

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

CAUSE NO. 45868

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S
PROPOSED ORDER

Comes now, the Indiana Office of Consumer Counselor, by counsel, hereby submits its
Proposed Order to the Commission for its approval.

Respectfully submitted,



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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

CAUSE NO. 45868

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Jennifer L. Schuster, Senior Administrative Law Judge

On March 28, 2023, Indiana Michigan Power Company (“I&M”, “Company” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. Also on March 28, 2023, I&M filed its prepared testimony and exhibits constituting its case-in-chief, as well as supporting workpapers.

On April 6, 2023, Wabash Valley Power Association, Inc. d/b/a Wabash Valley Power Alliance (“Wabash Valley”) filed its Petition to Intervene, which the Presiding Officers granted by docket entry dated April 17, 2023. On April 19, 2023, Citizens Action Coalition of Indiana, Inc. (“CAC”) filed its Petition to Intervene, which the Presiding Officers granted by docket entry dated April 27, 2023.

On May 19, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) and CAC filed testimony constituting their respective cases-in-chief.¹ I&M filed rebuttal testimony on June 2, 2023.²

On May 24 and June 20, 2023, the Commission issued docket entry questions to I&M, to which I&M responded on May 24, 2023 and June 22, 2023 respectively.

The Commission conducted an evidentiary hearing in this Cause on June 26, 2023, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the OUCC, and Intervenors appeared and participated in the hearing by counsel and the evidence and testimony of Petitioner, the OUCC, and CAC were admitted into the record without objection.

Based upon the applicable law and evidence presented, the Commission now finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. I&M is a “public utility” within the meaning of that term as used in Ind. Code §§ 8-1-2-1 and 8-1-8.5-1. I&M is also an “eligible business” as that term is defined in Ind. Code § 8-1-8.8-6. I&M is subject to the jurisdiction of the Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

2. Petitioner’s Characteristics. I&M is a wholly-owned subsidiary of American Electric Power Company, Inc. (“AEP”) with its principal offices at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the States of Indiana and Michigan. I&M owns and operates generation, transmission, and distribution plant and equipment within the States of Indiana and Michigan that are in service and used and useful in the furnishing of such electric service to the public. I&M has maintained and continues to maintain its properties in a reliable state of operating condition.

I&M supplies electric service to approximately 476,000 retail customers in northern and east-central Indiana and 131,000 retail customers in southwestern Michigan, within a service area covering approximately 4,600 square miles. In Indiana, I&M provides retail electric service to customers in the following counties: Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Hamilton, Henry, Howard, Huntington, Jay, LaPorte, Madison, Marshall, Miami, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells and Whitley. In addition, I&M serves customers at wholesale in Indiana and Michigan. I&M’s electric system is a fully integrated and interconnected entity that is operated within Indiana and Michigan as a single utility.

3. Relief Requested. I&M requests the Commission issue to I&M certificates of public convenience and necessity (“CPCN”) for development through purchase sale agreements (“PSA”) of two solar power generating facilities to be known as Lake Trout and Mayapple (“Clean

¹ The OUCC prefiled corrected testimony of Wes R. Blakley on June 5, 2023.

² I&M prefiled corrections to direct and rebuttal testimony on June 15, 2023. On June 15, 2023, I&M also filed updated redacted and unredacted versions of certain confidential testimony. On June 21, 2023, I&M substituted Daniel E. Mueller for the testimony previously filed by David A. Hodgson.

Energy PSA Projects”). I&M also requests the Commission approve the Clean Energy PSAs. To the extent necessary, I&M requests issuance of an order pursuant to Ind. Code § 8-1-2.5-5 declining to exercise jurisdiction under Ind. Code § 8-1-8.5-5(e). I&M also requests approval of each PSA Project as a Clean Energy Project under Ind. Code § 8-1-8.8-11. I&M requests approval of two solar renewable energy purchase agreements (referred to herein as “PPAs”) for projects to be known as Elkhart County and Sculpin (“Clean Energy PPA Projects”) as Clean Energy Projects under Ind. Code § 8-1-8.8-11. I&M requests the Commission to authorize associated timely cost recovery as proposed by the Company under Ind. Code § 8-1-8.8-11 for all Clean Energy PSA Projects and Clean Energy PPA Projects and approve other accounting and ratemaking relief, including recovery of PPA development costs, as described in the Company’s case-in-chief. I&M requests approval of an ongoing review process as further described in the Company’s case-in-chief.

4. Statutory Framework. Ind. Code § 8-1-8.5-5 sets forth the conditions for receiving a CPCN. Ind. Code § 8-1-8.8-2 concerns the development of “clean energy projects”, including renewable energy projects. Per Ind. Code § 8-1-8.8-10, the definition of “renewable energy resource” includes solar energy. Pursuant to Ind. Code § 8-1-8.8-11 (“Section 11”), a clean energy project that is determined to be reasonable and necessary is eligible for Commission-approved financial incentives, including timely recovery of costs. Ind. Code § 8-1-2-42(a) (“Section 42(a)”) also authorizes rate adjustment mechanisms for the recovery of costs incurred in the provision of retail service. Recently enacted HEA 1007, codified at Ind. Code § 8-1-2-0.6, sets forth five attributes (also referred to as “pillars”) the Commission will also consider in this matter.

5. Petitioner’s Case-in-Chief. Petitioner presented the testimony of eight witnesses in its case-in-chief:

- David A. Lucas – I&M Vice President – Regulatory and Finance.
- Timothy Gaul - Director – Regulated Infrastructure Development, American Electric Power Service Corporation (“AEPSC”).
- Mark Becker - Managing Director of Resource Planning, AEPSC.
- Dean Koujak - Principal, Charles River Associates.
- Beth Lozier - Project Director, AEPSC.
- Bartley Taberner - Transmission Planning Manager, AEPSC.
- Daniel Mueller - Director Tax Planning & Operation, AEPSC.
- Andrew Williamson - Director of Regulatory Services, I&M.

A. Projects Overview. Mr. Lucas and Mr. Gaul testified that I&M is proposing the following two PSA Clean Energy Projects:

- The Lake Trout Project will be located in Indiana and will produce 245 MWs of solar generation. The developer for this project is EDF Renewables Development, Inc. The

project is expected to be operational by the end of April 2026. The Lake Trout Project will be capable of producing enough energy to power approximately 73,500 homes.

- The Mayapple Project will be located in Indiana and will produce 224 MWs of solar generation. The developer for this project is Lightsource bp. The project is expected to be operational by the end of May 2026. The Mayapple Project will be capable of producing enough energy to power approximately 67,200 homes.

Pet. Ex. 1 (Lucas Direct) at 8; Pet. Ex. 5 (Gaul Direct) at 6. Company witnesses Lucas and Gaul also testified I&M proposes the following PPA Clean Energy Projects, with the Company contracting for the capacity and energy from these facilities once the resources are operational.

- The Sculpin Project will be located in Indiana and will produce 180 MWs of solar generation. The developer for this project is EDF Renewables Development, Inc. The project is expected to be operational by December 31, 2025. The Sculpin Project will be capable of producing enough energy to power approximately 54,000 homes.
- The Elkhart County Solar Project will be located in Indiana and will produce 100 MWs of solar generation. The developer for this project is Savion. The project is expected to be operational by December 31, 2025. The Savion Project will be capable of producing enough energy to power approximately 30,000 homes.

Pet. Ex. 1 (Lucas Direct) at 8; Pet. Ex. 5 (Gaul Direct) at 7. Mr. Lucas explained the proposed development of these four projects is consistent with Ind. Code chapter 8-1-8.8. Pet. Ex. 1 (Lucas Direct) at 9-10.

Mr. Gaul described the PSA structure and key components of the PSAs. Pet. Ex. 5 (Gaul Direct) at 25-37. Mr. Gaul also described the PPA structure and terms of each PPA agreement. *Id.* at 37-41.

B. IRP. Mr. Lucas testified that I&M is on the brink of a major generation transformation as Rockport Unit 1 and Unit 2 retire from service by the end of 2028. Pet. Ex. 1 (Lucas Direct) at 5. He said these coal-fired resources represent nearly one-half of the Company's generation fleet and the retirement of these units provides a significant opportunity for I&M to transition to more renewable resources, further diversify I&M's generation portfolio, and reduce its carbon emissions. *Id.* He said the Petition in this proceeding is a result of the Company's 2021 IRP, the planning tool the Company utilizes to determine how to meet the ongoing need for reliable and economic electric demand in the Company's service area. Mr. Lucas and Mr. Becker also testified that the proposed Clean Energy Projects in this proceeding are consistent with the Preferred Portfolio that was the result of the IRP process and are an important step in replacing the capacity from the Rockport facility. Pet. Ex. 1 (Lucas Direct) at 8, 10-11, 12-13; Pet. Ex. 3 (Becker Direct) at 2-10. Mr. Lucas said the objectives and metrics that I&M used during the IRP process to determine the Preferred Portfolio were very closely aligned with the work of the 21st Century Energy Policy Development Task Force. *Id.* at 7.

C. All-Source RFP and Project Evaluation/Selection. Company witnesses Lucas and Gaul explained the competitive procurement process used to select the proposed Clean

Energy Projects. Pet. Ex. 1 (Lucas Direct) at 11-12; Pet. Ex. 5 (Gaul Direct) at 3, 4-5. These witnesses explained the Company developed a 2022 All Source Request for Proposal (RFP) to solicit responses from the market for capacity resource needs identified in the Company's Preferred Portfolio for the 2025/2026 and 2026/2027 PJM Planning Years. They explained the RFP was designed in a way that allowed for an open, non-discriminatory competitive procurement process that considered both third-party and utility ownership, resource types or combinations of resource types, various sizes and capacities within practical limits, ancillary services, and cost reducing benefits. Pet. Ex. 1 (Lucas Direct) at 12; Pet. Ex. 5 (Gaul Direct) at 4-5. Mr. Lucas added that the RFP was also structured to comply with the terms of the Settlement Agreement approved by the Commission in Cause No. 45546. Pet. Ex. 1 (Lucas Direct) at 12.

Mr. Gaul elaborated on how the Company developed the structure and requirements of the RFP and the Company's efforts to collect and incorporate stakeholder input in the development of the RFP. Pet. Ex. 5 (Gaul Direct) at 10-11.

Mr. Lucas and Mr. Gaul also testified that the Company utilized Charles River & Associates (CRA) to fulfill the role of Independent Monitor, to manage the stakeholder process on behalf of the Company and to allow stakeholder feedback to be received and reasonably considered in the RFP process. Pet. Ex. 1 (Lucas Direct) at 12; Pet. Ex. 5 (Gaul Direct) at 9.

These witnesses testified the Clean Energy Projects proposed in this case are the result of a competitive procurement process and represent the optimal set of resources available in the market to fulfill the capacity need consistent with that identified through the IRP planning process. Pet. Ex. 1 (Lucas Direct) at 13; Pet. Ex. 5 (Gaul Direct) at 9-24.

Mr. Koujak discussed the goal of the 2022 All-Source RFP, the eligible technologies and bidder thresholds, which he said are substantially the same or similar to other RFPs he had overseen. Pet. Ex. 7 (Koujak Direct) at 4-5. Mr. Koujak described the evaluation and stakeholder processes and said each was reasonable. *Id.* at 6-7. Mr. Koujak provided an overview of the RFP results and discussed the shortlisted negotiations. *Id.* at 8-9. He provided a supporting report and concluded that (i) I&M developed the RFP documentation in a clear and transparent manner; (ii) I&M performed the evaluation on a fair and consistent basis in-line with the process noted in the RFP; (iii) the criteria used in the evaluation is in-line with typical utility practice and reasonable to achieve the goals of the RFP; (iv) the shortlisting of finalists was also performed on a fair and consistent basis with the process published in the RFP; and (v) there is no evidence that the evaluation and selection process caused any unfair advantage or disadvantage to any interested respondent. *Id.* at 10-11.

Mr. Lucas testified that I&M received responses from the RFP that were aligned with the overall capacity amounts requested in the RFP, however, the breakdown of capacity across the various technology types differed. Pet. Ex. 1 (Lucas Direct) at 13; also Pet. Ex. 5 (Gaul Direct) at 11. He said I&M received a robust response to the RFP from solar projects and other qualified supplemental capacity resources, including thermal, and standalone storage resources. *Id.* He said the responses for wind projects were less than the amount originally targeted in the RFP, notwithstanding I&M's efforts to reach a broader set of wind resources in neighboring states and in Midcontinent Independent System Operator, Inc. (MISO).

Mr. Gaul discussed the initial bid receipt and overall bidder response to the RFP. Pet. Ex. 5 (Gaul Direct) at 11. Mr. Gaul said, in total, CRA (and I&M) received 32 proposals from 12 unique bidders. *Id.* He said proposals included Solar, Wind, Solar plus Storage, Wind/Solar plus Storage, Thermal capacity resources, and standalone battery storage technologies. He said several bidders submitted multiple bids for the same project (*e.g.*, bid variations with battery energy storage systems and multiple expected commercial operations dates), accounting for a greater number of bids than projects. *Id.* He said a total of approximately 7,500 MW of proposed projects across 32 project bids were received. Mr. Gaul added that the proposals were not offered to the Company on an exclusive basis and the bidders could withdraw their proposal at any time. *Id.*

Company witness Gaul provided a detailed breakdown of the proposals received by each technology type. *Id.* at 5. Mr. Gaul added that two of the three wind projects that had passed the Eligibility and Threshold review ultimately rescinded their bids from the RFP to pursue other agreements. *Id.* at 13.

Mr. Gaul described the steps used in the proposal review and project selection process. *Id.* at 12-16. He explained the components of the economic analysis and explained how pricing was compared across different proposal contract types, with different term lengths, and different energy product offerings. *Id.* at 14. He said the first phase (Phase 1) of the Economic Analysis focused on the assessment and comparison of projects of similar generation type (wind, solar, or supplemental capacity) using either a calculated Levelized Adjusted Cost of Energy (LACOE) or Levelized Adjusted Cost of Capacity (LACOC) metric. *Id.* He said the second phase (Phase 2) then assessed and compared the projects across all technology types based on a Value to Cost (V/C) ratio. *Id.* He said the V/C ratio allowed for the holistic consideration of all the value streams provided by each generation type in the comparison. *Id.* He said across both phases, the metrics were calculated in a manner that ensured proposals could be compared on an equivalent basis across the range of technology types, contract structures (PSA or PPA), contract term lengths, and energy product offerings. He said ultimately, given the number of projects remaining after the E&T analysis, the Independent Monitor and I&M agreed that no project would be eliminated in the first phase and all eligible projects would proceed from Phase 1 (LACOE/LACOC) to Phase 2 (V/C) comparisons. *Id.* at 15.

Mr. Gaul also discussed the ten non-price factors considered in the evaluation of each proposal. *Id.* at 15-16. Mr. Gaul summarized the total scores for all eligible proposals and identified the projects selected for detailed contract negotiations. *Id.* at 16-17. Mr. Gaul described the contract negotiation activities with the developers of the Clean Energy Projects. *Id.* at 17-18.

Mr. Gaul explained how market pressures impacted the RFP bid and review process. *Id.* at 19. He said a range of events impacted markets both immediately before and during the bid selection and negotiation process for the 2022 All Source RFP, including: the Uyghur Forced Labor Prevention Act (“UFLPA”) and subsequent detainment of module deliveries by U.S. Customs and Border Protection, Russia’s invasion of Ukraine, the initiation of the Antidumping Duty and Countervailing Duty (“AD/CVD”) investigation by the U.S. Department of Commerce (Commerce), the enactment of the Inflation Reduction Act (“IRA”), the release of guidance around the IRA’s Prevailing Wage and Apprenticeship requirements, PJM interconnection queue reform, and the rise in inflation and interest rates. *Id.* at 19. He said ongoing supply chain risks and delays in the PJM interconnection process were the primary drivers of schedule changes during the bid

review and negotiation process. *Id.* at 19-20. He said continuing supply chain risks and commodity inflation driven by the war in Ukraine, pending solar module tariff outcomes of the AD/CVD investigation, and competition among developers for material supply and contractor support have all added scheduling risks to projects. *Id.*

Mr. Gaul said delays and uncertainty in the PJM interconnection process have likely had the most significant impact on project development timelines. *Id.* at 20. Mr. Gaul stated the overall effect of the PJM queue delays has been a reduction in the supply of projects that can support the increasing demand for renewables in a manner that meets the timing of energy and capacity needs of the system. *Id.* He stated that although FERC has approved reforms to help resolve the generation interconnection queue bottleneck, the plan itself will take years to execute and new generation interconnection requests are not being accepted until more of the backlog is processed. *Id.*

Mr. Gaul also discussed a range of economic factors that caused increases to cost and volatility in raw materials, equipment costs, interest rates, and labor during the bid evaluation and negotiation process. *Id.* He said each of these factors impacted bid pricing and shaped contract negotiations. *Id.* at 20-23.

Mr. Gaul explained how the Company responded to the industry challenges through contract negotiations. *Id.* at 23-24. Mr. Gaul testified that each agreement incorporates financial assurances that the developer will meet its contractual obligations; that the facilities will align with performance expectations; and that major equipment suppliers and contractors will honor all warranties, guarantees, and commitments to the projects. *Id.* at 24. He said overall, the Company's Best Estimates are reasonably designed and allow the Company to acquire the resources needed to meet customers' need for energy and capacity resources. *Id.*

Mr. Lucas and Company witness Becker testified the blended portfolio cost of the Clean Energy Projects is consistent with the costs utilized in the development of the Preferred Portfolio. Pet. Ex. 1 (Lucas Direct) at 13; Pet. Ex. 3 (Becker Direct) at 15-16.

