

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN POWER)
COMPANY (I&M) FOR APPROVAL OF (1) ISSUANCE TO I&M)
OF CERTIFICATES OF PUBLIC CONVENIENCE AND)
NECESSITY UNDER IND. CODE § 8-1-8.5-2 FOR THE)
ACQUISITION AND DEVELOPMENT THROUGH PURCHASE)
SALE AGREEMENTS (PSA) OF TWO SOLAR POWER)
GENERATING FACILITIES TO BE KNOWN AS LAKE)
TROUT, AND MAYAPPLE (CLEAN ENERGY PSA)
PROJECTS); (2) TO THE EXTENT NECESSARY, ISSUANCE)
OF AN ORDER PURSUANT TO IND. CODE § 8-1-2.5-5)
DECLINING TO EXERCISE JURISDICTION UNDER IND.)
CODE § 8-1-8.5-5(e) (3) APPROVAL OF EACH PSA PROJECT)
AS A CLEAN ENERGY PROJECT UNDER IND. CODE § 8-1-8.8-)
11; (4) APPROVAL OF TWO SOLAR RENEWABLE ENERGY)
PURCHASE AGREEMENTS FOR PROJECTS TO BE KNOWN)
AS ELKHART COUNTY AND SCULPIN (CLEAN ENERGY)
PPA PROJECTS) AS CLEAN ENERGY PROJECTS UNDER)
IND. CODE § 8-1-8.8-11; (5) ASSOCIATED TIMELY COST)
RECOVERY UNDER IND. CODE § 8-1-8.8-11 FOR ALL PSA)
AND PPA PROJECTS; AND (6) OTHER ACCOUNTING AND)
RATEMAKING AUTHORITY.)

CAUSE NO. 45868

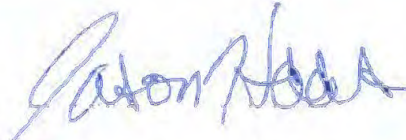
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PUBLIC'S EXHIBIT NO. 2

REVISED REDACTED TESTIMONY OF OUCC WITNESS GREGORY L. KRIEGER

MAY 25, 2023

Respectfully submitted,



T. Jason Haas

Attorney No. 34983-29
Deputy Consumer Counselor

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

**TESTIMONY OF OUCC WITNESS GREGORY L. KRIEGER
CAUSE NO. 45868
INDIANA MICHIGAN POWER COMPANY**

I. INTRODUCTION

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

2 A: My name is Gregory Krieger, and my business address is 115 W. Washington St.,
3 Suite 1500 South, Indianapolis Indiana 46204.

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

5 A: I am a Utility Analyst in the Indiana Office of Utility Consumer Counselor's
6 ("OUCC") Electric Division. A description of my professional background and
7 experience is included in Appendix A.

8 **Q: Please describe the review and analysis you conducted to prepare your**
9 **testimony.**

10 A: I read Indiana Michigan Power Company's ("I&M" or "Petitioner") pre-filed
11 testimony and verified petition for approval of a Certificate of Public Convenience
12 and Necessity ("CPCN") for the acquisition and development of two Purchase Sale
13 Agreements ("PSA"), approval of two energy or power purchase agreements
14 ("PPA") as Clean Energy Projects under Ind. Code § 8-1-8.8-11, and cost recovery
15 for all four projects under Ind. Code § 8-1-8.8-11. These projects would add 749
16 MW of Solar Generating Capacity to I&M's Power Generation Portfolio. I
17 reviewed specific testimony in Petitioner's case in chief as well as portions of
18 I&M's 2021 Integrated Resource Plan ("IRP"). I drafted data requests ("DR") on
19 behalf of the OUCC and reviewed I&M's responses to all OUCC DRs. I also

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 participated in meetings with other OUCC staff members to discuss issues
2 identified in this Cause.

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

4 A: The purpose of my testimony is to present my analysis of I&M's process of
5 developing its costs of the proposed PSAs, and to discuss Interconnection Costs as
6 well as overall project portfolio affordability. My objective is to further support the
7 OUCC's position that the Lake Trout PSA (245 MW) should be denied in this
8 Cause. I do not address the impact of federal, state, and local subsidies, tax credits,
9 or incentives granted. The primary obligation of an electric generating utility is to
10 provide cost-efficient, used, and useful generating assets in Project approval
11 requests. Tax incentives are earned after an estimate is completed.

