbrook testified that the amount spent in excess of the amount approved for Power Manager for Business Program was removed for cost recovery. She sponsored exhibits showing the calculations of the revenue requirement provided to Ms. Lilly for rate calculations; however, that amount does not include this overage.

Ms. Holbrook testified that several adjustments were made to kWh achievement and avoided costs in order to calculate the shared savings performance incentive. Costs that exceeded Petitioner's DSM 4 budget were also removed in order to provide the adjustments be used in incentive calculations. To calculate the shared savings incentive, the percentage reduction in total recorded costs by program was applied to kWh/kW achievement which adjusted achievement levels to more appropriately align with the as-filed targets. The final adjustment applied the same percentage reduction to the Avoided Costs to ensure that they lined up with the kWh/kW

achievement.

Ms. Holbrook also testified that 2018 lost revenues were calculated by using impacts for each participant (kWh and kW) at the meter, net of free riders. All EM&V received by March 31, 2019 was then applied retrospectively for the purposes of calculating lost revenue per the Agreement approved in DSM 1.

Ms. Holbrook also testified as to the adjustments made to the 2015, 2016 and 2017 reconciliations. Petitioner's Exhibits 1-A, 1-B, and 1-C, show the impact of the application of EM&V to lost revenues, and all 2018 adjustments are shown on Petitioner's Exhibit 1-E.

Ms. Lilly explained that all customers and rate classes are charged for the cost of a vintage year's EE programs to the extent in which they are or were eligible to participate in programs offered for that period.[1] The ratemaking model approved by the Commission for the EE Rider provides that customers pay the same kWh rate per the group in which they are or were eligible to participate.

To calculate the 2018 reconciliation, Ms. Lilly testified that proposed Tariff rates have been developed in this proceeding for each designated opt-out group's 2018 kWh allotted costs and revenues. She further testified regarding the costs opt-out customers are responsible for paying. Consistent with the requirements of Ind. Code § 8-1-8.5-9(f), although an eligible customer who opts out is not responsible for costs of current or future EE programs, the customer remains responsible for EE program costs, including lost revenues, shareholder incentives and related reconciliations, that accrued or were incurred or relate to EE investments made before the date on which the opt-out is effective, regardless of the date on which the rates are actually assessed.

As approved by the Commission's EE Orders, the lost revenues associated with the 2012 – 2015 program years will be included in EE Rider rates until the measure life has expired for the individual programs or until rates are effective from a base rate case. As approved in DSM 3, lost revenues associated with the 2016 program year will be included in EE Rider rates for the lesser of four years or measure life, or until rates are effective from a base rate case. As approved in DSM 4, 2017 – 2019 program year lost revenues will be included in EE Rider rates until the end of the measure life for the individual programs or until rates are effective from a base rate case. As approved in DSM 1, lost revenues for all these years are subject to additional reconciliations in future years due to retrospective application of EM&V. Qualifying customers new to Duke Energy Indiana's system who sign a demand contract of more than one megawatt and provide notice of opt-out under the terms of the Tariff will not be responsible for any EE Rider costs (*i.e.*, will have a zero Tariff rate).

Ms. Lilly explained how the opt-out requirements affect the calculation of the 2019 proposed revised rates. She testified that separate rate calculations were needed for each opt-out group as each group is responsible for a different set of costs based on effective dates of their opt-outs or opt-ins.

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[1] Costs for a vintage year's programs may extend beyond that vintage year or the time customers were eligible to participate in the programs, such as in the case of persisting lost revenues or for the costs of EM&V performed in a subsequent year for a prior vintage year's programs.

Ms. Lilly explained that the proposed revised 2019 rates include a 2018 reconciliation component provided by Ms. Holbrook; updated lost revenue amounts for the re-reconciliation of 2015, 2016, and 2017; and, adjustments applicable to 2014, 2015, 2016, and 2017 opt-out groups. For revised 2019 rates, 2019 estimated program cost, EM&V costs, lost revenues, and incentives previously approved in DSM 6 were used. Costs included in the rates incorporate the results of EM&V for calculating lost revenues and performance incentives, pursuant to the approved Settlement Agreements in DSM 1 and DSM 2 and the Commission's Orders in 43955 through 43955 DSM 6. The 2018 kWh and billed revenues for 2018 reconciliation were obtained from Petitioner's accounting records. Petitioner's Exhibit 2-B, Pages 1 – 12, included a series of schedules developing the rates that are presented for Commission approval in this proceeding.

