

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

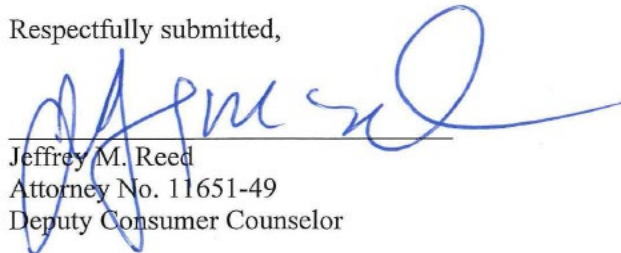
PETITION OF DUKE ENERGY INDIANA, LLC FOR)
(1) APPROVAL OF ITS PROPOSED PLAN FOR)
DEMAND SIDE MANAGEMENT AND ENERGY)
EFFICIENCY PROGRAMS FOR 2020-2023; (2))
AUTHORITY TO RECOVER ALL PROGRAM COSTS,)
INCLUDING LOST REVENUES AND FINANCIAL)
INCENTIVES IN ACCORDANCE WITH IN. CODE §§)
8-1-8.5-3, 8-1-8.5-10, 8-1-2-42(A)AND PURSUANT TO)
170 IAC 4-8-5 AND 170 IAC 4-8-6; (3) AUTHORITY TO)
DEFER ALL SUCH COSTS INCURRED UNTIL SUCH)
TIME THEY ARE REFLECTED IN RETAIL RATES;)
(4) REVISIONS TO STANDARD CONTRACT RIDER)
66A; AND (5) INTERIM AUTHORITY TO CONTINUE)
OFFERING ITS CURRENT DEMAND SIDE)
MANAGEMENT AND ENERGY EFFICIENCY)
PROGRAMS UNTIL A FINAL ORDER IS ISSUED IN)
THIS CAUSE.)

CAUSE NO. 43955
DSM-08

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S
EXCEPTIONS TO DUKE ENERY INDIANA'S
PROPOSED ORDER

October 15, 2020

Respectfully submitted,



Jeffrey M. Reed
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Deputy Consumer Counselor

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC)
 FOR (1) APPROVAL OF ITS PROPOSED PLAN)
 FOR DEMAND SIDE MANAGEMENT AND)
 ENERGY EFFICIENCY PROGRAMS FOR 2020 -)
 2023, (2) AUTHORITY TO RECOVER ALL)
 PROGRAM COSTS, INCLUDING LOST) CAUSE NO. 43955 DSM-8
 REVENUES AND FINANCIAL INCENTIVES IN)
 ACCORDANCE WITH IND. CODE §§ 8-1-8.5-3, 8-)
 1-8.5-10, 8-1-2-42(a) AND PURSUANT TO 170 IAC)
 4-8-5 AND 170 IAC 4-8-6; (3) AUTHORITY TO)
 DEFER ALL SUCH COSTS INCURRED UNTIL)
 SUCH TIME THEY ARE REFLECTED IN)
 RETAIL RATES; (4) REVISIONS TO STANDARD)
 CONTRACT RIDER 66-A; AND (5) INTERIM)
 AUTHORITY TO CONTINUE OFFERING ITS)
 CURRENT DEMAND SIDE MANAGEMENT AND)
 ENERGY EFFICIENCY PROGRAMS UNTIL A)
 FINAL ORDER IS ISSUED IN THIS CAUSE)

ORDER OF THE COMMISSION

Presiding Officers:

Sarah E. Freeman, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

[The OUCC accepts Petitioner’s entire introduction summary with the exception of the next to last sentence in the next to last paragraph of this section. That sentence should be changed to read as follows: “At the hearing, the parties offered their respective pre-filed testimony, all of which was admitted into the evidentiary record, and waived cross-examination of all witnesses.”]

1. Notice and Commission Jurisdiction. *[The OUCC accepts Petitioner’s proposed language for this section.]*

2. Petitioner’s Characteristics. *[The OUCC accepts Petitioner’s proposed language for this section.]*

3. Requested Relief. *[The OUCC accepts Petitioner’s proposed language for this section.]*

4. Evidence.

A. **Petitioner's Case-in-Chief.** *[The OUCC believes each party should be permitted to summarize its evidence as it sees fit, absent factual inaccuracies. Therefore, the OUCC accepts Petitioner's proposed language for this section in its entirety with one exception. The sixth paragraph of Mr. Duff's testimony is a single line of text, immediately followed by a table of data for the years 2020 – 2030. The OUCC proposes to add the words "gross energy savings" in between "annual" and "goals". The revised sentence would read as follows: "Mr. Duff presented annual gross energy savings goals for its proposed EE Plan as follows:"]*

B. **OUCC's Case-in-Chief.** *[The OUCC proposes to replace Petitioner's language with the language presented below.]*

The OUCC presented the testimony of two (2) witnesses in its case-in-chief: Mr. John E. Haselden, Senior Utility Analyst in the Electric Division of the Indiana OUCC (entered into evidence as Public's Exhibit 1 and 1C) and Mr. Caleb R. Loveman, Utility Analyst in the Electric Division of the Indiana OUCC (entered into evidence as Public's Exhibit 2).

At the outset, Mr. Haselden complained that Petitioner failed to adequately explain and support its request in this proceeding. He stated that Petitioner made programmatic changes without explanation and concluded that the Company focused on changes to increase shareholder incentives. He stated his opinion that the numbers underlying Petitioner's shareholder incentive and lost revenues are based on incorrect calculations and overstated assumptions.

Mr. Haselden raised several concerns with Petitioner's proposed programs. He compared Petitioner's proposed Plan to its last approved Plan and testified that Petitioner's Plan has significantly decreased the amount of general service lighting ("GSL") LED light bulbs offered through the Residential Smart Saver program and increased the amount of LED GSL bulbs in other programs such as Multifamily Energy Efficiency Products and Services and Residential Energy Assessments programs. He stated that the latter programs yield a much higher shareholder incentive and that the Company provided no justification for the change. These changes were determined only after DEI filed its case and through discovery.

Mr. Haselden discussed various changes from the EE plan approved in DSM-4 and the pending proposal. He stated the Company proposes budget increases for the Smart Saver Non-Residential Incentive, Multifamily Energy Efficiency Products and Services, Residential Energy Assessments, and Smart-Saver Non-Residential Incentive programs, while proposing budget decreases for Residential Smart Saver program. Mr. Haselden testified that the Agency Assistance Portal program will cease providing packages of LED light bulbs to qualifying customers after 2020 and that the Energy Efficiency Education program will replace GSL A-Line LED bulbs with specialty LED bulbs in kits after June 30, 2020. He also explained that there are changes to the lighting component of the Residential Smart Saver program.

Mr. Haselden testified that the OUCC is concerned with the cost-effectiveness of Petitioner's programs, including the inputs used to calculate shareholder incentives and the continued use of the halogen lighting as the baseline for GSL LED lighting measures. Mr.

Haselden stated that Petitioner's proposed shareholder incentive was disproportionately larger than the other investor-owned electric utilities and presented a table for comparison purposes.