12 **Q: To the extent you do not address a specific item, issue, or adjustment, does this**
13 **mean you agree with those portions of I&M's proposals?**

14 A: No. Excluding any specific adjustments, issues, or amounts I&M proposes does not
15 indicate my approval of those adjustments, issues, or amounts. Rather, the scope of
16 my testimony is limited to the specific items addressed herein.

II. PSA PROJECT ESTIMATES REVIEW

17 **Q: Please explain the proposed PSA projects and the difference between them.**

18 A: There are two proposed PSAs in this case. The Mayapple Project is 224 MW AC
19 and developed by Lightsource BP. The Lake Trout PSA is 245 MWAC and
20 developed by EDF Renewables Development Inc. (EDF). Both projects are located
21 in Indiana and are expected to be operational in the spring of 2026.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 **Q: Do you agree with I&M's request and supporting testimony regarding certain**
2 **Project Costs for the PSA projects, Mayapple and Lake Trout Solar?**

3 A: No. Although the projects are similar in size, I&M does not explain in its testimony
4 why the costs of the Mayapple and Lake Trout PSA Projects differ by [REDACTED]
5 [REDACTED] while the installed capacity difference is only 10%.

6 The amounts of the contingencies [REDACTED] [REDACTED]
7 [REDACTED], a
8 significant difference of more than [REDACTED]. Additionally, the Purchase Price for the
9 Lake Trout PSA [REDACTED] than the
10 Mayapple PSA once both become operational.

11 Petitioner provides no testimony that explains the difference in funding
12 needs between the two projects. Based on the [REDACTED] for the Lake
13 Trout project, the OUCC concludes the Lake Trout proposed PSA is not a
14 reasonable investment for I&M ratepayers and recommends the Commission not
15 approve that project.

16 **Q: Has I&M presented its Project Costs for the PSA projects and explained how**
17 **the costs were obtained?**

18 A: Yes. I&M does explain its estimating process. It describes its cost review approach
19 both through the IRP process and subsequent Request for Proposal ("RFP") after
20 the IRP process. Mr. Gaul's testimony provides descriptions of how certain costs
21 in developers' proposals are reviewed.¹ His testimony explains [REDACTED]

22 [REDACTED]

¹ Direct Testimony Timothy B Gaul, Confidential, p. 29, ll. 17-26.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 [REDACTED]². However, simply explaining the cost estimating
2 process and I&M's approach to cost review are insufficient to reflect reasonable
3 cost justification. I&M needs to explain why significant cost differences are
4 necessary, justifiable, and beneficial to their proposed power generation asset
5 portfolio. The numbers presented in Mr. Gaul's testimony lack this support.

6 **Q: Are the Mayapple and Lake Trout Solar projects similar?**

7 A: Yes. The Mayapple Solar and Lake Trout Solar PSA projects are located in Pulaski
8 and Blackford counties, respectively. Mayapple has a proposed 224 MW capacity
9 while Lake Trout plans 245 MW in solar nameplate capacity. The projects also
10 have similar interconnection costs. According to PJM, as discussed in I&M Witness
11 Bartley Taberner's testimony, the Feasibility and Generation Interconnection
12 System Impact Studies for the two projects are completed and include
13 interconnection costs of \$19.8 million for the Mayapple Project and \$20.7 million
14 for the Lake Trout Project.³

15 **Q: In response to an OUCC data request, did I&M provide additional**
16 **explanation of the Projects' cost differences in the PSAs?**

17 A: Yes. In response to an OUCC Data Request, I&M provided a better explanation of
18 the PSA Projects' cost differences.⁴ I&M advised that many of the higher cost
19 components have not yet been selected for both projects. For example, final
20 selection of solar modules and inverters have not been made.⁵ Both PSA projects

² Gaul Direct, Confidential, p. 29, ll. 18-20.

³ PJM Interconnection reports AG1-349, AF1-119 and AF2-162, as referenced in the Direct Testimony of Bartley Taberner, p. 3, Table BT-1.

⁴ I&M Response to OUCC DR 1-10 (confidential), included as Attachment GLK-1.

