

**ORIGINAL**

STATE OF INDIANA

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

**INDIANA UTILITY REGULATORY COMMISSION**

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

**CAUSE NO. 45370**

**APPROVED: DEC 29 2020**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David L. Ober, Commissioner**

**Jennifer L. Schuster, Administrative Law Judge**

On April 23, 2020, Indianapolis Power & Light Company (“Petitioner” or “IPL”) filed its Verified Petition and Request for Administrative Notice with the Indiana Utility Regulatory Commission (“Commission”), along with its case-in-chief and workpapers. On July 29, 2020, the Indiana Office of Utility Consumer Counselor (“OUCC”) and intervenor Citizens Action Coalition of Indiana, Inc. (“CAC”) filed their cases-in-chief. IPL filed its rebuttal evidence on August 26, 2020.

On September 22, 2020, IPL, the OUCC, and the CAC (collectively, the “Settling Parties”) filed an unopposed Joint Motion for Leave to Submit Settlement Agreement and Request for Settlement Hearing, which was granted by docket entry dated September 24, 2020. The Settling Parties filed testimony, attachments, and workpapers in support of the Settlement Agreement on October 1, 2020.

The Commission held an evidentiary hearing in this Cause at 1:30 p.m. on October 27, 2020, via WebEx. IPL, the OUCC, and the CAC appeared and participated at the hearing. IPL’s Request for Administrative Notice of its 2019 Integrated Resource Plan (“IRP”) was granted without objection. The parties’ evidence was admitted into the record without objection.

Based upon the applicable law and evidence of record, the Commission finds:

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published as required by law. IPL is a “public utility” under Ind. Code §§ 8-1-2-1 and 8-1-8.5-1 and an “electricity supplier” pursuant to Ind. Code ch. 8-1-8.5. Under Ind. Code §§ 8-1-2-10, 8-1-2-12, and 8-1-2-42, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8, the Commission has jurisdiction over IPL’s demand side management (“DSM”) and energy efficiency (“EE”) program offerings

and associated cost recovery. Therefore, the Commission has jurisdiction over IPL and the subject matter of this proceeding.

**2. IPL's Characteristics.** IPL is a corporation organized and existing under Indiana law and has its principal office at One Monument Circle, Indianapolis, Indiana. IPL renders electric utility service in Indiana. IPL owns and operates electric generating, transmission, and distribution plant, property, equipment, and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery, and furnishing of electric energy, heat, light, and power.

**3. Relief Requested.** In its Petition, IPL requested Commission approval of a DSM Plan for 2021 through 2023. The DSM Plan includes EE goals, a portfolio of programs designed to achieve EE and demand savings, program budgets and 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 IPL's Standard Contract Rider No. 22 (Demand Side Management Adjustment) (herein "DSM Rider" or "Rider 22"), including the direct and indirect costs of the EE and DSM programs, funds for emerging technology, net lost revenue, and financial incentives.

**4. Evidence Presented.**

**A. IPL's Case-in-Chief.** Zac Elliot, IPL's Manager of Energy Efficiency Programs, described the 11 programs of IPL's 2021-2023 DSM Plan, including seven residential and four business programs. According to Mr. Elliot, IPL projected that successful delivery of the 2021-2023 DSM Plan will require spending authority of \$105,720,171 in program direct and indirect costs, and that IPL expects gross energy savings of 476,461 MWh over the three-year period. He said that the average annual program direct and indirect costs are projected to be \$35,240,057, and the forecasted average annual gross energy impacts are 158,820 MWh.

Mr. Elliot explained that the proposed mechanism would use performance tiers to encourage IPL's delivery of DSM programs and, to the extent programs do not produce at least 75% of their energy efficiency goals, IPL would receive a financial incentive of 4% of direct program costs.

Kim Aliff, IPL's Senior Regulatory Analyst in Regulatory Affairs, described the impact of the 2021-2023 DSM Plan on the previously approved cost recovery mechanism utilized in IPL's semi-annual filings under Cause No. 43623 DSM X, the calculation of lost revenues, the treatment of the financial incentive in the fuel adjustment clause ("FAC") earnings test, and the short-term bill impacts associated with implementation of the 2021-2023 DSM Plan.

