Cause No. 46038

On Behalf of Petitioner,
DUKE ENERGY INDIANA, LLC

VERIFIED DIRECT TESTIMONY OF JOHN R. PANIZZA

Petitioner's Exhibit 15

April 4, 2024

DIRECT TESTIMONY OF JOHN R. PANIZZA
DIRECTOR TAX OPERATIONS
DUKE ENERGY BUSINESS SERVICES LLC
ON BEHALF OF DUKE ENERGY INDIANA, LLC
BEFORE THE INDIANA UTILITY REGULATORY COMMISSION

I. INTRODUCTION

Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is John R. Panizza, and my business address is 525 South Tryon Street, Charlotte, North Carolina 28202.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed as Director, Tax Operations, by Duke Energy Business Services LLC, a service company subsidiary of Duke Energy Corporation ("Duke Energy"), and a non-utility affiliate of Duke Energy Indiana, LLC ("Duke Energy Indiana" or "Company").

Q. PLEASE DESCRIBE YOUR RESPONSIBILITIES AS DIRECTOR, TAX OPERATIONS.

A. The Tax Operations Department is responsible for maintaining and reconciling Duke Energy's tax accounts and for the reporting and disclosure of tax-related matters. As Director, Tax Operations, I have overall responsibility for corporate tax compliance, and accounting for Duke Energy. The Duke Energy Tax Operations Department, which I manage, is staffed by the public accounting firm Ernst & Young to provide efficient and technical tax services, and is responsible for all federal, state, and local income tax returns for Duke Energy, including various joint ventures if Duke Energy is the designated tax matters partner.

Q. PLEASE DESCRIBE YOUR EDUCATIONAL AND PROFESSIONAL BACKGROUND.

A. I have a Bachelor of Science degree in Accounting from Montclair State University and a Master's in Taxation from Seton Hall University. I am a Certified Public Accountant in the state of New Jersey. My professional work experience began in 1989 as an auditor with KPMG. From 1993 to 2002, I held a number of financial positions primarily at two companies, in telecommunications and automotive (AT&T Corp., and Collins & Aikman Inc.). In 2002, I joined Duke Energy and have held a number of financial positions of increasing responsibilities, including various accounting and tax related positions. In March 2018, after a three-year rotation primarily in Corporate Accounting, I moved back into the role of Director, Tax Operations, a position that I had previously held.

II. PURPOSE AND SCOPE OF TESTIMONY

Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?

A. My direct testimony addresses the following three topics. First, I will discuss certain key provisions of the recently enacted Inflation Reduction Act ("IRA") relevant to this rate case filing. Second, I will provide support for Duke Energy Indiana's federal and state income tax expense, specifically addressing the tax rates utilized in this rate case filing. Lastly, I will address certain aspects of Duke Energy Indiana's property tax expense.

Q. WHAT TAX INFORMATION DID YOU PROVIDE TO OTHER WITNESSES?

A. I provided tax information to Company witness Mr. Rutledge for the Forward-Looking Test Period. I also provided various tax information to Company witness Ms. Graft for her use in computing adjusted Forward-Looking Test Period income tax expense, including the statutory federal and state income tax rates for Duke Energy Indiana that are expected to be in effect during the Forward-Looking Test Period. I provided these same statutory federal and state income tax rates to Company witness Ms. Graft for her use in calculating the gross revenue conversion factor.

III. RELEVANT TAX RELATED CHANGES IN THE IRA

Q. PLEASE BREIFLY DESCRIBE THE IRA.

A. On August 16, 2022, President Biden signed H.R. 5376, more commonly referred to as the IRA, into law. The IRA introduces new and expands existing federal tax credits that are intended to incentivize the development and use of renewable and alternative carbon-free energy sources. Most notably, the IRA includes changes to the production tax credit ("PTC") and the investment tax credit ("ITC") provided under Internal Revenue Code ("IRC") §§ 45 and 48, respectively, and implements new transferability provisions allowing eligible taxpayers to transfer credits to unrelated taxpayers under IRC § 6418. To help offset the costs of these incentives, the IRA also establishes a 15% corporate alternative minimum tax ("CAMT") under IRC § 55.

Q. WHICH, IF ANY, OF THESE IRA PROVISIONS IMPACT DUKE ENERGY INDIANA IN THIS PROCEEDING?

A. As I will explain, Duke Energy Indiana projects current CAMT of approximately $34 million, $32 million, and $98 million in 2023, 2024, and 2025, respectively, offset by CAMT deferred tax assets of the same amounts.

