FILED
October 9, 2015
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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| PETITION OF DUKE ENERGY INDIANA, INC. FOR APPROVAL OF (1) ITS PROPOSED DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS FOR 2016-2018, INCLUDING COST RECOVERY, LOST REVENUES AND SHAREHOLDER INCENTIVES IN ACCORDANCE WITH IND. CODE §§ 8-1-8.5-3, 8-1-2-42(a) AND PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-6; (2) AUTHORITY TO DEFER COSTS INCURRED UNTIL SUCH TIME THEY ARE REFLECTED IN RETAIL RATES; (3) RECONCILIATION OF DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAM COST RECOVERY THROUGH DUKE ENERGY INDIANA, INC. STANDARD CONTRACT RIDER 66A; AND (4) REVISIONS TO STANDARD CONTRACT RIDER 66A | ) | CAUSE NO. 43995 DSM 03 |

**OUCC'S MOTION TO FILE UNREDACTED PUBLIC VERSION OF PUBLIC'S EXHIBIT NO. 2, PRE-FILED TESTIMONY OF EDWARD T. RUTTER**

The Indiana Office of Utility Consumer Counselor ("OUCC") hereby gives notice to the Indiana Utility Regulatory Commission ("IURC") of the following:

1. The OUCC filed the public, redacted testimony and exhibits of Edward T. Rutter on September 03, 2015.
2. Duke Energy Indiana has notified the OUCC that they no longer consider the redacted information in Mr. Rutter's testimony or exhibits confidential.
3. The OUCC has removed the redactions and now offers this unredacted, public version of Mr. Rutter's testimony.

WHEREFORE, Office of Utility Consumer Counselor respectfully requests the Commission accept this public, unredacted version of Public's Exhibit No.2.

Respectfully Submitted,

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

Jeffrey M. Reed, Atty. No. 11651-49
Deputy Consumer Counselor

**TESTIMONY OF OUCC WITNESS EDWARD T. RUTTER**
**CAUSE NO. 43955 DSM-3**
**DUKE ENERGY INDIANA, INC.**

## I. INTRODUCTION

**Q: Please state your name, employer, current position and business address.**

A: My name is Edward T. Rutter. I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC") as a Utility Analyst in the Resource Planning and Communications Division. My business address is 115 West Washington St., Suite 1500 South Tower, Indianapolis, Indiana 46204. My educational background and professional experience is detailed in Appendix ETR-1 attached to this testimony.

**Q: What did you do to prepare your direct testimony in this Cause?**

A: I reviewed and analyzed the petition, pre-filed testimony, exhibits and workpapers and Duke Energy Indiana, Inc. ("Duke" or "DEI") responses to data requests. I attended meetings including Oversight Board meetings ("OSB") with Duke employees to discuss the policies and procedures employed in developing the proposed recovery of lost revenues and incentives.

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

A: I discuss OUCC's objection to Duke's request to continue to recover lost revenues[1] and shareholder incentives. For every dollar spent on Duke's DSM Plan, 46% are non-program costs, lost revenues and shareholder incentives. The DSM energy savings, on average over the three years of the Plan, will cost $0.35 per kWh saved[2]. I will demonstrate that of the $0.35, program cost recovery represents $0.19, meaning Duke is asking for $0.16 profit for each kWh saved by DSM. I will explain why Duke's proposed lost revenues and shareholder incentives render the 2016-2018 plan unreasonable pursuant to Senate Enrolled Act 412 ("SEA 412") and should be denied. I will also discuss the cost/benefit results based on the process provided in SEA 412 and how that calculation compares to the standard cost/benefit tests historically employed in Indiana.

## II. LOST REVENUES AND THE DSM "DISINCENTIVE"

**Q. Has the Commission previously explained the intended purpose of lost revenues recovery?**

A. Yes. In Duke's first DSM case authorizing lost margins, Cause No. 43955 (3/21/12), the Commission's Order at page 37 states:

> As our rules and previous orders indicate, we have generally concluded that a utility may seek compensation for lost revenues

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[1] The Commission, utilities and other parties have historically used the terms "lost margins" and "lost revenues" synonymously. Compare NIPSCO's caption in this case ("lost revenues") with its caption in Cause No. 44154 ("lost margins"). See also Cause No. 43827 (9/22/10, I&M DSM; "lost revenues"), Cause No. 43938 (8/31/11, Vectren DSM; "lost margins"), Cause No. 43959 (7/13/11, I&M DSM; "lost revenues"), Cause No. 43912 (7/27/11 NIPSCO DSM; "lost margins"), Cause No. 43623, Phase II (2/10/10, IPL DSM; "lost revenues/margins"). For purposes of this testimony, the OUCC will use them interchangeably.

[2] ETR Attachment 1

> when an energy efficiency program results in a reduction in sales.

That same order goes on to say:

> In addition, we have not foreclosed lost revenue recovery where the calculation is based upon reasonably accurate inputs that fairly reflect the utility's present operating system.

In Cause No. 44154 the Commission found:

> As we previously noted, recovery of lost margins is intended as a tool to remove the disincentive utilities would otherwise face as a result of promoting DSM in its service territory.[3]

As discussed in detail below, Duke's case-in-chief in this Cause demonstrates that promoting DSM within its service territory does not expose Duke to any disincentive that requires removal, but rather provides an economic incentive that far exceeds what the Company would earn by selecting a supply-side option.

**Q. How is Duke using UCT/PACT?**

A. Duke used the Utility Cost Test / Program Administrator Cost Test ("UCT/PACT") cost benefit test to demonstrate that its DSM Plan was cost-effective and reasonable.

**Q. How is the OUCC using UCT/PACT?**

A. The OUCC examined lost margins with this test to determine if a DSM disincentive would exist as a result of adopting the proposed DSM Plan.

[3] Citing *Southern Ind. Gas & Elec. Co.* Cause No. 43938 at 40-41 (IURC Aug. 31, 2011).