Erik Miller, IPL's Manager of Resource Planning, presented the cost/benefit analysis of the proposed DSM Plan. He also explained how IPL's EE goals are reasonably achievable, are consistent with IPL's 2019 IRP, and are designed to achieve an optimal balance of energy resources in IPL's service area.

**B. OUCC's Evidence.** John E. Haselden, Senior Utility Analyst in the OUCC's Electric Division, testified about the OUCC's concern that the proposed DSM Plan and its underlying assumptions artificially boost reported cost effectiveness, lost revenues, and shareholder incentives. Mr. Haselden specifically expressed concerns with inflated avoided generation capacity costs, inflated avoided transmission and distribution ("T&D") capacity costs, incorrect cost/benefit test calculations, and outdated and overstated expected useful life ("EUL") and savings impacts assumptions for DSM programs. Mr. Haselden opined that the shareholder incentive IPL proposes is outdated and does not provide an incentive to provide cost-effective energy efficiency programs.

Mr. Haselden recommended that the Commission approve the OUCC's proposed shareholder incentive methodology; reject IPL's proposals to change the limits on lost revenues, budget shifting, and carryover authorization from current arrangements; find that IPL's DSM Plan is not reasonable in its entirety; and order IPL to correct the deficiencies identified by the OUCC's witnesses and file a modified DSM Plan.

Caleb Loveman, Utility Analyst in the OUCC's Electric Division, verified the accuracy of IPL's proposed DSM Plan accounting and ratemaking treatment and the design and mechanics of Rider 22. He disagreed with IPL's proposed treatment of financial incentives in the FAC earnings test, but agreed with IPL's proposed continued treatment of lost revenues in the FAC earnings test.

**C. CAC's Evidence.** Dan Mellinger, Principal at Energy Futures Group ("EFG"), testified that the level of savings proposed in IPL's DSM Plan are unreasonable when compared to past results (with roughly 20% less gross savings and 12% less net savings than was achieved in 2019), to IPL's own market potential study ("MPS"), and to utilities in neighboring states. He opined that IPL's portfolio of programs fails to include technologies, program delivery mechanisms, and customer engagement strategies that can achieve better levels of energy savings. He also stated that IPL is seeking inappropriate levels of financial incentives through lost revenue recovery and performance incentives that could easily lead to overcompensation for IPL and excessive costs to its customers.

Anna Sommer, Principal at EFG, opined that IPL's evaluation of energy efficiency in its 2019 IRP was flawed because the levelized cost of energy efficiency was calculated by incorrectly excluding the full lifetime of savings and the modeling did not account for avoided transmission and distribution benefits. She said that, with the corrected levelized costs, additional EE would have resulted in a lower net present value at a higher level of savings. Ms. Sommer concluded that, due to concerns she identifies in IPL's modeling off EE in its IRP, she recommends the highest level modeled: the five bundles totaling 1.25% of sales (despite there being eight bundles that could have been modeled).

**D. IPL's Rebuttal.** On rebuttal, Mr. Elliot noted that the OUCC and the CAC both opined that IPL's 2021-2023 DSM Plan was unreasonable but based those determinations on opposite views. Thus, acceptance of the OUCC's recommendations would cause IPL to pursue less energy efficiency, while the CAC's recommendations would cause IPL to pursue more.

Mr. Miller responded to the OUCC and CAC’s concerns regarding IPL’s avoided cost assumptions used in the benefits and cost analysis for this DSM Plan. He also addressed the concerns raised by the CAC regarding the DSM modeling within IPL’s IRP and concerns about the MPS used to inform the IRP and the proposed DSM Plan.

Ms. Aliff addressed Mr. Loveman’s proposed treatment of financial incentives in IPL’s FAC earnings test.

**E. Settlement Evidence.** The Settlement Agreement resolved all contested issues in this case between all parties. Witnesses for IPL, the OUCC, and the CAC explained the terms of the Settlement Agreement and opined that the Settlement Agreement should be found to be in the public interest and approved. The Settling Parties have requested that the Commission issue its order approving the Settlement Agreement by the end of 2020 to allow the timely and efficient implementation of the 2021-2023 DSM Plan.