D. Interconnection. Mr. Taberner explained the Clean Energy Projects' transmission interconnection to the PJM RTO and associated cost. Pet. Ex. 9 (Taberner Direct) at 2. With input from Messrs. Lucas and Gaul, Mr. Taberner presented the Company's response to IURC General Administrative Order (GAO) 2022-01. *Id.* at 2, 8-9. Mr. Taberner discussed the interconnection approval process for the Clean Energy Projects and described the PJM New Service Queue, as well as the process PJM follows for evaluating projects. *Id.* at 4-5. Mr. Taberner testified that while PJM is responsible for the required analysis, they will consult with the transmission owner, such as I&M, during the process. *Id.* at 6. He said that while PJM will identify the improvements necessary for a successful generation interconnection, the required facilities will be designed with I&M's input and must meet I&M's technical specifications. *Id.*

Mr. Taberner said the Generation Interconnection System Impact Study Reports include a cost estimate for each project and explained that these studies and costs are subject to revision. *Id.* Mr. Taberner said the estimated costs are taken into consideration in the PSA Clean Energy Project's Best Estimates sponsored by Company witnesses Gaul and Lozier. *Id.* at 6.

Mr. Taberner discussed the status of the projects in this PJM Interconnection Queue. *Id.* at 7. He said Feasibility and Generation Interconnection System Impact Study Reports have been completed and all requests are currently in the Facilities Study stage of the PJM process. *Id.* at 7. He discussed the factors that impact the delivery of a Facilities Study and explained this can make it difficult to determine the exact time a Facilities Study will be issued. *Id.* at 7-8.

E. **Best Estimates.** Mr. Gaul presented his opinion on the Best Estimates of each PSA Project Costs and discussed the component costs included in the Best Estimates: the PSA Price, Owner's costs, and a Project Contingency. Pet. Ex. 5 (Gaul Direct) at 41-44. Mr. Gaul said the PSA Price reflects the cost of the negotiated purchase price between the Company and the Developer for the engineering, procurement and construction of the Clean Energy PSA Projects, including base interconnection costs. *Id.* at 43-44. Said Owner's Costs can be broken into two general categories: those associated with construction oversight, engineering/design reviews, and the physical integration of the project into I&M operations; and those incurred by the Company for the identification and acquisition of the project (*i.e.* the RFP process, due diligence, and fees associated with negotiations and regulatory process). Company witness Lozier provided a more detailed description of what costs are included in the description of Owner's costs. She said the estimated line items for Owner's costs including Resiliency & Integration, Project Management, and Acquisition & Development were developed based on a combination of project specific staffing plans for the Clean Energy PSA Projects and parametric estimates based on similar projects across the AEP system. Pet. Ex. 8 (Lozier Direct) at 11. She said the estimate for overheads is based on expected capital costs over the life of the project for the PSA purchase price and Owner's costs multiplied by a capital cost allocation from AEP's budgeting system. *Id.* at 12. She said AFUDC costs will be accrued based on I&M's Construction Work in Progress ("CWIP") balances during the construction of the projects. *Id.* at 11. Mr. Gaul explained the Best Estimate of the total installed capital costs also includes a Project Contingency. Pet. Ex. 5 (Gaul Direct) at 44. He said the Project Contingency includes cost considerations for typical risks that often occur during the development and construction stages of large infrastructure projects. *Id.* at 44-45. He explained that for projects the size and complexity of the Clean Energy PSA Projects, and for projects that will not be placed in service for several years from the date the testimony was filed, it is impractical to believe that no new issues or challenges will arise through the course of the project's final development, design, and construction. *Id.* at 44. He stated that to address this reality, a contingency budget was developed using a combination of identified project-specific risks and a reasonable allocation of funds for unidentified risks based on projects of similar size, type, and complexity. *Id.* He said for each identified risk, the cost to mitigate the risk was evaluated. He provided the contingency assessment for each Project in his workpapers. *Id.* Mr. Gaul explained the iterative process used to develop the Project Contingency and discussed the types of risks considered in the Project Contingency. *Id.* at 44-46.

Mr. Gaul concluded the PSA costs are the result of the competitive All-Source RFP process and direct arms' length negotiation and executed transactions. *Id.* at 47. He said Respondents to the RFP were motivated to reply with competitive bids in order to be considered for review and negotiation of an agreement. *Id.* He said it was commercially practicable to secure the estimated costs of the PSA Projects in this manner. *Id.* He stated the inclusion of the potential cost impact of project risk and factors beyond the Company's control provides Best Estimates that reasonably address industry challenges, and is reasonably designed to manage the timely development of the Projects. He added this is particularly appropriate given recent and ongoing economic conditions,

and said this approach better positions the Company, Commission, and stakeholders to assess the Project costs at the time the Projects are presented for pre-approval. *Id.*

6. Project Status and Management. Company witness Lozier described the Company's role in project management and the oversight of engineering, procurement, and construction of the Clean Energy PSA Projects; presented milestones for construction activities and the estimated commercial operation dates ("COD"). Pet. Ex. 8 (Lozier Direct) at 2-7. Mr. Lucas and Company witness Lozier explained that I&M will work closely with the project management organization to provide oversight of the development, engineering, procurement, and construction of the Clean Energy Projects that are being proposed as PSA's – Lake Trout and Mayapple. Pet. Ex. 1 (Lucas Direct) at 18-19; Pet. Ex. 8 (Lozier Direct) at 7-10.

Ms. Lozier said the Company will operate and maintain the Clean Energy PSA Projects and will employ full-time renewable technicians for the Clean Energy PSA Projects. Pet. Ex. 8 (Lozier Direct) at 12. She said the technicians will be responsible for the overall operations and maintenance of the Clean Energy PSA Projects and presented estimates for expected site staff. *Id.* Ms. Lozier said O&M activities will include routine inspections, equipment monitoring, preventative maintenance repairs, acknowledgement and troubleshooting of equipment alarms, and resetting of relays and devices. She said Company employees or their representatives will also be responsible for following dispatching instructions for facility output and monitoring of equipment performance. *Id.* She presented the estimated ongoing O&M costs for the Clean Energy PSA Projects. *Id.* at 13-14.

A. Tax Benefits. Company witness Mueller addressed the income tax implications of the Clean Energy PSA Projects, including: (1) qualification for the federal Production Tax Credit ("PTC"); (2) accelerated tax depreciation; and (3) the Company's ability to utilize PTCs generated by the PSA Clean Energy Projects and the ability to transfer (or "monetize") those PTCs. Pet. Ex. 11 (Mueller) at 2-14. He said it is expected that the Clean Energy PSA Projects will be eligible for the PTC at a 100% level. *Id.* at 7. He explained the Clean Energy PSA Projects may qualify for bonus credits. *Id.* at 8-9.

Mr. Mueller testified that because the Clean Energy PSA Projects will primarily be comprised of property that is classified as five-year property under the Modified Accelerated Cost-Recovery System ("MACRS"), the assets will be depreciated more rapidly for tax purposes than for book purposes and said this difference in basis makes it necessary to record deferred taxes for the future income tax liability that will be recognized as the timing difference between book and tax depreciation reverses. *Id.* at 9. He said the accumulated deferred federal income taxes ("ADFIT") generated by the Clean Energy PSA Projects will be included in the Company's weighted average cost of capital in future base cases, as cost-free capital. *Id.* at 9.

Mr. Mueller stated that under the IRA, AEP has the ability to sell the PTCs generated by the Clean Energy PSA Projects rather than carry them forward or back. *Id.* at 11. He described the three-step process by which PTCs will be utilized. *Id.* He said in Step 1, the PTCs will be utilized to offset I&M's tax liability. He said this reduces the necessary cash payment up to its parent company for the liability. He stated that while it is anticipated to be an uncommon scenario, the utilization of credits in Step 1 could be limited in a scenario in which the credit utilization limitations under Section 38(c) for the Consolidated Return Group is less than the sum of the Step

1 utilization of credits for all companies within the group. *Id.* at 11. He said, in Step 2, the PTCs would be used to offset the tax liability of the Consolidated Return Group, explaining that the ratio of the remaining PTCs after Step 1 to the total tax credits available for the Consolidated Return Group would be used to determine the extent of the PTCs generated by the Clean Energy PSA Projects would be used to offset the tax liability in this step. He said to the extent that I&M's credits are used to offset the tax liability of the Consolidated Return Group, I&M would receive the full cash value of the PTC. He said in Step 3, a determination would need to be made whether any remaining PTCs should be carried forward to offset a future tax liability or transferred to a third party. *Id.* at 12. He said, to the extent that the Consolidated Return Group is unable to utilize the PTC generated by the Clean Energy PSA Projects in the year they are generated, the facts and circumstances at the time will be taken into account to determine the most prudent use of those credits to determine whether they should be held to offset a future tax liability or should be sold to a third party. *Id.* at 12-14.

B. Accounting and Ratemaking. Mr. Williamson addressed the accounting and ratemaking associated with the Clean Energy Projects I&M is seeking approval of in this proceeding. Pet. Ex. 13 (Williamson Direct) at 2-22. He said I&M is requesting timely cost recovery through I&M's existing Solar Power Rider (SPR) (or successor mechanism) for the projects I&M will acquire through PSAs. *Id.* at 2, 4-5.

He said I&M also requests timely cost recovery be administered through I&M's Fuel Cost Adjustment ("FAC") for the costs incurred under the PPAs. *Id.* at 2, 16-17. Mr. Williamson said the Company seeks the Commission to find each Clean Energy PPA Project is reasonable and necessary and authorize the associated timely cost recovery throughout the entire 30-year term of each agreement. *Id.* at 16. He said the Company also seeks confirmation that the costs thereof are recoverable through the FAC proceedings (or successor mechanism) without regard to the Ind. Code § 8-1- 42(d)(1) test or any other FAC benchmarks. He said I&M will begin including the costs associated with the PPAs in I&M's monthly over- / under-accounting when I&M begins incurring such costs. *Id.* at 16.

Mr. Williamson supported the accounting and ratemaking proposals related to the Clean Energy Projects, including the request to defer costs incurred prior to recovery in I&M's rates, the request for approval of a new depreciation rate, the request to extend PTC benefits over 20 years, the Company's plan to monetize PTCs, and recovery of development costs associated with PPAs. *Id.* at 2, 5. Mr. Williamson said the Company proposes to depreciate the PSA projects, once they are placed in-service, over a 35-year period including estimated net salvage. *Id.* at 5, 6-7. Mr. Williamson explained how the salvage value estimates were developed for each project. He presented the estimated depreciation rates and explained how the final rates will be determined. *Id.* at 7-8.

Mr. Williamson explained the Company's proposal to recover ARO depreciation and accretion expense. *Id.* at 5, 8-9. Mr. Williamson discussed the Company's proposal to amortize the PTCs over 20 years and utilize deferral accounting to recognize the difference between this period and the period in which PTC benefits are realized. *Id.* at 5, 9. Mr. Williamson said the proposal benefits customers in multiple ways: 1) spreading the federal tax incentives over the 20-year period as opposed to a ten-year period, smooths and reduces the relative rate volatility and variability customers would otherwise experience over the life of the project, particularly in year

eleven when the enhanced federal tax incentives expire; 2) this proposal provides greater rate equity among customers over the life of the resource and customers receive the full value of federal tax incentives I&M realizes from the projects; and 3) spreading the provision of federal tax incentives over the 20-year period increases I&M's cash flows and reduces risk that I&M's credit metrics will decline and result in higher costs of debt and increase I&M's cost of service. *Id.* at 11-12.

Mr. Williamson explained the Company's plan to monetize PTCs if doing so is determined to be beneficial for customers. *Id.* at 12-13. Mr. Williamson also stated the Company proposes to defer and record as a regulatory asset eligible Clean Energy PSA Project costs until such time as these costs are reflected in I&M's rates. *Id.* at 5, 10-11, 13-15. He said I&M seeks Commission approval to add the approved return related to the Clean Energy PSA Projects to its authorized Net Operating Income for purposes of the FAC (d)(3) test. He said this is consistent with the treatment previously approved by the Commission related to past and existing capital riders. *Id.* at 15. He said the Company will utilize via the SPR, traditional over/under recovery accounting for the periodic true-up of actual rider revenues to actual costs consistent with I&M's past SPR proceedings; and would allocate Clean Energy Project costs consistent with the allocation of similar costs for setting current rates. *Id.* at 5, 13-15.

Mr. Williamson explained that I&M plans to utilize the renewable energy certificates ("RECs") from the Clean Energy Projects to benefit customers. *Id.* at 2, 18, 21-22. He said the Clean Energy Projects will significantly increase the number of RECs I&M has available to sell into the market and support customer renewable programs. *Id.* at 21. He said the associated net revenues I&M realizes will benefit all of I&M's customers through reduced cost of service. *Id.* He said the net proceeds from market sales will continue to be credited in ongoing FAC proceedings and the net proceeds from customer programs will be credited according to the provisions approved for such program(s). *Id.* Noting customer interest in new renewable resources, Mr. Williamson said I&M expects to make a later filing to expand its customer renewable programs to provide access to the expanded opportunities made available to I&M's customers as a result of the new resources approved in this proceeding. *Id.* at 21.

Mr. Williamson testified that the Company incurred reasonable and necessary costs for the development of the Clean Energy PPA Projects that are not otherwise captured by the ratemaking process. *Id.* at 17-18. He explained that because these costs were necessarily incurred for the development of the Clean Energy PPA Projects, Commission authority to recover these costs is consistent with the legislative policy that the Commission encourage the development of these projects through financial incentives. *Id.* Mr. Williamson said I&M requests Commission approval to establish a regulatory asset and authority to recover the Clean Energy PPA Project development costs in the SPR over a period of two years, including a pre-tax return on the unamortized balance. *Id.* He said the Clean Energy PPA development costs incurred as of February 28, 2022, are approximately \$188 thousand. He said additional costs will continue to be incurred until all condition precedents and other applicable contract terms are met and final. *Id.* He said following the Commission's approval of I&M's request, I&M will reflect the final PPA development cost balance in the SPR. *Id.*

Mr. Williamson also provided an estimate of the overall incremental rate impact of the PSAs and PPAs to I&M's customers. *Id.* at 2, 18-19. He said I&M estimates the average year one

annual rate impact on an Indiana jurisdictional basis for all rate classes to be 1.7%. He said the overall rate impact includes the estimated value of the market energy revenues, expected PTC benefits extended over 20 years as described above, and REC revenues associated with the Clean Energy Projects. *Id.* at 18. Mr. Williamson also discussed recent cost reductions associated with I&M's generation transformation. *Id.* at 19. He said the overall estimated year one rate impact inclusive of the Clean Energy Projects, the Montpelier Capacity Purchase Agreement ("CPA"), and the recent cost reductions associated with Rockport Unit 2 results in a cost of service decrease of more than 7%. *Id.*³

Mr. Williamson also supported I&M's request for ongoing review. *Id.* at 2, 19-20. He said I&M proposes to submit one consolidated report for the two Clean Energy PSA Projects subject to the protection of confidential information. *Id.* at 19-20. He testified that these reports will be filed as a compliance filing in this docket (unless instructed otherwise by the Commission) and said the first report will be filed no later than 180 days following a Commission order approving the project(s) and at least semi-annually thereafter until the Clean Energy PSA Projects reach their COD, the latter of which is expected by May 2026. *Id.* at 20. He added that I&M may also file supplemental reports if necessary and said the final report will include the actual total cost of construction, the total megawatt output for the solar project, and the actual COD. *Id.* Mr. Williamson said I&M proposes to present the progress reports to the Commission for review and approval as part of the Company's existing SPR filings. *Id.* He said I&M reserves the ability to seek review of any ongoing review report outside of the annual SPR filings should circumstances warrant doing so. *Id.* He said this flexibility will allow any unexpected material developments that, in the Company's judgment, may otherwise impact I&M's ability to move forward with the project to be addressed by the Commission. *Id.*

Ms. Lozier discussed the difference between the Design Life and the Useful Life of a solar facility. Pet. Ex. 8 (Lozier Direct) at 14-15. She said the Company expects the Clean Energy PSA Projects will have a useful life of 35 years. *Id.* at 15. She said the Company contracted DNV Energy USA, Inc. ("DNV") to do a decommissioning cost analysis report that provides general, non-site specific, estimates based on project size and technology used. She said the assumptions and cost estimates in the DNV analysis are reasonable. *Id.* at 16.

C. Benefits and Public Convenience and Necessity. Mr. Lucas testified the projects have many benefits for I&M's customers, including but not limited to: Economic development benefits, Environmental benefits, Diversity of generation resources, Renewable energy certificate benefits, Tax benefits and Local economic benefits. Pet. Ex. 1 (Lucas Direct) at 16-17. Mr. Lucas testified that the proposed Clean Energy Projects are consistent with expectations that the Company is hearing from customers. *Id.* at 17. He also said the Clean Energy Projects provide long-term financial benefits to I&M's customers. *Id.* at 18. Mr. Lucas testified that each of the Clean Energy Projects proposed in this case stands on its own merit and each one is reasonable, necessary, and the public interest, convenience and necessity will be served by I&M developing these Projects. Pet. Ex. 1 (Lucas Direct) at 20.

