STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

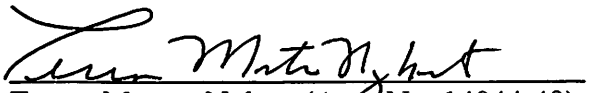
IN THE MATTER OF THE VERIFIED PETITION OF INDIANAPOLIS POWER & LIGHT FOR APPROVAL OF DEMAND SIDE MANAGEMENT (DSM) PLAN, INCLUDING ENERGY EFFICIENCY (EE) PROGRAMS, AND ASSOCIATED ACCOUNTING AND RATEMAKING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH IPL'S EXISTING STANDARD CONTRACT RIDER NO. 22 OF ASSOCIATED COSTS INCLUDING PROGRAM OPERATING COSTS, NET LOST REVENUE, AND FINANCIAL INCENTIVES.	**CAUSE NO. 44945**

FILED
November 1, 2017
INDIANA UTILITY
REGULATORY COMMISSION

SETTLING PARTIES' SUBMISSION
OF PROPOSED ORDER

Indianapolis Power & Light Company ("IPL"), by counsel, and on behalf of itself as well as the Citizens Action Coalition of Indiana, Inc., hereby submits the Settling Parties' Proposed Order.

Respectfully submitted,



Teresa Morton Nyhart (Atty. No. 14044-49)
Jeffrey M. Peabody (Atty. No. 28000-53)
Douglas W. Everette (Atty. No. 34316-49)
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Nyhart Phone: (317) 231-7716
Peabody Phone (317) 231-6465
Everette Phone: (317) 231-7764
Fax: (317) 231-7433
Nyhart Email: tnyhart@btlaw.com
Peabody Email: jpeabody@btlaw.com
Everette Email: deverette@btlaw.com

Attorneys for Indianapolis Power & Light Company

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was served upon the following via electronic email, hand delivery or First Class, United States Mail, postage prepaid this 1st day of November, 2017 to:

Karol H. Krohn
Randy Helmen
Jeffrey Reed
Office of Utility Consumer Counselor
PNC Center
115 W. Washington Street
Suite 1500 South
Indianapolis, Indiana 46204
infomgt@oucc.in.gov
kkrohn@oucc.in.gov
rhelmen@oucc.in.gov
jreed@oucc.in.gov

Jennifer A. Washburn
Citizens Action Coalition
603 East Washington Street, Suite 502
Indianapolis, Indiana 46204
jwashburn@citact.org

Teresa Morton Nyhart

Teresa Morton Nyhart (Atty. No. 14044-49)
Jeffrey M. Peabody (Atty. No. 28000-53)
Douglas W. Everette (Atty. No. 34316-49)
BARNES & THORNBURG LLP
11 South Meridian Street
Indianapolis, Indiana 46204
Nyhart Phone: (317) 231-7716
Peabody Phone (317) 231-6465
Everette Phone: (317) 231-7764
Fax: (317) 231-7433
Nyhart Email: tnyhart@btlaw.com
Peabody Email: jpeabody@btlaw.com
Everette Email: deverette@btlaw.com

Attorneys for Indianapolis Power & Light Company

DMS 10923935v1

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION OF INDIANAPOLIS POWER & LIGHT FOR APPROVAL OF DEMAND SIDE MANAGEMENT (DSM) PLAN, INCLUDING ENERGY EFFICIENCY (EE) PROGRAMS, AND ASSOCIATED ACCOUNTING AND RATEMAKING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH IPL'S EXISTING STANDARD CONTRACT RIDER NO. 22 OF ASSOCIATED COSTS INCLUDING PROGRAM OPERATING COSTS, NET LOST REVENUE, AND FINANCIAL INCENTIVES.	**)**	**CAUSE NO. 44945**

ORDER OF THE COMMISSION

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

On May 17, 2017, Indianapolis Power & Light Company ("IPL" or "Company") filed its Verified Petition and Request for Administrative Notice as well as its direct testimony, attachments and workpapers.

Citizens Action Coalition of Indiana, Inc. ("CAC") intervened in this Cause.

On September 8, 2017, IPL filed an agreed motion seeking a one day adjustment to the schedule for the filing of prepared testimony so as to allow the parties to continue ongoing settlement discussions, which motion was granted by docket entry dated September 11, 2017. On September 12, 2017, CAC filed an unopposed motion for leave to be relieved of its September 12, 2017, deadline for the filing of its testimony because CAC and IPL had reached a settlement agreement which would soon be filed with the Commission. CAC's motion was granted by docket entry dated September 13, 2017.

On September 12, 2017, the Indiana Office of Utility Consumer Counselor ("OUCC"), filed its testimony and attachments.

On September 14, 2017, IPL and CAC ("Settling Parties") filed a Joint Motion for Leave to Submit Settlement Agreement, for Modification of Procedural Schedule and for Expedited Responses. On September 15, 2017, the Settling Parties filed testimony in support of the Settlement Agreement.

An attorneys' conference was conducted on September 18, 2017, at which time the parties reached an agreement on procedural matters, which agreement was accepted by the Presiding Officers and memorialized by docket entry dated September 20, 2017.

On October 6, 2017, the OUCC filed its supplemental testimony and attachments regarding the Settlement Agreement. On October 16, 2017, the Settling Parties filed their respective rebuttal testimony and attachments. On October 16, 2017, the Settling Parties also filed an Objection to and Motion to Strike certain parts of the OUCC Testimony in Opposition to the Settlement Agreement. On October 18, 2017, the Presiding Officers issued a docket entry requesting information from IPL, to which IPL responded on October 23, 2017. On October 25, 2017, the OUCC filed a Request for Administrative Notice.

The Commission held an evidentiary hearing in this Cause commencing at 9:30 a.m. on October 30, 2017, in Room 222, 101 W. Washington Street, Indianapolis, Indiana. IPL, the OUCC, and CAC appeared and participated at the hearing. IPL's Request for Administrative Notice was granted without objection. The Commission heard argument on the Settling Parties' Motion to Strike and the OUCC Request for Administrative Notice. The Presiding Officers granted the Motion to Strike and denied the OUCC's Request for Administrative Notice. Subject to these rulings, the parties presented their respective evidence and waived cross-examination. No members of the general public attended the hearing. Following the hearing, post-hearing proposed orders and briefs were filed in accordance with the agreed schedule for such filings.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published as required by law. IPL is a "public utility" under Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1, and an "electricity supplier" pursuant to Ind. Code ch. 8-1-8.5. Under Ind. Code §§ 8-1-2-4, -42, -68, -69, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8, the Commission has jurisdiction over 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 the laws of the State of Indiana, with its principal office at One Monument Circle, Indianapolis, Indiana. IPL renders electric utility service in the State of Indiana. IPL owns and operates electric generating, transmission and distribution plant, property and 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 IPL Petition. In its Petition, IPL requested Commission approval of a DSM Plan for the three calendar year period of 2018 through 2020. The DSM Plan includes EE goals; a portfolio of EE programs and other DSM Programs designed to achieve the EE goals and demand savings goals; program budgets and program costs; and procedures for independent evaluation, measurement and verification ("EM&V").

The DSM Plan cost recovery proposal includes a request for continued accounting and ratemaking procedures to recover costs through IPL's Standard Contract Rider No. 22 (Demand

Side Management Adjustment) (herein "DSM Rider" or "Rider 22"), including the direct costs (including EM&V), portfolio and indirect costs of the EE and demand response ("DR") programs, net lost revenue, and a financial incentive using a shared savings methodology ("shared savings").

4. Evidence. Our decision is based on the record as a whole. We provide a brief overview of the evidence here. We discuss the Settlement Agreement as well as the evidence and the concerns raised by the OUCC, the non-settling party, in the separate sections below.

A. IPL. Mr. Lester H. Allen, IPL DSM Program Development Manager, presented an overview of the Company's proposed 2018-2020 DSM Plan. To provide context for the Company's proposal, he briefly discussed IPL's historical efforts to deliver DSM programs and summarized the current status of IPL DSM programs. He also discussed the evolving Indiana Policy Landscape for DSM and large Commercial and Industrial ("C&I") customer opt-out of participation in EE programs. He discussed the proposed reporting and described the continuing role of the existing IPL DSM Oversight Board ("IPL OSB" or "OSB"). Finally, he summarized the Company's proposals regarding lost revenues and a financial incentive referred to as shared savings. Pet. Ex. 1.

Mr. Zac Elliot, IPL Manager, Energy Efficiency Programs: (1) summarized the planning approach which led to the development of the 2018-2020 DSM Implementation Plan; (2) described the competitive Request for Proposals ("RFP") process used to select 2018-2020 program implementation vendors; and (3) discussed the proposed 2018-2020 DSM Plan programs and associated operating costs. Pet. Ex. 2.

Mr. Erik Miller, IPL Senior Research Analyst: (1) presented the cost and benefit analysis of the proposed DSM Plan; (2) discussed how the EE goals are reasonably achievable; consistent with IPL's 2016 Integrated Resource Plan ("IRP"); and designed to achieve an optimal balance of energy resources in IPL's service area; (3) described IPL's plan for conducting EM&V; and (4) discussed the long term impact of the proposed DSM Plan on customer bills. Pet. Ex. 3.

Ms. Kimberly Aliff, IPL Senior Regulatory Analyst: (1) described the impact of the 2018-2020 DSM Plan on the approved cost recovery mechanism utilized in the Company's semi-annual filings (Cause No. 43623-DSM-X), including the allocation of cost recovery among the customer classes; (2) described IPL's proposal to earn a financial incentive using a shared savings methodology; (3) discussed the calculation of lost revenues; (4) described the short term bill impacts associated with implementation of the 2018-2020 DSM Plan; and (5) identified the Company's proposed clarifications to the text of the DSM Rider. Pet. Ex. 4.

IPL's witnesses identified the DSM Plan programs, goals, budgets and costs discussed the demand and energy impact of and cost/benefit analysis for the DSM Plan, and addressed the Indiana Code § 8-1-8.5-10 ("Section 10") subpart (j) considerations.

Messrs. Allen, Elliot and Miller explained that IPL's 2018-2020 DSM Plan provides a cost-effective portfolio of the following programs for both residential and business customers, including low income customers.

Residential	**Business**
Appliance Recycling Community Based Lighting Residential Demand Response Income Qualified Weatherization Lighting & Appliances Multifamily Peer Comparison School Education Whole Home	Custom Business Demand Response Prescriptive Small Business Direct Install

Pet. Ex. 1 at 13. Mr. Allen stated that the tools and energy saving opportunities to be provided will give all customer classes a means to assist in the management of their electric bills.

As originally filed (and shown in Table LHA-1), the three-year DSM Plan was expected to achieve average annual gross energy savings of approximately 125,000 MWh for a total three year cumulative savings of 375,703 MWh. In addition, the EE and DR programs are expected to result in a demand reduction of approximately 70 MW. Pet. Ex. 1 at 14. Mr. Allen testified that this annual level of energy savings is approximately a 0.9% reduction from the current level of IPL energy sales, when the sales are not adjusted downward to reflect customers that have opted out of participation in IPL's DSM programs. *Id.* at 14. He added that when sales are adjusted to take into account customers that have opted out, these savings represent about 1.2% of the remaining (non-opted out) sales. *Id.*

B. **OUCC.** Edward T. Rutter, Chief Technical Advisor in the OUCC's Resource Planning and Communications Division, testified that IPL's use of the term "program cost" is inconsistent with Indiana law and discussed the impact to ratepayers and the difference between the cost to IPL and the cost to ratepayers. He discussed the benefit-cost analysis and cost-effectiveness and explained his view that the captive ratepayer is required to pay for the DSM Plan costs without the individual benefit-cost analyses one normally makes in determining whether or not to take an action based on the results of a benefit-cost analysis for that action, investing in DSM/EE.

Mr. Rutter contended IPL's claim for lost revenue cost recovery accounting mechanism is unreasonable in accordance with Section 10(e). He recommended the Commission cap the recovery of DSM Plan-related costs, including program operating costs, lost revenues and financial incentives, at 50% of the Utility Cost Test's ("UCT") net benefit. He recommended the Commission find it reasonable to allow financial incentives only for each program that achieves 100% or more of IPL's developed savings goal. He added that the total financial incentive should be subject to the aforementioned 50% cap on DSM Plan cost recovery.

Based on the above, Mr. Rutter recommended that the Commission determine that IPL's plan is unreasonable in its entirety in accordance with Section 10(j) and issue an order under Section10(m), setting forth the reasons supporting that determination and establishing a deadline, within a reasonable period of time, for IPL to petition for Commission approval of an amended

DSM plan, together with testimony supporting that plan, and to establish a new procedural schedule after IPL has completed that filing.

He stated that his analysis is confined to IPL's DSM Plan as filed in this case, in accordance with Section 10 and the impact to the ratepayers and the Company during the 2018-2020 period when this plan will be in effect.

Crystal L. Thacker, Utility Analyst in the OUCC's Electric Division: (1) discussed the impact IPL's proposed DSM Plan would have on an average residential customer's monthly bill if the DSM Plan is approved by the Commission as originally proposed; (2) addressed IPL's proposed edits to its Rider 22; and (3) addressed IPL's proposed accounting and ratemaking treatment and the design and mechanics of its DSM tracker. As a result of her review, Ms. Thacker testified that she did not have concerns with IPL's proposed revisions to its Rider 22 tariff. She stated that if, against the OUCC's recommendation, the Commission approves IPL's DSM Plan, she would not challenge Petitioner's requested accounting and ratemaking treatment or the design and mechanics of its DSM tracker. She added, however, that the OUCC is recommending that IPL's proposed 2018-2020 DSM Plan be rejected as explained by OUCC Witness Rutter.

5. Overview of Settlement Agreement and Supporting Testimony. The Settlement Agreement entered into by IPL and CAC (the "Settling Parties") is attached hereto and incorporated herein by reference. The Settlement Agreement provides for Commission approval of the Company's proposed 2018-2020 DSM Plan and associated accounting and ratemaking treatment as modified by the Settlement Agreement. The Settlement Agreement is not unanimous, as the OUCC did not join. Testimony supporting and opposing the Settlement Agreement is summarized below.

A. IPL. Mr. Allen explained the terms of the Settlement Agreement and presented IPL's perspective as to why the Settlement Agreement should be found to be in the public interest and approved. IPL Witness Miller updated the 2018-2020 DSM Plan cost and benefit analysis to reflect the Settlement Agreement. IPL Witness Elliot updated the DSM implementation plan summary for 2018-2020 to reflect the Settlement Agreement. IPL Witness Aliff updated the lost revenue and financial incentive forecasts and bill impact analysis presented in her direct testimony to reflect the Settlement Agreement.

Mr. Allen stated that the development of IPL's 2018-2020 DSM Plan was a rigorous process that took place over a period of approximately 18 months, and added that IPL has been and remains enthusiastic to move forward with the DSM Plan in a timely manner. He said timely approval is important, in that the proposed portfolio includes enhancements to several programs that are expected to provide additional savings opportunities and improve the customer experience and satisfaction.

1. EE Goals (Settlement Section I.A.3). Settlement Section I.A.3 sets forth the Settling Parties' agreement that IPL will attempt to achieve additional cost-effective gross energy savings of approximately 30,000 MWh per year for the 2018-2020 period and revises the DSM Plan energy savings goals to reflect these additional savings. The revised energy savings goals are set forth in Section I.A.3.b Table 4 of the Settlement Agreement.

Mr. Allen discussed the modified energy savings goals in light of the IRP and Market Potential Study ("MPS"). He stated that IPL's IRP modeling selected approximately 290 GWh energy savings (net) over the three-year period 2018-2020. He said the energy efficiency savings selected by the 2016 IRP modeling were provided to the bidders in the DSM RFP. He added that the responses to the RFP by the selected bidders contained savings levels that were approximately 30 GWh per year less than the amounts identified by the IRP. He explained that IPL added the Peer Comparison program to the amounts provided in the selected bids to bring the original energy savings goal to a level consistent with the energy savings selected by the IRP modeling. Mr. Allen stated that IPL's initial DSM Plan filing reflected approximately 316 GWh energy savings (net) inclusive of the ~90 GWh of Peer Comparison.

Mr. Allen testified that the inclusion of Peer Comparison was a reasonable means of achieving the amount of energy savings as identified by the IRP modeling. He stated that while the IRP modeling did not select the Peer Comparison program for the 2018-2020 period, the IRP modeling did select this program beginning in 2021. He said that because of the program benefits, it would not be optimal to stop this established and cost-effective demand-side resource when the IRP indicates it should continue to be deployed in 2021. Pet. Ex. 1S at 12. He also said the inclusion of the Peer Comparison program is consistent with the DSM guiding principles described in his direct testimony (Q&A36) and the energy savings provided by the Peer Comparison program are relatively inexpensive with ~30,000 MWh of annual energy savings achieved at a direct cost of approximately $0.04 per kWh.

Mr. Allen stated that to better understand the energy savings issue, IPL solicited additional information from the primary program implementation vendor as to whether and how an additional 30,000 MWh per year might be achieved with energy savings from the DSM programs. He said Table 2 of the Settlement Agreement summarizes the vendor's estimate of how the additional cost-effective energy savings might be achieved. He said Table 3 of the Settlement Agreement sets forth the vendor's estimated cost as well as the additional cost for EM&V (which IPL assumed to be 5% of direct costs consistent with the estimate in direct testimony). Pet. Ex. 1S at 13.

Mr. Allen stated that adding approximately 30,000 MWh (gross) per year to the DSM Plan goals, increased the energy savings to a level that is between the "realistic achievable" and "maximum achievable" in the MPS. Pet. Ex. 1S at 13-14. Mr. Allen stated that the revised goals were ultimately agreed to after consideration of the challenges associated with achieving the higher energy savings goals. He stated that, as revised, the energy savings goals are expected to result in an average annual gross energy savings of approximately 155,000 MWh. *Id.* at 14. Mr. Allen stated that the annual level of gross energy savings averages approximately a 1.14% reduction from the current level of IPL energy sales, when the sales are not adjusted downward to reflect customers that have opted out of participation in IPL's DSM programs. He stated that when sales are adjusted to take into account customers that have opted out, these gross energy savings represent about 1.45% of the remaining (non-opted out) sales. *Id.* at 15.

He stated that the revised DSM energy savings goals reasonably resolve the Settling Parties difference of opinion as to whether IPL's original filing satisfies the Section 10 requirement. He said the goals, while more aggressive than the Company's initial filing, are reasonably achievable based on the MPS, consistent with the IRP, and designed to achieve an

optimal balance of energy resources in IPL's service territory by among other things, avoiding a temporary stop and restart of the Peer Comparison program.

2. Spending Flexibility (Settlement Section I.A.3.d and g). Section I.A.3.d of the Settlement Agreement addresses spending flexibility, which Mr. Allen said he views as a Commission-approved tool for the IPL OSB to use to respond to market conditions during the course of the plan implementation. Pet. Ex. 1S, at 16. He explained that IPL's original DSM Plan requested the Commission authorize the same spending flexibility currently in place. He and Mr. Elliot explained that this includes the ability to spend up to and including an additional 10% of Direct Program Costs included in the planned budget. Mr. Allen stated that in addition, consistent with current practice, IPL requested authority to rollover any unspent funds from a plan year to subsequent plan years, which will also support plan flexibility. Mr. Allen stated that under spending flexibility, IPL's OSB would have the opportunity to either increase the scale of programs or identify new programs to produce EE savings if appropriate. He said IPL's request for spending flexibility is consistent with previous Commission's Orders in Cause Nos. 44328, 44497, and 44792.

