

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY INDIANA, LLC
("DUKE ENERGY INDIANA") PURSUANT TO IND. CODE
CHS. 8-1-8.5, 8-1-8.8, AND IND. CODE §§ 8-1-2-0.6 AND 8-1-2-23 FOR (1) ISSUANCE OF A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY ("CPCN") PURSUANT TO
IND. CODE CH. 8-1-8.5 TO CONSTRUCT TWO COMBINED
CYCLE ("CC") NATURAL GAS UNITS, AT APPROXIMATELY
738 MEGAWATTS (WINTER RATING) EACH, AT THE
EXISTING CAYUGA GENERATING STATION ("CAYUGA CC
PROJECT"); (2) APPROVAL OF THE CAYUGA CC PROJECT
AS A CLEAN ENERGY PROJECT AND AUTHORIZATION
FOR FINANCIAL INCENTIVES INCLUDING TIMELY COST
RECOVERY THROUGH CONSTRUCTION WORK IN
PROGRESS ("CWIP") RATEMAKING THROUGH A
GENERATION COST ADJUSTMENT ("GCA") TRACKER
MECHANISM UNDER IND. CODE CH. 8-1-8.8; (3)
AUTHORITY TO RECOVER COSTS INCURRED IN
CONNECTION WITH THE CAYUGA CC PROJECT; (4)
APPROVAL OF THE BEST ESTIMATE OF COSTS OF
CONSTRUCTION ASSOCIATED WITH THE CAYUGA CC
PROJECT; (5) APPROVAL OF CHANGES TO DUKE
ENERGY INDIANA'S ELECTRIC SERVICE TARIFF
RELATING TO THE PROPOSED GCA TRACKER
MECHANISM; (6) APPROVAL OF SPECIFIC RATEMAKING
AND ACCOUNTING TREATMENT; AND (7) ONGOING
REVIEW OF THE CAYUGA CC PROJECT.

CAUSE NO. 46193

Verified Settlement Testimony of

Colin T. Fitzhenry

On behalf of

Duke Industrial Group

July 11, 2025



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Verified Settlement Testimony of Colin T. Fitzhenry

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A Colin T. Fitzhenry. My business address is 16690 Swingley Ridge Road, Suite 140,
3 Chesterfield, MO 63017.

4 Q ARE YOU THE SAME COLIN T. FITZHENRY WHO PREVIOUSLY FILED
5 TESTIMONY IN THIS CAUSE?

6 A Yes. On May 8, 2025, I filed direct testimony on behalf of the Industrial Group.

Q WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A I will support the comprehensive settlement (the "Settlement") between the Duke Industrial Group and Duke Energy Indiana ("Duke" or "Duke Energy Indiana") (collectively "the Settling Parties").

Q DO YOU RECOMMEND APPROVAL OF THE SETTLEMENT?

A Yes, I recommend approval of the Settlement. It is a comprehensive agreement among the Settling Parties which resolves all of the issues raised by the parties in this Certificate of Public Convenience and Necessity ("CPCN") case in a fair and reasonable manner. The Settlement is the result of arms-length negotiations between the Settling Parties, all of whom were represented in the settlement discussions by competent and experienced counsel and aided by skilled experts.

I. SETTLEMENT AGREEMENT
SECTION I.A:
CPCN, RATEMAKING, AND COST ESTIMATE

Q PLEASE DESCRIBE SECTION I.A OF THE SETTLEMENT, RELATED TO THE CPCN, RATEMAKING AND COST ESTIMATE.

A The Settlement provides that Duke Energy Indiana shall receive a CPCN for the Cayuga CC Project, including forward-looking Construction Work In Progress ("CWIP") ratemaking treatment. Settlement at § I.A.1. The best estimate of \$3,332,623,420 (inclusive of estimated Allowance for Funds Used During Construction ("AFUDC")) has not changed. *Id.* at § I.A.2. Nor has the breakdown of costs between estimated costs and AFUDC comprising the \$3,332,623,420 change. *Id.* If the projected actual costs excluding AFUDC increases, Duke Energy Indiana must request to modify the CPCN in a future Generation Cost Adjustment ("GCA") subdocket proceeding. *Id.* at § I.A.3.