Mr. Haselden testified that Petitioner has individual cost and impact studies it assigns for a large number of measures and he presented Appendix B to his testimony, which discussed problems with the following: the Company's Non-residential LED GSL; Portable desk lamp; School Kits; and GSL LED lighting baseline. Because there were issues with each sampled measure, Mr. Haselden stated that the OUCC recommends an independent review of the impact assumptions of all measures. Petitioner uses in its DSMore and Utilities International software programs. He recommended denial of the proposed programs until the measure impact assumptions are reviewed by an independent third party and the benefit/cost tests are calculated using correct avoided cost estimates and the correct methodology.

Mr. Haselden testified that the OUCC also has concerns with Petitioner's proposed non-residential programs, because technologies are improving and costs are rapidly decreasing. He stated that customer incentive levels need to be monitored more closely to minimize free ridership and any impacts on cost-effectiveness. Unlike other utilities, Petitioner does not evaluate all programs on an annual basis. He stated that the OUCC recommends continued diligence in administering the non-residential programs and more frequent re-evaluation measures when prices and efficiencies change significantly.

Mr. Haselden testified that the appropriate economic level of DSM is determined in the IRP process when programs are grouped into incremental bundles and modeled as resources that can be selected in the IRP modeling process. He stated that various levels of DSM impacts and costs are modeled in conjunction with supply-side resources to find the most economic combination over the planning period. These analyses are distilled down to net present value of revenue requirements ("NPVRR") necessary over various scenarios and sensitivities. In the course of IRP modeling, DSM resources may be selected to the extent they contribute to a lower NPVRR.

Mr. Haselden testified that there are generally two sources of value derived from DSM programs: the variable production cost of energy that is avoided by the amount of energy the programs save, and the savings in delaying or reducing investment in additional capacity resources to the extent DSM programs cumulatively represent a reduction in supply side capacity requirements. As to the delayed investment in additional capacity resources, Mr. Haselden stated his opinion that this value is dependent on the timing of the need for additional capacity resources. He stated that capacity values for DSM resources are acquired and paid for over longer periods than supply-side alternatives because the rate at which savings are cumulatively realized through DSM is generally slower and smaller, meaning that future avoided capacity costs derived from DSM resources are essentially being pre-paid for a period of time before they may actually be needed. If the saved energy and accumulation of demand reduction is cost effective, the IRP modeling will select the appropriate amount of DSM bundles.

Mr. Haselden testified that the methodology for determining cost effectiveness for individual DSM programs differs from the IRP process in that the programs and measures that comprise those programs are evaluated comparing their costs over time to their benefits on an NPV basis. Mr. Haselden testified that IRP modeling discounts the cash flow necessary to

construct or acquire a supply-side resource from the time those costs are incurred to the present period in the NPVRR analysis. A formula demonstrating this concept of discounting a future value to the present is found in 170 IAC 4-4.1-9 (b). Mr. Haselden stated that not discounting the value of capacity would be analogous to constructing a supply-side resource years before it is needed and ignoring the time value of money used earlier than necessary. Mr. Haselden testified that is important to note “avoided costs” are not outputs from the IRP, but rather are inputs based upon estimates made by the utility. “Avoided costs” are considered benefits and the UCT can be considered the foundation of the four basic benefit/cost tests. The other cost tests add or subtract other costs such as customer incentives and lost revenues to gain a perspective of benefits and costs from the viewpoints of other stakeholders such as DSM program participants, non-participating customers, and society, as defined by the TRC.

Mr. Haselden testified Petitioner did not model the benefits of avoided capacity correctly because there is no consideration given to when capacity costs are actually avoided. Mr. Haselden cited the 2001 California Standard Practice Manual (“CSPM”), which states that benefits under the Program Administrator Cost Test, also known as the UCT, include: the avoided supply costs of energy and demand, as well as, the reduction of transmission, distribution, generation, and capacity valued at marginal costs for the period when there is a load reduction. Mr. Haselden provided the formula from the CSPM and demonstrated how the mathematics are applied for years 2020 through 2022 (zero times the price of capacity) and for years 2023 and thereafter (the amount of avoided capacity times the price of capacity in each year for the life of the measure).

Mr. Haselden stated that the avoided capacity costs for Petitioner will not begin until 2023 or later, despite there being a demand reduction due to DSM efforts in 2020 through 2024, and therefore, the appropriate value for capacity costs avoided for years 2020 through 2022 should be zero.

Mr. Haselden also testified that he did not believe that Petitioner’s calculations for the RIM and TRC Tests are correct because the calculations omit the shareholder incentive. He stated that shareholder incentives are defined as EE program costs by 170 IAC 4-8-1 (n). He noted that the words, “shareholder incentive” do not appear in the 2001 CSPM and opined that this was most likely because shareholder incentives were rare at that time. Mr. Haselden stated that the general concepts of the cost benefits tests require their inclusion in the TRC and RIM tests because shareholder incentives increase customer bills. Mr. Haselden stated that the Commission has addressed the issue of including all costs in the benefit-cost tests as appropriate in Cause No. 43955 DSM-3.

Mr. Haselden expressed concerns with the cost effectiveness calculations for Petitioner’s Outdoor Lighting Modernization program because Petitioner made the assumption that the high-intensity discharge fixtures would be replaced in kind and the LED fixture, which is an upgrade. Mr. Haselden stated that this would only be true if the existing HID fixture had failed and needed to be replaced.

Mr. Haselden expressed concerns with the proposed shared savings incentive for the Outdoor Lighting program as it is inappropriate to award a shareholder incentive for this program because shareholders will also earn a return of and on the investments in the measures.

Mr. Haselden also testified that the OUCC has concerns with the proposed shared savings incentives for Petitioner's Low-Income Neighborhood program because the Company has offered this program for years and has not required a shareholder incentive to do so. Furthermore, Mr. Haselden stated that a financial incentive is prohibited by 170 IAC 4-8-3 (c) and 170 IAC 4-8-7 (e). 170 IAC 4-8-3 (c) states the Commission shall not approve financial incentives for a home energy assistance program that is not cost effective. 170 IAC 4-8-7 (e) which requires A financial incentive must reflect the value to the utility's customers of the supply-side resource avoided or deferred by the utility's energy efficiency program or demand response program *minus the incurred utility program costs*. (emphasis added). Mr. Haselden notes that ignoring the program's costs in the present value calculations fails both standards.

Mr. Haselden testified that the OUCC had concerns with the avoided energy and capacity costs Petitioner used in calculating the benefit/cost tests, especially the UCT. Mr. Haselden stated inclusion of a carbon tax is simply a modeling device used in IRPs to quantify scenarios representing possible carbon legislation. However, it is inappropriate for Petitioner to include a carbon tax in its avoided energy cost calculations when calculating the UCT benefit/cost test because this has the effect of artificially inflating the NPV of benefits under the UCT and, consequently, the shareholder incentive by avoiding a pseudo cost that does not exist.

As to the avoided capacity costs, Mr. Haselden testified that the OUCC takes issue with Petitioner's avoided capacity costs because it has an excessive amount of avoided transmission and distribution ("T&D") capacity costs. He stated that T&D capacity benefits are created when DSM programs alleviate capacity issues on specific circuits and that none of Petitioner's DSM programs target specific circuits. He testified that Petitioner is implementing a \$1.4 billion TDSIC Plan in Cause No. 44720, which will impact both current and future T&D capacity issues, which forecloses the inclusion of these costs in the avoided capacity costs in this proceeding. Mr. Haselden testified it is likely that the seven-year TDSIC Plan will be completed prior to Petitioner needing additional generating capacity in 2023.