⁵ I&M Response to OUCC DR 1-10 a) and b), included as Attachment GLK-1.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 require little to no excavation of the existing terrain and they quote similar
2 interconnection costs. [REDACTED]

3 [REDACTED].⁶ However, these explanations raise
4 additional concerns about specifications and contingencies. I&M cited no
5 significant differences in specification, design, engineering, or construction that
6 create a [REDACTED] difference in the projects. [REDACTED]

7 [REDACTED].⁷

8 **Q: Do the contingencies raise any concerns?**

9 **A:** Yes. There are specific amounts built into contingency that are concerning. [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 I will address each of these concerns separately.

⁶ I&M Response to OUCC DR 1-10 f) (confidential), included as Attachment GLK-1.

⁷ I&M Response to OUCC DR 1-10 d) (confidential), included as Attachment GLK-1.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 **Q: What is the contingency covering indemnification of I&M?**

2 A: The Mayapple Solar and Lake Trout Solar projects include [REDACTED]

3 [REDACTED] respectively.⁸ An [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]⁹

7 I&M states: "Any breach of any of the developer's representations and
8 warranties under the PSA requires indemnification if the breach results in losses to
9 I&M directly or losses owed by I&M to a third party."¹⁰ I&M provides examples
10 of claims including: monetary fines owed to governmental authorities due to the
11 developer's failed compliance with permits or other laws; post-closing payments
12 owed to third parties under contracts that the developer failed to disclose; post-
13 closing credit support obligations owed to third parties that the developer failed to
14 disclose; defects in the developer's title to real property; and developer's failure to
15 pay taxes.¹¹

16 **Q: Should ratepayers be responsible for these types of costs?**

17 A: No. [REDACTED]

18 [REDACTED]

19 [REDACTED] The developer is well compensated for
20 those responsibilities upon project completion. [REDACTED]

⁸ I&M's Response to OUCC DR 3-01 g) (confidential), included as Attachment GLK-2.

⁹ I&M's Response to OUCC DR 3-01 (confidential). Included as Attachment GLK-2

¹⁰ I&M's Response to OUCC DR 3-01 a) included as Attachment GLK-2.

¹¹ *Id.*

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 [REDACTED]
2 [REDACTED] Additionally, I&M requests [REDACTED] in funds to
3 oversee the Projects' proper completion in Project Management and Overheads
4 funds. Ratepayers should not be penalized if I&M and the developers fail to
5 diligently complete their responsibilities. Specifically addressing any costs which
6 could be the result of fines owed to governmental entities, the Commission has
7 already stated that these types of costs are not the responsibility of customers: "It
8 is [the utility's] responsibility, not its customers, to provide utility service that
9 complies with federal law and regulations... Similarly, it is [the utility's]
10 responsibility, and not its customers, to pay the costs that arise solely from its
11 failure to comply with federal law and regulations."¹² The OUCC recommends
12 removal of this contingency.

13 Q: [REDACTED]
14 [REDACTED]

15 A: [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED]¹³

¹² Cause No. 43956, *In re Duke Energy Indiana Inc.*, Final Order, p. 65 (Dec. 28, 2011).

¹³ [REDACTED]

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED] 14

5 [REDACTED]

6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 15

16 [REDACTED]

17 [REDACTED]

18 [REDACTED] 16 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 **Q: Should the Commission approve projects potentially in violation of The**
24 **Uyghur Forced Labor Prevention Act (UFLPA) of 2021 and Section 307 of the**
25 **Tariff Act of 1930 before findings are made in a pending tariff circumvention**
26 **case?**

¹⁴ I&M Responses to OUCC DR 1-10 h) (confidential), included as Attachment GLK-1.
¹⁵ I&M Responses to OUCC DR 1-10 e) (confidential), included as Attachment GLK-1.
¹⁶ Workpaper WP-TBG-1 (confidential).