Mr. Allen stated that the IPL OSB previously has exercised its Commission-approved spending flexibility to achieve cost-effective energy savings beyond the stated plan year goal. He pointed to the 2015-2017 period as a recent example of this. He stated that based on input from the program implementation vendor, the IPL OSB used spending flexibility to achieve additional cost-effective energy savings of approximately 55,000 MWhs (gross) in this three-year period. Pet. Ex. 1S, at 16.

Mr. Allen testified that to assess the DSM Plan, the Settling Parties gave consideration to what might be achieved through the prudent exercise of spending flexibility. He said the Settling Parties also recognized the potential that some of the DSM spending authorized for 2017 might remain unspent. Mr. Allen stated that the 10% spending flexibility coupled with an estimate of possible carryover from 2017 would make approximately $10.5 million available to the OSB to address favorable market conditions. He stated that while we cannot now predict how spending flexibility might be exercised, IPL projected that the prudent exercise of spending flexibility might achieve additional cost-effective energy savings of approximately 50,000 MWh (net) over the three-year period covered by this DSM Plan. He said Section I.A.3.d sets forth the Settling Parties' agreement to work collaboratively in good faith through the IPL 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 before exercise of the process set forth in Section I.A.3.f, discussed below. Pet. Ex. 1S at 17.

Mr. Allen stated that the members of the IPL OSB at times can have differing views. He said, to date, the spending flexibility authorized has been based on OSB consensus and to better memorialize this practice, Section I.A.3.d of the Settlement Agreement provides that the exercise of spending flexibility will require the unanimous vote of all members of the OSB who cast a vote. *Id.*

3. Consultation with Vendors (Settlement Section I.A.3.e). Mr. Allen stated that Section I.A.3.e of the Settlement Agreement recognizes that neither IPL nor the other

members of the IPL OSB have an exclusive on good ideas. He stated that to facilitate and assist the OSB in the pursuit of the potential cost-effective energy savings provided for by the 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. He said 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. Pet. Ex. 1S, at 18.

4. 2020 Refresh (Settlement Section I.A.3.f). Mr. Allen stated that the Settling Parties recognized early on that when the IPL OSB finds a good idea the OSB pursues it. He said, Section I.A.3.f. of the Settlement Agreement establishes a process to allow a course correction for 2020 if market conditions warrant doing so.

He said CAC was concerned the EE savings in 2020 are less than the goal for the other two plan years. Mr. Allen stated that while IPL believes it is appropriate to follow the MPS to determine what is reasonably achievable, IPL also recognizes that market conditions are difficult to predict in the out years. He acknowledged that the future may turn out differently than expected at the time the 2016 MPS was conducted. Mr. Allen explained that to bridge the difference of opinion, the Settling Parties agreed to request the MPS consultant selected to determine the market potential for 2021-2039, to also include a refreshed view of the market potential for 2020. This would be in addition to analyzing the market potential for energy efficiency in 2021-2039. Pet. Ex. 1S at 18-19.

Mr. Allen explained that the OSB will soon be working on the RFP to select a consultant to complete the next MPS and this MPS is expected to be completed in early 2019 for use in IPL's next IRP process. He said, the Settlement Agreement provides that once the new MPS is available, IPL will convene a technical meeting with the OSB, the MPS consultant, the 2018-2020 DSM program implementation vendor and the EM&V vendor. He said, the purpose of the meeting will be to explore with these independent advisors the potential for, and the estimated cost of, additional, reasonably achievable, cost-effective energy savings in 2020 that are similar to the annual levels identified for 2018 and 2019. He said the Settling Parties will use their best efforts to determine whether additional cost-effective energy savings for 2020, that are similar to the annual levels identified for 2018 and 2019, are reasonably achievable. *Id.* at 19.

Mr. Allen stated that if the OSB unanimously agrees to a change in the 2020 budget to allow the additional energy savings to be pursued, the Settling Parties will jointly file to seek Commission approval of an amendment to this Settlement Agreement to allow the change to be implemented by January 1, 2020. He added that to reduce the impact on the Commission work load, Settlement Section A.3.f.vi makes clear that the potential course correction would be filed by the end of May 31, 2019 and would be limited to the 2020 budget change; the Settling Parties would not seek to re-negotiate the other terms of the Settlement Agreement. *Id.* at 19.

5. IRP Modeling of DSM/EE (Settlement Section I.A.4). This Section of the Settlement Agreement addresses IPL's modeling of DSM/EE as part of its IRP. Mr. Allen explained that IPL has communicated to the Commission and the other parties that IRP modeling has and will continue to evolve. He said IPL desires to receive stakeholder input on technical issues sooner in the development of the IRP process advisory meetings. He said, this will allow

the Settling Parties as well as other IRP stakeholders to have timely input on scenario development 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. Mr. Allen testified that IPL anticipates developing a schedule with feedback mechanisms to include technical workshops in addition to the public IRP advisory meetings. He said IPL will provide transparent supporting data and assumptions in a timely manner throughout this process, upon execution of non-disclosure agreements if needed. He said, at a minimum, this process is expected to commence in the second half of 2018 with quarterly meetings until the IRP is filed in November 2019; however, IPL is open to convening this group earlier if desired. Finally, Mr. Allen stated that the Settlement Agreement provides that nothing in this Agreement shall be construed as waiving Settling Parties' individual rights to file comments with the IURC pursuant to 170 IAC 4-7 *et seq.* on any and all aspects of IPL's 2019 IRP, or their individual rights to oppose any requests in any proceedings that purport to rely in whole or in part on IPL's 2019 IRP. Pet. Ex. 1S at 20.

6. DSM Oversight Board ("OSB") (Settlement Section I.A.5). Mr. Allen stated that the IPL OSB works quite well and said he believes all the parties have a common desire to continue this collaborative and collegial oversight of the implementation of the DSM/EE programs. He noted that in past cases, the CAC has requested that it be allowed to become a voting member of the OSB; the Commission has encouraged IPL to consider this. Mr. Allen stated that during the settlement discussions, CAC again mentioned its desire to become a voting member of the OSB. Mr. Allen testified that a change from two voting members to three voting members opens the potential that one member might be out-voted by the other two. He said that to assure all OSB members an opportunity to be heard, the Settlement Agreement provides that the Settling Parties will work in good faith through the OSB to develop a mutually agreeable governance document to govern the operations of the OSB. He said the governance document will establish procedures for the conduct of OSB meetings and designate matters which shall be voted upon. He said the governance document shall provide a process to allow a minority position to be heard on the exercise of the OSB oversight of the DSM Plan as modified by the Settlement Agreement. He said, once the governance document is established, the CAC shall become a voting member of IPL's OSB. He stated that the Settling Parties agreed to work through the OSB to complete the governance document by December 31, 2017. Pet. Ex. 1S at 21.

7. Lost Revenue (Settlement Section I.A.1). Mr. Allen explained that IPL recognizes that the parties have different views on the recovery of lost revenues under Section 10. He said, IPL also recognizes that the Commission imposed a four-year cap on the recovery of lost revenue in IPL's last DSM case (Cause No. 44792) and other recent DSM cases and that this issue has been the subject of an appeal and remand proceeding. Mr. Allen stated that IPL worked to resolve concerns in order to mitigate the potential for protracted litigation.

Mr. Allen explained that the Settlement Agreement reflects a five-year cap on measures installed the first year of the plan and a four-year cap on measures installed the second and third years of the plan. He said the cap in the second and third years of the plan adheres to the Commission decisions in other recent DSM proceedings, including Cause No. 44645 and Cause No. 44792 (IPL's 2017 DSM Plan case). He said the variation in the cap for the first year of plan (5 years instead of 4 years) reflects the unique circumstances of the instant case.

Mr. Allen explained that from IPL's perspective, legacy lost revenue represent fixed costs found to be just and reasonable in prior rate cases that become unrecoverable through the Company's Commission-approved basic rates due to the success of IPL's offering of DSM programs. He said in other words, lost revenue represents just and reasonable rates. He stated that if IPL's DSM programs did not exist, IPL would not have lost revenue. He said that is why lost revenue recovery is considered "one leg" of the "three legged stool" necessary for cost recovery. Mr. Allen stated that Section 10 provides for the recovery of reasonable lost revenue through a rate adjustment mechanism. In his view, this structure recognizes that if state policy wants IPL to conduct successful EE programs, it must recognize the impact of lost revenue. Pet. Ex. 1S at 7.

Mr. Allen stated that while the recovery of lost revenue through a Rider can provide an incentive for all customers to participate in the EE programs, IPL is aware that concerns have been raised about the Rider "pancaking effect". He stated that from IPL's perspective, the pancaking issue identified by the Commission in other cases as grounds for imposing the cap on recovery of lost revenue through the Rider is not prevalent in IPL's current situation. He said IPL was not authorized to recover lost revenue through a DSM Rider until after the conclusion of its recent rate case in March 2016 (Cause No. 44576). He said this reduces the cumulative amount of legacy lost revenue that has built up in IPL's DSM Rider. He added that IPL's current level of sales are less than the adjusted test year sales used to establish rates in Cause No. 44576. He said, future sales are expected to remain flat, to a great extent reflecting how successful IPL's DSM programs have been. Finally, Mr. Allen stated that IPL plans to file another rate case in the near future. Mr. Allen stated that Section I.A.1.b of the Settlement Agreement provides that IPL agrees to zero out, in the IPL DSM Rider, 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. He said, this too has the effect of mitigating the pancaking effect of legacy lost revenue recovery through the Rider. He noted that the Commission stated in the 44645 Order (at 26): "Clearly, pancaking of lost revenue is much less of an issue in an environment where a utility comes in regularly, i.e., every three to five years, for a base rate case." Pet. Ex. 1S at 7-8.

Mr. Allen explained that from IPL's perspective, if lost revenue recovery through the DSM Rider is limited, IPL would need to file a base rate case in order to attempt to put itself in the position it would be without the sales lost as a result of its efforts to deliver DSM programs. He said that because a base rate case is a resource intensive proceeding, the pancaking of base rate cases is not desirable from IPL's perspective. He stated that because IPL plans to file a base rate case in December 2017, the 15-month rule (in Ind. Code 8-1-2-42(a)) will preclude IPL from filing another base rate case petition until approximately March 2019. He stated that while the Settlement Agreement does not require IPL to file future base rate cases within a specified period of time, the agreement to apply a five-year cap to the first year of the DSM Plan and a four-year cap to the remaining Plan years reasonably accommodates this statutory timing constraint on the frequency of base rate cases. Mr. Allen testified that IPL agreed to this cap structure as part of the settlement package. Pet. Ex. 1S at 8.

He testified that the Settlement Agreement reduces the estimated lifetime lost revenue recovery by approximately $40 million as compared to the amount requested in IPL's Direct Testimony in this Cause. He noted that IPL Witness Aliff updated the lost revenue forecast in her supplemental testimony in support of the Settlement Agreement. Pet. Ex. 1S at 8-9.

8. Financial Incentive (Settlement Section I.A.2). Mr. Allen explained that in IPL's original filing, the Company sought to earn a shared savings financial incentive on all cost-effective programs except Income Qualified Weatherization. He said IPL's shared savings forecast in the original filing was based on 15% of the net present value ("NPV") of the UCT net benefits. He stated that in the Settlement Agreement, the Settling Parties agreed to the same tiered incentive structure established by the Commission in 44645, which also utilizes the net present value of future savings resulting from the Utility Cost Test but in a tiered fashion. Pet. Ex. 1S at 9.

Mr. Allen testified that the shared savings structure aligns the utility and the customer interests in the pursuit of cost-effective energy savings. He stated that if IPL achieves 100% of the energy savings goals set forth in Table 4 of the Settlement Agreement, customers will receive 92% of the benefits, and IPL's portion of the shared savings will be 8% instead of the 15% reflected in IPL's original filing. He added that at 100% achievement, the Settlement Agreement reduces the projected IPL financial incentive by approximately $5.8 million over the three-year period even when the revised energy savings goals set forth in Table 4 of the Settlement Agreement are reflected in the analysis. He stated, in other words, the Settlement Agreement provides that IPL will challenge itself to achieve a higher energy savings goal that is more aggressive than both IPL's 2017 DSM Plan and the original plan filed in the instant case, while providing customers a larger portion of the shared savings compared to IPL's original request. Pet. Ex. 1S at 9-10.

He stated that the tiers incent IPL to achieve energy savings. He said if IPL fails to achieve at least 75% of the energy savings goal, all benefits will go to customers. If IPL achieves more than 110% of the energy savings goal, IPL's potential share of the net benefits is limited to 10%. He added that when the lost revenue reductions noted above are included, the total benefit to customers of the negotiated Settlement Agreement is approximately $83 million, compared to IPL's original filed plan. Pet. Ex. 1S at 10.

9. Arms-length Negotiations And Public Interest. Mr. Allen testified that the Commission's docket reflects that the utilities, stakeholders and the Commission are involved in various Section 10 DSM Plan cases, as well as the IRP stakeholder comment process. He said these dockets reflect a divergence of opinion on what the Commission should find constitutes a reasonable plan. He noted one case has been appealed and remanded to the Commission. Pet. Ex. 1S at 24.

Mr. Allen stated that in the instant case, the parties and their respective experts dedicated significant time and effort to understand the issues and the perspective of each party. He said IPL was also able to consider comments on the IRP modeling of DSM/EE and remained open to "hearing" what the other parties had to say. He said, ultimately, after extensive, frank, and arms-length negotiations, the Settling Parties reached a creative solution to what would have otherwise likely resulted in protracted litigation. He stated that solution is set forth in the Settlement Agreement. Pet. Ex. 1S at 24.

Mr. Allen testified that settling disputed issues is a reasonable means of resolving controversy. He said the Settlement Agreement incorporates considerable concessions by IPL in comparison to the positions provided in the original plan. He said these concessions increase the

challenge to IPL to achieve cost-effective energy savings, and position the IPL OSB to respond to market place developments. Mr. Allen stated that the Settlement Agreement is consistent with prior Commission decisions. He said the Settlement Agreement reflects a reasonable compromise of all the issues, including lost revenue, financial incentives, energy savings goals, IRP modeling of energy efficiency, and OSB oversight. He stated that the Settlement Agreement will allow IPL with OSB oversight to offer a cost-effective portfolio of DSM programs to customers. He concluded that the Settlement Agreement is in the public interest and recommended the Commission approve it without modification. Pet. Ex. 1S at 25.

B. **CAC.** Kerwin L. Olson, Executive Director of Citizens Action Coalition of Indiana, Inc. ("CAC"), testified in support of the Settlement Agreement, which he said was reached after many weeks of intensive discussions and negotiations. CAC Ex. 1-S, at 3-4.

1. CAC Concerns With IPL's Original Filing And Overall Comments. Mr. Olson testified that CAC intended to address the following issues with respect to IPL's original filing: (1) whether IPL's proposal is consistent with its 2016 IRP and arises from a plan that is "designed to achieve an optimal balance of energy resources"; (2) the level of proposed energy savings for program delivery in 2018-2020; (3) IPL's proposal for lifetime lost revenue recovery; (4) the proposed structure for a performance incentive; and (5) CAC's lack of a vote on the IPL OSB. CAC Ex. 1-S at 4-5.

Mr. Olson testified that CAC, along with other organizational partners, submitted extensive comments on IPL's 2016 IRP on March 16, 2017. He stated that while CAC continues to stand by its comments, CAC feels that this Settlement brings IPL closer to an optimal balance of energy resources than what was pre-filed by the Company. He said, CAC is extremely pleased with IPL's willingness to address some of CAC's concerns related to the IRP and create a pathway for increased investment in energy efficiency. CAC Ex. 1S at 5.

Mr. Olson explained that after the repeal of Indiana's first Energy Efficiency Resource Standard in 2014, CAC has seen a drop of investment into energy efficiency by some of Indiana's investor-owned utilities. He said this former Energy Efficiency Resource Standard ("EERS") would have required greater savings than those originally proposed by IPL. CAC Ex. 1-S at 5-6. Mr. Olson testified that with the pending Settlement, IPL's cost-effective energy savings goals will be the highest level of energy savings among Indiana's five investor-owned electric utilities, and a process has been created for the OSB to work with and support IPL in its efforts to procure additional, cost-effective savings for its customers. *Id*. at 6.

2. EE Goals. Mr. Olson stated that the Settlement changes the energy savings goals for 2018-2020, increasing IPL's original proposal by approximately 30,000 gross MWh per year. As noted in the Settlement, he said "This annual level of gross energy savings averages approximately a 1.14% reduction from the current level of IPL energy sales, when the sales are not adjusted downward to reflect customers that have opted out of participation in IPL's DSM programs. He stated that when sales are adjusted to take into account customers that have opted out, these gross energy savings represent about 1.45% of the remaining (non-opted out) sales." *Id.* at 6-7.

3. Spending Flexibility. Mr. Olson stated that in addition, the Settlement 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. He stated that if the additional 50,000 MWhs (net) are achieved, the level of energy savings reduction would be approximately 1.33% before opt-out and 1.68% after opt-out. He said the OSB has always had the opportunity to use spending flexibility to increase energy efficiency investment and procurement. He added that the IPL OSB has used this authority effectively, as explained by IPL Witness Allen. He stated that here, the Settlement provides a projection of savings and creates the process by which IPL can achieve these additional savings through a collaborative process with the OSB and IPL's vendors. *Id.* at 6-7.

4. 2020 Refresh. Mr. Olson stated that CAC was concerned about the drop in IPL's original proposal for the annual level of savings from 2018 and 2019 to 2020. He said this decrease in savings is due to the anticipated change in lighting standards in 2020. Mr. Olson testified that CAC recognizes and appreciates IPL's concerns about the challenges faced as a result of the changes in the baseline for lighting measures, but CAC was not satisfied with merely accepting that a projected drop in energy savings was a *fait accompli* in the final year of a three-year plan. Therefore and as the result of rigorous settlement negotiations, he said IPL proposed that we take another look at 2020 in its forthcoming MPS. Mr. Olson said, the MPS was originally planned to look only at 2021 and beyond. He said CAC agreed that, after we have the MPS vendor provide IPL with a fresh look at 2020, the Settling Parties will "work collaboratively in good faith and [ ] use best efforts to identify and achieve additional savings for 2020 similar to the annual levels identified for 2018 and 2019." CAC Ex. 1-S at 7-8. He stated that while the OSB allowed for this type of collaboration, this Settlement continues the level of commitment and improves the OSB by providing a more defined process to assist in identifying and capturing cost-effective energy efficiency that may have otherwise been left on the table. Mr. Olson stated that CAC is optimistic about this opportunity provided by the Settlement. Mr. Olson stated that CAC is hopeful that this will lead to far greater investment in energy efficiency in IPL's service territory and will bring about all the benefits that come along with energy efficiency, such as avoiding the cost of and need for producing energy or building new power plants. *Id.* at 7-8.