Mr. Haselden also testified that Petitioner's values for avoided T&D capacity costs are not reasonable because they are based upon a 2016 calculation of the average cost of Petitioner's T&D projects from 2008 to 2015. He stated that there were a number of flaws with Petitioner's methodology, including the fact that Petitioner has no evidence to support its assumptions concerning any relationship between DSM and avoided T&D costs, and the fact that Petitioner's avoided estimate of T&D avoided capacity cost is unreasonably large when compared to other jurisdictional utilities in Indiana, which use estimates of zero to 40% of avoided generation capacity costs. Petitioner's estimate is almost equal to 100% of its estimate of avoided generation capacity costs. Mr. Haselden stated DEI is artificially inflating its total avoided capacity costs by inflating the T&D avoided capacity cost component which has the effect of approximately doubling its calculated shareholder incentive contributed by avoided capacity costs.

Mr. Haselden recommended that avoided T&D capacity costs be set to zero, subject to actual evidence presented or by a standard methodology established by the Commission. He recommended that the Commission require Petitioner to re-calculate the benefit/cost tests using the correct amounts and discounted treatment of avoided capacity costs.

As to Petitioner's proposed shareholder incentive, Mr. Haselden testified that he has additional concerns with the use of unreasonable estimates of savings based upon hours of use of certain measures and the use of halogen bulbs as the baseline to project future energy and demand savings for an unreasonable period. Mr. Haselden also expressed concerns that there is no true-up of the shared savings approach adopted by all Indiana utilities and the methodology is not aligned with the issue as accurately as it should be.

As to Petitioner's specific proposed shareholder incentive, Mr. Haselden stated that the use of the NPV of the lost return on equity on a future supply-side investment results in incentives that far exceed the PV of lost opportunity for ROE on a supply-side investment. He explained that some DSM programs have high energy savings and low capacity savings that do not result in a lost opportunity to earn a return on a supply side resource.

Mr. Haselden raised several issues with the utility estimated avoided costs calculations. He testified that the utility estimated avoided costs used in the IRP are seldom justified, vetted, nor actually "approved" by the Commission. He stated that there is a wide range of avoided costs that can range from zero to over 100% of avoided generating capacity costs and are also based on widely differing and inconsistent assumptions. Mr. Haselden testified that the various assumptions result in overstated UCT scores and, therefore, overstated shareholder incentives.

Mr. Haselden testified that there are reasons shareholder incentives should be reconciled. Mr. Haselden recommended replacing the current UCT-based methodology with a more straightforward methodology that uses an enhanced ROE on the foregone supply-side investment discounted to the year the DSM measures are deployed. He testified that his proposed methodology would award a portion of the ROE on the foregone supply-side investment attributable to the year the DSM measures are deployed, subject to EM&V of those measures or programs, in the first reconciliation filing after the EM&V is completed and that the remainder of the shareholder incentive would be awarded at the time the diminished or deferred supply-side resource is acquired. Mr. Haselden recommended an enhanced ROE of .5% greater than the ROE awarded with the utility in its most recent general rate case and an initial award percentage of 30% of the enhanced ROE. Mr. Haselden's direct testimony included attachment JEH-3 demonstrating the calculations discussed in his testimony.

Mr. Haselden included Appendix B to his testimony, which is a listing of program measures and concerns, focused primarily on lighting measures within Petitioner's filing. For example, this attachment raised concerns with Petitioner's non-residential LED GSL measure, in which he argues that Petitioner should receive no financial incentive once the Company updates its avoided costs and UCT calculations, as well as a reduced measure life. Mr. Haselden also raised issues with the Portable LED fixtures, the lighting measures included in the Energy Education Program for Schools, and GSL general services bulbs in general.

As to the Portable LED fixtures, Mr. Haselden argued that it should receive no lost revenue, shareholder incentive, or cost recovery of customer incentives because there is no credible evidence to that it is a DSM measure. Mr. Haselden argued also that, beginning January 1, 2020, the bulbs in the Energy Education Program for Schools changed from two 9-watt LED bulbs to now include two 5-watt candelabra-base bulbs. He recommends that Petitioner revise its savings estimate to account for

his assumption that the installation rate for the candelabra bulbs will be very low compared to the previous bulbs. As to the prevalence of GSL service bulbs in the Company's portfolio, Mr. Haselden recommended that Petitioner use LEDs as the baseline bulb with a sunset date for market baseline transformation effective January 1, 2021.

Because the OUCC does not have the ability to run the adjustments recommended in his testimony, Mr. Haselden requested that the OUCC be given the opportunity to actively participate in the recalculation of the DSM Adjustment factors as recommended in his testimony and to review and comment on the results prior to Petitioner submitting them to the Commission if so ordered.

Mr. Loveman testified that he recommends the Commission authorize Petitioner continued recovery of the most recently approved DSM adjustment factor, subject to later reconciliation, until Petitioner receives Commission approval of a new DSM Plan. Mr. Loveman recommended that Petitioner book plant-in-service capital costs by removing the rebate given to customers for the LED fixture change outs for Petitioner's Outdoor Lighting Modernization Program.

Mr. Loveman testified that it is not clear how Petitioner intends to account for change-outs within its accounting records or in any future filings. Mr. Loveman recommended that in any future base rate case filing where the capital costs for Petitioner owned lighting is updated, the capital costs booked as plant in-service should reflect the actual cost of conversion, which is the material and labor to install the new fixture less the rebate given to customers. Mr. Loveman stated that Petitioner is currently earning a return of and a return on Company-owned lighting fixtures through its base rates. Mr. Loveman stated that, if this rebate amount is not removed when capital costs are booked for the changed out fixtures in Petitioner's next base rate case, it will also recover this rebate amount in base rates via depreciation expense and a return on the assets over the life of the assets.

Mr. Loveman stated that if the Commission rejects a portion of any particular program, or finds the entirety of the 2020-2023 DSM Plan unreasonable based on Mr. Haselden's recommendations, then the OUCC recommends the Commission continue Petitioner's interim program authority previously granted in this Cause, and continued cost recovery using the most-recently approved DSM adjustment factor, subject to reconciliation, until a new DSM Plan is approved.

C. CAC's Case-in-Chief. *[The OUCC adopts CAC's proposed summary of its witnesses as set forth in CAC's proposed order.]*

D. Petitioner's Rebuttal Testimony. *[The OUCC accepts Petitioner's proposed language for this section in its entirety.]*

E. Additional Evidence. *[The OUCC accepts Petitioner's proposed language for this section in its entirety.]*

5. Commission Discussion and Findings. [The OUCC proposes to replace Petitioner’s language in this section with the language presented below.]

Petitioner requests approval of its Demand Side Management and Energy Efficiency Plan for 2020-2023 and authority to recover direct and indirect program costs, a shareholder incentive, and lost revenues pursuant to Ind. Code § 8-1-8.5-10.

We apply a reasonable least-cost standard for issuances of certificates of public convenience and necessity under Ind. Code 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 also 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.*, *Indianapolis Power & Light*, Cause No. 43623, Phase I Order (IURC Feb. 10, 2010), and *Indiana Michigan Power Co.*, Cause No. 44486 (IURC Dec. 3, 2014).