Ms. Lilly testified that the reconciliation amounts reflect a full year's benefits of the Tax Act's impact on the revenue requirements included in DSM 7. Lost revenues calculations assumed the lower lost revenue pricing resulting from the lower base rates due to the Tax Act, which were effective September 2018, were in effect for all of 2018. Therefore, these reconciliation amounts include the Tax Act benefits Petitioner deferred from January through August 2018 for the EE Rider in compliance with Cause No. Order 45032 S2 in addition to other reconciliation items. Ms. Lilly further testified that the amount of the January through August 2018 Tax Act refund to customers as part of this reconciliation filing is approximately $1 million.

Ms. Lilly explained the drivers of the 2018 reconciliation variances for both Residential and Non-Residential customer groups, explaining the factors that resulted in an over-billing reconciliation variance for 2018 for Residential customers, which will reduce rates from current levels when the proposed rates are approved by the Commission, and an under-billing reconciliation variance for 2018 for Non-Residential customers. However, the under-billing position is less than the amount filed in DSM 6, resulting in a decrease to the majority of the proposed rates for 2019 for Non-Residential customers.

The resulting 2019 revised revenue requirement for the costs to be recovered via the EE Rider is $44.2M.

Petitioner's Exhibit 2-C provides information regarding the rate impact of the rate adjustment factors developed. Page 2 shows the monthly impact on the bill of a typical residential customer using 1,000 kWh of the change in the Rider 66-A rates should the Commission approve the revised 2019 rates.

Ms. Lilly testified as to what amendments to Duke Energy Indiana's rate schedules were being proposed in this proceeding. She explained that upon Commission approval, Petitioner is proposing to update its Standard Contract Rider No. 66-A, Twelfth Revised Sheet No. 66-A, Pages 1 through 18 (Petitioner's Exhibit 2-A, Pages 1 through 18) subject to Duke Energy Indiana's filing of the updated Rider 66-A Tariff Sheet with the Commission's Energy Division and begin billing the revised 2019 rates effective with the first billing cycle of the month following the Commission's Order in this proceeding.

Ms. Lilly explained the method used to determine the amount of actual lost revenues included in this filing. Support for the pricing used for the 2018 reconciliation was filed in Ms. Lilly's Workpaper 6.

Ms. Lilly testified that the lost revenue rates she developed for use by Ms. Holbrook will change with the issuance of the Final Order in Cause No. 45253. Ms. Lilly testified that Petitioner intends to adjust the lost revenue pricing rates at the time new base rates are approved and implemented.

Ms. Lilly concluded her testimony by stating that Petitioner intends to continue using the deferral accounting treatment approved in Cause No. 43955 to minimize the timing difference between cost or revenue recognition on Petitioner's books and actual cost recovery.

5. OUCC's Case-in-Chief. The OUCC presented the testimony of Caleb R. Loveman, Utility Analyst and John E. Haselden, Senior Utility Analyst, both from the OUCC's Electric Division. Mr. Loveman testified nothing in Petitioner's exhibits or workpapers came to his attention that would indicate Duke Energy Indiana's mathematical calculations were incorrect, but he offered no opinion on the veracity of Petitioner's underlying data nor the appropriateness of Petitioner's methodology. Mr. Loveman testified that his Attachment CRL-1 outlines his calculations regarding Petitioner's proposed reconciliations and shows that they match Petitioner's calculations of a $2.16 bill decrease for the DSM adjustment factor on Petitioner's Exhibit 2-C (KCL). Regarding the TJCA, he had no objections to Petitioner's updated its revenue conversation factor to reflect the 21% federal income tax rate in the previous DSM 6 filing. He also explained that if any of Mr. Haselden's recommendations were approved by the Commission, Petitioner would be required to modify its proposed 2020 DSM Adjustment Factor reflecting the impact of approved changes.