5. IRP Modeling of DSM/EE. Mr. Olson stated that the Settlement clearly defines commitments for the Settling Parties to work closely together to develop IPL's modeling of DSM and energy efficiency in its next IRP. He said this addresses a point that CAC (and its partner organizations) raised in the Response to the Director's Draft Report on the 2016 IRPs about CAC's frustration regarding the limitations of the stakeholder process prior to the submission of final IRPs. He said CAC noted that " [i]f the correct information is presented in the stakeholder process, it can alert all the parties to fundamental disagreements especially as to basic assumptions about modeling inputs… If the utilities are willing, an attempt at rectifying those disagreements by changing modeling assumptions could be made." He testified that although engagement by CAC (and all stakeholders, including IPL) much earlier in the process may require a greater commitment of resources and time, CAC sees great value in this term and is hopeful that it will continue to improve upon the IRP stakeholder process and outcomes. *Id.* at 8-9.

6. OSB. Mr. Olson stated that the Settlement provides for CAC to become a voting member. He said this is an important issue to CAC, especially now with this Settlement placing more emphasis on the OSB in terms of savings levels and other outcomes. He said CAC is committed as an organization to working to increase energy efficiency investments in our State, and he believes CAC is and continues to be a partner to the utilities and the State in this endeavor. Mr. Olson stated that CAC takes its work on all of the utilities' OSBs extremely seriously and greatly appreciate IPL's recognition of that. CAC Ex. 1-S, at 8.

7. Lost Revenue. Mr. Olson explained that CAC was able to resolve its issues with IPL's proposal for lost revenues for measures installed during the 2018-2020 DSM Plan. Mr. Olson explained that as IPL Witness Allen states at page 27 of his testimony on the original filing, IPL was proposing lost revenue recovery for the life of the measure. Mr. Olson stated that the average weighted measure life for all programs included in this original filing is 9.4 years. CAC Ex. 1-S at 9.

Mr. Olson stated that the proposed Settlement limits recovery in that it allows IPL the opportunity to recover lost revenues for (a) the life of the measure, (b) five years from implementation of any measure installed in 2018 and four years from the implementation of any measure installed subsequent to January 1, 2019, or (c) until measure related energy savings are reflected in new base rates and charges, whichever occurs earlier. He said CAC has regularly argued for a cap on the recovery of net lost revenues at three or four years, the life of the measure, or until new rates are implemented after a utility's next base rate case, whichever occurs earlier. He said CAC supports the Settlement's proposed reduction to the Company's recovery of net lost revenues. He stated that although IPL under this Settlement can recover lost revenues for 5 years in 2018, this is a reasonable compromise, considering IPL's lack of legacy lost revenues due to its recent base rate case with an order in 2016 and its stated intention to file another base rate case in the near future. He said, this regular resetting of rates helps avoid CAC's stated concern about the "pancaking effect" of lost revenues. *Id.* at 9-10.

8. Financial Incentive. Mr. Olson explained that CAC was able to resolve its issues with the financial incentive proposed in IPL's original filing. He said CAC had concerns about IPL's original performance incentive because the shared savings proposal did not reflect achievement tiers. Mr. Olson stated that the Settlement completely resolves CAC's concern with this issue as it adopts the Commission-approved performance incentive in Cause No. 44645. Mr. Olson stated that in Cause No. 44645, the Commission found:

> [W]e agree with Ms. Mims that it is more appropriate for performance incentives to be tied to both tiered levels of energy savings achieved and the net present value of the net benefits of the UCT test. This type of structure encourages a utility to minimize program costs while also striving to achieve as much cost-effective EE as reasonably possible. Therefore, we find that Vectren South is authorized to recover performance incentives as recommended by the CAC for each of its programs, except the CVR and IQW programs, as follows:

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%

Cause No. 44645, Final Order, p. 27.

Mr. Olson testified that the Settlement requires the Settling Parties, including IPL, to use best efforts to achieve additional savings above and beyond the agreed upon energy savings goals. He said CAC supports maintaining the agreed upon energy savings goal expectations for purposes of calculating the performance incentive in that additional investment in cost-effective energy efficiency will ultimately provide the greatest benefit to ratepayers. He said this concession provides IPL with a proper incentive to pursue these cost-effective, additional savings. He stated it also appreciates concerns about there being fewer customers to procure savings from due to the opt-out legislation from 2014 for customers just larger than a single MW, as well as the anticipated changes in lighting standards due in 2020. CAC Ex. 1-S at 10-11.

9. Arms-Length Negotiations And Public Interest. Mr. Olson said he believes the Settlement is reasonable and in the public interest, and should therefore be adopted by the Commission. He said he is exceptionally supportive of this Settlement, in particular, because of the creative solutions and assurances provided to all parties. He stated that by coming together, engaging in difficult arms-length negotiations that addressed the principal concerns of the parties, and ultimately reaching a result that each party could not just find acceptable but eagerly support, the Settling Parties have fashioned an outcome that will greatly benefit IPL's ratepayers. He said a negotiated settlement that resolves the important and complex technical issues and which eliminates the large uncertainties associated with litigation risk is an appropriate way for the parties and the Commission to achieve a just and reasonable result. CAC Ex. 1-S at 11.

In conclusion, Mr. Olson said he supports the Settlement as a reasonable overall resolution to the range of issues in dispute in this proceeding. He stated that from CAC's perspective, the Settlement represents a substantive improvement over that which was originally presented by IPL. He said overall, CAC is extremely satisfied with the Settlement, and he recommended that it be adopted by the Commission.

6. Non-Settling Party's Position. Mr. Rutter presented the following OUCC objections to the Settlement:

- The proposed lost revenues are unreasonable.
- The proposed financial incentives and method to calculate them are unreasonable.

- The proposed kWh savings level is inconsistent with IPL's recently filed IRP. Proposed net savings are more than 53% above the kWh savings level in IPL's most recent IRP.

- The proposed savings do not meet the definition for "energy efficiency goals" provided for in Section 10(c).

Mr. Rutter recommended the Commission reject the Settlement Agreement and find the modified Plan unreasonable in its entirety pursuant to Section 10.

Mr. Rutter explained that while the OUCC is challenging various elements of the Settlement Agreement, it does not object to any programs or estimated savings originally proposed by IPL in the 2018-2020 DSM Plan. He added that in its case-in-chief, the OUCC also did not oppose either programs or their estimated savings as proposed by IPL. Pub. Ex. 1S at 2.

Mr. Rutter said the OUCC will not support the Settlement because ratepayers receive virtually zero benefit. Pub. Ex. 1S at 2-3. He stated that with its $149,695,626 price tag, representing all program costs, all lost revenue (including legacy lost revenue) and financial incentives to be paid by ratepayers during the 3-year plan period, the Settlement gives IPL 99.93% of the UCT net benefit. He added that even if the Commission did not consider the impact of legacy lost revenues, the Settlement Agreement would still give IPL an entirely unreasonable 90.61% of the UCT net benefit paid 100% by ratepayers and 0% by IPL. *Id.* at 2-3.

Mr. Rutter stated that the OUCC objects to funding the proposed additional 50,000 mWh savings with unspent budget funds from the 2015-2017 Plan and the flexible spending amounts allocated for the 2018-2020 Plan. He said annual DSM budgets are intended to fund that year's specific programs. He said, historically, some OSB have voted to permit, in special circumstances, unspent budget amounts to roll over into the next year. He said, the Settlement Agreement extends this idea to permit the funds to roll over into a new Plan. He said, annual budgets should not be constructed with an eye towards the possibility that unspent funds will be available for future, as-yet-undetermined costs or programs, and certainly not in an entirely different Plan. He said, even the Settlement Agreement seems to recognizes this. He stated that while it seeks to carry 2015-2017 funds into the 2018-2020 Plan, it simultaneously prohibits carrying over "any unspent funds" from the 2018-2020 Plan into the next plan. Pet. Ex. 1S at 3.

Mr. Rutter stated that the 10% flexible spending amounts are intended to be an annual budget item, utilized when program participation or costs exceed expectations. He said the Settlement Agreement commits these funds to the additional 50,000 mWh, thus hampering the OSB's ability to react to programs that perform exceptionally or encounter significant cost increases, potentially increasing the risk that original programs in the latter group will not meet their savings goals. Mr. Rutter stated that 10% flexible spending amounts should never be rolled over from year to year. Likewise, it should never be spent if the effect is to increase the amount of unspent budget that may be eligible to be rolled over. He said IPL did not utilize its flexible spending in either 2015 or 2016. He stated that the Settlement Agreement also lacks transparency. Pub. Ex. 1S at 4.

Mr. Rutter stated that CAC has, for the first time in the last several DSM cases, convinced a utility to voluntarily increase its DSM energy savings targets. Pub. Ex. 1S at 5. He said IPL will earn millions of dollars in additional lost revenues, and any decrease in reduced incentive percentages is offset against the increased incentives from additional savings. He said the Settlement Agreement and supporting testimony discuss the "shared savings" the Plan will produce. He said the problem is that IPL is sharing in 0% of the costs and wants to share essentially 0% of the benefit. Pub. Ex. 1S at 5.

Mr. Rutter discussed the cost and benefit analysis. Pub. Ex. 1S at 5-6. Mr. Rutter explained that the Settlement Agreement proposes increasing the savings goals by 90,087 gross MWh at an additional direct and indirect program cost of $13,516,000. He said the cost and benefit analysis tests for that increased level of savings and the corresponding cost increases are contained in IPL Witness Erik Miller's settlement testimony, Petitioner's Exhibit 3SR. He said neither IPL nor CAC provided a cost and benefit analysis for the additional 50,000 MWh (net) of energy savings and its corresponding estimated $10.5 million cost. He said this is because it is impossible for them to do so. He said neither the Settlement Agreement nor the supporting testimony detail how this 50,000 mWh will be achieved, which measures will be used, the mix of measures, which programs, or what customer classes will pay and in what will be their respective percentage of costs. Similarly, there is no cost and benefit analysis supporting the additional 2020 savings, approximately 25 GWh (gross), described in Sections 3(f)(iii) and (iv). Pub. Ex. 1SR at 5-6.

Mr. Rutter discussed reasonable lost revenues and just and reasonable rates. He said in order to return the utility to the position it would have been absent implementation of a DSM measure, the utility should be entitled to recover the "lost margin" associated with the lost sale, not the fixed costs associated with that sale. Pub. Ex. 1S at 8. He said there is a fixed cost component embedded in base rates based on the audited, verified test year level of fixed costs. He said, it is inappropriate to allow a fixed cost component recovery when looking at a single issue tracker. He said the level of approved fixed cost recovery allowed in IPL's most recent base rate case was decided based on the overall IPL operations and not limited to DSM. Pub. Ex. 1S at 7-9.

Mr. Rutter stated that when a utility invests in a traditional supply-side resource such as a new Combined Cycle Gas Turbine ("CCGT"), the cost of that asset is reflected in the utility's rate base after it is determined to be used and useful. He said, the inclusion of the CCGT in rate base provides the utility with the opportunity to earn a fair and reasonable return of and on that investment when the utility seeks to adjust its basic service rates through a rate proceeding. He said instead, assume the utility implements a DSM plan and ratepayers participate in the programs. He stated that if the associated lost revenue recovery provides the utility with anything more than the return opportunity, or margin lost, this creates a bias in favor of DSM over what would be experienced by the utility if it were to build, own and operate a supply-side resource, particularly where no IPL money is at risk. Pub. Ex. 1S at 9.

Mr. Rutter discussed the OUCC claim that IPL has no money at risk. He said IPL is seeking recovery in 2018, 2019 and 2020 of each individual year's program costs, total lost revenue (including incremental, persisting, and legacy lost revenues), plus a financial incentive for savings achieved in each of the three years of the Plan, 2018, 2019 and 2020. He said the

tracker mechanism is based on a forecasted level of savings and the program costs realized in each year of the plan, in addition to the recovery of lost revenues and awarding of a financial incentive. He said, the approval of the plan and the tracker mechanism provides IPL with the opportunity to fully recover its program costs, the only costs "incurred" by IPL in implementing the DSM Plan. Public's Ex. 1S at 9-10.

Mr. Rutter stated it could be appropriate to recover fixed costs, approved and embedded in rates, via a DSM tracker when the utility: 1) is filing regular rate cases, 2) is not otherwise recovering it's approved and embedded fixed costs, and 3) that under-recovery is directly attributable to DSM lost sales. Pub. Ex. 1S at 10. He said it is never appropriate to recover fixed costs associated with DSM sales when the utility's sales exceed approved and embedded test year sales or to pay for escalating fixed costs that are not approved and embedded in rates. *Id.*

Mr. Rutter stated that while fixed costs can be significant, they are not volatile or difficult to control. Mr. Rutter stated that IPL faces zero risk of recovering its program costs associated with the proposed DSM Plan. Pub. Ex. 1S at 10.

Mr. Rutter stated that IPL utilizes the UCT from the California Standards Practice Manual (Manual) which has been one of the standard cost-effectiveness tests used by Indiana utilities, the IURC and various stakeholders. He said that while other benefit and cost analyses exist, the OUCC's analysis uses the UCT net benefit because: 1) The IURC has stated it does not believe the RIM test is appropriate; 2) The UCT is the only benefit and cost test that computes the costs and benefits for both participants and non-participants; 3) The UCT net benefit is based on revenue requirements paid for by both participants and non-participants; 4) The OUCC accepted the UCT methodology and net benefit result as proposed by IPL. Pub. Ex. 1S at 12.

Mr. Rutter stated that the UCT test produces two metrics: a cost and benefit ratio and a net present value. He said that when a utility employs a DSM program, it avoids a supply-side option. He stated that, as a result, the utility is either not burning fuel or deferring investment in capital infrastructure. He said the present value of the combined benefits of those two, over the life of the DSM measures is the first component of the UCT. He said, the second component combines all program costs, incentives paid by the utility, and all costs associated with running a DSM program, regardless who pays them. He said, the difference that results from subtracting the benefits from the costs (program costs, direct and indirect, incentives, EM&V *etc.*) produces the net present value benefit of the UCT. He said, that difference is the reduction in the revenue requirement. Public's Ex. 1S at 12.

Mr. Rutter stated that because customers pay IPL's revenue requirements, when the revenue requirements are reduced, it follows that the revenue requirements to be collected from consumers are also reduced. Mr. Rutter claimed that if ratepayers are to realize any of the DSM program benefits, the sum of the program costs, total lost revenues (including incremental, persisting and legacy over whatever recovery period is adopted), and financial incentives they pay, must be less than the UCT net benefit. He said it would be neither just nor reasonable for the utility to retain 100% of the UCT net benefit without sharing those savings with ratepayers. He said the UCT net benefit provided in the Settlement Agreement for the 2018-2020 DSM Plan is $149,795,760. He said a reasonable method of balancing ratepayer and shareholder interests would be to share the UCT net benefit 50-50, with $74,897,880 acting as the cap on the

combined total for program costs, lost revenues and financial incentives paid during 2018-2020. Pub. Ex. 1S at 13.

Mr. Rutter stated that the UCT is a cost and benefit analysis. He said, when properly performed, all costs, regardless who pays them, are considered as costs to the utility. He said this includes program costs. He said IPL's UCT calculations properly do that. He stated that while who pays program costs is irrelevant to the UCT net benefit computation, it is difficult to imagine that the proposed $101 million bill for those costs is not important to customers responsible for paying it. Pub. Ex. 1S at 13.

Mr. Rutter stated that the OUCC's proposal to limit ratepayer contributions to 50% of the UCT net benefit is not a benefit and cost test. He said, rather it is a public policy weighing of how to equitably share the benefits produced by the DSM plan that includes program costs, lost revenues and incentives funded 100% by ratepayers and 0% by IPL. Pub. Ex. 1S at 15.

Mr. Rutter discussed performance incentives. He said determining a reasonable incentive begins with determining which programs should be eligible. He said, a reasonable incentive is one paid for programs that meet or exceed savings goals approved by the Commission. He said, awarding incentives only to programs that meet or exceed goals is crucial in an environment where a utility's DSM Plan must be consistent with the utility's IRP, and the method used in developing the IRP is selected by the utility. He stated that the statutory language makes clear the focus is on programs and determining reasonable financial incentives is most reasonably considered at the individual program level. Public's Ex. 1S at 17-18.

Mr. Rutter testified that setting a reasonable incentive level is another essential element. He stated that it is unreasonable to award IPL an incentive that is greater than the risk free cost of debt, represented by either the 30-Day or 30-Year U.S. Treasury Bond rate on ratepayer supplied funds. He said incentives approaching levels of authorized costs of equity are wholly inappropriate. He said, those return levels are designed to attract capital investment and compensate investors for risk. He said, IPL's shareholders have no financial risk from DSM programs, as the DSM program goals are set by IPL and funded 100% by IPL ratepayers. Finally, Mr. Rutter contended there can be no clearer demonstration that incentive amounts and mechanisms need to be reevaluated than IPL's willingness to significantly increase its energy savings goals (which are discussed further below). He said utilities are economically incented to set savings goals low. Not only can they "under promise and over deliver" savings annually, but setting easily achievable savings goals greatly enhances the likelihood of earning greater incentives. Pub. Ex. 1S at 17-18.

Mr. Rutter testified that IPL originally sought a 15% incentive if its total combined portfolio of DSM programs achieved 100% of its original 316 GWh savings (net) goal. He said, the Settlement Agreement has IPL committed to acquiring 442 GWh (net), nearly 40% above IPL's originally requested savings goal, and more than 52% above the IRP. He said, the 442 GWh does not include any potential 2020 savings. He said, IPL held savings in reserve, ready to produce them if necessary and boost the incentive. He said this behavior should not be rewarded. Pub. Ex. 1S at 18.

Mr. Rutter testified that financial incentives should be calculated only for programs achieving 100% of the estimated savings contained within the Plan. He said, any "reasonable" financial incentives ultimately approved by the Commission under Section 10(o) should be subject to the overall 50% cap on the sum of program costs, lost revenues recovered and incentives which are based upon the utility's calculated UCT net benefit discussed previously in his testimony. He said, incentives calculated in this manner comply with Section 10(o)'s requirement that the reasonable incentives encourage implementation of cost effective energy efficiency programs and eliminate or offset regulatory or financial bias against or in favor of supply side resources. Pub. Ex. 1S at 19.

Mr. Rutter stated that the UCT net benefit as calculated by IPL indicates that IPL has chosen, through its IRP, a demand-side resource over a typical supply side option. He said, as a result, IPL will operate more efficiently and will have reduced its revenue requirement. He said a bias in favor of the DSM plan implementation exists, not a bias against it. Pub. Ex. 1S at 19.

