ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION'S INVESTIGATION, PURSUANT TO IC § 8-1-2-58 INTO THE EFFECTIVENESS OF DEMAND SIDE MANAGEMENT ("DSM") PROGRAMS CURRENTLY UTILIZED IN THE STATE OF INDIANA, INCLUDING AN EXAMINATION OF ISSUES THAT COULD IMPROVE THE EFFECTIVENESS OF DEMAND SIDE MANAGEMENT PROGRAMS IN THE STATE, INCLUDING CONSIDERATION OF THE ESTABLISHMENT OF AN INDEPENDENT DSM ADMINISTRATOR MODEL ON A STATE WIDE BASIS	)	CAUSE NO. 42693
RESPONDENTS: ALL JURISDICTIONAL ELECTRIC AND GAS UTILITIES IN THE STATE OF INDIANA	)	PHASE II ORDER APPROVED: DEC 09 2009

BY THE COMMISSION:
David E. Ziegner, Commissioner
Scott R. Storms, Chief Administrative Law Judge

On July 28, 2004, the Indiana Utility Regulatory Commission ("Commission") initiated an investigation to review Demand Side Management ("DSM") issues and programs in the State of Indiana. The Commission initiated this investigation to examine the overall effectiveness of DSM programs in the state and to allow it to consider any and all issues that may improve DSM programs. The Commission also indicated that its review of the issues would include consideration as to whether an independent DSM administrator model should be established in Indiana on a statewide basis.

On October 19, 2006, the Commission found that its investigation would be done most effectively through utilization of Commission staff as part of a phased proceeding structured to result in the development of a report to the Commission regarding the current state of DSM programs in Indiana. The Commission designated Dr. Bradley Borum, Director of the Commission's Electricity Division, and Ms. Susan Stratton, Executive Director of the Energy Center of Wisconsin as testimonial staff ("Testimonial Staff") in the initial phase ("Phase I") of this proceeding. The Commission instructed the Testimonial Staff to address several issues including existing DSM programs, the utility-led DSM model and the independent third-party administrator DSM model. In its Phase I Order the Commission indicated that Phase II of this proceeding is separate and apart from the issues presented and developed in Phase I and absent further action of the Commission, Phase II will not include the assignment of Technical Staff in a testimonial capacity.

In the initial phase of this proceeding the Commission also sought recommendations on whether improvements to DSM programs in Indiana could be accomplished within the existing utility-led DSM framework or whether the Commission should continue its examination of possible improvements to DSM programs throughout the State as part of a subsequent phase of this Investigation. The Commission determined that following the preparation and submission of the staff report and review of any additional evidence that may be submitted by the parties, it would issue a Phase I Order that contained findings and conclusions and made any necessary determinations regarding the most appropriate manner in which to proceed with any additional phases of this proceeding.

The Commission issued its Phase I Order in this proceeding on April 23, 2008. In its Phase I Order, the Commission outlined a series of issues to be addressed in Phase II of this proceeding and adopted the recommendation of several parties to convene a series of technical workshops ("Technical Workshops") to allow for an open technical discussion of the matters to be addressed in Phase II of this Cause. In furtherance of the determinations made by the Commission in its Phase I Order, on September 23, 2008, the Presiding Officers issued a Docket Entry that provided a schedule for the Technical Workshops along with an agenda of the topics to be discussed at each Technical Workshop. Technical Workshops were conducted in Phase II of this proceeding on November 18, 2008, January 29, 2009 and February 26, 2009. Following each Technical Workshop, the Presiding Officers issued a meeting summary, prepared by the Energy Center of Wisconsin ("Energy Center") of the issues discussed at the Technical Workshop.

In May of 2009, the Energy Center submitted a report ("Phase II Report") to the Commission that reflected a broad collective overview of the issues discussed at the Technical Workshops, along with recommendations based on the discussion of the issues with the parties to this proceeding. On May 5, 2009, the Commission conducted a Prehearing Conference in this matter for purposes of establishing a procedural schedule. A Prehearing Conference Order was issued on May 20, 2009. On May 22, 2009, the Presiding Officers issued a Docket Entry setting forth the issues to be addressed in Phase II of this proceeding ("Phase II Issues List"). In accordance with the procedural schedule established for Phase II, the parties prefiled direct testimony on July 8, 2009 and reply testimony on August 12, 2009.

Anderson Municipal Light & Power ("Anderson"), City of Auburn, Indiana ("Auburn"), Mishawaka Utilities ("Mishawaka"), and Richmond Power & Light ("Richmond") (Anderson, Auburn, Mishawaka and Richmond are collectively referred to herein as "Municipal Utilities"); and Duke Energy Indiana, Inc. ("Duke Energy Indiana"), Indiana Michigan Power Company ("I&M"), Indianapolis Power & Light Company ("IPL"), Northern Indiana Public Service Company ("NIPSCO"), and Southern Indiana Gas & Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren") (these entities are sometimes collectively referred to as Respondent Utilities in this matter).

Citizens Action Coalition of Indiana, Inc. ("CAC"), Elster Integrated Solutions ("Elster"),[1] Hoosier Energy Rural Electric Cooperative, Inc. ("Hoosier Energy"), Indiana

1. On August 12, 2009, Elster filed a Motion to Withdraw, which was granted by Docket Entry dated August 19, 2009.

Industrial Group ("Industrial Group"),[2] Indiana Municipal Power Agency ("IMPA"), Indiana Statewide Association of Rural Electric Cooperatives, Inc. (on behalf of members Northeastern Rural Electric Membership Corporation ("NREMC"), Marshall County Rural Electric Membership Corporation ("Marshall"), Harrison County Rural Electric Membership Corporation ("Harrison REMC"), Jackson County Rural Electric Membership Corporation ("Jackson"), Indiana Statewide Association of Rural Electric Cooperatives ("Indiana Statewide"), LaPorte County Board of Commissioners ("LaPorte County"), Nucor Steel, a division of Nucor Corporation ("Nucor"), Wabash Valley Power Association, Inc. ("WVPA"), and Wal-Mart Stores East, LP and Sam's East, LP ("Wal-Mart") all filed petitions to intervene.[3] No party objected to the requested interventions and all were granted by the Presiding Officers.

Pursuant to notice, duly published as required by law, an Evidentiary Hearing was held in Phase II of this proceeding on August 25, 2009, at 9:30 a.m. EDT, in Room 222, National City Center, 101 West Washington Street, Indianapolis, Indiana. Respondent Utilities, CAC, Hoosier Energy, Industrial Group, IMPA, Indiana Statewide, LaPorte County, Nucor, WVPA, Wal-Mart and the Office of Utility Consumer Counselor ("OUCC") appeared by their respective counsel. No other members of the public appeared or sought to testify at the Evidentiary Hearing.

At the Evidentiary Hearing the testimony and exhibits of the following parties were offered and admitted into the record without objection: The Utility Group presented Joint Exhibit 1 (supported by the individual company direct testimony of Michael Goldenberg, Director, Product Management of Duke Energy Business Services, LLC., an affiliate of Duke Energy Indiana; Kent D. Curry, Director of Regulatory Services of I&M; Ken Flora, Director, Regulatory Affairs of IPL; Kevin A. Kirkham, Director of Regulatory Strategic Analysis of NIPSCO; and L. Douglas Pettit, Vice President of Marketing and Conservation for Vectren Utility Holdings, Inc., the immediate parent company of Vectren). Joint Exhibit 2 was also presented and (supported by the individual company direct testimony of Michael Goldenberg, Director, Product Management of Duke Energy Business Services, LLC, an affiliate of Duke Energy Indiana; Marc E. Lewis, Vice President External Relations of I&M; Ken Flora, Director, Regulatory Affairs of IPL; Kevin A. Kirkham, Director of Regulatory Strategic Analysis of NIPSCO; and L. Douglas Pettit, Vice President of Marketing and Conservation for Vectren Utility Holdings, Inc., the immediate parent company of Vectren; 2) the Municipal Utilities presented the Direct and Responsive testimony of James M. Schrader, General Manager, Mishawaka; 3) the Electric Cooperatives presented the Direct Testimony of Gregg L. Kiess, President and CEO, NREMC; 4) the OUCC presented the Direct Testimony of April M. Paronish, Utility Analyst in the Resource Planning, Emerging Technologies and Telecommunications Division, OUCC; Jenny Sumner, Utility Analyst in the Electric Division, OUCC; Greg A. Foster, Utility Analyst in the Electric Division, OUCC; and Ronald L. Keen, Senior Analyst in the Resource Planning, Emerging Technologies and Telecommunications Division, OUCC;[4] 5) the Industrial Group presented the Direct and Responsive Testimony of Nicholas Phillips, Jr., Consultant, Brubaker & Associates, Inc.; 6)Wal-Mart presented the Direct Testimony of Kenneth E. Baker, Senior Manager of Sustainable Regulation of Wal-Mart Stores, Inc.

2. Industrial Group filed an Amendment of Petition to Intervene on August 20, 2009.
3. Indiana Statewide, WVPA and Hoosier are collectively referred to herein as the "Electric Cooperatives."
4. The OUCC filed a Notice of Intent Not to Prefile Reply Testimony on August 12, 2009.

The Commission, having examined the evidence and being duly advised in the premises, now finds that:

1. **Jurisdiction and Notice.** Due, legal and timely notice of the Evidentiary Hearing in this Cause was given as required by law. The Commission's July 28, 2004 Order named all jurisdictional electric and gas utilities[5] within the State of Indiana as Respondents. Thus, Respondents are subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana. The Commission has jurisdiction over Respondents and the subject matter of this Cause.[6]

2. **Purpose of Phase II of Investigation.** The Commission initiated Phase II of its investigation into the effectiveness of current electric DSM efforts in Indiana in order to determine what actions could be undertaken to address the specific shortcomings with respect to electric DSM programs that were clearly identified and articulated by the Commission in its Phase I Order. The specific shortcomings identified by the Commission in its Phase I Order included determinations regarding historically lower levels of DSM spending and energy savings in Indiana compared to other states coupled with relatively high per capita energy consumption.

The findings by the Commission that resulted in the issuance of the Phase I Order reflected a determination by this Commission that the availability of DSM programs across the State of Indiana was inadequate or could not be obtained by many citizens. Accordingly, the Commission proceeded to a second phase in this proceeding to allow it to issue an Order, pursuant to IC 8-1-2-69, to address the issues identified in the Phase I Order in a manner that will ensure that electric DSM programs are adequate and may be obtained throughout the State of Indiana. Ultimately, based on the Phase II collaborative effort, the Commission set forth its expectation that best practices would be identified that would drive significant improvement in the overall standing of Indiana's electric DSM efforts compared to other states. This Order will discuss the issues presented in this proceeding in the following manner: (1) Steps to Ensure Increased DSM Efforts; (2) DSM Program Evaluation and Creation of a DSM Database; (3) Ratemaking and Cost Recovery Issues; (4) Smart Grid Issues; and (5) Next Steps.

3. **Establishing Policy Objectives and DSM Goals.**

A. **Consideration of the Broader Benefits of DSM Programs and Policy Priorities.**

(i) **Direct Testimony.**

Utility Group. The Utility Group testified that the Phase II Report provided a succinct statement of the DSM policy objectives that should be established as a result of the input obtained through the Technical Workshops in this proceeding. The Phase II Report stated that

5. In its Phase I Order in this Cause the Commission found that Phase II of this proceeding can appropriately be limited to electricity and steam providers in the State of Indiana. *See*, Phase I Order at 35.

6. The method of participation by the Respondents to this proceeding, as either being referred to as Respondents or Intervenors for discussion purposes in this Order, does not modify applicable Commission jurisdiction over any of these entities.

"it remains essential to establish a consistent, statewide framework to guide electric DSM initiatives and ensure the cost-effective and equitable use of ratepayer resources." Phase II Report at 2. The Utility Group agreed that Indiana policy should encourage the offering of similarly designed, cost-effective core DSM programs to the Utility Group's customers.

The Utility Group noted that in recapping the DSM policy discussion that occurred during the first workshop, Energy Center identified four DSM policy priorities: (1) reduce customer energy costs; (2) ensure cost-effective DSM efforts; (3) allow for balance/flexibility over time (i.e., program design proposals that recognize specific attributes of each utility's service territory as well as changing conditions); and (4) establish clear and consistent rules for utilities. Second Workshop Summary, App. G, at 9. The Utility Group agreed that these priorities should guide the long-term scale and scope of DSM efforts. Joint Exhibit 1 at 7.

The Utility Group noted that based on workshop discussion, Energy Center identified six areas where consistency in approach should be a priority:

(1) Standards for rebate eligible equipment;
(2) Offerings for retailers and trade allies;
(3) Advertising/ promotion;
(4) Education;
(5) Reporting; and
(6) Evaluation, Measurement & Verification.

Id. at 12.

The Utility Group concurred that a consistent approach in these areas should improve the ability to offer cost effective DSM programs that leverage utility experience, relationships, and resources. Moreover, costs in areas such as Evaluation Monitoring & Verification ("EM&V") should be reduced by the development of a consistent approach.

The Utility Group agreed that in assessing DSM cost effectiveness, "a variety of analytical approaches" should be used. *See,* Phase II Report at 5. The Utility Group noted that while the Phase II Report recognized that consistency is important, it indicated that this approach should not be blindly applied to eliminate the ability of utilities to consider relevant factors such as market demographics, avoided cost differences, past DSM experience and existing trade ally relationships that can drive reasonable decision-making in terms of how best to achieve energy efficiency. *Id.* at 9.

Electric Cooperatives. Witness Kiess testified that while certain goals and objectives such as reducing energy costs and ensuring the cost-effectiveness of DSM efforts are important common goals, the electric cooperatives believe that such goals should be utility specific and reflect past spending on DSM efforts as well as prospective opportunities for reducing energy costs and energy consumption. Kiess Direct at 4. Mr. Kiess further testified that differing levels of commercial and industrial customers among electric utilities may require substantially different goals. *Id.*

OUCC. Witness Paronish testified that the future success of DSM within Indiana is dependent upon the Commission's institution of clearly defined policies establishing the framework of rules for DSM within all jurisdictional utilities. Paronish Direct at 4.

Industrial Group. Witness Phillips testified that the overarching policy objective and DSM goal should be to reduce energy costs for Indiana consumers. Phillips Direct at 6. Mr. Phillips stated that the focus of the policy discussion should be on defining appropriate incentives in order to have people change their behavior, rather than the amount of money spent statewide on energy efficiency efforts. *Id.* at 7. Mr. Phillips further stated his belief that greater efficiencies could be achieved through tariff-based DSM with no additional costs to ratepayers. *Id.*

Wal-Mart. Witness Baker testified that the Commission should take into consideration the varying interests and needs of each customer class in creating a DSM program that benefits customers in the most cost-effective manner. Baker Direct at 4. Mr. Baker further recommended that the Commission consider the opportunities provided by non-utility third parties to offer innovative and viable DSM tools to customers, including larger commercial and industrial customers. *Id.* at 5. Mr. Baker indicated that these third parties could provide tailored programs and take on the costs and risks associated with serving their individual customers without the need for ratepayer funds. *Id.*

Mr. Baker also stated that in establishing policy objectives and overall goals the Commission should consider the role and ability of end-use customers to achieve these goals on their own with or without the need for utility programs. *Id.* at 6. Mr. Baker stated that the Commission should focus on allowing opportunities for innovative and creative DSM programs that promote cost-effectiveness and ease of participation while reducing impediments and complexities that discourage end-user participation. *Id.* Mr. Baker identified several such impediments, including (1) complex and burdensome applications to fill out and file; (2) varying programs among various Indiana utilities, with different participation criteria and benefits; (3) mandatory participation requirement regardless of a customer's needs or interests; (4) DSM programs that mask the economic benefit of end-user participation; and (5) a DSM program that hinders or discourages a customer's own self-directed DSM efforts in order to promote a utility sponsored program. *Id.* at 6-7.