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) 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.

¹ EE improvements have been traditionally 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 DR programs.

- (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.

Following a determination of overall reasonableness by the Commission, Sections 10(k), (l), and (m) establish three possible actions the Commission may take concerning the proposed Plan. Section 10(m) states:

(m) If, after notice and hearing, the commission determines that an electricity supplier's plan is not reasonable in its entirety, the commission shall issue an order setting forth the reasons supporting its determination. The electricity supplier shall submit a modified plan within a reasonable time. After notice and hearing, the commission shall issue an order approving or denying the modified plan. If the commission approves the modified plan, the commission shall allow the electricity

supplier to recover program costs associated with the modified plan on a timely basis through a periodic rate adjustment mechanism.

The statute does not differentiate between Section 10(j)'s reasonableness test considerations. A finding of unreasonableness for any of the 10 items can be sufficient to prevent a finding of overall reasonableness. Given this background, we begin by considering Petitioner's request for approval of its 2020-2023 Plan under Section 10.

The evidence is uncontroverted that Petitioner 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 prior to 2017. However, the evidence is disputed as to whether Petitioner has submitted a cost-effective Plan as required by Section 10(h). The "energy efficiency goals" in Section 10(h) are defined in Section 10(c) 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. (*Italics added*).

Regardless of whether Petitioner's Plan's energy efficiency goals meet any or all of the enumerated requirements in Section 10(c), those determinations are only relevant if we first find Petitioner's DSM Plan is cost-effective. As discussed below, based on the evidence of record, we find it is impossible for the Commission to make such a finding. Shortcomings in Petitioner's avoided T&D capacity costs, avoided generation capacity costs, program design, GSL baseline assumptions and estimated useful lives all directly impact Petitioner's benefit / cost analyses. In addition, we have serious concerns regarding the reasonableness of both Petitioner's proposed lost revenue and shareholder incentive calculations based on estimated useful lives and avoided energy costs. Taken together, they prevent the Commission from being able to accurately assess the cost effectiveness of the proposed Plan in its entirety.

A. **Unreasonable Avoided T&D Capacity Costs**. Avoided T&D capacity costs are an input into Petitioner's cost effectiveness test that assesses the benefit / cost ("b/c") performance of each program within the Plan. A program with a b/c ratio below 1.0 is considered non-cost effective. All other things equal, the greater the Avoided T&D costs, the greater the total avoided cost and the greater likelihood a program's b/c ratio exceeds 1.0. Aside from certain low-income programs or pilots, non-cost effective programs have historically been rejected by the Commission. For the most part, DSM programs must be cost-effective for the utility to earn lost revenues and shareholder incentives. This in turn produces a greater benefit / cost ratio.

In theory, DSM programs can create T&D capacity benefits if they alleviate capacity issues on specific circuits. When this happens, the utility is avoiding costs associated with addressing those circuit-specific capacity congestion issues. Petitioner's witness Mr. Stemle testified in detail regarding Petitioner's proposed avoided T&D capacity costs which are equivalent to 102% of Petitioner's claimed avoided generation capacity costs. Despite his explanation of the mechanics

and associated computations, the record contains no evidence that Petitioner's DSM programs produced any avoided T&D capacity costs, let alone those proposed by Petitioner.

Petitioner bears the burden of proof to demonstrate the nexus between the DSM programs and the T&D capacity costs Petitioner claims they avoided as a result. First, Petitioner put forth no evidence that any of its circuits are at capacity, and none of DEI's DSM programs target specific circuits. Second, even if it had, Petitioner's avoided T&D capacity costs are based upon a 2016 calculation of the average cost of DEI T&D projects from 2008 to 2015. DEI represents these projects were undertaken to address growth in customer load. DEI divided these costs by expected growth in peak load. There is simply no relationship between this calculation and its resulting costs and actual T&D capacity savings produced when homes and businesses on congested circuits receive LED GSLs or insulation or a new HVAC system. Even Petitioner recognizes that a "more sophisticated" methodology is required. *Stemle Direct* at 6, lines 14-19.

While the argument might be made that DSM programs produce some system-wide Avoided T&D capacity costs, there is again no evidence of record making such a calculation, demonstrating its relation to specific DSM programs, excluding potential Avoided T&D benefits not created by the DSM programs (such as TDSIC projects), reduced demand² and any number of other issues. Despite delivering DSM programs for approximately thirty years, DEI has no evidence to support its assumptions concerning any direct relationship between DSM and avoided T&D capacity costs.

Additionally, Petitioner's proposed Avoided T&D capacity costs, relative to Avoided Generation capacity costs, are dramatically higher than other Indiana IOUs. As a comparison, in Cause No. 43405 DSMA 17 (December 27, 2019), the Commission approved Vectren South's proposed Avoided T&D capacity costs at 10% of Vectren South's Avoided Generation capacity costs based on "a conservative rule of thumb estimate." Order at 8. In rebuttal Petitioner offered Exhibit 13-A, an Avoided T&D cost benchmarking study from 2014, noting its proposed costs fell within "a range of avoided cost values from \$0/kW to \$200.01/kW" (in 2014 dollars) of the surveyed Companies. We note the average T&D avoided cost from the study (\$66.03/kW-Year) is lower than DEI's proposal, that the Company offered no evidence detailing inputs and formulae used by the survey participants to calculate their respective Avoided T&D capacity costs, and that Petitioner caveated the report by saying "the Company does not suggest it is similar to any particular utility included in the report. *Stemle @ 5-6*.

The size of Petitioner's Avoided T&D capacity costs also artificially increases shareholder incentives. We address that topic separately below.

In rebuttal, Petitioner admitted to a flattened load forecast and decreased peak load growth, causing the Company to place its proposed methodology "under review" and investigate "more sophisticated modeling approaches." *Stemle @ 6*. This effort will serve the Company well. We reject Petitioner's proposed Avoided T&D capacity cost proposal. With no evidence to support

²For example, beginning with the 2008 Recession, Petitioner's weather normalized summer demand dropped from 6,705 MW in 2007 (DEI's 2015 IRP @ 205) to 6,493 MW in 2008 and to 5,988 MW in 2017. Energy dropped a similar pro rata amount from 33,747 GWH to 31,676 GWH over the same period (Petitioner's Exhibit 3-A (DEI 2019 Integrated Resource Plan), page 113, Table B.2).

that the 10% “rule of thumb” method we accepted for Vectren would be appropriate to apply to Petitioner, we are left with no choice other than to set Vectren’s Avoided T&D capacity costs at zero. Changing this input to the cost effectiveness test will necessarily reduce the Plan’s overall b/c score and could result in some programs failing the cost-effectiveness 1.0 threshold ratio. Without accurate benefit / cost scores for the individual programs, we cannot make a determination that the overall Plan is reasonable. To address our concerns, we find Petitioner’s modified Plan should complete and produce the study referenced by Mr. Stemle reflecting reasonable T&D avoided capacity costs. The study should:

- a. Identify distribution circuits requiring capacity improvements;
- b. Exclude the impacts of TDSIC programs;
- c. Determine which situations are caused by load growth due to new customers (such as new subdivisions, shopping centers or other commercial expansion) and exclude those circuits from the analysis, as these are not distribution capacity issues that can be alleviated through DSM;
- d. For the remaining circuits, estimate the portion of the project costs including only those components related to improving capacity. The concept of quantifying only those costs relating to capacity have been applied in other jurisdictions;³ and
- e. Multiply the percentage of demand reduction based upon DSM compared to the system load times the annualized cost per kW-year of capacity improvements determined in (d) above.