The DSM Plan, as modified by the Settlement Agreement, includes the following programs:

**Residential**

- Appliance Recycling
- Residential Demand Response
- Efficient Products
- Multifamily Direct Install (“MDI”)
- School Education
- Home Energy Reports
- Income-Qualified Weatherization (“IQW”)

**Commercial and Industrial (“C&I”)**

- Custom
- Business Demand Response
- Prescriptive
- Small Business Direct Install

**5. Discussion and Commission Findings.** IPL is seeking approval of its 2021-2023 DSM Plan pursuant to Ind. Code § 8-1-8.5-10(h), which provides as follows:

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.

Ind. Code § 8-1-8.5-10(h). Once such a plan has been submitted, the Commission is required to consider the following ten factors 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.

Ind. Code § 8-1-8.5-10(j).

The Settling Parties also seek Commission approval of their Settlement Agreement, which resolves all issues in this case. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). Any settlement agreement that is approved by the Commission "loses its status as a strictly private contract and takes on a public interest gloss." (quoting *Citizens Action*

*Coalition of Indiana, Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather, [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406. Any Commission decision, ruling, or order—including the approval of a settlement—must be supported by specific findings of fact and sufficient evidence, as well as a determination that the decision, ruling, or order is not contrary to law. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Indiana, Inc. v. Public Service Co. of Indiana, Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before we 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 applicable law, is not contrary to law, and serves the public interest.

Indiana law strongly favors settlement as a means of resolving contested proceedings. See, e.g., *Georgos v. Jackson*, 790 N.E.2d 448, 453 (Ind. 2003) (“Indiana strongly favors settlement agreements.”); *Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes.”) (citation omitted). A settlement agreement “may be adopted as a resolution *on the merits*, if [the Commission] makes an independent finding supported by substantial evidence on the record as a whole that the proposal will establish just and reasonable rates.” *Mobil Oil Corp. v. Fed. Power Comm’n*, 417 U.S. 283, 314 (1974) (emphasis in original) (internal quotation marks omitted); see also, e.g., *Indianapolis Power & Light Co.*, Cause No. 39938, 1995 WL 735722 (IURC Aug. 24, 1995) (quoting *Mobil Oil Corp.*, 417 U.S. at 314).

A. **Ind. Code § 8-1-8.5-10(h) Requirements.** It is undisputed that IPL is an electricity supplier as defined by Ind. Code § 8-1-8.5-10(a) and that it has made a submission under Ind. Code § 8-1-8.5-10(h) seeking approval of a proposed DSM plan, as modified by the Settlement Agreement. The Verified Petition in this Cause and the DSM Plan, as modified by the Settlement Agreement, include all four of the elements required to satisfy Ind. Code § 8-1-8.5-10(h), as explained further below.

i. **EE Goals.** Ind. Code § 8-1-8.5-10(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.

Although the Settlement Agreement resulted in very minor changes to EE goals, it alleviated the CAC’s concerns with regard to IPL’s IRP modeling and reasonably achievable available savings by positioning the OSB to respond to market conditions and pursue an additional 50,000 MWh (net) of energy savings with spending flexibility. This allows for potential net energy savings procurement at approximately 1.07% of total sales, which is consistent with IPL’s MPS Realistic Achievable Potential scenario and IPL’s past program performance. The Settlement Agreement also addressed the OUCC’s concerns with regard to the

EUL for LED GSLs (*i.e.*, standard, pear-shaped, screw-based bulbs) by adjusting the EUL down to two years and by removing LED GSLs from all programs other than IQW effective January 1, 2021.

Based on the evidence of record, we find that the negotiated energy savings goals established by the Settlement Agreement are reasonably achievable, consistent with the IRP and are designed to achieve an optimal balance of energy resources in IPL’s service territory. Accordingly, we further find that IPL’s energy efficiency goals, as modified by the Settlement Agreement, meet the requirements that the goals be reasonably achievable, designed to achieve an optimal balance of energy resources and consistent with IPL’s 2019 IRP.

**ii. EE Programs.** The 2021-2023 DSM Plan, as modified by the Settlement Agreement, addresses the OUCC’s concerns regarding the use and assumptions associated with LED GSLs and the CAC’s concerns regarding the use of distributor midstream incentive mechanisms to cost effectively reach more customers and increase participation.