1 **Q WHAT DOES THE SETTLEMENT PROVIDE WITH RESPECT TO THE ENGINEER**
2 **PROCURE CONSTRUCT (“EPC”) CONTRACT?**

3 A The Settlement provides that Duke Energy Indiana expects that upon execution of the
4 EPC contract, the best estimate will remain the same. *Id.* at ¶ I(A)(4). The Settlement
5 also identifies the expected amount of contingency that will be included, (a confidential
6 figure set forth in Section I.A.4), which I believe is a reasonable amount. *Id.*

7 The Settlement further provides that once the EPC price has been adjusted,
8 Duke Energy Indiana will file an updated Highly Confidential Attachment 3-B (JRS) with
9 the Commission. If either the contingency is lower or the best estimate is higher than
10 the expected amounts, the Settlement requires Duke Energy Indiana to submit
11 additional evidence in the first GCA subdocket explaining why the amount of
12 contingency included and the best estimate at the time remain reasonable and prudent
13 or shall otherwise request a modification of the CPCN. The additional evidence shall
14 include a rerun of the same 2024 IRP analysis, inclusive of the six generation strategies
15 (convert/Co-fire Coal, Retire Coal, Blend 1, Blend 2, Blend 4, and Exit Coal Earlier) in
16 the Reference Scenario with the capital costs of the combined cycle units or
17 combustion turbines increased commensurate with the best estimate of cost for the
18 Cayuga CC Project plus an assumption that the contingency is at least as high as the
19 expected amount to confirm that a similar amount of combined cycle capacity is still
20 reasonable in the early 2030 timeframe. The Settling Parties agreed that if the
21 additional analysis is similar to the results of the high CC/CT cost case included in the
22 2024 IRP, then the CC Project remains reasonable.

1 **Q IN YOUR OPINION, DOES THIS APPROACH PROVIDE ADEQUATE PRICE**
2 **PROTECTION TO RATEPAYERS?**

3 A Yes. First, I note that the general structure of refreshing the IRP in the event of material
4 cost changes generally aligns with the recommendations in my Direct Testimony. This
5 includes reserving a certain level of contingency for project execution and construction.

6 Second, I note that the timing of any refresh of the IRP—should one be
7 necessary, which is not anticipated—would be very early in the process. In particular,
8 Section I.A.4 specifies that Duke Energy Indiana anticipates that the EPC contract will
9 be executed no later than two weeks after the Commission approves the CPCN, and
10 that its first GCA subdocket will be filed within one month of CPCN approval. So if there
11 are material unexpected changes (*i.e.*, dissimilar to the results of the high CC/CT cost
12 case included in the 2024 IRP), it would not be anticipated to be very far into the
13 process.

14 Third, to jump to Section I.A.6 momentarily, the Settlement protects Consumer
15 parties by reserving all rights to raise any arguments in the future with respect to cost
16 increases and material regulatory changes affecting Cayuga.

17 **Q WHAT WILL HAPPEN AFTER THE EPC CONTRACT IS EXECUTED?**

18 A Section I.A.5 provides that after the lump sum turnkey EPC contract is executed, to the
19 extent the EPC total contract price increases from the amount established in the
20 executed contract (accounting for any modifications in scope), any such increases shall
21 not be recovered unless and until Duke Energy Indiana has provided additional
22 evidence that such updated EPC costs remain reasonable and prudent in a subsequent
23 GCA subdocket proceeding and the IURC has approved. The additional evidence shall
24 demonstrate that notwithstanding the increase in the EPC contract price, Duke Energy

1 Indiana has sufficient contingency, escalation and/or management reserve remaining
2 in its best estimate of costs given the remaining construction timeline.