B. **Avoided Generation Capacity Costs.** Avoided Generation Capacity costs are another avoided cost input to the cost effectiveness tests. Petitioner’s Avoided Generation Capacity costs were not an issue with respect to their use in determining the cost effectiveness of individual programs. These costs were an issue with respect to their use in calculating shareholder incentives. We address that issue later in this Order.

C. **Avoided Energy Costs.** Avoided Energy costs are another avoided cost input to the cost effectiveness tests. Petitioner’s Avoided Energy costs were not an issue with respect to their use in determining the cost effectiveness of individual programs. These costs were an issue with respect to their use in calculating shareholder incentives. We also address that issue later in this Order.

D. **GSL LEDs.** As opposed to the avoided costs discussed above, GSL LEDs are not themselves a direct input into the benefit cost tests. However, energy savings from non-specialty bulbs has historically been one of the largest, most cost-effective sources of energy savings. Lightbulbs have been included in multiple programs, both residential and commercial and have frequently functioned to increase the benefit/cost ratio of a program sufficiently to compensate for the inclusion of other valuable, but less-cost effective measures that may not have been practical on their own. As a result, bulb energy savings significantly impact both lost revenues

³ See Avoided Energy Supply Components in New England 2018 Report, pages 203-205 at <https://www.puc.nh.gov/Electric/Monitoring%20and%20Evaluation%20Reports/AESC%202018.pdf>

and shareholder incentives, as we discuss later. Here, in the context of assessing the cost effectiveness of Petitioner's proposed DSM plan, GSL LED's play a major role.

Technological advancement made efficient lightbulbs a long-running source of cost-effective energy savings. Halogen bulbs used less energy than incandescent bulbs to produce equivalent lumens, while CFLs did the same vs. halogens and LEDs have continued the advancement relative to CFLs. Because the newer technologies were more expensive when initially introduced than the then-predominant technology, it made sense to run robust lighting programs and incent customers, through rebates or buy-downs, to move on from older, inefficient technologies to newer ones with higher up-front costs but significantly lower total costs.

At issue here is Petitioner's proposal to include LED GSLs in programs within its Plan. LED bulbs have replaced CFLs as the bulb of choice as a program measure, yet Petitioner justifies their LED GSL programs by comparing the energy savings and costs to halogen lightbulbs. GSL halogens use more energy (about 34 Watts) compared to equivalent GSL LEDs (about 9 Watts) to produce the same brightness. GSL halogen bulbs average useful lifetime is approximately 2 years as compared to about 9 years for a Non-Energy Star" GSL LED and as many as 15 years for the Energy Star models. Using halogen GSLs as the "baseline" increases both the relative energy savings attributable to each LED installed and the length of time those savings will occur. This in turn, increases the cost-effectiveness of GSL LEDs. The Company contends halogen bulbs remain a reasonable baseline because:

- a) the DOE's 9/4/19 order prevented the EISA backstop provision (prohibiting the sale of GSL bulbs exceeding 45 lumens per watt effective 1/1/20);
- b) halogen bulbs were still available in the marketplace; and
- c) the OUCC's contention that the market for GSL LEDs has transformed was anecdotal and estimates of shelving stock is not conclusive evidence that the baseline has shifted.

The OUCC argues the proper baseline bulb for DEI's cost-effectiveness comparison should not be the halogen, but rather non-Energy Star LEDs. Adopting the OUCC's position will effectively eliminate GSL LEDs as a cost-effective DSM measure as program costs would exceed the nominal energy savings, which themselves would not manifest for 9 years. This would in turn dramatically reduce the cost-effectiveness of programs relying on GSL LEDs for energy savings. The OUCC raised similar arguments in Petitioner's last tracker case, Cause No, 43955 DSM 7 (February 6, 2020). In our order, we noted that the instant proceeding had already commenced and was "the forum best suited to address changing the issue of the appropriate baseline." Order @ 12.

Petitioner's use of halogen bulbs as the "baseline" for energy savings and cost effectiveness calculations is indefensible. The very idea of a "baseline" comparison should be the most widely available, comparably priced option that delivers comparable value. DEI cannot adequately explain why its proposal skips over an entire generation of technology (CFLs). DEI's proposal requires the incredulous assumption that an existing halogen bulb, when it dies two years from now in 2021, will be replaced by another halogen bulb, and replaced again in 2023 with another halogen, and again with another in 2025, and again every two years until it matches the life of the LED GSL. Petitioner's proposal would likewise have us abandon common sense and common knowledge. The DOE EISA backstop order was issued, but LEDs fill the shelves in hardware stores, department stores, grocery stores and virtually every mainstream retail establishment that

sells lightbulbs to the general public. Expert testimony demonstrating why this reality should not weigh in our consideration on this issue is not present here.

Again, Petitioner bears the burden of proof to demonstrate the reasonableness of its case and here, its choice of the halogen baseline. These bulbs are still commercially available, but so are VHS tapes, standard automobile transmissions, turntables, video camcorders, typewriters, transistor radios and a host of other things. Simply because one has the ability to purchase them does not make them the proper baseline against which to measure replacement technology. We find Petitioner's use of the halogen bulb as the baseline for cost-effectiveness comparisons is unreasonable. We further find the appropriate baseline bulb for Petitioner's cost-effectiveness comparison for the proposed Plan is the non-Energy Saver LED GSL. This change will reduce the benefit cost scores of all programs that include this measure. Because we cannot determine the ultimate effects of the cost-effectiveness of any impacted program, we cannot determine whether any program including energy savings based on LED GSLs will remain cost effective. This in turn prevents us from finding the Plan as a whole remains cost effective.

E. Lack of Transparency in Benefit / Cost Modeling. It is essential to understand the role the independent EM&V evaluator plays in Petitioner's benefit cost modeling and cost effectiveness measurement. The independent EM&V evaluator measures net-to-gross effects, free ridership, spillover, and kW-to-kWh measure impacts. While these elements all play a role in determining the ultimate cost-effectiveness of any program or the plan as a whole, there are multiple inputs to the benefit/cost evaluation over which DEI's independent EM&V evaluator has no control because they are provided by the Company and not vetted by the independent EM&V evaluator. DEI provides the Avoided Energy costs, Avoided Generation capacity costs, Avoided T&D capacity costs, measure baselines, and EULs as well. In addition, DEI does not have its independent EM&V evaluators run DSMore to perform the benefit /cost analysis, but instead DEI itself runs a different model, UIPlanner by Utilities International. Holbrook Rebuttal at 5-6. While we have no reason to believe the independent EM&V evaluators are biased in their findings or processes, the record evidence demonstrates many of the company-determined input values are unreasonable and seem to be selected with a constant focus on maximizing shareholder gains.

The failings regarding Petitioner's benefit / cost inputs precludes the Commission from making any finding other than we are unable to determine whether Petitioner's individual programs, and Plan as a whole are cost effective. As such, we must also conclude that Petitioner's Plan is unreasonable in its entirety.