Mr. Haselden testified the inputs Duke Energy Indiana used to calculate the Utility Cost Test ("UCT"), and ultimately shareholder incentives, are not correct for the following reasons: (1) Petitioner applied the wrong values for avoided capacity costs in its calculations; (2) Avoided Transmission and Distribution ("T&D") capacity costs estimates included in the calculations are excessive (they should be zero), and (3) Petitioner uses halogen bulbs as the baseline to project future energy and demand savings. Mr. Haselden testified that Petitioner's UCT calculations are inflated because they are incorrectly based on Petitioner's 2015 IRP's estimated escalated costs of purchasing future supply-side capacity, as opposed to Petitioner's actual cost of avoided capacity. He testified Petitioner's UCT calculation should 3 properly value avoided capacity at zero ($0) for years 2018-2022 because Petitioner has a capacity surplus, and is unlikely to need additional capacity until 2023. Regarding Petitioner's proposed avoided T&D capacity costs, Mr. Haselden testified that because T&D capacity benefits are created when they relieve specific circuits with capacity congestion, and because none of Petitioner's DSM programs target specific circuits (Petitioner's TDSIC Volt-Var program is not part of the DSM portfolio), DSM programs cannot take credit for Petitioner's proposed avoided T&D benefits, especially those created by TDSIC projects. He further testified Petitioner's "avoided" T&D capacity costs due to DSM should be set to zero in the UCT calculation for this case for all years because Petitioner's proposed amounts are unreasonable. Mr. Haselden opposed Petitioner basing avoided T&D capacity costs on expected T&D construction costs associated with load growth, divided by expected growth in peak

load. He said this method artificially inflates T&D avoided capacity cost estimates. Mr. Haselden also opposed Petitioner's continuing to use halogen bulbs as a baseline for residential GSL measures. He testified the 15-year, A-Line, GSL LED bulb will soon become, if it has not already, the baseline for this measure. He said using halogen bulbs artificially inflates the UCT, the NPV of energy savings and, in turn, shareholder incentives. Mr. Haselden recommended Petitioner's UCT calculations and subsequent shareholder incentive calculations be recalculated using appropriate values, dates, and calculation methodology.

6. **Petitioner's Rebuttal Testimony.** Petitioner provided the rebuttal testimony of one witness, Karen K. Holbrook. Ms. Holbrook testified that the Commission approved Petitioner's reconciliation of 2016 costs with rates set using the 2018 forecast approved in DSM 4, DSM 5, and the reconciliation of 2017 costs (and 2019 forecast approved in DSM 4) in DSM 6. She testified that the method used to calculate revenue requirements since the Final Order in DSM 4 has not changed. Ms. Holbrook further testified that aside from program cost recovery, the Commission approved lost revenues for the life of the measure and a tiered, shared-savings shareholder incentive. Ms. Holbrook further testified that the Commission found that the Plan approved in DSM 4 was consistent with its Integrated Resource Plan ("IRP") and the avoided cost assumptions for calculating shared savings incentive was consistent with the Commissions DSM 4 Order. She also noted that the OUCC did not raise these issues in the DSM 4, DSM 5, or DSM 6 proceedings which all contained the same methodology for calculating avoided costs.

Ms. Holbrook testified that she did not agree with Mr. Haselden's position that avoided capacity costs should be valued at zero for purposes of calculating the UCT. She explained why she did not agree avoided capacity costs should be set to zero because Petitioner's 2018 IRP shows one specific future scenario where Petitioner has a surplus of generation capacity until 2023. However, the 2018 IRP is not the IRP tied to the 2018 program costs and performance under DSM 4 as discussed above. The 2015 IRP is the appropriate IRP to use for this analysis, which clearly shows that Petitioner had an expectation of a need to add capacity resources over and above the EE and DR programs in each year during 2017–2019. The 2015 IRP assumed the inclusion of peak reductions from DSM programs that greatly exceeded the required reserve margin. This means that without these programs, Petitioner would have had an immediate need to install over 800 MW of generation capacity. It is completely illogical to conclude that these DSM programs do not represent a tangible capacity resource that is clearly being "avoided". In any event, whether Petitioner has a planning reserve margin deficit is of no consequence in how it should calculate its avoided costs. To follow the OUCC's argument to its conclusion would have Petitioner frequently changing the avoided costs used in analyzing its programs and would not provide for a consistent set of EE programs, which is one key to a successful program and to provide value to customers on an ongoing basis.