Mr. Rutter discussed the increased energy savings agreed to in the Settlement Agreement. He said, IPL's 2016 IRP selected a DSM energy savings level of 290 GWh (net). IPL's case in-chief DSM Plan included energy saving of 316 GWh. He said this increase was achieved by 26 GWh of Peer Comparison savings. He said Peer Comparison, a behavioral program, was not selected by the IRP for eligible retail sales as part of its preferred portfolio plan. He said, the Settlement Agreement's modified DSM Plan increases that again, proposing energy savings of 392.5 GWh (net), attributable to the proposed 30/30/30 GWh additions for 2018-2020. He said this is a 35% increase over the IRP. He said the Settlement Agreement then adds an additional 50.0 GWh (net), which increases the net GWh savings level to 442.5 GWH, a 53% increase above what the IRP selected and 11.0 GWh more than the Maximum Achievable Savings (net) identified in IPL's MPS. Allen Settlement testimony, page 13-14, Table LHA-2S. He said, the Plan also includes a commitment to look for even more savings to address the effects of new lighting rules in 2020, which the Settlement Agreement reflects as potentially 25 GWh to boost 2020 savings to a level "similar to the annual levels identified for 2018 and 2019." He said, there is no information explaining costs, programs, measures, etc. Pub. Ex. 1S at 19-20.

Mr. Rutter stated the OUCC recognizes that the IRP is a road map based on the best information and informed judgement available at the time the IRP development is undertaken. He said inputs, regulations and policies change over time. He said, a change in the least cost resource choice that deviates from the original by 53% is significant and warrants that a new IRP be filed. He said IPL's DSM Plan, as modified by the Settlement Agreement, is no longer consistent with the IRP as required by I.C. 8-1-8.5-10(j)(3)(B) and (c)(2). Pub. Ex. 1S at 20-21.

Mr. Rutter explained that the significant difference between IPL's IRP and the savings level sought in the Settlement Agreement is not the sole reason for the OUCC's objection to the savings sought in the Settlement Agreement. He stated that Table LHA-2S included on pages 13 and 14 of Mr. Allen's Settlement Testimony shows "MPS Realistic Achievable Savings NET" of 310,000 MWh (net) and "MPS Max achievable savings NET" of 431,000 MWh. He said, the Settlement Agreement's 442,478 MWh (net) exceeds even the MPS max savings. Pub. Ex. 1S at 21-22.

Mr. Rutter stated that the realistic achievable potential identified in the IPL MPS recognizes the current state of DSM in IPL's service territory and projects typical levels of expansion and increased awareness over time. He said, the Settlement Agreement and accompanying testimony proposes a level of net savings not only significantly in excess of the realistic achievable potential identified in the MPS but also a level of net savings in excess of the maximum achievable potential. Pub. Ex. 1S at 22-23.

Mr. Rutter concluded that the Settlement Agreement does not meet the "overall reasonableness" standards in Section 10 and again summarized his recommendations for an improved plan. Pub. Ex. 1S at 23.

7. Settling Parties' Rebuttal.

A. CAC. Kerwin L. Olson testified in rebuttal to the settlement testimony of Edward Rutter of the OUCC. Mr. Olson testified that this Settlement will economically benefit consumer ratepayers in two ways: through a total consumer benefit of $83 million and through the energy and cost savings that accompany an increase in energy efficiency. Additionally, Mr. Olson testified that an increase in energy efficiency, and the resulting reduction in energy consumption, will generate invaluable ecological and environmental benefits to the public at large. Mr. Olson testified that energy efficiency is the most cost effective way to conserve our natural resources. CAC 1-S-R at 1-3.

Mr. Olson testified that there is evidence to support the connection between energy efficiency investment and ratepayer benefit. Mr. Olson pointed to a 2013 report by the State Utility Forecasting Group (SUFG), which projected a much lower growth in electricity usage than Indiana had historically realized. Mr. Olson quoted from the report that, "[t]he lower growth in electricity usage is primarily due to increasing efficiency; that is, using less electrical energy to operate homes and businesses." *Id.* at 4. Mr. Olson also noted from the report that utility-sponsored conservation efforts were one of the three main sources of efficiency gains. In contrast, Mr. Olson pointed to a later report by the SUFG, in which energy efficiency measures had been decreased after SEA 340. Mr. Olson quoted from the report that, "[t]he projections in this forecast are higher than those in the 2013 forecast, primarily due to decreases in the amount of utility-sponsored energy efficiency, compared to the earlier projections." *Id.* at 5. Mr. Olson testified that the SUFG reports prove that utility-sponsored energy efficiency programs do, in fact, result in benefits to ratepayers by delaying or reducing the need for future resources and by reducing peak demand on the system. *Id.* at 5.

Mr. Olson testified that the OUCC need not fear the settlement provisions regarding the use of future funding to obtain additional cost-effective savings. Mr. Olson pointed out that these provisions require a unanimous vote by the OSB, of which, the OUCC is a voting member. Mr. Olson further testified that the OUCC's decision not to support these provisions is inconsistent with past practices, as the Commission has approved these spending methods before on various utilities' OSBs of which the OUCC is a member. Mr. Olson noted the comparison between allowing utilities an additional 10% in spending flexibility and the carryover of unspent funds to future years with respect to DSM programs and plans, and allowing the utilities to have contingency funds when it comes to projects related to supply-side resources or major capital projects. He stated that demand-side resources should not be treated differently than supply-side

resources in this regard. Mr. Olson testified that all parties stand to benefit when there is flexibility to respond to marketplace conditions and the ability to capture cost-effective energy efficiency that may have otherwise been left on the table. CAC Ex. 1-S-R at 5-7.

Mr. Olson testified that the Settlement is more than sufficiently transparent because the Company has provided, and publicly filed with the Commission, all calculations and numbers necessary to evaluate the settlement. Additionally, Mr. Olson testified that the Settlement lays out a clear process in terms of procuring any additional, cost-effective savings. Mr. Olson testified that the Settlement goes beyond a mere increase in energy savings, containing critical provisions for a cap on lost revenue recovery and a tiered performance incentive based on the NPV of the UCT net benefits. Mr. Olson testified that the OUCC is incorrect in implying that CAC does not also work diligently to achieve cost recovery concessions for ratepayers in all cases and negotiations. Mr. Olson concluded by testifying that CAC is extremely satisfied with the settlement and recommended that it be adopted by the Commission. CAC Ex. 1-S-R at 7-10.

B. IPL. Mr. Allen presented overall comments in response to the OUCC opposition of the Settlement Agreement. He said, Mr. Rutter's testimony in opposition to the Settlement Agreement, says little in direct response to the settlement testimony. He noted that the OUCC challenged the statute. Mr. Allen and Mr. Miller testified that several of Mr. Rutter's arguments are simply wrong and reflect flawed calculations. Mr. Allen stated that Mr. Rutter's arguments have been previously rejected by the Commission. Pet. Ex. 1SR at 2-5; 3SR at 2-4.

1. Carry Over and Spending Flexibility. Mr. Allen explained that the OUCC's opposition to the rollover and flexible spending provisions of the Settlement Agreement are perplexing because these provisions merely reflect mechanisms that have previously been approved by prior Commission Orders, that are currently in place, and that provide IPL with necessary flexibility (subject to the approval of the IPL OSB) to implement multi-year plans. He said, the flexible spending and roll-over provisions are not new. He said, these provisions are consistent with how the IPL OSB has administered the programs for a number of years using this Commission's approved spending authority. He said, these provisions are largely reflective of IPL's original plan components which the OUCC did not contest. Pet. Ex. 1SR at 3-4.

Mr. Allen stated that it is not the intention of the Settlement Agreement to construct annual budgets with an eye towards the possibility of unspent funds. He also said, this is not consistent with how IPL projects costs necessary to achieve its energy efficiency goals. He said, unspent carry over dollars typically arise for two reasons: (1) a program savings goal was not met, or (2) a program savings goal was met more cost effectively than projected. He said, in either case, it is important to have the flexibility to carry forward unspent funds to pursue additional cost-effective energy efficiency savings. Pet. Ex. 1SR at 9-10.

Mr. Allen disagreed with Mr. Rutter's suggestion that the Plan for 2018-2020 is "entirely different" from the DSM Plan for 2017. Pet. Ex. 1SR at 10. He said that while this is IPL's first Section 10 filing, the purpose of the Plan remains the same - achieve cost-effective DSM. He said, most of the programs are the same programs that IPL has in place today or are logical outgrowths from current programs. He said, the estimated amount of the potential rollover from 2017 ($3.2 million) is a relatively modest compromise entered into to resolve concerns about the budget. Including it in the spending flexibility provides the OSB more flexibility to respond to

market conditions. Mr. Allen noted that any use of the "2017 unspent funds" must comport with the requirements that apply to the OSB exercise of the other rollover or spending flexibility authority - namely the funds must be used to pursue cost-effective energy savings (as verified by the DSMore energy efficiency modeling tool) and all OSB members must agree on the use of unspent funds. Mr. Allen stated that, among other things, the rollover recognizes that program marketing and participation are not based on a calendar year. Program participation incentive costs incurred in one year can be the result of program marketing and enrollment the year before. He stated that because of the timing of the customer's implementation of its DSM program, the participant incentive may be paid the year after the customers enrolled in the DSM program. He said one benefit of the rollover provision is that it provides funds to support the payment of lagging participant incentives. Pet. Ex. 1SR at 10-11.

Mr. Allen stated that the rollover of funds from year to year and from plan to plan is not new. He said, in its 44328 Order approving IPL's 2014 DSM Plan, the Commission granted IPL the authority to rollover any unspent funds from the budget approved in the 43960 Order (from 2012/2013 programs). (44328 Order, p. 26). He added that in the 44497 Order, the Commission granted IPL "the ability to carry-over any unused amounts from the 2015 program year to the 2016 program year." (44497 Order, p. 22). Finally, he said in the 44792 Order, the Commission approved the carryover and use in 2017 of any unused 2015/2016 program funds (44792 Order, p. 23). Pet. Ex. 1SR at 11.

Mr. Allen stated that the Settlement Agreement is silent on what happens with any funds that may remain unspent at the end of the three-year plan period. He said if any such funds remain, the issue can be addressed in IPL's next DSM Plan filing. Pet. Ex. 1SR at 11.

Mr. Allen explained that the Settlement does not allocate spending flexibility dollars to specific programs. He said, the spending flexibility provisions of the Settlement Agreement are intended to position the IPL OSB to continue to use best efforts to pursue cost-effective energy savings for the benefit of customers as market conditions warrant. He said, the addition of the 2017 rollover to the spending flexibility and the 2020 MPS refresh increases the IPL OSB's flexibility to react to market conditions while providing reasonable limitations to safeguard the total cost impact of the agreed DSM Plan. He said, the intent of the Settlement Agreement is to project cost-effective savings that may be possible if all spending flexibility dollars are utilized. Pet. Ex. 1SR at 12.

Mr. Allen disagreed with Mr. Rutter's assertion that IPL did not utilize its flexible spending in either 2015 or 2016. He explained that the IPL OSB approved the rollover of unspent spending flexibility from 2015 to fund 2016 programs. He said IPL used $2.6 million of the authorized $4.4 million spending flexibility in program years 2015 and 2016. Pet. Ex. 1SR at 12-13.

2. Transparency and "True Cost" of the DSM Plan as Modified by the Settlement Agreement. Mr. Allen rejected Mr. Rutter's assertion that the Settlement Agreement lacks transparency. Mr. Allen stated that the Settling Parties have not hidden the program operating costs, lost revenues or financial incentives. He added that the testimony in support of the proposed DSM Plan includes the amount of "legacy lost revenues" even though such lost revenues are not at issue in the proposed plan. He said, IPL's discussion of the DSM

Plan costs and benefits follows the standard cost-benefit tests. He stated that while the OUCC may prefer to assess the costs in a different and non-standard manner, the fact remains that the costs are fully disclosed in IPL's filing, and are applied using standard practice definitions from the EM&V Framework as approved by the IPL OSB. Pet. Ex. 1SR at 13.

Mr. Allen stated that the amount identified by Mr. Rutter as the "true cost" includes legacy lost revenues, which are not part of the agreed DSM Plan, but were provided for transparency. He stated that as shown in IPL Witness Elliot's settlement testimony (Table ZE-4S (3)), total program costs for the agreed three-year DSM Plan are approximately $127 million. Pet. Ex. 1SR at 14.

3. EE Goals and Consistency With IRP. Mr. Allen expressed surprise at the tone of certain remarks in Mr. Rutter's testimony, saying the testimony seemed to attribute ill-motives by the Settling Parties. Mr. Allen stated that the process used by IPL and CAC to negotiate the revised energy savings goals was intensive and the result fairly resolves the disagreement about the IRP modeling and other requirements of the Section 10 definition of "energy efficiency goals." He added that Section 10 requires IPL to file and obtain Commission approval of a DSM Plan to meets the statutory requirements. Thus, the filing is not voluntary; and the energy savings goals are determined by the statutory criteria subject to Commission approval. Pet. Ex. 1SR at 5-6.

Mr. Allen stated that Mr. Rutter's charges that "IPL held savings in reserve, ready to produce them if necessary and boost the incentive" and "this behavior should not be rewarded" are insulting and unfounded. He said his settlement testimony describes very specifically, the basis for the average annual increase of approximately 30,000 MWH (gross) in the energy savings goals negotiated by the Settling Parties. He stated that this increase traces straight to the Company's IRP, which has been available to the OUCC (and other stakeholders) since November 2016. *Id.* at 6.

Mr. Allen and Mr. Miller discussed the revised energy savings goals reflected in the Settlement Agreement and consistency with the IRP. Mr. Allen stated that IPL did not "hold" any savings "in reserve." Rather, he said IPL initially had a different view of what the Plan should contain and after discussions with the parties and further analysis, the Settling Parties negotiated a compromise in an attempt to avoid litigating the energy savings goals issues. He stated that discussions with the program implementation vendors validated that these savings levels could be achieved. IPL Witness Miller demonstrated that the proposed savings levels are consistent with the Company's IRP. Pet. Ex. 1SR at 6; 3SR at 17-19.

Mr. Miller explained that the DSM selected in the IRP is based on a finite model output number based on model inputs however, it is not a "set-in-stone" amount. He said this is similar to a supply side resource such as solar, wind or a gas-fired resource. He stated that while the IRP selects a finite MW size, a utility typically requests permission to procure a resource within a range of MWs in a subsequent regulatory filing such as a Certificate of Public Convenience and Necessity proceeding. He explained that while IRPs include projected capacity factors and resultant forecasted MWhs of production for specific supply side generating units, actual dispatch varies based on market drivers including fuel costs, power prices and availability. Pet. Ex. 3SR at 16.

Mr. Miller explained that Mr. Rutter's statement that the energy savings goal set forth in the Settlement Agreement is 35% over the MWhs selected in the IRP includes the Peer Comparison program. Mr. Miller stated that in order to accurately compare the energy savings goal agreed to by the Settling Parties to the 2016 modeling results, Peer Comparison should be removed from the analysis because this program was not selected by the IRP modeling for 2018-2020. Mr. Miller showed that the Settlement energy savings goals with Peer Comparison removed are only 2% higher than the MWhs selected in the IRP and are therefore consistent with the IRP modeling results. Pet. Ex. 3SR at 17-18. Mr. Miller explained why the Peer Comparison program is reasonably included in the plan and reiterated that the Settling Parties' approach reduced the average first year program operating cost per kWh and improved the overall cost-effectiveness of the DSM program portfolio. Pet. Ex. 3SR at 18-10.

Mr. Miller stated that the potential additional savings to be achieved through the flexible spending are beyond the agreed energy savings goals. He said Section 10 requires the energy savings goals to be consistent with the IRP and otherwise compliant with the definition of energy efficiency goals in Section 10(c). Mr. Miller said the Settling Parties' agreed energy savings goals fall in between the MPS Realistic Achievable Potential (RAP) and the MPS Maximum Achievable Potential (MAP). He said, IPL agreed to the revised goals based upon additional input from IPL's vendor and reasonable compromise in the context of settlement negotiations. Mr. Miller said the Settlement energy savings goals do not exceed the MAP. He said IPL believes the agreed energy savings goals, while challenging, are "Reasonably Achievable" because IPL's vendor has indicated that they can reach these goals based upon their experience in the field. He added that given IPL's history with this vendor, IPL believes their representations are accurate. Pet. Ex. 3SR at 20-21.

He said Section 10 does not preclude the IPL OSB from being positioned to achieve additional cost-effective energy savings if the market warrants. He said, the terms and conditions in the Settlement Agreement that allow for the potential additional energy savings are consistent with current practice and reasonable. Mr. Miller added that like the variable components of a supple-side resource, IPL expects demand side resources to vary based on actual costs and customer behavior. He said IPL is committed to providing the least cost reasonable energy resource for its customers. He explained that just as IPL either produces energy or procures energy in the MISO market, IPL utilizes additional cost-effective DSM when that is the best option for customers. He said the ability to use flexible spending allows for this. He stated that if the opportunity arises to get additional savings for customers that are as cost-effective as or even more cost-effective than the proposed plan, IPL will seek those savings. He added that doing so will only increase the UCT NPV (*i.e.* reduce the revenue requirements) for IPL's customers over the long run. Pet. Ex. 3SR at 20-21.

Mr. Miller stated that if market conditions warrant the use of the full spending flexibility, based on the estimated resulting energy savings reflected in the Settlement Agreement (50,000 MWh), the additional cost-effective energy savings from the spending flexibility would exceed the MAP by 2.5%. He said this reflects the challenge inherent in the Settlement Agreement, but it is reasonable to pursue additional cost-effective if market conditions warrant. He said the MPS is a planning tool and it was necessarily and reasonably used by IPL in the 2016 IRP. He stated that IPL recognizes however that the MPS is not a perfect crystal ball that identifies the precise level of savings that will be available in a utility's market during the future period assessed by

the MPS. Rather, he said the MPS is a theoretical analysis that uses the best available regional and historical data to estimate the potential for DSM. Mr. Miller said IPL utilizes the analysis as a very important part of a larger picture that includes also relying on IPL's vendors' experience in the field as the program implementation unfolds. Mr. Miller stated that as IPL implements the agreed upon DSM Plan, IPL will use best efforts to achieve the goals and potentially go beyond them based on market conditions and if cost-effective to do so. He stated that if IPL is on track to go beyond the energy savings goals, IPL will work to gain unanimous OSB approval to use flexible spending (including roll over) to achieve additional savings (roughly estimated at 50,000 MWhs over the three-year plan). Mr. Miller added that the OUCC is familiar with this process. He said that in 2016, IPL worked in partnership with them to gain OSB approval to spend approximately $7 million in flexible spending (including carryover funding) which resulted in 186,222 MWhs (net) savings for the year. He stated that this ended up being 32% higher than the MAP level of savings identified for 2016 in IPL's 2012 MPS. Pet. Ex. 3SR at 22-23.

Mr. Allen testified that the 2020 MPS refresh is a reasonable means of resolving a dispute about how the future will unfold and any resulting budget revisions are subject to approval by the Commission. He said, the idea that IPL should be penalized for seeking to avoid a quagmire of litigation is contrary to the public policy that favors settlement of contested issues. Pet. Ex. 1SR at 7. Mr. Miller added that IPL recognizes that baselines and saturation levels change. He said as a result, the potentials in the MPS become dated. He said the MPS that was used for the IRP is now nearly two years old and stated that IPL plans to engage an MPS consultant in 2018 in preparation for IPL's 2019 IRP. He stated that as part of the MPS analysis, IPL plans to take another look at 2020 and added that if additional potential is identified, IPL will consult with the implementation vendor to ensure the additional cost-effectives savings are achievable and gain unanimous OSB approval before filing budget revisions with the Commission for approval. Pet. Ex. 3SR at 23.