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 A: A U.S. Department of Commerce (“DOC”) investigation is currently pending on
2 whether certain solar panels circumvented tariffs on Chinese-made imports. The
3 deadline for a decision is currently delayed until August 18, 2023.¹⁷ I&M disclosed
4 in response to OUCC discovery that the expected supplier for the Lake Trout
5 project is Canadian Solar.¹⁸ Upon review, the OUCC found Canadian Solar is
6 involved in the DOC investigation.¹⁹ If there are additional costs as a result of the
7 investigation, these costs should not be recovered from ratepayers. Additionally,
8 because the final decision for purchasing panels has not been made for the
9 Mayapple project, ratepayer recovery of any additional costs due to the Federal
10 investigation for this project should be denied as well.

11 **Q: Are interconnection costs also a concern for the PSA Projects?**

12 A: Yes. In the process to determine interconnection costs, ratepayer interests may not
13 always be considered, given that the RTO’s main focus is reliability. In this
14 proceeding, the interconnection costs for the PSA projects are much higher than the
15 interconnection costs for the PPA projects. I&M’s Feasibility and Generation
16 Interconnection System Impact Studies performed by PJM showed interconnection
17 costs of the PSA Projects to be 233% higher than the requested Purchase Power
18 Agreements (“PPAs”). Table GLK-1 summarizes PJM’s estimated Interconnection

¹⁷ “Commerce Department delays final decision on solar panel tariffs until August as Congress votes to end pause” Diana DiGangi, Utility Dive, May 4, 2023, found at: <https://www.utilitydive.com/news/commerce-tariff-determination-delay-solar-panels-circumvention/649260/>.

¹⁸ I&M Responses to OUCC DR 1-10 a), included as Attachment GLK-1.

¹⁹ U.S. Dept. of Commerce (Dec. 2, 2022). *Department of Commerce Issues Preliminary Determination of Circumvention Inquiries of Solar Cells and Modules Produced in China* [Press Release] <https://www.commerce.gov/news/press-releases/2022/12/department-commerce-issues-preliminary-determination-circumvention>, included as Attachment GLK-3.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 costs²⁰ and identifies the costs included in the Clean Energy Projects, below:

Confidential Table GLK-1²¹

Description	Mayapple	Lake Trout	Elkhart County	Sculpin
PJM Interconnection Study	AG1-349	AF-119/ AF-162	AE-323	AF1-091
PJM Interconnection Cost Estimate (\$M)	\$19.8	\$20.8	\$7.8	\$9.7
PJM MW Capacity	156	140	67.1	138.4
PJM MW Energy	260	200	100	180
Cause 45868 Cost (\$M) ^a	[REDACTED]	[REDACTED]	na	na

2 **Q: Do you have any affordability concerns with the proposed I&M projects in**
3 **this case?**

4 **A:** Yes. I&M testimony states the average Levelized Cost of Energy (“LCOE”) for all
5 four projects is only [REDACTED] than the cost in its IRP.²² I&M notes an average
6 LCOE of [REDACTED] compared to an \$80 rate in its IRP.²³ However, the LCOE for
7 the Lake Trout project is [REDACTED] than the average rate shown in
8 the IRP.²⁴ Along with the other concerns described above, the LCOE [REDACTED]
9 [REDACTED] with a reasonable restructuring of the proposed portfolio by eliminating
10 the Lake Trout project. Part of the contribution to the [REDACTED] for Lake Trout
11 is the [REDACTED] for this project.

12 A measured approach to adding solar to I&M’s resource portfolio warrants
13 eliminating the Lake Trout Project from I&M’s requested CPCN. The other

²⁰ PJM Interconnection reports AG1-349, AF1-119 and AF2-162, as included in the Direct Testimony of Bartley Taberner, p. 3, Table BT-1.

²¹ I&M Responses to OUCC DR 3-14 c) and d), included as Attachment GLK-2.

²² Direct Testimony Mark A. Becker; p. 16, l. 2.

²³ Becker Direct; p. 16, Figure MAB-4.

²⁴ *Id.*

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 requested solar PPAs and Mayapple PSA could meet the short-term needs of I&M
 2 and be within the boundaries set out in its IRP as explained by Mr. Hanks.

3 **Q: Please describe Table GLK-2.**

4 A: Table GLK-2 is a summary level compilation and comparison of PSA project costs
 5 and capacities that can be found in I&M's testimony. It is drawn primarily from the
 6 testimonies of Timothy Gaul, Beth Lozier, and David Lucas. The costs are
 7 presented in thousands of dollars (\$k), and it is intended to show the similarities
 8 and significant differences between the two PSA projects including the dollar
 9 variation (V\$) and percent variation (V%) when comparing similar cost categories
 10 and capacity measures.