3 **Q. DOES THE SETTLEMENT PROTECT RATEPAYERS IN THE EVENT OF**
4 **POTENTIAL MATERIAL REGULATORY CHANGES AFFECTING CAYUGA?**

5 A Yes. In my Direct Testimony, I made recommendations regarding how to address the
6 possibility of material regulatory changes that might occur affecting Cayuga, either
7 during the pendency of this proceeding or thereafter. I note that since my testimony
8 was filed on May 8, 2025, no such material regulatory changes have occurred. In any
9 event, Section I.A.6 reserves the right of Consumer parties to raise any arguments in
10 the future with respect to cost increases and material regulatory changes affecting
11 Cayuga.

12 **II. SETTLEMENT AGREEMENT**
13 **SECTION I(B): ACCOUNTING AT RETIREMENT**

14 **Q WOULD YOU PLEASE PROVIDE SOME DETAILS REGARDING SECTION I.B OF**
15 **THE SETTLEMENT, RELATED TO THE ACCOUNTING AT RETIREMENT?**

16 A The settlement agreement outlines a clear plan for how the retirement of the Cayuga
17 coal units will be handled. First, any unrecovered net plant costs and costs associated
18 with removal, including expenses for decommissioning, demolition, and coal ash
19 closure, are slated to be addressed in a future depreciation study. Furthermore, the
20 remaining tax basis will be integrated into the calculation of tax gain or loss, and the
21 corresponding accumulated deferred income taxes will be added to Duke Energy
22 Indiana's accumulated deferred income tax balance. Upon the normal retirement of
23 these coal units, the book depreciation expense for them will cease.

1 A unique "envelope" mechanism will be established at the time of retirement for
2 the entire Cayuga facility, encompassing both the coal units and the new Combined
3 Cycle ("CC") units. This "envelope" will track the total book depreciation expense of
4 the facility, adjusted to exclude any costs already authorized for recovery through other
5 trackers not yet reflected in base rates. If this adjusted total book depreciation expense
6 happens to be higher than what is currently in base rates for the Cayuga coal units at
7 retirement, the excess amount will be passed on to customers as a cost via the GCA.
8 Conversely, if the adjusted total is less, the difference will be credited back to customers
9 through the GCA. Any incremental depreciation expense incurred on the Cayuga CC
10 Project before a Cayuga coal unit is retired will also flow to customers through the GCA.

11 Regarding materials and supplies inventory, if any remaining inventory cannot
12 be transferred or repurposed at other Duke Energy Indiana facilities after retirement,
13 Duke Energy Indiana commits to attempting to liquidate it through market transactions.
14 This remaining inventory will be recorded as a regulatory asset, to be considered for
15 recovery in a future rate case. This also allows for all parties and the Commission to
16 review Duke Energy Indiana's management of end-of-life inventory leading up to
17 retirement.

18 **Q IS THE SETTLEMENT'S TREATMENT OF ACCOUNTING AT RETIREMENT**
19 **REASONABLE?**

20 A. Yes. The accounting treatment for the retirement of the Cayuga coal units generally
21 aligns with typical industry practices for regulated utilities. This approach tracks plant
22 depreciation expense recovery and the ongoing unrecovered net plant costs to Duke.
23 That is, it tracks plant depreciation expense included in existing rates from Duke's last
24 rate case, which continues to provide Duke recovery of its Cayuga coal net plant
25 investment.

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1 GCA. Conversely, if the adjusted total O&M cost is less than what is in the base rates
2 for the coal units at retirement, the difference will result in a credit for customers through
3 the GCA. Furthermore, any new O&M costs incurred specifically for the Cayuga CC
4 Project before a Cayuga coal unit is retired will also flow directly to customers through
5 the GCA.

6 **Q IS THE SETTLEMENT'S TREATMENT OF O&M COSTS OF THE CAYUGA COAL**
7 **UNITS REASONABLE?**

8 A. Yes. The settlement's provisions for handling the O&M costs of the Cayuga Coal units
9 is equitable and reasonable. The settlement mechanism, which involves creating an
10 "envelope" for O&M costs and then flowing any difference (whether higher or lower) to
11 customers via the GCA, serves to ensure that actual O&M costs are recovered or
12 credited in a timely manner. The tracker allows for the appropriate cost recovery of
13 O&M expenses that cannot be exactly known at this time.

