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**

TESTIMONY IN OPPOSITION TO SETTLEMENT AGREEMENT

OF BENJAMIN INSKEEP

ON BEHALF OF

CITIZENS ACTION COALITION OF INDIANA, INC., & VOTE SOLAR

AUGUST 5, 2025

I. INTRODUCTION

Q. Please state your name, position, and business address.

A. My name is Benjamin Inskeep, and I am Program Director at Citizens Action Coalition of Indiana, Inc. ("CAC").

Q. Are you the same Benjamin Inskeep who previously filed testimony in this Cause?

A. Yes. I filed direct testimony on May 8, 2025, on behalf of CAC and Vote Solar ("VS").

Q. What is the purpose of your testimony at this time?

A. The purpose of my testimony is to explain why the Commission should deny the Settlement Agreement between Duke Energy Indiana, LLC ("DEI"), and Reliable Energy, Inc. ("REI"'), submitted on June 17, 2025 ("DEI-REI Settlement") and deny the Settlement Agreement between DEI and the Industrial Group ("IG") submitted on July 11, 2025 ("DEI-IG Settlement").

My silence on any issue included in the settlement agreements or addressed in the settlement testimonies should not be construed as an endorsement or approval of the position.

Q. Do you continue to stand by the recommendations in your direct testimony?

A. Yes. In addition, I now request that the Commission deny the DEI-REI and DEI-IG settlements.

Q. Do you have any attachments to your testimony?

A. Yes. Attachment BI-1 provides relevant discovery responses and attachments cited herein.

II. DEI-REI SETTLEMENT

Q. Please summarize the DEI-REI Settlement.

A. The DEI-REI Settlement would:

- Approve DEI's requested certificate of public convenience and necessity ("CPCN") for the Cayuga CC Project
- Approve DEI's proposed forward-looking construction work in progress ("CWIP") ratemaking treatment for the CC Project as a "clean energy project" and a "clean energy resource" even though the Cayuga coal units are no longer being planned for retirement
- Charge ratepayers for an engineering study ("Feasibility Study") to evaluate the technical feasibility of extending the lives of the Cayuga coal units.
- Charge ratepayers the cost to conduct a request for proposal ("RFP") process to potentially sell the Cayuga coal units to another entity to continue their operation indefinitely.

In other words, the DEI-REI Settlement would establish and charge ratepayers for a process designed to keep the coal units open under different ownership, while also allowing and charging ratepayers for construction of the Cayuga CC Project with special CWIP treatment recovery as a "clean energy project" and a "clean energy resource" that is supposed to be limited to projects that are displacing coal that is planned for retirement.

Q. Are there significant unresolved challenges with keeping the Cayuga coal units open while proceeding with the construction of the Cayuga CC Project?

A. Yes. As I discussed in direct testimony, the Cayuga CC Project was premised on the retirement of the Cayuga coal units and the reuse of various coal plant assets:

- The existing transmission switch yard at the coal plant will be repurposed for the Cayuga CC units;
- The transmission interconnection rights for the coal units will be used by the Cayuga CC units;
- The Cayuga CC units' air permit relies on the closure of the coal units for netting;
- The Cayuga CC units' water intake and discharge assumed the coal units' retirement; and
- Land use at the Cayuga site needed for the CC Project could be impacted by the continued operations of the coal units.

These are significant, if not impossible, challenges to overcome with other challenges that are likely not yet identified. While the feasibility study would examine these issues, it is unrealistic to assume that there is a path forward that would not interfere with the proposed cost, construction, in-service date, or future economics of the CC Project.

Given the age of the units, their declining reliability, difficulty in achieving future environmental compliance, and the extraordinary challenges of continued coal-fired operations at the Cayuga site once the CC Project is in-service, it is unlikely that DEI would be successful in soliciting bids that provide meaningful benefits to ratepayers if the units are sold.

Even if the coal units are sold at a price that provides meaningful benefits to DEI ratepayers, those benefits could easily be eclipsed by the costs of extending the coal units' lives. The coal units could directly compete with the Cayuga CC units within wholesale markets, potentially leading to congestion charges, reduced dispatch, lower off-system sales margin, and environmental compliance-related curtailment.

Q. Is the DEI-REI Settlement consistent with the statutory relief DEI seeks relating to the "retirement" of the coal units and the Cayuga CC Project "displacing" coal-fired electricity generation to qualify as a "clean energy resource"?

A. No. The DEI-REI Settlement is inconsistent with the plain language of several statutes enacted by the General Assembly under which DEI seeks relief and ratepayer dollars. The

DEI-REI Settlement would have the Commission believe that (1) keeping open the Cayuga coal units meets a statutory requirement relating to their "retirement" and (2) the Cayuga CC Project would "displace" coal-fired electricity from the Cayuga coal units, even though the coal units would stay open and continue generating electricity indefinitely into the future. The Commission should disregard such contradictory distortions of the law. If DEI wishes to proceed with the CC Project, it has several options available, but it should not receive additional incentives via CWIP for the project under the "clean energy" category, given the current circumstances.

Q. Please summarize House Enrolled Act ("HEA") 1007 (2025) as it pertains to the planned retirement of a utility's generation resource.

A. HEA 1007 provides a process by which the Commission reviews planned utility generation resource retirements. Each public utility submits a report annually to the Commission regarding its owned and operated electric generating resources for the next three resource planning years. Beginning in 2026, these reports must identify the amount of generating capacity or energy the utility plans to retire along with certain information supporting the planned retirement. The Commission staff reviews the reports and submits its own report making recommendations on any planned retirements. Under certain conditions, the Commission can prohibit the retirement of a generating resource.

Q. How is "retirement" defined in Indiana Code § 8-1-8.5-13?

A. Indiana Code § 8-1-8.5-13(a)(i) provides:

> As used in this section, "retire" or "retirement" means a **planned permanent ceasing of electric generation operations** with respect to an electric generation resource with a nameplate capacity of at least one hundred twenty-five (125) megawatts by a **public utility**.

(Emphasis added.) Although I am not a lawyer, the plain language of the statute makes it clear that retirement means the "planned permanent ceasing of electric generation operations". It is also clear from the use of the word "public utility" that the plant retirements under question are those by a public utility,[1] as opposed to retirements of a generation facility owned by an entity that is not a public utility, and for generation sources of 125 megawatts ("MW") or larger, excluding smaller generation sources.