11 **TABLE GLK-2**

	PSA			
	Mayapple	Lake Trout	V\$	V%
County	Pulaski	Blackford		
Capacity MW (ICAP)	224	245		
Capacity Factor	21.7%	23.6%		
Accredited UCAP (ELCC x ICAP)	51.0%	51.0%		
Purchase Price (\$k)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Contract Allowances (\$k)	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Resiliency & Integration	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Project Management	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Acquisition & Development	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Overheads	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
AFUDC	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Contingency	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
TOTAL	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

12

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 I&M is requesting approval to purchase two projects, one that costs [REDACTED]
2 more than the other while only providing 21 MW additional installed capacity. [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 **Q: What is your overall position regarding the PSA projects' justifications and**
7 **whether the cost estimates are reasonable?**

8 A: I&M did not provide sufficient evidence in this case as explained above. Petitioner
9 has an obligation to justify the cost difference in the PSA projects and has the
10 burden of proof to show that this difference is reasonable and a prudent investment
11 in generating facilities.

12 **Q: Please summarize the OUCC's view on affordability and interconnection**
13 **costs.**

14 A: Interconnection costs are very difficult to estimate both at the IRP and RFP stages
15 because several projects are proposed and not completed, and costs are highly
16 dependent on other connected generators and any associated congestion.
17 Additionally, both the ratemaking process and a reliability imperative incentivize
18 higher cost investment. This pushes utilities toward higher cost projects and
19 provides an added benefit of higher financial returns for their companies. In turn,
20 this results in less affordable rates.

21 Other factors affecting affordability are the uncertainty surrounding
22 renewable generation, its reliability, and effect on capacity markets and needs.
23 Also, ELCC class ratings for solar generation are expected to decline, as discussed
24 further in OUCC witness John Hanks' testimony. All these factors increase the need
25 for added generation, upgraded transmission networks, and added interconnections.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

1 Therefore, interconnections should be thoroughly analyzed in the IRP process and
2 competitively bid. Otherwise, the promise of low-cost renewables will be further
3 compromised, and affordability will decline.

4 Elimination of the Lake Trout solar project will reduce the average cost of
5 interconnection in the Clean Energy Projects, moderate increases to rate base, and
6 help to protect consumer affordability while allowing I&M to add reasonably priced
7 solar generation to its portfolio.

III. OUCC RECOMMENDATIONS

8 **Q: Based on your testimony, what are the OUCC's recommendations?**

9 **A:** The OUCC recommends:

- 10 1. Denial of the CPCN for the Lake Trout Project because its [REDACTED]
11 [REDACTED] are not fully justified and because it does not
12 represent a reasonable, prudent, and affordable investment for I&M consumers.
- 13 2. Denial of the [REDACTED] Contingency for both the Mayapple and Lake
14 Trout Projects.
- 15 3. Denial of any project costs in PSAs or PPAs related to The Uyghur Forced
16 Labor Prevention Act (UFLPA) of 2021 and Section 307 of the Tariff Act of
17 1930.
- 18 4. Requiring competitive bidding and separate justifications for costs added to
19 generation projects after selection through an RFP process.

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

21 **A:** Yes.

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN [REDACTED]

APPENDIX A

1 **Q: Summarize your professional background and experience.**

2 A: I have a Bachelor of Science in Industrial Engineering from Purdue University.

3 After graduating Purdue, I was a Manufacturing Project Engineer, Manufacturing

4 Quality Manager and Capital Investment Manager while I earned my Masters in

5 Business Administration from IU's Kelley School of Business. I then worked over

6 20 years with Technicolor (f.k.a. Thomson S.A.) in the areas of Operations,

7 Finance, Marketing and Sales. After completing my MBA, I was a start-up Plant

8 Controller then a Project and Program Manager in Finance, Operations and Supply

9 Chain. Ultimately at Technicolor, I was General Manager of Sales, Operations and

10 Finance where I led three successive re-organization Programs: Latin America

11 Sales and Distribution, Audio-Video-Accessories Division Operations and

12 Corporate Finance. Post Technicolor, I worked eight years at Cummins in the areas

13 of Business Development, Sales Functional Excellence, Strategy and Pricing. I

14 have been with the OUCC since October of 2022.

