

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANAPOLIS POWER & LIGHT )  
COMPANY D/B/A AES INDIANA (“AES INDIANA”) FOR )  
AUTHORITY TO INCREASE RATES AND CHARGES FOR )  
ELECTRIC UTILITY SERVICE, AND FOR APPROVAL )  
OF RELATED RELIEF, INCLUDING (1) REVISED )  
DEPRECIATION RATES, (2) ACCOUNTING RELIEF, )  
INCLUDING DEFERRALS AND AMORTIZATIONS, (3) )  
INCLUSION OF CAPITAL INVESTMENTS, (4) RATE )  
ADJUSTMENT MECHANISM PROPOSALS, INCLUDING )  
NEW ECONOMIC DEVELOPMENT RIDER, (5) REMOTE )  
DISCONNECT/RECONNECT PROCESS, AND (6) NEW )  
SCHEDULES OF RATES, RULES AND REGULATIONS )  
FOR SERVICE. )

CAUSE NO. 45911

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PUBLIC’S EXHIBIT NO. 4

REDACTED TESTIMONY OF OUCC WITNESS

BRIAN R. LATHAM

OCTOBER 12, 2023

Respectfully submitted,



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T. Jason Haas  
Attorney No. 34983-29  
Deputy Consumer Counselor

**“CONFIDENTIAL HIGHLIGHTED IN [REDACTED]”**

**TESTIMONY OF OUCC WITNESS BRIAN R. LATHAM  
CAUSE NO. 45911  
INDIANAPOLIS POWER AND LIGHT COMPANY D/B/A AES INDIANA**

**I. INTRODUCTION**

1 **Q: Please state your name and business address.**

2 A: My name is Brian R. Latham, and my business address is 115 West Washington  
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed as a Utility Analyst in the Indiana Office of Utility Consumer  
6 Counselor's ("OUCC") Electric Division. A summary of my educational  
7 background and experience is included in Appendix A attached to my testimony.

8 **Q: Have you previously testified before the Commission?**

9 A: Yes.

10 **Q: What is the purpose of your testimony?**

11 A: Indianapolis Power & Light Company d/b/a AES Indiana ("AES Indiana," or  
12 "Petitioner") proposed an adjustment for wage increases occurring during the  
13 adjustment period. I explain why that adjustment is overstated and propose an  
14 alternative adjustment, which is based on Petitioner's own representation of the  
15 range of wage increases. I respond to AES Indiana's payroll tax increase and  
16 propose an adjustment.

17 **Q: What documents did you review to prepare your testimony?**

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1 A: I reviewed AES Indiana’s petition, testimony, exhibits, and workpapers in this  
2 Cause. I also reviewed AES Indiana’s responses to data requests.

3 **Q: To the extent you do not address a specific item or adjustment, should that be**  
4 **construed to mean you or the OUCC agree with Petitioner’s proposal?**

5 A: No. My silence in response to any proposals, adjustments or requested relief  
6 should not be construed as agreement with that proposal, adjustment or request.  
7 Rather, my opinions and the OUCC’s positions related to the topics I address are  
8 limited to those affirmatively expressed in this testimony.

**II. PAYROLL EXPENSE – WAGES**

9 **Q: What adjustments did Petitioner make to payroll expenses?**

10 A: AES Indiana adjusted its payroll expense to include increases to its expected  
11 payroll rates and incentive compensation.<sup>1</sup> (See adjustment OM 15.) The updated  
12 payroll rates vary based on departments and union contracts. On January 1, 2023,  
13 non-bargaining employee base wages increased by an average of 6.0 percent.  
14 Bargaining employee base wages for the Clerical group increased by 4.5 percent,  
15 and for the Physical group employee base wages increased by 4.0 percent.<sup>2</sup> These  
16 wage increases (including overtime) resulted in an \$8.1 million adjustment to AES

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<sup>1</sup> Petitioner Schedule OM15-WP1.

<sup>2</sup> Direct Testimony of Matthew Dalton, page 5, line 23 to page 6, line 3.