DEI is simply not planning to permanently cease electric generation operations of the Cayuga coal plant anymore. Instead, the "public utility" DEI plans to keep the coal plant open, conduct a study, and issue an RFP. There is no language in the DEI-REI Settlement indicating that DEI has "planned permanent ceasing of operations."

Q. How does DEI interpret retirement in the context of the Cayuga coal units under the DEI-REI Settlement?

A. Witness Karn asserts that "Duke Energy Indiana will permanently cease electric generation operations of these [coal] units" because, regardless of whether DEI sells the units or actually retires them, it will no longer be operating the units,[2] concluding that the Cayuga CC Project is therefore still "intended to …replace a generating unit that is planned for retirement."[3]

[1] I.C. § 8-1-8.5-1(a) defines a "public utility" in this chapter as a "public, municipally owned, or cooperatively owned utility; or joint agency created under IC 8-1-2.2."

[2] Karn DEI-REI Settlement Testimony 4:2-20.

[3] Karn DEI-REI Settlement Testimony 4:3-4.

Q. Do you agree that DEI is planning to retire the Cayuga coal units under the DEI-REI Settlement Agreement?

A. Absolutely not. Ironically, the DEI-REI Settlement does the *exact opposite*. In its case-in-chief, DEI proposed retiring the Cayuga coal units and replacing them with the Cayuga CC Project. Under the DEI-REI Settlement Agreement, DEI is planning to initiate a process to sell the coal units, with the clear intent being to allow them to continue to operate indefinitely under different ownership:

- "Under the Settlement Agreement, it is possible **those coal units could continue to operate** for some period of time after Duke Energy Indiana retires them." Karn DEI-REI Settlement Testimony 6:6-7 (emphasis added).
- "Duke Energy Indiana agrees to act in good faith and shall diligently complete the Feasibility Study and RFP Process and its commitments under this Agreement, including seeking or maintaining any necessary documentation, consents, permits, or approvals within its control, as may be reasonably required to evaluate **the potential for continued operations of one or both coal units by a third party**." Pinegar Settlement Testimony 15:8-12 (emphasis added).
- "REI's primary concern was whether Duke Energy had adequately explored whether **continued operation of the Cayuga coal units** was a viable option, and whether a third party might have interest in purchasing those units." Nasi Settlement Testimony 5 (emphasis added).
- "The bottom line is that the Cayuga coal units are in compliance with existing environmental regulations and can offer a significant benefit to ratepayers and the electric grid, making their **continued operation**, if economical, reasonable and in the public interest." Nasi Settlement Testimony 10 (emphasis added).

DEI is no longer planning for the *permanent ceasing* of electric operations of the Cayuga coal units, but rather *transferring* them to a separate entity so that electric operations can *continue*.

Q. Has the General Assembly distinguished power plant retirement from the sale or transfer of a power plant?

A. Yes. The General Assembly has clearly distinguished that power plant retirement is distinct from the sale or transfer of a power plant. Ind. Code § 8-1-8.5-2.1 is titled "Retirement, sale, or transfer of electric generation facility…" and therein provides certain notification requirements related to the "retirement, sale, or transfer" of a power plant. This statutory language confirms that these terms are distinct. The phrase "retirement, sale, or transfer" appears five times in the existing law that HEA 1007 amended, but HEA 1007 made no amendments to that phrase.

Furthermore, the terms "retired" and "retirement" are universally understood in the electric power industry to refer to a permanent cessation of a power plant's operations:

- The U.S. Energy Information Administration defines a "retired" power plant as "no longer in service and not expected to be returned to service."[4]
- The U.S. Environmental Protection Agency uses "retirement" synonymously with "permanently cease operations" in its rulemaking.[5]
- DEI itself uses "retire" and "retirement" throughout its 2024 IRP and in prior IURC filings to refer to power plants permanently ceasing operations.

Never in my career have I encountered a different definition of retirement, nor have I ever seen any utility in any context ever refer to a planned sale or transfer of a power plant as a

[4] Form EIA-860 Instructions, p. 13, 34, 42, 45, and 54.

[5] *E.g., see* 40 CFR Part 60 New Source Performance Standards for Greenhouse Gas Emissions From New, Modified, and Reconstructed Fossil Fuel-Fired Electric Generating Units; Emission Guidelines for Greenhouse Gas Emissions From Existing Fossil Fuel-Fired Electric Generating Units; and Repeal of the Affordable Clean Energy Rule (May 9, 2024), 89 Fed. Reg. 39798 (cf. p. 39876 stating "Currently, there are 181 GW of coal-fired steam generating units. About half of that capacity, totaling 87 GW, have announced plans to **retire** before 2039, and an additional 13 have announced plans to cease firing coal by that time," (citations omitted; emphasis added), to p. 39840, stating "However, the EPA observes that about half of the capacity (87 GW out of 181 GW) of existing coal-fired steam generating units have announced plans to **permanently cease operation** prior to 2039, as detailed in section IV.D.3.b of this preamble…" (emphasis added)).

"retirement." The Commission should disregard this invitation to ignore the plain language of a statute and invent a novel and obviously meritless interpretation of "retirement."

Q. In the case that DEI sells the Cayuga coal units to a third party, does DEI "no longer operating the coal units to serve its customers" mean the units have been retired?

A. No. DEI attempts to defend its interpretation that the Cayuga coal units will be "retired" even if they continue to operate because DEI claims the units will no longer be serving DEI's electricity and capacity needs. Regardless of the accuracy of this claim (which I contest below), it is completely irrelevant to determining whether the units have been retired under the statutory definition, which requires the "planned permanent ceasing of electric generation operations" of the generation facility. Under the DEI-REI Settlement, such a permanent cessation of electric generation operations at the Cayuga coal units is no longer being planned by DEI.

Q. Is it possible the Cayuga coal units could continue to provide energy and capacity to DEI ratepayers after DEI transfers them to another entity to operate?

A. Yes. The DEI-REI Settlement expressly provides a pathway for the Cayuga coal units to continue to serve DEI ratepayers. Under DEI-REI Settlement Agreement, term 2.F.6, DEI may purchase capacity and energy from potential RFP third-party purchasers of the Cayuga coal units. Under term 2.D.6., the objective selection criteria under the RFP includes "Alternative business models for continued operation of the facility, including special contract structures or purchased power agreement alternatives to serving new potential large load customers," which DEI also stated in testimony could include self-generation.[6]

[6] Karn Settlement 4:19.