F. Lost Revenues and Shareholder Incentives. Section 10(o) of the DSM statute states:

(o) If the commission finds a plan submitted by an electricity supplier under subsection (h) to be reasonable, the commission shall allow the electricity supplier to recover or receive the following:

(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.

We have discussed the issues with our inability to make factually-supported findings regarding the cost-effectiveness of both Petitioner's individual programs and the Plan in its entirety. As such, we are unable to determine whether Petitioner's Plan is reasonable in its entirety as required by the statute. Section 10(m) states that after finding a Plan is not reasonable in its entirety, and issuing an order setting forth the reasons, the electricity supplier shall submit a modified plan within a reasonable time. Because we also find Petitioner's proposed shareholder incentives and lost revenues to be unreasonable, we address those issues now to assist Petitioner in preparation of its modified plan.

1. **Avoided T&D Capacity Costs.** The OUCC raised concerns about the impacts of DEI's Avoided T&D capacity costs on shareholder incentives in Petitioner's 43955 DSM 7 tracker case immediately prior to the filing of this case. There we found it was "impractical to approve an EE plan for a set period of implementation using one set of avoided costs assumptions and then change the underlying avoided costs assumptions during EE plan implementation to calculate financial incentives." Order at 11. With similar concerns raised again and a new Plan under consideration, now is the appropriate time to address those concerns.

Petitioner's proposed "new circuit construction cost" methodology discussed earlier has the effect of approximately doubling the calculated shareholder incentive contributed by avoided capacity costs. This is unreasonable in light of our earlier determination that Petitioner failed to meet its burden of proof to demonstrate any actual circuit-specific avoided T&D capacity costs or any nexus between claimed DSM-related avoided T&D capacity costs and the costs to construct a new circuit to serve new load. As an input to the benefit / cost analysis of the proposed programs, every program that requests an incentive is tainted by this unreasonable avoided T&D capacity cost calculation. The Commission's DSM rules, specifically 170 IAC 4-8-7 (c), also address the need to for Petitioner to clearly demonstrate related savings before an incentive can be awarded:

A financial incentive shall not provide an incentive payment for an energy efficiency program or demand response program unless the net kilowatt or kilowatt hour impact, or both, can be reasonably determined.

DEI has not met this requirement. Petitioner's financial incentive depends directly on the magnitude of T&D avoided costs. We find Petitioner's requested shared incentive request is unreasonably increased as a direct result of the Avoided T&D capacity cost methodology. Petitioner shall address this in its modified Plan

2. **Avoided Energy Costs.** While the OUCC did not object to Petitioner's Avoided Energy costs as an input to determining program cost effectiveness, it objected to Petitioner's application of those costs in calculating shareholder incentives. Specifically, the OUCC to issue with the IRP-modeled carbon tax. OUCC's testimony stated the tax was a reasonable element for the IRP to consider and model, and as such is appropriately included in cost-effectiveness calculations. However, Petitioner is not currently subject to a carbon tax, and the IRP model does not project any such tax to become effective during the life to the proposed Plan. Since shareholder incentives are calculated only once for each year of the Plan,

they are not a cost that is avoided by DSM. We find including the carbon tax in the shareholder incentive calculation is unreasonable as it serves no purpose other than to unreasonably inflate shareholder incentives. It should be removed in Petitioner's modified Plan.

3. **GSL LED Bulbs.** Lost revenues and shareholder incentives attributable to GSL LEDs are driven by annual energy savings (relative to the baseline) and the number of years the measure will produce said savings. For the same reasons it is unreasonable to inflate Petitioner's benefit/cost ratios and program cost effectiveness by including these measures in today's energy efficiency programs, it is unreasonable for Petitioner to earn proposed lost revenues and shareholder incentives. Customers should not be required to pay program implementation costs, program marketing costs, program EM&V costs, lost revenues, shareholder incentives plus the true cost of the GSL LED bulb itself when they can buy the same bulb without any of those DSM Plan added overhead costs on their next trip to the grocery store. But DEI's inclusion of LED bulbs to squeeze additional lost revenues from ratepayers within its plan goes deeper. Petitioner's case-in-chief testimony touted the Company's plan to remove GSL LEDs from its Residential Smart Saver lighting program. What the testimony failed to make explicit was that DEI, in a corresponding program change, simultaneously a) increasing GSL LEDs in another program, where b) DEI would earn even greater lost revenues and shareholder incentives on a per bulb basis. Haselden direct @ 7 and attachment JEH-1 (DEI Responses to OUCC DR 1.15, 1.19, 2.1, and 3.4) and Dean Direct, Petitioner's Exhibit 2-A (ABD). GSL LEDs in DEI's commercial / industrial programs cause even greater concerns. DEI's Smart Saver Non-Residential Incentive program claimed a NPV of energy savings at \$71.95 per bulb. At the 10% shareholder incentive level, DEI was claiming an additional \$7.20 per bulb. But DEI's estimated 15-year life for these bulbs assumed 2,564 annual hours of use, or more than 38,460 lifetime hours. With an assumed average life of between 15,000 - 25,000 hours, DEI was claiming lost revenues based on 15 years' worth of savings for bulbs that would reasonably be expected to last approximately 9.75 years at the most, and potentially considerably less. There were concerns with the estimated shareholder incentive level as well. Haselden Direct, Appendix B, pages 1-2. With our finding above that Petitioner's modified Plan shall assume the LED GSL as the baseline bulb for cost effectiveness purposes, the associated unreasonable lost revenue and shareholder incentive issues should be resolved.

4. **Estimated Useful Lives.** GSL LEDs are not the only DSM measure in DEI's plan with an inflated EUL contributing to unreasonable lost revenues and shareholder incentives. Petitioner's On-Line store proposed to offer an LED Desk lamp with a 20-year measure life, based on the 2016 Mid-Atlantic Technical Reference Manual Version 6.0, page 67. The most recent version of that manual is Version 9.0, the reference section cited does not reference portable lamps or desktop lamps, but rather light fixtures installed in homes, and Petitioner's case in chief offered insufficient evidence for the Commission to verify or replicate the claimed savings. In addition to those discrepancies, a desk lamp is a portable object. There is no basis to support an assumption that it will remain in Petitioner's service territory for two decades. Between desk lamps, Residential GSLs and Non-Residential Smart Saver GSLs, the OUCC identified three separate instances of items with inflated EULs that unreasonably increase Petitioner's lost revenues and shareholder incentives. Haselden Appendix B, pages 1-9. We find that Petitioner's modified Plan submission should incorporate a thorough review of the savings assumptions and EULs for each measure the Company proposes to include.

5. **Low Income Neighborhood Program.** DEI has offered the Low Income Weatherization program and the Low Income Neighborhood program for years without a shareholder incentive. Because the program has not been cost effective, it has not been eligible. Describing the program “important” and providing “much needed efficiency and bill relief in neighborhoods that contain customers who need it most”, DEI now asks for shareholder incentives not based on the UCT Net Benefit (like all other programs’ shareholder incentives are based), but instead based on the estimated net present value of avoided costs, without considering any direct or indirect program costs. Duff Direct at 17. Petitioner does not provide a comparison of how incentives based on the UCT NPV would compare to the NPV of avoided costs, but neither scenario is permissible under the Commission’s DSM rules. 170 IAC 4-8-3(c) states:

The commission shall not approve financial incentives for a home energy assistance program that is not cost effective.

while 170 IAC 4-8-7(e) requires that:

A financial incentive must reflect the value to the utility’s customers of the supply-side resource avoided or deferred by the utility’s energy efficiency program or demand response program minus the incurred utility program costs.