Ms. Holbrook also testified that she did not agree with Mr. Haselden's argument that T&D savings created by DSM programs may not exist. Petitioner's methodology to determine the value of avoided T&D is based on a system average spending associated with investments to accommodate load growth divided by expected load growth. It is reasonable to assume that customers adopt DSM programs across the system in a manner that will result in load reduction across all circuits, including those with and without immediate capacity concerns. Therefore, by using a calculation that is an average across the system, it can be relied upon to be reflective of the

adoption of DSM programs. Mr. Haselden further argues that certain projects under its TDSIC Plan could impact both current and future T&D capacity issues. This argument ignores the nature of the TDSIC projects and the impacts to Petitioner's system that can occur over the longer term, which is the focus of the IRP and the EE plan. The purpose of many of the TDSIC projects is to replace assets that have served their useful life. These projects do not necessarily address future load growth or changing demands on the system over time. Mr. Haselden makes the statement that Petitioner "is artificially inflating both its generating and T&D avoided capacity cost estimates" with no supporting facts. Petitioner has been transparent with its calculations and maintained continuity and consistency with approved assumptions in DSM 4.

Ms. Holbrook testified in response to Mr. Haselden's recommendation that the inputs into the calculations of Petitioner's shared savings incentive are consistent with those approved in DSM 4 and changing those inputs would make calculations inconsistent with the 2015 IRP and the Commission's ruling that relied upon the underlying calculations and assumptions of cost effectiveness in the plan. Therefore, the 2018 reconciliation must continue to rely on these approved inputs and assumptions as it has for every other reconciliation under DSM 4. The reliance on the avoided cost assumptions approved in DSM 4 is of tantamount importance. If Petitioner were to change underlying avoided cost assumptions while executing the portfolio, there would be the potential for continual program disruption which would deprive customers of the opportunity to participate.

Ms. Holbrook also testified that she did not agree with Mr. Haselden's concerns regarding Petitioner's calculations of benefit/cost test results. Mr. Haselden states that there is "no transparency and the modeling results cannot be replicated or verified by any other party." First, the DSMore software is a widely accepted industry standard, which Duke Energy Indiana has used for many years. This program is available for OUCC's review and use onsite at Duke Energy Indiana's offices. It is used in approximately 30 states and by several independent evaluators. Second, the OUCC has not requested access to Duke Energy Indiana's DSMore program for independent validation of Petitioner's calculations, despite offers of assistance by both Integral Analytics and Petitioner.

Ms. Holbrook testified that Mr. Haselden took issue with the benefits used in calculating the UCT and subsequent shared savings incentive for standard GSL A-line LED bulbs. Mr. Haselden argues that there have been significant changes in the lighting market and therefore savings attributable to GSL LED bulbs delivered through DSM programs will cease within the next few years due to this changed baseline. Ms. Holbrook testified that she did not agree with Mr. Haselden as his proposal changes the useful life and modeling approach for these bulbs to something different than what was used in the 2015 IRP and approved in DSM 4. Additionally, Ms. Holbrook disagreed with Mr. Haselden's premise that LED lamps have become the baseline due to price and performance as well as the Energy Independence and Security Act ("EISA") backstop. The backstop provision established in EISA essentially said that if the U.S. Department of Energy ("DOE") did not issue new energy conservation standards by a certain date, a backstop energy conservation standard of 45 lumens per watt would apply, which would effectively eliminate the sale of halogen and incandescent A lamps on January 1, 2020. Retail stores continue to offer incandescent, halogen, and CFL bulbs in Petitioner's service territory. Mr. Haselden attempts to show minimal price differential between halogen and LED bulbs. However, Ms.