In other words, contrary to DEI claims,[7] the Cayuga coal units are being specifically contemplated to continue to provide capacity and energy to serve DEI's current and future customers.

Q. Beyond this case, are there potential negative unintended consequences of applying DEI's interpretation of "retirement" in the context of the statute?

A. Yes. DEI's interpretation of "retirement" would materially change utility compliance requirements, Commission Staff reporting requirements, and Commission discretion, while adding significant administrative burden. For example, Indiana Code § 8-1-8.5-13(n)(2) requires public utilities' annual reports to "provide its economic rationale for the planned retirement, including anticipated ratepayer impacts, and information concerning the public utility's plan or plans with respect to the amount of replacement capacity identified to provide approximately the same accredited capacity within the appropriate regional transmission organization as the amount of capacity of the facility to be retired." Under DEI's interpretation, the transfer or sale of a power plant sized 125 MW or larger by a public utility meets the statutory definition of "retirement," significantly broadening the requirements for this report to each power plant the public utility plans to *sell* in the covered period, not just retire. Commission Staff would also have their administrative burden significantly increased, as they would similarly be required to issue reports under Indiana Code § 8-1-8.5-13(s) for the sale or transfer of power plants, rather than only submitting reports on planned retirements.

[7] *E.g., see* Karn Direct 6:8-9 ("Nevertheless, the coal units will not be generating electricity to meet Duke Energy Indiana's resource needs.")

Finally, DEI's interpretation would increase the administrative burden on the Commission and reduce its discretion because it would require the Commission to conduct investigations of a public utility's planned power plant sales or transfers under Indiana Code § 8-1-8.5-13(u), issue orders prohibiting the sale or transfer of a power plant under Indiana Code § 8-1-8.5-13(v), and create a subdocket to determine cost recovery for power plant sales or transfers that are prohibited by the Commission under Indiana Code § 8-1-8.5-13(w).

Q. Does DEI contend that the Cayuga CC Project qualifies for CWIP ratemaking treatment as a "clean energy project" and a "clean energy resource" under the DEI-REI Settlement?

A. Yes. Pursuant to Ind. Code ch. 8-1-8.8, a "clean energy project" can be eligible for certain financial incentives. To qualify as a "clean energy project," the Cayuga CC Project must be a "project[] to construct or repower a facility described in IC 8-1-37-4(a)(21)." Under Ind. Code § 8-1-37-4(a)(21), a "clean energy resource" includes "[e]lectricity that is generated from natural gas at a facility constructed or repowered after July 1, 2011, which displaces electricity from an existing coal fired generation facility."

DEI contends the Cayuga CC Project is "displacing" electricity from the Cayuga coal units, even if the coal units continue to operate, because DEI would be removing the coal units from its generation portfolio and adding the Cayuga CC Project to its portfolio.[8]

Q. Do you agree that the Cayuga CC Project qualifies for CWIP ratemaking treatment under the statutory provisions cited by DEI?

[8] Karn Settlement Testimony 6:9-11.

A. No. The DEI-REI Settlement establishes a process by which DEI could sell, rather than retire, the Cayuga coal units. If the coal units are sold, and not retired, then coal-fired electricity generation would not be "displaced," as expressly required by the statute. Rather, the Cayuga CC Project would be adding to, rather than displacing, electricity generation at the Cayuga site and on the Midcontinent Independent System Operator ("MISO") grid.

In fact, DEI witness Pinegar specifically touts the "additive generation" [9] of the Cayuga CC Project in conjunction with the continued operation of the Cayuga coal units in an attempt to demonstrate consistency with Executive Order 25-50, which directs the Secretary of Energy and Natural Resources to work with the IURC and electricity industry to "[e]ncourage an additive energy strategy, rather than just replacing energy generation."[10] It is hard to square how the Cayuga CC Project can simultaneously be "additive" electricity generation alongside the extended life of a coal plant while also "displacing" the very same coal-fired electricity generation at the same time.

Q. Please expound on why coal-fired electricity generation will not necessarily be "displaced" under the DEI-REI Settlement.

A. The Merriam-Webster dictionary defines "displace" as "to remove from the usual or proper place" or "to take the place of."[11] Under the DEI-REI Settlement, coal-fired generation would not be displaced, i.e., "removed from the usual or proper place," nor would the gas

[9] Pinegar Settlement Testimony 16:7.

[10] EO 25-50, § 3.d.

[11] Merriam-Webster, accessed July 8, 2025, https://www.merriam-webster.com/dictionary/displace. DEI cited these same definitions when discussing its interpretation of the same statutory provision in response to IG DR 16.01 (CAC-VS Exhibit 2, Attachment BI-3).

generation "take the place of" coal generation, because the Cayuga coal units will continue to operate and inject that coal-fired electricity onto the same transmission system at the same location in the same or similar manner as it has for many decades.

Q. Please explain why DEI's argument that removing the facility from a utility's resource portfolio for serving its retail customers fails.

A. The statute does not provide that the electricity generated from natural gas merely displaces electricity generation from an existing coal fired generation facility only with respect to *a utility's resource portfolio for serving its retail customers.* To the contrary, the plain language requires natural gas generation to displace the coal-fired generation and makes no mention of the coal-fired power plant's ownership or the end use customer(s) served by the coal-fired electricity generation.

The DEI-REI Settlement contemplates several pathways by which the Cayuga coal units would continue to serve DEI retail ratepayers past 2030, in which case, coal-fired electricity would not be "displaced:"

- DEI could purchase capacity and energy from potential RFP third-party purchasers of the Cayuga coal units, using this coal-fired capacity and energy to serve its retail customers.[12]
- DEI will consider alternative business models for continued operation of the facility, including special contract structures, purchased power agreement alternatives to serving new potential large load customers, and self-generation.[13]

Q. Could the DEI-REI Settlement lead to coal-fired electricity displacing electricity from actual clean energy resources on the grid?

A. Yes. The DEI-REI Settlement is likely to lead to *coal-fired* electricity displacing electricity from actual clean energy resources on the grid, further underscoring the absurdity of DEI's

[12] DEI-REI Settlement Agreement term 2.F.6.