4. Cost and Benefit Analysis, Rate Impact and Cost Per kWh Saved. Mr. Allen and Mr. Miller explained that IPL submitted a cost and benefit analysis of the plan as required by the statute. Mr. Miller stated that Section 10(j)(2) does not use the term "program costs" with respect to the required cost and benefit analysis of the plan. He said it is not appropriate to apply the Section 10(g) definition of "program costs" when performing the cost-effectiveness tests and added that if all of the costs indicated as "program costs" in Section 10(g) were included, the results would not be an accurate reflection of what each test is intended to measure. Pet. Ex. 1SR at 25; 3SR at 3.

Mr. Allen stated that while we are not here to debate the Section 10 policy directives, the cost recovery provided in Section 10 reasonably recognizes that cost-effective DSM portfolios benefit customers generally. He said Section 10 provides for timely cost recovery of all program costs if the Commission approves the DSM Plan. He said it is reasonable that customer rates for retail electric service reflect the Commission approved cost of utility service provided by DSM programs. He stated that in addition to IPL's DSM programs providing a positive net benefit to all customers, customers also have the opportunity to participate in IPL's DSM programs which yields bill savings as well. He said customers who choose to participate in these programs should make a rational decision based on the economics of the energy efficiency investments from their point of view (this is measured by the Participant Cost Test). He added that Mr. Rutter's contention that IPL is not "sharing in the costs" is incorrect. He said, the Settlement Agreement

reflects that IPL has agreed to significant concessions on cost recovery. *See* Allen Settlement Testimony Q&A14 (discussing $83 million in cost recovery concessions compared to IPL's original plan). Pet. Ex. 1SR at 16.

Mr. Allen explained why he disagrees with Mr. Rutter's suggestion that cost-effectiveness is disregarded by IPL or the Commission. Mr. Allen also explained why he disagreed with Mr. Rutter's argument that the "costs exceed the benefits" and showed that Mr. Rutter's contention that costs exceed the benefits is based on a flawed comparison. Mr. Allen also noted that Mr. Rutter's analysis inappropriately included legacy lost revenue. Pet. Ex. 1SR at 16, 18-19.

Mr. Allen and Mr. Miller testified that at this time the absence of a cost and benefit analysis of the potential additional savings to be derived from the prudent exercise of spending flexibility or additional savings in 2020 that might be pursued under Section 3(f)(iii) and (iv) of the Settlement Agreement is not reason to reject the Settlement Agreement. Pet. Ex. 1SR at 21; 3SR at 5-6. Mr. Allen said, the Settlement Agreement requires any additional energy savings to be cost-effective. Pet. Ex. 1SR at 21. Mr. Miller said the cost and benefit analysis will be performed at such time as the spending flexibility is exercised by the IPL OSB. Pet. Ex. 3SR at 5-6. Mr. Allen and Mr. Miller explained that IPL measures cost-effectiveness using the DSMore energy efficiency modeling tool, and will provide updated cost-effectiveness analysis to the extent IPL requests authorization of spending flexibility from the IPL OSB. Pet. Ex. 1SR at 21; 3SR at 6. Mr. Miller stated that as part of the 2020 Refresh process, the Company will identify the measure mixes and savings associated with the additional 2020 energy savings and use the DSMore tool to model cost-effectiveness. Pet. Ex. 3SR at 6. Mr. Miller and Mr. Allen added that the Settlement Agreement requires budget modifications for 2020 as a result of the updated MPS to be approved by the Commission. Pet. Ex. 1SR at 21; 3SR at 6.

Mr. Allen stated that the OUCC's analysis of the Plan cost and the OUCC's proposed constraint on program cost recovery are not based on the standard application of the UCT. He explained that while Mr. Rutter uses the term "UCT," he has altered the test. He added that in doing so, Mr. Rutter distorts the purpose of the test which is designed to assess the revenue requirement impact of investments in demand side versus supply side resources. Pet. Ex. 1SR at 4.

Mr. Allen stated that as IPL Witness Miller, Mr. Rutter's methodology double counts program operating costs. He said, that by adding lost revenues to the analysis, Mr. Rutter's modifications convert the UCT to something closer to the Rate Impact Measure ("RIM") Test. He said, this misapplication of the benefit cost test is unreasonable, particularly in light of the fact that the IPL OSB (including the OUCC represented by Mr. Rutter) approved the IPL EM&V Framework (Witness Miller Direct – Attachment EM-1). Mr. Allen stated that the EM&V Framework clearly lays out the definitions of each of the benefit cost tests. Pet. Ex. 1SR at 4; 3SR at 2.

Mr. Allen testified that the reasonableness of DSM costs should be assessed against the avoided cost alternative. He said, in other words, we look at what the cost of service would be if the DSM were not implemented and supply-side resources were used to satisfy customer needs for electricity. He said that, as discussed by Mr. Miller, the UCT - also referred to as the revenue

requirements tests – assesses DSM resource costs in light of what costs would be in the absence of the DSM. Mr. Allen stated that here, the UCT tells us that the proposed DSM Plan as modified by the Settlement Agreement is cost-effective. Pet. Ex. 1SR at 7-8.

Mr. Allen explained that DSM program costs and the resulting customer rate impacts were an important consideration for IPL during the formulation of the DSM Plan and in the negotiation of the Settlement Agreement. He explained that Mr. Rutter's calculation of the average cost to ratepayers differs from IPL's calculation because Mr. Rutter incorrectly includes net lost revenues and shared savings in the analysis. He said, IPL's analysis separately identifies these cost components because they are not program operating costs. Mr. Allen stated that in the plan as originally filed, the DSM Plan program operating costs are approximately $0.21 per kWh and Total DSM Plan costs are $0.30 per kWh for program costs when the relevant lost revenues and forecast shared savings are considered (not the $0.34 per kWh saved as indicated by Mr. Rutter). Mr. Allen stated that in the Settlement Agreement, the DSM Plan operating costs are less than $0.20 per kWh and the Total DSM Plan costs are approximately $0.27 per kWh when the relevant lost revenues and forecast shared savings are considered. Pet. Ex. 1SR at 23.

Mr. Miller added that his direct and settlement testimony reviewed the results of the cost-effectiveness tests as they relate to participating versus non-participating customer bill impacts. He said, this review is representative of the long-term impact to participating and non-participating non-residential customers. He stated that IPL Witness Aliff calculated the DSM Plan bill impact on the typical residential customer using 1,000 kWh per month and the short term effects to other customers in the calculations of the Rider 22 factors. Petitioner's Exhibit 3 SR at 23-24.

Mr. Allen explained that Mr. Rutter's calculation of the UCT net benefits is incorrect. He said, the $149.8 million in UCT benefits Mr. Rutter uses as the basis for this calculation is already net of program operating costs. He said, Mr. Rutter's analysis double counts program operating costs and significantly inflates his claim that IPL will receive 99.93% of the net benefits and ratepayers receive virtually zero. Pet. Ex. 1SR at 8.

5. Cost Recovery. Mr. Miller explained the UCT test as defined by the California Standard Practice Manual. Mr. Miller explained that Mr. Rutter's continued reference to use of the "UCT" test is inappropriate. Mr. Miller stated that Mr. Rutter is not applying the standard form of the UCT. Mr. Miller said Mr. Rutter has altered the test by including legacy lost revenue and, despite his testimony to the contrary, he has double counted program costs in his application of the proposed cap. Mr. Miller stated that the RIM test is the only standard cost-effectiveness test that includes lost revenue in the analysis, and even this test does not include legacy lost revenue as Mr. Rutter proposes in testimony. Mr. Miller explained that by including the program operating costs in the analysis, Mr. Rutter is double counting the program operating costs because these costs are already subtracted from the supply side avoided costs to calculate the UCT NPV. Mr. Miller explained that Mr. Rutter's cost recovery cap, based on his modified version of the UCT, if adopted, would dis-incentivize utility sponsored DSM and make building a supply-side asset to meet electricity requirements the more appealing option. Mr. Miller explained that legacy lost revenue does not result from the proposed 2018-2020 DSM Plan, it is associated with the successful implementation of DSM plans previously approved by the Commission. He said IPL presented the legacy lost revenue for transparency. He added that

the inclusion of legacy lost revenue in Mr. Rutter's analysis is also unreasonable because he does not include all of the legacy benefits associated with those legacy lost revenue. Pet. Ex. 3SR at 7-8.

Mr. Miller and Mr. Allen explained that the OUCC's proposal to cap DSM program cost recovery at 50% of the OUCC's modified UCT test would disallow recovery of substantial program operating costs and provide zero recovery of lost revenues and financial incentives. Mr. Miller explained why he disagreed with Mr. Rutter's analysis and recommendation. While he disagreed with Mr. Rutter's proposal, Mr. Miller showed that when Mr. Rutter's methodology is corrected and lost revenue and financial incentives are compared to the UCT NPV, the DSM Plan as modified by the Settlement Agreement passes Mr. Rutter's proposed test. Mr. Miller added that his comparison is a conservative look at the sharing because it includes all the benefits of the proposed demand-side programs, but not all of the lost revenue through the life of the measures. Rather, he said his analysis reflects the concessions reflected in the Settlement Agreement, meaning that the calculation above includes only the lost revenue associated with the four-year cap that IPL has agreed to in the Settlement Agreement. Pet. Ex. 1SR at 31, 36; 3SR at 13-14.

Mr. Allen stated that DSM operating costs and lost revenues are well suited to a tracker because these costs are variable, material, and are dependent on market conditions. He stated that because the financial incentive is dependent on energy savings being cost-effective, the rate adjustment mechanism does not dis-incent the Company from managing the operating costs of the programs. Pet. Ex. 1SR at 34.

6. Reasonable Lost Revenues. Mr. Allen disagreed with Mr. Rutter's suggestion that the Settlement Agreement provides additional earnings from lost revenues. Mr. Allen stated that the cap on lost revenue recovery agreed to in the Settlement Agreement reduces the estimated lifetime lost revenue recovery by approximately $40 million as compared to the amount requested in IPL's Direct Testimony. Mr. Allen testified that lost revenues reflect certain costs that the Commission has approved for recovery through rates but is "lost" due to IPL's implementation of the DSM programs. He stated that if IPL did not implement the DSM Programs, this Commission approved cost recovery would not be "lost." Thus, he said, the Settlement Agreement merely recognizes the foregone cost recovery and does not provide IPL with the opportunity for something "additional" in terms of lost revenues. Pet. Ex. 1SR at 25-27.

Mr. Allen discussed the treatment of IPL's fixed costs in the Company's last base rate case (Cause No. 44576) and clarified that IPL is not seeking recovery of lost revenue that extends beyond that permitted under Section 10. Mr. Allen discussed lost revenue recovery and disagreed with Mr. Rutter's suggestion that such cost recovery somehow runs afoul of the concept of just and reasonable rates. Mr. Allen testified that rates must necessarily recognize the cost of providing service and just and reasonable rates are exactly what lost revenue recovery provides. He said lost revenues represent fixed costs that were found to be just and reasonable in prior rate cases that becomes unrecoverable through the Company's Commission-approved basic rates due to the success of IPL's DSM programs. Pet. Ex. 1SR at 25-27.

Mr. Allen stated that if the Commission approves a supply-side investment in a new generating unit, the return of and on that investment through rates does not cause the Company

to lose ratemaking recognition of other fixed costs of service, which includes return on investments made. He said lost revenues are not equivalent to a "return on" the new investment. Rather, he said lost revenues reflect ratemaking recognition of "other" fixed cost of service. He said, that is why, all three components of cost recovery (program operating costs, lost revenues and financial incentives) are necessary for utility offered DSM programs. Pet. Ex. 1SR at 30-31.

Mr. Allen testified that there are no costs, other than foregone fixed costs, in the IPL proposal for lost revenue recovery. He added that the Company's retail sales in the 12-month period ending June, 2017 are 1.5% lower than the test year level of sales used to establish rates in Cause No. 44576. He said future sales are expected to remain flat, to a great extent reflecting how successful IPL's DSM programs have been and are expected to be in the future. Pet. Ex. 1SR at 33.

Mr. Allen testified that Mr. Rutter's calculation of IPL's legacy lost revenues as a function of IPL's Net Operating Income ("NOI") is incorrect, misleading and should be ignored. He said, the recovery of lost revenues cannot be equated to a top line revenue stream which is reduced by fixed and variable operating expenses to get to a bottom line "profit" or "NOI" as Mr. Rutter suggests. He said utility lost revenues (as it is defined in Section 10) reflect only the recovery of fixed costs (which does include some dollars which contribute to IPL's NOI). He said the entire lost revenue amount requested is necessary to recover fixed costs which allow IPL to attempt to get back to IPL's Commission-approved revenue requirement. Pet. Ex. 1SR at 35-36.

7. Financial Incentive. Mr. Allen disagreed with Mr. Rutter's contention that any decrease in reduced incentive percentages is offset against the increased incentives from additional savings. Mr. Allen stated that IPL is agreeing to do significantly more energy efficiency that will be more difficult to achieve. He added that if IPL achieves the goals as modified by the Settlement Agreement, IPL has agreed to receive a reduced share of the savings benefits. He said, the estimated financial incentive under the Settlement Agreement is almost $6 million less, to the benefit of the customer, than the originally proposed financial incentive. He said conversely, under the Settlement Agreement, the UCT net benefits increased by approximately $31 million and cost per kWh over the life of the savings improves from $0.018/kWh to $0.017/kWh. In summary, he said the Settlement Agreement provides the customers with significantly more benefits and IPL with a lower financial incentive opportunity than originally filed. Pet. Ex. 1SR at 14.

Mr. Allen stated that if the Settlement Agreement is approved, IPL will be charged with spending approximately $88 million in program operating costs over the three-year plan period, resulting in approximately $237 million in energy savings benefits. He said, the risk free rate of return, Mr. Rutter advocates, is the rate a consumer pays to simply have his or her money safeguarded for a given period of time. He said, it is not the rate one would expect to receive to encourage actions that would lead to achievement of 169% return on an investment. He said, Mr. Rutter's contention that a financial incentive should be tied to the U.S. Treasury Bond is punitive and unreasonable. Pet. Ex. 1SR at 5.

Mr. Allen disagreed with Mr. Rutter's contention that implementation of DSM programs is without risk. Mr. Allen stated that the programs do not run themselves. He said, if IPL acts

imprudently in the implementation of the DSM programs, cost recovery will be challenged. He added that there is a financial risk involved as the proposed shared savings depends on the DSM programs being delivered cost-effectively. He said higher program costs or lower program savings will reduce the financial incentive. He said there is also an evaluation risk – IPL only recovers the lost revenues associated with the net energy sales lost. He stated that all DSM programs are subject to an independent third party evaluation which will determine factors such as free-ridership and the in service rate of measures. He stated that to the extent that these evaluate at an amount less than forecast by IPL, lost revenues and shared savings will be less than expected. Pet. Ex. 1SR at 31-32.

Mr. Allen stated that placing the UCT cap proposal aside, Mr. Rutter's proposal that the 30-Day Treasury Bill rate be used as the financial incentive, would result in customers retaining 99.25% of the benefits and IPL would effectively receive only 0.75% of the benefits as a financial incentive. Mr. Allen said this is not reasonable. Pet. Ex. 1SR at 37.

Mr. Allen explained that Section 10 provides for a "reasonable financial incentive." He said, a financial incentive is a monetary benefit offered to encourage behavior or actions that the person or company would not normally do. He said, Mr. Rutter's recommendation is not consistent with the meaning of the words "financial incentive." Mr. Allen explained that normally, a company that sells a service would not work proactively to encourage customers not to use the company's service. He said that here, public policy, as enacted by our legislature, requires IPL (and other utilities) to acquire energy efficiency for customers. He said, the utilities are required to proactively influence customers not to use the utility's retail electric service. He said, the extent of the energy efficiency to be purchased for customers is determined by the IRP and other factors listed in the definition of "energy efficiency goals" in Section 10(c). Pet. Ex. 1SR at 39-40.

Mr. Allen indicated that under the Settlement Agreement customers would pay rates that reflect approximately $88 million in present valued program operating costs to be incurred by IPL to acquire approximately $237 million in energy savings benefits. Mr. Allen explained that the return to customers of $237 million of benefits is not risk free. He said, the risk free rate of return is the rate a consumer pays to simply have his or her money safeguarded. Under the Settlement Agreement, IPL will be charged with acquiring a net 169% increase in the customer investment. He said, the risk free rate of return is not a reasonable financial incentive for this effort. Pet. Ex. 1SR at 40-41.

Mr. Allen explained that using the rate cited in Mr. Rutter's direct testimony, IPL would realize a 1.23% return on invested program operating costs. Mr. Allen stated that this would equate to a $1,128,559 financial incentive over the three-year plan. He said, this would mean that IPL's share of the three-year plan UCT net benefits of $149,795,759 would be 0.75%. and therefore, the customer would receive 99.25% of the benefits. Mr. Allen stated that in other situations, such as off system sales, where the Commission has desired to encourage a utility to act, the Commission has authorized a 50/50 sharing of margins (above or below the amount embedded in basic rates). He noted that this structure recognizes that many factors beyond the utility's control impact the utility's ability to make OSS. He said, this is also the case with respect to EE. He said there are many factors beyond IPL's control when it comes to EE. He stated that while IPL has and will continue to make a concerted effort to reasonably implement

and manage the programs, IPL's implementation of the DSM Plan will be challenged by changing market conditions, baseline savings erosion and consumer decision-making. In addition, customers have to have funds available to invest in energy efficient equipment. He added there is also evaluation risk. Pet. Ex. 1SR at 41.

Mr. Allen disagreed that the financial incentives should be calculated at the program level and only for programs achieving 100% of the estimated savings contained within the plan. He explained that requiring that financial incentives be awarded at the program level rather than the portfolio level would be counter-productive. It would dissuade the goal of achieving the overall EE goals by encouraging IPL to continue to pursue programs that are not performing well. He said, it could cause the utility to continue to pursue less cost-effective programs, and that this constraint would also have the unintended consequence of discouraging the pursuit of new programs or ideas and thus limiting program innovation. He explained that if certain programs are underperforming due to less than expected customer adoption or less than expected savings levels, IPL needs the flexibility, with the approval of the IPL Oversight Board, to move funds and shift efforts to programs that are performing well. He said, the movement of dollars from one program to another program provides the opportunity to maximize the economic benefit for all parties. He stated, the utility should have the flexibility to determine goal achievement at the portfolio level rather than the individual program level. He stated that IPL and the IPL OSB have employed this approach successfully for many years and it would be appropriate to continue this construct. Pet. Ex. 1SR at 43-44.

Mr. Allen concluded that allowing utilities to earn financial incentives based on a shared savings approach, while also allowing for some level of incentive at levels below 100% goal achievement, aligns the utility interest with the customer interest. *Id.* at 44.