Sometimes referred to as the revenue requirements test,[4] the UCT/PACT is a cost benefit test that looks to determine if utility bills will increase over time. The UCT/PACT examines the ratio of the DSM programs' benefits to the program costs incurred by the utility. The costs include all expenditures by the utility to design, plan administer, deliver and monitor the DSM programs. The benefits include all the avoided utility energy costs, avoided utility capacity costs, avoided transmission and distribution costs. The UCT/PACT only includes the utility's costs and not the costs incurred by the customer. Neither lost margins nor shareholder incentives are included in this test.

Determining whether or not a disincentive exists can be viewed as a function of Duke's estimated cost-benefit results positively or negatively impacting the net operating income or return authorized under Duke's last base rate case, Cause No. 42359 (May 18, 2004). Those rates were set to allow Duke the opportunity to achieve an authorized rate of return on its rate base. The impact of the proposed Electric DSM Plan on the authorized return can be determined by relating the net benefits to the rate of return authorized. The cost benefit calculations necessary to isolate the impact on the overall rate of return and return on common equity from the Electric DSM programs through the UCT/PACT are provided in Duke's case-in-chief.

Adding the UCT/PACT net benefit, lost margins and incentives (each as calculated by Duke) to the authorized NOI will demonstrate if a disincentive

[4] "Energy Efficiency Cost-Effectiveness Screening" Synapse Energy Economics. Inc. November 2012, page 16, footnote 14.

exists. If the actual return on the rate base is less than the authorized rate of return, then a disincentive exists. If the actual return on the rate base is increased, then there is no disincentive.

**Q. What are the results of your analysis?**

A. The results are contained on ETR Attachment 2, pages 1 – 6. The data are derived from:

1. The final approved order in Cause No. 42359 (Duke's current authorized overall rate of return, rate base, return on equity, capital structure and authorized NOI);[5]

2. Petitioner's CONFIDENTIAL Exhibit No. C-5; (Duke's proposed lost revenue recovery and shareholder incentives); and

3. Duke's CONFIDENTIAL responses to Citizens Action Coalition's Data Request CAC Set 2-4-A (Duke-calculated net UCT benefits for 2016 – 2018) (ETR Attachment 3).

For 2016, page 1 sets forth Duke's 5.51% Weighted Average Cost of Capital (overall rate of return) on its $4,856,532,000 Indiana jurisdictional rate base, plus the authorized Net Operating Income ("NOI"). Adding the Duke-calculated UCT/PACT net benefit ($56.2M), lost margins ($25.5M) and incentives ($3.9M), and applying an assumed 40% effective income tax rate produces a realized overall rate of return of 6.57%, one hundred and six basis points above the authorized 5.51%. Page 2 includes the authorized return on common equity of 6.47% and uses the authorized capital structure and cost rates to calculate the effective new return on common equity. At 8.85%, this is two hundred thirty-eight basis points above the authorized 6.47%. The same process is

[5] Cause No. 42359 (5/18/04), Order at pages 7,12, 54 and 100

repeated on pages 3-4 for 2017 and pages 5-6 for 2018.

The resulting impact on Duke's authorized rate of return caused by the implementation of the Electric DSM Plan increases that authorized overall rate of return to 6.59% in 2017 and 6.56% in 2018. The resulting indicated rate of return on common equity increases as well: to 8.90% in 2017 and 8.83% in 2018.

**Q. Based on this analysis, will implementation of the Duke Electric DSM plan result in a disincentive to Duke?**

A. No. If Duke chose to meet demand with a supply-side option such as a new plant, it would earn a return on its investment of 5.51%. That investment would come with significant risk, including financing a massive capital investment, slower cost recovery and the possibility that the Commission may not find the project used and useful. In comparison, none of those risks apply to Duke's proposed DSM Plan. If approved, Duke's effective overall rate of return and return on common equity will surpass its authorized levels. Duke faces no disincentive. Instead, the opposite is true. Any allowance of the recovery of lost margins under the proposed DSM Plan is unreasonable and unnecessary.

## III. <u>LOST MARGINS AND COST EFFECTIVENESS TESTS</u>

**Q. Would you please define cost-effectiveness as used within your testimony?**

A. Cost effectiveness is a measure of the relationship between the benefits of a DSM investment and the associated costs. Results are typically developed in NPV dollars or as a ratio of benefits/costs. A score greater than 1.0 indicates the benefits exceed the costs. There are five (5) cost-effectiveness tests commonly used by state commissions and utilities, usually with input from other stakeholders.

**Q. How does one determine if a DSM program or group of programs is cost-effective?**

A. Absent other specific mandates, the first step is to select which of the five cost-effectiveness tests to be used:

- Utility cost test / Program administrator cost test ("UCT/PACT")
- Ratepayer impact test ("RIM")
- Total resource cost test ("TRC")
- Participant cost test ("PCT")
- Societal cost test ("SCT")

These tests have been used for over twenty (20) years. Originating in California, they were developed for evaluating DSM programs and are contained in California's *Standard Practice for Cost-Benefit Analysis of Conservation and Load Management Programs* manual. Duke focused its cost-benefit analysis on the UCT/PACT, RIM, TRC and PCT. It did not present complete results for the PCT[6] or any results for the SCT.[7]

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[6] The PCT compares the costs and benefits to the customer that has installed a DSM measure. A score greater than 1.0 means the customer (participant) will benefit over the life of the measure. The benefits include bill savings realized by the customer and any financial incentive paid by the utility. The costs include all the direct expenses incurred by the customer to purchase, install and operate a DSM measure. Neither lost margins nor shareholder incentives are included in this test.

[7] The SCT compares society's costs of DSM to resource savings and non-cash costs and benefits. A benefit/cost ratio greater than 1.0 indicates that all impacted parties - utility, customer and state - are better off as a whole. The SCT can be considered the most comprehensive test for evaluating DSM programs since this is the only test designed to capture all benefits and all costs to society as a whole. Ideally the SCT would include all costs and benefits, including non-energy costs, no matter who experiences them.