The Settlement Agreement also includes IPL’s proposal to continue its residential and business demand response programs, which is consistent with IPL’s IRP. The Commission has authority under Ind. Code chs. 8-1-2 and 8-1-8.5 to consider and approve these DSM programs and associated cost recovery. We find that substantial evidence supports the inclusion of the demand savings and programs in the DSM Plan, as modified by the Settlement Agreement, and we approve IPL’s offering of these programs in accordance with the Settlement Agreement.

**iii. Program Budgets and Costs.** The DSM Plan, as modified by the Settlement Agreement, identifies the annual budget associated with the DSM Plan as follows:

	2021	2022	2023	Total
Direct Costs	\$32,440,149	\$34,208,254	\$35,471,768	\$102,120,171
Indirect Costs	\$1,200,000	\$1,200,000	\$1,200,000	\$3,600,000
<b>Sub total</b>	<b>\$33,640,149</b>	<b>\$35,408,254</b>	<b>\$36,671,768</b>	<b>\$105,720,171</b>
Emerging Technology	\$250,000	\$250,000	\$250,000	\$750,000
Tier I Spending Flexibility	\$3,244,015	\$3,420,825	\$3,547,177	\$10,212,017
Tier II Spending Flexibility	\$1,666,667	\$1,666,667	\$1,666,667	\$5,000,000
Financial Incentives	\$3,303,885	\$3,444,150	\$3,580,915	\$10,328,951
Lost Revenues	\$3,998,975	\$9,123,144	\$14,184,459	\$27,306,578
<b>Subtotal</b>	<b>\$12,463,542</b>	<b>\$17,904,786</b>	<b>\$23,229,218</b>	<b>\$53,597,546</b>
<b>Total</b>	<b>\$46,103,691</b>	<b>\$53,313,040</b>	<b>\$59,900,986</b>	<b>\$159,317,717</b>

Lost Revenues (Legacy)	\$15,418,213	\$15,417,037	\$4,213,115	\$35,048,366
<b>Total (with Legacy)</b>	<b>\$61,521,904</b>	<b>\$68,730,078</b>	<b>\$64,114,101</b>	<b>\$194,366,083</b>

We find that these budgets reasonably reflect the amount necessary to achieve the agreed energy savings goals and the additional savings that may be achieved through the prudent exercise of the agreed spending flexibility.



The Settlement Agreement provides 10% spending flexibility to be applied to the agreed program operating cost budgets and includes an additional “Tier 2” of spending flexibility that totals \$5 million. Mr. Mellinger and Mr. Elliot explained that the Settlement Agreement calls for the Settling Parties to work collaboratively in good faith through the OSB to prudently exercise the spending flexibility and to use best efforts to achieve an additional 50,000 MWh (net) of energy savings that are cost effective at the incremental portfolio level over the three-year DSM Plan. The 50,000 MWh is an estimate of the additional cost-effective energy savings that might be achieved over the three-year plan period through the prudent exercise of the agreed spending flexibility.

The Commission has recognized that the OSB should generally have the flexibility to increase the budget. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 44792, at 23 (Dec. 28, 2016). Among other things, spending flexibility allows the OSB to react in a timely manner to changing circumstances during the implementation of the Commission-approved DSM Plan. Moreover, any use of spending flexibility to pursue cost-effective energy savings (as verified by the DSM energy efficiency modeling tool) must be agreed to by all OSB members. The record reflects that the IPL OSB has successfully used the Commission-approved spending flexibility to achieve cost-effective energy savings. Therefore, we find the agreed spending flexibility provisions of the Settlement Agreement are reasonable.

iv. **Independent EM&V and Reporting.** The 2021-2023 DSM Plan agreed to by the Settling Parties includes a process for independent EM&V. Mr. Elliot explained that, while the Settlement Agreement did not change IPL’s proposed EM&V procedures, the Settling Parties agreed to reduce the EUL for GSLs from five years to two years, which will be provided to the evaluation contractor for cost/benefit analysis purposes. In addition, the Settling Parties recognized that any changes resulting from an update to the Indiana Technical Reference Manual (“TRM”) will be used prospectively for planning, reporting, and evaluation purposes.