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group noted that the OUCC's direct testimony generally reflects a view of future DSM policy objectives and goals that are consistent with the Utility Group's positions and the recommendations set forth in the Phase II Report. Joint Exhibit 2 at 2. The Utility Group further indicated that the Industrial Group wants DSM to be pursued only if it can be a cost-free resource. *Id.* at 3. Thus, apart from support for rate design that includes dynamic pricing and interruptible rates; the Industrial Group opposes timely recovery of any DSM costs. *Id.* The Utility Group asserted that the Industrial Group ignored not only the inherent difference between investments in supply-side resources, which generate returns over time, and DSM, which reduces earnings and harms cash flow, but also the fact that those differences are already recognized in the Commission's DSM Rules. *Id.* at 3-4. The Utility Group also opined that the Industrial Group's position ignored the Energy Independence and

Security Act of 2007 ("EISA") and the American Recovery and Reinvestment Act of 2009 ("ARRA"). The Utility Group noted that this investigation was commenced to identify opportunities to advance utility-sponsored DSM in Indiana. The Utility Group concluded that cost-effective utility-funded DSM programs together with timely ratemaking treatment for all costs are essential to grow and drive DSM and energy efficiency in Indiana. *Id.* at 4.

B. Consideration of the Steps Necessary to Address Issues Regarding Low Achievement and Spending Levels on DSM in Indiana.

(i) Direct Testimony.

Utility Group. The Utility Group testified that Indiana has in place a regulatory framework that supports DSM efforts. They stated that the Integrated Resource Planning ("IRP") process and Certificate of Public Convenience and Necessity ("CPCN") statute, together with the Commission's DSM Rules, provide the framework to fairly consider DSM as a resource in the utility planning process. Joint Exhibit 1 at 9. The Utility Group noted that as reflected in the EISA, support of appropriate cost recovery and incentive mechanisms is an important part of fostering successful efforts to transform the market and drive sustainable efficiency efforts. The Utility Group noted that as a matter of policy (as reflected in the Commission's DSM Rules), a regulatory framework is required to "eliminate or offset regulatory or financial bias against DSM." *See*, 170 IAC 4-8-3(a). The Utility Group asserted that the Commission's DSM Rules provide the basis for the Commission to create a sound regulatory framework that promotes DSM as a priority resource. *Id.* at 10

The Utility Group agreed with the Phase II Report that energy saving goals make more sense than spending goals, and that utility-specific goals are preferable to a statewide goal because specific goals can be linked to specific market potential studies, past DSM experience within service territories, and customer rate impacts. *Id.* at 11.

The Phase II Report recommended retention of the linkage between the IRP process and DSM goal setting, planning and design. *Id.* The Utility Group was not opposed to this recommendation with the clarification that the approval or establishment of goal setting for each utility should not be handled within the IRP filing. *Id.* The Utility Group noted that the IRP provides a periodic opportunity to review DSM cost effectiveness, consider EM&V results and any new market studies, balance DSM with other potential resources in light of updated cost impacts, consider environmental regulations and other pertinent factors, and, as necessary, update DSM goals to reflect the IRP modeling. *Id.* The Utility Group stated that the Commission's review and approval of individual utility's DSM plans and budgets represents a reasonable approach. They noted that members of the Utility Group have relied or will rely on market potential studies and cost-effectiveness modeling to design and/or improve DSM programs. *Id.*

The Utility Group explained that IRP modeling of DSM and energy efficiency programs is a complex process. They asserted that the complexity of the IRP model does not lend itself to evaluating each and every energy efficiency measure or program for cost-effectiveness. They stated that the number of alternatives involved would be prohibitive to a timely running of the

IRP model. The Utility Group noted that the selection criteria for DSM first involves the evaluation of each measure and program using broader cost effectiveness tests including the Utility Cost Test; Total Resource Cost Test; Participant Cost Test, and Ratepayer Impact Measure test. *Id.* at 13 -14.

The Utility Group concluded that use of the IRP process, an ongoing collaborative process, and increased data reporting resulting from more consistent EM&V, in addition to implementation of appropriate rate design and cost recovery mechanisms, will serve the objectives and goals established in this proceeding. *Id.* at 14.

Electric Cooperatives. Witness Kiess stated that it is difficult to address low DSM achievement or spending levels without knowing additional details. In addition, according to Mr. Kiess, actions taken by wholesale suppliers that are outside the control of the electric distribution cooperative or the existence of a single large industrial load located on a small electric utility can skew overall statistical results. Kiess Direct at 5. Mr. Kiess testified that if accelerated DSM achievement is important to the electric cooperative's membership, then the democratic processes imbedded in the organizational structure should eventually cause sufficient change without imposing financial sanctions on the ratepayer. *Id.* at 5.

OUCC. Ms. Paronish made a number of recommendations to address issues regarding low achievement and spending levels on DSM in Indiana. First, Ms. Paronish testified that each utility implementing DSM programs must conduct a Market Potential Study ("MPS") to understand the technical, economic and achievable DSM potential of each customer sector within its service territory, and that savings goals be established based on the MPS results. Paronish Direct at 6. Second, Ms. Paronish recommended that programs be selected and designed to encourage participation by consumers, and that budgets be set to ensure DSM programs can be successful, while being mindful of the impact on ratepayers. *Id.* Finally, Ms. Paronish stated that the OUCC supports a process whereby the utilities' respective IRP is used to drive DSM decisions. *Id.* Ms. Paronish agreed with the Phase II Report's recommendation that DSM be treated as an output of the IRP modeling process, as opposed to serving as a pre-determined input which serves to reduce the utility's projected load. *Id.* Ms. Paronish stated that both the IRP and MPS are resources which should be used to inform the DSM decision-making process as part of a utility's least-cost planning strategy. *Id.*

Industrial Group. Mr. Phillips stated that spending levels do not necessarily correlate to the level of energy efficiency achievement, and thus recommended the use of tariff-based approaches over DSM programs and incentives. Phillips Direct at 10. Mr. Phillips stated that adding utility-sponsored DSM programs and related incentives that will increase costs to consumers would undermine DSM activities by customers. *Id.*

C. Consideration of the Means to Address the Inconsistent Patchwork of DSM Programs in Indiana.

(i) Direct Testimony.

Utility Group. The Utility Group testified that it is supportive of a more consistent approach to DSM in Indiana, particularly as to planning and program design and implementation. Joint Exhibit 1 at 15. The Utility Group stated that currently there is no intended standardization in the evaluation of program results and regulatory reporting, but stated that it is willing to work together to develop a consistent approach for these items. *Id.* at 16. The Utility Group cautioned that customers lose opportunities if there are overly standardized program offerings and approaches because the utilities have developed relationships with their customers and service territory differences. *Id.* at 17. The Utility Group stated that it is imperative that utilities have flexibility in program offerings and have the ability to adjust those offerings as the utilities develop field experience. *Id.*

Municipal Utilities. Mr. Schrader stated that the process recommended in the Phase II Report appears to be directed to investor-owned electric utilities, such as using the IRP process to develop DSM goals. Schrader Direct at 9. He explained that municipal utilities are not subject to the IRP process and that requiring them to go through the energy savings goal process would be difficult if not impossible and costly. *Id.* Mr. Schrader testified that jurisdictional municipal electric utilities should have the option of offering some or all of the core DSM programs, as well as having the opportunity to participate in an Oversight Board. *Id.* at 7. Mr. Schrader stated that providing jurisdictional municipal utilities with the same option as non-jurisdictional municipal electric utilities would not significantly contribute to an "inconsistent patchwork" of DSM programs in Indiana. *Id.* at 15-16.

Electric Cooperatives. Mr. Kiess testified that Indiana's approach to DSM should not be "one-size fits all" but rather that utilities should be able to customize program offerings according to geography, customer base, customer density, the timing and magnitude of capacity needs and the entity's historical program offerings. Kiess Direct at 6. Mr. Kiess stated that utilities should be allowed to opt into collaborative bodies if it makes sense for the utility. *Id.*

OUCC. Ms. Sumner testified that the OUCC supports the offering of common core programs by all jurisdictional utilities to ensure that all jurisdictional ratepayers have the ability to access basic energy efficiency programs regardless of their service provider or geographic location. Sumner Direct at 3. Ms. Sumner stated that all utilities should offer lighting, audit and low-income weatherization programs, along with related outreach and consumer education. *Id.* Ms. Sumner stated that education and outreach efforts for core programs should be coordinated by utilities in order to take advantage of mass marketing opportunities, potentially increasing the cost-effectiveness of those efforts. *Id.* at 4. Ms. Sumner suggested that this coordination could take place through the Statewide DSM Strategy Committee described in the direct testimony of Ms. Paronish. *Id.*

Industrial Group. Mr. Phillips stated that a one-size fits all approach does not work well with regard to industrial customers because they are sophisticated users of energy who prefer to conduct their own energy efficiency programs. Phillips Direct at 12.

Wal-Mart. Wal-Mart witness Baker requested that the Commission consider the varying interests and needs of each customer class in creating a DSM program that best benefits customers in the most cost-effective manner. Baker Direct at 4. In establishing policy objectives and overall goals, Mr. Baker also stated that the Commission should consider the role and ability of end-use customers to achieve these goals without the need for utility programs. *Id.* at 6. Mr. Baker stated that the Commission should focus on allowing opportunities for innovative and creative DSM programs that promote cost-effectiveness and ease of participation while reducing impediments and complexities that discourage end-user participation. *Id.* Mr. Baker agreed that a general consistent statewide approach of encouraging DSM programs is an appropriate means to proceed. *Id.* at 7.

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group reaffirmed its support for core programs that utilities could customize to accommodate unique characteristics of individual service territories. Joint Exhibit 2 at 4-5. The Utility Group stated that a coordinated approach to marketing and implementation can be coordinated within the context of the Working Group. *Id.* at 5.

Municipal Utilities. Mr. Schrader testified that it would be difficult, or impossible, for the Municipal Utilities to participate in the recommendations presented by certain parties. Schrader Reply at 2. According to Mr. Schrader, requiring Market Potential Studies; requiring Municipal Utilities to use the IRP process to drive DSM decisions; establishing utility-specific oversight boards; and, having IMPA serve as the representative of all Municipal Utilities on the DSM Statewide Strategy Committee, would result in significant costs. *Id.* at 4-7.

D. Development of "Best Practices" and Uniform Program Offerings.

(i) Direct Testimony.

Utility Group. The Utility Group agreed with the Phase II Report recommendation that all Indiana customers should have the opportunity to participate in DSM programs and encouraged broader participation in core programs that are adopted. Joint Exhibit 1 at 17-18. The Utility Group stated its support for a coordinated approach to marketing and implementing the recommended programs. *Id.* at 18. The Utility Group expressed concerns about the interaction between a core set of programs and utility specific programs regarding attribution of program impacts. *Id.* The Utility Group stated that attribution is an issue in terms of a utility meeting its specific target goals and for the calculation of lost revenues and incentives. *Id.* The Utility Group recommended that the development of best practices should be taken up in the Working Group. *Id.*

Municipal Utilities. Mr. Schrader testified that jurisdictional municipal electric utilities should not be treated differently from municipal electric utilities which have withdrawn from the Commission's jurisdiction because there is little or no distinction that justifies treating them differently with respect to offering standardized DSM programs. Schrader Direct at 7. Mr. Schrader testified that jurisdictional municipal utilities should continue to have the option to offer core and other DSM programs in their respective service territories under the direction of their Boards and municipal legislative bodies. *Id.*

Electric Cooperatives. Mr. Kiess emphasized the need for flexibility and customization of DSM offerings according to geography, customer base, customer density, the timing and magnitude of capacity needs and the entity's historical program offerings. Kiess Direct at 6. He stated that although some programs may offer benefits from a collaborative approach, utilities should be allowed to opt into those collaborations on a case by case basis. Mr. Kiess recommended avoiding a "best practices" administrative approach, as what may make sense for a highly dense, highly industrial utility may make little economic sense to a rural, low density, highly residential utility. *Id.*

OUCC. Ms. Paronish testified that there should be a core set of programs offered across all utilities within the state. Paronish Direct at 4. Ms. Paronish also recommended that, in addition to these core programs, utilities should have the flexibility to offer additional programs within their service territory that have been shown to be both successful and cost effective. *Id.* Ms. Paronish recommended that the core DSM program offerings include an educational component in addition to lighting, audits, and low-income weatherization programs. *Id.* at 4-5. Ms. Paronish further recommended that all customers should have the opportunity to participate in DSM programs, although consideration of an opt-out for certain sectors such as large industrial facilities is worthy of discussion through the Statewide DSM Strategy Committee, discussed elsewhere in her testimony. *Id.* at 5. Ms. Sumner stated that the identification of best practices will come primarily through the use of a statewide database and common reporting metrics. Sumner Direct at 4. She also recommended the establishment of an annual statewide DSM forum. *Id. at 5.* She stated that an annual forum would allow jurisdictional and non-jurisdictional utilities to present their program results to other companies and interested stakeholders and would facilitate the exchange of ideas. *Id.*

Industrial Group. Mr. Phillips noted that large customers frequently prefer to conduct their own energy efficiency programs based on the complete energy usage characteristics of their unique manufacturing operations. Phillips Direct at 12. Mr. Phillips recommended that if the Commission determines that ratepayer-funded programs should also be offered to industrial customers, they should be done so on a voluntary or opt-in basis. *Id.* at 11. Mr. Phillips stated that this opt-in approach ensures that the programs bring value in comparison to the other available alternatives, and do not simply serve as a profit center for utilities. *Id.* Mr. Phillips further stated that energy policies that require industrial customers to essentially become "free riders" of utility programs are counter-productive, wasteful and would risk having large industrial customers shift away from voluntary, self-directed investments in energy efficiency. *Id.* at 13.

Wal-Mart. As to consistent statewide programs, Mr. Baker stated that Wal-Mart is opposed because such consistency would prevent innovation in developing DSM programs that can be targeted to meet specific customers' needs and limit options to participate in regional programs. Baker Direct at 7.

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group stated its support for a statewide database, but disagreed with the OUCC that programming should come primarily through the use of a statewide database. Joint Exhibit 2 at 5. The Utility Group testified that its members should have the ability to offer other programs that might vary by utility so that individual utilities are able to engage in ongoing refinement of portfolios to best meet the needs of their customers. *Id.* The Utility Group stated that an annual DSM forum is unnecessary given that the Working Group will be a forum to share ideas and strategies. *Id.* at 6.

Municipal Utilities. Mr. Schrader testified that the Municipal Utilities disagree with the Utility Group and the OUCC's general recommendation that the Commission should require jurisdictional and possibly non-jurisdictional municipal utilities to implement DSM programs in the same manner and scope as the five investor-owned electric utilities because it would be difficult for the Municipal Utilities to implement. Schrader Reply at 1. Mr. Schrader recommended that jurisdictional and non-jurisdictional municipal electric utilities continue to have the option to offer DSM programs without being subject to a mandate. *Id.* at 3. He also stated that the Municipal Utilities should have the option to participate in any collaborate group that is established in this proceeding. *Id.*

E. Consideration of a Delivery Mechanism(s) to Ensure a Uniform Offering of DSM Programs on a Statewide Basis Including the Feasibility and Associated Costs and Benefits of a Statewide Third Party Administrator.

(i) Direct Testimony.