**Q. Please explain the Utility Cost Test / Program Administrator Cost Test.**

A. Discussed earlier, the UCT/PACT has been referred to as the revenue requirements test.[8] The purpose of the test is to determine if utility bills will increase over time. The UCT/PACT focuses on the energy costs and benefits experienced by the utility implementing the programs.

The costs include all expenditures by the utility to design, plan administer, deliver, and monitor the DSM programs. The benefits include all the avoided utility energy costs, avoided utility capacity costs, avoided transmission and distribution costs. The UCT/PACT only includes the utility's cost and not the costs incurred by the customer. Neither lost margins nor shareholder incentives are included in this test.

**Q. Please explain the Ratepayer Impact Measure test.**

A. The RIM measures the impact on utility rates due to the changes in utility revenues and operating costs caused by a DSM program. The costs included in the RIM are program overhead, participant incentive payments and lost revenues.[9] The benefits include all the avoided utility energy costs, avoided utility capacity costs, avoided transmission and distribution costs and any other costs incurred by the utility to provide electric service, the same as for the UCT/PACT. Shareholder

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[8] "Energy Efficiency Cost-Effectiveness Screening" Synapse Energy Economics. Inc. November 2012, page 16, footnote 14.

[9] The California Standards and Practices Manual at page 13 also lists the following costs for RIM - decreased revenues for any periods in which load has been decreased, increased supply costs for any periods when load has been increased, fuels for fuel substitution, initial and annual costs (such as the cost of equipment, O&M, installation, administration) and customer dropout removal of and equipment (less salvage value).

incentives are not included in this test.

All rate payers are typically required to pay for the costs of DSM programs implemented. DSM program participants may experience net benefits through lowering their bills because of reduced energy usage. Non-participants in the DSM program may experience bill increases to pay for the program costs. The RIM is heavily influenced by the lost revenues to the utility, which are collected from all customers -- participants as well as non-participants. Because the RIM is the only test that explicitly recognizes lost margins, more DSM programs fail to achieve a score of 1.0 for this test than the other standard tests.

**Q. Please explain the Total Resource Cost test.**

A. The TRC reflects total benefits and costs to all customers in a utility's service area. The costs include the full incremental cost of the DSM measure without regard as to whether the utility or customer incurred the cost. The TRC costs include the costs to purchase and install the DSM measure and the direct and indirect costs incurred in running the DSM program. The benefits include all the avoided utility energy costs, avoided utility capacity costs, avoided transmission and distribution costs and any other costs incurred by the utility to provide electric service, the same as for the UCT/PACT. Neither lost margins nor shareholder incentives are included in this test.

**Q. Did Duke's DSM Plan pass all three tests?**

A. No. The table on pages 23-24 of DEI witness Ms. Roshena Ham's testimony, Petitioner's Exhibit B, shows Duke's proposed programs pass both the UCT/PACT and TRC tests, but all fail the RIM test with the exception of the

Power Manager, Power Manager for Apartments, Power Manager for Business and Smart Saver Non-residential Custom Incentive programs. The three Power Manager programs are load control programs and, as discussed by Ms. Paronish, are not "energy efficiency programs" pursuant to I.C. 8-1-8.5-10(d)(2).

The OUCC calculated the RIM for the overall portfolio at 1.11[10] with only four (4) programs individually passing the RIM. Removing the three Power Manager load control programs causes the remaining portfolio to fail the test, dropping the score to 0.80[11].

**Q. How do TRC and UCT/PACT test results impact Duke's proposed recovery of lost margins and shareholder incentives?**

A. Because the programs' benefits outweigh their costs for UCT/PACT and TRC, Duke argues the lost margins are reasonable, are entitled to be collected from ratepayers and should be approved.

**Q. Why is the OUCC contesting Duke's proposal to continue to recover lost margins from ratepayers?**

A. It is important to remember that while the benefits are identical for UCT/PACT, TRC and RIM, the costs each test consider differ substantially. Neither UCT/PACT nor TRC recognize Duke's proposed $89,559,843 in lost margins and shareholder incentives to be paid by ratepayers. The RIM test ratios are actually overstated, as the RIM test only factors in lost margins, not the additional shareholder incentives.

Duke's projected DSM budget contains the program costs ($105,401,468)

[10] ETR Attachment 3 page 1

[11] ETR Attachment 3 page 2

and their associated proposed lost revenue recovery ($77,659,658) and shareholder incentive recovery ($11,900,075). Duke seeks a total cost recovery of $194,961,311.[12] Program costs represent only 54% of that total ($105,401,468 / $194,961,311 = 54%).

In Duke's 2015 DSM case, Cause No. 43955 DSM 02, the OUCC testified regarding concerns that lost margins and shareholder incentives were producing DSM energy savings averaging $0.32 per kWh saved. Duke's proposed DSM 2016-2018 Plan increases the cost to ratepayers, on average over the three years of the plan, to $0.35 per kWh saved, as shown in Attachment ETR-1. Of the average $0.35 per kWh saved, program cost recovery represents $0.19, with lost margin recovery averaging $0.14 per kWh saved and the balance of a $0.02 per kWh saved represented by shareholder incentives.

These observations illustrate the serious imbalance between ratepayer and utility interests. With program costs barely exceeding lost revenues and shareholder incentives, DEI's proposed recovery of these two items is both unnecessary and unreasonable.

## IV. FIXED COSTS AND "REVENUES LOST"

**Q. Mr. Goldenberg testifies on page 15 lines 10 to 13, "At the same time, the promotion of energy efficiency causes utilities to experience a reduction in the recovery of their fixed costs absent the recovery of lost revenues. Lost revenues are a mechanism to make a utility whole between rate cases." Does the OUCC agree?**

A. Yes, as it relates to the recovery of authorized fixed costs embedded in base rates and so long as the utility does not experience sales above the pro-forma test year

[12] ETR Attachment 1.

sales.

**Q. What are fixed costs?**

A. A fixed costs is a cost that does not change with an increase or decrease in the amount of goods or services sold. Fixed costs, when combined with variable costs result in the total cost of a good or service.