³ The Company's petition for approval of the Montpelier CPA was filed March 30, 2023 and docketed as Cause No. 45869.

7. **The OUCC's Evidence.** The OUCC presented the testimony of three Utility Analysts in the OUCC Electric Division: John W. Hanks, Brian R. Latham, and Gregory L. Krieger. The OUCC also presented the testimony Wes R. Blakley, Senior Utility Analyst in the OUCC Electric Division.

Mr. Hanks evaluated I&M's request for approval of the Lake Trout and Mayapple PSA Projects and the Elkhart County and Sculpin PPA Projects, and associated cost recovery for the Projects. Pub. Ex. 1 at 1. He said, as with any proposal for new generation projects, affordability and reliability are critical factors the Commission should consider. He said these considerations should be viewed not only with regard to specific projects but also in light of the cumulative impact of all projects in a utility's generation fleet. *Id.* at 2.

Mr. Hanks described the OUCC's concerns regarding project costs in relation to affordability. *Id.* at 1, 3-4. He said the Clean Energy Projects will lead to a 2027 annualized net revenue requirement increase of approximately \$29.11 million and approximately \$13.76 million of the revenue requirement will be allocated to residential customers. *Id.* at 3. He said I&M estimates a revenue requirement increase of 2.04%. *Id.* He said I&M did not provide a residential customer bill impact for 1000 kWh usage. *Id.* at 4. He stated that while the total average ratepayer impact of these projects may not be large in isolation, the overall cumulative effect of constant upward pressure on rates should always be considered. *Id.* He said the concern is especially profound considering Indiana's focus on emerging energy policy, reliability, and the current state of the economy. *Id.*

Mr. Hanks provided information regarding each project's local approval process and status. *Id.* at 1-6. He also addressed I&M's request for the Commission to decline to exercise its jurisdiction over Ind. Code § 8-1-8.5-5(e). *Id.* at 2. He said the Commission should deny the Company's alternative request for declination of jurisdiction to exercise this statutory provision. He said Ind. Code § 8-1-8.5-5(e) is a required finding the Commission, not the utility, must make to issue a CPCN for new generation. *Id.* at 7.

Mr. Hanks provided an analysis of the Projects in relation to I&M's 2021 IRP and the 2022 RFP, from which these projects were selected. *Id.* at 2, 7-8. He said I&M requires new capacity due to the planned retirements of Rockport Units 1 and 2 by the end of 2028. *Id.* at 7. He said following the planning year 2023-2024, I&M's capacity shortfall is greater than 300 MW as Rockport Unit 2 will no longer be a capacity resource and added that once Rockport Unit 1 retires the capacity shortfall increases to approximately 1,500 MW. *Id.* at 8.

Mr. Hanks introduced concerns related to capacity accreditation for renewable generation in PJM. *Id.* at 8-9. He discussed effective load carrying capability ("ELCC") and raised a concern that the accredited capacity provided by the Clean Energy Projects would decrease approximately 33% from their first year of operation to when Rockport Unit 1 retires. *Id.* at 8-11.

Mr. Hanks stated that based on its IRP, I&M is moving from only 35 MW of solar generation to more than 1,500 MW of solar generation in a short time frame of five years due to the retirement of Rockport Units 1 and 2. *Id.* He said solar generation is most effective in the summer, meaning a portfolio with a large amount of solar runs the risk of not meeting winter peaks, forcing the utility to rely on market purchases. *Id.* at 11. He said there may be challenges in

acquiring the amount of wind generation targeted in the IRP. *Id.* He said there is uncertainty about how PJM will change its capacity accreditation standards. He said if PJM moves closer to a seasonal capacity construct, solar projects will have less accredited capacity during winter. He said this raises the risk that I&M will not meet its capacity reserve requirements for winter and will be forced to rely on spot purchases. *Id.* at 11-12.

Mr. Hanks discussed the items identified in I&M's IRP Short-Term Action Plan. *Id.* at 12. He said the Projects presented in this proceeding are the result of the 2022 RFP process and noted that on March 31, 2023, I&M released another All-Source RFP for 2023 for additional capacity resource needs through 2028. *Id.* He said the Projects proposed in this case are 250 MW more solar generation than the MW identified in the Short-Term Action Plan for the 2022 RFP. *Id.* at 13. He said the increase in the amount of solar generation requested is due to no wind capacity making it to the short-list within the RFP process and added that renewable capacity resources are not interchangeable when planning for resource adequacy, as solar is most effective in summer and wind in winter. *Id.* Mr. Hanks noted that I&M did not include wind capacity in the RFPs for 2023-2024, but that the RFP issued on March 31, 2023, solicits proposals for 800 MW of wind generation. *Id.* At 14. He reasoned that this indicates the ongoing challenge of acquiring wind resources identified in the preferred portfolio selected by the IRP. *Id.* Mr. Hanks said the Company's proposal in this case is not consistent with the Short-Term Action Plan because the Short-Term Action Plan identified the issuance of the 2022 RFP seeking 800 MW of wind and 500 MW of solar generation, and this proposal in this proceeding includes approximately 750 MW of solar and no wind. *Id.* at 14. Mr. Hanks said the IRP estimates the price of solar resources to be approximately \$80/MWh. *Id.* at 14. He compared the levelized cost of energy ("LCOE") of the Clean Energy Projects in MWh to the estimated price assumed in the IRP for solar resources. *Id.* at 15.

Mr. Hanks provided his opinion of the IRP process. *Id.* at 15. He noted that the submission of an IRP is not a formally docketed proceeding, and the Commission does not approve a utility's IRP, but rather the Director of the Commission's Research Policy & Planning Division issues a report on the IRP. *Id.* He said that after the IRP process, specific utility requests are then compared with the needs and solutions identified in the IRP for meeting the utility's generation, reliability, and reserve capacity obligations. *Id.*

Mr. Hanks noted I&M's proposal of approximately 750 MW of solar generation in this proceeding and I&M's plan to obtain another 850 MW of solar generation through the RFP issued on March 31, 2023. *Id.* He expressed his concern that five years is a very short time frame for I&M to shift from solar representing a negligible amount to almost a third of its total generation capacity. *Id.* He asserted that there are significant reliability risks with having such a large percentage of renewable generation. *Id.* at 15-16.

Mr. Hanks stated that when all factors are considered, the OUCC supports a measured approach to I&M's acquisition of solar energy resources that is consistent with its 2021 IRP's Short Term Action Plan. *Id.* at 16. Mr. Hanks recommended the Commission approve the Company's request for both PPAs and the request for the Mayapple PSA Project. *Id.* However, he recommended denial of the Lake Trout PSA Project. He said the Lake Trout PSA should be denied due to inconsistency with the IRP, and other project issues including those Mr. Krieger highlighted in his testimony. *Id.*

Mr. Krieger presented his analysis of I&M's process of developing its costs of the proposed PSAs, discussed interconnection costs, ratepayer responsibility for certain costs associated with the PSAs, and overall project portfolio affordability. Pub. Ex. 2 at 2-4. Mr. Krieger said he did not address the impact of federal, state, and local subsidies, tax credits, or incentives granted. *Id.* He said the primary obligation of an electric generating utility is to provide cost-efficient, used, and useful generating assets in Project approval requests. *Id.* He added that tax incentives are earned after an estimate is completed.

Mr. Krieger asserted that simply explaining the cost estimating process and I&M's approach to cost review are insufficient to reflect reasonable cost justification. *Id.* at 4. He said I&M needs to explain why significant cost differences are necessary, justifiable, and beneficial to their proposed power generation asset portfolio and added that the numbers presented in Mr. Gaul's testimony lack this support. *Id.* Mr. Krieger stated that I&M provided a better explanation of the PSA Projects' cost differences in discovery. *Id.* at 4-5. He said these explanations raised additional concerns about specifications and contingencies. *Id.* at 5-6.

Mr. Krieger said I&M is requesting to include in its Best Estimates costs to address losses below the indemnification threshold for acts, errors and omissions that are the direct responsibility of the developer to perform. *Id.* at 6. He said the developer is well compensated for those responsibilities upon project completion. *Id.* He said I&M should not be authorized to shift the risk associated with these responsibilities to ratepayers. *Id.* He added that I&M requests \$7.7 million in funds to oversee the Projects' proper completion in Project Management and Overheads funds. *Id.* He said ratepayers should not be penalized if I&M and the developers fail to diligently complete their responsibilities. *Id.* He recommended the Project Best Estimate be modified due to this concern. *Id.* at 7, 13

Mr. Hanks and Mr. Krieger recommended the Commission deny any project costs in PSAs or PPAs related to UFLPA and Section 307 of the Tariff Act of 1930. Pub. Ex. 1 at 17; Pub. Ex. 2 at 9, 13. Mr. Krieger said a U.S. DOC investigation is currently pending on whether certain solar panels circumvented tariffs on Chinese-made imports and the deadline for a decision is currently delayed until August 18, 2023. *Id.* He said I&M disclosed in response to OUCC discovery that the expected supplier for the Lake Trout Project is Canadian Solar. *Id.* He said the OUCC found Canadian Solar is involved in the DOC investigation and added that if there are additional costs as a result of the investigation, these costs should not be recovered from ratepayers. *Id.* Mr. Krieger stated that additionally, because the final decision for purchasing panels has not been made for the Mayapple Project, ratepayer recovery of any additional costs due to the Federal investigation for this Project should be denied, as well. *Id.*

Mr. Krieger said interconnection costs are a concern for the PSA Projects. Pub. Ex. 2 at 9. Mr. Krieger stated that in the process to determine interconnection costs, ratepayer interests may not always be considered, given that the RTO's main focus is reliability. *Id.* at 9. Mr. Krieger said that in this proceeding, the interconnection costs for the PSA projects are much higher than the interconnection costs for the PPA projects. *Id.* He said I&M's Feasibility and Generation Interconnection System Impact Studies performed by PJM showed interconnection costs of the PSA Projects to be 233% higher than the PPAs. *Id.* at 10-11.

Mr. Krieger contended the Company's evidence is insufficient. *Id.* at 12. He said interconnection costs are very difficult to estimate both at the IRP and RFP stages because several projects are proposed and not completed, and costs are highly dependent on other connected generators and any associated congestion. *Id.* He added that both the ratemaking process and a reliability imperative incentivize higher cost investment. *Id.* He said this pushes utilities toward higher cost projects and provides an added benefit of higher financial returns for their companies and this in turn results in less affordable rates. *Id.* Mr. Krieger said other factors affecting affordability are the uncertainties surrounding renewable generation, its reliability, and effect on capacity markets and needs. He said the ELCC class ratings for solar generation are expected to decline, as discussed further in OUCC witness John Hanks' testimony. He said all these factors increase the need for added generation, upgraded transmission networks, and added interconnections. *Id.* at 12-13. He said interconnection costs should be thoroughly analyzed in the IRP process and competitively bid; otherwise, the promise of low-cost renewables will be further compromised, and affordability will decline. Mr. Krieger said elimination of the Lake Trout Project will help protect consumer affordability, moderate increases to rate base, and reduce the average cost of interconnection in the Clean Energy Projects, while allowing I&M to add reasonably priced solar generation to its portfolio. *Id.* Mr. Krieger also recommended the Commission require competitive bidding and separate justifications for costs added to generation projects after selection through an RFP process, noting the petitioner provides no testimony that explains the cost difference between the two PSAs. *Id.* at 13.

Mr. Latham discussed I&M's proposed tax treatment for its two PSA projects. Pub. Ex. 3 at 1-5. Mr. Latham recommended the PTC be credited to ratepayers over 11 years instead of the 20-year period proposed by I&M. Pub. Ex. 3 at 5. Mr. Hanks said Year 11 would be the final reconciling year that would materially make both Petitioner and ratepayers whole. Pub. Ex. 1 at 18. Mr. Latham said a 12th year could be added if a true-up is necessary. Pub. Ex. 3 at 5.

Mr. Latham and Mr. Hanks recommended that both I&M and AEP's taxable income should be considered when valuing PTC amounts. Pub. Ex. 1 at 17; Pub. Ex. 3 at 6. They said this eliminates the possibility that Indiana ratepayers do not receive full credit because operations outside Indiana are not profitable for AEP. *Id.* Mr. Hanks and Mr. Latham said the estimated PTC should be returned to ratepayers each year with any over or under recovery netted against the following year's estimated recovery. Pub. Ex. 1 at 17; Pub. Ex. 3 at 6. Mr. Latham said this proposed treatment encourages Petitioner to monetize any PTCs that are not used to offset I&M's or AEP's taxes in the twelve months following year end. Year 11 would be the final reconciling year that would ensure that ratepayers recover the full amount of the PTC benefit. Pub. Ex. 3 at 6. He added that if year ten PTC was monetized due to a sale in year eleven, a twelfth year could be added if the reconciliation is material. *Id.*

Mr. Blakley analyzed and made recommendations regarding specific accounting and ratemaking treatment proposals made by I&M. Pub. Ex. 4 at 1-9. He recommended that if it is approved, the SPR tracker should only track the return "on" plant investment of I&M's solar power projects and no other rate base elements such as materials and supplies and working capital. Pub. Ex. 4 at 8. He said the calculation of return "on" and return "of" should be on the actual incurred costs of the solar power project investments and not the average costs of the investment. *Id.* at 8-9. He said pre-tax gross-ups should not be included in carrying charges that are applied to deferred regulatory assets because there is no income tax on the deferred costs until those costs are included

in rates. *Id.* He said I&M should not include any forecasted or estimated non-cash expensed ARO costs that reside on its balance sheet in its SPR tracker. *Id.* at 9. He said the proper ratemaking treatment for ARO decommissioning cost estimates is to be included in I&M depreciation rates and net salvage calculations along with all the other existing asset decommissioning costs, and at the time of retirement of the assets, the actual removal costs incurred be charged to accumulated depreciation. *Id.* at 9; see also Pub. Ex. 1 (Hanks) at 18.

8. Intervenor Evidence. Intervenor CAC presented the testimony of Benjamin Inskeep, CAC Program Director. CAC Ex. 1 and 1C. Mr. Inskeep discussed affordability of service and environmental sustainability, rate increases since 2004 and disconnection notices. CAC Ex. 1 at 4-6. He said the trend of rising electricity costs and large number of disconnection notices and disconnections demonstrates that customers are in need of bill relief now and added that in the context of this proceeding, it reaffirms I&M's decision to move away from expensive coal-fired generation at its Rockport power plant and pursue a more cost-effective portfolio of replacement resources. *Id.* at 6. He said it also highlights that any opportunities for near-term bill relief, such as by returning all PTC benefits to ratepayers as soon as possible, should be vigorously pursued. *Id.* He stated it emphasizes the importance of I&M pursuing the most cost-effective replacement resources, such as by using lower-cost renewable PPAs that pass costs through to ratepayers instead of more-expensive PSAs that significantly increase the cost of those resources as a result of I&M substantially increasing the revenue requirement to account for an annual rate of return. *Id.* Mr. Inskeep said I&M's plan to retire the Rockport plant and to procure a substantial amount of renewable energy this decade to replace a portion of this capacity, as identified in the Preferred Portfolio of its most recent IRP, is consistent with Indiana's electricity policy of environment sustainability. *Id.* at 7-8.

Mr. Inskeep recommended the Commission consider the affordability of electricity bills paid by I&M residential customers, especially low-income customers, when making its findings and conclusions in this proceeding. *Id.* at 8. He also recommended the Commission take into consideration environmental sustainability, consistent with HEA 1007, when it evaluates I&M's resource decisions. *Id.*

Mr. Inskeep presented his views on the differences between solar PPAs and PSAs. CAC Ex. 1 at 8-9. He said there are significant differences in cost to ratepayers between I&M's Solar PSA Projects and Solar PPA Projects. *Id.* at 9-10. Mr. Inskeep stated that while there can be legitimate differences that explain the differences between LCOE across solar projects, a major reason appears to be a result of I&M's proposed ratemaking differences between the PSA and PPA projects. *Id.* He said this calls into question I&M's overall proposal in this proceeding that is more heavily weighted toward PSA projects than PPA projects. *Id.* He said his concern about the Solar PSA Projects is amplified for residential customers in particular because of the different cost allocation mechanisms that would be used for cost recovery in this proceeding. *Id.* at 11-12.

He stated his belief that the headwinds identified by I&M with respect to procuring renewable capacity further reinforces the relevance of distributed rooftop solar and community solar as solutions warranting far greater attention and analysis in future IRP processes. *Id.* at 12-13. He said the LCOEs of the Projects call into question the fairness of the current, much smaller and extraordinarily volatile compensation rates provided to distributed solar and small power production facilities under I&M's current tariffs. *Id.* at 12.