15 **Q: Describe some of your duties and training at the OUCC.**

16 A: I review and analyze utilities' requests and file recommendations on behalf of the

17 OUCC in utility proceedings. My current focus is Engineering Project Management

18 and Engineering Cost Analysis. In November I completed Michigan State

19 University's Institute of Public Utilities (IPU) Advanced Cost Allocation and Rate

20 Design Course. In 2023 I completed EUCI's Seminar in Electric Cost of Service

CONFIDENTIAL INFORMATION IS HIGHLIGHTED IN GRAY

1 and recently completed NARUC's Regulatory Training for Fundamentals of Utility

2 Law.

3 Q: **Have you previously provided testimony to the Commission?**

4 A: Yes.

DATA REQUEST NO OUCC 1-10

REQUEST

With respect to workpapers WP-TBG-1C and WP-TBG-2C, please answer the following questions:

- a) Are there significant differences in technical specifications of solar panels or solar modules used in the Lake Trout and Mayapple PSAs? Please compare and contrast the technical differences between them.
- b) Are there significant differences in technical specifications of invertors or inverter technologies used in the Lake Trout and Mayapple PSAs? Please compare and contrast the technical differences between them.
- c) Are there significant differences in the Civil Engineering and/or site excavation between the Lake Trout and Mayapple PSA projects? Please compare and contrast the technical differences between them.

- d) [REDACTED]
- e) [REDACTED]
- f) [REDACTED]
- g) [REDACTED]
- h) [REDACTED]

RESPONSE

I&M objects to the extent this question seeks information that is confidential, proprietary, competitively sensitive and/or trade secret. Without waiving this objection, I&M will provide the confidential information pursuant to the July 6, 2006 Standard Form Nondisclosure Agreement between I&M and the OUCC.

a): A final selection of solar modules has not been made for either of these Projects. At this time, the Lake Trout PSA is expected to use Canadian Solar (CS) mono bifacial modules (mono-crystalline), and the Mayapple PSA is expected to use First Solar (FS) Series 6 Plus modules (thin film). However, the final selected solar panels or solar modules must align with the AEP approved solar module manufacturers list and be certified to meet industry quality standards such as IEC 61215 & 61730, UL-61730, and ISO-9001.

b) A final selection of inverters has not been made for either of these Projects. However, the final selected inverters must align with the AEP approved solar inverter manufacturers list and be certified to meet industry quality standards such as UL 1741.

c) Based on the existing terrain at both sites, little to no excavation will be needed at either project.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. OUCC DR 3
IURC CAUSE NO. 45868

DATA REQUEST NO OUCC 3-01

REQUEST

With respect to TB Gaul workpapers WP-TBG-1 and WP-TBG-2, please explain the need for [REDACTED]

- a) What events or actions require indemnity? Please provide relevant examples.
- b) [REDACTED]
- c) [REDACTED]
- d) [REDACTED]
- e) Do the parties, I&M, the developers, contractors and subcontractors carry insurance for the events or actions indemnified?
- f) Does I&M self-insure any portion of the insurable risk related to these PSAs?
- g) [REDACTED]

RESPONSE

I&M objects to the extent this question seeks information that is confidential, proprietary, competitively sensitive and/or trade secret. Without waiving this objection, I&M will provide the confidential information pursuant to the July 6, 2006 Standard Form Nondisclosure Agreement between I&M and the OUCC.

[REDACTED]

- a) Any breach of any of the developer's representations and warranties under the PSA requires indemnification if the breach results in losses to I&M directly or losses owed by I&M to a third party.