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1 Indiana's payroll and a \$1.7 million adjustment to US Services Payroll.<sup>3</sup> These  
2 increases are off-set by Petitioner's \$3.3 million direct payroll reduction because  
3 of a decreased employee headcount at Petersburg Units 1 & 2, a \$950,000  
4 reduction to payroll to eliminate severance compensation (AES Indiana and US  
5 Services payroll combined), and a \$3.15 million reduction to payroll for non-  
6 recoverable items.<sup>4</sup>

7 **Q: Do you accept Petitioner's proposed payroll expense increase based on an**  
8 **increase in rates of pay?**

9 A: No. Petitioner's Schedule OM15-WP1 showed the wage increase for Straight  
10 Time labor (line 1) is \$7,855,102 or 7.68 percent ( $\$7,855,102/\$102,243,811$ ) for  
11 AES Indiana payroll. However, AES Indiana witness Matthew Dalton testified  
12 that average wage increases for the adjustment period were 4.0 percent, 4.5 percent  
13 and 6.0 percent depending on the position classification.<sup>5</sup> Assuming the 6.0  
14 percent increase applied to all employees which it does not, the adjustment would  
15 be no more than \$6,134,628 ( $6.0\% * \$102,243,811$ ), a difference of \$1,720,473.  
16 The adjustment to wages should conform to the average increase to each of the  
17 three category of AES Indiana employees presented by Mr. Dalton in his

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<sup>3</sup> Petitioner Schedule OM15-WP1.

<sup>4</sup> *Id.*

<sup>5</sup> Dalton Direct page 5, lines 1 - 2.

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1 testimony. Similarly, Petitioner's proposed pro forma revenue requirement for US  
2 Services payroll (AES Indiana Schedule OM15-WP1, line 18), does not conform  
3 to Mr. Dalton's representation of the level of adjustment period wage increase for  
4 those employees. Petitioner's proposed adjustment for Straight Time labor for US  
5 Services employees is \$1,735,519 or 9.75 percent ( $\$1,735,519/\$17,796,370$ ).  
6 Assuming the 6.0 percent increase applied to all employees which it does not, the  
7 adjustment would be no more than \$1,067,782 ( $6.0\% * \$17,796,370$ ) a difference  
8 of \$667,737 ( $\$1,067,782 - \$1,735,519$ ).

9 **Q: What wage increase did you calculate?**

10 A: Using Petitioner's projected wage increase percentages I calculated the wage  
11 increase to be \$5,966,881, which is \$3,623,740 less than Petitioner's proposed  
12 adjustment.

13 **Q: How did you calculate wage increases?**

14 A: Using Petitioner's confidential excel file "45911\_AESIN\_CONFIDENTIAL  
15 Schedules OM15 OTX3 – WP2 Wage payroll tax Proforma\_062823," in the  
16 "Proforma" tab, I sorted column "J," "2022 Straight Time Dollars to IPL," by  
17 column "G," "Union Status." After sorting by union status, I summed the results  
18 into three categories: "U.S.- IBEW Local 1395 (IPL Physical)," "U.S.- IBEW  
19 EUWU Local 1395 (IPL Clerical & Technical)," and "Non-Union." The sum of  
20 all three categories equals [REDACTED], which reconciles with the sum of

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1 Petitioner workpaper “OM15 – WP1,” “Test Year,” column lines 1 plus 18  
2 (\$102,243,811+\$17,796,307). I then applied Mr. Dalton’s stated rate increases to  
3 each of the summed amounts related to the respective union status: 4 percent to  
4 U.S.- IBEW Local 1395 (IPL Physical), 4.5 percent to U.S.- IBEW EUWU Local  
5 1395 (IPL Clerical & Technical) and 6 percent to non-union. The weighted  
6 average of the rate increases yields a [REDACTED] percent increase or [REDACTED]. My  
7 workpaper BRL Confidential WP-1 provides the detail supporting my proposed  
8 adjustment.