Mr. Miller explained that IPL will use the IPL Evaluation Framework, which was approved by the IPL OSB on June 24, 2015, as a guiding document for the scope of work with the third-party EM&V vendor. He said that the IPL evaluation plans are designed to meet or exceed the evaluation elements required by 170 IAC 4-8-4. Mr. Miller explained that EM&V on utility DSM/EE programs typically is performed at levels specified by the utility based on current and known requirements. He said that EM&V standards and protocol regarding federal regulations for emission credit reductions are not known at this time, but, when those requirements are known, IPL will work with both its independent evaluation vendor and OSB to incorporate the requirements needed to comply with any federal and/or state emissions credit plan.

Mr. Miller testified that IPL would consider the results of EM&V in determining lost revenues and financial incentives. He said that IPL will true-up lost revenues and financial incentives based on the most current EM&V when the final annual EM&V report for each program year is filed with the Commission. This true-up will occur a subsequent semi-annual filing that is made for Rider 22 following the conclusion of the annual EM&V.

IPL also proposes to continue submitting to the Commission its quarterly scorecard reports related to the 2021-2023 DSM Plan and a final EM&V report on or before July 1 of each



year that summarizes the prior year's DSM efforts and evaluated results. IPL also proposes to continue submitting scorecard reports to the OSB.

Based on our review of the evidence of record, we find IPL's proposed reporting is reasonable. The quarterly scorecards and annual EM&V report shall be filed under this Cause. We also find that the proposed EM&V procedures to independently verify the results of the DSM programs and the estimated EM&V costs are reasonable. Accordingly, we find that the EM&V for the three-year DSM Plan provided by the Settlement Agreement is reasonable and compliant with Ind. Code § 8-1-8.5-10.

**B. Reasonableness of the 2021-2023 Plan.** Ind. Code § 8-1-8.5-10(j) identifies ten factors that the Commission must consider in determining whether a plan submitted under Ind. Code § 8-1-8.5-10(h) is reasonable. For the reasons set forth below, we find that IPL's 2021-2023 DSM Plan, as modified by the Settlement Agreement, is reasonable and is approved.

**i. Projected Changes in Customer Consumption (Ind. Code § 8-1-8.5-10(j)(1)).** Mr. Elliot identified the annual projected energy savings resulting from the implementation of the DSM Plan, as modified by the Settlement Agreement, as follows:

<b>Program Year</b>	<b>Program Gross Energy Savings (kWh)</b>
2021	158,431,327
2022	159,109,290
2023	159,762,415
Total	477,303,032

Mr. Elliot testified that these energy savings goals are expected to result in average annual gross energy savings of 159 GWh for the three-year period, in addition to approximately 76 MW (gross) in demand savings. Furthermore, the Settlement Agreement contemplates the achievement of an additional 50,000 MWh (net) of energy savings with the prudent use of spending flexibility.

We find that these projections indicate how customer consumption is expected to change in 2021-2023 because of IPL's pursuit of the DSM Plan goals agreed to in the Settlement Agreement. We find below that IPL's proposed program portfolio is cost effective. The record reflects that the annual level of gross energy savings is approximately equal to a 1.17% reduction of projected IPL retail sales when the sales are not adjusted downward to reflect customers that have opted out of participation in IPL's DSM programs. When sales are adjusted to consider customers that have opted out, these gross energy savings represent about 1.51% of the remaining (non-opted out) sales. Accordingly, we find that it is reasonable to expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs.

**ii. Cost-Benefit Analysis (Ind. Code § 8-1-8.5-10(j)(2)).** 170 IAC 4-8-2 requires the use of, at a minimum, four tests — the participant cost test, ratepayer impact measure test, program administrator cost test, and total resource cost test — as part of the cost-

benefit analysis required by Ind. Code § 8-1-8.5-10(j)(2). Each of these tests is designed to compare various costs and benefits from a different perspective.

Mr. Miller noted that IPL evaluated the cost effectiveness of its proposed portfolio and DSM programs using these standard tests. Although the IQW and MDI programs failed the standard tests, he opined that the portfolio in its entirety remains cost effective.