Examples include:

- Monetary fines owed to governmental authorities due to the developer's failed compliance with permits or other laws;

INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. OUCC DR 3
IURC CAUSE NO. 45868

- Post-closing payments owed to third parties under contracts that the developer failed to disclose (e.g., to service providers, equipment providers, landowners, counties, contractors, etc.);
- Post-closing credit support obligations owed to third parties that the developer failed to disclose (e.g., county bonds, decommissioning bonds, post-closing services);
- Defects in the developer's title to real property; and
- Developer's failure to pay taxes.

b) I&M is indemnified against losses that it incurs directly or owes to third parties to the extent the losses result from any breach of the developer's representations and warranties. [REDACTED]

c) [REDACTED]

d) [REDACTED]

[REDACTED]

INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. OUCC DR 3
IURC CAUSE NO. 45868

- e) Some losses covered by the indemnification provisions could be insured by I&M, the developer, or other third parties, and the indemnified party may receive the benefit of such insurance. For example, losses related to breach of representations and warranties related to real estate could be insured by title insurance. But there is likely no insurance product that covers many of the losses that are covered by a party's indemnification obligations. For example, losses related to payment obligations under contracts, leases, permits, penalties for violation of law, and for unpaid taxes are likely not covered by insurance.

- f) To the extent a loss is insurable, I&M may have insurance that would otherwise cover an indemnifiable loss that I&M experiences. For example, if the developer breaches its representation that there has been no material damage or destruction to the project as of closing, I&M might have traditional property/casualty insurance that covers the loss, and I&M might be "self-insured" for some portion of such loss to the extent I&M has agreed with its insurers to a deductible or to otherwise bear the loss.

- g) [REDACTED]

INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. OUCC DR 3
IURC CAUSE NO. 45868

DATA REQUEST NO OUCC 3-14

REQUEST

What are the interconnection cost estimates included in each PSA Price or PPA Price now for each of the requested projects?

- a): Sculpin Solar
- b): Elkhart County Solar
- c): Mayapple Solar
- d): Lake Trout Solar

RESPONSE

I&M objects to the extent this question seeks information that is confidential, proprietary, competitively sensitive and/or trade secret. Without waiving this objection, I&M will provide the confidential information pursuant to the July 6, 2006 Standard Form Nondisclosure Agreement between I&M and the OUCC.

a) I&M is not aware of the actual interconnection cost estimates used in the determination of the Sculpin Solar PPA price. The Developer is responsible for completing all interconnections to meet its contractual obligations. [REDACTED]

b) I&M is not aware of the actual interconnection cost estimates used in the determination of the Sculpin Solar PPA price. The Developer is responsible for completing all interconnections to meet its contractual obligations. [REDACTED]

c) [REDACTED]

d) [REDACTED]

If Not helpful

Department of Commerce Issues Preliminary Determination of Circumvention Inquiries of Solar Cells and Modules Produced in China

!!! ICT Supply Chain !!! Manufacturing

On December 27, 2022, this release was updated for clarity and to include a link to the Federal Register Notice titled, "Procedures Covering Suspension of Liquidation, Duties and Estimated Duties in Accord With Presidential Proclamation 10414," as well as a link to U.S. Department of Commerce memo titled, "Circumvention Inquiry With Respect to the Antidumping and Countervailing Duty Orders on Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled Into Modules, From the People's Republic of China: Clarification of Product Coverage."

FOR IMMEDIATE
RELEASE
Friday, December 2,
2022
Office of Public Affairs
publicaffairs@doc.gov

Today, the U.S. Department of Commerce announced its preliminary determinations in the circumvention inquiries of solar cells and modules from the People's Republic of China (PRC). Commerce examined a complaint alleging that eight solar companies that manufacture solar cells and modules are manufactured the components in the PRC, then sending those cells and modules to Cambodia, Malaysia, Thailand, and/or Vietnam for minor processing before being exported to the United States. Such actions amount to an effort to evade the existing antidumping duty (AD) and countervailing duty (CVD) orders on solar cells and modules from the PRC. Today's preliminary determination underscores Commerce's commitment to holding the PRC accountable for its trade distorting actions, which undermine American industries.

Under U.S. law, Commerce may conduct a circumvention inquiry when evidence suggests that merchandise subject to an existing AD/CVD order is completed or assembled in third countries from parts and components imported from the country subject to the order. AD/CVD orders are designed to provide relief to the U.S. domestic industries when they are facing unfair competition. Circumvention of these duties threatens to undermine American industries, workers, and businesses.

After a thorough, transparent, and data-driven investigation of eight companies across the four countries, Commerce preliminarily found that four of the eight companies being investigated are attempting to bypass U.S. duties by doing minor processing in one of the Southeast Asian countries before shipping to the United States.