Mr. Inskeep recommended the Commission deny the Solar PSA Projects and approve the Solar PPA Projects. *Id.* at 13, 21. He added that in lieu of the Solar PSA Projects, I&M should pursue more cost effective solar PPA projects and/or wind PPA projects, as well as create one or more tariff options for distributed solar and third-party community solar. *Id.*

Mr. Inskeep also discussed the PTC. *Id.* at 13-15. He said I&M's proposal to spread the PTC benefits over a longer time period would result in a higher immediate bill impact to I&M ratepayers. *Id.* at 14. He said the acute, real affordability concerns of I&M's ratepayers today and in the near future outweigh the more speculative benefits associated with I&M's proposal 10 to 20 years into the future and added therefore, it is in the best interest of ratepayers and residential customers in particular for I&M to pass along all PTC benefits earned by the Solar PSA Projects to ratepayers as quickly as possible. *Id.* Mr. Inskeep recommended that if the Commission approves the Solar PSA Projects contrary to his recommendation, then the Commission should direct I&M to return all PTC benefits to ratepayers over a 10-year period instead of I&M's proposed 20-year period. *Id.* at 14-15, 21. Mr. Inskeep also recommended that any increase in federal tax benefits not included in I&M's cost estimates, such as any bonus adders that might ultimately be realized but not fully reflected in I&M's estimates, be fully passed on to ratepayers as quickly as possible. *Id.*

Mr. Inskeep also discussed the IRP and RFP. *Id.* at 15-20. He testified that while CAC's comments on the IRP pointed out some flaws and disagreements, CAC does not dispute that it is reasonable and prudent for I&M to close the Rockport power plant on the schedule identified and procure at least 2,100 MW of solar and wind generation and 60 MW of battery storage by 2028. CAC Ex. 1 at 15-16.

He said he was concerned that I&M applied unduly restrictive criteria – namely restrictive geographic requirements - in its RFP that limited potential bidders. *Id.* at 16-17. He also said he had concerns with respect to the RFP's interconnection requirements – namely that the projects have completed Phase 3 of MISO Definitive Planning Phase (“DPP”) and have the Final DPP SIS and Network Upgrade Facilities Study and have secured Firm Transmission into PJM. *Id.* at 17. He stated that while it is understandable that I&M seeks to mitigate interconnection cost and delay risks, a more nuanced and flexible approach would be to allow for projects earlier in the interconnection process to still be eligible to respond to RFPs, but to score them lower in this category when evaluating these projects relative to projects that are farther along the interconnection process. *Id.* at 17-18. Mr. Inskeep discussed repurposing the Rockport interconnection rights. *Id.* at 18-20. He recommended that I&M utilize existing interconnection rights at its Rockport power plant for renewable energy and/or battery storage projects. *Id.* at 20-21.

Mr. Inskeep proposed the Commission direct I&M to “cast a wide net” as it procures additional resources to replace Rockport, including allowing projects from a broad geographic area to submit bids, removing undue restrictions on the use of the Rockport site and interconnection rights for prospective replacement projects, and to create new tariffs that enable consumers to invest in distributed generation and community solar while receiving a stable and fair compensation rate for their excess generation. *Id.* at 21.

10. Petitioner's Rebuttal. Mr. Lucas responded to positions taken by the OUCC and CAC regarding the IRP and the Preferred Portfolio. Pet. Ex. 2 (Lucas Rebuttal) at 3, 6, 12-15. He explained that as an initial matter, it appears all parties to the case are in alignment that the Company has a need for significant capacity additions in a relatively short period of time with the retirement of the Rockport facility within only five years. He said it also appears that all parties to this case acknowledge the Company went through a robust IRP process that resulted in a Preferred Portfolio which outlines the Company's plans to replace the Rockport capacity. *Id.* He testified that in order for the Company to have capacity "in the ground" and ready to meet its capacity obligation in 2028, it does not have the ability to wait until all governmental policies are in place, PJM reforms are finalized, or the market changes. The Company is working in a reality that policies, markets, and legislation will evolve for years to come. *Id.* He explained by moving forward with the Company's plans, it provides the Company and the Commission the flexibility to adapt to changes in policies and in the market, while also ensuring that capacity is available to serve customers. *Id.*

Mr. Lucas stated that both RFP requirements questioned by the CAC were for good reason, were not arbitrary, and were based on an assessment of the PJM market at the time the RFP was issued. Pet. Ex. 2 at 3, 9-11. He said, from the Company's perspective, the ability for new projects to get through PJM interconnect process continues to remain one of the most significant risks for not only the Company, but the region, in successfully meeting timelines for generation transition. He explained the requirements in both the 2022 and 2023 All-Source RFP are reasonable, necessary, and prudent. *Id.* at 10. Also in response to CAC witness Inskeep, Mr. Lucas explained the better course of action, which the Company has taken, is to include the Rockport interconnect as an option in the 2023 All-Source RFP because the targeted in-service date for those resources (2027) is much better aligned with the retirement of the Rockport facility. *Id.* at 11.

In response to OUCC witness Hanks' testimony concerning Ind. Code § 8-1-8.5-5(e), Mr. Lucas explained the Commission should find the Company has satisfied the statutory requirements. He said the process used by the Company confirms the reasonableness and reliability of the cost estimates that form the basis of the Best Estimates presented to the Commission and assures that costs incurred are, to the extent commercially practicable, based on competitive procurement. As summarized by Mr. Lucas, Company witness Gaul shows: (i) the Project costs are the result of the competitive All-Source RFP process and direct arms' length negotiation and executed transactions; (ii) respondents to the RFP were motivated to reply with competitive bids in order to be considered for review and negotiation of an agreement; and (iii) it was commercially practicable to secure the estimated costs of the Projects in this manner. *Id.* at 11-12.

Mr. Lucas said the OUCC's analysis comparing the Lake Trout Project to the Mayapple Project as the basis for denial of the Lake Trout Project is misguided. He said that to the extent the Lake Trout Project should be compared to another project, it should be the next highest scoring project not selected, or the next best alternative to the Lake Trout Project, not a project that was selected from the RFP. *Id.* at 3, 13.

He also disagreed with the OUCC's position that the Clean Energy Projects are not consistent with the Company's IRP Short-Term Action Plan. *Id.* at 3, 14. Mr. Lucas said the Short-Term Action Plan states the Company will issue an RFP seeking 800 MW of wind and 500 MW

of solar, which is precisely what the Company did. He said the Short-Term Action Plan made no assumptions or commitments with respect to what the outcome of the RFP would be because that is outside the control of the Company. He said the Short-Term Action Plan expressly recognized this by including a step to “Adjust this action plan and future IRPs to reflect changing circumstances, as necessary.” *Id.* at 16. Mr. Lucas further explained, that in accordance with the terms of the Settlement Agreement approved by Commission in Cause No. 45546, the Company is committed to conducting All-Source RFPs to replace the Rockport capacity. He added that while I&M can administer the All-Source RFPs the selection of resources is dependent on the responses the Company receives from the market. He also explained that because the price assumptions in the IRP present averages, it is reasonable to expect some resources to cost more than the average and others to cost less. He said if the capacity need exceeds the amount of lower cost resources available, then the demand is reasonably met by the higher cost resources. *Id.*

Mr. Lucas addressed CAC witness Inskeep’s recommendation that the Commission only approve PPA projects because, in Mr. Inskeep’s opinion, PPAs are less risky and do not allow the utility to earn a return on investment. *Id.* at 3-4, 19-20. Mr. Lucas explained that CAC witness Inskeep’s rationale is flawed, does not fully represent the facts, and if adopted, would put the Company at significant risk of not having sufficient capacity to replace Rockport upon its retirement. Mr. Lucas explained that when taking into consideration all the projects selected from the 2022 All-Source RFP, the split between PSAs and PPAs results in a percentage of PPAs greater than fifty (50) percent. He also explained there are benefits of owned or PSA projects that Mr. Inskeep fails to take into account. *Id.* at 3-4. Mr. Lucas said that the Company and the Commission have recognized the value of a balanced and diversified portfolio that includes both PSAs and PPAs. Mr. Lucas testified that in both the 2022 All-Source RFP (the RFP the Clean Energy Projects were selected from), and the 2023 All-Source RFP, the Company has requested both PSA and PPA proposals. He said the Company has 450 MW of wind PPAs in its portfolio today that represent approximately 90% of its clean energy resources which are not considered in CAC witness Inskeep’s analysis when evaluating the Company’s renewable portfolio mix of PSAs and PPAs. *Id.* at 19-20. Mr. Lucas said given these considerations, CAC witness Inskeep’s allegations regarding the Company’s motivation to increase profits rather than benefit customers (due to an increased amount of PSAs) are unfounded, without merit and should be disregarded by the Commission. *Id.* at 20. Mr. Lucas, testified that the Company will continue to consider a wide range of resource options, including both PSAs and PPAs. *Id.* at 20. He cautioned that it is reasonable to also consider the advantages of PSAs and disadvantages of PPAs and described the advantages and disadvantages. *Id.* at 20-21.

Mr. Lucas provided general comments addressing the concerns raised by the OUCC regarding PJM policies, local approvals, and general market constraints. He pointed out that real risks remain to the successful completion of each of the Clean Energy Projects that the Commission should consider when making its decision. He added that by eliminating any of the Clean Energy Projects from the portfolio, the risk to I&M’s ability to successfully replace Rockport prior to its retirement is increased.

Mr. Lucas addressed the affordability concerns raised by the OUCC and CAC. He explained that the Company fully acknowledges the importance of affordability and when taking into consideration the IRP modeling, the current PJM market for renewables, and the responses the Company received to the All-Source RFP, the Clean Energy Projects in totality represent an

optimal portfolio of projects that balance reliability and resource adequacy with the lowest reasonable cost option for I&M's customers. *Id.* at 4, 22-25.

In response to Mr. Hanks' concerns, Mr. Lucas explained that the overall cumulative effect of the Company's resource planning decisions is assessed through the IRP process. *Id.* at 25-27. He said the purpose of the Company's IRP is to develop a set of supply- and demand-side resources that guides how I&M generates and supplies electricity in a way that balances affordability, sustainability, and reliability. He said the competitive procurement process then identifies resources available in the market to satisfy the needs identified by the IRP. *Id.*

Mr. Lucas concluded by saying the Company has a clear capacity need in 2028. He explained that this fact is not disputed. He said the Company implemented a competitive procurement process consistent with its Short-Term Action Plan and the commitments made in prior case settlements. Mr. Lucas said the Clean Energy Projects are the result of that process and represent the optimal portfolio of projects available to the Company in the PJM market to meet the capacity needs identified in its IRP. *Id.* at 27. He said the proposals by the OUCC and CAC to eliminate projects from the Company's recommendations add significant risk to the Company's ability to have the capacity needed to serve its customers. *Id.* at 27-28. He explained that the rationale used by the OUCC and CAC in their recommended denial of projects is generally flawed and, in some cases, just misinformed. He said rejecting the Lake Trout PSA as urged by the OUCC, or both PSAs as urged by the CAC, will provide the Company with less flexibility and fewer options to affordably and reliably meet the Company's need for capacity. *Id.* at 28. Mr. Lucas recommended the Commission reject the proposals by the OUCC and CAC, take into consideration the realities the Company is facing in a dynamic and evolving market to ensure a safe and reliable supply of generation resources, and approve each of the Clean Energy Projects. *Id.*

Mr. Becker responded to Mr. Hanks' concern about ELCC, or accredited capacity, of solar decreasing through time. I&M Ex. 4 (Becker Rebuttal) at 2. Mr. Becker offered a correction to Mr. Hanks' data points. *Id.* at 3. Mr. Becker explained that the Company accounted for the decline in solar accredited capacity in its 2021 IRP that selected solar as one of the economic resource alternatives to replace Rockport. *Id.* Mr. Becker explained that the ELCC forecast assumed by the Company in the 2021 IRP used estimated ELCC values for solar resources that were lower compared to the January 2023 PJM report referenced by OUCC witness Hanks. *Id.* at 3-4. Mr. Becker said solar was still selected in the 2021 IRP as one of the economic resources to replace Rockport. *Id.* at 4.

Mr. Becker also responded to Mr. Hanks' comments related to the Company's shift in its generation portfolio and reliability. *Id.* at 4-5. Mr. Becker testified that PJM's current capacity requirements are based on its summer peak, not winter, and said therefore, from an IRP planning perspective it was necessary that I&M ensure its Preferred Portfolio selected resources will allow I&M to meet its summer capacity requirements. *Id.* at 5. He added that OUCC witness Hanks' testimony fails to consider other factors that would need to be considered from a planning perspective if a winter capacity requirement were imposed by PJM, including I&M's winter load requirements, which are lower than summer and the winter capacity value of its other resources, which may be higher. *Id.* As an example, he noted that the Cook Nuclear Plant has a much higher winter capacity value. *Id.*

Mr. Becker stated that at the time the IRP was conducted, the selection of the wind resources was driven primarily by its energy economics due to the impact of the PTC. *Id.* at 5. He said wind's contribution to meeting the summer reliability requirement in the 2021 IRP was limited due to its low ELCC value of approximately 15%. *Id.* Mr. Becker said PJM currently only has a summer peak reserve margin requirement, which was the basis for the selection of the solar resources in the 2021 IRP. *Id.* at 6. He said, if and when, PJM moves to a different capacity accreditation standard, the solar resources the Company is requesting approval of will help meet summer peak load requirements, as well as any other requirement. *Id.* He said this uncertain future does not change the fact that the resources requested for approval in this case are consistent with I&M's IRP and are necessary to ensure I&M has sufficient capacity to meet its current PJM capacity requirements in order to replace the Rockport Plant by 2028. *Id.* at 6-7.

Mr. Becker responded to Mr. Hank's testimony regarding the IRP Short-Term Action Plan. I&M Ex. 4 (Becker Rebuttal) at 7-8. He discussed the Commission's rule and explained that the Commission's Director of Research Policy and Planning draft report on I&M's 2021 IRP recognized the need to exercise judgment and flexibility in the planning process. *Id.* 7-9. Mr. Becker testified that the Company's application of judgment and flexibility in the execution of the Short-Term Action Plan is consistent with the opinions of the Director set forth in the referenced report. *Id.* at 9.

Mr. Becker explained that I&M's resource actions are consistent with the IRP. *Id.* at 10. He explained the IRP Short-Term Action Plan as a whole targets 2,100 MW of solar and wind replacement capacity by 2028 and added that the plan breaks this total down to 1,000 MW of standalone solar, 300 MW of solar coupled with 60 MW of storage resources, and 800 MW of wind. *Id.* at 10. He said the Clean Energy Projects proposed in this case account for approximately 750 MW, or 75%, of the 1,000 MW of standalone solar sought, in part, to replace Rockport Unit 1 and Unit 2 by 2028. He noted that his direct testimony also described how the resources requested for approval in this case are consistent with the IRP in type, cost and operational characteristics. *Id.* at 10. Mr. Becker concluded that the Lake Trout Project is consistent with I&M's 2021 IRP and, as discussed by Mr. Lucas, is a vital component of meeting the solar requirements of the overall plan and the Company's capacity and energy needs. *Id.* at 11.

Mr. Becker disagreed with Mr. Hanks' assertion that the Commission should deny the Lake Trout Solar Project based on a comparison of the PSA's LCOE to the solar costs modeled in the IRP. *Id.* at 11-12.

Mr. Becker explained that all four Clean Energy Projects are needed to replace Rockport's capacity by 2028. *Id.* He explained that if the PSA portion of the Clean Energy Projects was not approved, approximately half of the 1,000 MW total standalone solar identified in the Short-Term Action Plan to replace Rockport by 2028 would not be acquired. *Id.* at 13.

Mr. Becker responded to OUC witness Krieger's statement that resource transmission interconnection costs should be thoroughly analyzed in the IRP process. Mr. Becker explained that OUC witness Krieger recognized that interconnection costs are very difficult to estimate at the IRP and RFP stages because several projects are proposed and not completed, and costs are highly dependent on other connected generators and any associated congestion. He said while Mr. Krieger recognizes these significant constraints, Mr. Krieger does not explain how transmission costs could

be more thoroughly analyzed in the IRP process, or identify any specific shortcoming associated with I&M's 2021. Mr. Becker added that the renewable resource alternative pricing in IRP modeling was based on the all-in pricing from the 2020 Renewable RFP and 2021 All-Source RFP. He said this resulted in a "blended" or "generic" resource cost assumption, including interconnection costs, used for IRP modeling purposes. *Id.*

Mr. Becker explained that a Commission decision to reject one of the PSAs (Lake Trout) as recommended by the OUCC, or worse yet both PSAs as recommended by CAC would limit the Company's options to obtain the resources it needs within the identified timeframe and to otherwise adapt to changing market conditions and PJM standards. *Id.* at 14. Mr. Becker said the Lake Trout Project, along with the other Clean Energy Projects, are a part of a diversified, sustainable, reliable and reasonably cost mix of resources which are integral to replacing Rockport in 2028 and meeting I&M's future capacity and energy requirements. *Id.*

Mr. Gaul responded to certain matters raised by OUCC witnesses Krieger and Hanks, and CAC witness Inskeep. Pet. Ex. 6 (Gaul Rebuttal) at 2-34. Mr. Gaul explained that he did not agree with OUCC witness Krieger recommendation regarding the Lake Trout PSA. *Id.* at 5-6. Mr. Gaul said each project considered in the RFP has unique characteristics that were evaluated and selected in a rigorous and comprehensive process that included price (cost) as well as non-price factors. *Id.* at 5-6. He said making a judgment on the reasonableness of an investment in the manner Mr. Krieger did is inappropriate. *Id.* at 6. Mr. Gaul explained that selecting projects based on price alone fails to recognize the significant development challenges that each of these projects faces in light of current supply chain, regulatory, generator interconnection queue, and local permitting challenges impacting the industry. *Id.*

Mr. Gaul disagreed with OUCC witness Krieger's claims that Mr. Gaul's testimony does not adequately justify the Lake Trout PSA Project. *Id.* at 6-7. Mr. Gaul said the non-price factors were specifically designed to promote the selection of projects that would most reliably reach commercial operation by rewarding projects that were, for example, more mature in their development process with fewer environmental risks, established relationships with local communities and officials, and limited network upgrade risks. Mr. Gaul said the Lake Trout PSA Project scored highest of all projects in the non-price analysis due to a variety of factors, most notably its positive relationship with the local community and its existing economic development agreement with Blackford County. *Id.* at 6. He said the PJM interconnection process is a major schedule and cost risk for new projects given the uncertainty around the ongoing queue reform process. He said the Company considered projects with known or potential network upgrades near or above PJM's \$5 million threshold for 'fast lane' treatment as a significant risk to project schedule. He said any project like Lake Trout with limited known network upgrade costs was considered favorably in the scoring process by the Company's transmission interconnection subject matter experts. *Id.* at 7.