14 While the GCA facilitates timely cost recovery, regulated utilities still undergo
15 scrutiny to ensure that all costs are "prudently incurred." The settlement mechanism,
16 which outlines how costs will be adjusted and flowed through, allows for future review
17 by the Commission. Managing O&M costs during this transitional period, especially
18 when new generation like the combined cycle units is being integrated, necessitates
19 specific accounting and recovery mechanisms. The settlement addresses this
20 complexity by linking the O&M of the new units with the existing ones as they gradually
21 exit service. Furthermore, O&M costs can fluctuate considerably, particularly during
22 operational changes or plant retirements. The "envelope" mechanism and the GCA
23 flow-through provide the necessary flexibility to adjust rates as the O&M landscape of
24 the Cayuga facility evolves with the retirement of the coal units and the commencement
25 of operations for the new combined cycle units.

IV. SETTLEMENT AGREEMENT
SECTION I.D: DEPRECIATION LIFE

Q PLEASE DESCRIBE THE SETTLEMENT'S TREATMENT OF DEPRECIATION LIFE FOR THE CAYUGA CCS.

A The Settlement adopted my recommendation that the initial depreciation life for the Cayuga CCs be 40 years, until a formal depreciation study is conducted and a final order adjudicating the depreciation study is issued.

V: SETTLEMENT AGREEMENT
SECTION I.E: REGULATORY ASSET/DEFERRAL

Q WHAT DOES THE SETTLEMENT PROVIDE WITH RESPECT TO DUKE ENERGY INDIANA'S REQUEST FOR REGULATORY ASSETS AND DEFERRALS?

A The Settlement requires Duke Energy Indiana to withdraw in this proceeding all requests for regulatory assets and deferrals described on Mr. Sufan's Revised Direct Testimony at pages 13-14 (related to the 2021 and 2024 Integrated Resource Plan ("IRP") and Request for Proposals ("RFP") processes associated with the Cayuga CC Project, costs associated with external support related to potential property tax incentives related to the Cayuga CC Project, and future generation costs). Duke Energy Indiana agrees not to seek costs associated with the 2021 IRP in any future proceeding. As for the remaining costs, all parties reserve their rights with respect to the recovery of such costs in future proceedings.

Q IS THIS A REASONABLE DISPOSITION OF THIS ISSUE?

A Yes, this represents a reasonable balancing of the parties' positions in the context of the settlement as a whole.

VI: SETTLEMENT AGREEMENT
SECTION I.F: PIPELINE COSTS

**Q WHAT DOES THE SETTLEMENT PROVIDE WITH RESPECT TO RECOVERY OF
PIPELINE COSTS?**

A The Settlement provides that Duke Energy Indiana will recover costs of the Rockies Express Firm Transportation (“REX FT”), including both the East to West and the West to East Firm Transportation component, and costs of the CenterPoint lateral based on production demand via the Fuel Adjustment Clause (“FAC”).

Q IS THIS REASONABLE?

A Yes, it is reasonable and consistent with cost-causation. As I explained in my Direct testimony, Duke Energy Indiana's firm transportation costs and lateral pipeline costs are fixed and do not vary based on the amount of gas that is delivered to the Cayuga CC Project, nor does the electricity generated from the Cayuga CC production facility. Instead, these fixed costs are based on ensuring firm delivery during periods of peak demand, enabling the Cayuga CC generating units to operate at their maximum capacity. These costs will be incurred by Duke Energy Indiana irrespective of whether or not any gas is delivered to the Cayuga CC Project, and irrespective of whether or not this facility produces any energy. The gas delivery costs are a fixed contractual cost that is critical to operating the Cayuga CC Project as a firm dispatchable resource. Duke Energy Indiana must be able to call upon the resource when needed to serve demand, hence it must have FT to operate the resource for reliability in this manner. Accordingly, the Company's Firm Transportation natural gas delivery costs and lateral pipeline costs are “demand” charges, and it is appropriate that these costs are recovered from customers based on production demand.