[13] Karn 4:19; DEI-REI Settlement Agreement term 2.D.6.

interpretation. There are many ways in which this clean energy resource displacement could occur:

- An entity purchasing the coal units could operate them at a higher capacity factor than DEI has in recent years due to increasing demand. For example, the Commission recently found that "dispatch is on the rise" at the Ohio Valley Electric Corporation ("OVEC") coal plants and that it is "reasonable to conclude OVEC will dispatch above historical levels" as a result of load growth.[14]
- The purchasing entity could decide to commit the Cayuga coal units as "Must-Run" in the MISO energy market and dispatch them at a higher output and more frequently than is economic, a practice which DEI regularly utilizes.[15] "Must-Run" commitments are done regularly in Indiana due to the operational inflexibility of old coal-fired power plants, to manage coal piles, or to generate steam for industrial purposes, such as DEI has done for Cayuga's neighbor, International Paper.
- Even if the Cayuga coal plants were only dispatched economically after sale (which is not a commitment included in the DEI-REI Settlement), changes to coal and gas fuel prices or to state or federal policies could result in the Cayuga coal units being dispatched in the merit order ahead of certain cleaner generation resources—potentially even including the Cayuga CC units. Therefore, DEI witness Gagnon's assertion that the Cayuga CCs "will generally" be dispatched ahead of the Cayuga coal units[16] is speculation at this time and ignores the possibility of continued uneconomic dispatch at the coal units.
- Keeping the Cayuga coal units online reduces available transmission interconnection capacity that cleaner resources could otherwise utilize, producing higher interconnection costs for clean energy resources and further inhibiting the addition of clean energy resources on the grid.

Q. Has the Commission previously approved financial incentives for a natural gas power plant displacing coal generation as a "clean energy project"?

A. Yes. In Cause No. 45947, the Commission found that NIPSCO's proposed CT Project met the eligibility requirements as a clean energy project because the new gas units would displace coal-fired generation from the retiring Schahfer Units 17 and 18. In contrast to the

[14] Cause No. 45164 RA-5, Order, p. 18. While I recognize that the OVEC units are in PJM, and the Cayuga units are in MISO, MISO is also experiencing significant load growth that could result in a similar result.

[15] *See* Duke FAC docket series Cause Nos. 38707 FAC.

[16] Gagnon Rebuttal Testimony 16:8-11.

Cayuga coal units under the DEI-REI Settlement, NIPSCO planned to permanently cease operations of the coal units rather than transferring or selling them to another entity, ensuring the coal-fired generation will be displaced consistent with the statute.

Q. Is the DEI-REI Settlement consistent with the pillar of environmental sustainability?[17]

A. No. DEI justified its CPCN request in part based on the environmental benefits associated with retiring the Cayuga units and replacing them with the CCs.[18] But under the DEI-REI Settlement, the two CC units totaling 1,476 MW[19] would be constructed while also allowing for the indefinite continued operation, rather than the permanent ceasing of operations, of the 1,005-MW coal-fired units—significantly exacerbating, rather than mitigating, environmental harm at Cayuga.

These Cayuga coal and CC units will collectively:

- Create enormous air, land, and water pollution;
- Consume a combined average of 22 million gallons of water per day, a 91% increase in daily water consumption at Cayuga;
- Result in delaying the remediation of coal ash at the Cayuga site (e.g., coal ash that is located underneath plant equipment that is less easily remediated while the coal generating units remain in operation);
- Not provide for any actual clean energy and, as noted above, could actually undermine clean energy.

[17] Pursuant to Ind. Code § 8-1-8.5-4(a)(4), the Commission must consider "whether the proposed construction, purchase, or lease of the facility will result in the provision of electric utility service with the attributes set forth" in the Five Pillars, one of which is "environmental sustainability." Indiana Code provides that environmental sustainability includes "(A) the impact of environmental regulations on the cost of providing electric utility service; and (B) demand from consumers for environmentally sustainable sources of electric generation."

[18] *See generally* Karn Direct, Section II. Environmental Regulations.

[19] Winter rating.

Q. Will the Cayuga coal units experience significant challenges with environmental compliance?

A. Yes. As DEI noted, "the current coal units are challenged to comply with current and new environmental regulations, such as river water temperature permits limits found in the Clean Water Act Section 316(a) and (b), mercury air toxic standards ("MATS"), effluent limitation guidelines ("ELG") requirements, and the new Clean Air Act greenhouse gas standards."[20] DEI went on to explain in its May 29th testimony that "some of these regulations may be repealed and/or modified, but not all of them are expected to go away immediately…and there are still remaining risks."[21] While selling the units might mitigate the cost risk to ratepayers, it could create environmental and public health risks to Hoosier taxpayers and frontline communities, as a sophisticated, large utility could be transferring the environmental compliance obligations to a third party with likely less expertise, experience, financial capability, regulatory oversight, or motivation to fully comply with environmental regulations.

Q. Does the DEI-REI Settlement cause additional air pollution?

A. Yes. The addition of the Cayuga CCs while the Cayuga coal units continue operations rather than being retired will result in significant additional air pollution, in stark contrast to the environmental benefits alleged by DEI in its case-in-chief from retiring the coal units.[22] As shown in Figure 1, the potential combined emissions of continuing to operate the coal units and adding the Cayuga CC Project include 11.5 million tons/yr of CO_2, an

[20] Karn Rebuttal Testimony 3:1-6.

[21] Karn Rebuttal Testimony 3:7-9.

[22] Karn Direct Testimony 7:1-3 ("Q. Will the Cayuga CC Project yield environmental benefits? A. Yes..."

increase of 6.4 million tons/yr (+125%); 166 tons/yr of VOCs, an increase of 100 tons/yr (+152%), 1,232 tons/yr of CO or carbon monoxide, an increase of 680 tons/yr (+123%); and 42 tons/yr of hazardous air pollutants ("HAPs"), an increase of 8 tons/yr (+24%).