Utility Group. The Utility Group agreed with the Phase II Report that the Utility Model is the best approach for expansion of electric DSM initiatives in Indiana. Joint Exhibit 1 at 19. The Utility Group stated that customers will benefit the most from jurisdictional utilities taking the lead on delivery of programs. *Id.* The Utility Group expressed its hope that its members will start offering programs with improved design this year and that obtaining experience with these programs will lead to progress on coordination and development of best practices. *Id.* The Utility Group stated that the development and implementation of infrastructure to deliver programs would require time and planning and is not cost-effective. *Id.*

Electric Cooperatives. Mr. Kiess stated that the use of a third-party administrator is not necessary or appropriate. Kiess Direct at 6. He stated that, to the extent hands on administration is necessary; it should be accomplished by the utilities or the Commission. *Id.*

OUCC. Ms. Sumner testified that the Statewide Strategy Group, discussed in detail in the direct testimony of Ms. Paronish, and the individual utility Oversight Boards should play a key role in planning and oversight functions. Sumner Direct at 6. She stated that program management and delivery should be the responsibility of the utility and that EM&V should be performed by an independent third party. *Id.*

Industrial Group. Mr. Phillips testified that funds provided by utilities for energy efficiency programs often impose an effective cost of capital that exceeds the larger business customers' capital costs because the effective cost of capital in rates includes the administrative costs of energy efficiency programs, incentives to other customers, and utility incentives. Phillips Direct at 12. He opined that the end result is that the most cost-effective energy efficient opportunities are displaced by less cost-effective measures with higher capital costs. *Id.*

Wal-Mart. Mr. Baker requested that the Commission consider the opportunities provided by non-utility third parties to offer DSM tools to customers, including larger commercial and industrial customers. Baker Direct at 5. Mr. Baker indicated that these third parties could provide tailored programs and take on the costs and risks associated with serving their individual customers without the need for ratepayer funds. *Id. at 5.* Mr. Baker testified that utility-sponsored programs are not necessary in order for Wal-Mart to deploy its energy efficiency and DSM technologies. *Id.* at 9. He stated that many energy efficiency opportunities continue to exist for large customers and those opportunities should be delivered to customers through the competitive energy services market. *Id.* at 9.

F. Consideration of the Various Administrative Models Including: (1) Utility Led Model; (2) Third Party Model; (3) Public Sector Model; and (4) Hybrid Model.

(i) Direct Testimony.

Utility Group. The Phase II Report indicated that "one example of the research that has been done on this issue, a recent analysis by the American Council for an Energy-Efficient Economy ("ACEEE") examined fourteen top-performing states in terms of energy efficiency achievement, and concluded that the administrative model for DSM program delivery is not an important factor in determining success." Phase II Report, page 12. The Phase II Report also stated that "the utility model represents the best approach for expansion of electric DSM initiatives in Indiana. A utility-administered model allows flexibility in terms of program design, so that offerings can be tailored to meet the needs of individual service territories. A utility-administered model will also effectively leverage past efforts and successful existing programs." Phase II Report, at 13. The Utility Group concurred with these recommendations.

OUCC. Ms. Sumner stated that program administration and delivery can be broken down into several functional activities, including planning and oversight, program management, program delivery and program evaluation. Sumner Direct at 5. Ms. Sumner recommended that planning and oversight be accomplished through a Statewide DSM Strategy Committee and individual utility-specific Oversight Boards proposed by the OUCC. *Id.* at 6. Ms. Sumner pointed out, however, that authority for formal regulatory oversight exists with the Commission and that IRPs should be completed by individual utilities and submitted to the

Commission for review. *Id.* Ms. Sumner testified that utilities should remain responsible for program management and delivery, although they may choose to contract with third parties for some aspects of DSM program delivery. *Id.* Program evaluation, on the other hand, should be performed by an independent third party to ensure that results remain unbiased, particularly where utilities may be eligible for performance incentives. *Id.*

Wal-Mart. Witness Baker testified that the Commission should consider administrative models that allow for the participation of non-utility third parties in DSM programs and regional markets, or other market solutions to achieve Indiana's DSM policy goals. Baker Direct at 10. Mr. Baker stated that non-utility third parties would increase participation by commercial and industrial customers and would allow for the tailoring of services to meet specific customer needs that may not be address in utility-sponsored DSM programs. *Id.* Mr. Baker noted that utility-sponsored programs are not necessary for many larger commercial and industrial customers, as those customers will undertake self-directed efforts or seek market solutions to employ cost-effective energy efficiency and DSM technologies in their facilities. *Id.* at 9.

G. Consideration of the Possible Development of an Oversight Board Consisting of Jurisdictional and Non-Jurisdictional Electricity Providers to Oversee the Development of a Uniform Statewide Strategy With Respect to DSM Programs in Indiana.

(i) Direct Testimony.

Utility Group. The Utility Group recommended that a statewide collaborative Working Group made up of jurisdictional and non-jurisdictional electricity providers in Indiana could work toward developing strategies in the areas of technology research, market assessments and potential studies, DSM goals, program design, implementation, and program evaluation. Joint Exhibit 1 at 22. Such a group, which would have representatives of all utilities as well as the Indiana Office of Utility Counselor and the Indiana Utility Regulatory Commission, would be utilized as a forum for reaching consensus or advising on a variety of DSM issues impacting utilities throughout the state. *Id.*

The Utility Group disagreed with the Phase II Report recommendation that a single oversight body for electric DSM initiatives is appropriate. Id. at 23. The Utility Group asserted that statewide strategies and policies can emanate from the Working Group. *Id.* However, if a member of the Utility Group has agreed to establish a collaborative body or an oversight board to work with the utility in implementing its specific portfolio of programs, that collaborative body or oversight board should continue to function as intended. *Id.*

While the Working Group would be an important tool in achieving the goal of a consistent approach to electric DSM in Indiana, it also leaves individual utilities with flexibility, accountability and discretion regarding its own programs. The Utility Group recommended that the Working Group meet as often as quarterly and provide a forum for the discussion of market assessment or potential studies, funding levels and EM&V results; provide a mechanism for developing state-wide strategies; and design a core set of programs. *Id.* at 23-24.

Municipal Utilities. Mr. Schrader testified that jurisdictional municipal electric utilities should have an opportunity to participate in an Oversight Board. Schrader Direct at 16-17. Mr. Schrader believed that it would make more sense for just a few representatives of the municipal electric utilities to participate in Oversight Board meetings, rather than having representatives from each of the sixteen jurisdictional municipal electric utilities. *Id.* at 17.

Electric Cooperatives. Mr. Kiess stated that the electric distribution cooperatives already have oversight processes in place through the boards of directors elected by their member consumers. Kiess Direct at 6. Thus, Mr. Kiess did not believe an Oversight Board would be appropriate. *Id.* Mr. Kiess pointed out that the oversight boards which made presentations during the technical conferences were the product of settlements of specific cases, and thus the participants in those oversight processes were voluntary participants. *Id.* Mr. Kiess expressed concern about the imposition of one or more oversight boards on involuntary participants, and stated that adding a separate oversight board function on electric cooperatives is duplicative and simply an unnecessary cost that need not be imposed on their member customers. *Id.*

OUCC. Ms. Paronish stated that program oversight should consist of a two-pronged approach, including a Statewide DSM Strategy Committee and Oversight Boards for each jurisdictional utility. Paronish Direct at 7. Ms. Paronish envisioned the Statewide DSM Strategy Committee being dedicated to building consensus on DSM-related matters to expand the availability of DSM programs, promote knowledge sharing, and provide a forum for utilities to work collaboratively to improve DSM offerings. *Id.* Ms. Paronish suggested that voluntary membership be offered to a number of entities, including the OUCC, the Commission, the investor-owned electric utilities, and that the Committee report on at least a quarterly basis to the Commission. *Id.* Ms. Paronish further suggested that the Committee make recommendations to the Commission on a number of matters, including EM&V metrics, DSM Database inputs, creation/elimination of Core Programs, establishment of MPS intervals, standardization of cost recovery methodology and DSM best practices. *Id.* at 7-8. Ms. Paronish indicated that the Commission would retain jurisdiction over all functions of this Committee as well as approval of any of its recommendations. *Id.* at 8.

With respect to the individual utilities, Ms. Paronish recommended that the Commission order the formation of individual, utility-specific Oversight Boards similar to those established in previous gas utility energy efficiency cases. *Id.* at 9. Those boards would include voting members who would monitor program progress, determine program effectiveness, and make decisions regarding program creation, modification, funding, and discontinuation. *Id.* Ms. Paronish stated that these boards are necessary in order to provide other stakeholders, including the OUCC, an opportunity to have input on program operations and evaluation. *Id.*

Ms. Sumner testified that education and outreach efforts for core programs should be coordinated by utilities in order to take advantage of mass marketing opportunities. This coordination could take place through the Statewide DSM Strategy Committee discussed by Ms. Paronish. She also recommended the creation of an annual statewide DSM forum to allow jurisdictional and non-jurisdictional utilities to present program results to other companies and interested stakeholders. Ms. Sumner stated that the Statewide DSM Strategy Committee and the

individual utility-specific Oversight Boards should play a key role in the planning and oversight functions. Sumner Direct at 6.

Wal-Mart. While Witness Baker did not take a position on what type of entity should oversee DSM programs, he did state that any oversight should be performed in a manner that is neutral and consistently applied to all cost-effective utility sponsored DSM programs, and that the oversight should be provided through the most cost-effective method possible. Baker Direct at 10.

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group noted that OUCC Witnesses Sumner and Paronish recommended a "Statewide DSM Strategy Committee" with representatives from jurisdictional utilities, the OUCC and other interested parties, which is comparable with the "Working Group" suggested by the Utility Group. Joint Exhibit 2 at 6-7. The Utility Group stated that the Working Group provides an appropriate mechanism to achieve most of the same goals advocated by the OUCC. The Utility Group testified that the Working Group provides an appropriate forum for sharing of ideas and strategies in the areas of technology research, market assessment and potential studies, DSM goals, program design and implementation, and program evaluation. *Id.* at 7. The Utility Group asserted that the Working Group could be utilized as a forum for reaching consensus on a variety of DSM issues impacting utilities throughout the State. In this structure, decisions would remain with the utility and be subject to Commission jurisdiction. *Id.* The Utility Group cautioned that the term "Statewide DSM Strategy Committee" could suggest that control is being shifted from the utilities and the Commission to the Committee. *Id.* The Utility Group noted that the precise nature of this role is undefined. Furthermore, the Utility Group asserted that DSM/Energy Efficiency ("EE") planning is only one part of the integrated resource planning and utility management. Decisions regarding DSM/EE necessarily involve cost/benefit analysis, financing, and other issues, and many of these issues extend beyond the expertise of personnel experienced in DSM/EE programs. *Id.*

The Utility Group testified that although all of the utilities are committed to collaborating with stakeholders, each utility may approach that responsibility in a different way. *Id.* at 14. They noted that ultimately each utility is responsible for management of its utility service to customers, including programs and initiatives related to DSM and needs flexibility to carry out its responsibility. *Id.* The Utility Group concluded that the Working Group provides a mechanism for coordinated feedback from the various stakeholders without limiting each individual utility's ability to manage its own programs and process. *Id.* They stated that the Working Group structure can improve consistency and identify best practices without shifting the decision-making responsibility away from the utility and the Commission. The Utility Group also noted that although some utilities may choose to utilize an oversight board to provide input into the implementation and oversight of Commission-approved DSM programs, other utilities may choose to utilize other mechanisms, including the Working Group, for direction related to its DSM programs. *Id.* at 13-14.

Municipal Utilities. Mr. Schrader testified that the structure of the individual utility oversight boards could be cumbersome and expensive Schrader Reply at 6. However, Mr. Schrader recommended that all jurisdictional and non-jurisdictional municipal electric utilities be given the option to participate on any Working Group or DSM Strategy Committee if they choose to do so. *Id.* at 7.

Industrial Group. Regarding an "opt-in" versus an "opt-out," Mr. Phillips testified on behalf of the Industrial Group that he favors an opt-in provision. According to Mr. Phillips, the issue is straightforward and should be decided by the Commission as part of the proceeding and not left to the Working Group. Phillips Reply at 7.

H. DSM Program Evaluation and Creation of a DSM Database and Consideration of the Development of a Framework for the Evaluation of DSM Programs and Consideration of the Possible Development of a Uniform Energy Efficiency/Demand Side Management Database.

(i) Direct Testimony.

Utility Group. The Phase II Report recommended that the Commission develop a formal framework to guide future evaluation activities in Indiana. The Utility Group recommended that a subgroup of the Working Group be established to develop the framework, addressing the objectives listed in the Phase II Report. Joint Exhibit 1 at 26. With regard to the recommendation that a DSM Database be maintained, the Utility Group stated that a collaborative process could be utilized to address issues, such as what information should be reported in a DSM database. *Id.* at 27. The Utility Group proposed that the database should be designed by the Commission, with the members of the Utility Group providing the data necessary to populate the database. *Id.*

Municipal Utilities. Mr. Schrader testified that because the jurisdictional municipal electric utilities do not participate in the IRP process, the proposed energy savings goal setting process described in the Phase II Report would be difficult, if not impossible, for them to implement. Schrader Direct at 10. Mr. Schrader stated that, at a minimum, establishing a two-year cycle for goal setting and Commission review would be extremely costly for municipal utilities, more so than for investor-owned utilities which already participate in the IRP process. *Id.* Mr. Schrader further testified that, unlike the investor-owned electric utilities, the municipal electric utilities generally do not undertake extensive evaluations of the DSM programs that they may offer. *Id.* at 14-15. Mr. Schrader concluded that if the evaluation recommendations from the Phase II Report were applied to jurisdictional municipal electric utilities, they would result in significant new costs being imposed on those utilities and ultimately their customers. *Id.* Mr. Schrader testified that smaller utilities may not have the resources to conduct extensive evaluations of their service territories and DSM programs. Therefore, Mr. Schrader believed that a DSM Database could be very helpful to both jurisdictional and non-jurisdictional municipal electric utilities. *Id.* at 16.

Electric Cooperatives. Mr. Kiess expressed agreement with the Phase II Report's recommendation of a periodic review of goal setting and progress review, but stated that the two year goal-setting cycle identified in the Phase II Report is short-sighted and inappropriate in the context of integrated resource planning. Kiess Direct at 5. Mr. Kiess noted that the development and implementation of an effective DSM program may require electric cooperatives to work with and through their generation and transmission provider. *Id.* Mr. Kiess believed that DSM efforts are most effective when the gains are incorporated into an IRP. *Id.* Mr. Kiess stated that incorporating specific quantities of measures into the IRP provides an opportunity for goal-setting, but that this process would add layers of complexity that the various stakeholders must navigate, and such navigation may be time consuming. Mr. Kiess suggested that periodic reviews, perhaps by way of rate cases or other proceedings before the Commission, could be the vehicle for assessing the effectiveness of a particular utility's DSM efforts. *Id.* The Electric Cooperatives strongly supported an initiative to develop a DSM Database, but noted that critical details still needed to be developed. *Id.* at 7.

OUCC. Ms. Paronish noted that the Indiana Administrative Code requires utilities seeking cost recovery, incentives, or lost margins to develop EM&V plans, and that a formal framework needs to be developed to guide future program evaluation for accountability and effectiveness. Paronish Direct at 10-11. Ms. Paronish suggested that the Statewide DSM Strategy Committee develop this framework, including evaluation protocols, inputs and assumptions. *Id.* at 11. Ms. Paronish stated that, at a high level, the framework should contain independent, third-party EM&V administration, consistent evaluation of similar programs using similar metrics and appropriate allocation of EM&V funding. *Id.*

As to EM&V administration, Ms. Paronish expressed the OUCC's openness to exploring different administration models, provided however that certain strict criteria remain in place, including that administrators will have no involvement in program design or delivery and strict evaluation criteria are established to ensure consistency. *Id.* Ms. Paronish indicated that the administrator should be selected through a competitive bidding process with input from the utility-specific Oversight Board and/or the Statewide DSM Strategy Committee. *Id.* at 12.