Holbrook stated this is misleading because he is comparing the halogen bulbs to non-Energy Star certified LEDs that do not have the same performance or measure life as Energy Star certified LEDs. Petitioner's programs offer incentives on the Energy Star certified LEDs only. These bulbs have longer lives, offer greater energy savings, and have a larger price differential than what is shown on OUCC Attachment JEH-4.

Ms. Holbrook also did not agree with Mr. Haselden's concern with the extended application of halogen bulbs as a baseline for residential GSL measures. Mr. Haselden contends that Duke Energy Indiana is inaccurately recognizing a 15-year measure life (which was updated to a 12-year measure life in 2018 through the EM&V process) associated with a GSL LED bulb because the GSL baseline has changed. However, many of the facts underlying his position have fundamentally changed due to actions taken by the DOE regarding the implementation of GSL lighting efficiency standard. Ms. Holbrook further testified that on September 4, 2019, the DOE issued a Final Order withdrawing the 2017 DOE expanded definition of GSL that covered specialty bulbs. In the Order, which is a Final Order, not a Notice of Proposed Rulemaking as indicated in Witness Haselden's testimony, the DOE made clear that the backstop requirement that would have prohibited the sale of GSL bulbs that exceed 45 lumens per watt effective January 1, 2020, is not triggered. For this reason, many of the documents cited by Mr. Haselden that assumed the backstop requirement would be triggered on January 1, 2020, are no longer current. The studies referenced by Mr. Haselden refer to the impending January 1, 2020, backstop requirement as a key driver toward the market transformation that he believes justifies a change in the baseline. However, the fact is that backstop requirement will not go in place January 1, 2020, and customers will still be able to purchase GSL bulbs that are below the 45 lumen per watt efficiency standard.

Ms. Holbrook testified as to examples of studies cited by Mr. Haselden that have been impacted by the DOE's final decision to not trigger the January 1, 2020 backstop requirement for GSL bulbs. Ms. Holbrook testified that the UMP Chapter 6, Section 4.3.2, referenced on page 14 of Mr. Haselden's testimony is a document that was clearly written under the pretense that the January 1, 2020, backstop requirement was going to occur. Section 4.3.2 is entitled "Calculating Post 2020 Savings" and begins with the statement, "Bulbs expected to be in use in 2020 and beyond will be affected by the EISA backstop provision mentioned in Section 1." In other words, the UMP recommendation to set a sunset date that was referenced was based on the presumption that the backstop requirement would no longer allow alternatives to LED bulbs to be available for purchase. Additionally, in the very information that Mr. Haselden presents regarding the Illinois Technical Reference Manual v8.0, it states: "that lamps subject to the EISA backstop provision shall have measure life of two years." Since the lamps are no longer "subject to the EISA backstop provision" his argument is moot.

Ms. Holbrook also testified that she did not agree with Mr. Haselden's contention that the market has transformed, and that whether the government mandate exists or not, the baseline for GSLs should change. Ms. Holbrook testified that other than the 2018 Northwest Energy Efficiency Alliance ("NEEA") Study which appears to be from a different region of the country, and Mr. Haselden's anecdotal evidence and estimate of shelfing stock, he has not provided any conclusive evidence that the baseline has shifted. The reality is that both the study performed by NEEA and his own anecdotal evidence were likely greatly influenced by retailers believing the backstop requirement would be triggered on January 1, 2020. With the DOE ruling, the market

transformation that Mr. Haselden believes is occurring could revert to prior market conditions. The DOE ruling that the backstop requirement was not triggered will likely serve as a green light for retailers that had planned on no longer being able to sell bulbs that are below the 45 lumen per watt standard after December 31, 2019 to start restocking and selling these bulbs. Ms. Holbrook further testified that after the DOE's final rule was issued on September 4, 2019, Noah Horowitz, Director of the Center for Energy Efficiency Standards at the National Resource Defense Council said, "Today's action sets the United States up to become the world's dumping ground for inefficient incandescent and halogen bulbs being phased out around the world."[2] Clearly this efficiency expert is concerned that the finding that the backstop requirement not being triggered will lead to low cost inefficient bulbs flooding into the U.S. Market, including Indiana, for sale to the public.