Figure 1. Environmental Harm of DEI-REI Settlement[23]

Pollutant	Actual emissions from two (2) coal fired boilers and auxiliary equipment (tons/y)	Maximum emissions from two (2) new CC and auxiliary equipment (tons/yr)	Combined emissions (tons/yr)	% Change
	(A)	(B)	(A) + (B)	(B) / (A)
CO	552	680	1,232	123%
NOx	4,608	496	5,104	11%
VOC	66	100	166	152%
PM	174	169	343	97%
PM10	657	226	883	34%
PM2.5	606	224	830	37%
SO2	2,392	33	2,425	1%
CO2e (GHG)	5,113,819	6,390,462	11,504,281	125%
Combined HAPS	34	8	42	24%

Q. Please describe the impact on water from thermal power plants.

A. A thermal power plant, such as the Cayuga coal units or CC units, withdraws enormous quantities of water for cooling purposes. Some of the withdrawn water is ultimately discharged back into the watershed, with the proportion influenced by the type of cooling system (e.g., once-through cooling vs. closed loop). Water consumption is the difference between the volume of water that is withdrawn and discharged, i.e., the water that is lost to evaporation or incorporated into plant processes. At Cayuga, power plant water consumption is water taken from the Wabash River that is not returned to the river, meaning downstream communities and users will not be able to use it and will have less water available to meet their current and future needs.

[23] *Cf.* Karn Direct Testimony, Table p. 8.

Q. What environmental problems are associated with thermal power plant water discharge and consumption?

A. Water discharge can create environmental problems due to high thermal temperatures or other pollution that harms aquatic life or degrades the quality. Water consumption can deplete limited surface water or groundwater resources.

Q. How would the DEI-REI Settlement impact water consumption at Cayuga?

A. The DEI-REI Settlement could result in the near doubling of water consumption at Cayuga. The Cayuga coal units used 11.5 million gallons of water per day on average in 2022-2024.[24] In comparison, the Cayuga CC units will use an estimated 10.5 million gallons per day.[25] **This results in a combined average of 22 million gallons of water per day, a 91% increase in water consumption at Cayuga.** On peak days, water consumption would be substantially higher than the annual average. This demonstrates that even though the Cayuga CC Project will have much lower water withdrawals than coal units due to its use of closed-loop rather than once-through cooling, it will consume similar quantities of water.

Q. Do you have any concerns with the evidence offered by REI in support of the DEI-REI Settlement?

A. Yes. REI witness Nasi included a "Coal Retirement Delay Tracking Chart" as Attachment MJN-2. I did not review each power plant in the table, but, from a cursory scan, I identified several major errors, even after a correction to it was filed on July 14, 2025.

[24] *See* CAC-VS Exhibit 2, Workpaper BI-2, using data provided in DEI Response to CAC DR 9-3.

[25] DEI Response to CAC DR 9-4 (CAC-VS Exhibit 2, Attachment BI-1).

The chart claims that all of DEI's Gibson units 1-5 had a planned retirement date of 2035 that has been delayed to 2038. This is not accurate based on DEI's most recent Integrated Resource Plan, which shows Unit 3 and 4 retiring by January 1, 2032, Unit 5 retiring by January 1, 2030, and Units 1 and 2 co-firing 50% natural gas by January 1, 2030.[26]

Witness Nasi's attachment also incorrectly indicates that the J. H. Campbell coal plant owned by Consumers Energy has "[n]o [s]et [d]ate" for retirement, which is false. This power plant was slated for retirement in May 2025, which was temporarily delayed until August 21, 2025 under a Trump administration order issued days before it was retired;[27] in addition to expiring in two weeks, the order is currently facing legal challenges and has already racked up $29 million in net costs,[28] some of which Consumers Energy has proposed would be recovered from Indiana ratepayers.[29] Campbell is therefore still scheduled for retirement later this year. The link in the attachment providing a source for witness Nasi's assertion was behind a paywall and inaccessible to me. The sourcing that witness Nasi appears to use throughout this chart is to local news reports, not primary sources like utility IRPs or other official utility or government documents. Given the numerous errors and the lack of credible and publicly available sourcing, I recommend that the Commission disregard Attachment MJN-2.

[26] DEI 2024 IRP Executive Summary, Figure 13.

[27] U.S. Dept. of Energy Order No. 202-5-3, https://www.energy.gov/sites/default/files/2025-05/Midcontinent%20Independent%20System%20Operator%20%28MISO%29%20202%28c%29%20Order_1.pdf.

[28] CMS Energy Corporation, Form 10-Q, For the quarterly period ended June 30, 2025, https://www.sec.gov/Archives/edgar/data/811156/000081115625000071/cms-20250630.htm.

[29] FERC Docket No. EL25-90, Consumers Energy Company, Complaint Requesting Fast Track Processing, p. 5.

Witness Nasi also incorrectly claims that "it is simply not scientifically or legally sound to conclude that human health or the environment are adversely impacted by a plant in compliance with those health-based standards."[30] This is unequivocally false. A power plant can emit large quantities of air (e.g., see Figure 1), water, and land pollution that adversely impacts human health and the environment, while still maintaining compliance with emissions standards promulgated by appointees at regulatory agencies. Moreover, the federal Clean Air Act specifically directs regulators to consider the cost of compliance when setting standards for, *e.g.,* hazardous air pollutants.[31] The Commission should disregard witness Nasi's baseless conclusions.

Q. What do you recommend?

A. I recommend that the Commission deny the DEI-REI Settlement. If the Commission otherwise approves the DEI-REI Settlement, it should deny DEI's requests (1) that the Commission find that this proceeding meets the requirements of HEA 1007's retirement investigation because DEI is no longer planning to retire the units and (2) to receive CWIP

[30] Nasi Settlement Testimony 9 (no line numbers provided).

[31] Clean Air Act § 112(d)(2), 42 U.S.C. § 7412(d)(2), "Emissions standards promulgated under this subsection and applicable to new or existing sources of hazardous air pollutants shall require the maximum degree of reduction in emissions of the hazardous air pollutants subject to this section (including a prohibition on such emissions, where achievable) that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies, through application of measures, processes, methods, systems or techniques including, but not limited to [list omitted]."; Clean Air Act § 112(f)(2)(A), 42 U.S.C. 7412(f)(2)(A), "If Congress does not act on any recommendation submitted under paragraph [(f)(1)], the Administrator shall, within 8 years after promulgation of standards for each category or subcategory of sources pursuant to subsection (d), promulgate standards for such category or subcategory if promulgation of such standards is required in order to provide an ample margin of safety to protect public health in accordance with this section (as in effect before November 15, 1990) or to prevent, taking into consideration costs, energy, safety, and other relevant factors, an adverse environmental effect."

ratemaking, as the CC Project is not displacing coal-fired electricity generation. DEI chose to enter into this settlement with REI, wherein it negotiated away its ability to have this proceeding fulfill the HEA 1007 retirement requirements or use financial incentives like CWIP to construct the CC. Such a modification to the DEI-REI Settlement would not preclude DEI from fulfilling HEA 1007 obligations in a future proceeding, should it change course and plan to retire, rather than sell or transfer, the coal units, or from proposing traditional cost recovery for the CC Project through a future rate case.