It would be both improper and unreasonable to grant the requested incentive for the Low Income Neighborhood program. We are left to question how strongly Petitioner believes in the importance of bringing energy efficiency and bill relief to its most needy customers when those actions require ratepayers paying shareholders an additional incentive to do so.

6. **Avoided Generation Capacity Costs.** DEI’s Avoided Generation capacity costs are another item unreasonably inflating shareholder incentives. As a part of that calculation, Petitioner includes Avoided Generation capacity costs in years when Petitioner is long on capacity and makes no capacity purchases, as opposed to recognizing the value of avoided generation capacity in the years it is actually avoided and thereafter. By increasing the number of years in which Avoided Generation capacity costs are recognized, this ultimately increases the total value of savings, which ultimately manifests in yet another increase to Petitioner’s shareholder incentive.

Currently, DEI has a capacity surplus, and is unlikely to need additional capacity until 2023. In addition, DEI will have an additional 100 MW of capacity available in 2021, which is currently under contract to another Indiana utility. If made available to customers, this capacity could further delay the need for additional generating capacity beyond 2023. It is important to remember that the issue here is not the propriety of Avoided Generation capacity costs, or whether shareholders should receive an incentive for those costs when they are truly being avoided. The sole issue is whether those shareholders should be rewarded with an additional incentive for Avoided Generation capacity costs that DSM program benefits will not truly avoid until years in the future. We find they should not and that Petitioner’s modified Plan shall, for the purposes of calculating shareholder incentives, include Avoided Generation capacity costs beginning in the first year Petitioner’s IRP indicates a capacity need, and for each year thereafter.

7. **Outdoor Lighting Modernization Program.** Petitioner's proposed new Outdoor Lighting Modernization Program targets street and area lighting customers, providing a rebate to those who upgrade Company-owned lighting to more efficient LED fixtures. Customer incentives vary based on the fixture's wattage. Petitioner seeks both lost revenues and shareholder incentives for this program. OUCC witness Haselden argued against both lost revenues and shareholder incentives.

In the context of DSM, where programs do not typically install new plant, lost revenues can be viewed as a proxy for the return of shareholders would recover if additional generation were built instead. Shareholder incentives can similarly be compared to the return on the investment in plant shareholder would recover on said new generation asset. Because the Company currently owns the outdoor lighting fixtures and will continue to do so after they are upgraded under this program, Petitioner will earn a of and return on these newly upgraded assets when they are placed in rate base. As such, we find it would be unreasonable to doubly compensate DEI shareholders with lost revenues and shareholder incentives for this program. We note that the only other Indiana electric IOU with a DSM streetlighting program also receives neither lost revenues nor shareholder incentives.

OUCC witness Loveman raised concerns with the absence of clarity in the case-in-chief regarding how Petitioner will account for the LED change-outs in the program to avoid double counting a return. Petitioner's witness Dean's rebuttal admitted the Company did not propose any accounting treatment or ask for return on capital for the light fixtures in this proceeding and that this issue should be addressed in future cases.

We recognize that if DEI does not book the correct plant-in-service amount for these change outs, it will earn a return of and a return on these new rate base assets, as well as recovery of the costs through the annual DSM filings. The proper treatment to avoid double counting is for Petitioner to book its plant-in-service amount for the outdoor lighting's actual cost of conversion - material and labor to install the new fixture less the rebate given to customers. This would be reflected in Petitioner's next base rate filing.

We disagree that this issue should only be addressed in future cases. Petitioner is proposing the program now. The most reasonable time to establish the relevant accounting and ratemaking treatment is while the new program is being considered for approval, not potentially years later. This not only promotes transparency for all parties and the Commission, but should prevent unreasonable double earnings via cost recovery in the DSM proceeding and via a return on and of the LED change outs.

In addition to the unreasonable double earnings, we must also address DEI's benefit / cost methodology for this program. If one pays \$1.00 for a replacement a bub, and the cost of the original, now-dead bulb was 75 cents, it would be unreasonable to say the cost of the new bulb was 25 cents (\$1.00 - \$0.75) Yet that is exactly the method DEI proposes to value the cost of the new lighting fixture for the b/c test in the Outdoor Lighting Modernization program. By unreasonably excluding the full direct cost of the new fixture, this reduces the cost side of the b/c test, artificially improving the b/c ratio making the program seem more cost effective.

Therefore, we find that if Petitioner's modified plan includes the Outdoor Lighting Modernization program, such proposal shall include as the proper accounting treatment that Petitioner will book its plant-in-service amount for the outdoor lighting's actual cost of conversion, which is the material and labor to install the new fixture less the rebate given to customers. This will be reflected in Petitioner's next base rate filing. We also find the true and full direct costs of the upgraded light fixtures shall be included in the benefit / cost test calculations, and costs for existing fixtures shall not be netted against fixture upgrade costs.

G. **Section 10(j) Reasonableness Criteria.** Because we find Petitioner has submitted an EE Plan as required by Section 10(h), Section 10(j) identifies 10 factors the Commission must consider in determining its overall reasonableness. To comply with Section 10(m), the Commission "shall issue an order setting forth the reasons supporting its determination." Therefore, even if our findings about cost effectiveness, lost revenues and shareholder incentives may be considered case-dispositive, our Order must properly address Section 10(j)'s enumerated reasonableness criteria to determine if there are other issues the Commission may find to be unreasonable and that Petitioner would need to address in its modified Plan.

1. **Projected Changes in Customer Consumption.** Based on our findings regarding the unreasonableness of Petitioner's benefit / cost analysis inputs and the GSL LED baseline, Petitioner's proposed energy savings resulting from the Plan are no longer accurate. As a result, we find the Commission is unable to consider the reasonableness of p changes in customer consumption of electricity. We find Petitioner should provide updated consumption projections as part of its modified plan.

2. **Cost-Benefit Analysis.** We have already detailed our findings regarding the problems with Petitioner's cost-effectiveness modeling process, determined it to be unreasonable as proposed, explained why this prevents us from accurately assessing the cost-effectiveness of the Plan as a whole and provided Petitioner guidance as to how these issues should be addressed.

3. **Consistent with State Energy Analysis and Utility IRP.** Ind. Code § 8-1-8.5-3 requires the Commission to develop, publicize, and keep current an analysis of the long-range need for the expansion of electric generation facilities and sets forth certain requirements that the analysis must include. The most recent staff report on the Commission's analysis under I.C. § 8-1-8.5-3 is contained in the 2018 Report on the Statewide Analysis of Future Resource Requirements for Electricity.⁴ The proposed EE Plan is consistent with the statewide analysis as presented in that report. Petitioner provided SUFG information regarding its DSM/EE

⁴ Available at:

<https://www.in.gov/iurc/files/2018%20Report%20on%20the%20Statewide%20Analysis%20of%20Future%20Resource%20Requirements%20for%20Electricity.pdf>

programs and performance levels. Given that the SUFG's energy analysis reflects information provided by Petitioner, the DSM Plan is consistent with the state energy analysis. As discussed earlier in this Order, we find that Petitioner's 2020-2023 Plan is consistent with its 2018 IRP and the state energy analysis.