**Q. When base utility rates are set, is there a fixed cost component included in the base rate?**

A. Yes. Base rates are set to recover the costs of operation, fixed and variable costs, based on a test year level of sales. If a utility were to experience a sales level less than implicit in base rates then the authorized fixed costs will not be recovered. If sales exceed the amount included in base rates, the utility will realize a boost to the authorized allowable rate of return. The difference between the additional revenue and increased variable costs goes straight to the bottom line.

**Q. Do you have an example of how this would impact the bottom line?**

A. Yes. Assume base rates were set at $1.00 per kWh sold (with fixed costs representing $0.75 and variable costs $0.25) and the test year sales were 1,000 kWh. If the utility sells 900 kWh in a given year, the necessary $750 in fixed costs would not be recovered. By comparison, if sales for the year were 1,100 kWh, the utility will recover the full $750 in fixed costs, plus $75 additional net revenues ($0.75 *100 kWh sold). Since the fixed costs have already been recovered, the $75 flows directly to the bottom line resulting in the utility achieving a return greater than authorized.

**Q. Why are fixed costs relevant to this case?**

A. While Duke has been recovering lost revenues, its total sales have been increasing and have exceeded sales utilized in setting Duke's base rates. The growth in total sales has recovered fixed costs far exceeding the amount embedded in base rates and dwarfing any fixed costs not recovered as a result of DSM measures.

In interpreting the statutory definition of "revenues lost" in I.C. 8-1-8.5-10(e) (1), the Commission should consider whether this term refers to losses that prevented the utility from achieving its base rate-embedded level of sales (and thus its authorized fixed costs and ultimately, its authorized return). Put another way, does "revenues lost" exclude unrealized DSM-related sales when the utility is being provided a fair opportunity to fully recover its authorized fixed costs and authorized return? Duke's DSM lost margin request is unreasonable because the DSM lost sales are not preventing Duke from recovering its authorized fixed costs.

**Q. What is ETR Attachment 4?**

A. ETR Attachment 4 reflects Duke's annual kWh sales for rate classes Duke uses to calculate lost revenues (CSNO, LSNO, LSSO, RSNO, RSN2, RSN4 and SWP) for the twelve months ended September 30, 2002[13] and the calendar years 2012 through 2014. Test year kWh sales for the seven rate classes were approximately 11.9 billion.[14]

Sales subsequent to the base rate order (2012, 2013, and 2014) for the aforementioned rate classes exceeded test year sales between 1.5 and 2.3 billion kWh annually. In comparison, this ranges from almost 8 to 12 times greater than

[13] Test year in Duke's last base rate case, Cause No. 42359 (5/18/04).

[14] Ms. Douglas' Corrected Workpaper 8, page 7 of 7, filed 8/25/15

the estimated DSM-related lost sales for 2016-2018. Duke will have collected annually far more fixed costs than authorized in base rates. There is no evidence that suggests Duke will fail to realize its base rate authorized level of sales fail to recover its authorized fixed costs as a result of DSM. Providing recovery of lost revenues for DSM for any year subsequent to the test year is not only unnecessary, but unreasonable.

## V. SENATE ENROLLED ACT 412

**Q. Is the Duke DSM Plan consistent with the provisions of Senate Enrolled Act 412 ("SEA 412")?**

A. No. Duke selectively applies sections of SEA 412 that are most favorable to it but ignores sections that may not prove to be as beneficial. Mr. Goldenberg testifies on beginning on page 3, lines 18:

> "Yes, there are a number of sections in SEA 412 that informed the Company's Application. Firstly, SEA 412 requires the Company to submit an Energy Efficiency Plan to the Indiana Regulatory Commission ("Commission") at least one (1) time every three (3) years. It also directs that Duke Energy Indiana's Energy Efficiency Plan must include independent evaluation, measurement, and verification. SEA 412 provides that if the Commission finds Duke Energy Indiana's Energy Efficiency Plan to be reasonable, it will allow the recovery of certain energy efficiency program costs that include program costs, lost revenues, and incentives. Lastly, it allows for a retail rate adjustment mechanism to recover program costs that may be based on a reasonable forecast and that any variance between forecasted and actual program costs will be reconciled.

If Duke seeks to take advantage of SEA 412, to recover the lost margins and incentive benefits of SEA 412, it should also be required to comply with all applicable portions of the law, including the cost benefit analysis the statute requires to justify those benefits.

**Q. What is the cost benefit analysis required by SEA 412?**

A. I.C.8-1-8.5-10(j) states that in making its determination of the overall reasonableness of a plan submitted under section (h), the Commission shall consider several items. One of those items, specified in I.C. 8-1-8.5-10(j)(2) is "A cost and benefit analysis of the plan."

Section 10(l) of this portion of the Code sets forth the actions available to the Commission if it determines that a DSM plan is not reasonable *because the costs associated with one (1) or more programs included in the plan exceed the projected benefits* of the program or programs. (Emphasis Added).

I.C.8-1-8.5-10(g) specifies that "program costs" include:

> (1) Direct and indirect costs of energy efficiency programs.
> (2) Costs associated with the evaluation, measurement, and verification of program results.
> (3) Other recoveries or incentives approved by the commission, *including lost revenues and financial incentives* approved by the commission under subsection (o). (Emphasis Added)

Read together, these portions of SEA412 require that the Commission find a DSM plan reasonable before the utility may be eligible for lost margin and shareholder incentive recovery. Reasonableness is predicated, at least in part, on a cost benefit analysis where program benefits exceed program costs, and program costs must include lost revenues and incentives.

As discussed earlier, Duke has shown that its proposed DSM programs pass both the TRC and UCT/PACT, but fail the RIM (excluding the demand response programs) measuring ratepayer impact. Neither TRC nor UCT/PACT includes lost margins or shareholder incentives as program costs required by I.C.