Ms. Holbrook also testified that she did not agree with Mr. Haselden's contention that Petitioner should not have been incentivizing Energy Star LEDs. Ms. Holbrook testified that, although she does agree that by incentivizing Energy Star LEDs with longer measure lives the program's UCT benefit is higher, she disagrees this is done to increase utility incentives. Increasing the UCT benefit of a program, by definition, makes the program more cost effective. Therefore, all customers benefit given that approximately 90% of the benefit accrues to the customer base via decreased net system costs. Additionally, Mr. Haselden appears to ignore the fact that there are multiple benefits of installing an Energy Star LED in lieu of a low cost (value line) LED.

Ms. Holbrook stated Petitioner's program provides an efficient and quality light that will make customers want to continue to adopt LEDs, rather than reverting back to less efficient options. Chapter 6, Section 4.4 of the Uniform Methods Project, referenced by Witness Haselden, specifically discusses the differences between Value Line and Energy Star LEDs. In the discussion the UMP points out that "the vast majority of program administrators have incented Energy Star LEDs and have not chosen to include non-Energy Star -referred to as "value line" LEDs in their programs. This is typically in response to some of the earlier quality challenges with CFLs and concern that if customers have a negative experience (due to poor quality or shorter-than-expected lifetimes) as they first try and then increasingly adopt LEDs that this could lead to backsliding and negative impressions of this burgeoning technology." She said Duke Energy Indiana's decision to incentivize the more cost-effective Energy Star LEDs is not unique and is intended to benefit customer efficiency and improve the customer experience.

Ms. Holbrook concluded her testimony by stating that aside from the policy positions discussed above, the OUCC did not take exception with the reconciliation proposed in this proceeding.

7. **Commission Discussion and Findings.** This filing is to reconcile costs incurred in 2018 in accordance with the Order in Cause No. 43955 DSM 4. In that proceeding, we reviewed the reasonableness of the Plan presented and each of the factors set forth in Ind. Code § 8-1-8.5-10(h) and (k), including: program goals, budgets, cost-effectiveness, and EM&V processes. Our review concluded that Petitioner's EE Plan was consistent with its 2015 IRP, as required by statute,

[2] DOE Rollback of Energy Savings Light Bulb Standards is Senseless and Illegal, NRDC Press Release September 4, 2019.

and that the Plan satisfied the applicable cost effectiveness tests including the UCT. As to cost recovery, we concluded:

> Program Cost Recovery. Petitioner 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. Having found Petitioner's Plan to be reasonable in its entirety, we therefore find that Petitioner shall be authorized to recover its associated program costs.

The record shows that the OUCC agrees that Petitioner used the correct methodology, as approved in DSM 4 to calculate the DSM Rider factors proposed in this proceeding. However, the OUCC identified two concerns that it asserts warrant a recalculation of the UCT and, therefore, the performance incentives, which are a percentage of the net benefits under the UCT. As discussed in further detail below, we conclude that the OUCC's concerns do not warrant a change to the previously approved performance incentive structure and are more appropriately addressed in Petitioner's pending Plan proceeding, docketed as Cause No. 43955 DSM 8.

A. **Petitioner's Calculation of the UCT.** In terms of additional capacity, Mr. Haselden, on behalf of the OUCC, stated the appropriate methodology is to discount the value of capacity from the year additional capacity is first needed back to the year that the DSM was deployed. He reasoned that DSM capacity savings are not worth as much in the present because they do not save customers anything until some years in the future when Petitioner has a capacity need. The OUCC recommended that the avoided generation costs in the UCT be calculated at zero from 2018 to 2022, because Petitioner has no capacity need until 2022.

We note that adopting the OUCC's recommendations would create a disincentive for electric utilities to invest in EE in years when they have capacity surplus. Furthermore, it is neither practical nor prudent to implement EE programs only in years when the Petitioner has a capacity deficit. In addition, focusing solely on a utility's current capacity needs ignores the long-term nature of DSM efforts as reflected in the IRP, devalues EE efforts in years when there is capacity surplus, conflicts with the purpose of including EE programs in a long-term resource acquisition plan. Another significant difficulty is that it is impractical to approve an EE plan for a set period of implementation using one set of avoided costs assumptions and then change the underlying avoided costs assumptions during EE plan implementation to calculate financial incentives. To do so creates the possibility of continual changes to the EE plan that may necessitate on-going review by the Commission. Therefore, we reject the OUCC's recommendations.