8. <u>Discussion and Commission Findings</u>. The Settling Parties request the Commission approve the Settlement Agreement. As described by Mr. Allen, the Settlement Agreement provides a path to achieve cost-effective energy savings, caps lost revenue recovery and revises IPL's requested financial incentive to follow the tiered structure adopted by the Commission in Cause No. 44645. The Settlement Agreement provides that CAC will become a voting member of the IPL DSM OSB. The Settlement Agreement also provides clarity regarding the modeling of DSM/EE in IPL's next IRP. The negotiated settlement package significantly reduces the cost recovery provided in IPL's original filing and increases customer benefits. As stated by Mr. Olson, the Settlement Agreement provides a pathway for increased investment in energy efficiency.

Commission policy favors settlement. Settlements help advance matters with far greater speed and certainty and far less drain on public and private resources than litigation or other adversarial proceedings. That said, settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.,* 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Any Commission decision, ruling or order – including approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Ind., Inc. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of the governing statute and that such agreement serves the public interest. While our decision is based on the record as a whole, the foregoing summary of the evidence facilitates our consideration of the Settlement Agreement.

We apply a reasonable least-cost standard for issuances of certificates of public convenience and necessity under Ind. ch. 8-1-8.5. Both the DSM and IRP Rules were adopted to assist the Commission in implementing Ind. Code ch. 8-1-8.5. The IRP Rules require utilities to consider both supply- and demand-side resources to meet their long-term resource needs in a least-cost manner. The consideration of a utility's resource needs is performed through a long-range planning analysis, *i.e.,* the IRP. The Commission's rules at 170 IAC 4-8 ("DSM Rules") provide guidelines for the Commission to identify and address any bias against DSM. The DSM Rules address cost recovery related to all DSM activities, including the subset of EE improvements.[1] Consequently, the Commission has historically considered and approved utility DSM programs and associated cost recovery under Ind. Code ch. 8-1-8.5 and its DSM Rules. *See e.g.*, *Southern Ind. Gas & Elec. Co.*, Cause No. 44645 (IURC 3/23/2016) at 15; *Indianapolis Power & Light*, Cause No. 43623, Phase I Order (IURC 2/10/2010) at 55; and *Indiana Michigan Power Co.*, Cause No. 44486 (IURC 12/3/2014) at 11.

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

> Beginning not later than calendar year 2017, and not less than one (1) time every three (3) years, an electricity supplier shall petition the commission for approval of a plan that includes:
>
> (1) energy efficiency goals;
> (2) energy efficiency programs to achieve the energy efficiency goals;
> (3) program budgets and program costs; and
> (4) evaluation, measurement, and verification procedures that must include independent evaluation, measurement, and verification.

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

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

(1) Projected changes in customer consumption of electricity resulting from the implementation of the plan.

(2) A cost and benefit analysis of the plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan.

(3) Whether the plan is consistent with the following:

(A) The state energy analysis developed by the commission under section 3 of this chapter.

(B) The electricity supplier's most recent long range integrated resource plan submitted to the commission.

(4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the energy efficiency programs included in the plan, including the alignment of the procedures with applicable environmental regulations, including federal regulations concerning credits for emission reductions.

(5) Any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of an energy efficiency program or from the overall design of a plan.

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

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

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

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

(10) Any other information the commission considers necessary.

After making its determination of overall reasonableness, Sections 10(k), (l), and (m) establish three possible actions the Commission may take concerning the proposed plan. Consequently, beginning not later than calendar year 2017, electricity suppliers statutorily are required to submit an EE plan to the Commission for approval.

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

A. Presentation of a Plan. The evidence is uncontroverted that IPL is an electricity supplier as defined by Section 10(a) and that it has made a submission under Section 10(h) seeking approval of a proposed plan as modified by the Settlement Agreement. That submission was made in calendar year 2017. 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 Section 10(h), *i.e.*, goals, programs to achieve goals, budgets and program costs, and independent EM&V. The OUCC did not contend otherwise. The reasonableness of a plan submitted under Section 10(h) must be addressed by the Commission in accordance with Section 10(j). Accordingly, we analyze the issues raised in determining the reasonableness of the DSM Plan under Section 10(j) below. We begin by addressing the four elements of the Settling Parties' agreed 2018-2020 DSM Plan as follows:

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

> All energy efficiency produced by cost-effective plans that are:
> (1) reasonably achievable;
> (2) consistent with an electricity supplier's integrated resource plan; and
> (3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

The OUCC did not contest the energy savings goals reflected in IPL's original plan. The OUCC claimed the energy savings goals in the Settlement Agreement are not consistent with the IRP. The Settlement Agreement added approximately 30,000 MWh (gross) per year to the DSM Plan goals reflected in IPL's initial Plan. This increased the energy savings to a level that is between the "realistic achievable" and "maximum achievable" levels reflected in the 2016 MPS. Pet. Ex. 3SR at 21-22. IPL's witnesses testified that the increased goals, while more challenging, are reasonably achievable.

Overall, the energy savings goals in IPL's initial Plan were slightly greater than the 2016 IRP modeling (~ 26 GWhs), which Mr. Miller testified is consistent with the IRP base case modeling. Pet. Ex. 3 at 13. This comparison includes the Peer Comparison program, but the IRP modeling did not select the Peer Comparison program for the 2018-2020 period.

Mr. Allen explained that the energy efficiency savings selected by the 2016 IRP modeling were provided to the bidders in the DSM RFP. However, the responses to the RFP by the selected bidders contained savings levels that were approximately 30 GWh per year less than the amounts identified by the IRP. In its initial filing, IPL added the Peer Comparison program to the amounts provided in the selected bids to bring the original energy savings goal to a level consistent with the energy savings selected by the IRP modeling. While the IRP modeling did not select the Peer Comparison program for the DSM Plan years, the IRP modeling did select this program beginning in 2021. As explained by Mr. Allen and stated in IPL's IRP, it would not be optimal to stop this established and cost-effective demand-side resource when the IRP indicates it should continue to be deployed in 2021. IPL considered the inclusion of Peer Comparison in the initial filing to be a reasonable means of achieving the amount of energy savings identified by the IRP modeling.

After discussions and additional vendor input, the Settling Parties agreed to a DSM Plan that reflects the IRP base modeling and continues the Peer Comparison program, which Mr. Allen noted is relatively inexpensive with ~30,000 MWh of annual energy savings achieved at a direct cost of approximately $0.04 per kWh. This revision to the EE goals reflects the EE bundles selected by the 2016 IRP modeling and avoids a temporary stop and restart of the Peer Comparison program. *See* Pet. Ex. 3SR at 19 (quoting IRP discussion of Peer Comparison program continuation). The agreed revision to the DSM Plan reduces the 2018-2020 average first year program operating cost per kWh from $0.208 to $0.197 and improves the cost-effectiveness of the program portfolio. Pet. Ex. 1S at 15; Pet. Ex. 3S at 2-4.

In order to accurately compare the energy savings goals agreed to by the Settling Parties to the 2016 modeling results, Mr. Miller removed the Peer Comparison program from the analysis because this program was not selected by the IRP modeling for 2018-2020. His analysis showed the energy savings goals are 2% greater than the MWHs selected in the 2016 IRP base case modeling for the three-year period. The record reflects that when compared to the IRP Preferred Resource Portfolio, the Settlement Agreement energy savings goals before Peer Comparison, net, would be within 0.06% of the IRP. Pet. Ex. 5 (IPL Response to IURC Docket Entry dated October 18, 2017) at 4. Thus, we find the agreed EE savings goals are consistent with the IRP modeling.

We further find the inclusion of the Peer Comparison program in the agreed Plan and goals is also consistent with the overall IRP. The record reflects that as a percent of IPL forecasted sales the agreed DSM Plan goals, including Peer Comparison, are consistent with the level of savings selected in the IRP. Pet. Ex. 3SR at 19. As Mr. Allen explained, the Peer Comparison Report program is bundled with the IPL PowerView on-line tool that provides all residential customers with near real time information on their energy usage as well as suggestions on how to manage their energy consumption. Retention of the PowerView portal is essential to providing customers with a well-rounded portfolio of DSM programs that allows for participation by all customers. The Peer Comparison program has consistently evaluated well, provides significant cost effective energy savings and identifies opportunities for customers to participate in other EE programs. Pet. Ex. 1-S at 11; *see* also Pet. Ex. 3-SR at 19 (quoting IRP discussion of the continuation of this Plan even though it was not selected by the model until 2021).

CAC and its other organizational partners submitted extensive comments on IPL's 2016 IRP and was a major stakeholder in IPL's 2016 IRP process. CAC noted in its testimony that it feels the agreed upon increase in energy efficiency brings IPL closer to an optimal balance of energy resources than what was pre-filed by IPL. CAC Ex. 1-S at 5. We agree that the Settlement Agreement is a reasonable resolution of the parties differing views of this issue and note that the Settlement improved the cost-effectiveness of the overall plan.

An integrated resource evaluation is undertaken to determine the optimal means to meet the future need for electricity. *See* Ind. Code ch. 8-1-8.5. The Commission previously has defined "least-cost planning" as a "planning approach which will find the set of options most likely to provide utility services at the lowest cost once appropriate service and reliability levels are determined." *PSI Energy, Inc*., Cause No. 42145, at 4 (IURC 12/19/2002) (quoting *S. Ind. Gas & EIec. Co*., Cause No. 38738, at 5 (IURC 10/25/1989)). While DSM can delay or avoid the

need to expand generation facilities, the deployment of any resource must still be assessed in light of the need for resources. The goal of an IRP is to present potential resource portfolios that may evolve, accounting for risks under multiple scenarios. Pet. Ex. 3SR at 15. The IRP resource portfolios are not intended to be prescriptive; rather they reflect the mix of resources likely to be used. While the EE goals in the Settlement Agreement are more aggressive than IPL's original proposal, as discussed above, we find the negotiated energy savings goals 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 find that IPL's revised energy efficiency goal meets the requirements that it is reasonably achievable, designed to achieve an optimal balance of energy resources and is consistent with IPL's 2016 IRP. We further find that the OUCC has not demonstrated otherwise.

2. EE Programs. As noted in the summary of IPL's case-in-chief above, IPL's 2018-2020 DSM Plan as modified by the Settlement Agreement contains both residential and business programs designed to achieve the specified energy efficiency goals. The OUCC's case-in-chief testimony raised no specific concerns with the proposed portfolio of programs. Mr. Rutter confirmed that while the OUCC is challenging various elements of the Settlement Agreement, the OUCC does not object to any of the proposed programs. Pub. Ex. 1S at 2. We find the DSM Plan, as modified by the Settlement Agreement, includes EE programs designed to achieve the EE goals.

The DSM Plan is not limited to EE programs. IPL proposes to continue its residential and business demand response programs. Pet. Ex. 1 at 17. Mr. Allen explained that both the Residential and the Business demand response programs provide significant ongoing benefits to IPL and its customers. He said these two voluntary programs, with approximately 47,000 participants, round out the DSM portfolio providing a hedge against high capacity and energy market prices. He stated that with such a large number of participants it would not be practical to stop and then start this program at a later time. He explained that it is good practice to continue to provide funds for the ongoing maintenance of the program which IPL included in the 2016 IRP. Mr. Allen also stated that these programs are included as a tool for potential emergency load reduction. Pet. Ex. 1 at 17. As discussed by IPL Witness Elliot, IPL continues to evaluate ways to improve the demand response programs, including the introduction of two-way communicating ACLM switches and a program to introduce smart thermostats. *Id.*; Pet. Ex. 2 at 20; Attachment ZE1 at 15.

The inclusion of demand savings in the DSM Plan is consistent with IPL's IRP and the Commission's DSM regulatory framework. Pet. Ex. 1 at 16-17. The Commission has authority under Ind. Code ch. 8-1-8.5 and the DSM Rule to consider and approve these DSM programs and associated cost recovery. *See also*, Ind. Code §§ 8-1-2-10, 12 and 42. This was not changed by Section 10. We find 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.

3. Program Budgets and Costs. The DSM Plan as modified by the Settlement Agreement identifies the annual budget associated with the DSM Plan program operating costs.

Table 5
DSM Plan Program Operating Budget ($ x 1,000)

	As Filed	Settlement Additions	Adjusted Total
2018	$26,285	$4,114	$30,399
2019	$26,279	$4,186	$30,465
2020	$25,672	$5,216	$30,888
Total	$78,236	$13,516	$91,752

Mr. Elliot explained that the Settlement Agreement does not increase indirect program costs. He explained that direct program costs are projected at $86,787,737 over the three-year period, which is an increase in direct costs of approximately $13.5 million compared to IPL's case-in-chief. Pet. Ex. 2S at 3. He said this amount reflects the dollars necessary to achieve the incremental energy savings agreed to in the Settlement Agreement. *Id.* As discussed by IPL Witness Allen, the Settlement Agreement has the effect of reducing the overall first-year cost per kWh from $0.208 to $0.197 respectively. Pet. Ex. 1S at 15. As discussed by Witness Elliot, the DSM Plan as modified by the Settlement Agreement is designed to deliver significant additional cost-effective savings at a minimal relative cost. Although the direct program operating costs increased by approximately $13.5 million, the shared savings and lost revenues decreased as a result of the Settlement Agreement, resulting in greater services for customers for approximately $12.9 million. Pet. Ex. 2S (Table ZE-4S (2)). In other words, IPL is projecting to achieve a 24% increase in gross savings while only increasing program costs by 10% over the three-year period. Pet. Ex. 2S at 5.

a. Spending Flexibility and Carryover. IPL's original DSM Plan requested the Commission authorize the same spending flexibility currently in place. This includes the ability to spend up to and including an additional 10% of Direct Program Costs included in the planned budget. In addition, consistent with current practice, IPL requested authority to carryover any unspent funds from a plan year to subsequent plan years, which will also support plan flexibility. Under spending flexibility, IPL's OSB has the opportunity to either increase the scale of programs or identify new programs to produce EE savings if appropriate. Mr. Allen explained that the IPL OSB has previously exercised its Commission-approved spending flexibility to achieve cost-effective energy savings beyond the stated plan year goal. Pet. Ex. 1S, at 16. More specifically, he stated that based on input from the program implementation vendor, the IPL OSB used spending flexibility to achieve additional cost-effective energy savings of approximately 55,000 MWhs (gross) in the three-year period of 2015-2017.

The Settlement Agreement provides 10% spending flexibility to be applied to the agreed program operating cost budgets and includes any funds that remain unspent from 2017 be carried over to subsequent plan years. Mr. Olson and Mr. Allen 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." CAC 1-S, at 7. The 50,000 MWh is an estimate of what might be achieved if the spending flexibility and carryover based on the Settlement Agreement were fully utilized. Pet. Ex. 1S at 17. Mr. Olson stated that the OSB has always had the opportunity to use spending flexibility to increase energy efficiency investment and procurement. He said, here, the Settlement Agreement provides a projection of savings and creates the process by which IPL can achieve these additional savings through a collaborative process with the OSB and IPL's vendors. CAC 1-S, at 7.

While the OUCC did not oppose the spending flexibility and carryover provisions of IPL's original plan, the OUCC objected to these provisions in the Settlement Agreement. Mr. Rutter stated that annual budgets should not be constructed with an eye towards the possibility that unspent funds will be available for future, as-yet-undetermined costs or programs, and certainly not in an entirely different Plan. He stated that the Settlement Agreement commits the spending flexibility funds to an additional 50,000 MWh, thus hampering the OSB's ability to react to programs that perform exceptionally or encounter significant cost increases, potentially increasing the risk that original programs in the latter group will not meet their savings goals. Mr. Rutter stated that 10% flexible spending amounts should never be rolled over from year to year.

We find the OUCC opposition to the flexible spending and carryover provisions of the Settlement Agreement perplexing. The 50,000 MWh is an estimate of what might be achieved if $10.5 million was spent through the exercise of spending flexibility.[2] Mr. Allen explained that it is not the intention of the Settlement Agreement to construct annual budgets with an eye towards the possibility of unspent funds. He added that this is not consistent with how IPL projects costs necessary to achieve its energy efficiency goals. He said, unspent carryover dollars typically arise for two reasons: (1) a program savings goal was not met, or (2) a program savings goal was met more cost effectively than projected. He said, in either case, it is important to have the flexibility to carry forward unspent funds to pursue additional cost-effective energy efficiency savings.

The Commission has recognized that the OSB should generally have the flexibility to increase the budget and permit the carry-over of funds from a previous year to a subsequent year. *See Indianapolis Power & Light Co.*, Cause No. 44328 (IURC 11/25/2013) at 26; *Indianapolis Power & Light Co.*, Cause No. 43623 DSM 9 (IURC 6/11/2014) at 4; *Indianapolis Power & Light Co.*, Cause No. 44497 (IURC 12/17/2014) at 18; *Indianapolis Power & Light Co.*, Cause No. 44792 (IURC 12/28/2016) at 23. In the order in Cause No. 44328, the Commission granted IPL the authority to rollover any unspent funds from the budget approved in the 43960 Order (from 2012/2013 programs). (44328 Order, p. 26). In the 44497 Order, the Commission granted IPL "the ability to carry-over any unused amount from the 2015 program year to the 2016 program year." (44497 Order, p. 22). *See* Pet. Ex. 1SR, at 11. Finally, in the 44792 Order, the

[2] Mr. Allen explained that the 50,000 MWh was imputed assuming market conditions warrant use of the spending flexibility estimated at $10.5 million. This amount is also an estimate and reflects the as filed cost per kWh as a proxy to determine the additional savings potential. Pet. Ex. 1S at 17; also Allen Settlement Workpaper (Carryover and Flex Spend tab). The actual amount will be whatever funds remain unspent from 2017 plus 10% of the direct program operating costs included in the Settlement Agreement program budgets.

Commission approved the carryover and use in 2017 of any unused 2015/2016 program funds (44792 Order, p. 23). *Id.*

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 the carryover or other aspects of the spending flexibility authority to pursue cost-effective energy savings (as verified by the DSMore energy efficiency modeling tool) must be agreed to by all OSB members, including the OUCC. The OUCC is a voting member of the OSB and will have every opportunity to participate in the OSB discussions and decisions. The Settlement Agreement calls for the OUCC's involvement as an OSB member in the creation of a governance document to govern this and other processes. 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 OUCC opposition to the spending flexibility and carryover provisions of the Settlement Agreement does not justify the rejection of the Settlement Agreement.

b. 2020 Refresh. Mr. Rutter also raised a concern about the Settling Parties' agreement to refresh the MPS for 2020 and potentially seek Commission approval of a budget revision for 2020 if all OSB members agree to do so. The MPS is a planning tool and it was necessarily and reasonably used by IPL in the 2016 IRP. We recognize however that the MPS is not a perfect crystal ball that identifies the precise level of savings that will be available in a utility's market during the future period assessed by the MPS. Rather, it is a theoretical analysis that uses the best available regional and historical data to estimate the potential for DSM. The MPS that was used for the IRP is now nearly two years old. Thus, the Settlement Agreement provides that IPL will have its MPS consultant take another look at 2020. If additional potential is identified, IPL will consult with its implementation vendor to ensure the additional cost-effectives savings are achievable and gain unanimous OSB approval before filing budget revisions with the Commission for approval.

We find this is a reasonable means of resolving the concerns identified by CAC. We further find Mr. Olson's testimony regarding the use of contingency funds when it comes to projects related to supply-side resources convincing. CAC Ex. 1-S-R at 6-7. There is little difference between allowing the utilities an additional 10% in spending flexibility on the revised budgets in the Settlement Agreement and the carryover of unspent funds to future years with respect to DSM programs and plans, and allowing the utilities to have contingency funds when it comes to compliance with projects at power plants or major capital projects like a 7 year TDSIC plan.

