

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, INC.)
FOR APPROVAL OF (1) ITS PROPOSED)
DEMAND SIDE MANAGEMENT AND ENERGY)
EFFICIENCY PROGRAMS FOR 2016-2018,)
INCLUDING COST RECOVERY, LOST)
REVENUES AND SHAREHOLDER)
INCENTIVES IN ACCORDANCE WITH IND.) CAUSE NO. 43955 DSM 3
CODE §§ 8-1-8.5-3, 8-1-8.5-10, 8-1-2-42(a) AND)
PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-)
6; (2) AUTHORITY TO DEFER COSTS) APPROVED: MAY 04 2016
INCURRED UNTIL SUCH TIME THEY ARE)
REFLECTED IN RETAIL RATES; (3))
RECONCILIATION OF DEMAND SIDE)
MANAGEMENT AND ENERGY EFFICIENCY)
PROGRAM COST RECOVERY THROUGH)
DUKE ENERGY INDIANA, INC. STANDARD)
CONTRACT RIDER 66A; AND (4) REVISIONS)
TO STANDARD CONTRACT RIDER 66A)

ORDER OF THE COMMISSION ON RECONSIDERATION

Presiding Officers:

David E. Ziegner, Commissioner

David E. Veleta, Administrative Law Judge

On March 29, 2016, Citizens Action Coalition of Indiana, Inc., Duke Industrial Group, Nucor Steel-Indiana, a division of Nucor Corporation, and the Office of Utility Consumer Counselor (jointly, "Consumer Parties") filed a Joint Petition for Post Hearing Relief requesting that the Indiana Utility Regulatory Commission ("Commission") clarify its March 9, 2016 Order in this Cause concerning lost revenue recovery. The Consumer Parties note that the Commission issued its final Order in this Cause which limited Duke Energy Indiana's ("DEI") lost revenue recovery. Specifically, the Consumer Parties request that the Commission identify the DEI vintage year energy efficiency programs to which the limitation on recovery of lost revenues is applicable.

DEI filed its Response on April 8, 2016. DEI requests that the Commission clarify that its Order in this proceeding does not limit lost revenues for the life of measures approved in previous proceedings as requested by the Consumer Parties. DEI argues that the Order is not intended to have retroactive effect for programs at issue in previous DSM proceedings. DEI also argues that the legal doctrines of res judicata, estoppel, and "law of the case" preclude the Commission from reconsidering prior DSM approvals.

The Consumer Parties filed their Reply on April 15, 2016. The Consumer Parties argue that the Commission has authority to modify its prior orders concerning lost revenue recovery. In addition, although they raised the issue of pancaking lost revenues, the Commission's March 9, 2016 Order did not specify that the lost revenue limitation applied only to measures installed under DEI's energy efficiency plan.

This proceeding involved DEI's request for approval of its energy efficiency plan and associated cost recovery. Although the Commission acknowledged the Consumer Parties' arguments regarding pancaking of lost revenues and expressed its concern with the increasing length of time between base rate cases as reasons for limiting lost revenue recovery associated with the plan, it did so only in the context of DEI's request for lost revenue recovery associated with DSM measures installed under its proposed plan. The Commission did not address the recovery of lost revenues associated with pre-2016 DSM measures because that recovery was addressed in other Commission orders that were not the subject of this proceeding. Accordingly, the Consumers Parties' Petition for Post Hearing Relief is denied.

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

1. The Consumer Parties' Petition for Post Hearing Relief is denied.
2. This Order shall be effective on and after the date of its approval.

STEPHAN, HUSTON, AND ZIEGNER CONCUR; WEBER NOT PARTICIPATING:

APPROVED:

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



Mary M. Becerra
Secretary of the Commission