Mr. Gaul also disagreed with Mr. Krieger's characterization of the information provided by the Company in discovery. *Id.* at 7-8. He explained the Company provided substantial details through the discovery process and said Mr. Krieger's summary of this information does not capture the full scope of the detail provided. *Id.* at 8. Mr. Gaul described confidential examples of the information provided in discovery. *Id.* at 8-9. He said Mr. Krieger does not discuss these and other

details provided in the lengthy discovery response and appears to push this information aside as insufficient. *Id.* at 9.

Mr. Gaul discussed the tariff exposure that Canadian Solar has which was raised by the OUCC and said that it is atypical for a developer to enter into module agreements at such an early stage in the project development process. Pet. Ex. 6 (Gaul Rebuttal) at 10-12. Mr. Gaul said it is important to note that Canadian Solar is one of the eight solar panel manufacturers operating in one of the four Southeast Asian countries of Cambodia, Malaysia, Thailand, and Vietnam that was selected to provide further information in the U.S. DOC AD/CVD investigation. *Id.* at 10. He stated that, according to NREL's Spring 2023 Solar Industry Update, the four Southeast Asian countries represented ~ 78% of the 28.7 GW of U.S. module imports in 2022, meaning that a significant majority of the country's module imports are potentially impacted by the investigation. *Id.* He explained that projects that require a lengthy regulatory approval process carry additional time lag to notice to proceed ("NTP") and thus, are less likely to execute equipment contracts at execution of the PPA or PSA. He said most developers would not obtain lender financing to make financial deposits on equipment until conditions precedent to NTP are met, which includes regulatory approval. He said solar module pricing in the current market is markedly higher than prices for modules that were locked in the 2021 market. *Id.* at 12.

In response to Mr. Krieger's concerns (pp. 6-7), Mr. Gaul explained that the indemnification provisions in the PSA identify the responsible party for addressing direct or third-party claims for losses. Mr. Gaul also discussed relevant confidential material. Mr. Gaul also explained that it is entirely common for large complex infrastructure project to have direct or third-party claims for losses after the project has been completed. *Id.* at 14. He said I&M includes an array of terms in the template PSA that limit the Company's exposure to these claims by explicitly identifying the developer as the party responsible for the confidential claims for similar large scale construction project. *Id.* at 14-15.

Mr. Gaul disagreed that the Commission's December 28, 2011, decision in Cause No. 43956, page 65, supports the OUCC position. *Id.* at 16. He explained that this order (which was referenced by Mr. Krieger) concerned Duke Energy Indiana and New Source Review litigation. Mr. Gaul quoted from the order and explained that these are two separate and distinct sets of circumstances. He said he does not view the decision cited by OUCC witness Krieger as calling into question the appropriateness of including contingency cost in the resource acquisition and development process. *Id.*

Mr. Gaul said OUCC witness Krieger does not appear to understand the estimation process or how contingency is assessed for large scale construction projects when he contends (p. 7) that the Commission deny the Project Management and Overheads Contingency for both the Mayapple and Lake Trout PSA Projects because it penalizes ratepayers for I&M's failure to diligently complete their responsibilities. *Id.* at 17-18. Mr. Gaul said to suggest that the use of contingency proposed for these categories is in some way a failure of the Company to diligently complete its responsibilities fails to recognize that the Company's Best Estimate is an approximation of the anticipated costs that will be incurred in the future based on the Company's knowledge and information at the time of the estimate. *Id.* at 18.

Mr. Gaul summarized and replied to the OUCC's position related to AD/CVD. *Id.* at 18-21. He explained that OUCC witness Krieger's testimony does not consider the timing of the initiation of the DOC's investigation, the fact that it is currently ongoing, or that the investigation on impacts ~ 78% of solar panel imports to the US market. *Id.* at 19. Mr. Gaul noted that the DOC investigation is not intended to outlaw certain manufacturers, and assessment of AD/CVD duties does not mean that I&M and its Developers must avoid modules produced by Canadian Solar or any other producer reviewed by the DOC. Rather, Mr. Gaul said the outcome of the investigation and current law will determine the level of duties that must be paid to import products from certain producers, and compliance will require paying the associated duties. He said some solar module manufacturers may be assessed significant tariff impacts that drives their U.S. import prices into the non-competitive range, causing them to sell into a different market outside the U.S. He explained that however, it is entirely likely that some of the affected manufacturers may see AD/CVD tariff outcomes that allow their modules to remain in a competitive price range even with the impact of the added AD/CVD tariff. *Id.* at 19. He further explained that module manufacturers named in the investigation may opt to modify their procurement strategies to abide by procuring wafers from outside of China, or by the "wafer+3 rule", which would allow them to comply with the DOC's investigation and remain in one of the four southeast Asian countries and not be assessed additional AD/CVD duties. *Id.* at 19-20. He added that PPAs are exposed to the same risk of compliance with AD/CVD laws and thus, disagreed with Mr. Inskeep's claim (p. 8) that "PPAs can be a much less risky proposition for utility customers tha[n] PSAs." *Id.* at 21. Mr. Gaul further discussed how PPA's confidentially address AD/CVD risk. *Id.*

Mr. Gaul summarized the OUCC's position related to the UFLPA and Section 307 of the Tariff Act of 1930. In response to OUCC witness Krieger, Mr. Gaul explained that it is important to note that violations of the UFLPA are illegal and would not result in penalties but rather in an outright denial of entry into the country. He said, as such, I&M is not seeking recovery of penalties related to violations of the UFLPA and agrees that the Commission should not approve projects in violation of these acts. *Id.* at 22.

Mr. Gaul explained the suggestion, made by the OUCC, that the Commission should require competitive bidding and separate justifications for costs added to the generation project after selection is impractical and should not cause the denial of any of the Projects. He said markets change as time passes, and it can take up to a year to complete the process from bid submittal to contract execution and additional time beyond that to obtain regulatory approval. He said adoption of the OUCC recommendation would create an impractical process. *Id.* at 23-24.

Mr. Gaul summarized OUCC witness Hanks' testimony regarding the Sculpin PPA Project. *Id.* at 25. He explained that the Developer has indicated to I&M that they are continuing to work with DeKalb County in developing an Economic Development Agreement in the absence of a tax abatement and remains fully committed to developing the Sculpin Solar PPA Project under the terms of the existing PPA. He committed that the Company will continue to monitor the situation and any potential impacts on the Project *Id.*

Mr. Gaul summarized CAC witness Inskeep's position regarding the costs of the proposed solar projects. *Id.* at 26. Mr. Gaul explained that the LCOE values that CAC witness Inskeep (p. 9) compares across PSA and PPA Projects are not directly comparable for several reasons. Mr. Gaul described the reasons, which were confidential. *Id.* 26-27. Mr. Gaul discussed other key

differences that meaningfully skew the comparison of LCOEs for PSAs and PPAs which are important for the Commission to consider in assessing the difference in price between the two. *Id.* at 27-28. He responded to CAC witness Inskeep's contention that PPAs can provide the same energy, capacity, and environmental attribute benefits to customers at a lower cost. Mr. Gaul stated it should be noted that PSAs provide value to customers well beyond the aforementioned energy, capacity, and environmental attribute benefits included in PPAs. He said for example, the LCOEs for the Clean Energy PPA Projects represent a price for the energy, capacity and RECs over a 30-year period, which is five years shorter than the estimated useful life of the PSA projects. *Id.* at 27. He added that under PPAs, developers retain the benefits of terminal (or end-of life) value of these facilities, which allows the developer to lower the PPA LCOE because that value does not go to I&M or its customers. He said that under the PSAs, I&M and its customers retain these benefits, which are not recognized in the PSA LCOE. *Id.* 28. Mr. Gaul also testified that the existing infrastructure at the sites adds considerable incremental value by providing I&M the opportunity to operate the asset for much longer than 35 years by repowering or refurbishing the facility. He said these are all important considerations that lower the LCOE for PPAs relative to the LCOE for PSAs and therefore do not allow for a one for one comparison. *Id.*

In response to CAC witness Inskeep's reference to Cause No. 45754, Mr. Gaul clarified that the CenterPoint Project is a MISO project, while the I&M's proposed PSA Projects are PJM projects. Mr. Gaul testified that although the Company allowed for MISO projects to participate in the RFP with firm transmission into PJM, none with those criteria were submitted. *Id.* at 29. He also explained that while witness Inskeep uses the word "cost", the settlement agreement approved in Cause No. 45754 provides for use of "a fixed levelized rate per kWh" of produced energy for the life of the investment in the project. Mr. Gaul further explained that the Commission order in that Cause (p. 11) notes that the testimony in support of the settlement stated this structure "is appropriate due to the special nature of the Project." *Id.* Mr. Gaul explained his direct testimony presented Best Estimates of the PSA Project costs. He did not present a rate and also, the Best Estimates do not include the impact of the PTC, which as discussed by Company witness Williamson will be reflected in rate making for the benefit of customers.

With respect to witness Inskeep's statement that I&M applied unduly restrictive criteria that limited potential bidders and were arbitrary, Mr. Gaul responded that I&M developed a series of eligibility and threshold criteria for the RFP, in coordination with the Independent Monitor, and informed by the stakeholder process. *Id.* at 31-32. He said the threshold requirements were not arbitrary. He said they were intended to ensure that any projects that are fully reviewed and considered by the selection team can practically meet the design requirements, operational standards, and timing of I&M's capacity obligations and energy needs while also supporting local economic development goals of the Company where reasonable and practical. *Id.* at 31. He described the analyses and strategies used to develop the PJM requirements for project consideration under the 2022 All-Source RFP. *Id.* at 32-34. He also explained that I&M has made many key decisions regarding the structure of its RFP to ensure that the RFP is not overly restrictive and that there is a robust response of resources to compare and select from. He said, for example, the RFP was open to projects as small as five MW, projects located in MISO, wind projects located in Indiana, Michigan, Ohio, and Illinois (which encompasses the majority of suitable wind projects in PJM), and currently operational facilities. Mr. Gaul said in addition, I&M's RFPs have been all-source, allowing for thermal, battery, and emerging technology proposals, in addition to wind and solar. He said I&M has further broadened the potential pool of

projects in its 2023 RFP by offering the Rockport site to developers of simple cycle combustion turbines and energy storage projects. *Id.* at 34.

Mr. Taberner addressed the OUCC position that the interconnection costs for PSAs are higher in comparison to the PPAs and the OUCC statement that interconnection costs related to PPAs and PSAs should be competitively bid. Pet. Ex. 10 (Taberner Rebuttal) at 2-7. He explained that the differences in interconnection costs for the facilities in this application are primarily due to the different connection voltages of the Clean Energy Project PSAs and PPAs. He said the Lake Trout and Mayapple Clean Energy PSA Projects both connect at 345kV, while the Sculpin and Elkhart Clean Energy PPA Projects are connecting at 138kV. *Id.* at 2. He presented Table BT-1R, which shows the projects connecting at the same voltage level have comparable costs although each project is unique and cost estimates are specific to nature and location of each connection request. He added that the Mayapple and Lake Trout Projects are not only connecting at a higher voltage but also have greater generating capacity than the Elkhart County and Sculpin Projects. He explained that both factors lead to higher interconnection costs for the two PSA Projects over the two PPA Projects. *Id.* at 4. In response to OUCC witness Krieger's (p. 12) assertion that interconnection costs are very difficult to estimate, Mr. Taberner described the Company's previous experience with Independent Power Producer interconnection projects and the current process used to estimate the PJM interconnection costs. *Id.* at 4-5. In response to OUCC witness Krieger's (pp. 12-13) claims that interconnection costs should be competitively bid, Mr. Taberner explained that the Company currently uses a competitive bidding process for interconnection projects. *Id.* at 5-6. He said that as projects move into the engineering and execution phases, a competitive bidding process is used to vet contractors that will perform transmission construction and in the procurement of the necessary equipment and materials. He said, the competitive bidding process for contractors involves soliciting bids from a pre-qualified contractor, based on a bid package developed by AEPSC that includes the specifications, terms, and conditions for the contract. He said that after receipt, bids are evaluated based on the contractor's safety record, price, capability, and availability and a contractor chosen. He added that AEPSC utilizes the competitive process to ensure materials and equipment for a project will be sourced from the lowest cost vendor that can meet AEPSC's expectations for quality, deliverability, and safety. He said contracts for the project will then be executed between AEPSC and the supplier. *Id.* Mr. Taberner said these processes allow AEPSC to leverage its economies of scale in contracting construction work, thus assuring that projects will be built by qualified contractors at the lowest achievable cost. He said AEPSC is the final approver of all contractor invoices and change orders after review by the Project Management organization and as the final approver, AEPSC has on-going transparency to project spending. *Id.* He also said that at this time he expects each of these projects to be competitively bid once they receive all approvals and move into the engineering and execution phases. *Id.* at 6. He said interconnection costs are thoroughly analyzed and competitive bidding is appropriately used to assure market pricing and position. *Id.*

Mr. Mueller responded to a recommendation made by the OUCC regarding the method by which the value of a PTC is measured, and the resulting benefit provided to customers. Pet. Ex. 12 (Mueller Rebuttal) 1-8. He explained that Mr. Latham's recommendation (p. 6) that both I&M and AEP's taxable income should be considered when valuing PTCs to be passed to customers, is not based on the actual value of the PTC that I&M is able to use to offset a tax liability. Instead, Mr. Latham only considers the taxable income of I&M's affiliate companies when doing so produces what he believes to be a higher value for the PTC and ignores the taxable income of I&M's affiliate

companies when it does not. *Id.* at 2. Mr. Mueller explained that OUCC witness Latham (p. 6) recommends ratepayers should receive the “full value of the PTC” which the Company’s proposal allows for I&M to provide ratepayers the full value it receives from a PTC generated by the Clean Energy PSA Projects. He explained I&M will realize the value of a PTC generated by the Clean Energy PSA Projects either by the PTC being used to offset a tax liability in AEP’s consolidated federal income tax return or by the sale of a PTC to an unrelated taxpayer. He explained that if the PTC is used to offset a tax liability in AEP’s consolidated federal income tax return, I&M would realize the full value of the PTC. He said this value would be realized as a reduction of the tax payment to AEP for I&M’s tax liability and/or as a payment from AEP for tax credits used in the AEP consolidated tax return that exceed I&M’s tax liability. He added that if the PTC is sold to an unrelated taxpayer, I&M would realize the net proceeds of that sale. *Id.* at 2.

He provided specific examples of how PTC utilization works for individual companies and companies who participate in a consolidated tax return. *Id.* at 3-8. He explained through examples that Mr. Latham’s proposal is inconsistent. He said the Company’s proposal is consistent and allows for the Company to provide to customers the full value it receives from the PTCs utilized in the consolidated tax return or sold to an unrelated taxpayer. *Id.* at 8. He said Mr. Latham’s recommendation does not consider any other tax credits that might be generated by AEP’s other subsidiaries. *Id.* at 7. He said Mr. Latham’s recommendation seems to either assume that the PTCs generated by I&M are the only tax credits generated by AEP’s subsidiaries or disregards other subsidiaries’ tax credits entirely. *Id.*

Mr. Williamson responded to the OUCC witness Hanks and CAC witness Inskeep regarding affordability, to OUCC witnesses Hanks and Latham and CAC witness Inskeep regarding PTC ratemaking treatment, to OUCC witness Blakley regarding accounting and ratemaking for the Clean Energy PSA and PPA Projects, and to CAC witness Inskeep regarding distributed generation and community solar. Pet. Ex. 14 at 1-19. Mr. Williamson explained that I&M provided an average percentage increase for residential, commercial and industrial customers because this information can be more easily applied across all customers than a stated dollar amount per some unit of usage as suggested by the OUCC witness Hanks. Mr. Williamson said the rate estimates can be found in Attachment AJW-4, Attachment AJW-5 and 5C to his direct testimony. He said Attachment AJW-4 represents the estimated rate impact specific to the Clean Energy Projects alone and Attachment AJW-5 represents the estimated rate impact considering a holistic view of I&M’s generation transformation, including the cost of the Clean Energy Projects and the recent cost reductions associated with Rockport Unit 2 which is a substantial net reduction in costs for customers.