Mr. Loveman explained that these programs have long been a means for lower income customers to participate in energy efficiency programs that otherwise would be cost prohibitive to them. He also stated that the societal benefits associated with both the IQW and MDI programs warrant inclusion in IPL's DSM portfolio. Ind. Code § 8-1-8.5-10(h) authorizes the assistance programs regardless of whether the program is cost effective. Mr. Miller testified that all programs that had savings adjustments per the Settlement Agreement are still cost effective and the portfolio is still cost effective. Therefore, based on the evidence presented, we find that the DSM Plan portfolio of programs is cost effective.

**iii. Consistent with State Energy Analysis and Utility's Most Recent Long-Range IRP (Ind. Code § 8-1-8.5-10(j)(3)).** The Commission has previously acknowledged that a state energy analysis that meets all the statutory criteria set forth in Ind. Code § 8-1-8.5-3 does not currently exist. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 44945, at 39 (Feb. 7, 2018). Mr. Elliot explained that IPL has considered the consistency with the state energy analysis and stated that, in 2018, IPL provided the State Utility Forecasting Group ("SUFG") with information related to IPL's DSM Plan development. He said that the IPL-provided information was considered by SUFG in its development of the 2019 Indiana Electricity Forecast. We find that appropriate consideration has been given to consistency with the SUFG forecast.

Regarding consistency with IPL's most recent IRP, we found above that the DSM Plan EE goals as modified by the Settlement Agreement are consistent with IPL's most recent IRP. We also find that the 2021-2023 DSM Plan, as modified by the Settlement Agreement is reasonable and consistent with IPL's 2019 IRP.

**iv. EM&V (Ind. Code § 8-1-8.5-10(j)(4)).** For the reasons discussed above, we find that the EM&V for the three-year DSM Plan established by the Settlement Agreement is reasonable and compliant with Ind. Code § 8-1-8.5-10.

**v. Undue or Unreasonable Preference to Customer Classes (Ind. Code § 8-1-8.5-10(j)(5)).** Mr. Elliot testified that IPL and the other Settling Parties have made every effort to offer a robust and diverse group of cost-effective DSM programs that will provide program participation opportunities to every customer segment in IPL's service area. There was no evidence presented that showed 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. Thus, our analysis of this issue weighs in favor of the DSM Plan's reasonableness.

vi. **Stakeholder Comments (Ind. Code § 8-1-8.5-10(j)(6))**. To the extent they exist, comments provided by customers, customer representatives, the OUCC, and other stakeholders concerning the adequacy and reasonableness of IPL's DSM Plan were provided in the parties' evidence. Thus, the Commission has considered such comments in making its determinations in this Order, and we find that the stakeholder comments weigh in favor of the DSM Plan's reasonableness.

vii. **Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-Participants (Ind. Code § 8-1-8.5-10(j)(7))**. Mr. Miller explained that IPL considered stakeholder perspectives when analyzing the cost effectiveness of the 2021-2023 DSM Plan, including those of participating customers and non-participating customers. Ms. Aliff calculated the overall rate impact by customer class and the monthly bill impact on the typical residential customer using 1,000 kWh per month. Mr. Elliot testified that Ms. Aliff's analysis remains reasonable and unchanged by the Settlement Agreement. Mr. Loveman stated that he found no issues with the proposed accounting and ratemaking treatment. Based on this evidence, we find that the effects or potential effects of the DSM Plan on electric rates and customer bills of participants and non-participants are reasonable.

viii. **Lost Revenue and Financial Incentive (Ind. Code § 8-1-8.5-10(i)(8))**. If the Commission finds that an electricity supplier's EE plan is reasonable, Ind. Code §§ 8-1-8.5-10(k) and 8-1-8.5-10(o) require us to allow an electricity supplier to recover through a rate adjustment mechanism:

- (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 that IPL's DSM Plan, as modified by the Settlement Agreement, is reasonable, we must consider whether the Settling Parties' proposal provides for reasonable financial incentives and reasonable lost revenue. We note that 170 IAC 4-8 authorizes the provision of financial incentives and lost revenue that the Commission finds reasonable for other DSM programs.