III. DEI-IG SETTLEMENT

Q. Please summarize your concerns with the DEI-IG Settlement.

A. The DEI-IG Settlement would approve DEI's requested CPCN, including forward-looking CWIP ratemaking and a best estimate cost of more than $3.332 billion. While the DEI-IG Settlement clarifies certain accounting and ratemaking treatment and provides modest benefits to ratepayers on a few limited issues, it does not meaningfully address the most significant problems with DEI's proposals that I raised in direct testimony, including the affordability and environmental sustainability issues. For the reasons detailed in my direct testimony that I will not further belabor here, approval of the CPCN and forward-looking CWIP ratemaking are not in the public interest, do not represent a reasonable resolution to contested issues in this case, and should be denied.

Additionally, the DEI-IG Settlement would increase the portion of costs paid by residential customers for DEI's firm natural gas transportation, further exacerbating the unaffordability of DEI's request to Hoosier households.

Q. Please explain your concern with the DEI-IG Settlement term regarding cost allocation of firm transportation.

A. The DEI-IG Settlement term I.F provides that DEI will recover costs of Rockies Express Pipeline firm natural gas transportation and the costs of the CenterPoint natural gas lateral based on production demand via the FAC. **This is a significant change from the status quo and the long-standing ratemaking for these fuel costs.** DEI currently recovers the

costs of firm natural gas transportation in the same manner as other fuel costs in the FAC,[32] with DEI explaining that "[e]ach FAC during the past five years would have included firm transportation costs (along with other fuel costs) in the numerator and energy sales in the denominator to develop an overall FAC rate."[33]

DEI confirmed that there are no cases within the past five years in which DEI was the Petitioner where the Commission approved the use of production demand allocators for firm transportation costs.[34] In DEI's most recent FAC proceeding, IG proposed allocating firm transportation costs based on production demand, but the Commission did not adopt this recommendation.[35]

Q. What is the impact to the residential class of switching from the status quo to the production demand allocation for the cost of firm transportation under the DEI-IG Settlement?

A. The result of this DEI-IG Settlement term will be a bill increase to residential customers for firm transportation relative to DEI's case-in-chief. For example, DEI's 2025 sales forecast projects residential customers will be responsible for approximately 35.26% of sales,[36] so it is reasonable to assume the same proportion of FAC energy-based fuel charges would also fall on residential customers. Under the production demand allocator, the

[32] I recognize that DEI does not develop customer class allocators for the FAC, but rather develops a uniform per-kWh charge for all customer classes. The outcome of DEI's method is very similar to using an energy allocator, as customer classes will end up paying FAC costs in proportion to their actual kWh retail sales.

[33] DEI Response to CAC DR 10.03(c)(CAC-VS Exhibit 2, Attachment BI-1).

[34] DEI Response to CAC DR 10.03(b)(CAC-VS Exhibit 2, Attachment BI-1).

[35] Cause No. 38707 FAC 144, Final Order, June 26, 2025.

[36] Cause No. 46038, DEI Workpaper RAF – 17.

residential class is currently assigned about 44.70% of the costs.[37] Therefore, this change to cost allocation will result in a 26.7% increase[38] in Cayuga CC firm transportation costs assigned to the residential class. If these allocations remain constant into the future, it would result in residential customers paying an extra approximately $[redacted] million annually for firm transportation associated with the REX and CenterPoint pipelines.[39]

The precise differential will depend on several factors in the future, such as customer class usage patterns, but my estimate is reasonable based on the information currently available.[40]

Q. Are DEI residential customers experiencing significant affordability concerns?

A. Yes. Between July 1, 2024, and July 1, 2025, DEI's monthly bill for a residential customer using 1,000 kWh increased by $25.78, or 19.8%. Residential bills are expected to continue to rise as DEI implements its Phase 2 rate increase, stemming from Cause No. 46038, and continues to make significant investments, passing along cost recovery through its various riders. These are significant affordability concerns for DEI residential ratepayers and underscore why increasing the portion of costs paid by residential customers for firm transportation is unreasonable and inconsistent with the public interest.

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[37] Cause No. 46038.

[38] (44.697% - 35.264%) / (35.264%) ≈ 26.7%

[39] See Highly Confidential Workpaper BI-2 for calculations.

[40] CAC's DR 10.03 to DEI (CAC-VS Exhibit 2, Attachment BI-3) requested that DEI provide the customer class allocation of the firm transportation pipeline costs currently used compared to the allocators that would be used under the DEI-IG Settlement, but DEI did not answer the question, claiming it is "not relevant."

Q. Do you continue to stand by your bill impact estimate from direct testimony?

A. Yes. In direct testimony, I estimated that DEI's Cayuga CC Project would add roughly $29 per month to residential bills after it is placed in service.

DEI witness Sufan took issue with my estimate, but he did not provide one of his own, citing "the challenge and uncertainty of this estimation."[41] This explanation makes no sense, as DEI relies on far more challenging and uncertain estimations looking out decades into the future in its IRP to support the need and reasonableness of the Cayuga CC Project, the very project Mr. Sufan now pretends is beyond the capabilities of the largest electric utility in Indiana to provide a reasonable residential bill impact estimate for.

There is always uncertainty looking out into the future, but that is why robust and transparent analysis should be conducted—not ignored. If it is too challenging and uncertain to estimate the residential bill impact of a more than $3.3 billion capital project, then it follows that the underlying need for the project itself is too challenging or uncertain to ascertain, and the project is likely beyond the capability of the utility to cost-effectively manage, particularly when DEI has had such issues managing budgets and the construction and ongoing operations of its Edwardsport IGCC.

Q. Do you agree that the production demand allocation for firm transportation costs is consistent with cost causation?

A. No. Production demand allocation for firm transportation is not consistent with cost causation and does not make sense:

[41] Sufan Rebuttal 26:17.