Mr. Williamson explained that the OUCC testimony focuses on the estimated rate impact specific to the Clean Energy Projects. *Id.* at 2. Mr. Williamson provided the bill impact for a residential customer with 1,000 kWh usage in response OUCC’s testimony. *Id.* at 2-3. He explained that I&M’s annual residential kWh sales for 2022 was 4,331,863,885 and based on this kWh sales level an estimated bill impact for a residential customer with 1,000 kWh of usage would be an increase of approximately \$3.00 based on the cost of the Clean Energy Projects, and a decrease of approximately \$11.00 based on the net bill impact presented in Attachment AJW-5C which includes the recent cost reductions associated with Rockport Unit 2. *Id.* at 2. He said I&M, like the OUCC, is concerned about affordability for Hoosiers. He said affordability was one of

I&M's three main objectives of its 2021 IRP and underlies the steps that I&M has taken to acquire the resources needed to replace Rockport by the end of 2028. *Id.* at 3.

In response to CAC witness Inskeep discussion of residential customer rates changes since 2004, Mr. Williamson explained I&M acknowledges that its cost of providing service and rates has risen over the last nineteen years. He said it is important to understand that I&M, like other IOUs in Indiana, has an obligation to provide safe and reliable power to customers and this essential service comes at a cost. He said what is unique about the cost of service that I&M provides when compared to many of the other costs people incur in their daily lives is that I&M's cost is subject to price regulation. He explained that in order for I&M's cost of service reflected in rates to change, the Company must go through an extensive process to demonstrate that the change is reasonable and necessary and ultimately receive Commission approval. Mr. Williamson explained that Mr. Inskeep's testimony highlights the cost of providing electricity is increasing for all Hoosier utilities. Mr. Williamson said perhaps most importantly, when comparing I&M to other Indiana IOUs, I&M's rates have been on average among the most affordable. *Id.* He said it is an incomplete assessment to just look at how rates have changed without considering why rates have changed and how those factors have enhanced the value of the service I&M provides customers in Indiana. He explained over this period, I&M has made significant investments that improve the value of service provided to customers. Mr. Williamson also provided examples. *Id.* at 4. He said I&M's objectives and goals underlying the resources proposed in this case are very well aligned with the goals and objectives of both the OUCC and CAC. He said the IRP objectives, resource procurement strategy and resource decisions have centered around affordability, sustainability, reliability, resource diversity, and resource adequacy for I&M's customers. He reemphasized the information provided in Attachment AJW-5C highlights that the steps I&M has taken to date to transition its generation fleet, including the cost of the Clean Energy Resources, has resulted in a net cost savings for I&M, and ultimately, I&M's customers. *Id.* at 5.

Mr. Williamson explained that both the OUCC and CAC recommend I&M shorten the period over which PTCs should be reflected in I&M's rates to more closely match the 10-year period in which they are earned. He said the OUCC recommends a period of 11 to 12 years and the CAC recommends a period of 10 years. *Id.* at 6. Mr. Williamson responded that the 20-year period proposed by I&M is not arbitrary. He said under the OUCC's and CAC's proposal, the initial cost of service may be lower, but I&M's cost of service for the PSAs will increase dramatically when the PTC benefits end. *Id.* at 6-7. He said the difference in the positions of the OUCC and CAC when compared to I&M appears to be a focus on affordability in the near-term versus affordability over the long-term. He said customer benefits and affordability should not be viewed in terms of how we can maximize those today at the expense of customers tomorrow. *Id.* at 7. Mr. Williamson disagreed with the OUCC suggestion that cash flow is not an important consideration for the Commission. *Id.* at 7-8. He explained the Commission should reasonably consider the cost of service implications cash flow has on I&M's customers. He said I&M is on the brink of a major generation transformation as the Company takes the steps necessary to replace Rockport by the end of 2028. He said I&M's 2021 IRP Preferred Portfolio estimated it would require nearly \$4 billion of incremental capital investment. He said this is nearly identical to I&M's total Indiana jurisdictional net plant reflected in its base rates approved by the Commission in Cause No. 45576. *Id.* at 7. He said cash flow is an important consideration to I&M's debt ratings underlying the cost of debt I&M incurs to operate its business. He added that it is widely understood that financing costs are increasing, which is outside the control of I&M and the

Commission. He said I&M's proposal to extend PTC benefits is within the control of the Commission. He said I&M's proposal in this case is to take advantage of this opportunity to support the long-term affordability and stability of I&M's cost of serving customers while at the same time increasing cash flow and reducing the risk that I&M's credit metrics will decline and result in higher cost of debt and therefore cost of service for I&M's customers.

Mr. Williamson clarified the Company's request in response to OUCC witness Blakley's testimony expressing that the term "average monthly rate base" is confusing. *Id.* at 9-10, 12. Mr. Williamson explained that each month activity occurs that changes the value of rate base. He said, for example, each month can reflect additions to plant in-service and associated depreciation. He added that other balances included in rate base can change from month to month as well. He explained that because rider or deferral mechanisms are established to track recoverable costs and/or credits on a monthly basis, it is necessary to pick a point in time each month for valuation of rate base to determine a carrying cost for that period. He said, generally speaking, there are three main options, beginning of month, end of month or an average. Mr. Williamson testified that the Commission has commonly approved use of an average rate base for I&M to calculate carrying charges. He said this approach accounts for the activity that occurs during the course of a month that changes rate base and reasonably reflects that activity in the determination of carrying charges. Mr. Williamson said I&M's proposal in this case is simply to follow what the Commission has commonly approved in past cases. *Id.* at 12.

Mr. Williamson explained a component of the Company's deferral accounting request includes pre-tax carrying costs on the assets and liabilities (*i.e.* "rate base") and said I&M is requesting ratemaking treatment for the costs associated with the Clean Energy PSA Projects. *Id.* at 9. He said that on page 13, lines 19-22, of his direct testimony, he explained the pre-tax carrying costs would be calculated based on the "average monthly rate base" including, 1) net plant in-service and 2) any deferred tax asset(s) and liability(ies) related to PTCs. He said deferral of pre-tax carrying costs on rate base prior to inclusion in rates is consistent with the previous ratemaking treatment approved by the Commission. *Id.* at 9-10.

He responded to OUCC witness Blakley testimony that "[a]t the time the deferred asset is included in rates for recovery, then the income tax gross-up should be applied." *Id.* at 10. Mr. Williamson explained that he believes what Mr. Blakley is explaining is that the income tax expense is not incurred until the equity earnings are recognized for accounting purposes. Mr. Williamson said the purpose of his direct testimony on this matter was to request that I&M be permitted to defer for later recovery, carrying costs on rate base prior to inclusion in rates, including a tax gross-up on the equity return. He said this deferral authority supports timely recovery, as provided for by Indiana statute, of the costs I&M incurs related to the Clean Energy Projects before such costs are reflected in I&M's rates. He said this deferred balance would be recoverable in the future when I&M implements new SPR rates to reflect the Clean Energy PSA Projects. *Id.* Mr. Williamson then further explained how deferred carrying costs are accounted for. *Id.* at 10-11. He said each month I&M will determine what the pre-tax carrying costs are on rate base and record the debt component as a regulatory asset and record the equity and tax components as a separate regulatory asset that has an equal and offsetting contra asset balance that nets to zero on I&M's balance sheet. He said this allows I&M to accurately track the full pre-tax carrying costs that will be recoverable in the future when the deferred costs are reflected in I&M's rates. He said once the deferred pre-tax carrying costs are reflected in rates, the regulatory asset and contra asset

related to the equity and tax components are reduced to reflect the pre-tax equity earnings. *Id.* at 10.

In response to OUCC Witness Blakley's (p. 4) concerns over I&M's use of the term "rate base," Mr. Williamson explained that Indiana commonly includes net plant in-service, inventory balances, materials and supplies, regulatory assets and liabilities, certain tax related balances and certain prepayments in rate base for purposes of determining base rates and rider rates. He said these costs are incurred during the construction and operation of the Clean Energy Projects. *Id.* at 11. He summarized OUCC witness Blakley's testimony regarding AROs. Mr. Williamson explained why he disagreed with Mr. Blakley's recommendation related to ARO expense. *Id.* at 13-14. He said I&M is only requesting recovery of the ARO expenses that I&M incurs related to the Clean Energy PSA Projects. He explained that the sum of ARO depreciation and accretion expenses represent I&M's annual cost of service impact. He said for accounting purposes, the initial non-cash ARO asset and liability are equal to one another. He said over the life of the asset, the non-cash ARO asset is depreciated to zero and the ARO liability is accreted to its future or final value. He said recognizing both the non-cash ARO asset depreciation expense and the ARO liability accretion expense in cost of service over the life of an asset allows this cost to be reflected in rates while the asset is used and useful in the provision of service to customers. He said this is consistent with the ratemaking for AROs associated with current assets and current base rates approved by the Commission in Cause No. 45576. *Id.* at 14.

Mr. Williamson explained that Mr. Blakley's testimony on page 6 line 20 through page 8 line 14 addressed to ratemaking for AROs and depreciation of plant investments does not accurately reflect I&M's proposal on these matters. *Id.* at 16. Mr. Williamson explained that even though witness Blakley is correct that the ARO Asset(s) and liability(ies) represent estimated non-cash future expenditures, that does not change the reasonableness of and necessity to reflect the period expense related to these balances in I&M's cost of service over the life of the associated assets. *Id.* at 17. Mr. Williamson testified that if this was not done it would result in fully recognizing the cost of the AROs (which can be significant) in customer rates after the related asset is retired and no longer used and useful in the provision of service to customers. Mr. Williamson said this ratemaking treatment is no different than the non-ARO closure costs and salvage credits that are not incurred or realized until after an asset is retired but are recognized in depreciation rates and cost of service over the life of the associated asset. *Id.*

Mr. Williamson addressed CAC witness Inskeep's testimony related to distributed generation and community solar and his recommendation that the Commission direct I&M to create new tariffs. *Id.* at 17-18. Mr. Williamson explained that I&M agrees with Mr. Inskeep that distributed generation and community solar are relevant considerations for an IRP and welcomes and encourages the CAC's participation and feedback during I&M's next IRP process. Mr. Williamson disagreed with Mr. Inskeep's suggestion that the statutory methodology for setting compensation for Excess Distributed Generation tariffs is unfair. Mr. Williamson said I&M's current Excess Distributed Generation Rider compensates customers at a rate of approximately \$85/MWh and rejected Mr. Inskeep's contention that the Clean Energy PSA projects are too costly. *Id.* at 18. Mr. Williamson further stated that these matters, including the creation of new tariffs related to distributed generation and community solar, are outside the scope of this proceeding which is focused on I&M's need to replace the 2,600 MW Rockport plant by the time it retires in 2028. *Id.* at 18.

Mr. Williamson concluded that the Clean Energy Projects and I&M's corresponding accounting and ratemaking proposals support affordability for I&M's customers while allowing I&M to transition its generation fleet in a way that supports sustainability, reliability, resource diversity and resource adequacy for I&M's customers. He said I&M's proposal to extend PTC benefits supports long-term customer affordability and improves cash flow thereby reducing the risk of declining credit metrics and increasing cost of debt financing and should be approved. *Id.* at 18. He said I&M's proposed accounting and ratemaking treatment for rate base and AROs related to the Clean Energy PSA Projects is reasonable and consistent with the ratemaking treatment that has been previously approved by the Commission and is currently reflected in I&M's rates. He recommended the Commission approve all four Clean Energy Projects along with the ratemaking and accounting requests discussed in his direct testimony. *Id.* at 19.

11. Commission Discussion and Findings.

A. **CPCN.** Ind. Code §§ 8-1-8.5-4 and 5 set forth the criteria for approval of a utility specific generation proposal. The Commission must consider the items set forth in Ind. Code § 8-1-8.5-4, and pursuant to Ind. Code § 8-1-8.5-5, the Commission must make a finding as to the best estimate of cost of the project based on the evidence of record, a finding whether the proposal is consistent with the statewide analysis or a utility specific proposal, and a finding whether the public convenience and necessity requires a proposed project. We address each of these provisions below.

i. **Best Cost Estimate.** I&M witness Gaul presented I&M's Best Estimate for each of the proposed Clean Energy PSA Projects. The amount is confidential and set forth in Petitioner's Exhibit 5C at pp. 41-43, Figures TBG-3 and TGB-4. The OUCC raised concerns with the overall price of the Lake Trout PSA, as well as select issues regarding the Best Estimates.

OUCC witness Krieger raised substantial concerns regarding the overall cost of the Lake Trout PSA, as well as specific cost issues related to the project. First, OUCC witness Krieger addressed certain costs related to the indemnification provision of the PSA agreements from the PSA Best Estimates. Pub. Ex. 2 at 2-4. Mr. Gaul explained the indemnification provisions in a PSA identify the responsible party for addressing direct or third-party claims for losses Pet. Ex. 6 (Gaul Rebuttal) at 14. While Mr. Gaul testified that it is entirely common for large complex infrastructure projects to have direct or third-party claims for losses after the project has been completed (*id.*), ratepayers should not be burdened when these third parties are the cause of the expenses, as discussed by Mr. Krieger. Additionally, costs related to the indemnification should not be allowed as I&M is already seeking recovery of Project Management and Overhead Contingency, as noted by Mr. Krieger. Pub. Ex. 2 at 7. As discussed in Company witness Lozier's direct testimony, per the PSA agreements, the Company provides oversight (Project Management) of the engineering, procurement, and construction efforts of the Developer in support of the completion of the Clean Energy PSA Projects. Pet. Ex. 6 (Gaul Rebuttal) at 17-18. Mr. Gaul misinterprets Mr. Krieger's testimony as seeking to reduce the contingency for the Project Management and Overhead costs separate from the issue of indemnification. However, these two issues are related, and Mr. Krieger raises the issue of the Project Management and Overhead costs to show that I&M is already compensated for its oversight of specific components, as affirmed by Mr. Gaul. If I&M or the developer fail to properly carry out their responsibilities, ratepayers should

also not be penalized through application of the indemnification when I&M is already being paid to carry out this oversight responsibility. Based on Mr. Krieger's discussion, we agree that it is not appropriate for ratepayers to be responsible for the indemnification costs.

Mr. Krieger also questioned the Company's consideration of risks related to the AD/CVD investigation. Pub. Ex. 2 at 8. Mr. Krieger's position was that I&M and the Developers it contracts with should responsibly ensure that procured equipment is compliant with all laws. Mr. Krieger asserts the Developers should have taken these risks into account when they submitted bids in April 2022. As explained by Mr. Gaul, this position does not consider the timing of the initiation of the DOC's investigation, the fact that it is currently ongoing, or that the investigation impacts about 78% of the solar panel imports to the US market. Pet. Ex. 6 (Gaul Rebuttal) at 19. Mr. Gaul explained that as the investigation is still ongoing, assessment of the AD/CVD duties continues to be a moving target for developers. *Id.* Mr. Gaul asserts the DOC investigation is not intended to outlaw certain manufacturers. However, he fails to mention that the DOC has already made a preliminary determination that four of the eight companies under investigation were not involved in circumvention. Pub. Ex. 2, Attachment GLK-3. The record reflects the assessment of AD/CVD duties does not mean that I&M and its Developers must avoid modules produced by Canadian Solar or other producers reviewed by the DOC. Rather, the outcome of the investigation and current law will determine the level of duties that must be paid to import products from certain producers and compliance will require paying the associated duties. Canadian Solar is still subject to the investigation, and it is unknown at this time whether any duties will be assessed and the potential impact of these duties. Should any duties be imposed on any solar panels used at the Lake Trout facility, those additional costs should not be recovered from ratepayers. As it is unknown how the facility will be impacted by the results of the investigation, the Commission will review required reports to ensure ratepayers will not be impacted.

Mr. Krieger also contended the Commission should not approve Project costs related to violations of the UFLPA. The record demonstrates I&M is not seeking recovery of penalties related to violations of the UFLPA and agrees that the Commission should not approve projects in violation of these acts. Pet. Ex. 6 (Gaul Rebuttal) at 22. However, this does not eliminate the risk to the project. There may be delays or supply chain risk to the project until the panels are certified as compliant with the UFLPA requirements. This is separate from the DOC investigation. The Company has not addressed this potential impact to the Project.

Finally, Mr. Krieger also raised a concern about the interconnection cost component of the Best Estimates – inferring incorrectly that the cost differences between the projects are in some way related to whether the project is a PSA or a PPA. *Id.* at 23. As discussed by Company witnesses Taberner and Gaul, the interconnection cost differences referenced by Mr. Krieger are driven by the interconnection voltage and the associated differences in size and scale of materials required for an interconnection facility at that specific voltage. The interconnect cost estimate prepared in 2021 from PJM was used as the basis for costs associated with the two PSA Projects. Pet. Ex. 6 (Gaul Rebuttal) at 23. As Mr. Taberner explained, the Company reasonably utilizes competitive bidding as actual transmission interconnection projects move to the engineering and execution phases. Pet. Ex. 10 (Taberner Rebuttal) at 5-7. While we understand the location and design of the project drive interconnection costs, we also acknowledge that the interconnection costs in the

PSAs, which will go into rate base, are much higher than those in the PSAs. As a result, the process incents utilities to accept high-cost options as this is financially beneficial for utility companies.