IV. <u>CORPORATE ALTERNATIVE MINIMUM TAX</u>

Q. PLEASE DESCRIBE THE CORPORATE ALTERNATIVE MINIMUM TAX INCLUDED IN THE IRA.

A. The IRA includes a 15% CAMT on the AFSI of an applicable corporation, as defined under IRC § 59. An applicable corporation is liable for the CAMT to the extent that its "tentative minimum tax" exceeds its regular US federal income tax liability. The CAMT will apply to tax years beginning after December 31, 2022. IRC Section 56A, also added as part of the IRA, defines AFSI as the taxpayer's net income or loss reported in the taxpayer's applicable financial statement — as defined in IRC Section 451(b)(3) — with adjustments for certain items. If a taxpayer's financial results are reported on the applicable financial statement for a group of entities, the consolidated financial statement will be treated as the taxpayer's applicable financial statement. Additionally, AFSI under the CAMT framework is adjusted for certain items, including the difference between the depreciation expense used for financial reporting purposes and depreciation expense used for income tax purposes.

The IRA also adjusts the rules in IRC § 53 to provide a minimum tax credit for applicable corporations. Under modified IRC § 53, the net minimum tax (i.e., the tax imposed by IRC § 55) for all prior tax years beginning after 2022 can generally be carried forward and utilized as a credit against the taxpayer's regular tax liability.

Q. PLEASE DESCRIBE THE RELEVANT GUIDANCE RELEASED RELATED TO THE CAMT.

A. In Notice 2023-7, the IRS clarified that the AFSI used to determine whether an applicable corporation is liable for the CAMT should be adjusted to exclude proceeds from certain credits, including those described under IRC § 6418 related to the transfer of an eligible credit. Additionally, the guidance clarifies that consolidated groups are treated as a single entity for AFSI purposes.

In Notice 2023-64, the definition of audited financial statements provided in IRC § 451(b)(3) and underlying regulations is expanded to include certain unaudited external financial statements and a taxpayer's federal income tax return, which confirms that every taxpayer is intended to have an audited financial statement for CAMT purposes and, therefore, have AFSI. Also included in Notice 2023-64 is the Tax Depreciation Section 481(a) Adjustment rule, which would reduce AFSI if a taxpayer has a favorable (i.e., negative) IRC § 481(a) adjustment for depreciation of IRC § 168 property.

The forthcoming proposed regulations are anticipated to be effective for tax years beginning on or after January 1, 2024. Taxpayers may rely on the interim guidance provided for any tax year that begins before January 1, 2024.

Q. DOES THE CAMT AFFECT TOTAL INCOME TAX EXPENSE FOR REGULATORY PURPOSES?

A. No. The CAMT has no impact on the total income tax expense that is recorded and recovered for regulatory purposes. The effect of the CAMT is to reduce the amount of deferred income tax expense and to increase the amount of current income tax expense. As such, the effect of being subject to the CAMT is to reduce the total deferred income taxes that are reflected in Duke Energy Indiana's capital structure.

Q. PLEASE PROVIDE AN EXAMPLE OF AN AFSI CALCULATION.

A. Table 1, below, shows an example of how the AFSI is calculated.

Table 1: AFSI Calculation

Description	Amount
Pretax Book Income	$ 1,000
Less: Federal Income Tax Expense	(210)
Financial Statement Income	790
Adjustments:	
Add: Federal Income Tax Expense	210
Add: Book Depreciation	100
Deduct: Tax Depreciation	(600)
Total Net Adjustments	(290)
Adjusted Financial Statement Income (AFSI)	$ 500

In this example, financial statement income is $790. Adjustments to financial statement income include additions of federal income tax expense of $210, book depreciation of $100, and a deduction of $600 for tax depreciation for a net adjustment to financial statement income of $(290). AFSI of $500 is derived by reducing financial statement income of $790 by net adjustments of $290.

Q. PLEASE EXPLAIN THE DIFFERENCE BETWEEN AFSI AND REGULAR TAXABLE INCOME.

A. AFSI has limited adjustments for the differences between the recognition of income and expense for financial statement purposes and CAMT purposes. In contrast, the calculation of income for regular tax incorporates many differences in the recognition of income and expense. The table below is a comparison of the differences in the calculation of AFSI and the calculation of regular taxable income.

Table 2: Calculation Differences between AFSI and Taxable Income

Description	AFSI	Taxable Income
Pretax Book Income	$ 1,000	$ 1,000
Less: Federal Income Tax Expense	(210)	(210)
Financial Statement Income	790	790
Adjustments:		
Add: Federal Income Tax Expense	210	210
Add: Book Depreciation	100	100
Deduct: Tax Depreciation	(600)	(600)
Add: Book/Tax Differences	-	40
Deduct: Book/Tax Differences	-	(240)
Total Net Adjustments	(290)	(490)
AFSI / Taxable Income	$ 500	$ 300

In this illustrative comparison, taxable income for regular tax includes adjustments of $40 (addition) and $240 (deduction) for various book-tax differences not included in the calculation of AFSI. Common examples of these timing differences include cost of removal, mixed service costs, and bad debt.