8-1-8.5-10(g)(3). In comparison, the RIM test includes direct and indirect program costs, EM&V costs and lost revenues. The only cost it does not take into consideration is shareholder incentives, which would further drive down the cost effectiveness scores and provide a more complete depiction of .the actual benefits to ratepayers. While the TRC and UCT/PACT tests have been widely utilized by Indiana utilities, stakeholders and the Commission, the Indiana General Assembly and Governor Pence have made it plain that Indiana law now requires a different, more inclusive analysis.

**Q. Are there other SEA 412 requirements Duke has failed to meet?**

A. Yes. I.C. 8-1-8.5-10(j)(7) requires the Commission consider "The effect, or potential effect, in both the long term and 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." The PCT was calculated and provided in the case-in-chief for only four (4) programs: Smart Saver Residential; Smart Saver Non-Residential Custom Incentive; Smart Saver Non-Residential Prescriptive Incentive; and Small business Energy Saver. DEI witnesss Ms. Douglas briefly discusses residential customer impacts.[15] This information alone is not sufficient to provide the Commission the ability to conclude the plan meets these criteria. The PCT is an inadequate proxy for the potential effect "on the electric rates and bills of customers that participate in energy efficiency programs" because, like TRC and UCT/PACT, it ignores Duke's proposed $89.6M in lost margins and

[15] Petitioner's Exhibit D, Douglas Direct at 19:6.

incentives.

Section 10(j)(6) requires the Commission, in determining if a DSM plan is reasonable, to consider "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 electric supplier's service territory." Duke's case-in-chief does not include customer or customer representatives' comments, nor does it demonstrate other stakeholders have been solicited and otherwise included in the plan.

## VI. SHAREHOLDER INCENTIVES

**Q. Does the OUCC support Duke's request for recovery of performance incentives?**

A. No. As discussed immediately above, because Duke's programs fail the RIM test as a portfolio, after excluding the demand response programs as provided for in SEA 412, Duke is not entitled to either lost margins or shareholder incentives under SEA 412. While 170 IAC 4-8-3 allows for an electric utility to receive shareholder incentives to keep demand side management programs on an equal footing with supply-side resources, Attachment ETR-2 demonstrates that the DSM Plan's avoided cost benefits as calculated by Duke create a significant economic incentive for Duke to pursue this plan. There is no compelling evidence demonstrating performance incentives are required to encourage cost-effective DSM.

**Q. Is it reasonable for the Commission to award performance incentives to a utility that sets it own savings targets?**

A. No. Duke proposes shareholder incentives equal to 12% program costs, with a minimum requirement of only seventy percent (70%). A performance incentive is inherently unreasonable when the utility chooses:

- the energy savings targets
- the programs to achieve those targets
- the size, scope and funding of those programs
- who will measure savings
- how the savings will be calculated

And then receives shareholder incentives when it achieves only 70% of its self-developed program goals.

## VII. RECOMMENDATIONS

**Q. What is the OUCC recommending in this proceeding?**

A. The OUCC recommends the following based on my testimony:

1. Deny DEI's request for continued recovery of lost revenues.
2. Deny DEI's request to continue to shareholder incentives.
3. Find that DEI's DSM Plan is unreasonable in accordance with I.C. 8-1-8.5-10(l) and / or (m).

## VIII. CONCLUSION

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

A: Yes.

**APPENDIX TO TESTIMONY OF**
**OUCC WITNESS EDWARD T. RUTTER**

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

A: I am a graduate of Drexel University in Philadelphia, PA, with a Bachelor of Science degree in Business Administration. I was employed by South Jersey Gas Company as an accountant responsible for coordinating annual budgets, preparing preliminary monthly, quarterly, annual and historical financial statements, assisting in preparation of annual reports to shareholders, all SEC filings, state and local tax filings, all FPC/FERC reporting, plant accounting, accounts payable, depreciation schedules and payroll. Once the public utility holding company was formed, South Jersey Industries, Inc., I continued to be responsible for accounting as well as for developing the consolidated financial statements and those of the various subsidiary companies including South Jersey Gas Company, Southern Counties Land Company, Jessie S. Morie Industrial Sand Company, and SJI LNG Company.

I left South Jersey Industries, Inc. and took a position with Associated Utility Services Inc. (AUS), a consulting firm specializing in utility rate regulation including rate of return, revenue requirement, purchased gas adjustment clauses, fuel adjustment clauses, revenue requirement development and valuation of regulated entities.

On leaving AUS, I worked as an independent consultant in the public utility area as well as telecommunications including cable television (CATV). I joined the OUCC in December 2012 as a utility analyst.

Q: **Have you previously testified before the Indiana Utility Regulatory Commission?**

A: I have previously testified before the Indiana Utility Regulatory Commission (Commission) in Cause Nos. 44311, 44331, 44339, 44363, 44370, 44418, 44429, 44446, 44478, 44486, 44495, 44497, 44526, 44540, 44542, 44576, 44602 and 43955 DSM-2. I have also testified before the regulatory commissions in the states of New Jersey, Delaware, Maryland, Pennsylvania, New York, Connecticut, Georgia, Florida, North Carolina, Ohio, Oklahoma, Virginia and Wisconsin. In addition to the states mentioned, I submitted testimony before the utility regulatory commissions in the Commonwealth of Puerto Rico and the U.S. Virgin Islands. I have also testified as an independent consultant on behalf of the U.S. Internal Revenue Service in Federal Tax Court, New York jurisdiction.