The preliminary findings are as follows:

Third Country	Company	Finding
Cambodia	BYD Hong Kong	Circumventing
	New East Solar	Not Circumventing
Malaysia	Hanwha	Not Circumventing
	Jinko	Not Circumventing
Thailand	Canadian Solar	Circumventing
	Trina	Circumventing
Vietnam	Boviet	Not Circumventing
	Vina Solar	Circumventing

Further, some companies in Malaysia, Thailand and Vietnam did not respond to Commerce's request for information in this investigation, and consistent with longstanding practice, will be found to be circumventing.

Because Commerce preliminarily found that circumvention was occurring through each of the four Southeast Asian countries, Commerce is making a "country-wide" circumvention finding, which simply designates the country as one through which solar cells and modules are being circumvented from the PRC. This does not constitute a ban on imports from those countries. Companies in these countries will be permitted to certify that they are not circumventing the AD/CVD orders, in which case the circumvention findings will not apply. With regard to the

5/18/23, 10:44 AM Department of Commerce Issues Preliminary Determination of Circumvention Inquiries of Solar Cells and Modules Produced in ...

companies under investigation that were not circumventing the AD/CVD duties, no action will be taken as long as their production process and supply chain do not change.

These findings are preliminary, and as a next step, Commerce will conduct in-person audits in the coming months to verify the information that was the basis of its finding. Furthermore, all parties will have an opportunity to comment on Commerce's finding, which Commerce will fully consider before issuing its final determination, which is currently scheduled for May 1, 2023.

Independent of Commerce's final determination, the Presidential Proclamation issued on June 6, 2022, provides that duties will not be collected on any solar module and cell imports from these four countries until June 2024, as long as the imports are consumed in the U.S. market within six months of the termination of the President's Proclamation. This provides U.S. solar importers with sufficient time to adjust supply chains and ensure that sourcing isn't occurring from companies found to be violating U.S. law. Solar cells made in one of the four Southeast Asian countries, even if made from wafers from China, that are then exported to a non-inquiry country and further assembled into modules or other products there, are not subject to Commerce's preliminary circumvention findings.

For more information on antidumping and countervailing duties, visit the International Trade Administration's FAQs.

Public records on this investigation can be found at access.trade.gov under case number A-570-979.

BUREAUS AND OFFICES

International Trade Administration

TAGS

- [Countervailing duty \[CVD\]](#)
- [Antidumping \[AD\]](#)

Share this page



Explore

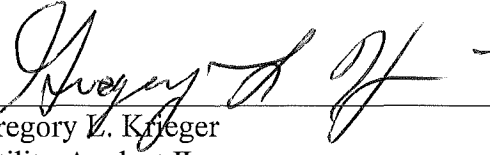
[Issues](#)

Aboutus

[Our mission](#)

AFFIRMATION

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



Gregory L. Krieger
Utility Analyst II
Indiana Office of Utility Consumer Counselor

Cause No. 45868
Indiana Michigan Power Co.

May 19, 2023

Date

CERTIFICATE OF SERVICE

This is to certify that a copy of the *OUCC's Revised Redacted Testimony Public's Exhibit No. 2 Gregory I. Krieger* has been served upon the following parties of record in the captioned proceeding by electronic service on May 25, 2023.

Teresa Morton Nyhart
Lauren Aguilar
BARNES & THORNBURG, LLP
tnyhart@btlaw.com
laguilar@btlaw.com

Tammara D. Avant
AEP SERVICE CORP.
tdavant@aep.com

Jennifer A. Washburn
CITIZENS ACTION COALITION
jwashburn@citact.org
Copy to:
Reagan Kurtz
rkurtz@citact.org

WVPA
Jeremy L. Fetty
J. Michael Deweese
PARR RICHEY FRANSDEN PATTERSON KRUSE LLP
jfetty@parrlaw.com
jdeweese@parrlaw.com



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

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PNC Center

115 West Washington Street, Suite 1500 South

Indianapolis, IN 46204

infomgt@oucc.in.gov

thaas@oucc.in.gov

317.232.2494 – Telephone

317.232.3315 – Haas Direct

317.232.5923 – Facsimile