Mr. Krieger also raises issues relating to the LCOE cost differential of Lake Trout compared to the average LCOE presented for all the projects in this proceeding, as well as the LCOE estimate presented in I&M's latest IRP. Pub. Ex. 2 at 10-12. The testimony presented raises several concerns regarding the best estimate presented for the Lake Trout Project. The Best Estimate is still subject to substantial uncertainty regarding major costs components of the project, and I&M has not shown how these risks will be addressed. As such, we cannot accept I&M's Best Estimate presented for the Lake Trout Project. We do find that the Best Estimate for the Mayapple Project is sufficient, and it is approved.

ii. Ind. Code § 8-1-8.5-5(e). Ind. Code § 8-1-8.5-5(e) provides that for a project with generating capacity of more than 80 MW, the Commission must find the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable. The purpose behind this statutory provision is to confirm the reasonableness and reliability of the cost estimates that form the basis for the Commission's best estimate finding and to assure that the actual costs that are incurred are, to the extent commercially practicable, based on competitive procurement.

The need for the renewable generation for which I&M seeks approval in this filing was originally defined in I&M's 2021 IRP. As stated above, the cost of each PSA Project was determined through the competitive RFP and subsequent arms' length negotiations with each project developer. However, as stated above, we are concerned regarding the interconnection costs of the PSA projects and the incentives associated with these costs. The estimated cost of the PSA Projects is largely the product of the competitive bidding process and negotiated and executed PSAs. However, the non-purchase price components included in the project cost are not the result of a competitive bidding process, and these cost components are unreasonable for the Lake Trout Project, as demonstrated in Mr. Krieger's testimony.

iii. Consistency with the Statewide Analysis or I&M's Utility-Specific Proposal. Ind. Code § 8-1-8.5-5(b)(2) requires the proposed construction, purchase, or lease of a facility for the generation of electricity be consistent with either the Commission's analysis for expansion of electric generating capacity or with a utility specific proposal that we approve (*i.e.* the utility's IRP).

I&M's 2021 IRP projected I&M to have a clear and significant need for new capacity resulting from the retirement of Rockport Unit 1 and Unit 2 by 2028. Pet. Ex. 3 (Becker Direct) at 7-8. The Short-term Action Plan in I&M's IRP set out a first step of issuing an All-Source RFP in 2022 to identify 800 MW of wind generation and 500 MW of solar generation.

OUC witness Hanks (p. 14) contended the Company's proposal is not consistent with the Short-Term Action Plan because the first step of the Short-Term Action Plan provides for a 2022 RFP seeking 800 MW of wind and 500 MW of solar generation, whereas the Company proposal in this case includes approximately 750 MW of solar and no wind. Based on this discrepancy, Mr. Hanks recommends the Commission deny approval of the Lake Trout PSA due to this inconsistency.

We acknowledge that utilities require flexibility in attempting to fulfill objectives set forth in IRPs. However, while the Company issued an RFP seeking 800 MW of wind and 500 MW of solar seeking generation consistent with the Short-Term Action Plan, what the Company is presenting in this proceeding is not consistent. Additionally, as noted in the testimony of CAC witness Inskeep, I&M imposed restrictive requirements on the RFP which limited where and how potential generation would be included. It is unknown to what degree these restrictions limited the available resources that would have bid into the RFP and provided I&M with sufficient generation to ensure its proposal would be consistent with the IRP.

Based upon the evidence presented, the Commission finds I&M's proposal is not consistent with its Short-term Action Plan. Rejecting the Lake Trout PSA, as urged by the OUCC, is more consistent with the 500 MW of solar projected in I&M's Short-Term Action Plan.

iv. Ind. Code § 8-1-8.5-4. We turn now to consideration of alternative resource options as required by statute.

Adoption of the OUCC recommendation would limit I&M's solar resources to 504 MW, consistent with the first step of the Short-term Action Plan. During I&M's 2021 IRP process, the majority of I&M's stakeholders expressed strong interest for a transition away from fossil-fueled resources to increased renewable resources. Additionally, in order for Indiana to remain competitive in the industrial and commercial space, there is a significant need and desire by customers for further development of and access to renewable generation. Pet. Ex. 2 (Lucas Rebuttal) at 18.

The record shows the Company conducted an All-Source RFP. An independent monitor oversaw the RFP and bid evaluation process, which was designed to consider both price and non-price factors. We note the price and non-price factors used in the scoring of resources were based on factors important to I&M and the weighting of these factors could result in selecting resource options that may not be as affordable for consumers. Mr. Inskeep also raised meaningful concerns regarding the geographic limitations and interconnect status eligibility and threshold requirements in the RFP. While Company witnesses Lucas and Gaul established that both RFP requirements questioned by Mr. Inskeep were for good reason, it is unknown how these restrictions limited the bids submitted to the RFP and what alternatives would have been available for I&M to consider in this proceeding. Additionally, although there are economic and benefits from resources in-state and located closer to load, it is again unknown how additional resources may have compared to the bids considered in the RFP.

The OUCC recommends the Commission deny the Lake Trout PSA based on the factors discussed in the testimonies of Mr. Hanks and Mr. Krieger. The OUCC's concerns with the Lake Trout Project are not based on a comparison to the Mayapple Project, as contended by Mr. Lucas, but on a comparison to all the other projects presented in this proceeding and the IRP. We find that moving forward with the Mayapple PSA and the two PPA projects will maintain sufficient flexibility to meet I&M's capacity needs.

v. Public Convenience and Necessity. Ind. Code § 8-1-8.5-5(b)(2) requires the Commission find the public convenience and necessity requires or will require the

proposed PSA Projects. The OUCC has recommended the Commission approve the Mayapple PSA Project, the Sculpin PPA Project, and the Elkhart County PPA Project. The OUCC has recommended the Commission deny the approval of the Lake Trout PSA Project. CAC recommends the Commission deny both PSA Projects and direct I&M to pursue PPAs.

The Company has a clear need for capacity upon Rockport's retirement in 2028. This is now only five years away. The Company's IRP Preferred Resource Portfolio requires a total of 2,100 MW of replacement solar and wind capacity, 60 MW of battery storage, and 1,000 MW of natural gas peaking by 2028 due to the retirement of the Rockport Plant. CAC does not dispute that it is reasonable and prudent for I&M to close the Rockport power plant on the schedule identified and procure at least 2,100 MW of solar and wind generation and 60 MW of battery storage by 2028. Pet. Ex. 6 (Lucas Rebuttal) at 5 referring to CAC Ex. 1 at 15 & 16. OUCC witness Hanks also acknowledges that the Company has a capacity need in 2028 given the retirement of Rockport. *Id.* at 5.

While I&M has indicated the need for additional resources, the Commission will not accept any resource simply because the need is there and at any cost. All things considered, the LCOE differential and the risks presented relating to the Lake Trout Project of concern to Mr. Hanks and Mr. Krieger, the inconsistency with the Short-Term Action Plan, and the restrictions on the RFP show that there are major flaws in this proposal. The concerns raised by the OUCC highlight the uncertainties of the best estimate for the Lake Trout Project, and the LCOE differential of Lake Trout demonstrate that approving this facility is not in the public interest.

Based on the evidence presented, the Commission finds that is the Mayapple PSA and both PPA projects are reasonable and necessary additions to I&M's portfolio of generating resources necessary to meet the need for electricity within I&M's service area, while also mitigating risk through the diversification and use of an economic mix of capacity resources that preserves flexibility. We further find that public convenience and necessity requires these proposed Projects.

vi. Conclusion. Based upon the evidence presented, the Commission finds I&M has met the requirements of Ind. Code § 8-1-8.5-5 for the Mayapple Project. A CPCN for I&M's development and acquisition of the Mayapple PSA Project through the PSA Agreement described in I&M's testimony is approved.

vii. Ongoing Review. I&M requests the Commission maintain an ongoing review of the construction of the Projects as it proceeds. Neither the OUCC nor CAC witnesses opposed the Company's request.

I&M's proposal will apply to the Mayapple Project, in which the Company will submit its report subject to the protection of confidential information. The progress reports will include an update on the overall status of the project, any increase in the Project Best Estimate, and any change to the project's expected COD. These reports will be filed as a compliance filing in this docket. The first report will be filed no later than 180 days following a Commission order approving the project and at least semi-annually thereafter until the Mayapple Project reaches its COD. I&M may also file supplemental reports if necessary. The final report will include the actual total cost of construction, the total megawatt output for the solar project, and the actual COD.

I&M proposes to present the progress reports to the Commission for review and approval as part of the Company's existing SPR filings. I&M reserves the ability to seek review of any ongoing review report outside of the annual SPR filings should circumstances warrant doing so. This flexibility allows any unexpected material developments that, in the Company's judgment, may otherwise impact I&M's ability to move forward with the project to be addressed by the Commission. As discussed by Company witness Gaul, the industry has been and continues to be affected by supply chain disruptions and other factors. I&M has a significant near-term capacity need due to the retirement of Rockport in 2028. Consequently, it is prudent to establish an ongoing review process and procedure that can provide for an expedited Commission decision if the Company determines that such relief is necessary or appropriate.

Accordingly, the Commission finds the proposed ongoing review is reasonable and it is approved. The request for ongoing review will provide customers, the Commission and other stakeholders with a timely update on the progress of the project development and construction.

B. Clean Energy Project and Financial Incentives. Ind. Code § 8-1-8.8-11 provides that "[t]he commission shall encourage clean energy projects by creating ... financial incentives for clean energy projects, if the projects are found to be reasonable and necessary[.]" An "eligible business" is an energy utility that "undertakes a project to develop alternative energy sources, including renewable energy projects." Ind. Code § 8-1-8.8-6(3). As stated above, I&M is an "energy utility." A "clean energy project" includes "[p]rojects to develop alternative energy sources, including renewable energy projects." Ind. Code § 8-1-8.8-2(2). "Solar energy" is specifically listed as one of the clean energy resources in Ind. Code § 8-1-37-4(a), thus making it a "renewable energy resource" under Ind. Code § 8-1-8.8-10. I&M is undertaking the four proposed projects to develop solar energy resources and so is eligible for the relief provided in Ind. Code § 8-1-8.8-11.

According to Ind. Code § 8-1-8.8-11, the Commission shall encourage clean energy projects by creating financial incentives for such projects, if found to be reasonable and necessary. While Ind. Code ch. 8-1-8.8 does not set forth specific factors the Commission should consider in determining the reasonableness and necessity of a clean energy project, the Commission has considered some of the factors outlined in Chapters 8.5 and 8.7 in other cases.⁴ Therefore, in determining the reasonableness and necessity of Clean Energy Projects, we have found it appropriate to consider: (1) the cost of the project; (2) the consistency of the project with Petitioner's IRP; (3) the need for the project; and (4) competitive solicitation of the project.⁵

We concluded above that the Mayapple PSA project is reasonable and necessary. We reach the same conclusion regarding the PPAs which all parties recommended the Commission approve. The proposed PPAs are consistent with the Company's 2021 IRP Preferred Resource Portfolio and Short-Term Action Plan. The Best Estimate of the cost of each PPA Project stems from a competitive RFP and negotiation process. The PPA Project costs were not challenged, and the record shows these costs are consistent with the IRP. We find the PPA cost estimates are reasonable, and both estimates are approved.

⁴ See *Southern Indiana Gas and Electric Company, d/b/a Centerpoint Energy Indiana South*, Cause No. 45839, 2023 WL 3790577 (IURC May 30, 2023) at 12.

⁵ *Id.*

Accordingly, based on our discussion above, the Commission finds the three Clean Energy Projects, the Mayapple PSA and the two PPA projects, the Sculpin Project and Elkhart County Solar Project, are reasonable and necessary to continue to meet the long-term capacity and energy needs of I&M's customers. Therefore, these three proposed projects are approved as Clean Energy Projects.

(i) Accounting and Ratemaking. We now turn to the Company's request for timely cost recovery through the SPR and FAC, along with deferral of costs incurred prior to inclusion in rates. We find these requests should be approved.

As summarized above, and detailed in the testimony of Mr. Williamson, I&M requests timely cost recovery through I&M's existing SPR (or successor mechanism) for the projects I&M will acquire through PSAs. Pet. Ex. 13 at 2, 4-5. I&M requests Commission approval to add the approved return related to the Clean Energy PSA Projects to its authorized Net Operating Income for purposes of the FAC (d)(3) test. I&M requests timely cost recovery be administered through I&M's FAC for the costs incurred under the PPAs. *Id.* at 2, 16-17. I&M asks the Commission to approve a new depreciation rate for the PSA Projects. The Company proposes to depreciate the PSA Projects, once they are placed in-service, over a 35-year period including estimated net salvage. I&M also proposes to extend ratemaking for PTC benefits over 20 years and requests approval of the Company's plan to monetize PTCs. I&M also requests Commission approval to establish a regulatory asset and authority to recover the Clean Energy PPA Project development costs in the SPR over a period of two years, including a pre-tax return on the unamortized balance. *Id.* at 2, 5. Finally, per Mr. Williamson, I&M plans to utilize the RECs from the Clean Energy Projects to benefit customers. *Id.* at 2, 18, 21-22. The net proceeds from market sales will continue to be credited in ongoing FAC proceedings and the net proceeds from customer programs will be credited according to the provisions approved for such program(s). *Id.*

The OUCC and CAC raised certain concerns regarding the Company's proposed accounting and ratemaking.

(ii) PTC. As summarized above, Mr. Latham recommended the PTC be credited to ratepayers over 11 years instead of the 20-year period proposed by I&M. Pub. Ex. 3 at 5; also Pub. Ex. 1 at 18. Mr. Latham said a 12th year could be added if a true-up is necessary. Pub. Ex. 3 at 5. Mr. Inskeep recommended that if the Commission approves the Solar PSA Projects, then the Commission should direct I&M to return all PTC benefits to ratepayers over a 10-year period instead of I&M's proposed 20-year period. CAC Ex. 1 at 14-15, 21.

As discussed in Mr. Williamson's direct testimony and demonstrated in Figure AJW-3, I&M has proposed a 20-year period to reflect PTCs in the ratemaking process as this approach provides much greater stability in cost of service for customers over the life of the PSA projects and also supports long-term customer affordability. Under the OUCC's and CAC's recommendations, the recovery period is more consistent with the period over which the PTCs are recovered by the Company. Additionally, this provides the benefits to customers in a more timely manner than spreading them out over a longer period. As noted by Mr. Latham, a 20-year recovery period is an arbitrary time frame and only serves to delay cost recovery for ratepayers. Pub. Ex. 3

at 5. As such, we find the OUCC's proposal related to PTCs credit customers in a more timely manner. Therefore, the OUCC's proposal is approved.

The direct and rebuttal testimony of Mr. Mueller demonstrated the Company's proposal to utilize PTCs generated by the PSA Clean Energy Projects or monetize PTCs is reasonable. As Mr. Mueller explained Mr. Latham's recommendation that both I&M and AEP's taxable income should be considered when valuing PTCs to be passed to I&M customers, is not based on the actual value of the PTC that I&M is able to use to offset a tax liability. Pet. Ex. 12 (Mueller Rebuttal) at 2. As Mr. Mueller also explained, I&M will realize the value of a PTC generated by the Clean Energy PSA Projects either by the PTC being used to offset a tax liability in AEP's consolidated federal income tax return or by the sale of a PTC to an unrelated taxpayer. If the PTC is used to offset a tax liability in AEP's consolidated federal income tax return, I&M would realize the full value of the PTC. This value would be realized as a reduction of the tax payment to AEP for I&M's tax liability and/or as a payment from AEP for tax credits used in the AEP consolidated tax return that exceed I&M's tax liability. If the PTC is sold to an unrelated taxpayer, I&M would realize the net proceeds of that sale. *Id.* at 2. As described in the direct testimony of Andrew Williamson in QA23, the Company's proposal is that to the extent that a PTC has been generated and I&M has not used or sold that PTC, a deferred tax asset should be reflected in rate base. The Company's proposal is consistent and allows for the Company to provide to customers the full value it receives from the PTCs utilized in the consolidated tax return or sold to an unrelated taxpayer. *Id.* at 8. Therefore, on this issue, we find the OUCC recommendation should be rejected. The Company's proposals are approved.

(iii) Timely Cost Recovery. As summarized above, Mr. Blakley recommended that if the Projects are approved, 1) the SPR tracker should only track the return "on" plant investment of I&M's solar power projects and no other rate base elements such as materials and supplies and working capital; 2) the calculation of return "on" and return "of" should be on the actual incurred costs of the solar power project investments and not the average costs of the investment; 3) pre-tax gross-ups should not be included in carrying charges that are applied to deferred regulatory assets because there is no income tax on the deferred costs until those costs are included in rates; and 4) I&M should not include any forecasted or estimated non-cash expensed ARO costs that reside on its balance sheet in its SPR tracker.

Mr. Williamson explained I&M's request for authority to defer costs associated with the Clean Energy PSA Projects prior to inclusion in I&M's rates in his direct testimony and rebuttal testimony. As stated by Mr. Williamson, a component of this deferral accounting request includes pre-tax carrying costs on the assets and liabilities (*i.e.* "rate base"). I&M requests ratemaking treatment for the costs associated with the Clean Energy PSA Projects. Pet. Ex. 14 at 9 (revised). As explained by Mr. Williamson, the pre-tax carrying costs would be calculated based on the "average monthly rate base" including, 1) net plant in-service and 2) any deferred tax asset(s) and liability(ies) related to PTCs. Deferral of pre-tax carrying costs on rate base prior to inclusion in rates is consistent with the previous ratemaking treatment approved by the Commission. *Id.* at 9-10.