# DUKE
# CAUSE N0. 43955 DSM-3
# 2016 - 2018 DSM PLAN
# COST PER kWh SAVED

| DESCRIPTION | 2016 | 2017 | 2018 | TOTAL |
|---|---|---|---|---|
| DSM SAVINGS: | | | | |
| kWh Gross @ Meter | | | | |
| RESIDENTIAL | 139,189,490 | 132,058,427 | 118,822,021 | 390,069,938 |
| C&I | 51,798,359 | 60,269,833 | 62,296,743 | 174,364,935 |
| TOTAL kWh SAVINGS (a) | 190,987,849 | 192,328,260 | 181,118,764 | 564,434,873 |
| DSM COSTS: | | | | |
| POGRAM COSTS (b) | $35,261,811 | $35,589,796 | $34,549,861 | $105,401,468 |
| LOST MARGINS ( b ) | 25,497,618 | 27,279,908 | 24,882,242 | 77,659,768 |
| INCENTIVES (b) | 3,958,396 | 4,033,271 | 3,908,408 | 11,900,075 |
| TOTAL | $64,717,825 | $66,902,975 | $63,340,511 | $194,961,311 |
| COST PER Kwh SAVED: | | | | |
| PROGRAM COSTS (ROUNDED) | $0.18 | $0.19 | $0.19 | $0.19 |
| LOST MARGINS (ROUNDED) | $0.13 | $0.14 | $0.14 | $0.14 |
| INCENTIVES (ROUNDED) | $0.02 | $0.02 | $0.02 | $0.02 |
| TOAT COST PER kWh SAVED | $0.34 | $0.35 | $0.35 | $0.35 |

NOTES:
(a) From DEI's response to CAC Data Request 2.3, Attachment CAC 2.3-C
(b) From DEI witness Holbrook's Confidential Exhibit C-5

# DUKE
# CAUSE NO. 43955 DSM-3
# DETERMINATION OF DSM DISINCENTIVE

NOTE: Grey Highlight inidicates CONFIDENTIAL information

| DESCRIPTION | DUKE CAUSE NO. 42359 APPROVED 5/18/2004 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED 5/28/2015 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED NET IMPACT |
|---|---|---|---|
| DUKE CAUSE NO. 42359: | | | |
| INDIANA JURISDICTIONAL RATE BASE 9/30/02 | $4,856,532,000 | $0 | $4,856,532,000 |
| WEIGHTED AVERAGE COST OF CAPITAL ("ROR") | 5.51% | | 5.51% |
| NET OPERATING INCOME | $267,500,000 | | $267,500,000 |
| CAUSE NO. 43955 DSM-3 PROPOSED ADJUSTMENTS: | | | |
| UCT NET BENEFIT (ETR Attachment 3 annual average) (a) | 0 | 56,268,714 | 56,268,714 |
| PROPOSED LOST REVENUE RECOVERY (b) | 0 | 25,497,618 | 25,497,618 |
| PROPOSED PERFORMANCE INCENTIVE (b) | 0 | 3,958,396 | 3,958,396 |
| ADJUSTED NET OPERATING INCOME | 267,500,000 | 85,724,728 | 353,224,728 |
| ESTIMATED INCOME TAX IMPACT | | $34,289,891 | $34,289,891 |
| ADJUSTED NET OPERATING INCOME POST INCOME TAX @ ESTIMATED 40% EFFECTIVE TAX RATE | | $51,434,837 | $318,934,837 |
| RATE OF RETURN RELAIZED UNDER PROPOSED DSM PLAN 2016 | | | 6.57% |

NOTES:
(a) From DEI's response to CAC Data Request 2.4, Attachment CAC 2.4-A
(b) From DEI witness Holbrook's Confidential Exhibit C-5

DUKE
CAUSE NO. 43955 DSM-3
DETERMINATION OF DSM DISINCENTIVE

| DESCRIPTION | BALANCE ($000'S) | PERCENT OF TOTAL | COST | CAUSE NO. 42359 WACC APPROVED 5/18/2004 | COST (a) | CAUSE NO. 42359 WACC DSM PLAN IMPACT |
|---|---|---|---|---|---|---|
| COMMON EQUITY | $1,603,374 | 44.44% | 6.47% | 2.87% | 8.85% | 3.93% |
| PREFERRED STOCK | $42,333 | 1.17% | 6.11% | 0.07% | 6.11% | 0.07% |
| LONG-TERM DEBT | 1,402,254 | 38.87% | 6.37% | 2.48% | 6.37% | 2.48% |
| DEFERRED INCOME TAXES | 519,273 | 14.39% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1970 & EARLIER | 193 | 0.01% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1971 & LATER | 30,571 | 0.85% | 8.53% | 0.07% | 8.53% | 0.07% |
| CUSTOMER DEPOSITS | 9,741 | 0.27% | 6.00% | 0.02% | 6.00% | 0.02% |
| TOTALS | $3,607,739 | 100.00% | | 5.51% | | 6.57% |

(a) COMPUTED COMMON EQUITY COST BASED ON WACC DEVELOPED ON ETR ATTACHMENT 2, PAGE 1 (2016 Summary)

# DUKE
# CAUSE NO. 43955 DSM-3
# DETERMINATION OF DSM DISINCENTIVE

NOTE: Grey Highlight inidicates CONFIDENTIAL information

| DESCRIPTION | | DUKE CAUSE NO. 42359 APPROVED 12/21/11 5/18/2004 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED FILED 5/28/2015 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED NET IMPACT |
|---|---|---|---|---|
| DUKE CAUSE NO. 42359: | | | | |
| INDIANA JURISDICTIONAL RATE BASE 9/30/02 | | $4,856,532,000 | $0 | $4,856,532,000 |
| WEIGHTED AVERAGE COST OF CAPITAL ("ROR") | | 5.51% | | 5.51% |
| NET OPERATING INCOME | | $267,500,000 | | $267,500,000 |
| CAUSE NO. 43955 DSM-3 PROPOSED ADJUSTMENTS: | | | | |
| UCT NET BENEFIT (ETR Attachment 3 annual average) | (a) | 0 | 56,268,714 | 56,268,714 |
| PROPOSED LOST REVENUE RECOVERY | (b) | 0 | 27,279,910 | 27,279,910 |
| PROPOSED PERFORMANCE INCENTIVE | (b) | 0 | 4,033,271 | 4,033,271 |
| ADJUSTED NET OPERATING INCOME | | 267,500,000 | 87,581,895 | 355,081,895 |
| ESTIMATED INCOME TAX IMPACT | | | $35,032,758 | $35,032,758 |
| ADJUSTED NET OPERATING INCOME POST INCOME TAX @ ESTIMATED 40% EFFECTIVE TAX RATE | | | $52,549,137 | $320,049,137 |
| RATE OF RETURN RELAIZED UNDER PROPOSED DSM PLAN 2017 | | | | 6.59% |