**III. PAYROLL EXPENSE – VACANT POSITIONS**

9 **Q. Please describe AES Indiana’s proposed adjustment related to vacant**  
10 **positions?**

11 A. AES Indiana made an adjustment to include in its revenue requirement the wages  
12 for 105 positions that were vacant during the test year.<sup>6</sup> That adjustment added  
13 \$12,447,656 to 2023 payroll expense. As of May 10, 2023, AES Indiana includes,  
14 per schedule “OM15 - WP1,” \$11,204,688 in straight time compensation for open  
15 positions (line 5 plus line 22), \$1,220,665 for short term incentive compensation  
16 for open positions (line 6 plus line 23), and \$22,303 (line 24) in long-term

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<sup>6</sup> *Id.*, page 5, line 22 to page 6, line 2.

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1 incentive compensation, for a total increase of \$12,447,656 (\$11,204,688 +  
2 \$1,220,665 + \$22,303) related to vacant positions.

3 **Q: Do you agree with Petitioner's proposed wage increases for open positions?**

4 A: No. AES Indiana's proposed increase is not based on information or changes that  
5 are fixed, known, and measurable. Petitioner provided no evidence that it expects  
6 to fill 105 or more vacant positions during the adjustment period. Moreover, since  
7 2013 Petitioner's total employees have decreased steadily.<sup>7</sup> In fact, on July 1,  
8 2023, AES Indiana had 120 unfilled positions.<sup>8</sup>

9 **Q: What adjustment do you recommend regarding the AES Indiana's vacant**  
10 **positions adjustment.**

11 A: I recommend the Commission reject AES Indiana's adjustment to wages for its  
12 vacant positions and disallow any adjustment.

**I. Q: PAYROLL TAX EXPENSE**

13 **Q: Does your proposed adjustment to base compensation affect the level of**  
14 **payroll taxes that should be included in the revenue requirement?**

15 A: Yes. Employee compensation is subject to employment taxes and AES Indiana  
16 recognized the impact of its adjusted payroll levels on employment taxes in

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<sup>7</sup> AES Indiana's Response to OUCC Data Request 6-22; (Attachment BRL-2)

<sup>8</sup> AES Indiana's Response to OUCC Data Request 1-48; (Attachment BRL-1)

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1 confidential adjustment OTX 3. Petitioner included [REDACTED]<sup>9</sup> in employment  
2 tax increases as part of its revenue requirement related to its proposal to fill its 105  
3 open positions.

4 **Q: What is your recommendation regarding AES Indiana’s proposed payroll**  
5 **tax adjustment?**

6 A: I recommend AES Indiana’s proposed [REDACTED], payroll tax expense increase  
7 be denied. To account for a reduction in payroll taxes associated with my  
8 recommendation to remove the increase attributed to open positions, AES  
9 Indiana’s payroll tax should be [REDACTED]. However, payroll tax would further  
10 decrease because of my recommendation to reduce AES Indiana’s proposed  
11 Straight Time Labor adjustments by [REDACTED], as described above. Dividing the  
12 \$221,812 payroll tax adjustment by AES Indiana’s payroll adjustments for  
13 everything except open positions yields a [REDACTED] percent payroll tax rate. Multiplying  
14 [REDACTED] percent by the OUCC’s adjustment results in a [REDACTED] adjustment to increase  
15 payroll tax expense. Table BRL-1 (below) breaks out the calculation:

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<sup>9</sup> “45911\_AESIN\_Confidential Schedules OM15 OTX3 – WP2 Wage Payroll tax Pro Forma\_062823.xlsx”  
tab “Tax Summary” summation of column “E”, lines 5-8 plus lines 22-25.