Q. WHAT TAX RATES APPLY TO AFSI AND REGULAR TAX?

A. The statutory tax rate applied to taxable income is 21%. The calculation of CAMT applies a 15% tax rate to AFSI.

Q. PLEASE GIVE AN EXAMPLE OF THE CALCULATION OF CAMT.

A. The CAMT is the excess of the CAMT tentative tax over the regular 21% income tax liability. The table below is an illustrative CAMT tax calculation.

Table 3: CAMT Tax Calculation

Description	Amount
AFSI	$ 500
CAMT Rate	15%
CAMT Tentative Tax	75
Regular Taxable Income	300
Regular Tax Rate	21%
Regular Income Tax	63
CAMT	$ 12

In this example, the CAMT tentative minimum tax of $75 exceeds the regular income tax of $63 by $12. Because the CAMT tentative tax exceeds the regular income tax, the taxpayer is liable for the CAMT of $12 plus the regular income tax of $63 for a total federal tax liability of $75. Here, the enactment of the CAMT resulted in an increase of $12 in the taxpayer's current tax liability and also generates a $12 CAMT carryforward. The CAMT credit carryforward is an asset and should be included in the cost-free capital calculation in utility regulatory filings.

Q. PLEASE DESCRIBE HOW THE CAMT CREDIT IS APPLIED TO FUTURE INCOME TAX LIABILITIES.

A. The CAMT paid in prior years can be used as a tax credit against future income tax liabilities to the extent an income tax liability exceeds the CAMT tentative tax in a tax year. In the illustration in Table 4, below, the taxpayer has a CAMT tentative tax of $75 and regular tax of $84 in Year 2. Because the CAMT tentative tax does not exceed the regular tax, there is no CAMT due in Year 2. In Year 1, the taxpayer paid CAMT of $12 and is eligible to claim a CAMT credit against regular tax liabilities in future years to the extent its regular tax liability exceeds its CAMT tentative tax in a given year. In Year 2, the regular tax liability of ($84) exceeds the CAMT tentative tax liability ($75) by $9. The CAMT credit available to offset the Year 2 regular income tax liability is $9. In Year 2, the taxpayer's total tax liability is $75 ($84 regular tax + $0 CAMT - $9 CAMT credit). After utilization of the credit, the CAMT carryforward is $3 ($12 CAMT in year 1 less $9 utilization in Year 2.)

Table 4: CAMT Carryforward Utilization

Description	Year 1	Year 2
AFSI	$ 500	$ 500
CAMT Rate	15%	15%
CAMT Tentative Tax	75	75
Regular Taxable Income	300	400
Regular Tax Rate	21%	21%
Regular Income Tax	63	84
CAMT	12	-
Tax Before CAMT Credit	75	84
Less: CAMT Credit	-	9
Net Tax Due	$ 75	$ 75

Q. IS DUKE ENERGY INDIANA AN APPLICABLE CORPORATION FOR PURPOSES OF THE CAMT?

A. Yes.

Q. IS THE COMPANY CURRENTLY SUBJECT TO THE CAMT?

A. Yes. Based on the statutory language included in the IRA and interim guidance issued, Duke Energy Indiana is subject to the CAMT beginning in 2023.

Q. DOES THE COMPANY EXPECT TO PAY THE CAMT IN 2024?

A. Yes. Based on current guidance, the Company expects to pay the CAMT in 2023, 2024 and 2025 and in future years. As referenced earlier in my testimony, Duke Energy Indiana projects current CAMT of approximately $34 million, $32 million, and $98 million in 2023, 2024, and 2025, respectively, offset by CAMT deferred tax assets of the same amounts.

Q. HOW HAS THE CAMT BEEN CALCULATED FOR THIS CASE?

A. The CAMT for Duke Energy Indiana was calculated using Duke Energy Indiana jurisdictional amounts in the manner consistent with the examples outlined previously in my testimony. Adjustments to financial statement income were made for depreciation, pension expense, and federal income taxes.

Q. HOW DOES THE COMPANY PROPOSE TO TREAT THE CAMT CARRYFORWARD?

A. As previously stated, the CAMT credit carryforward is an asset and has been included in the cost-free capital calculation in this filing. When the minimum tax is paid, a CAMT credit is generated and can be carried forward indefinitely to offset the future regular income tax liabilities in periods where the regular federal income tax liability exceeds the CAMT liability. The CAMT credit cannot be carried back to previous taxable years. As explained above, the CAMT is a mechanism that Congress enacted to provide renewable tax incentives, the benefits of which come with the cost of the CAMT. Including the CAMT carryforward in the capital structure is a corollary consequence to the realization of benefits derived from the related IRA tax incentives. This is how the forecasted CAMT in 2023, 2024 and 2025 has been reflected in this case.