Ms. Paronish stated that the OUCC favors the use of statewide deemed savings as a basis for determining initial expected results from established programs, and that the Statewide DSM Strategy Committee will work with EM&V administrators to establish initial savings estimates. *Id.* Ms. Paronish further recommended that the International Performance Measurement and Verification Protocol ("IPMVP") serve as the guideline in program evaluation. Ms. Paronish also agreed with the recommendation that EM&V budgets be set at 3 to 6 percent of program costs, and that EM&V budgets should not be allocated evenly across all programs. *Id.* at 13. Ms. Paronish stated that greater EM&V budgets may need to be allocated to less predictable or pilot programs. *Id.*

Industrial Group. Mr. Phillips agreed with the Phase II Report's assessment that it is complicated to discern savings attributable to DSM programs from savings which would have resulted even in the absence of those programs. Phillips Direct at 13. Mr. Phillips opined that utilities should not receive lost margins or incentives based on self-directed customer actions. *Id.* at 13.

Wal-Mart. Witness Baker testified that the Commission's evaluation of DSM programs should focus on the cost-effectiveness of the programs and the degree to which DSM programs are tailored to align the appropriate savings incentive for each end-use customer with the costs of implementing or administering the DSM program. Baker Direct at 10-11. With respect to measurement and verification, Mr. Baker supported a process that is simple to administer and that provides flexibility to customers. *Id.* at 11. For example, Mr. Baker stated that a deemed savings mechanism may be an appropriate means of evaluating the costs and benefits of a DSM program and provides a simple mechanism for a utility, third-party provider or end-use customer to demonstrate their savings associated with installing certain DSM technologies. *Id.*

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group testified that a collaborative Working Group could bring the utilities together with the OUCC and other interested stakeholders to share best practices related to program EM&V. Joint Exhibit 2 at 9. This could include providing recommendations for development of requests for proposals ("RFPs") for specific EM&V administrators that would be selected by the individual utilities. *Id.* The Utility Group noted that to the extent that individual utilities have an oversight board, those boards should be utilized to choose the EM&V administrator as part of that process. *Id.* The Utility Group stated that the benefit of utilizing a Working Group is that it allows stakeholders throughout the State to collaborate on the best mechanism for assessing program performance, but also leaves the individual utilities with the ability to develop, administer, and evaluate programs in the way that best meets their unique needs. *Id.* Furthermore, it would be appropriate for utilities to share the results of the EM&V program through the Working Group because it will provide a means for each utility to strengthen not only its program offerings, but also the EM&V best practices as part of other utilities' programs. *Id.*

The Utility Group noted that the Working Group can provide a forum to share knowledge, promote collaboration, and improve DSM offerings in the State. *Id.* at 9-10. Although some utilities may choose to use an oversight board for program delivery and evaluation, the functions of the oversight board may be different from one utility to the other or the utility may not have an oversight board. *Id.* at 10. Because of this, the Utility Group stated that the Working Group will allow for greater consistency by providing input into the selection criteria of third-party evaluators and also provide a mechanism for utilities to present their results. Along with participating in the Working Group, utilities will seek all necessary approvals from this Commission to implement any changes to their programs. *Id.*

I. Ratemaking and Cost Recovery Issues Including Ratepayer Equity Considerations and Consideration of Additional Matters Identified by the Commission in the Energy Independence and Security Act of 2007, Including Rate Design Issues Associated With the Development of New DSM Programs, and Cost Recovery Issues Generally.

(i) Direct Testimony.

Utility Group. The Phase II report stated that "it is important to offer programs and resources to all customer classes and market segments." Phase II Report, at 23. The Phase II Report also recommended an opt-out provision for customers with peak electric demand of 500 kW and above and recommends that the Commission establish guidelines under which larger customers may opt-out. The Utility Group stated that there is some opportunity for increased DSM, and corresponding energy savings, by working with and offering programs to their largest customers. The Utility Group noted that they do not believe they should be placed in the position of verifying compliance with the opt-out provisions because it creates an administrative burden on the members of the Utility Group and will likely lead to litigated proceedings to determine what qualifies for opt-out treatment. Joint Exhibit 1 at 29.

As reflected in the EISA, the ARRA, and many other recent policy statements, regulation should be modified as necessary to create a paradigm where aggressive and long-term DSM advocacy and initiatives are at least financially equal to other supply side alternatives from a utility perspective. Id. at 31. Such ratemaking eliminates traditional obstacles to DSM where the utility is a financial loser because its recovery of fixed costs is harmed and/or its ability to demonstrate future financial growth for investors is diminished. *Id.* The Utility Group noted that in prioritizing investment in DSM, the EISA and ARRA attempt to address these issues by placing complementary requirements on utilities to promote and prioritize use of DSM, and regulators to modify rate design to align utility incentives with delivery of cost effective energy efficiency. *Id.* at 32.

The Phase II Report noted the existence of the DSM Rules and pending utility proposals and concluded that these issues can and will be considered in utility specific cases. *Id.* The Utility Group was not opposed to the Phase II Report's conclusion that DSM ratemaking/cost recovery issues can be handled in utility-specific proceedings. *Id.* at 33.

Municipal Utilities. Mr. Schrader discussed some of the difficulties associated with timely cost recovery for municipal utilities. Mr. Schrader noted that none of the municipal electric utilities currently utilize DSM tracking mechanisms, likely because the process would be costly and cumbersome. Schrader Direct at 10. Mr. Schrader pointed out that municipal electric utilities, unlike most investor-owned utilities, typically lack sufficient staff with the necessary accounting experience to develop DSM trackers and would therefore need to hire an outside consultant each time the DSM tracker needed to be revised. *Id.* at 11. Approval for a DSM tracker would also require review by the legislative body, the municipal utility's board and the Commission. *Id.* at 11-12.

Electric Cooperatives. Mr. Kiess stated that while DSM offerings can be structured for virtually all market sectors and customer classes, DSM programs should be selected based upon a rigorous investigation of where economically achievable opportunities exist. Kiess Direct at 7. Mr. Kiess also stated that attempts to implement programs in all market sectors simultaneously may present challenges that will impact the success of many of these programs. *Id.* Mr. Kiess testified that for electric cooperatives, a critical factor is the cost to implement and the level of success or benefits that a program may achieve, as consumer members will bear the costs until benefits displace all or a portion of those costs. *Id.* As to cost recovery, Mr. Kiess began by noting that the Phase II Report did not distinguish between the cost of service rate making applicable to electric cooperatives and the rate of return rate making generally applicable to investor-owned utilities. *Id.* at 7-8. Mr. Kiess stated that rate of return DSM incentives and performance incentives provide no value or enhanced recovery for electric cooperatives, underscoring the inappropriateness of a one-size-fits-all approach to statewide DSM programs. *Id.* at 8. Mr. Kiess recommended that, with respect to electric cooperatives, the Commission not address the appropriate timing for recovering costs incurred to create and implement DSM programs, and consider appropriate cost recovery mechanisms on a case by case basis. *Id.*

OUCC. Mr. Foster testified that the OUCC is generally supportive of allocating DSM funding by sector in accordance with the magnitude of energy savings and demand reduction opportunity, as determined through EM&V. Foster Direct at 4. Mr. Foster further testified that all ratepayers should pay their fair share of the cost of DSM programs, since all ratepayers stand to benefit from decreased peak load and rates. Foster Direct at 5. Mr. Foster stated that while opt-outs may be considered, the opt-out criteria should be established by a Statewide DSM Strategy Committee. *Id.* at 5. With respect to electric decoupling, Mr. Foster stated that decoupling has pros and cons, and any proposal to implement electric rate decoupling should be addressed in the context of a base rate proceeding where all issues, including risk and rate of return, are open to evaluation. *Id.* at 6-7. Mr. Foster concluded that utilities meeting the requirements outlined in the Commission's rules should be entitled to recover reasonable costs of planning and implementing DSM programs, provided that the utility maintains satisfactory implementation and completes EM&V activities. *Id.* at 7. Mr. Foster further concluded that the Commission should continue to exercise its discretion with regards to offering lost revenue and shareholder incentives for completion of DSM activities. *Id.*

Ms. Sumner testified regarding performance incentives, and noted that the Commission's administrative rules allow for utilities to earn a performance incentive. Sumner Direct at 7. Ms. Sumner described some of the ratepayer safeguards included in the current rule, including the requirements that savings be reasonably determinable, that load building and load retention programs are ineligible, and that utility DSM programs must include a comprehensive M&V plan. *Id.* Ms. Sumner testified that the OUCC is not opposed to performance incentives provided that the threshold is set high enough as to not incent poor performance, incentives are capped at a level that balances utility and ratepayer interests and performance incentives are symmetrical in that low performance may receive a negative incentive. *Id.* at 7-8. Ms. Sumner further recommended that any performance incentive structure be tiered rather than offering the same incentive regardless of program performance. *Id.* at 8.

Industrial Group. Mr. Phillips stated that DSM costs should be allocated using the well-established principles of cost causation that are applied in allocating other types of costs. Phillips Direct at 25. Mr. Phillips stated that under this approach, customers would only bear the energy efficiency costs associated with programs targeted to their specific customer class. *Id.* Mr. Phillips believed this allocation principle was more equitable than assigning energy efficiency costs to all customers under the presumption that DSM programs uniformly benefit all ratepayers. *Id.* Mr. Phillips stated that direct cost allocation would allow for objective analysis of the root causes of utility expenditures, and would properly recognize that the ratemaking benefits of DSM programs are substantially internalized within each rate class. *Id.* at 26.

Mr. Phillips testified that participation and contributions by large commercial and industrial customers should be voluntary. *Id.* at 14. Mr. Phillips recommended an opt-in approach, rather than the opt-out approach discussed in the Phase II Report, because conditioning opt-out on certain conditions could result in *de facto* regulation of large customers. *Id.* Mr. Phillips cautioned that any opt-out conditions should not require the submission of confidential or business-sensitive information, nor should energy efficiency program designs unduly impair the competitive relationships between a utility's customers by, for example, requiring one competitor to subsidize another. *Id.* at 14-15. Mr. Phillips concluded that large customers who have been successful in implementing energy efficiency programs in the past should not be penalized in relationship to other ratepayers who have not voluntarily implemented energy efficiency efforts, nor should they be allocated "system costs" under the pretense that everyone benefits from the savings from the programs. *Id.* Mr. Phillips noted that the voluntary programs conducted by larger customers also create system benefits, yet those costs are not allocated to other customers. *Id.*

With respect to utility compensation and incentive mechanisms, Mr. Phillips stated that a utility's opportunity to earn a fair rate of return is based on the utility's efficient operation, and if DSM programs are cost-efficient a utility should require no additional incentive for offering the program. *Id.* at 15-16. Mr. Phillips stated that as a matter of policy, the Commission should not allow utilities to use a DSM rider to recover DSM costs on a current basis, as such riders shift regulatory risk from investors to customers, distort price signals, and allow utilities to obtain piece-meal cost recovery outside of a full base rate case. *Id.* at 16. Mr. Phillips thus recommended the Commission reject any proposal to recover DSM expenses through a tracking mechanism, and that any such trackers should be subject to the earnings test. *Id.* at 16-17. For similar reasons Mr. Phillips recommended that the Commission not allow utilities to recover lost revenues through a DSM rider, particularly since lost revenue recovery could make the utility less responsive to the needs of its customers. *Id.* at 19. Mr. Phillips stated that if the Commission does permit utilities to recover lost revenues, such recovery should be limited to declines in electricity sales directly attributable to the implementation of the Commission-approved energy efficiency programs, and such recovery should be offset by avoided variable operation and maintenance costs. *Id.* at 20.

Finally, with respect to financial incentives, Mr. Phillips stated that such incentives go against the legal obligation of the utility to provide service at the lowest reasonable cost, and would be particularly inappropriate if the utility is also allowed to recover lost margin. *Id.* at 21-

22. Mr. Phillips noted in the event the Commission allows utilities to include incentives as a component of DSM, a more balanced incentive structure should be developed which would only reward utilities through a percentage of the verified, net cost savings achieved through such programs. *Id.* at 23. Moreover, Mr. Phillips recommended that a financial incentive only be earned if the utility exceeds 100% of the planned demand and energy savings. *Id.* at 23-24.

Wal-Mart. Witness Baker agreed that, with respect to utility programs, the Commission should consider a system that allows utilities to recover their prudently incurred costs for cost-effective DSM programs. Baker Direct at 11. Mr. Baker indicated that such a cost recovery system should be consistent with general cost-matching principles and should allow DSM program participants the opportunity for self-direction, including measures to opt-out or to participate in rebate programs. *Id.* at 11-12.

(ii) Reply/Responsive Testimony.

Utility Group. The Utility Group stated that all customers should have the opportunity to participate in utility-sponsored programs and that the default position is that a customer is presumed to participate unless a customer that is eligible takes affirmative action otherwise. Joint Exhibit 2 at 15. The Phase II Report provides empirical evidence that larger customers are not pursuing all cost-effective energy efficiency. *Id.* The Utility Group noted that although there is merit to allowing market forces to work, there is an opportunity to leverage a utility's reach and knowledge to provide more options to customers. *Id.* The Utility Group asserted that utilities are in a unique and favorable position to encourage energy efficiency due to their relationship with customers and their role as experts. *Id.* The Utility Group stated that they supported working collaboratively to establish additional programs for industrial customers and agreed that potential customer savings may be sufficient incentive for some customers to pursue voluntary programs. *Id.* They noted, however, numerous existing DSM programs have established that there is greater opportunity for participation with all customer groups through formalized incentives. They testified that in many jurisdictions, advocates of energy efficiency have recognized that economics alone may not be sufficient to encourage customers to invest in energy efficiency because customers typically have competing investment alternatives for limited funds. *Id.*

The Utility Group asserted that the reliance on market forces argument as proposed by Mr. Phillips represents an argument that ignores the increasing emphasis on prioritization of energy efficiency as a means to stem demand growth, increasing costs and carbon emissions. *Id.* at 16. The Utility Group noted that each customer can identify its energy efficiency opportunities but may defer those opportunities due to capital constraints or internal investment payback guidelines. Yet, utility customers as a whole may benefit from assisting such projects, and the policies embodied in the EISA are effectuated. *Id.*

The Utility Group also referred to the Phase II Report, which states that it is important to offer programs and resources to all customer classes and market segments. *Id. citing* Phase II Report at 23. The Utility Group noted that the Phase II Report also recommended an opt-out provision for customers with peak electric demand of 500 kW. *Id.* The Utility Group noted that the Industrial Group is a relatively small fraction of larger customers and does not represent all

larger customers. They opined that the preference of a select few should not dictate to all. *Id.* at 16-17.

The Utility Group explained that in the absence of utility DSM programs, the utility would be allowed to earn a return (incentive) for the construction of new facilities to serve the increase in energy requirements. *Id.* at 18. The Utility Group noted that there is a long history of recognizing that DSM projects by regulated utilities require appropriate incentives, including the National Energy Policy Act of 1992, a 2004 NARUC Resolution that encouraged state commissions to "address regulatory incentives to address inefficient use of gas and electricity" as well as an August 2, 2006, Resolution which supports the Environmental Protection Agency's National Action Plan on Energy Efficiency including "[modifying] policies to align utility incentives with the delivery of cost-effective energy efficiency and modify ratemaking practices to promote energy efficiency investments."[7] *Id.* at 18-19.