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Table BRL-1

AES/OUCC PAYROLL STRAIGHT TIME LABOR PAYROLL TAX ADJUSTMENT

1 AES Payroll Tax Adjustment	[REDACTED]
2 AES Payroll Tax Adjustment for Open Positions	[REDACTED]
3 AES Payroll Tax Adjustment for Payroll Tax Other than Open Positions	[REDACTED]
4 AES Adjustments Payroll	[REDACTED]
5 AES Open Postion Adjustments AES Adjustment Other Than open Positions	[REDACTED]
AES Payroll Tax Rate for Payroll Increases not Including Open Positions	
7 (line 3 divided by line 6)	[REDACTED]
8 OUCC Proposed Payroll Expense Adjustment	[REDACTED]
10 OUCC Calculated Payroll Tax at 4.21% (adjustment line 8*line7)	[REDACTED]
11 AES Payroll Tax Adjustment for Payroll Tax Other than Open Positions	[REDACTED]
12 OUCC Difference from Petitioner (line 11- line 10)	[REDACTED]

1 Table BRL-2 (below) compares AES Indiana’s proposed adjustment with  
2 the OUCC’s proposed adjustment.

Table BRL-2

AES/OUCC PAYROLL TAX ADJUSTMENT

	AES	OUCC	OUCC OVER/(UNDER)
3 AES Payroll Tax Adjustment	[REDACTED]	[REDACTED]	[REDACTED]

4 **Q: What is the total of all the adjustments you recommend in this testimony?**

5 **A:** Table BRL-3 compares the parties’ proposed payroll adjustments:

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**Table BRL-3**

**AES/OUCC PAYROLL ADJUSTMENT**

	AES	OUCC	OUCC OVER/(UNDER)
AES Payroll			
Straight Time labor	\$ 7,855,102	\$ 3,903,986	\$ (3,951,116)
Open Positions	9,625,700	-	(9,625,700)
Other Adjustments	(3,972,964)	(3,972,964)	-
Total AES Payroll	13,507,838	(68,978)	(13,576,816)
US Services Payroll			
Straight Time labor	1,735,519	862,553	(872,966)
Open Positions	2,821,955	-	(2,821,955)
Other Adjustments	(349,545)	(349,545)	-
Total US Services Payroll	4,207,929	513,008	(3,694,921)
Total Proposed Payroll Expense Adjmnts	17,715,767	444,030	(17,271,737)
AES Payroll Tax Expense			
Adjustment for Open Positions	[REDACTED]	[REDACTED]	[REDACTED]
Adjustment for Payroll Rate Increases	[REDACTED]	[REDACTED]	[REDACTED]
Total Proposed Payroll Tax Expense Adjmnts	[REDACTED]	[REDACTED]	[REDACTED]
Total Payroll Related Expense Adjustments	[REDACTED]	[REDACTED]	[REDACTED]

1

**II. RECOMMENDATION**

2 **Q: What is the OUCC's recommendation regarding Petitioner's proposed**  
3 **Payroll and Payroll tax adjustments?**

4 **A:** The OUCC recommends the Commission deny Petitioner's proposed [REDACTED]  
5 [REDACTED] Payroll expense adjustment and approve the OUCC's proposed adjustment  
6 of [REDACTED]. The OUCC recommends the Commission deny AES Indiana's

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1 proposed payroll tax adjustment and find the payroll tax adjustment should be  
2 \$ [REDACTED] as calculated by the OUCC.

3 **Q: Does this conclude your testimony?**

4 **A: Yes.**

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APPENDIX A

QUALIFICATIONS OF BRIAN R. LATHAM

1 **Q: Please describe your educational background and experience.**

2 A: I graduated from Northern Illinois University in DeKalb, Illinois, with a bachelor's  
3 degree in accounting. I then attended Illinois State University in Normal, Illinois,  
4 and obtained a master's degree in accounting. In addition, I have participated in  
5 various continuing education programs sponsored by my current and former  
6 employers.