NOTES:
(a) From DEI's response to CAC Data Request 2.4, Attachment CAC 2.4-A
(b) From DEI witness Holbrook's Confidential Exhibit C-5

DUKE
CAUSE NO. 43955 DSM-3
DETERMINATION OF DSM DISINCENTIVE

NOTE: Grey Highlight inidicates CONFIDENTIAL information

| DESCRIPTION | BALANCE ($000'S) | PERCENT OF TOTAL | COST | CAUSE NO. 42359 WACC APPROVED 5/18/2004 | COST (a) | 42359 WACC DSM PLAN IMPACT |
|---|---|---|---|---|---|---|
| COMMON EQUITY | $1,603,374 | 44.44% | 6.47% | 2.87% | 8.90% | 3.95% |
| PREFERRED STOCK | $42,333 | 1.17% | 6.11% | 0.07% | 6.11% | 0.07% |
| LONG-TERM DEBT | 1,402,254 | 38.87% | 6.37% | 2.48% | 6.37% | 2.48% |
| DEFERRED INCOME TAXES | 519,273 | 14.39% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1970 & EARLIER | 193 | 0.01% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1971 & LATER | 30,571 | 0.85% | 8.53% | 0.07% | 8.53% | 0.07% |
| CUSTOMER DEPOSITS | 9,741 | 0.27% | 6.00% | 0.02% | 6.00% | 0.02% |
| TOTALS | $3,607,739 | 100.00% | | 5.51% | | 6.59% |

(a) COMPUTED COMMON EQUITY COST BASED ON WACC DEVELOPED ON ETR ATTACHMENT 2, PAGE 3 (2017 Summary).

DUKE
CAUSE NO. 43955 DSM-3
DETERMINATION OF DSM DISINCENTIVE

NOTE: Grey Highlight inidicates CONFIDENTIAL information

| DESCRIPTION | | DUKE CAUSE NO. 42359 APPROVED 5/18/2004 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED FILED5/28/2015 | DUKE CAUSE NO. 43955 DSM-3 PROPOSED NET IMPACT |
|---|---|---|---|---|
| DUKE CAUSE NO. 42359: | | | | |
| INDIANA JURISDICTIONAL RATE BASE 9/30/02 | | $4,856,532,000 | $0 | $4,856,532,000 |
| WEIGHTED AVERAGE COST OF CAPITAL ("ROR") | | 5.51% | | 5.51% |
| NET OPERATING INCOME | | $267,500,000 | | $267,500,000 |
| CAUSE NO. 43955 DSM-3 PROPOSED ADJUSTMENTS: | | | | |
| UCT NET BENEFIT (ETR Attachment 3 annual average) | (a) | 0 | 56,268,714 | 56,268,714 |
| PROPOSED LOST REVENUE RECOVERY | (b) | 0 | 24,882,249 | 24,882,249 |
| PROPOSED PERFORMANCE INCENTIVE | (b) | 0 | 3,908,408 | 3,908,408 |
| ADJUSTED NET OPERATING INCOME | | 267,500,000 | 85,059,371 | 352,559,371 |
| ESTIMATED INCOME TAX IMPACT | | | $34,023,748 | $34,023,748 |
| ADJUSTED NET OPERATING INCOME POST INCOME TAX @ ESTIMATED 40% EFFECTIVE TAX RATE | | | $51,035,623 | $318,535,623 |
| RATE OF RETURN RELAIZED UNDER PROPOSED DSM PLAN 2018 | | | | 6.56% |

NOTES:
(a) From DEI's response to CAC Data Request 2.4, Attachment CAC 2.4-A
(b) From DEI witness Holbrook's Confidential Exhibit C-5

DUKE
CAUSE NO. 43955 DSM-3
DETERMINATION OF DSM DISINCENTIVE

NOTE: Grey Highlight inidicates CONFIDENTIAL information

| DESCRIPTION | BALANCE ($000'S) | PERCENT OF TOTAL | COST | CAUSE NO. 42359 WACC APPROVED 5/18/2004 | COST (a) | CAUSE NO. 42359 WACC DSM PLAN IMPACT |
|---|---|---|---|---|---|---|
| COMMON EQUITY | $1,603,374 | 44.44% | 6.47% | 2.87% | 8.83% | 3.92% |
| PREFERRED STOCK | $42,333 | 1.17% | 6.11% | 0.07% | 6.11% | 0.07% |
| LONG-TERM DEBT | 1,402,254 | 38.87% | 6.37% | 2.48% | 6.37% | 2.48% |
| DEFERRED INCOME TAXES | 519,273 | 14.39% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1970 & EARLIER | 193 | 0.01% | 0.00% | 0.00% | 0.00% | 0.00% |
| UNAMORTIZED ITC - 1971 & LATER | 30,571 | 0.85% | 8.53% | 0.07% | 8.53% | 0.07% |
| CUSTOMER DEPOSITS | 9,741 | 0.27% | 6.00% | 0.02% | 6.00% | 0.02% |
| TOTALS | $3,607,739 | 100.00% | | 5.51% | | 6.56% |

(a) COMPUTED COMMON EQUITY COST BASED ON WACC DEVELOPED ON ETR ATTACHMENT 2, PAGE 5 (2018 summary).