VII: SETTLEMENT AGREEMENT
SECTION I.G: REI SETTLEMENT

**Q PLEASE DESCRIBE THE SETTLEMENT’S DISCUSSION OF THE SEPARATE
SETTLEMENT BETWEEN DUKE ENERGY INDIANA AND RELIABLE ENERGY INC.
 (“REI”).**

A. The Settlement acknowledges the separate settlement between Duke Energy Indiana and REI. § I.G.1. The Settlement provides that the Industrial Group will not oppose the separate settlement between REI and Duke Energy Indiana, subject to the modifications set forth in Section I.G and non-waiver provisions identified in Section I.H. *Id.*

The Settlement limits the circumstances in which Duke Energy Indiana can recover the costs of the Feasibility Study and RFP process, as well as the amount of any such recovery. *Id.* At I.G.2. In particular, Duke Energy Indiana can only recover up to \$1.5 million of such costs, and only to the extent any sale of the Cayuga coal units results in positive realized net proceeds. *Id.*

The Settlement also reserves the rights of the non-Duke parties to raise any issues related to continued operation of the Cayuga coal units in the event that emergent issues arise (either prior to or after their currently forecasted retirement dates in 2029 and 2030) that results in materially increased costs to Duke Energy Indiana to operate the coal units. *Id.* At I.G.3. This includes, but is not limited to, material increases in capital costs, O&M, and fuel costs. *Id.*

Finally, the Settlement provides for information sharing between Duke Energy Indiana and non-Duke parties in this Cause related to the progress of the Feasibility Study and the RFP Process.

These provisions represent a reasonable resolution as the result of arms-length negotiations between the parties.

VIII: SETTLEMENT AGREEMENT
SECTION I.H: RESERVATION OF RIGHTS

Q PLEASE DESCRIBE THE SECTION I.H RELATED TO RESERVATION OF RIGHTS.

A This section preserves all rights of the non-Duke parties to raise all arguments regarding the terms of any agreement regarding the future disposition of the Cayuga coal units in any future proceeding, and includes, but is not limited to, the following:

1. Duke Energy Indiana specifically agrees that non-Duke parties do not waive any rights to challenge any aspect of any future sale or other disposition of the Cayuga coal units and resulting impact on ratepayers; and
2. Duke Energy Indiana also specifically agrees that non-Duke parties are not precluded by res judicata, by settlement, or on any other basis from (1) challenging the scope of proceeds that should flow to customers as the result of any sale of the Cayuga coal units in any future proceeding; and (2) raising any arguments that Duke Energy Indiana cannot recover any losses as the result of a sale in a future proceeding.

IX: CONCLUSION

Q PLEASE SUMMARIZE YOUR THOUGHTS ON THE SETTLEMENT AS A WHOLE.

A Based on my review and the detailed provisions within the Settlement Agreement, I strongly recommend its approval by the Commission. This comprehensive agreement effectively resolves the issues raised in this CPCN case in a fair and reasonable manner. The Settlement provides price protection mechanisms related to the Cayuga CC Project's cost estimate, reasonable accounting treatment at retirement, appropriate handling of O&M costs, and the prudent disposition of regulatory assets and pipeline costs. As a result, this Settlement provides a balanced and prudent path forward. Furthermore, the explicit reservation of rights for non-Duke parties ensures ongoing protection for ratepayers regarding future cost increases and the disposition of the Cayuga coal units. The collective terms demonstrate a thoughtful and comprehensive resolution that is in the public interest.

1 **Q** **DOES THIS CONCLUDE YOUR SETTLEMENT TESTIMONY?**

2 **A** Yes, it does

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STATE OF INDIANA

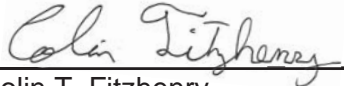
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Verification

I, Colin T. Fitzhenry, a Principal of Brubaker & Associates, Inc., affirm under penalties
of perjury that the foregoing representations are true and correct to the best of my knowledge,
information and belief.


Colin T. Fitzhenry
July 11, 2025