Mr. Williamson testified that the income tax expense is not incurred until the equity earnings are recognized for accounting purposes. Pet. Ex. 14 at 10. As discussed in the direct and

rebuttal testimony of Mr. Williamson, I&M requests the Company be permitted to defer for later recovery carrying costs on rate base prior to inclusion in rates, including a tax gross-up on the equity return. This deferral authority supports timely recovery, as provided for by Indiana statute, of the costs I&M incurs related to the Clean Energy Projects before such costs are reflected in I&M's rates. This deferred balance would be recoverable in the future when I&M implements new SPR rates to reflect the Clean Energy PSA Projects. Pet. Ex. 14 (Williamson Rebuttal) at 10. Mr. Williamson testified that each month, I&M will determine what the pre-tax carrying costs are on rate base and record the debt component as a regulatory asset and record the equity and tax components as a separate regulatory asset that has an equal and offsetting contra asset balance that nets to zero on I&M's balance sheet. This allows I&M to accurately track the full pre-tax carrying costs that will be recoverable in the future when the deferred costs are reflected in I&M's rates. Once the deferred pre-tax carrying costs are reflected in rates, the regulatory asset and contra asset related to the equity and tax components are reduced to reflect the pre-tax equity earnings. *Id.* The Commission finds the Company's request for deferral accounting treatment related to carrying costs on rate base is reasonable and consistent with the ratemaking authority previously authorized for by the Commission. The Company's request as presented by Mr. Williamson is approved. Pet. Ex. 14 (Williamson Rebuttal) at 10. Mr. Blakley testified that income tax gross up should not be included in the carrying charges because there will be no income tax on the deferred costs until those costs are included in rates. At the time the deferred asset is included in rates for recovery, then the income tax gross-ups should be applied. Pub. Ex. 4 at 5. We have previously ruled that the appropriate time to include the tax gross up is when those costs are recovered in a future proceeding. *See Cause No. 44733 TDSIC 2, Order at 13 (Oct. 31, 2027).* We agree with Mr. Blakley that I&M should only apply the tax gross up once it seeks recovery of the deferred amount and should not use pre-tax carrying cost. We find I&M's proposal be amended so that the deferred amount will be adjusted for taxes when I&M seeks recovery of this amount.

Mr. Blakley (p. 4) also asserted that all capital investment trackers recover the direct incurred costs of the capital investment and should not include any other rate base items such as material and supplies or working capital. Mr. Williamson disagreed that materials and supplies are not recoverable in investment trackers. He explained that materials and supplies can be a direct cost incurred during construction or operation of a project and added that the Commission has previously approved inclusion of consumable inventory balances in rate base for trackers that recover environmental controls equipment costs. Pet. Ex. 14 (Williamson Rebuttal) at 11. The purpose of the deferral and rider request is to provide timely recovery of the costs incurred by I&M related to the Clean Energy PSA Projects. These costs would typically receive ratemaking treatment, whether in base rates or in a rider. The Company's proposal is consistent with the statutory framework in Indiana which provides incentives for clean energy projects (Ind. Code § 8-1-8.8-11). That being said, as also clarified by Mr. Williamson, in this proceeding I&M has not proposed ratemaking treatment for materials and supplies or working capital related to the Clean Energy PSA Projects. Thus, we find this issue is moot and need not be further addressed herein.

Mr. Blakley raised a question regarding use of the "average" monthly rate base and recommended that the calculation of return "on" and the return "of" should be on actual incurred cost of the solar power project investments. Mr. Williamson explained that each month activity occurs that changes the value of the rate base. For example, each month can reflect additions to plant in-service and associated depreciation. Other balances included in rate base can change from

month to month as well. Since rider or deferral mechanisms are established to track recoverable costs and/or credits on a monthly basis, it is necessary to pick a point in time each month for valuation of rate base to determine a carrying cost for that period. As explained by Mr. Williamson, generally speaking, there are three main options, beginning of month, end of month or an average. The Commission has commonly approved use of an average rate base for I&M to calculate carrying charges. This approach accounts for the activity that occurs during the course of a month that changes rate base and reasonably reflects that activity in the determination of carrying charges. I&M's proposal in this case is simply to follow what the Commission has commonly approved in past cases. *Id.* at 12. As long as the costs of the average solar plant investment have been incurred, the Commission finds the Company's proposal should be approved.

Mr. Blakley recommended that I&M should not include any forecasted or estimated non-cash expensed ARO balances that reside on I&M's balance sheet in its SPR tracker. He testified that the proper ratemaking treatment for ARO decommissioning cost estimates is that they be included in I&M's depreciation rates and net salvage calculations, along with all the other existing asset decommissioning costs, and at the time of retirement of the assets, the actual removal costs incurred be charged to accumulated depreciation. Pet. Ex. 14 at 13.

The record shows the Company's requested process to calculate depreciation rates, including expected useful life and net salvage estimates, and estimated ARO expenses for PSAs is reasonable and necessary to support timely recovery of the Clean Energy PSA Project costs over their expected useful life. As Mr. Williamson stated, I&M does not request authority to recover a return on the ARO non-cash asset *balances*. Pet. Ex. 14 at 13 (revised). Rather, I&M requests recovery of the ARO *expenses* that I&M incurs related to the Clean Energy PSA Projects. *Id.* at 14. As described in Mr. Williamson's direct testimony (page 8 lines 14-17), ARO expense is comprised of depreciation of the non-cash ARO asset and accretion of the ARO liability. The sum of ARO depreciation and accretion expenses represent I&M's annual cost of service impact. For accounting purposes, the initial non-cash ARO asset and liability are equal to one another. Over the life of the asset, the non-cash ARO asset is depreciated to zero and the ARO liability is accreted to its future or final value. Recognizing both the non-cash ARO asset depreciation expense and the ARO liability accretion expense in cost of service over the life of an asset allows this cost to be reflected in rates while the asset is used and useful in the provision of service to customers. This is consistent with the ratemaking for AROs associated with I&M's current base rates approved by the Commission in Cause No. 45576. Pet. Ex. 14 (Williamson Rebuttal) at 14.

I&M did not include ARO costs in its proposed depreciation rates for the Clean Energy PSA Project. I&M's proposed depreciation rates only include the estimated salvage value of the facilities. *Id.* Mr. Blakley's concern appears to confuse the treatment of "decommissioning" costs for renewable generation assets and fossil generation assets. *Id.* As explained in Mr. Williamson's direct testimony (QA 17) each Clean Energy PSA Project is constructed on land that is leased. I&M, as owner of the asset, has an obligation to remove the associated equipment and return the land to certain conditions after each project is retired. The estimated cost of this "decommissioning" is accounted for as an ARO expense, according to GAAP, and it is necessary to recognize this cost in I&M's ratemaking. As explained by Mr. Williamson, the sum of ARO depreciation and accretion expenses represent I&M's annual cost of service impact. The Company proposes that as I&M makes future SPR filings, I&M will include the forecasted ARO expenses

(ARO accretion expense and ARO depreciation expense) in its SPR revenue requirement and reconcile to actual ARO expenses for past periods. I&M proposes to utilize the initial estimates presented in this case for ratemaking until such time as ARO estimates are updated in the future. Pet. Ex. 14 at 15-16. The Commission finds the Company's proposal reasonably recognizes the *expense* related to these balances in I&M's cost of service over the life of the associated assets. If that was not done, it would result in fully recognizing the cost of the AROs (which can be significant) in customer rates after the related asset is retired and no longer used and useful in the provision of service to customers. This ratemaking treatment is no different than the non-ARO closure costs and salvage credits that are not incurred or realized until after an asset is retired but are recognized in depreciation rates and cost of service over the life of the associated asset. Pet. Ex. 14 15 17.

Accordingly, the Commission finds the Company's proposed accounting and ratemaking, as modified, is reasonable and should be approved. The Commission further finds the Company's proposed modifications to the SPR tariff language should be adopted to clarify the ongoing purpose of the SPR.

(iv) PPA Project Development Costs. PPA project development costs are reasonable and necessary to execute the long-term PPA contracts and should be fully recoverable as proposed by I&M. Mr. Williamson's proposed accounting and ratemaking for these costs was not challenged. These costs are necessarily incurred to develop the Clean Energy PPAs. The deferral and subsequent recovery of these costs is consistent with the legislative direction in Ind. Code § 8-1-8.8-11 that utilities should be encouraged to develop Clean Energy Projects through timely cost recovery. Accordingly, the Company's proposal is approved.

C. Ind. Code §§ 8-1-2-0.5 and 0.6. Through Ind. Code § 8-1-2-0.5, the Indiana General Assembly established the state's policy recognizing utility service affordability for present and future generations. This legislative policy states affordability should be protected when utilities invest in infrastructure necessary for system operation and maintenance.

In HEA 1007 (codified at Ind. Code § 8-1-2-0.6), effective July 1, 2023, the Indiana General Assembly declared it is the continuing policy of the state that decisions concerning Indiana's electric generation resource mix, energy infrastructure, and electric service ratemaking constructs must consider each of five pillars of electric utility service enumerated in the statute, namely: Reliability, Affordability, Resiliency, Stability; and Environmental Sustainability. While these pillars were recently codified, they are based on the "The Five Pillars of Electric Utility Service" and the "Managed Transition to Renewable Energy Resources" outlined in the 21st Century Development Task Force Report. Pet. Ex. 1 (Lucas Direct) at 6. These policies reinforce that "the transition to an increased reliance on renewable energy resources must be managed in a way that doesn't compromise the reliability, resiliency, and stability of electric utility service, and that maintains affordability for all customer classes." Pet. Ex. 1 (Lucas Direct) at 7 citing 21st Century Energy Policy Development Task Force Report, October 19, 2022, page 9.

As discussed by Mr. Lucas, the objectives and metrics I&M used during the IRP process to determine the Preferred Portfolio were very closely aligned with the work of the 21st Century Energy Policy Development Task Force. Pet. Ex. 1 (Lucas Direct) at 7. I&M's primary objectives were Affordability, Sustainability, Reliability and Resource Diversification. *Id.* I&M's Preferred

Portfolio additions, when combined with I&M's current generation resources, directly aligns with Task Force findings by providing a diverse resource mix that leverages the strengths of, and mitigates the weaknesses inherent in, each type of generation resource. *Id.*

We discussed above the importance of the approved Clean Energy Projects to Reliability. As also discussed above, we are now only five years away from Rockport's retirement. Allowing the Company to move forward with its plans, as modified, provides the Company and the Commission the flexibility to adapt to changes in policies and in the market and better positions the Company to timely develop the capacity needed serve customers.

With respect to Affordability, Company witness Williamson showed the estimated rate impact specific to the Clean Energy Projects alone is reasonable. OUCC witness Hanks also recognized the bill impact of the proposed projects is not large. OUCC Ex. 1 (Hanks) at 4. Mr. Williamson also presented the estimated rate impact considering a holistic view of I&M's generation transformation, including the cost of the Clean Energy Projects and the recent cost reductions associated with Rockport Unit 2. This analysis shows the impact is a substantial net reduction in costs for customers. Pet. Ex. 14 (Williamson Rebuttal) at 2. In other words, the steps the Company has taken to transition its generation fleet, including the cost of the Clean Energy Resources, has resulted in a net cost savings for I&M and ultimately, I&M's customers. Pet. Ex. 14 (Williamson Rebuttal) at 5. However, we must be mindful of the continuing transition proposed by I&M, and that for future generation additions, we continue to emphasize the affordability for consumers.

As also explained by Mr. Latham, the Company proposes to maximize tax credit benefits by electing PTCs. The benefit of these credits will flow to customers through rates in a manner consistent with I&M's recovery of these benefits. I&M also plans to utilize REC's from the Clean Energy Projects to benefit customers. The associated net revenues I&M realizes will benefit all of I&M's customers through reduced cost of service.

Mr. Inskeep testified that the Company's rates for service have increased since 2004. Mr. Williamson explained that when comparing I&M to other Indiana IOUs, I&M's rates have been, on average, among the most affordable. Pet. Ex. 14 at 3. Any consideration of rate trends should reasonably consider why rates have changed and how those factors have enhanced the value of the service I&M provides customers in Indiana. As stated by Mr. Williamson, over this period, I&M has made significant investments that improve the value of service provided to customers, including: lower environmental impacts of I&M's generation resources; investments necessary to support an initial 20-year extension of the Cook Nuclear Plant operating licenses which provides customers a significant amount of reliable capacity and stable, low cost and emission free energy through 2034 and 2037; improved reliability and resiliency of I&M's distribution system through investments in aging infrastructure and grid modernization; and improved reliability, resiliency and capacity of the transmission system serving I&M's customers which also supports economic development opportunities for Indiana and I&M's customers. Pet. Ex. 14 (Williamson Rebuttal) at 4).

More importantly, the overall cumulative effect of the Company's resource planning decisions is assessed through the IRP process. The purpose of the Company's IRP is to develop a

set of supply- and demand-side resources that guides how I&M generates and supplies electricity in a way that balances affordability, sustainability, and reliability. The competitive procurement process then identifies resources available in the market to satisfy the needs identified by the IRP. When taking into consideration the resources identified in the IRP, the current PJM market for renewables, and the responses the Company received to the All-Source RFP, the Company's approved Clean Energy Projects represent the optimal portfolio of projects to meet the Company's capacity obligations.

The approved Clean Energy Projects and I&M's corresponding accounting and ratemaking proposals support affordability for I&M's customers while allowing I&M to transition its generation fleet in a way that supports environmental sustainability, reliability, resource diversity and resource adequacy for I&M's customers.

The "Resiliency" Pillar recognizes that Indiana's electric infrastructure should be appropriately invested in and provide the necessary resources for the system to adapt to changing conditions and withstand and rapidly recover from disruptions or off-nominal events. Similarly, the "Stability" Pillar considers the ability of the system to maintain a state of equilibrium during normal and abnormal conditions or disturbances and deliver a stable source of electricity. A stable source of electricity is increasingly important to Indiana's economy as advanced manufacturing industries and other businesses require a stable source of electricity. Allowing I&M to move forward with the approved Clean Energy Projects better positions the Company provide a resilient system and deliver a stable source of electricity.

Finally, the "Environmental Sustainability" Pillar, 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. The Company's IRP reasonably considered both. See Attachment MAB-1 (IRP) Section 6.5 – Environmental Issues and Implications (pp. 64-71); Pet. Ex. 2 (Lucas Rebuttal) at 18 (discussing stakeholder expression of strong interest in transition away from fossil-fueled resources to increased renewable resources).

As reflected throughout this Order and summarized in this Section, the Commission has considered the five Pillars enumerated in Ind. Code § 8-1-2-0.6) in reaching our decision in this proceeding. The Commission finds the Company's proposals, as modified, are consistent with the legislative directives.

D. Conclusion. I&M has established a need for capacity. The Clean Energy Projects approved in this proceeding are the result of an IRP and competitive procurement process and represent a reasonable, least cost portfolio for the Company to utilize in meeting its ongoing obligation to provide adequate and reliable service and facilities consistent with Indiana energy policy, as articulated in Ind. Code §§ 8-1-2-0.5 and 0.6, Ind. Code ch. 8-1-8.5, and Ind. Code § 8-1-8.8-11. We find the evidence presented in this proceeding supports approval of the Mayapple Project and the two PPA Projects, including the associated agreements and cost recovery as modified by our discussion. The approved Projects provide needed capacity, diversify I&M's supply portfolio, support reliability, provide environmental benefits, and safeguard against fuel cost volatility while also reasonably balancing affordability of service. We find that CPCNs should be issued for the development and acquisition of the Mayapple PSA Project. We further find that

the approved Projects (Mayapple, Elkhart County, and Sculpin) is approved as a Clean Energy Project. Finally, the accounting and ratemaking is also approved as modified by our discussion.

12. Confidential Information. On March 28, 2023, I&M filed a motion seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The request was supported by an affidavit showing the designated documents offered into evidence at the evidentiary hearing were trade secret information within the scope of Ind. Code § 5-14-3-4(a) (4) and Ind. Code § 24-2-3-2. On April 11, 2023, the Presiding Officer issued a docket entry finding such information confidential on a preliminary basis. The parties subsequently submitted designated confidential information in accordance with this finding.

After reviewing the designated confidential information, the Commission finds all such information qualifies as confidential trade secret information pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. I&M takes reasonable steps to maintain the secrecy of the information and disclosure of such information would cause harm to I&M. Therefore, we affirm the preliminary ruling and find this information should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29, and held confidential and protected from public disclosure by this Commission.

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

1. I&M is issued a certificate of public convenience and necessity for the development of the Mayapple Project. This Order constitutes the certificates.
2. The Mayapple PSA is approved.
3. The Elkhart County PPA and the Sculpin PPA are each approved.
4. The Mayapple, Elkhart County and Sculpin Projects are each approved as a Clean Energy Project.
5. The Best Estimate for each of the three approved Projects is approved.
6. I&M's proposed accounting and ratemaking treatment, as modified by our discussion, is approved.
7. I&M's request for ongoing review of the approved Projects is approved.
8. The Confidential Information filed under seal in this Cause shall continue to be treated by the Commission as confidential and not subject to public disclosure.
9. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, BENNETT, VELETA AND ZIEGNER CONCUR:

APPROVED:

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

**Dana Kosco
Secretary of the Commission**

CERTIFICATE OF SERVICE

This is to certify that a copy of the ***OUCC' Proposed Order*** has been served upon the following parties of record in the captioned proceeding by electronic service on July 21, 2023.

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