DUKE ENERGY INDIANA, INC.
DEVELOPMENT OF NET PRESENT VALUE OF NET BENEFITS
2016 - 2018 DSM PORTFOLIO

| DESCRIPTION | NPVR BENEFITS COSTS (a) |
|---|---|
| UTILITY COST TEST: (UCT/PACT) | |
| BENEFITS: | |
| CUMULATIVE AVOIDED T&D ELECTRIC NF | $73,988,234 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC PRODUCTION NF | 124,416,070 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC CAPACITY NF | 84,850,435 |
| TOTAL CUMULATIVE BENEFITS | $283,254,739 |
| COSTS: | |
| ADMINISTRATIVE COSTS | $4,971,661 |
| IMPLEMENTATION COSTS | 36,158,626 |
| INCENTIVES | 55,487,299 |
| OTHER UTILITY COSTS | 9,182,995 |
| EM&V COSTS | 8,648,016 |
| TOTAL CUMULATIVE COSTS | $114,448,597 |
| NET BENEFITS (NPVR) | $168,806,142 |
| UCT/PACT RATIO | 2.47 |
| RATEPAYER IMPACT MEASURE: (RIM) | |
| BENEFITS: | |
| CUMULATIVE AVOIDED T&D ELECTRIC NF | $73,988,234 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC PRODUCTION NF | 124,416,070 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC CAPACITY NF | 84,850,435 |
| TOTAL CUMULATIVE BENEFITS | $283,254,739 |
| COSTS: | |
| ADMINISTRATIVE COSTS | $4,971,661 |
| IMPLEMENTATION COSTS | 36,158,626 |
| INCENTIVES | 55,487,299 |
| OTHER UTILITY COSTS | 9,182,995 |
| EM&V COSTS | 8,648,016 |
| CUMULATIVE LOST REVENUE, NET OF FUEL | 139,725,517 |
| TOTAL CUMULATIVE COSTS | $254,174,114 |
| RIM RATIO | 1.11 |
| (a) DERIVED FROM CONFIDENTIAL ATTACHMENT CAC 2.4-A | |

# DUKE ENERGY INDIANA, INC.
## DEVELOPMENT OF NET PRESENT VALUE OF NET BENEFITS
## 2016 - 2018 DSM PORTFOLIO

| DESCRIPTION | NPVR BENEFITS COSTS (a) |
|---|---|
| UTILITY COST TEST: (UCT/PACT) | |
| BENEFITS: | |
| CUMULATIVE AVOIDED T&D ELECTRIC NF | $28,097,118 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC PRODUCTION NF | 123,897,212 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC CAPACITY NF | 29,833,234 |
| TOTAL CUMULATIVE BENEFITS | $181,827,564 |
| COSTS: | |
| ADMINISTRATIVE COSTS | $4,326,471 |
| IMPLEMENTATION COSTS | 23,195,995 |
| INCENTIVES | 48,581,533 |
| OTHER UTILITY COSTS | 5,613,336 |
| EM&V COSTS | 7,067,542 |
| TOTAL CUMULATIVE COSTS | $88,784,877 |
| NET BENEFITS (NPVR) | $93,042,687 |
| UCT/PACT RATIO | 2.05 |
| RATEPAYER IMPACT MEASURE W/O DR PROGRAMS (RIM) | |
| BENEFITS: | |
| CUMULATIVE AVOIDED T&D ELECTRIC NF | $28,097,118 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC PRODUCTION NF | 123,897,212 |
| CUMULATIVE COST-BASED AVOIDED ELECTRIC CAPACITY NF | 29,833,234 |
| TOTAL CUMULATIVE BENEFITS | $181,827,564 |
| COSTS: | |
| ADMINISTRATIVE COSTS | $4,326,471 |
| IMPLEMENTATION COSTS | 23,195,995 |
| INCENTIVES | 48,581,533 |
| OTHER UTILITY COSTS | 5,613,336 |
| EM&V COSTS | 7,067,542 |
| CUMULATIVE LOST REVENUE, NET OF FUEL | 139,152,933 |
| TOTAL CUMULATIVE COSTS | $227,937,810 |
| RIM RATIO W/O DR PROGRAMS | 0.80 |

(a) DERIVED FROM CONFIDENTIAL ATTACHMENT CAC 2.4-A

# DUKE ENERGY INDIANA, INC.
## COMPARISON OF kWh SALES
## PER CERTAIN RATE CLASSES
## CAUSE NO. 42359 TEST YEAR TWELVE MONTHS ENDED SEPTEMBER 30, 2002
## VS
## TWELVE MONTHS ENDED DECEMBER 2012, 2013 AND 2014

| DESCRIPTION | TWELVE MONTHS ENDED 9/30/2002 (1) kWh | TWELVE MONTHS ENDED 12/31/2012 (2) kWh | TWELVE MONTHS ENDED 12/31/2013 (3) kWh | TWELVE MONTHS ENDED 12/31/2014 (4) kWh |
|---|---|---|---|---|
| RATE CLASS ABBREVIATIONS: | | | | |
| CSNO | 1,160,258,474 | 1,090,208,273 | 1,090,163,597 | 1,088,083,206 |
| LSNO | 2,463,573,690 | 3,296,515,698 | 3,374,457,570 | 3,533,858,043 |
| LSSO | 65,294,890 | 100,141,643 | 88,643,233 | 93,009,686 |
| RSNO | 7,369,992,388 | 8,015,796,967 | 8,216,882,544 | 8,357,131,606 |
| RSN2 | 696,472,175 | 799,217,010 | 873,621,502 | 920,838,057 |
| RSN4 | 29,828,363 | 32,439,996 | 36,305,813 | 37,885,826 |
| SWP | 118,526,214 | 128,245,665 | 137,054,268 | 149,643,388 |
| TOTAL | 11,903,946,194 | 13,462,565,252 | 13,817,128,527 | 14,180,449,812 |

NOTES:
(1) DEI WITNESS DOUGLAS CORRECTED WORKPAPER 8 PAGE 7 OF 7
(2) DEI WITNESS DOUGLAS CORRECTED WORKPAPER 8 PAGE 2 OF 7
(3) DEI WITNESS DOUGLAS CORRECTED WORKPAPER 7 PAGE 2 OF 7
(4) DEI WITNESS DOUGLAS CORRECTED WORKPAPER 6 PAGE 2 OF 7

## CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ***Office of Utility Consumer Counselor*** has been served upon the following counsel of record in the captioned proceeding by electronic service and/or by depositing a copy of same in the United States mail, first class postage prepaid, on October 09, 2015.

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