Regarding avoided T&D capacity costs, Mr. Haselden stated that the value for T&D capacity costs should be set at zero because Petitioner is not avoiding T&D capacity costs so long as it is long on capacity. He also testified that Petitioner's DSM programs do not provide value because they do not relieve capacity on specific circuits. Ms. Holbrook testified that Duke Energy Indiana uses a system average calculation that is reflective of the adoption of DSM programs. Upon our consideration of the evidence, Petitioner's methodology to calculate T&D capacity cost

is reasonable and we decline to reset avoided T&D capacity costs to zero. Therefore, the OUCC's recommendation to reset the avoided T&D capacity cost to zero is rejected.

B. Petitioner's Assumption of a 15-Year Life for Energy and Capacity Savings for LED Bulbs. Mr. Haselden recommended Petitioner apply a sunset date of 2021 for recognizing LED GSLs as the baseline for those programs utilizing LED GSL bulbs. While much of Mr. Haselden's evidence offers support for his position, evidence supporting Duke Energy Indiana's position cannot be ignored. Most importantly, we recognize Duke Energy Indiana has already filed for approval of its next DSM Plan in Cause No. 43955 DSM 8. That is the forum best suited to address changing the issue of the appropriate baseline. Upon our consideration of the evidence, and in recognition that Cause No. 43955 DSM 8 is currently pending before the Commission, we find that it is premature to change the baseline of Petitioner's lighting program.

C. OUCC's Verification of Petitioner's DSM Factors. In the OUCC''s case-in-chief, Mr. Loveman testified he found no irregularities in the mathematical calculation of Petitioner's DSMA factors; he did, however, advise modifying the DSMA factors to reflect Mr. Haselden's specific recommendations. The OUCC stated that it did not have access to the information used in the DSMore modeling software in order to verify Petitioner's calculations; therefore, the OUCC advocated that the Commission deny Petitioner's requested shareholder performance incentive

Based upon the testimony and evidence submitted in this Cause, we find that our approvals in this Cause are consistent with our Order in Cause No. 44927. Therefore, Petitioner's proposed changes to the calculation of the DSMA and allocation of costs and expenses on an interim basis are approved. Accordingly, Petitioner's requested DSMA rates as provided in its case-in-chief and described herein are approved.

8. Confidential Information. Duke Energy Indiana filed a Motion for Protection of Confidential and Proprietary Information, which was supported by affidavits, showing workpapers filed in this proceeding were trade secret information within the scope of Ind. Code §§ 5-14-3-4 and 24-2-3-2. The Presiding Officers made rulings from the bench finding such information confidential on a preliminary basis after which such information was entered into evidence under seal. Accordingly, we find that all such information should continue to be held confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2.

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

1. Duke Energy Indiana's requested EE Rider Adjustment, as set forth in the Testimony and Exhibits of witnesses Karen K. Holbrook and Kathryn C. Lilly, which includes reconciliation of 2018 actual costs and energy savings achievements with amounts billed to customers in 2018 in accordance with previous Commission Orders; along with the re-reconciliations for the application of EM&V to lost revenue recovery for 2015, 2016, and 2017 is approved.

2. Duke Energy Indiana's requested continued authority to defer the over and under recoveries of projected DSM/EE program costs, 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 Duke Energy Indiana to recognize these costs through the ratemaking process is approved.

3. Duke Energy Indiana is authorized to implement its requested Rider No. 66-A adjustment factors.

4. Duke Energy Indiana may begin billing new Rider No. 66-A factors with the first billing cycle for the first full billing month following the date of this Order, subject to its filing of the updated Rider No. 66-A with the Commission's Energy Division.

5. The material submitted to the Commission under seal is declared to contain trade secret information as defined in Ind. Code § 24-2-3-2, and therefore, is exempt from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

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

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

APPROVED: FEB 26 2020

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

Mary M Becerra

Mary M. Becerra
Secretary of the Commission