a. **Lost Revenues**. IPL initially sought to recover lost revenues associated with its 2021-2023 DSM Plan through the DSM Rider for the life of the measure. Mr. Elliot testified that, in the Settlement Agreement, IPL agreed to a three-year cap on the time period for which lost revenue may be recovered through IPL's DSM Rider, which resulted in an estimated \$19.4 million reduction in lost revenue recovery as compared to the original DSM Plan. The Settlement Agreement also requires IPL to verify the persistence of measures delivered through the C&I Prescriptive and Custom programs. Mr. Elliot considered the negotiated resolution of the lost revenue issues to be reasonable. Mr. Mellinger testified that the agreed structure pertaining to lost revenue provides adequate lost revenue collections for IPL,

provides protections for the customer, is easier to track and account, and encourages IPL to pursue more frequent base rate cases.

The concept of capping lost revenue is consistent with prior Commission decisions and is a reasonable means of compromise as part of the overall settlement package. We find that the DSM Plan proposal for recovery of lost revenues, as modified by the Settlement Agreement, is reasonable.

**b. Financial Incentives.** The Settlement Agreement provides a performance-based financial incentive approach, in which the Settling Parties agreed to the basic structure of IPL's proposed financial incentive mechanism, with modifications to the top performance tier, the bottom performance tier, the treatment of financial incentives in the FAC proceedings, and the definition of dollars defined as eligible for financial incentive recovery. Thus, the record reflects that the financial incentive mechanism proposed by the Settling Parties maintains a performance tier structure. The Settlement Agreement utilizes a percentage-of-expenditures approach to the amount of incentive earned under the tier structure. IPL also will continue with its current treatment of financial incentives in the FAC earnings test.

Based on the evidence of record, we find that the compromise reflected in the Settlement Agreement reasonably resolves the concerns regarding financial incentives. We further find that the financial incentive agreed to by the Settling Parties is reasonable.

**ix. Utility's Current IRP and the Underlying Resource Assessment (Ind. Code § 8-1-8.5-10(j)(9)).** Based on our review of the evidence, the governing statute, and the discussion above, we find that the evidence demonstrates that the DSM Plan, as modified by the Settlement Agreement, is consistent with IPL's 2019 IRP.

**x. Conclusion.** Based on the evidence presented in this case and our consideration of the factors enumerated in Ind. Code § 8-1-8.5-10(j), we find that IPL's DSM Plan, as modified by the Settlement Agreement, is reasonable in its entirety, in the public interest, and is approved.

**C. Program Cost Recovery.** Ind. Code § 8-1-8.5-10 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. Ind. Code § 8-1-8.5-10(k)(2). The Commission's rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5.

IPL requests that it be authorized to recover program costs through its approved Rider 22 and proposes that its DSM adjustment factors be calculated and included in its annual Rider 22 filings. IPL intends to update Rider 22 to include a reference to this docket in a subsequent annual Rider 22 filing after approval of the DSM Plan, but does not intend to make any substantive changes to Rider 22.

Mr. Loveman testified that he did not have concerns with IPL's proposed use of its Rider 22 tariff. If the Commission approves the DSM Plan, he recommended that the Commission approve the proposed revision to Rider 22 and the proposed DSM Plan's accounting and ratemaking treatment and the design and mechanics of IPL's DSM tracker.

Having found IPL's 2021-2023 DSM Plan, as modified by the Settlement Agreement, to be reasonable in its entirety, we therefore find that IPL shall be authorized to recover its associated program costs, including direct and indirect costs of operating the programs, emerging technology costs, net lost revenue, financial incentive, and EM&V costs, through Rider 22 as proposed by IPL.

**D. Oversight.** IPL requested approval to continue to utilize its OSB to assist in the administration of the 2021-2023 DSM Plan. The Commission has previously approved OSBs to oversee and monitor energy efficiency programs for utilities. *See, e.g., Indianapolis Power & Light Co.*, Cause No 44945, at 45-46 (Feb. 7, 2018). Based on our review of the record, we find that IPL's proposed ongoing use of the OSB is reasonable.