The Utility Group noted that the EISA reiterates the importance of removing disincentives and motivating utilities to pursue energy efficiency through incentive mechanisms. *Id.* at 19. The EISA encourages state regulators to "integrate energy efficiency into electric and natural gas utility, State, and regional plans and adopting policies establishing cost-effective energy efficiency as a priority resource." 16 U.S.C. § 2621(d). *Id.* It also should be noted that removal of throughput incentives and use of performance incentives are two separate and complementary pieces to the policy. *Id.* Finally, the Utility Group stated that Section 410 of the ARRA provides that State Energy Efficiency Grants may only be received if the state regulatory authority implements a general policy that ensures that utility financial incentives are aligned with helping their customers use energy more efficiently. *Id.*

The Utility Group noted that Mr. Phillips' testimony regarding the treatment of DSM costs attempts to rewrite the Commission's longstanding rules on the need to provide supportive regulation to place DSM on a more level playing field with other resource options. *Id.* at 20. The Utility Group explained that regulatory policy that supports timely cost recovery through rider and tracking mechanisms, including incentives and opportunities for recouping lost margins will encourage the growth of DSM in Indiana. *Id.* at 20. When a utility implements DSM it: (1) incurs incremental program costs; (2) decreases its revenues; (3) foregoes future revenue growth linked to alternative resource investment; and (4) with reduced cash flow and increased expense, increases its financing requirements and its cost of capital. *Id.*

In further response to Mr. Phillips testimony, the Utility Group noted that there are uncertainties in forecasting and planning as well as introducing programs to the marketplace that would not allow for aggressive DSM efforts to be pursued by utilities if the threshold for an incentive is set too high. *Id* at 26. The Utility Group noted that there are benefits delivered to customers below 100% achievement of goals and if the benefit cost analysis shows the benefits outweigh the costs then an incentive should be allowed. They asserted that a requirement that utilities reach 100% of their target might create an incentive to set less aggressive targets in order to ensure receipt of an incentive. *Id.* Finally, the Utility Group explained that to address the

7. *See*, National Association of Regulatory Commissioners, Resolution on Gas and Electric Energy Efficiency, July 14, 2004; National Association of Regulatory Commissioners, Resolution Supporting the National Action Plan on Energy Efficiency, August 2, 2006.

allocation of DSM costs, one must consider the future avoided cost benefits for all customer classes. The Utility Group asserted that cost recovery should apply a cost and benefit causation approach to DSM cost recovery. Thus, energy related costs should be allocated to classes based upon cost causation and demand related costs allocated to classes based upon cost/benefit. *Id.*

J. Smart Grid Issues Including Consideration of Issues Identified by the Commission in the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007, Including Consideration of New Technologies Such as Automated Metering.

(i) Direct Testimony.

Utility Group. The Utility Group testified that, as recognized in the Phase II Report, "smart grid technologies will likely play an important role in DSM strategies in the future." Joint Exhibit 1 at 34, *citing* Phase II Report, at 27. The Utility Group stated that smart grid technologies and advanced rate design are critical to expanded DSM and investment in the technologies should be encouraged by making timely cost recovery, including incentives and lost revenues available. *Id.* at 34. The Utility Group explained that testing of smart grid technologies is underway in Indiana via pilots but smart grid technologies are still under development. *Id. citing* Phase II Report, at 27. The Utility Group testified that in order to continue the evolution of the use of smart grid technologies and advanced rate design, full and timely cost recovery should be permitted, and that such recovery is consistent with the EISA. *Id.* at 35.

The Utility Group agreed with the strategic approach to smart grid development and broader deployment of advanced rate design set forth in the Phase II Report, provided that the financial impact on the utility is addressed by providing full cost recovery, including recovery of direct and indirect costs, incentives, and lost revenues or other mechanisms to compensate the utility for reduced earnings and the erosion of shareholder value. *Id.* More specifically, the Utility Group recommended that the Commission permit utilities to continue to pilot-test smart grid applications, phase out declining block rates, pursue broader deployment of dynamic pricing structures and conduct research to evaluate customer response to dynamic pricing. *Id.* at 35-36.

Electric Cooperatives. Mr. Kiess testified that implementation of smart grid technology and advanced rate design are critical for many DSM programs, as the smart grid technology enables better measurement and verification of load reduction. Kiess Direct at 8. Mr. Kiess stated that to the extent these load reductions are controllable, measurable and verifiable, the wholesale power markets will be willing to recognize these as tools for which utilities and customers can be rewarded because they avoid the need to construct new generation. *Id.*

OUCC. Mr. Keen testified that the OUCC supports the federal approach, outlined in the Energy Policy Act of 2005 and the EISA, of focusing primarily on functionality rather than specific technology in establishing the expected capabilities of a smart grid system. Keen Direct at 4. Mr. Keen stated that the Commission should not attempt to promulgate rules requiring the use of a specific smart grid technology, but rather should encourage the use of an open-standards architecture to promote compatibility. *Id.* at 18. As to the development of time-based rates, Mr. Keen testified that the Commission should consider a number of issues,

including how to determine whether customers are receiving appropriate price signals, how time-based rate design is used and the manner in which information is relayed to the consumer. *Id.* at 7. Mr. Keen stated that because the adoption of smart grid technology by a customer base potentially produces benefits for all customers, it may be appropriate for all customers to pay for the installation costs of smart meter equipment. *Id.* at 8.

Industrial Group. Mr. Phillips testified that the Commission has another pending proceeding, Cause No. 43580, to consider whether or not to adopt the EISA standards regarding smart grid. Phillips Direct at 27. Mr. Phillips stated that in a prior investigation into dynamic pricing, Cause No. 43083, the Commission declined to adopt the proposed standard due to a lack of foundation of demand response programs in the state, and that the same criticism could be made of smart grid investments now. *Id.* Mr. Phillips therefore recommended that smart grid investments proceed by pilot programs until their benefits are known. *Id.*

Wal-Mart. Mr. Baker testified that from a customer perspective the anticipated direct benefits from the implementation of smart grid technology are reduced energy usage and increased customer management of energy loads. Baker Direct at 12. Mr. Baker stated that to help ensure that customers receive these benefits from smart grid deployment, the Commission should consider attaching some conditions on the development of smart grid technologies. *Id.* More specifically, Mr. Baker recommended that the Commission consider (1) requiring entities implementing smart grid technology to create a plan to incorporate two-way communications in the near term; (2) requiring such entities to implement a collaborative process to create rates that will best serve the needs of both parties; and (3) encouraging an open platform that enables large customers to employ the meter of their choice. *Id.*

(ii) Reply/Responsive Testimony.

Utility Group. In its responsive testimony, the Utility Group testified that a review of the other parties' testimony shows general support, among the witnesses that specifically addressed this issue, for the deployment of smart grid technologies and advanced rate design where appropriate, particularly once benefits from pilot programs are known. Joint Exhibit 2 at 27, *citing* Phillips Direct at 27; Keen Direct at 9; Kiess Direct at 8; Baker Direct at 12. The Utility Group indicated that since, as the Industrial Group Witness Phillips indicated, the Commission is already considering smart grid matters in a separate investigation (Cause No. 43580), the issues raised by the OUCC should be addressed in that Cause. *Id.* at 27. Rather, the Utility Group stated that, in this proceeding, the Commission should (a) recognize the broader principle that smart grid technologies and advanced rate design have a role in future DSM strategies, and (b) acknowledge that full and timely cost recovery should be permitted so that the use of smart grid technologies and advanced rate design will continue to evolve in Indiana. *Id.* at 27-28.

In discussing some of the issues raised by the OUCC's testimony, the Utility Group emphasized that due to the nascent state of smart grid technology, the Commission need not impose requirements or minimum functionality requirements at this time. *Id.* at 28. Instead, the Utility Group recommended that the Commission afford industry the opportunity to resolve some

of these matters, and address these issues in Cause No. 43580 based upon the evidence presented in that docket. *Id.* at 28-31.

In response to Wal-Mart Witness Baker's recommendations, the Utility Group indicated that such rigid new rules should not be imposed. *Id.* at 33. The Utility group stated that while its members welcome customer input, requiring a utility to obtain customer review and/or approval before filing a petition with the Commission would impose an additional cost and could involve significant time commitments. *Id.* Furthermore, the Utility Group noted that because it is not always possible for stakeholders to reach an agreement, collaboration should remain an elective act, not a required part of Indiana's regulatory process. *Id.* Finally, the Utility Group recommended that the Commission reject Mr. Baker's proposal to allow large customers to employ the meter of their choice, as decisions regarding equipment selection must consider other factors beyond customer choice, such as economies of scale and technical requirements, so as to ensure the utility's ability to provide safe, reliable and low cost service to the public. *Id.*

K. Next Steps and Timeline.

(i) Direct Testimony.

Utility Group. The Utility Group stated that initially the key to deployment of many of the suggestions in the Phase II Report is timely implementation of new DSM programs. Joint Exhibit 1 at 36. Much of the best practice suggestions in the Phase II Report will benefit greatly from reviewing data from actual program experience. The Utility Group stated that if programs commence in 2009, then as the Working Group begins the process of considering consistent approaches to EM&V and core programs, the common database can be created and begin to be populated with data from around the State and can be leveraged to provide insight on what is working in Indiana, where improvements will achieve the most savings, and generally educate the Working Group on the current state of energy efficiency in Indiana. *Id.* The Utility Group stated that if pending DSM programs are approved and begin implementation in 2009, progress can be made over the next two years that will enable the following IRP process to reflect more consistent approaches to DSM. *Id.*

Electric Cooperatives. Witness Kiess testified that DSM implementation and planning should be an ongoing matter. Kiess Direct at 8-9. As the Commission discovered in the technical conferences, electric utility attitudes about the implementation of DSM programs have evolved even since the Phase I Report in this Cause. Mr. Kiess testified that the timeline suggested in the Phase II Report may not be achievable by all utilities. In part, implementation and development of plans may be impacted by the availability of federal funds for smart grid implementation. He stated that a two-year cycle for action plans and evaluations may be very aggressive if applied to electric cooperatives. *Id.*

OUCC. Witness Paronish testified that overall, the timeline in the Phase II Report appears to be reasonable. Paronish Direct at 16.

4. **Commission Discussion and Findings**. The testimony presented in Phase II of this proceeding tracks the Phase II Issues List contained in the May 22, 2009 Docket Entry issued in this matter. That Docket Entry also included the Phase II Report prepared by the Energy Center.[8] In order to facilitate our consideration and review of the testimony presented, and the specific recommendations in the Phase II Report, our examination of the issues in this matter tracks the Phase II Issues List. We discuss each of the matters identified on the Issues List as follows:

A. Establishing Policy Objectives and DSM Goals. This topic includes consideration of the broader benefits of DSM programs and policy priorities and consideration of the steps necessary to address issues regarding low achievement and spending levels on DSM in Indiana.

(i) Overview of Recommendations in the Phase II Report.

As discussed in the Phase II Report, articulating a clear set of policy objectives is critical to establishing a successful framework for DSM program delivery in Indiana. Policy objectives accomplish several issues identified in this proceeding including determining whether DSM programs should be geographically uniform across the state, or whether utilities should have the ability to tailor DSM offerings for individual service territories. Phase II Report at 4. Such objectives also guide decisions around market coverage. *Id.* Policy objectives can also address the criteria used to determine the scale and scope of energy efficiency efforts over time and can guide the relative allocation of DSM program resources toward achieving a specified goal such as peak demand reduction versus energy savings. *Id.*

As set forth in the Phase II Report, to shape the direction of DSM initiatives and provide a strong foundation for future expansion, the Energy Center recommends that the Commission articulate a set of overarching policy objectives. *Id.* As further indicated in the Phase II Report, the Commission may wish to emphasize the importance of ensuring that DSM offerings are available to all customer classes and market segments, ensuring that all Indiana energy consumers have the opportunity to benefit from the energy bill reductions that can be achieved through energy efficiency improvements. *Id.* Given the importance to the Commission, and to the Indiana stakeholders, of wise use of ratepayer resources the Energy Center recommends that such policy objectives also address how cost-effectiveness determinations are to be made. *Id.*

In the report referenced and discussed in the Phase I Order in this proceeding (hereinafter referred to as the "Stratton Report" or the "Phase I Report"), the Energy Center noted that Indiana utilities that relied heavily on the Ratepayer Impact Measure test (one of the most restrictive cost-effectiveness tests) tended to have fewer DSM offerings than utilities that employed a variety of benefit-cost tests, such as the Total Resource Cost Test, the Utility Cost Test, and the Participant Cost Test. *Id.* Based on the foregoing, the Phase II Report concludes that the Commission could use a statement of policy objectives to encourage utilities to assess the cost-effectiveness of DSM initiatives using a variety of analytical approaches. In addition, the Commission may wish to use overarching policy objectives to provide guidance on whether

8. In the May 22, 2009 Docket Entry the Presiding Officers advised the parties that the Commission had taken administrative notice of the report pursuant to 170 I.A.C. 1-1.1-21.

cost-effectiveness determinations should be shaped by a short-term or long-term perspective. *Id.* at 5.

Importantly, the Phase II Report concludes that establishing measurable energy savings goals is critical for addressing two of the major issues raised in the Energy Center's Phase I Report on the status of DSM programs in Indiana—namely, the state's relatively low investment in DSM and relatively high energy intensity (or per capita consumption), as compared with other states. Beyond helping to ensure accountability to state policy objectives, goal-setting is also a necessary component of incentive mechanisms that reward utilities for attaining specified levels of energy savings. As discussed in the Phase II Report, and reflected in the testimony presented in this matter, the parties are generally in favor of establishing utility-specific goals rather than a single statewide goal that would be consistent across utilities. There was also general consensus around establishing energy savings targets rather than DSM spending targets, as savings targets represent a more effective approach to ensuring that the state's policy objectives are achieved.

The Phase II Report also recommends that energy savings targets be comprised of potential savings from all sectors, including Residential, Commercial and Industrial, and specifically noted that researchers are finding significant reservoirs of untapped cost-effective energy efficiency potential in the industrial market. The Phase II Report also indicates that in formulating a goal-setting process for Indiana utilities, it is essential to establish clear guidelines for how progress toward goals should be measured, and to use a consistent methodology for determining the baseline against which progress toward goals can be evaluated. The Phase II Report also recognized that any process established should be coordinated with the existing utility integrated resource planning processes completed every two years.

(ii) Discussion and Findings by the Commission on this Issue.

Based on our review of the recommendations in the Phase II Report and the testimony presented by the parties on this issue, the Commission agrees that articulating a clear set of policy objectives as part of this proceeding is appropriate. However, the Commission notes that the policy objectives articulated in this Cause are intended to provide a general framework to assist the parties in addressing the specific issues identified in Phase I of this proceeding. Accordingly, policy objectives identified in this Order are intended to supplement, rather than supplant, existing statutes and administrative rules with respect to Integrated Resource Planning, Demand Side Management, Demand Response, or requirements regarding Certificates of Public Convenience and Necessity in the State of Indiana.

As a general matter, the Commission finds that, consistent with statutory and regulatory mandates with respect to the planning and utilization of Demand Side Management, DSM offerings must be available to all customer classes and market segments, as this is the initial step that must be taken to ensure that every Indiana energy consumer has the opportunity to benefit from the energy cost reductions that can be achieved through energy efficiency improvements. While the Commission does not have jurisdiction over all electricity providers in the State of Indiana, it recognizes that the development of broad DSM programs could be done in such a way as to invite participation by non-jurisdictional entities.

As reflected in the Commission's Phase I Order, the development of DSM programs in Indiana lags other Midwestern states and the nation as a whole. Therefore, with respect to potential market coverage to be achieved, namely, whether DSM programs should be available to all sectors or whether there should be opt-out provisions available to certain market segments, such as large industrial facilities, we find that all market segments should participate in an effort to remedy the specific shortcomings identified by the Commission in its Phase I Order. While we are not foreclosing possible consideration of opt-out provisions as recommended in the Phase II Report at some future date, we recognize that a broad approach that includes all market participants is appropriate and should ensure that all DSM opportunities are fully pursued and that significant reservoirs of untapped cost-effective energy efficiency potential are not omitted from consideration.

An initial step in increasing energy efficiency efforts is the establishment of specific energy savings goals for Indiana. In establishing specific electric savings goals, it is valuable to consider the broader energy policy context for the State and the region. Coincident with this investigation, three Midwestern states, Illinois, Ohio, and Michigan, established annual DSM savings targets for electric utilities.[9] The annual savings goal for Illinois utilities begins at 0.2% per year and ramps up to 2.0% per year over an eight-year period. The annual savings goal for Ohio utilities begins at 0.3% per year and ramps up to 1.0% per year over six years. The annual savings goal for Michigan utilities begins at 0.3% per year and ramps up to 1.0% per year over a four-year period.