V. FEDERAL AND STATE INCOME TAX EXPENSE

Q. PLEASE EXPLAIN UNDER WHAT BASIC PREMISE THE INCOME TAX CALCULATIONS WERE MADE?

A. The income tax calculations were made under the provisions of the Internal Revenue Code ("IRC") of 1986, as amended, and the Indiana Administrative Code.

Q. WHAT TAX RATE DID THE COMPANY USE TO CALCULATE ITS BASE AND TEST PERIOD FEDERAL INCOME TAX EXPENSES?

A. The Company used the statutory federal corporate income tax rate of 21% for both the base period and forecasted period.

Q. WHAT TAX RATE DID THE COMPANY USE TO CALCULATE ITS BASE AND TEST PERIOD STATE INCOME TAX EXPENSE?

A. The Company used the composite statutory Indiana corporate income tax rate of 4.9% for current tax and 4.9% for deferred tax for both the base period and for the forecast period.

Q. WHAT IS THE COMBINED FEDERAL AND STATE STATUTORY INCOME TAX RATE APPLICABLE DURING THE TEST PERIOD?

A. The combined federal statutory and state statutory income tax rate for Duke Energy Indiana in effect for both the base period and the forecasted period is 24.871%. State income taxes are deductible in computing the federal tax liability and this deduction is considered in computing the overall effective tax liability.

Q. WHAT LEVEL OF INCOME TAX EXPENSE SHOULD BE UTILIZED IN ESTABLISHING RATES FOR DUKE ENERGY INDIANA?

A. The level of income tax expense charged to utility operations (after reflecting *pro forma* adjustments) is most appropriate because it reflects the income tax effects of all items affecting operating income. Income tax expense should follow cost responsibility. If an item is included in cost of service and reflected in rates recovered from customers, the income tax effects associated with that item should be included in cost of service.

Q. DID YOU PROVIDE THE TAX GUIDANCE AND RATES APPLICABLE TO DUKE ENERGY INDIANA TO COMPANY WITNESS MS. GRAFT FOR USE IN CALCULATING ADJUSTED TEST PERIOD INCOME TAXES?

A. Yes. I provided this information to Ms. Graft for use in calculating the revenue requirement.

VI. PROPERTY TAX EXPENSE

Q. HOW DID DUKE ENERGY INDIANA CALCULATE THE PROPERTY TAX EXPENSE FOR THE BASE AND FORECASTED TEST PERIODS?

A. The property tax expense for the base period in Indiana, Ohio, and North Carolina is established based on monthly accrued property tax expenses at the end of the base period, net of true-ups. For Tax Year 2022, the property tax expense was based on actuals, since the forecasted accruals were trued up after the first installment bills were paid. For the forecasted test periods, the property tax expense is based on forecasted amounts calculated using assessed values, tax rates, and growth rates derived from forecasted property, plant, and equipment (PP&E) balances. This forecasting methodology also applies to the forecasted test periods for property tax expense in Indiana, Ohio, and North Carolina. The testimony of Company witness Ms. Graft explains the calculation of the *pro forma* adjusted property tax expense for the Forward-Looking Test Period.

Q. PLEASE EXPLAIN WHY YOU ARE INCLUDING OHIO PROPERTY TAX.

A. In Cause No. 42544 (approved December 19, 2002), the Commission approved the purchase of the Madison Generating Station, located in Butler Co., Ohio by PSI Energy (a predecessor to Duke Energy Indiana). Since that time, Duke Energy Indiana has paid Ohio property taxes on this station. Ohio property taxes were also included in the Company's last base rate proceeding.

Q. PLEASE EXPLAIN WHY YOU ARE INCLUDING NORTH CAROLINA PROPERTY TAX.

A. Duke Energy Indiana pays property tax in North Carolina because there is computer hardware and software located in Mecklenburg County, North Carolina

(Charlotte) that it owns (on Duke Energy Indiana Books and Records). These assets are related to the Customer Information System. Each Duke Energy regulated entity owns a portion of this system.

VII. CONCLUSION

Q. HAVE YOU REVIEWED THE INCOME TAX CALCULATION INCLUDING THE EFFECTIVE INCOME TAX RATES AND TAXES OTHER THAN INCOME TAX AMOUNTS PRESENTED IN THE REVENUE REQUIREMENT ATTACHMENTS PREPARED BY COMPANY WITNESS MS. GRAFT?

A. Yes.

Q. DID YOU FIND THIS INFORMATION TO BE REASONABLE AND ACCURATE?

A. Yes.

Q. DOES THIS CONCLUDE YOUR PREFILED DIRECT TESTIMONY AT THIS TIME?

A. Yes, it does.

Cause No. 46038

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: John R. Panizza　　Dated: April 4, 2024

John R. Panizza