4. **EM&V.** We find, based on Ms. Williams' testimony, that EM&V for all programs in the Plan will be conducted by independent evaluators and that the estimated EM&V costs are reasonable. However, we have also noted serious issues with the impact of DEI-controlled inputs into the EM&V process, and the proclivity of those inputs to routinely slant towards unreasonably increasing lost revenues and / or shareholder incentives. Petitioner's modified Plan should explicitly detail how the Company has addressed our concerns.

5. **Undue or Unreasonable Preference to Customer Classes.** Petitioner's portfolio of programs offers a broad set of programs and measures for both residential and non-residential customers. It features a variety of delivery channels to ensure that interested customers have an opportunity to participate. The costs have been appropriately allocated to customer rate calculations consistent with accepted ratemaking practices. *See* Petitioner's witness testimony of Ms. Dean, Williams, and Lilly. 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, and we find none.

6. **Stakeholder Comments.** 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 2020-2023 Plan. As Petitioner witness Ms. Dean testified, in preparation of the Portfolio Plan, the Company presented the results of its MPS performed by Nexant with its OSB for input on February 8, 2018. Petitioner also met with the OUCC and CAC to discuss the proposed Portfolio Plan for feedback prior its filing with the Commission. Furthermore, the OUCC and CAC provided comments through the evidence they presented in this proceeding, 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.** Petitioner provided evidence of the short-term bill impacts on customers, as well as, various cost-effectiveness tests, some of which are designed specifically to evaluate the long-term effect of the proposed programs on the electric rates and bills of both participating and non-participating customers. Ms. Lilly testified that the short-term effect for participating customers is reduced energy consumption, which can result in lower energy bills. The projected long and short-term impact on customer rates and bills for both program participants and non-participants have been considered and presented in the Petitioner's case-in-chief. We find these types of evidence reasonably address this requirement. However, based on our prior findings, we make no finding here regarding the reasonableness of the effect on rates based on the data presented. Petitioner will be expected to update the data as part of its modified plan.

8. **Lost Revenues and Financial Incentives.** We have addressed the unreasonableness of Petitioner's lost revenues and shareholder incentives earlier in this order.

9. **Petitioner's IRP.** *[The OUCC did not offer testimony regarding the Plan's consistency with Petitioner's IRP and underlying resource assessment. As such, the OUCC offers no proposed order language for this section.]*

10. **Additional Information or Recommendations.** *[The OUCC offers no proposed order language for this section.]*

C. **Program Cost Recovery.** Petitioner requests that it be authorized to recover program costs through its approved DSM Rider. 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. If Petitioner's modified 2020-2023 plan is subsequently found to be reasonable in its entirety, we find Petitioner shall be authorized to recover its associated program costs.

D. **Oversight and Stakeholder Input.** Petitioner testified that it is still maintaining its OSB which meets monthly with four (4) quarterly in-person meetings and seven (7) phone calls. At each meeting the OSB reviews the previous month's scorecard on the performance of each program in the portfolio, the year-to-date performance, and what is expected for the remainder of the year. During the quarterly in-person meetings, the OSB has a more in-depth meeting to review EM&V draft reports and other substantive issues. In rebuttal, Mr. Duff proposed to increase the discretionary spending cap to 20% to allow the OSB to more nimbly respond to changes that could occur over the EE Plan timeframe. Noting that no party opposed this request, we find this approach reasonable and so approve.

E. **Update to Rider No. 66.** Ms. Lilly testified that upon Commission approval, Petitioner is proposing to update its Standard Contract Rider No. 66, First Revised Sheet No. 66, Pages 1 through 28 (Petitioner's Exhibit 6-A, Pages 1 through 28) subject to Petitioner's filing of the updated Rider 66 Tariff sheet with the Commission's Energy Division and begin billing the rates on a bills rendered basis effective with the Commission's Order in this proceeding. Based on our other findings, Petitioner's proposed update to Rider No. 66 is not approved. We will consider a revised Rider 66 update as part of Petitioner's modified plan submission.

F. **Program Scorecard.** In DSM-4, this Commission ordered Petitioner to provide additional information regarding its program scorecards so interested parties would have a better understanding of the savings being achieved in each program. Petitioner has been and continues to file its quarterly scorecards in the DSM-4 proceeding. We hereby order that Petitioner shall continue to file its quarterly score cards as directed in the requirements set forth in the DSM-4 Final Order, but under this current proceeding's cause number.

6. **Confidential Information.** Petitioner filed a Motion for Protection of Confidential and Proprietary Information, which was supported by Affidavits, showing Exhibits and

Workpapers filed in this proceeding were trade secret information within the scope of Ind. Code § 5-14-3-4(a)(4) and Ind. Code § 24-2-3-2. The Presiding Officers made rulings from the bench finding such information confidential on a preliminary basis after which such information was entered into evidence under seal. Accordingly, we find that all such information should continue to be held confidential pursuant to Ind. Code § 5-14-3-4(a)(4) and Ind. Code § 24-2-3-2.

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

1. For the reasons set forth above, Petitioner's 2020-2023 Plan, including program costs, lost revenues and a shared savings incentive is found to be unreasonable in its entirety. Given that the 2020 program year was offered under interim authority to continue under the authority granted in Cause No.43955 DSM-4, we find that order to control with regards to Program Year 2020's program costs, rate recovery, reconciliation and all other aspects for Program Year 2020. No portion of this order shall apply retroactively to costs already incurred or amounts already recovered.
2. Petitioner's request for timely recovery of all costs, including program costs, lost revenues and financial incentives associated with Petitioner's portfolio of programs offered to customers during 2021-2023, through its Rider 66 is denied. Costs previously recovered under the currently existing Rider 66 shall not be retroactively affected by this Order.
3. Petitioner's request for continued authority to use deferred accounting on an ongoing basis until such costs are reflected in retail rates through its Rider EE is denied.
4. Petitioner's proposed update to Rider 66, including the billing factors contained in this Order, is denied.
5. Petitioner will continue to maintain its OSB as discussed herein.
6. Petitioner will continue to file its EM&V reports as required in Cause Nos. 43955 DSM-2 and DSM-4, under this current Cause of action.
7. The material submitted to the Commission under seal shall be and hereby is declared to contain trade secret information as defined in Ind. Code § 24-2-3-2 and therefore is exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.
8. Consistent with Indiana Code 8-1-8.5-10(m) Petitioner shall submit a modified plan within a reasonable time. The modified plan shall be consistent with the recommendations included herein.
9. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR.

APPROVED:

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

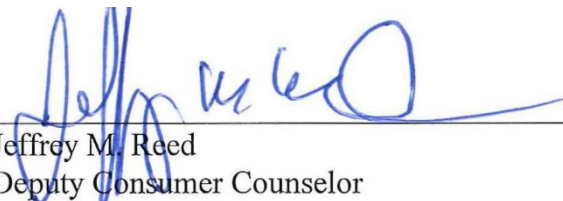
Mary M. Becerra
Secretary of the Commission

CERTIFICATE OF SERVICE

This is to certify that a copy of the *OUCC's Exceptions to Duke Energy Indiana's Proposed Order* has been served upon the following parties of record in the captioned proceeding by electronic service on October 15, 2020.

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