Therefore, we further find that the concerns raised by the OUCC do not warrant the rejection of the Settlement Agreement. Accordingly, we find and conclude that the proposed DSM Plan as modified by the Settlement Agreement includes program budgets and costs.

4. Independent EM&V. The 2018-2020 DSM Plan agreed to by the Settling Parties includes EM&V with a process for independent evaluation of programs. Pet. Ex. 3 at 16-17; Pet. Ex. 1S at 21. 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 the IPL evaluation plans are

designed to meet or exceed the evaluation elements required by 170 IAC 4-8-4. He said the IPL Evaluation Framework also serves as the "plan to assess implementation and quantify the impact on energy and demand of each energy efficiency program and demand response program" as required by the draft 170 IAC 4-8-4 (Evaluation, Measurement and Verification Plan). Mr. Miller stated that IPL intends to issue an RFP for EM&V of the 2018-2020 programs described in this filing in the third or fourth quarter of 2017. He said IPL will keep the IPL DSM OSB informed and provide the OSB an opportunity for input throughout the RFP process. Pet. Ex. 3 at 16.

Mr. Miller explained that EM&V on utility DSM/EE programs typically is performed at levels specified by the utility based on current, known requirements. He said EM&V standards and protocol regarding federal regulations for emission credit reductions are not known at this time. He stated that 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. Pet. Ex. 3 at 17.

Mr. Miller testified that IPL will consider the results of EM&V in determining lost revenues and shared savings. He explained that prior EM&V work performed on IPL programs and the IN TRM, as informed by EM&V, drive the measure level lost revenue and shared savings forecast reflected in this filing. He said IPL will true-up lost revenues and shared savings based on the most current EM&V when the final annual EM&V report for each Program Year is filed with the Commission. He stated that as also discussed by IPL Witness Aliff, this true-up occurs in a semi-annual filing that is made for Rider 22 following the conclusion of the annual EM&V. *Id.*

The OUCC witnesses raised no concerns about EM&V in their case-in-chief testimony or their testimony in opposition to the Settlement Agreement.

IPL also proposes to continue its submission of quarterly scorecard reports consistent with the order in Cause No. 43623 DSM 13. IPL also proposes to continue to submit a final EM&V report on or before July 1 of each year that summarizes the prior year DSM efforts and evaluated results. No party took exception to IPL's proposal and it is approved.

Based on the evidence presented, we find that the proposed EM&V procedures to independently verify the results of the DSM programs and the estimated EM&V costs are reasonable. Accordingly, we find that the EM&V for the three-year DSM Plan provided by the Settlement Agreement is reasonable and compliant with Section 10.

B. <u>Reasonableness of the Plan.</u> Section 10(j) identifies ten factors the Commission must consider in determining whether a plan submitted under Section 10(h) is reasonable. Although the DSM Plan as modified by the Settlement Agreement includes both EE and DR programs, the factors enumerated in Section 10 are similar to the factors that the Commission has historically considered in determining whether to approve DSM programs and associated cost recovery under its DSM Rules. Accordingly, we consider both types of programs in addressed the IPL 2018-2020 DSM Plan, as modified by the Settlement Agreement, under the following factors:

1. Projected Changes in Customer Consumption (Section 10 (j)(1)). Mr. Allen identified the annual projected energy and demand savings resulting from the implementation of the DSM Plan as modified by the Settlement Agreement, which are reflected in the table below.

Table 4
DSM Plan Energy Savings Goals

Program Year	Program Gross Energy Savings (MWh)
2018	163,849
2019	164,246
2020	137,696
Total	465,791

Pet. Ex. 1S, at 14. The energy savings goals as modified by the Settlement Agreement are expected to result in average annual gross energy savings of 155,000 MWh or a total of 465,791 gross MWh savings for the three-year period. Jt. Ex. 1 (Settlement Agreement) at 3, Table 4. In addition, the DSM Plan is anticipated to achieve approximately 70 MW in demand savings. Pet. Ex. 1 at 4, 13-14.

We find these projections indicate how customer consumption is expected to change in 2018-2020 as a result of the Company'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 from the Plan goals averages approximately a 1.14% reduction from the current level of IPL energy 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 take into account customers that have opted out, these gross energy savings represent about 1.45% of the remaining (non-opted out) sales. Accordingly, we find it is a reasonable to expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs.

2. Cost-Benefit Analysis (Section 10(j)(2)). This Commission, as well as other state utility commissions, has traditionally required the use of the UCT, TRC, RIM and PCT tests in evaluating the cost-effectiveness of DSM programs. In fact, the Commission's IRP rule at 170 IAC 4-7-7 requires the use of at least one of these four tests, or any other test the Commission may find to be reasonable, when evaluating DSM resource options. Each of these tests is designed to compare various costs and benefits from a different perspective. The TRC test helps determine whether EE is cost-effective overall, whereas the PCT, UCT, and RIM help to determine whether the program design and efficiency measures provided by the program are balanced from the perspective of the participant, utility, and non-participants, respectively. The purpose of applying several different tests is to provide a more comprehensive analysis of the cost-effectiveness than that which can be accomplished with just one of the tests. Hence, consideration of multiple cost-effectiveness tests allows us to better evaluate the reasonableness of individual programs and the overall DSM portfolio as a whole.

IPL evaluated the cost-effectiveness of its proposed portfolio and DSM programs using these standard tests. Pet. Ex. 3S at 2-4; Pet. Ex. 3 at 3-9; Pet. Ex. 3SR at 2. Although the Income Qualified Weatherization program failed each of the standard tests, Ind. Code § 8-1-8.5-10(h)

authorizes the inclusion of such a program whether or not the program is cost-effective. Pet. Ex. 3S at 3. 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. Pet. Ex. 3S at 2; Pet. Ex. 3SR at 2-3. More specifically, Mr. Miller shows that as a result of the Settlement Agreement, the portfolio-level B/C scores improved for the UCT, TRC and PCT when compared to the original plan. The RIM remained relatively unchanged. He stated that as compared to the original plan as filed, the total Portfolio TRC score increased (*i.e.*, improved) from 2.24 to 2.38. Pet. Ex. 3S at 2.

Mr. Rutter argued that IPL's cost and benefit analysis is inconsistent with Indiana law because it includes the direct and indirect cost components IPL will incur, but does not recognize the cost components that the ratepayer is being required to pay such as lost revenues and financial incentives. Pub. Ex. 1 at 2-3. We note that Section 10(j)(2) does not use the term "program costs" with respect to the required cost and benefit analysis of the plan. Furthermore, Mr. Miller explained that the types of costs included in the cost and benefit analysis are well established and defined in the California Standard Practice Manual ("CSPM") which is relied on throughout the country, including Indiana. Pet. Ex. 3 SR at 2-3. In fact, Mr. Rutter acknowledged that the CSPM is the standard adopted by Indiana utilities, the Commission and various stakeholders. Pub. Ex. 1 at 14.

In the March 23, 2016 Order in Cause No. 44645 (a Section 10 DSM Case involving Vectren) (p. 21-22), the Commission rejected the OUCC position on this issue as follows:

> Although we agree with the OUCC that Section 10(g) defines program costs to include lost revenues and performance incentives, we disagree that Section 10(j)(2) requires a cost-benefit analysis to simply consist of a comparison between the quantifiable monetary benefits of a program and its program costs as defined in Section 10(g). First, the plain language simply requires a cost and benefit analysis of the plan. It does not require a comparison of the program costs as defined in Section 10(g) with any specific benefit. Second, such an interpretation would lead to unintended and ***absurd results.*** As Vectren South pointed out, the exclusive use of the RIM test would essentially end the offering of EE programs in Indiana because very few programs pass this test. And, even if Vectren South elected not to seek recovery of lost revenues or incentives so that the EE programs pass the RIM test, which the OUCC appears to be advocating, such action appears to be contradictory to Section 10(o), which mandates that the Commission allow reasonable lost revenues and incentives when it determines a plan is reasonable.

(emphasis added). Pet. Ex. 3SR at 4. OUCC Witness Rutter did not mention that the Commission has previously rejected his argument or identify any reason why the Commission should reach a different decision in the instant case. Substantial evidence demonstrates that the Commission reasoning quoted above remains reasonable, and is consistent with the standard practice definitions of the cost and benefit tests. We again find that it is not appropriate to apply the Section 10(g) definition of "program costs" when performing the cost-effectiveness tests. Section 10(j)(2) refers to a "cost and benefit analysis", it does refer to a "*program* cost and benefit analysis". We have interpreted Section (j)(2) consistent with the way "cost and benefit analysis" is used in DSM analysis. If all of the costs indicated as "program costs" in Section 10(g) were

included, the results would not be an accurate reflection of what each test is intended to measure. Therefore, based on the evidence presented, we find that the DSM Plan portfolio of programs is cost-effective and otherwise satisfies this statutory criterion.

3. Consistent with State Energy Analysis and Utility's Most Recent Long Range IRP (Section 10(j)(3). One of the ten factors to be considered is whether or not the plan is consistent with the state energy analysis developed by the Commission. This Commission previously acknowledged that a state energy analysis that meets all of the statutory criteria set forth in Ind. Code § 8-1-8.5-3 does not currently exist. *Re Indiana Michigan Power Co*., Cause No 44841 (9/20/2017) at 28; *Re Southern Indiana Gas & Elec. Co.*, Cause No. 44645 (IURC 2/23/2016) at 22. Mr. Allen explained that IPL has considered the consistency with the state energy analysis and notes that in 2016, IPL provided the SUFG with information related to the Company's DSM Plan development. He said the IPL-provided information will be considered by SUFG in their development of the 2017 Indiana Electricity Forecast to be published later in 2017. Pet. Ex. 1 at 21. In his Settlement testimony, Mr. Allen explained that IPL will continue to work with the SUFG to provide timely information for consideration in its ongoing state energy analysis. The OUCC witnesses did not specifically address this criterion in their direct testimony or testimony in opposition to the Settlement Agreement. Accordingly, we find that appropriate consideration has been given to consistency with the State SUFG Forecast.

We found above that the DSM Plan EE goals as modified by the Settlement Agreement are consistent with IPL's most recent IRP. As discussed below, the Settlement Agreement provisions designed to position the IPL OSB to achieve additional cost effective energy savings if market conditions warrant are also consistent with the IRP.

Mr. Allen stated that the Settling Parties recognized early on that when the IPL OSB finds a good idea, IPL pursues it. To this end, the Settlement Agreement provides spending flexibility, including carryover; the Settlement Agreement also provides a process to allow a course correction for 2020 if market conditions warrant doing so. This framework will allow the Settling Parties to use best efforts to determine whether additional cost-effective energy savings are reasonably achievable.

Mr. Rutter noted that there is no cost and benefit analysis supporting the potential additional savings and no information explaining the associated costs, programs, measures, etc. Pub. Ex. 1S at 6, 20. This testimony points out the obvious as these are all matters that will be determined at such time as any additional cost effective energy savings are pursued, as has been done routinely on the IPL OSB. Pet. Ex. 3SR at 4-6. As noted by Mr. Olson, these settlement provisions require a unanimous vote by all members of the OSB. CAC Ex. 1-S-R at 6. The OUCC is a voting member of the OSB and will have every opportunity to participate in those discussions and decisions. The OUCC may object to any additional spending if they feel the spending is imprudent or will not lead to ratepayer benefits. The Settlement also calls for the OUCC's involvement as an OSB member in the creation of a governance document to govern this and other processes. *Id.*

While Mr. Rutter stated that the Settlement Agreement energy savings terms warrant that a new IRP be filed (Pub. Ex. 1S at 21), we disagree. We discussed the energy savings goals above and consistency with the 2016 IRP modeling and over IRP above. While IRPs include

projected capacity factors and resultant forecasted MWhs of production for specific supply side generating units, actual dispatch varies based on market drivers including fuel costs, power prices and availability. So too, demand side resources, that is DSM, vary based on actual costs and customer behavior. *See* Pet. Ex. 3SR, at 16-17. Just as IPL either produces energy or procures energy in the MISO market, IPL may utilize additional cost-effective DSM when that is the best option for customers. The ability to use flexible spending and the 2020 MPS refresh provisions of the Settlement Agreement reasonably allow for this. Accordingly, we find that the pursuit of additional cost-effective energy savings in accordance with the safeguards in the Settlement Agreement is reasonable and consistent with the IRP.

4. EM&V (Section 10(j)(4)). As discussed above, we find that the EM&V for the three-year DSM Plan provided by the Settlement Agreement is reasonable and compliant with Section 10.

5. Undue or Unreasonable Preference to Customer Classes (Section 10(j)(5)). Mr. Allen testified that IPL has made every effort to offer a robust and diverse group of cost-effective DSM programs for all customers, including income qualified customers. Pet. Ex. 1 at 4, 21. The DSM Plan includes both EE and DR programs intended to balance the different aspects of customer loads in IPL's supply-side resources. There was no evidence presented identifying any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the Plan. Accordingly, we find that under current Indiana law, there is no undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the Plan, as modified by the Settlement Agreement.

6. Stakeholder Comments (Section 10(j)(6)). This provision simply requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders concerning the adequacy and reasonableness of the 2018-2020 DSM Plan as modified by the Settlement Agreement. Such comments were provided through the evidence presented in this proceeding, including the Settlement Agreement and testimony regarding the Settlement Agreement, which the Commission has considered and addressed in making its determinations in this Order.

7. Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-Participants (Section 10(j)(7)). In his direct testimony (p. 23), Mr. Rutter stated that Ms. Aliff's testimony did not present the long-term and short-term effect on non-residential customers that participate in EE programs compared to non-residential customers that do not participate in EE programs. Mr. Rutter recommended the Commission reject the proposed plan *in its entirety* based on this contention. ***Id.***

Mr. Rutter's testimony did not discuss the other evidence specifically addressed to this statutory criterion. As shown by the index included with Mr. Allen's direct testimony, Section 10(j)(7)) was addressed by Mr. Miller.

Mr. Miller explained that IPL considered stakeholder perspectives when analyzing the cost-effectiveness of the 2018-2020 DSM Plan including those of participating customers and

non-participating customers. He said, this type of effect is directionally measured by the RIM test which is also called the "non-participant test." He stated that lost revenues, which are assumed to get spread across all customers, are included as a cost in this test. He explained that a score less than one indicates that rates will generally go up for all customers. He stated that while typically energy efficiency programs score less than one, this test is limited for measuring DSM because it fails to indicate whether rates (over the long term) will increase more than they otherwise would if programs were not implemented. Mr. Miller stated that the UCT provides a better indicator of the long run impact to customers by measuring the utility's revenue requirements from the DSM programs. Mr. Miller added that the Participant Test measures the bill impact to program participants. He said a score greater than one indicates that a customer's bills will go down as a result of participating in a program. Pet. Ex. 3S at 4; Pet. Ex. 3 at 15-16; Pet. Ex. 3SR at 23-24. Mr. Miller stated that the scores under the TRC, UCT and Participant tests improved as a result of the Settlement Agreement. Pet. Ex. 3S at 3, 4.

IPL Witness 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. Pet. Ex. 4S at 3-4. She explained that the bill impact of the Settlement Agreement (including legacy lost revenues and URT), over the three-year period, is a relatively modest average monthly increase of $0.18 compared to the original plan as filed. Ms. Aliff showed the short term effects to other customers in the calculations of the Rider 22 factors. Pet. Ex. 3SR at 24. Furthermore, as IPL Witness Allen testified "the total benefit to customers of the negotiated Settlement Agreement is approximately $83 million, compared to IPL's filed plan." Pet. Ex. 1S at 10.

In addition, CAC Witness Olson testified as to the increase in overall energy savings and resulting benefits to customers. He noted how investing in energy efficiency today provides benefits to customers on many levels in the future. It is well understood that investments in energy efficiency reduce the need for IPL to generate energy, build or procure future supply-side resources, and can lead to the delay of, or even eliminate the need for costly upgrades to the utility system. The SUFG reports highlighted the effectiveness of energy efficiency programs to a utility's system, which ultimately benefits all of IPL's customers' rates. CAC Ex. 1-S-R at 4-5.

Based on IPL's estimated impact information, including the results of the cost-effectiveness tests, the testimony supporting the Settlement Agreement, and the Settlement Rebuttal, we find the effects or potential effects of the DSM Plan on electric rates and customer bills of participants and non-participants to be reasonable.

8. Lost Revenue and Financial Incentive (Section 10(j)(8)). In assessing the overall reasonableness of the DSM Plan, and in this case the Settlement Agreement, we are required to take into account the "lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier." Ind. Code § 8-1-8.5-10(j)(8).

a. Lost Revenue. IPL initially sought to recover lost revenues associated with its 2018-2020 DSM Plan through the DSM Rider for the life of the measure. In the Settlement Agreement, IPL agreed to a cap on the period of time lost revenue may be recovered through IPL's DSM Rider, which resulted in an estimated $40 million reduction in lost revenue recovery as compared to the original Plan. Pet. Ex. 1S, at 8. In their settlement

testimony, Mr. Allen and Mr. Olson explained why the Settling Parties' consider the negotiated resolution of the lost revenue issues to be reasonable. Pet. Ex. 1S at 5-9; CAC Ex. 1-S at 9-10.

Much of Mr. Rutter's testimony in opposition to the Settlement Agreement was not directed specifically at the Settlement provisions or supporting testimony. Mr. Rutter's opposition reiterated the same positions taken in his direct testimony.

Mr. Rutter stated that it could be appropriate to recover fixed costs, approved and embedded in rates, via a DSM tracker when the utility 1) is filing regular rate cases, 2) is not otherwise recovering its approved and embedded fixed costs, and 3) that under-recovery is directly attributable to DSM lost sales. He argued that it is never appropriate to recover fixed costs associated with DSM sales when the utility's sales exceed approved and embedded test year sales or to pay for escalating fixed costs that are not approved and embedded in rates. Pub. Ex. 1S at 10; Pub. Ex. 1 at 7-8.

The Indiana General Assembly has already decided that timely recovery of reasonable lost revenue through a rate adjustment mechanism shall be allowed. The Commission's role is to implement Section 10, not debate it. Mr. Rutter's discussion of the Commission's concerns in Cause No. 43839 is unpersuasive because that case did not concern Section 10. Pub. Ex. 1S at 10; Pet. Ex. 3SR at 34. Additionally, DSM operating costs and lost revenues are well suited to a tracker because these costs are variable, material, and are dependent on market conditions. Because the financial incentive is dependent on energy savings being cost-effective, the rate adjustment mechanism does not dis-incent the Company from managing the operating costs of the programs. Pet. Ex. 3SR at 34. IPL has had a recent case where fixed costs were vetted and plans to file another general rate case in the near future. Pet. Ex. 1SR at 25-28; CAC Ex. 1-S 9-10. This regular resetting of rates helps avoid concern about the "pancaking effect" of lost revenues. *Id.* The factual predicate for the other OUCC argument against tracking of lost revenue – namely increased sales – does not exist in this case as explained in Mr. Allen's settlement testimony and in his settlement rebuttal. Pet. Ex. 1SR at 33; Pet. Ex. 1 S (Q&A12).