- DEI's firm transportation contracts provide assurance about the long-term natural gas fuel delivery to the Cayuga CC project. Fuel costs are variable costs and are classified as energy-related, not demand-related, according to the NARUC Cost Allocation Manual.[42]
- The fuel delivered under the contracts provides a benefit to customers by being used at the gas plants to generate electricity. The Cayuga CC units are not peaking units, but are instead expected to operate as a "baseload" generation with a high capacity factor throughout the year, meaning the firm transportation is needed for ongoing energy needs.
- The firm transportation contract charges do not vary with DEI's system demand, but are rather fixed charges, regardless of whether the gas transport capacity is used to meet peak or off-peak system needs.
- Allocating firm transportation costs via a production demand allocator misaligns cost recovery with a customer class's peak usage and shifts costs away from high-volume users, contradicting cost causation principles.
- From a cost causation perspective, those who benefit from the energy produced should bear the cost of transporting the fuel used to produce it.

Therefore, the **existing** energy-based FAC cost recovery that the Commission has already approved for DEI's firm transportation is the appropriate mechanism for assigning these costs, to the extent these costs are approved for cost recovery by the Commission.

Q. What is a more appropriate proceeding to consider changes to DEI's firm transportation cost allocation methodologies?

A. A base rate case would be a better proceeding to consider this issue because it would allow all elements of cost allocation associated with the Cayuga CC Project and DEI's other costs to be considered holistically rather than in a piecemeal fashion. As DEI explained in its recent FAC docket, the firm transportation arrangements are not merely related to Cayuga,

[42] National Association of Regulatory Utility Commissioners, *Electric Utility Cost Allocation Manual* ("NARUC Cost Allocation Manual"), January 1992, *see, e.g.,* p. 21 ("Costs that are based on the generating capacity of the plant, such as depreciation, debt service and return on investment, are demand-related costs. Other costs, such as cost of fuel and certain operation and maintenance expenses, are directly related to the quantity of energy produced."); p. 35 ("Variable costs are fuel costs, purchased power costs and some O&M expenses.[…] Variable production costs change with the amount of energy produced, delivered or purchased and are classified as energy-related."), and p. 64 ("Fuel expense is almost always classified as energy-related.").

and thus a docket narrowly focused on the Cayuga CC Project is an inappropriate venue for altering cost allocation associated with other units.[43] The major change to cost allocation in the DEI-IG Settlement, to which no other party has signed on, is a significant departure from DEI's current and historic cost allocation, and the Commission should be reluctant to make such a change in isolation, especially so soon after the adjudication of a base rate case as well as a separate FAC proceeding in which the proposed change to cost allocation was raised but not adopted.

Q. What do you recommend?

A. I recommend that the Commission deny the DEI-IG Settlement. However, if the Commission otherwise approves the DEI-IG Settlement, it should remove term I.F.

[43] Cause No. 38707 FAC-144, James J. McClay, III Rebuttal Testimony, pp. 3-5.

IV. RECOMMENDATIONS

Q. Please summarize your recommendations.

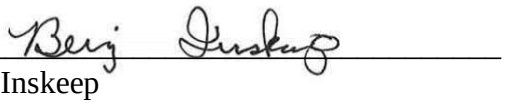
A. I recommend that the Commission deny the DEI-REI Settlement and the DEI-IG Settlement. If the DEI-REI Settlement is not denied, I recommend the Commission deny DEI's requests (1) that the Commission find that this proceeding meets the requirements of HEA 1007's retirement investigation because DEI is no longer planning to retire the units and (2) to receive CWIP ratemaking, as the CC Project is not displacing coal-fired electricity generation. If the DEI-IG Settlement is not denied, I recommend that the Commission remove term I.F that modifies the current cost allocation of firm transportation costs. I continue to stand by the recommendations in my direct testimony, including that the Commission approve the retirement of the Cayuga coal units and deny the CPCN for the Cayuga CC Project.

Q. Does this conclude your testimony?

A. Yes.

VERIFICATION

I, Ben Inskeep, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.



August 5th, 2025

Ben Inskeep

ATTACHMENT BI-1

Please also see the separately-filed Excel attachment:

- DEI Response to CAC DR 9.3, Attachment A

Industrial Group
IURC Cause No. 46193
Data Request Set No. 16
Received: June 11, 2025

IG 16.01

Request:

Please refer to Mr. Pinegar's Rebuttal Testimony at page 12, lines 15-19, wherein Mr. Pinegar testifies as follows:

"*If the Commission is concerned that Indiana will not have adequate dispatchable base load generation, the proper course is not to deny the CPCN as urged by the OUCC and CAC; rather the Commission could decide to decline to make the requested findings established by HEA 1007 and codified under Ind. Code § 8-1-8.5-13(u) at this time*."

a. Under this approach, what is the latest date when the Commission would need to make the requested findings in order for the Cayuga CC Project to qualify as a "Clean Energy Project" under I.C. § 8-1-8.8-2?

b. If the Commission "decline[s] to make the requested findings under HEA 1007" approving the Cayuga coal plants," prior to the Cayuga CC Project going into service, would the Cayuga coal units remain on the books from an accounting perspective but be functionally retired? Please explain in detail.

c. If the Commission "decline[s] to make the requested findings under HEA 1007" approving the Cayuga coal plants," prior to the Cayuga CC Project going into service, would the Cayuga coal units remain technically in service for MISO purposes, but be functionally retired? Please explain in detail.

Objection:

Duke Energy Indiana objects to subparts (b) and (c) of this request on the grounds that they misstate the Company's position and rest on a flawed premise. Specifically, the request presumes that Duke Energy Indiana has asserted the Commission will not make the requested findings under HEA 1007 prior to the Cayuga CC Project going into service. That is not the Company's position. As reflected in Mr. Pinegar's testimony, the Company has stated only that the Commission is not required to make the HEA 1007 findings as part of the CPCN order. The statute allows for those findings to be made at a later date, provided they are issued at least one year prior to the retirement of the existing units.

Response:

Subject to and without waiving or limiting its objections, Duke Energy Indiana responds as follows:

a. The Cayuga CC Project qualifies as a "Clean Energy Project" regardless of whether the Commission finding is made under Ind. Code § 8-1-8.5-13(u) ("Section 13"). First, HEA 1007 must be put in proper context. Other than reporting, Section 13 imposes no obligation on a public utility that plans to retire generation. Rather, HEA 1007 affirmatively gives the Commission power to investigate a public utility's planned retirement and, if appropriate, to order that the retirement not take place as planned. But that power has not yet been triggered. HEA 1007 does not provide the Commission the power to investigate that decision until the retirement is planned to take place in the next three years. Duke Energy Indiana plans to retire the Cayuga coal units four and five years from now.