**E. Approval of 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 and supported by the evidence presented by the parties. The Settlement Agreement incorporates substantial concessions by Petitioner and reflects a reasonable compromise on all issues raised in this proceeding. We find the Settlement Agreement will allow IPL to offer cost-effective EE and demand response programs to customers, while mitigating the impact on customers' rates for electric service.

Based on the evidence of record, the Commission finds that the Settlement Agreement is reasonable, is in the public interest, and is approved. With regard to future citation of this Order, our approval herein should be construed in a manner consistent with our finding on the precedential value of settlement agreements in *Richmond Power & Light*, Cause No. 40434 (March 19, 1997).

**6. Confidentiality.** On August 6, 2020, IPL filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information ("Motion"), which was supported by the Affidavit of Erik Miller, requesting that certain information contained within OUCC and CAC filings be treated as confidential and exempt from public disclosure. The Presiding Officers issued a Docket Entry on August 18, 2020 finding that this information should be held confidential on a preliminary basis, after which the information was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

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

1. The Settlement Agreement, a copy of which is attached hereto, is approved.
2. IPL's proposed 2021-2023 DSM Plan, as modified by the Settlement Agreement, including the proposed budgets, is approved.
3. In accordance with the Settlement Agreement, IPL's requested accounting and ratemaking treatment, including timely recovery of costs associated with its 2021-2023 DSM

Plan, including direct and indirect costs of operating the programs, emerging technology costs, net lost revenue, and financial incentives, is approved.

4. The accounting procedures necessary to implement the recovery of program costs as provided in the Settlement Agreement are approved.

5. IPL is authorized to recover all its costs associated with the 2021-2023 DSM Plan through its Rider 22, consistent with the Settlement Agreement and this Order.

6. IPL's proposal to update the text of Rider 22 to include a reference to this Cause is approved. The update may be made in a subsequent IPL Rider 22 filing.

7. IPL shall file quarterly scorecards and an annual final EM&V report on or before July 1 of each year. These filings shall be made electronically under this Cause.

8. The information submitted under seal in this Cause pursuant to IPL's Motion for Protection and Nondisclosure of Confidential and Proprietary Information is determined to be confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2 and shall continue to be held as confidential and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

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

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

**APPROVED: DEC 29 2020**

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

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**Mary M. Schneider**  
**Secretary of the Commission**



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED )  
 PETITION OF INDIANAPOLIS POWER & )  
 LIGHT FOR APPROVAL OF DEMAND SIDE )  
 MANAGEMENT (DSM) PLAN, INCLUDING )  
 ENERGY EFFICIENCY (EE) PROGRAMS, )  
 AND ASSOCIATED ACCOUNTING AND )  
 RATEMAKING TREATMENT, INCLUDING ) CAUSE NO. 45370  
 TIMELY RECOVERY, THROUGH IPL'S )  
 EXISTING STANDARD CONTRACT RIDER )  
 NO. 22, OF ASSOCIATED COSTS )  
 INCLUDING PROGRAM OPERATING )  
 COSTS, NET LOST REVENUE, AND )  
 FINANCIAL INCENTIVES. )

**STIPULATION AND SETTLEMENT AGREEMENT**

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

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

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

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

**A. DSM Programs and Implementation.**

1. Lighting.

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

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

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

**B. Spending Flexibility.**

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

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

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

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

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

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

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

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

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

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

**G. Other Matters.**

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

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

1. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement.

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

offered into evidence without objection and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties propose to submit this Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Settlement Agreement in its entirety without any change or with condition(s) unacceptable to any Settling Party, the Settlement and supporting evidence shall be withdrawn and the Commission will continue to hear the matters pending in this Cause with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

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

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

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

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



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

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

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

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

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

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

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

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

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

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

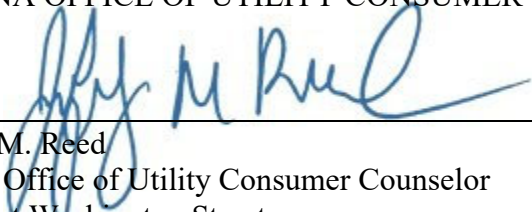
INDIANAPOLIS POWER & LIGHT COMPANY



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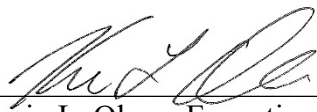
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