In the August 31, 2011 Order in Cause No. 43938, at page 41, the Commission found, "… recovery of lost margins is intended as a tool to remove the disincentive utilities would otherwise face as a result of promoting DSM in its service territory". Pub. Ex. 1S at 8. "The purpose of recovery of lost margins on verified energy savings from DSM programs is to return the utility to the position it would have been in absent implementation of a DSM measure." *Id.* The record shows that IPL's lost revenue calculation complies with the Section 10 definition of lost revenue. Pet. Ex. 1SR at 26-27. Thus, Mr. Rutter's speculative concern that the lost revenue recovery might provide something more is unfounded. Pub. Ex. 1S at 9; Pub. Ex. 1 at 13. While the Commission-approved level of fixed costs embedded in the Company's basic rates does not increase or decrease with the amount of energy sold, the recovery of these fixed costs does change based on the amount of energy sold. Pet. Ex. 1SR at 26. Thus, while we are not here validating Mr. Rutter's criteria, the record evidence demonstrates that tracking is reasonable in light of Mr. Rutter's stated concerns.

Under the terms of the Settlement Agreement, IPL is limited to recovery of lost revenues for measures installed during the DSM Plan (2018-2020) period, and will be recovered through the IPL DSM Rider for (a) the life of the measure, (b) five years from implementation of any

measure installed in 2018 and four years from the implementation of any measure installed subsequent to January 1, 2019, or (c) until measure related energy savings are reflected in new base rates and charges, whichever occurs earlier. Jt. Ex. 1 (Settlement Agreement, at 2). In addition, IPL will zero out in the IPL DSM Rider 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. *Id.*

Mr. Rutter claimed that IPL will "earn millions of dollars of additional lost revenues" if the Settlement Agreement is approved (Pub. Ex. 1S at 5) but the record demonstrates this contention is not accurate. The Settlement Agreement reduces the estimated lifetime lost revenue recovery by approximately $40 million as compared to the amount requested in IPL's Direct Testimony in this Cause. Pet. Ex. 1S at 8; Pet. Ex. 1SR at 24. Additionally, lost revenues reflect certain costs that the Commission has approved for recovery through rates but is "lost" due to IPL's implementation of the DSM programs. If IPL did not implement the DSM Programs, this Commission-approved cost recovery would not be "lost." Thus, the Settlement Agreement merely recognizes the foregone cost recovery and does not provide IPL with the opportunity for something "additional" in terms of lost revenues. Pet. Ex. 1SR at 24-25. In other words, lost revenue recovery provides IPL with the opportunity to get back to a place where it would be absent customers participating in energy efficiency programs and thereby using less electricity, it does not increase the Company's earnings as OUCC Witness Rutter claims. Pet. Ex. 1SR at 26-27.

Mr. Rutter recommended the Commission limit total recovery (including program operating costs, incremental, persisting and legacy lost revenue and financial incentives) to 50% of his calculated UCT net benefit. Pub. Ex. 1S at 13, 24. We discuss this overall concern separately below and note here that Mr. Rutter's proposal would result in IPL receiving zero lost revenue. Pet. Ex. 1SR at 31. This result is at odds with the Section 10 requirement that the utility shall be allowed to recover reasonable lost revenue through a rate adjustment mechanism.

Mr. Allen and Mr. Olson each supported the reasonableness of the Settlement Agreement provisions regarding lost revenue under the circumstances presented in this case. Pet. Ex. 1S at 5-9, 1SR at 3; CAC Ex. 1 at 9-10. We find this testimony persuasive. Thus, we further find and conclude that the DSM Plan proposal for recovery of lost revenues, as modified by the Settlement Agreement, is reasonable.

b. Financial Incentive. With respect to the proposed financial incentive, the Settlement Agreement provides for the same tiered incentive structure established by the Commission in 44645, which also utilizes the net present value of future savings resulting from the UCT but in a tiered fashion. Pet. Ex. 1S at 9-10. CAC Ex. 1-S at 10. In Cause No. 44645, the Commission found:

> [W]e agree with Ms. Mims that it is more appropriate for performance incentives to be tied to both tiered levels of energy savings achieved and the net present value of the net benefits of the UCT test. This type of structure encourages a utility to minimize program costs while also striving to achieve as much cost-effective EE as reasonably possible.

Cause No. 44645, Final Order, p. 27. At 100% achievement, the Settlement Agreement reduces the projected IPL financial incentive by approximately $5.8 million over the three-year period even when the revised energy savings goals set forth in Table 4 of the Settlement Agreement are reflected in the analysis. Pet. Ex. 1S at 10.

While Mr. Rutter stated that the OUCC is supportive of reasonable performance incentives (Pub. Ex. 1 at 17; 1S at 17), this claim cannot be reconciled with the OUCC's proposals. The record evidence demonstrates that the OUCC recommendation that cost recovery be limited to 50% of the Mr. Rutter's calculated UCT would effectively deny IPL any financial incentive. It would also deny IPL the ability to recover any lost revenues, and would only allow recovery of 85% of the program operating costs. Pet. Ex. 1SR at 26; Pet. Ex. 3-SR at 9.

Placing the overall cap on cost recovery aside, Mr. Rutter also argued that it is unreasonable to award IPL an incentive that is greater than the risk free cost of debt, represented by either the 30-Day or 30-Year U.S. Treasury Bond rate on ratepayer supplied funds. Pub. Ex. 1S at 18; Pub. Ex. 1 at 17-18. Using the rate identified in Mr. Rutter's testimony, this proposal would result in customers retaining 99.25% of the benefits and IPL would effectively receive only 0.75% of the benefits as a financial incentive. Pet. Ex. 1SR at 37, 42.

Section 10 provides for a "reasonable financial incentive." The words "financial incentive" refer to a monetary benefit to encourage behavior or actions that the utility would not normally do. Pet. Ex. 1SR at 39-40. Mr. Rutter's recommendation is not consistent with the plain meaning of the words "financial incentive." Normally, a company that sells a service would not work proactively to encourage customers not to use the company's service. Here, public policy, as enacted by our legislature, requires IPL (and other utilities) to acquire energy efficiency for customers. Put another way, the utilities are required to proactively influence customers not to use the utility's retail electric service. The energy savings goals are not set by IPL. Rather, the extent of the energy efficiency to be purchased for customers is determined by the IRP and other factors listed in the definition of "energy efficiency goals" in Section 10 (c).

Under the Settlement Agreement, customers would pay rates that reflect approximately $88 million in present valued program operating costs to be incurred by IPL to acquire approximately $237 million in energy savings benefits. Pet Ex. 1SR at 40. Mr. Rutter argues that because this payment stream is "risk free", IPL's financial incentive should not exceed the risk free cost of debt as represented by the 30-Day T-bill or 30-year Treasury Bond. The return to the customers of $237 million of benefits is not risk free. As described in the Company's direct and settlement testimony, IPL worked for approximately 18 months to put the DSM Plan together. The Company's work does not stop with a Commission order approving the Settlement Agreement. Rather, IPL must engage and manage vendors and customers have to be convinced to take action. Pet. Ex. 1SR at 40-41. As explained in Mr. Allen settlement testimony (p. 14), the goals in the Settlement Agreement are challenging to achieve. There are also economic considerations and challenges. Pet. Ex. 1SR at 41.

The risk free rate of return is the rate a consumer pays to simply have his or her money safeguarded. Under the Settlement Agreement, IPL will be charged with spending approximately $88 million to acquire, for customers, demand side benefits of approximately $237 million. This is a net 169% increase in the customer investment. The risk free rate of return is not a reasonable

financial incentive for this effort. This is the rate a customer pays to have its money safeguarded and returned. Because IPL is being asked to return substantially more than this amount to customers, we find Mr. Rutter's proposal is unreasonable and not grounds to reject the Settlement Agreement. *See* Pet. Ex. 1SR at 41, 42.

Mr. Rutter challenges to the motives and transparency of the Settling Parties are unfounded. For example, Mr. Rutter argued that IPL "held savings in reserve, ready to produce them if necessary and boost the incentive" and alleged that this "behavior should not be rewarded." Pub. Ex. 1S at 18-19; Pet. Ex. 1SR at 6. The record demonstrates that the process used by IPL and CAC to negotiate the revised energy savings goals was intensive and the result fairly resolves the disagreement about the IRP modeling and other requirements of the Section 10 definition of energy efficiency goals". Pet. Ex. 1SR at 5-6; CAC Ex. 1-S-R at 8. The Company has provided all of the calculations and numbers necessary to evaluate the Settlement, including estimates pertaining to incentives, lost revenues, program operating costs, and customer bill impacts. Indeed, Mr. Rutter would not have been able to make his own calculations if he did not have access to all this information. CAC Ex. 1-S-R at 8; Pet. Ex. 1SR at 13 (The costs are fully disclosed in IPL's filing, and are applied using standard practice definitions from the EM&V Framework as approved by the IPL OSB).

Mr. Rutter's contention that any decrease in the reduced incentive percentages is offset against the increased incentives from additional savings (Pub. Ex. 1S at 5) also lacks merit. Pet. Ex. 1SR at 14. Under the Settlement Agreement, customers will receive 92% of the net UCT benefits if IPL achieves 100% of the plan goal. IPL will receive 8%. Pet. Ex. 1SR at 41. As Mr. Allen explained, IPL is agreeing to do significantly more energy efficiency that will be more difficult to achieve. Pet. Ex. 1SR, at 14. If the Company achieves the goals as modified by the Settlement Agreement, IPL has agreed to receive a reduced share of the savings benefits. The estimated financial incentive under the Settlement Agreement is almost $6 million less, to the benefit of the customer, than the originally proposed financial incentive. *Id.* Conversely, under the Settlement Agreement, the UCT net benefits increased by approximately $31 million and cost per kWh over the life of the savings improves from $0.018/kWh to $0.017/kWh. *Id.* Simply put, the Settlement Agreement provides the customers with significantly more benefits and IPL with a lower financial incentive opportunity than originally filed. We find this is reasonable.

Finally, Mr. Rutter also argued that the financial incentive should be applied on a program by program basis and awarded only to programs that meet or exceed goals. Pub. Ex. 1S at 17-18; Pub. Ex. 1 at 25. This concern does not warrant the rejection of the Settlement Agreement. Mr. Allen explained that requiring that financial incentives be awarded at the program level rather than the portfolio level would be counter-productive. It would dissuade the Company from achieving the overall EE goals by encouraging IPL to continue to pursue programs that are not performing well. It could cause the utility to continue to pursue less cost-effective programs. This constraint would also have the unintended consequence of discouraging the pursuit of new programs or ideas and thus limiting program innovation. Pet. Ex. 1-SR at 43. As Mr. Allen also explained, if certain programs are underperforming due to less than expected customer adoption or less than expected savings levels, IPL needs the flexibility, with the approval of the IPL Oversight Board, to move funds and shift efforts to programs that are performing well. The movement of dollars from one program from another program provides the opportunity to maximize the economic benefit for all parties. Therefore, the utility should have

the flexibility to determine goal achievement at the portfolio level rather than the individual program level. IPL and the IPL OSB have employed this approach successfully and we find it would be appropriate to continue this construct. *See* Pet. Ex. 1-SR at 44. Finally, we note that allowing utilities to earn financial incentives based on a shared savings approach, while also allowing for some level of incentive at levels below 100% goal achievement, aligns the utility interest with the customer interest. *Id.*

Accordingly, we find and conclude 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.

9. Utility's Current IRP and the Underlying Resource Assessment (Section 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, builds on, and is consistent with, the Company's 2016 IRP.

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

D. Program Cost Recovery. IPL requests that it be authorized to recover program costs through its approved Rider 22. 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. OUCC Witness Thacker testified that as a result of her review, she did not have concerns with IPL's proposed revisions to its Rider 22 tariff. Pub. Ex. 2, at 1. She also testified that if, against the OUCC's recommendation, the Commission approves IPL's DSM Plan, she would not challenge Petitioner's requested accounting and ratemaking treatment or the design and mechanics of its DSM tracker. *Id.*

Mr. Rutter proposed that all program cost recovery be capped at 50% of the OUCC's modified UCT test. Pub. Ex. 1S at 9-10, 13, 24; Ex. 1 at 9, 15). If Mr. Rutter's program cost recovery cap were used, IPL would only recover 85% of the program operating costs and not receive any lost revenue recovery or financial incentives. Pet. Ex. 3SR at 9; 1SR at 31. This severe cost disallowance is not consistent with Section 10. In addition to allowing for full recovery of program operating costs, Section 10 directs the Commission to allow the electricity supplier to recover or receive (1) reasonable financial incentives and (2) reasonable lost revenues. The cost recovery provided in Section 10 is reasonable. *See* Pet. Ex. 3SR at 9-10; 1SR at 36.

Mr. Rutter's arguments regarding customer benefits are based on a distorted UCT that overestimates costs to customers and understates benefits. Pet. Ex. 1S at 35; 3S at 7-8, 10-11, 12-13. In its true form, the UCT test results in approximately $149 million in net benefits. Pet. Ex. 1S at 35; 3SR at 15. While the Commission is not validating Mr. Rutter's proposal, the record reflects that when Mr. Rutter's methodology is corrected and lost revenue and financial

incentives are compared to the UCT NPV, the DSM Plan as modified by the Settlement Agreement passes Mr. Rutter's proposed test. Pet. Ex. 3SR at 14.

Having found IPL's 2018-2020 DSM Plan 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, net lost revenue, shared savings, and EM&V costs, in conformity with the Settlement Agreement.

E. Lost Revenues and Financial Incentives. If the Commission finds that an electricity supplier's EE plan is reasonable, Sections 10(k) and 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 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 types of DSM programs.

1. Lost Revenue. Lost revenues mean the difference, if any, between: (1) revenues lost; and (2) the variable operating and maintenance costs saved; by an electricity supplier as a result of implementing energy efficiency or other DSM programs. Section 10(e); 170 IAC 4-8-1(u).

As summarized above, IPL initially sought to recover lost revenues associated with its 2018-2020 DSM Plan through the DSM Rider for the life of the measure. The Settlement Agreement provides the lost revenues for measures installed during the DSM Plan (2018-2020) period will be recovered through the IPL DSM Rider for (a) the life of the measure, (b) five years from implementation of any measure installed in 2018 and four years from the implementation of any measure installed subsequent to January 1, 2019, or (c) until measure related energy savings are reflected in new base rates and charges, whichever occurs earlier. Jt. Ex. 1 (Settlement Agreement) at 2.

The Settlement Agreement also provides that IPL will zero out in the IPL DSM Rider 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. *Id.*

The Settlement Agreement reduces the estimated lifetime lost revenue recovery by approximately $40 million as compared to the amount requested in IPL's Direct Testimony in

this Cause. Pet. Ex. 1S at 8. Mr. Allen and Mr. Olson supported the reasonableness of this provision under the circumstances here. Pet. Ex. 1S at 5-9; CAC Ex. 1 at 9-10.

We previously discussed and rejected the OUCC opposition to the lost revenue recovery provisions in the Settlement Agreement. Based on the evidence presented, we find the recovery of lost revenue as provided in the Settlement Agreement is reasonable.

2. Financial Incentives. Section 10(o) requires the Commission to authorize reasonable financial incentives when it finds a plan to be reasonable. The DSM Rules at 170 IAC. 4-8-7(a) also recognize the role of reasonable financial incentives to encourage the implementation of DSM programs and to address financial bias against such programs.

In IPL's original filing, the Company sought to earn a shared savings financial incentive on all cost-effective programs except Income Qualified Weatherization. IPL's shared savings forecast was based on 15% of NPV of the UCT net benefits. In the Settlement Agreement, the Settling Parties agreed to the same tiered incentive structure established by the Commission in 44645, which also utilizes the net present value of future savings resulting from the Utility Cost Test but in a tiered fashion. Pet. Ex. 1S at 9-10. CAC Ex. 1-S at 10. This compromise responds to CAC's concern regarding IPL's original proposal. CAC Ex. 1-S at 10.

Mr. Olson explained that the Settlement also recognizes the fact that it requires the Settling Parties, including IPL, to use best efforts to achieve additional savings above and beyond the agreed upon energy savings goals. He said CAC supports maintaining the agreed upon energy savings goal expectations for purposes of calculating the performance incentive in that additional investment in cost-effective energy efficiency will ultimately provide the greatest benefit to ratepayers. He said, this concession provides IPL with a proper incentive to pursue these cost-effective, additional savings. It also appreciates concerns about there being less customers to procure savings from due to the opt-out legislation from 2014 for customers just larger than a single MW, as well as the anticipated changes in lighting standards due in 2020. *Id.* at 11.

We previously discussed and rejected the OUCC opposition to the financial incentive provisions in the Settlement Agreement. Therefore, the Commission further finds the shared savings mechanism, with the modifications set forth in the Settlement Agreement, is reasonable and should be approved.

F. Oversight. IPL requested approval to continue to utilize its OSB to assist in the administration of the 2018-2020 DSM Plan. The Commission has previously approved OSBs to over*see* and monitor energy efficiency programs for utilities. See, *e.g.*, *Indianapolis Power & Light Co.*, Cause No. 44792 (IURC 12/28/2016) at 23 (citing *Indiana Michigan Power Co.*, Cause No. 43959 (IURC 4/27/2011); *Southern Indiana Gas and Elec. Co.*, Cause No. 43427 (IURC 12/16/2009)). We discussed above, the OUCC concerns about the spending flexibility and 2020 Refresh provisions of the Settlement Agreement. The OUCC raised no other objection to the OSB provisions of the Settlement Agreement. Accordingly, the OSB DSM Plan oversight, as modified by the Settlement Agreement, is approved. For the avoidance of doubt, our finding includes the Settlement provisions regarding the exercise of spending flexibility, the refreshed look at 2020 and the CAC voting rights. While we recognize that the OUCC did not join the

Settlement Agreement, we have heard the OUCC concerns regarding the DSM Plan herein. Now that we have approved the Settlement Agreement, we expect all parties, including the OUCC, to continue the work of the OSB in the collegial, collaborative and productive manner that has occurred to date. When best efforts are used to achieve cost-effective energy savings consistent with Section 10, all stakeholders benefit.

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

In sum, the record shows, and we find, that the Settlement Agreement presents a balanced and comprehensive resolution of the issues in this case. Therefore, the Commission further finds that the Settlement Agreement is reasonable and in the public interest and should be and is approved. With regard to future citation of this Order, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at *7-8 (IURC 3/19/1997).

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

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

2. IPL's proposed 2018-2020 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 2018-2020 DSM Plan, including direct (including EM&V costs), and indirect costs of operating the programs, net lost revenue, and shared savings, is approved.

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

5. The revisions to Rider 22 text presented in Ms. Aliff's testimony and reflected in Petitioner's Attachment KA-6 are approved.

6. IPL shall file quarterly scorecards as required by Finding Paragraph 8.A.4.

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

ATTERHOLT, FREEMAN, HUSTON, WEBER AND ZIEGNER CONCUR:

APPROVED:

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

_____

Mary M. Becerra
Secretary of the Commission

DMS 11065186v1