While the Commission recognizes the need to approve additional generation capacity as necessary to meet the needs of customers and ensure Indiana's ongoing economic success, it also recognizes that an important component of long-term planning for Indiana's generation needs is the effective utilization of DSM programs by jurisdictional utilities that have a duty to serve their ratepayers in a cost effective manner. Saving energy is the most cost effective way of meeting future energy supply needs and has the corresponding benefit of reducing the need to build additional generation capacity. Accordingly, based on the evidence presented in this Cause, the Commission finds that DSM savings goals must be established that require a ramp up of DSM savings goals over a reasonable but aggressive timeline. This ramp up will allow Indiana customers to benefit from a richer array of programs and services to help them save energy, in a manner that ensures that DSM programs play an active role in Indiana's energy future.

Therefore, based on the evidence presented in this docket, the Commission finds that electric utilities subject to its jurisdiction shall meet an overall goal of 2% annual cost-effective DSM savings within ten years from the date of this Order. In reaching this conclusion, the Commission finds that such a trajectory is sufficiently long to allow the utilities to develop consistent best-practice core programs across the state (as discussed further in this Order) in a manner that is consistent with existing Indiana law that requires utilities to pursue all cost effective DSM programs in their assigned service territories.

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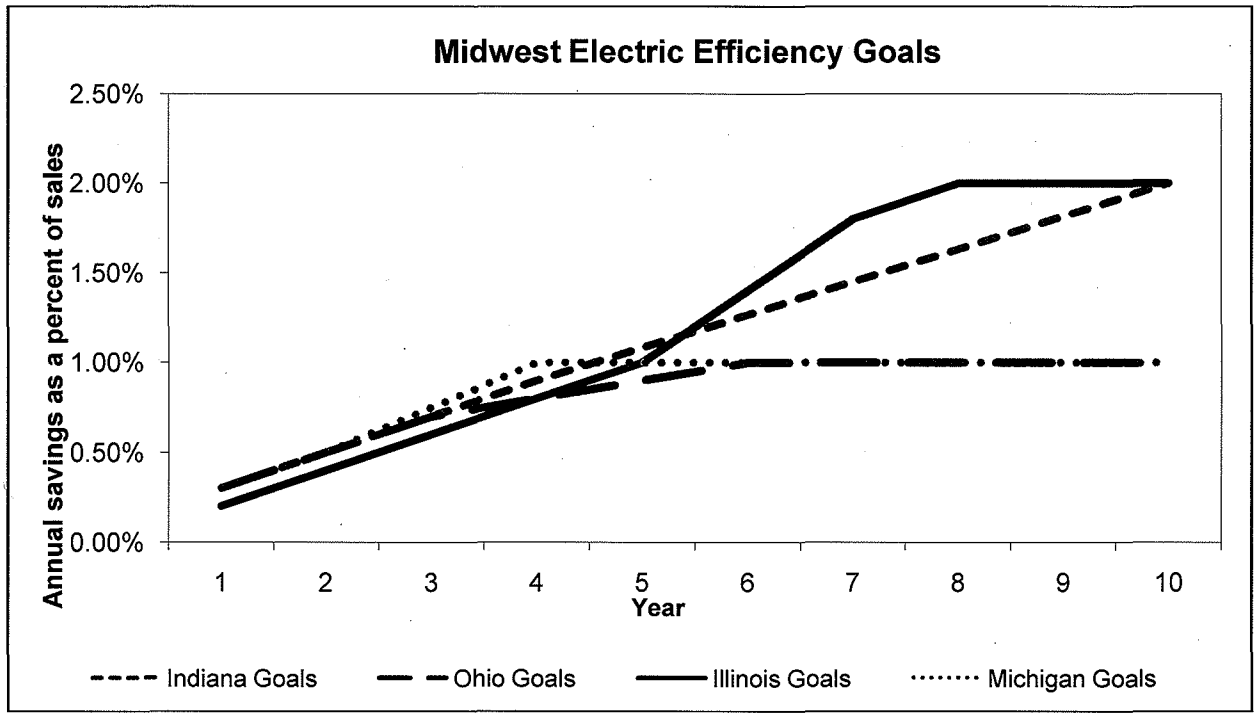
9. *See,* the Illinois Power Agency Act of 2007 (Public Act 095-0481); Ohio Amended Substitute Senate Bill Number 221; and, the Michigan Clean, Renewable and Efficient Energy Act (Act 295 of 2008).

The chart below compares the DSM electric savings goals established by the Commission in this Order with those established by Illinois, Michigan and Ohio extended over a ten-year horizon.



In order to meet the requirements of this Order in a timely manner, we find that Indiana jurisdictional utilities shall file three-year DSM plans ("DSM Plans") indicating their proposals and projected or actual progress in reaching the annual stepped savings targets summarized in the table below. The annual savings goals will be based on the average weather-normalized electric sales over the prior three-year period. DSM Plans shall be filed on July 1, 2010, 2013, 2016, and 2019, with annual supplemental updates in the interim periods.

Year	Annual electric savings goal (% of weather-normalized average electric sales for prior three years)
2010	0.3%
2011	0.5%
2012	0.7%
2013	0.9%
2014	1.1%
2015	1.3%
2016	1.5%
2017	1.7%
2018	1.9%
2019	2.0%

Achievement of DSM goals will be measured through an independent third party evaluation and will be based on a reduction of electric sales rather than peak electric demand.[10] Accordingly, over time, reductions in sales will reduce participating customers' energy bills and defer the need for future generation. Utilities will also be required to fully demonstrate the effect of these DSM goals in their IRPs and determine the overall cost savings in delayed or deferred generation to customers. Load management and direct load control initiatives, including peak shaving, which result in net energy savings will count toward efficiency goals. Utilities that are unable to attain these goals must demonstrate to the Commission how they will alter or add programs to increase achieved savings in future years. These savings goals are established as statewide objectives and represent a savings floor to be achieved in Indiana. Accordingly, all utilities are encouraged to utilize best efforts to exceed the savings goals established in this Order in a cost effective manner. The Commission will continually review utility progress toward these goals, and critically review the July 1, 2013 filing to ensure that a solid foundation is in place to allow all utilities to meet the energy saving objectives of this Order.

B. Developing a Consistent Statewide Approach. This topic includes consideration of the means to address the inconsistent patchwork of DSM programs in Indiana; the development of "best practices" and uniform program offerings; and, consideration of a delivery mechanism or mechanisms to ensure a uniform offering of core DSM programs on a statewide basis, including the feasibility and associated costs and benefits of a statewide third party administrator.

(i) Overview of Recommendations in the Phase II Report.

One of the main conclusions from the Stratton Report was that Indiana's current DSM approach "provides an inconsistent patchwork that excludes some customers (geographically and by sector) from the benefits of energy efficiency services." In its Phase I Order, the Commission addressed this determination with the following finding:

> This determination is perhaps the most troubling finding contained in the Stratton Report as it is unmistakable that the current procedure, in which jurisdictional utilities consider DSM as part of their IRPs, and propose DSM programs to the Commission at their discretion, has failed to lead to the creation and implementation of creative, effective, predictable, and comprehensive DSM Programs throughout the State.

Cause No. 42693 Phase I Order at 29.

10. In formulating a goal-setting process for Indiana utilities, the Commission notes that with respect to energy savings goals the Commission has historically utilized gross energy savings goals rather than net energy savings. For the purpose of interpreting these goals the targets are stated in verified gross terms. Calculations of net savings should be done periodically to inform program design so that the proportion of free riders is minimized. Such analysis applies to programs that commonly have a significant level of free riders.

Based on this determination it is perhaps not surprising that much of the focus during the Technical Workshops and the testimony presented in this matter centered on the prospect of developing a more consistent, statewide approach to electric DSM. As reflected in the Phase II Report and the testimony presented in this Cause, there was overall agreement among the parties that more could and should be done with respect to DSM offerings in Indiana.

The Phase II Report indicates that there are multiple levels at which issues of consistency and flexibility can be addressed. At the DSM planning and oversight level, there should be a consistent policy framework governing DSM initiatives in which utilities follow the same protocols for integrated resource planning; conducting technology research and market assessments; analyzing cost-effectiveness; evaluating program results; and, regulatory reporting. At the program management and implementation level, consistency can be achieved through administration of a single statewide DSM program, or though a core set of consistent programs that are individually administered by utilities within their own service territories. Alternatively, a certain degree of consistency can be achieved through collaborative processes where utilities work together to design and implement consistent program offerings, incentives, marketing initiatives, or education and training efforts.

As discussed in the Phase II Report, efficiency standards for incentive-eligible equipment; offerings for retailers and trade allies (equipment suppliers, home builders, contractors, architects/engineers, etc.); advertising and promotional strategies; and education and training efforts, represent areas in which a consistent and uniform approach could prove to be beneficial and cost effective. Consistency in these areas will increase the effectiveness of market interventions, as many retailers, equipment suppliers, and other upstream market actors operate in multiple utility service territories across Indiana and would benefit from consistent incentive offerings and program requirements. Such collaborations can also lead to program design improvements as utilities exchange information and replicate successful program strategies. In addition, collaboration could also involve instances where a group of utilities elect to jointly administer a program or set of programs across multiple service territories. Particularly for smaller utilities, the administrative efficiencies that would result from joint program administration may represent an attractive opportunity to reduce the cost and increase the effectiveness of DSM programs.

Given the inconsistent patchwork of program offerings that has historically existed in Indiana, the Energy Center indicated in its Phase II Report that it believes it is appropriate to establish a core set of programs that are available in all areas served by jurisdictional utilities. According to the Phase II Report, non-jurisdictional utilities should also have the option to offer core programs in their service territories. These core programs would employ consistent incentive offerings and marketing strategies, but could be individually administered within each utility service territory. Alternatively, the utilities could elect, through a collaborative process, to jointly administer the programs by hiring a single implementation contractor or administrator.

The Phase II Report identified a total of six (6) programs that would benefit from a consistent statewide approach or joint administration:

- **Residential lighting and appliance program**: Incentives for CFLs, light fixtures/ceiling fans, and home appliances such as water heaters, refrigerators, clothes washers, dish washers, dehumidifiers, and room air conditioners;

- **Residential audit program**: Home energy audits in combination with direct installation of low-cost energy saving measures such as CFLs, draft stoppers for light switches and outlets, faucet aerators, and low flow showerheads; and

- **Commercial & Industrial rebate program**: Prescriptive incentives for common energy-efficient technologies such as T-8 or T-5 lighting, high efficiency motors and pumps, and HVAC equipment.

The Energy Center recommended that the foregoing programs be included in core offerings which are consistent across all jurisdictional utilities in Indiana. Such programs would provide savings opportunities for a broad cross-section of Indiana residents and businesses.

According to the Phase II Report, additional energy efficiency programs which are good candidates for consistent statewide approaches or joint administration include the programs listed below. The Energy Center believes that the Commission should strongly encourage jurisdictional utilities to pursue a coordinated strategy for offering these programs:

- **Energy efficient schools program**: Information and energy savings kits for K-12 schools;

- **Residential heating and cooling program**: Incentives for energy-efficient air conditioners and heat pumps. Could also include HVAC contractor training and incentives to promote right-sizing and proper installation practices (optimizing air flow; proper refrigerant charge); and

- **ENERGY STAR Homes program**: Offers builder training and incentives for energy efficient new homes that meet efficiency guidelines established by the federal ENERGY STAR program.

(ii) Discussion and Findings by the Commission on this Issue.

As discussed in the testimony, the Utility Group and the OUCC expressed support for a more standardized approach to DSM in Indiana. The OUCC testified that it supports the offering of common core programs by all jurisdictional utilities to ensure that all jurisdictional ratepayers have the ability to access basic energy efficiency programs regardless of their service provider or geographic location. Sumner Direct at 3. The OUCC recommended that all utilities should offer lighting, audit and low-income weatherization programs, along with related outreach and consumer education in a coordinated fashion in order to take advantage of mass marketing opportunities with respect to these programs. *Id.* at 4. The OUCC took this recommendation a

step further and recommended that coordination could take place through a Statewide DSM Strategy Committee described in the direct testimony of Ms. Paronish. *Id.*

The Utility Group expressed its agreement that all Indiana customers should have the ability to participate in DSM programs, including those who are not customers of jurisdictional utilities.[11] In making this recommendation, the Utility Group pointed out that most of its members already offer, or have proposed to offer, similar programs as those recommended in the Phase II Report. However, the Utility Group supported a coordinated approach to marketing and implementing the recommended programs. Joint Exhibit 1 at 17-18. While expressing general agreement with respect to the recommendations of the Phase II Report on this issue, the Utility Group and several of the intervening parties cautioned that they believe that customers lose opportunities if there are overly standardized program offerings and approaches. As such, it is imperative that utilities have the flexibility in program offerings and have the ability to adjust those offerings as necessary based on experience. *Id.* at 17.

In considering the testimony and the recommendations contained in the Phase II Report, the Commission notes that the programs identified by the Energy Center are standard components of most DSM portfolios.[12] Recent DSM plans filed by Duke Energy Indiana (Cause 43374), Indiana-Michigan Power (Cause No. 43306), and Vectren Energy (Cause No. 43427) include many of the program elements listed above, so it is clear that Indiana utilities view these types of programs as attractive opportunities for their customers. Notwithstanding these currently pending proceedings, the Energy Center recommended a more formal degree of coordination be pursued to ensure that mass market program offerings benefit from a consistent, statewide approach, and that standard DSM offerings are available to all Indiana residents and businesses.

Based on the recommendations in the Phase II report and the evidence presented in this matter, the Commission finds that the development and utilization of a group of core programs is an important first step that must be undertaken to address the inconsistent patchwork of DSM offerings across the State of Indiana discussed in the Phase I Order. The objective of defining core programs is to create a group of DSM programs that can be readily understood by customers and easily supported by trade allies and retailers. The development of core programs should ensure that each class of customer has a minimum number of program offerings available at all times. Such programs shall be deemed a part of the basic utility service offering in a utility's service territory.

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11. The Municipal Utilities indicated that they should have the option of offering some or all of the core DSM programs. Schrader Direct at 7.

12. Though low income weatherization programs are not included in this list, the Energy Center urges that such programs be part of any DSM portfolio approved by the Commission. However, because such programs typically leverage local service organizations and are not in the category of "mass market" programs that require a consistent statewide approach, the Energy Center has not included low income weatherization in the core program list.

Accordingly, the Commission finds that the following initial core programs ("Core Programs") shall be implemented by all jurisdictional utilities in the state of Indiana:

- **Residential lighting program:** Incentives for ENERGY STAR qualified lighting measures;
- **Home energy audit program:** Walk-through audits and direct installation of low-cost energy saving measures;
- **Low income weatherization program**: Comprehensive energy efficiency retrofits for income-qualified households;
- **Energy efficient schools program**: Information and energy efficiency kits for K-12 schools, school building energy audits and access to prescriptive incentives available for commercial customers; and
- **Commercial and Industrial Program**: Prescriptive incentives for common technologies such as T-8 or T-5 lighting, high efficiency motors and pumps and HVAC equipment.

In support of these initial Core Programs, the Commission finds that utilities shall pursue coordinated marketing, outreach, and consumer education strategies to provide the necessary framework for a uniform presentation and understanding of these programs on a statewide basis. While all jurisdictional electric utilities are required to develop and offer all of the Core Programs, the Commission also encourages all electric utilities to consider offering some or all of the core programs to their customers in order to take advantage of economies of scale and scope. The utilities shall decide on a method to equitably share the costs of jointly-offered programs or administrative services related to core program delivery. Such a method should easily allow for full or partial participation by utilities that opt to participate in core program offerings, including cost-sharing for joint program delivery, administrative services, education, research, and evaluation activities.