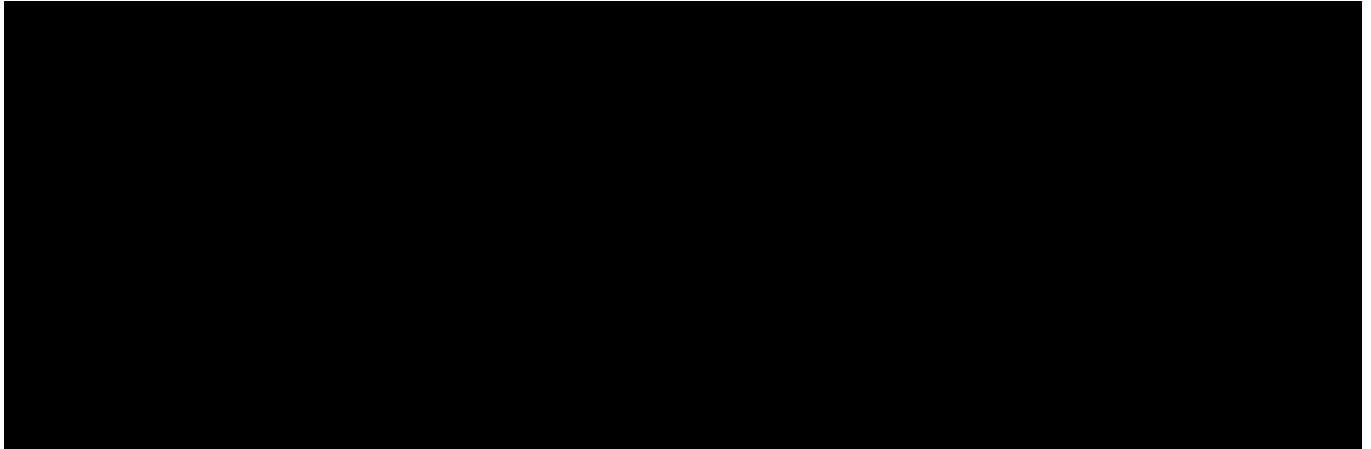
7 I began my employment in 1992 as a Staff Accountant with OSI Industries  
8 (Aurora, Illinois). In 1995, I was hired as a cost accountant at Rexnord in  
9 Milwaukee, Wisconsin. In 1998, I was hired as a cost accounting manager at  
10 Morton Metalcraft (Morton, Illinois) eventually promoted to a Controller role at  
11 Illinois Machine and Tool Works. In 2001, was hired at Hamernik Associates,  
12 where I was a work-out and bankruptcy consultant. I was an independent financial  
13 recruiter in 2007 and 2008. In March 2008, I was hired as Vice President of  
14 Finance for Junior Achievement of Central Indiana. In 2009, I was hired as a  
15 Utility Analyst for the Indiana Utility Regulatory Commission, where I worked as  
16 a member of the Water Division Staff, reviewing water and wastewater utility  
17 filings and making recommendations based on witness' testimony and Indiana