Second, even if the findings were made in connection with issuing a CPCN, doing so would not shield the planned retirement from investigation. If during the next few years, "facts and circumstances . . . change[] significantly," the Section 13(u) investigatory powers remain fully intact. Duke Energy Indiana plans to retire the Cayuga coal units in 2029 and 2030 when the CC Project is placed in service. Whether the Commission makes the finding under Section 13(u) in this proceeding does not make that plan any more or less certain.

Third, the statutory language defining "Clean Energy Project" does not require the retirement of a coal unit. The words "retire" and "capacity" are not used in the statute. Instead, what is required is electricity from the gas unit "which displaces electricity generation from an existing coal fired generation facility." Merriam Webster defines the word "displace" as "to remove from the usual or proper place [or] . . . to take the place of." And what is being "displaced" is not the generating unit itself but electricity supplied by the generating unit. In other words, is there electricity that the coal unit is generating which is going to be replaced with electricity generated by the gas unit? It is undisputed that the rate of emission of air pollutants is lower when natural gas is burned to generate electricity compared to coal. So when a natural gas unit generates electricity rather than a coal unit, that gas unit is a clean energy resource and clean energy project. Witness Gagnon testified on rebuttal that the relatively lower operating costs compared to the existing units will generally lead to the Cayuga CCs being dispatched by MISO ahead of when the existing coal units would have been dispatched. If the CC Project will be dispatched by MISO ahead of when the existing coal plant would be dispatched, then the CC Project necessarily is going to generate electricity that displaces electricity that would have been otherwise generated by the coal units, regardless of whether the coal units are retired.

b. Duke Energy Indiana asked counsel for the Industrial Group to explain what is meant by "functionally retired" and was informed: "Functionally retired means that the IURC has not approved the retirement the coal units, but Duke is not operating them because the Cayuga CCs have gone into service. That may not necessarily mean literally incapable of putting electrons on the grid, but certainly impracticable due to transmission restraints, etc." With that definition, the Cayuga coal units should be retired from Duke Energy Indiana's books and records because they would no longer be in service.

c. See subpart b. Using this definition of "functionally retired," MISO would not consider the units in-service under this circumstance.

CAC
IURC Cause No. 46193
Data Request Set No. 9
Received: July 8, 2025

CAC 9.03

Request:

For each coal-fired Cayuga unit, please provide the following information for each of the most recent calendar years (2022-2024):

(a) water withdrawals
(b) water discharge
(c) water consumption

Response:

Please see Attachment CAC 9.3-A.

Witness: William C. Luke

CAC
IURC Cause No. 46193
Data Request Set No. 9
Received: July 8, 2025

CAC 9.04

Request:

For the Cayuga CC Project, please provide the following estimates for when both units have achieved commercial operation:

(a) estimated annual water withdrawals
(b) estimated annual water discharge
(c) estimated annual water consumption
(d) maximum water withdrawals allowed under applicable permits, or, to the extent such permits have not been filed, provide the intended maximum water withdrawal that DEI intends to request in such permits.
(e) confirmation that all water withdrawals for the Cayuga CC Project will be from the Wabash River, or if not confirmed, please identify all other intended sources of water withdrawals and the maximum daily and annual withdrawals from each source.

Objection:

Duke Energy Indiana objects to this request to the extent it calls for speculation. The data provided are developmental estimates subject to change pending completion of the detailed design.

Response:

Subject to and without waiving or limiting its objections, Duke Energy Indiana responds as follows:

(a) Approximately 4.95 billion Gallons (13.55 MGD).

(b) Approximately 1.12 billion Gallons (3.08 MGD).

(c) Approximately 3.82 billion Gallons (10.47 MGD).

(d) There is currently no permit required for water withdrawal from either the Wabash River or the aquifer system via collector wells. The annual water withdrawal volume will be reported to IDNR via the Significant Water Withdrawal Facility program.

(e) The annual withdrawal estimate above would come from the Wabash River or aquifer system via collector wells, one or the other, not in combination.

Witness: John Robert Smith, Jr.

CAC
IURC Cause No. 46193
Data Request Set No. 10
Received: July 14, 2025

CAC 10.03

Request:

Please refer to Sufan Settlement Testimony page 8, lines 8-13.

a. For each DEI customer class, provide the class cost allocator for the firm transportation costs of REX and the CenterPoint natural gas lateral: (1) under DEI's current FAC and (2) using current production demand allocators.
b. Please identify each case in the past 5 years in which DEI was the Petitioner where the Commission approved the use of production demand allocators for firm natural gas transportation costs. Please explain which firm natural gas transportation costs were allocated using a production demand allocator in each case identified.
c. Please identify each case in the past 5 years in which DEI was the Petitioner where the Commission approved the use of an energy-based allocator (or methodology allocating costs on the basis of historic or projected customer class kWh retail sales) for firm natural gas transportation costs. Please explain which firm natural gas transportation costs were allocated using an energy-based allocator.
d. Please identify what cost allocation method and the specific class allocators were used to allocate firm transportation costs in DEI's most recent base rate case cost-of-service study.

Objection:

Duke Energy Indiana objects to this request as vague, ambiguous, and not relevant to this proceeding. With respect to subparts b-d of this request, the Company further objects on the grounds that it seeks information that is equally available to the requesting party through publicly available records.

Response:

Subject to and without waiving or limiting its objections, Duke Energy Indiana responds as follows:

a. See response to subpart c.
b. See objections. There are no such cases.
c. See objections. This question regarding allocators is not relevant to how the FAC has historically recovered firm transportation costs. Each FAC during the past five years would have included firm transportation costs (along with other fuel costs) in

the numerator and energy sales in the denominator to develop an overall FAC rate. The FAC rate is assessed based on actual energy usage on customer bills.

d. See objections. Firm transportation costs were not discretely identified in Duke Energy Indiana's most recent base rate case cost-of-service study (Cause No. 46038); therefore, Duke Energy Indiana cannot identify what cost allocations were used.

Witness: Justin G. Sufan