In establishing this initial group of Core Programs, the Commission recognizes that the number of core programs will be adjusted over time as conditions warrant, subject to Commission approval. The Commission also notes that it will be necessary for jurisdictional utilities to develop additional joint or utility-specific program offerings to meet the annual energy savings goals established in this Order. Without attempting to develop an exhaustive list of potential programs, the Commission anticipates that such offerings might include custom incentive programs for new construction, a wider array of appliance incentives, technical assistance and incentives for industrial process improvements, HVAC tune-up and quality installation programs, and community energy programs. In addition, the utilities may also consider incentives for customer-sited renewable energy technologies which reduce electric use.

C. **Administrative Models for DSM Program Delivery.** This topic includes consideration of various administrative models including: (1) Utility Model; (2) Third Party Model; (3) Public Sector Model; and, (4) Hybrid Model.

(i) Overview of Recommendations in the Phase II Report.

As discussed in the Phase I Order in this Cause, an important factor to be considered in this second phase of the Commission's DSM investigation is the consideration of alternative models for administration and delivery of DSM programs. As discussed in the Phase II Report and the testimony presented in this matter, an administrative model is defined by the entity (or entities) with primary responsibility for meeting DSM targets. The primary administrative model types include:

- **Utility Model**: Primary responsibility for administering DSM programs resides with the utility (investor-owned, municipal, or cooperative). States with utility models include California, Minnesota, and Iowa;
- **Third Party Model**: Primary responsibility for administering DSM programs resides with an independent, non-governmental organization under contract to a state agency or other entity administering funding for DSM initiatives. States with third party models include Wisconsin, Oregon, and Vermont;
- **Public Sector Model**: Primary responsibility for administering DSM programs resides with a government agency. States with public sector models include New York and New Jersey; and
- **Hybrid Model:** Responsibility for administering DSM programs is shared between a utility (investor-owned, municipal, or cooperative) and a separate independent entity.

According to the Phase II Report, in practice, the distinctions between these models are less clear. A number of states employ a hybrid structure where multiple entities (utilities, third parties, and government agencies) have responsibility for administering different components of the DSM portfolio. Technical Workshop participants noted that administrative models are rarely static, and responsibilities may shift from one type of entity to another over time in response to changing policy priorities.

As discussed in the Phase II Report, research has demonstrated that any administrative model can successfully deliver cost-effective energy efficiency programs, provided the appropriate policies, oversight mechanisms, and administrative structures are in place. In just one example of the research that has been done on this issue, a recent analysis by ACEEE examined fourteen top-performing states in terms of energy efficiency achievement, and concluded that the administrative model for DSM program delivery is not an important factor in determining success.[13]

13. ACEEE (March 2009). Meeting Aggressive New State goals for Utility-Sector Energy Efficiency: Examining Key Factors Associated with High Savings. ACEEE Report Number U091.

In its Phase II Report the Energy Center concluded that it believes that the Utility Model represents the best approach for expansion of electric DSM initiatives in Indiana. A utility-administered model allows flexibility in terms of program design, so that offerings can be tailored to meet the needs of individual service territories. A utility-administered model will also effectively leverage past efforts and successful existing programs. However, in reaching this conclusion, the Energy Center also recommended that Indiana utilities consider opportunities to jointly administer core programs across multiple service territories. At a minimum, multiple utilities could outsource program implementation services by hiring a common contractor, and work collaboratively to develop consistent program strategies.

(ii) Discussion and Findings by the Commission on this Issue.

In its testimony the Utility Group concurred with the recommendations contained in the Phase II Report. The OUCC also indicated that it believes that utilities should remain responsible for program management and delivery, while recognizing that utilities may choose to contract with third parties for some aspects of DSM program delivery.

While the Commission agrees that the Utility Model should continue to be utilized in the State of Indiana, we disagree with the findings in the Phase II Report that seemingly indicate that this model can effectively and fully address the issues identified in the Phase I Order without clear direction from the Commission regarding the appropriate policies and oversight mechanisms that must be implemented.

Therefore, in order to fully effectuate the coordinated implementation and ongoing oversight of the Core Programs, the Commission finds that jurisdictional utilities shall contract with a single independent third party entity for the purpose of jointly administering and implementing the Core Programs. It is apparent that beginning this process now, at a time when DSM offerings in Indiana are just beginning to emerge for most utilities, should provide a useful foundation for effective statewide coordination and implementation of the standard Core Programs identified by the Commission in this Order. In addition, utilization of a central third party to administer and implement the Core Programs could present an opportunity for non-jurisdictional electric utilities to take advantage of standardized programs in a cost effective manner that would create a framework for the potential availability of the Core Programs on a statewide basis. As this issue also relates to DSM oversight generally, it is also discussed further in the following section of this Order.

D. DSM Program Oversight. This topic includes consideration of the possible development of an Oversight Board and other possible approaches to the oversight of DSM programs in Indiana.

(i) Overview of Recommendations in the Phase II Report.

As discussed in the Phase II Report, oversight functions are critical to supporting the development of a consistent, statewide approach to electric DSM in Indiana. Key oversight objectives include ensuring that programs are cost-effective, that funding is used prudently, that

corrective actions are taken in a timely manner, and that program administration is transparent. Perhaps most importantly for states with utility-administered DSM programs, oversight structures can be developed to promote a desirable level of statewide consistency in DSM offerings. They can provide a forum for coordinating statewide DSM offerings that are consistent across utility service territories, and facilitate information-sharing on effective program strategies so that successes can be replicated across multiple utilities. They can also provide opportunities for stakeholder input.

As discussed in this proceeding, Indiana has seen preliminary success with collaborative oversight boards that monitor the progress and effectiveness of natural gas conservation programs. The natural gas boards (one for each of the three major gas utilities) bring together diverse perspectives and expertise. The boards use a consensus process in making key decisions regarding funding, program design, and evaluation. Monthly conference calls are used to review a "dashboard" of program results, monitoring expenditures to date, participation levels, call volume, and other key performance metrics. Such processes ensure that problems are identified in a timely manner, and provide a mechanism for program design adjustments and reallocation of resources as needed.

Notwithstanding the benefits of such informal processes, the Energy Center recognizes that greater benefits would result from establishing a collaborative oversight body to perform key oversight functions for electric DSM initiatives. This body would provide a forum for reaching agreement on contentious issues, or at a minimum provide key stakeholders an opportunity to engage in constructive dialog regarding opposing viewpoints. The oversight body would work to identify and replicate successful program strategies, and also serve as a forum for coordinating multi-utility initiatives such as the core programs discussed in the Phase II Report. If the oversight body had funding and contracting authority, through formation of a non-profit organization for example, it could deliver joint services to multiple utilities, such as contracting, evaluation, or program implementation functions. Establishing an oversight body would support the goal of developing a more consistent approach to electric DSM in Indiana, without duplicating formal oversight and ratemaking responsibilities that reside with the Commission. As discussed in the Phase II Report, other states have experienced success with formal collaborative oversight bodies that perform coordination, oversight, and advisory functions for DSM initiatives.

While each of the three largest natural gas utilities in Indiana has its own oversight board, the Energy Center believes that a single oversight body for electric DSM initiatives is appropriate. This approach would reduce administrative burdens and maximize opportunities for facilitating information-sharing and collaboration among the state's electric utilities. As proposed by the Energy Center in its Phase II Report, the oversight body would include, at a minimum, representatives from each jurisdictional utility as well as staff from the Commission and the Office of the Utility Consumer Counselor. Consumer group representatives should also have the opportunity to participate and provide input on programs. The Energy Center also indicated that non-jurisdictional utilities that want to participate in offering core programs would benefit from joining and participating in the oversight body and that such participation should be encouraged.

The Energy Center further recommended that the Commission set forth clear objectives and guidelines defining roles and responsibilities for the oversight body. As proposed by the Energy Center, the primary goal would be to create a forum for information-sharing and obtaining technical input, and also for coordination of key operational areas such as delivery of core programs. Utilities would retain decision-making authority in the areas of program design, allocation of DSM funds, selection and management of implementation contractors, and other components of program delivery within their service territory. The Commission would retain its statutory authority to approve DSM goals, cost recovery, lost revenue recovery, and performance incentives for successful DSM program administration.

As set forth in the Phase II Report, functions that a formal oversight body could perform or coordinate include the following:

- **Technology research, market assessments, and potential studies**: To date, energy efficiency potential studies have been performed on a utility-specific basis. The oversight body could review completed studies to identify what has been done well, what could be improved upon in future studies, and research gaps to be addressed in future studies. It could also maintain a web site or other mechanism for sharing study results, facilitating information-sharing and transparency. The oversight body could work to identify standard elements/approaches that should be consistent across future potential studies in Indiana. It could also provide a forum for discussing shared research objectives and collaborating on future studies;

- **DSM goals**: The oversight body could provide a forum for discussing some of the key mechanical issues associated with establishing utility-specific DSM targets. In particular, it is important to develop standardized measurement protocols to ensure statewide consistency in evaluating program results;

- **Program design and implementation**: As previously discussed, the oversight body could help to define and coordinate a core set of programs that are consistent across jurisdictional utilities. By providing a forum for sharing lessons learned and exchanging best practices, the oversight body could promote or coordinate other opportunities for increased consistency across utility-specific program offerings (e.g., marketing, trade ally coordination, training). The oversight body could also be used for coordinating any program efforts that utilities elect to administer jointly through use of a shared implementation contractor or other mechanism; and

- **Program evaluation**: The oversight body could provide technical input during the formulation of evaluation protocols discussed in the Phase II Report. It could review evaluation plans with an eye to ensuring a general level of statewide consistency. In cases where multiple utilities are administering similar programs, the oversight body could coordinate joint evaluations across multiple service territories, promoting consistency as well as the cost-effective use of evaluation

resources. The oversight body could also provide a mechanism for sharing evaluation results.

(ii) Discussion and Findings by the Commission on this Issue.

The Commission recognizes the general agreement by the parties with respect to the recommendations contained in the Phase II Report. Notwithstanding the consensus of the parties on many issues, the Commission is concerned that the proposal presented by the OUCC, that would create multi-layered oversight functions consisting of the formation of a Statewide DSM Strategy Committee; the utilization of an Annual Statewide DSM Forum; and the formation of Oversight Boards for each jurisdictional utility, could create complexities with respect to oversight and administration of DSM programs that do not currently exist. While the Commission is supportive of the OUCC's recognition that much more needs to be done with respect to DSM administration and oversight, it seems that a more streamlined approach, that still addresses many of the specific issues presented by the OUCC, could be utilized. In reaching this conclusion with respect to the OUCC's proposal, the Commission is equally concerned that reliance on utility specific oversight boards, supported by the Utility Group, may not be sufficient to fully address the historic deficiencies with respect to DSM programs in Indiana.

The Commission concurs with the conclusions presented by the OUCC regarding the success that the Gas Oversight Boards have enjoyed since their formation. We also note that while certain gas utilities were tasked in various proceedings to form Oversight Boards and select an Independent Third Party Administrator, the commonality of purpose on this issue ultimately resulted in the selection of the same Independent Third Party Administrator by each utility. While the Gas Oversight Boards presently remain separate entities, they are hardly distinct. Viewing the three Gas Oversight Boards as they currently exist could, in hindsight, have easily led to the conclusion that the parties should form a single Gas Oversight Board with a single Independent Third Party Administrator. Such an approach seemingly would have closely tracked the existing structures as they actually evolved, and could have resulted in an enhanced degree of initial coordination between gas utilities with respect to DSM programs.

Based on this background, we are now faced with alternate proposals to create a framework to oversee DSM Programs for jurisdictional electric utilities in Indiana. While the formation and utilization of utility specific oversight boards has been utilized by the three largest gas utilities in the state, we feel that the past efforts with respect to this issue should be a precursor to enhanced efforts in this proceeding.

Based on the evidence presented in this matter, we find that we should embark on a broader path to fully address the specific issues identified in the Phase I Order and ensure the availability of a certain level of DSM program offerings throughout the State of Indiana. Based on the evidence in this proceeding, it appears that this objective can best be accomplished through the utilization of a Hybrid Model which relies on jurisdictional utilities and an Independent Third Party Administrator. Specifically, under this Hybrid Model, an Independent Third-Party Administrator would oversee the Core Programs established in this Order and the utilities would oversee any additional programs needed to achieve the energy savings goals established in this matter. In reaching this conclusion, we note that the potential benefits of this

approach should include the uniform and systematic implementation of the Core Programs as well as the coordinated utilization of technologies and research, market assessments, and potential studies. In addition, the utilization of an Independent Third Party Administrator for this purpose is likely to create administrative efficiencies while facilitating coordination and consistency across participating utility service territories.

Therefore, we find that an Independent Third Party Administrator should be utilized to oversee and implement the Core Programs established in this proceeding and any additional offerings that may be added to the Core Programs in the future. Undertaking this approach is consistent with our findings in this matter and creates a framework for the utilization of a Hybrid Model with respect to DSM Programs in Indiana. Under this Hybrid Model, the Independent Third Party Administrator will be retained on a contractual basis by jurisdictional electric utilities to oversee and implement the Core Programs. Utilities will retain responsibility for program offerings, including management and implementation of DSM programs that go beyond the Core Program offerings. Further, it is our expectation, but not an express condition of this Order, that the Hybrid Model will provide a means by which each electric utility in the State of Indiana may participate in the implementation and utilization of the Core Programs through its own contractual relationship with the Independent Third Party Administrator.

In order to effectuate this objective and the broader objectives of this Order, the Commission finds that a single DSM coordination committee ("DSM Coordination Committee") shall be formed to address DSM program oversight in the State of Indiana. The DSM Coordination Committee shall consist, at a minimum, of representatives of the following entities: 1) Indiana Michigan Power Company; 2) Northern Indiana Public Service Company; 3) Indianapolis Power and Light; 4) Vectren; 5) Duke Energy Indiana; 6) Indiana Municipal Power Agency; 7) Hoosier Energy; 8) Wabash Valley Power Association; 9) a Commercial\Industrial Representative; 10) a Citizen's Group Representative; and 10) the OUCC.[14] Additional members may be added at the discretion and approval of the Commission. In addition, the Commission intends to play an active role in the oversight and discussion of issues to be addressed by the DSM Coordination Committee and may utilize Commission staff for this purpose.

The DSM Coordination Committee shall at a minimum perform the following: 1) develop program design and logic models for all Core Programs; 2) coordinate the development and maintenance of a statewide database for all program results and agreed-upon deemed savings values for Core Programs; 3) coordinate marketing, technology research, consumer research, and market assessments as required to meet program goals; 4) provide a regular forum for sharing of best practices, customer input, evaluation results, and continuous assessment of core program performance; (5) ensure coordination with utility-administered natural gas programs where appropriate (*e.g.,* low income weatherization, energy audits); and 6) coordinate periodic Joint Reports to the Commission regarding the status of current DSM Programs being utilized and developed by the DSM Coordination Committee.

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14. The Commission notes that representatives of jurisdictional electric cooperatives and municipal electric providers have not been included on this initial list of members as their interests may be represented by other members of the DSM Coordination Committee. If this is not the case, the Commission retains the ability to add members to the DSM Coordination Committee as necessary.

In addition to these responsibilities, the Commission finds that an initial objective of the DSM Coordination Committee is to undertake efforts for the preparation and submission of two (2) Joint Requests-For-Proposals ("RFP" or jointly "RFPs") on behalf of, or issued by, the participating jurisdictional utilities. The first RFP is to be issued for the selection of an Independent Third Party Administrator to oversee and coordinate the Core Programs established in this Order ("Administrator RFP"). The second RFP required under this Order is to be issued for the selection and utilization of a statewide or multiple utility EM&V Administrator(s) ("Evaluation RFP"). The details and requirements of the Evaluation RFP are discussed in the following section.