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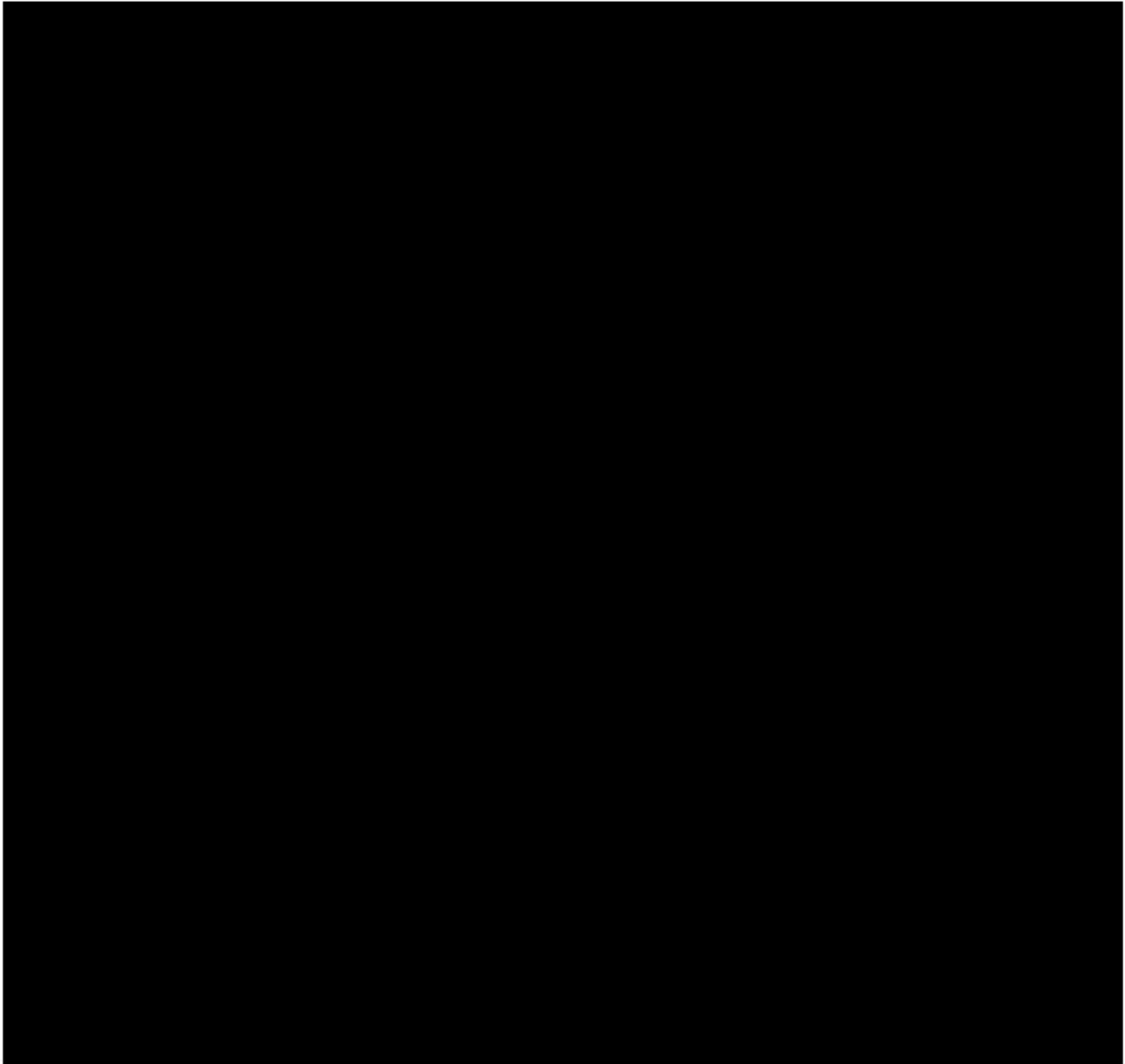
1 law. In 2018, I was hired as Controller for Aqua Indiana, where I was responsible  
2 for Aqua Indiana’s financial operations, and my roles included the oversight and  
3 accountability of the monthly, quarterly, and annual financial closings and  
4 reporting, SOX and audit compliance, budget, forecasting, and five-year planning,  
5 regulatory petitions, acquisitions, and other strategic projects. After a short stint as  
6 Controller at Senior Home Companions, I was hired at the OUCC as a Utility  
7 Analyst in October 2022.

8 At the OUCC I have provide written testimony ranging from rate cases to  
9 clean energy generation facilities and regional transmission organization  
10 adjustments. I work on demand supply management relationships and commission  
11 investigation teams. I attended the NARUC Staff Subcommittee on Accounting  
12 and Finance Spring Conference in early April 2023.

**Data Request OUCC DR 1 - 48**



**Data Request O U C C DR 6 - 22**



**AFFIRMATION**

I affirm, under the penalties for perjury, that the foregoing representations are true.



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Brian R. Latham  
Utility Analyst II  
Indiana Office of Utility Consumer Counselor

Cause No. 45803  
DEI, LLC

Date: February 9, 2023



## CERTIFICATE OF SERVICE

This is to certify that a copy of the *Indiana Office of Utility Consumer Counselor's Redacted Testimony Brian R. Latham* has been served upon the following parties of record in the captioned proceeding by electronic service on October 12, 2023.

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