The Administrator RFP is to be issued for the selection of an Independent Third Party Administrator to oversee the Core Programs on behalf of all jurisdictional electric utilities in the State of Indiana and other non-jurisdictional electric utilities that wish to participate and utilize Core Program offerings. The terms of the Administrator RFP should define the role of the Independent Third Party Administrator, the duration of the relationship, and the performance standards applicable to the Independent Third Party Administrator. In selecting the Administrator, consideration should be given to the use of local resources, including those available from Indiana based universities, businesses and non-profit organizations, and to the impact on economic development in Indiana. The RFP should also require the utilization of an Indiana specific identity/name for the Core Programs to be overseen by the Independent Third Party Administrator to help build educational outreach and broad awareness with respect to DSM offerings throughout the State of Indiana.[15]

In order to formally establish the details for the creation of the framework necessary for the formation and operation of the DSM Coordination Committee and the RFPs required by this Order, the Commission hereby establishes an implementation subdocket ("Implementation Subdocket") in this proceeding. We find that the details regarding the structure and responsibilities of the DSM Coordination Committee and the proposed RFPs shall be filed with the Commission for approval in the Implementation Subdocket by March 1, 2010.

E. DSM Program Evaluation. This topic includes consideration of the development of a framework for the evaluation of DSM programs and consideration of the possible development of a uniform energy efficiency/demand side management database.

(i) Overview of Recommendations in the Phase II Report.

The Phase II Report indicates that evaluation of DSM program results is critical to ensuring the cost-effective use of program resources and measuring performance against goals. Evaluation also provides valuable information with respect to program implementation as it can indicate potential areas of opportunity as well as areas where adjustments to program strategy are

15. While the Commission does not address the formal consolidation of the Independent Third Party Administrator for the Gas Oversight Boards with the Independent Third Party Administrator required under this proceeding, it is apparent that such an approach may present an opportunity for additional administrative efficiencies and cost savings with respect to DSM. Accordingly, this is an issue that the parties may wish to consider at some point in the future.

needed. In cases where incentive payments to utilities are contingent upon meeting DSM targets, it is particularly important that program impacts be estimated as accurately as possible and that evaluation approaches be consistent across similar types of programs offered by different utilities.

There are three primary types of evaluations:[16]

- **Impact**: Measures the benefits (energy savings, emissions reductions, economic development) that directly result from program activities;
- **Process**: Assesses program administration and delivery to identify what is working well and potential areas of improvement; and
- **Market effects**: Estimates the extent to which a program has influenced fundamental shifts in the energy marketplace that drive higher levels of energy efficiency (most commonly used to evaluate progress toward market transformation objectives).

Indiana administrative rules require that utilities seeking Commission approval for cost recovery, DSM incentives, or lost revenue recovery, develop plans for conducting load impact and process evaluations and, on an annual basis, submit a document to the Commission that summarizes information, data, and results from evaluation studies.[17] In connection with such proceedings, the Commission has the authority to review evaluation plans and metrics submitted by the utilities. However, the Stratton Report, submitted in Phase I of this proceeding, found that current evaluation practices in Indiana vary greatly by utility. Evaluation activities ranged from simple tracking of program participation and estimated costs/benefits, to process and impact studies conducted by independent third parties.

To ensure a greater degree of statewide consistency in evaluation of DSM programs, the Energy Center recommends in its Phase II Report that the Commission develop a formal framework to guide future evaluation activities in Indiana. The goal of the framework would be to ensure that evaluation activities accomplish the following objectives:

- **Accountability**: Including evaluation as a key component of program oversight functions;
- **Effectiveness**: Ensuring that evaluation activities lead to better programs (*i.e.*, program implementers take action in response to evaluation findings);
- **Independence**: Ensuring that evaluations are conducted by a third party with no involvement in program design or delivery;
- **Consistency**: Developing mechanisms to ensure that similar programs are evaluated in the same way, using similar metrics to measure performance;

16. National Action Plan for Energy Efficiency (November 2007). Model Energy Efficiency Program Impact Evaluation Guide. Available at: http://www.epa.gov/cleanenergy/documents/evaluation_guide.pdf.
17. 170 IAC 4-8-4.

- **Accuracy**: Conducting research to vet key inputs and assumptions used in program evaluation; and
- **Efficiency**: Allocating evaluation and research resources according to the areas of greatest savings and associated uncertainty/risk.

The Phase II Report further indicated that it is particularly valuable to conduct thorough evaluations early in the program cycle (within the first two years of implementation) to inform adjustments to program design and strategy. Ideally, evaluation cycles should align with the cycle for goal-setting, funding approval, program planning, and implementation. At the same time, programs need time to establish themselves in the marketplace before impacts can be estimated through evaluation.[18] Another critical issue discussed in the Phase II Report, is the level of funding that should be allocated to evaluation activities. In discussing this issue, the Energy Center also recognized that once a program has undergone one evaluation, relatively fewer evaluation dollars are generally allocated to that program in the future.

As discussed in the Phase II Report, in some states a significant share of evaluation resources has historically been devoted to estimating net savings impacts, or the portion of gross savings that is attributable to energy efficiency program influence. The primary approach for estimating net savings involves making adjustments for free ridership (people who would have taken the energy efficiency action anyway), and spillover (savings resulting from non-participant actions that occurred as a result of program influence).

The Phase II Report also addressed establishing deemed savings values[19] that are used in estimating program savings and demand reduction impacts. One approach would be to develop utility-specific deemed savings values, with mechanisms to facilitate information-sharing among utilities. Deemed savings provide a starting point for estimating program impacts, and savings estimates should be revised based on data from measurement and verification of actual projects. Given that utilities across Indiana will be ramping up DSM planning and implementation activities, it would be useful to provide some mechanism for sharing information on deemed savings values. Such an exchange would also help to ensure a general level of consistency in values and approaches used across the state. It is important to note that deemed savings are just one of the approaches used to estimate program impacts, and it is not possible to develop deemed values for all energy-saving measures. The other primary approaches used in measuring impacts include measurement and verification of savings associated with a sample of projects and statistical analysis of large volumes of metered energy usage data.[20]

Based on the foregoing, the Energy Center recommends in its Phase II Report that the evaluation framework for Indiana DSM initiatives should, at a minimum, provide guidance in the following areas:

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18. California Public Utilities Commission (2004). The California Evaluation Framework. Available at: http://www.tecmarket.net/ca_eval_framework.htm.
19. Deemed savings are stipulated values for energy and peak demand savings associated with a given energy efficiency measure, based on historical savings values from typical projects employing that measure.
20. National Action Plan for Energy Efficiency (November 2007). Model Energy Efficiency Program Impact Evaluation Guide. Available at: http://www.epa.gov/cleanenergy/documents/evaluation_guide.pdf.

- Guidance on how evaluation should be situated within the program planning and implementation cycle (*e.g.,* when and how often evaluations should be conducted);
- Guidance on general level of funding for evaluation within the DSM portfolio, and how allocation of funding resources should be made;
- Determination on the role of net versus gross savings estimates, and recommended approaches for estimating both;
- Guidance on determining the baseline against which energy savings and peak demand reduction impacts should be estimated;
- General guidance on how specific types of programs should be evaluated (*e.g.,* resource acquisition programs versus information/education programs) and how the evaluation scope and level of rigor should be determined; and
- Guidance on how risk and uncertainty should be addressed within evaluations.

The Energy Center also recognized that the oversight body described in the Phase II Report can play a role with respect to DSM program evaluation. This forum could provide technical input during the formulation of evaluation protocols. It could review evaluation plans with an eye toward ensuring a general level of statewide consistency. In cases where multiple utilities are administering similar programs, the oversight body could coordinate joint evaluations across multiple service territories, promoting consistency as well as the cost-effective use of evaluation resources. It could also develop a web site or other mechanism for sharing evaluation results.

One of the other evaluation-related topics discussed during the Technical Workshops, and in the testimony submitted in this Cause, was a proposal to develop a statewide DSM database. Participants expressed interest in developing a resource to support program design and planning, and also to serve as a repository for program results. In its Phase II Report, the Energy Center recommended that the Commission convene a working group to reach agreement on the objectives and parameters of the DSM database. Participants would ideally include utilities, Commission and OUCC staff, and other interested stakeholders. Alternatively, the oversight body proposed in the Phase II Report could be charged with developing recommendations on the contents and approach for developing a DSM database resource for Indiana.

(ii) Discussion and Findings by the Commission on this Issue.

Based on the evidence presented in this matter and the specific recommendations of various parties, the Commission finds that in order to track achievement of goals, a single consistent statewide evaluation framework is required. Such a framework should be the basis of the Evaluation RFP to be issued in this proceeding. The Evaluation RFP should seek proposals from independent entities to conduct EM&V with respect to the Core Programs and additional DSM Programs undertaken by the parties to ensure that the overall savings objectives identified in this Order are being met in a timely and cost effective manner. The Evaluation RFP should include the specific evaluation framework developed by the DSM Coordination Committee which will form the basis of the proposal. As with respect to broader participation in the Core

Programs, the Commission is hopeful that the EM&V Administrator(s) will also be utilized by non-jurisdictional electric utilities in a manner that will create a statewide portrait of success with respect to DSM program offerings.

The overall goals of the evaluation to be included in the Evaluation RFP must be consistent with the determinations set forth in this Order and include, at a minimum, the following objectives that will all be subject to Commission oversight and approval:

- Expectation for the utilization of independent verification of program achievement by conducting surveys, on-site verification and direct measurement when needed;
- Provisions for feedback for future program design;
- Expectations for the determination of a baseline against which energy savings should be measured;
- The provision of regular reports to both a technical audience as well as to the general public. Reports to the general public shall be in the form of a "program performance dashboard" or general summary of program costs and results;
- Coordination with evaluation of natural gas DSM programs where possible and appropriate;
- Coordination of discussion and agreement on deemed savings values for prescriptive incentive offerings; and
- Development of a statewide DSM database.

The framework and overall budget, along with a draft Evaluation RFP for this purpose shall be developed by the DSM Coordination Committee and submitted to the Commission for approval in the Implementation Subdocket by March 1, 2010.

F. Ratemaking and Cost Recovery Issues. This topic includes an overview of ratepayer equity considerations; rate design issues associated with the development of new DSM programs; and, cost recovery issues generally.

(i) Overview of Recommendations in the Phase II Report.

The Technical Workshops addressed three key questions involving ratepayer equity:

- Whether DSM offerings should be available to all market sectors—residential, commercial, industrial, and agricultural;
- How the relative allocation of DSM resources across market sectors should be determined; and
- Whether participation in DSM initiatives and associated ratepayer contributions should be voluntary or mandatory for all market sectors.

As discussed previously, in order to ensure that all Indiana energy consumers have the opportunity to benefit from the energy cost reductions that can be achieved through energy efficiency improvements, it is important to offer programs and resources to all customer classes and market segments.

As discussed in the Phase II Report, a 2006 analysis by ACEEE compared the results of industrial efficiency potential studies conducted in California, New York, the Pacific Northwest, and the Southwest. In these studies, estimates of achievable energy efficiency potential in the industrial sector ranged from 10 to 33 percent of base sales.[21] The same study reviewed data from 1980 through 2005 compiled by the U.S. Department of Energy's Industrial Assessment Center ("IAC"), which showed that on average, facilities participating in the program implemented approximately half of the cost-effective energy savings recommendations made by IAC auditors (generally those implemented were recommendations with paybacks of one year or less). In establishing energy savings targets for Indiana utilities, it will be important to conduct assessments of efficiency potential in the industrial market. Such studies will also be useful in determining the appropriate allocation of DSM funding to each market sector.

While many parties supported the inclusion of all sectors in DSM offerings, other participants recommended that participation and associated ratepayer contributions be voluntary for large C&I customers. Under an opt-out scenario, a large customer could apply funding that would have gone to support utility-administered programs to energy efficiency improvement projects in their own facilities. As discussed in the Phase II Report, The Energy Center believes that the Commission may want to consider establishing guidelines under which large customers may opt out of utility-administered energy efficiency programs.

In the Order issued in Phase I of this proceeding, the Commission found that while the primary focus of Phase II should be on refining DSM policy, consideration of DSM program cost recovery and related ratemaking issues such as decoupling and shareholder incentives should play a secondary role in the discussion. Under the federal Energy Independence and Security Act of 2007, states are required to consider modification of rate designs to align utility incentives with the delivery and promotion of energy efficiency resources. Consideration of ratemaking and cost recovery issues within the context of this proceeding achieves compliance with this statutory requirement.

In terms of approaches used to compensate utilities for the financial impacts associated with DSM initiatives, there are three primary mechanisms to consider:

- Compensation for direct program expenditures, addressed through cost recovery mechanisms;
- Compensation for reduced earnings due to reductions in volumetric sales, addressed through lost revenue recovery mechanisms and decoupling; and

21. ACEEE (April 2006). Ripe for the Picking: Have We Exhausted the Low-Hanging Fruit in the Industrial Sector? Report No. IE061.

- Compensation for erosion of shareholder value due to reduced spending on supply-side assets, addressed through performance incentive mechanisms.

(ii) Discussion and Findings by the Commission on this Issue.

Based on our review of the Phase II Report, and the testimony presented in this matter, the Commission finds, as previously discussed herein, that it has fully addressed ratepayer equity considerations; rate design issues associated with the development of new DSM programs; and, cost recovery issues. In the Phase I Order we indicated that the focus of the second phase of this proceeding was to be on refining DSM policy. In reaching this conclusion, we recognized that cost recovery issues may play a secondary role in such discussions. As referenced in the Phase II Report, the Indiana Administrative Code provides guidelines for demand-side cost recovery by electric utilities, as well as lost revenue recovery and demand-side management incentives.[22] Accordingly, as the central purpose of this proceeding was to address DSM policy issues identified in Phase I of this Cause, other than recognition and general discussion of the issue of cost recovery as provided under existing statues and administrative rules, the Commission does not make any specific additional findings with respect to ratemaking and cost recovery issues in this proceeding.

G. Smart Grid Technologies and Advanced Rate Design. This topic includes consideration of Issues Identified by the Commission in the Energy Policy Act of 2005 and the Energy Independence and Security Act of 2007, including consideration of new technologies such as automated metering.

(i) Overview of Recommendations in the Phase II Report.

As discussed in the Phase II Report, the term "smart grid" encompasses a broad array of technologies that offer enhanced grid reliability and security through improvements to electric transmission and distribution infrastructure. In addition, smart grid technologies include communications infrastructure that allow for better control of on-site generation resources as well as improved energy management at the customer site. Examples of smart grid technologies include digital information and control systems; real-time, automated, interactive technologies that optimize the physical operation of appliances, equipment, and consumer devices; communications systems that provide real-time information on grid operations and status; distribution automation equipment; advanced electricity storage and peak-shaving technologies; distributed generation resources, including renewables; and devices that provide timely information and energy control options to consumers.[23]

"Advanced rate design" refers to dynamic electricity pricing structures that support energy savings and/or peak demand reduction objectives by providing better price signals to energy consumers. Common examples include time of use ("TOU") rates, real time pricing ("RTP"), and critical peak pricing ("CPP"). Other rate structures that support DSM objectives include inclining block rates and interruptible/curtailable tariffs. *See,* the Glossary of the Phase II Report for definitions of these rate structures.

22. 170 IAC 4-8-5 through 170 IAC 4-8-7.
23. Energy Independence and Security Act of 2007.

Technical Workshop participants acknowledged that smart grid technologies will likely play an important role in DSM strategies of the future. A number of participants are launching pilots to test selected technologies, or are making infrastructure investments to support future smart grid applications. However, many smart grid technologies are still in the early stages of development and, in some cases, the impacts on energy consumption and peak demand are still relatively untested. Given the high cost and unproven nature of some smart grid technologies, and potential ratepayer impacts associated with large-scale investments in smart grid infrastructure, a strategic approach is advisable. Participants felt it will be important to ensure that those who bear the cost of investments in such technologies achieve commensurate benefits. In promoting any energy savings benefits associated with smart grid technologies, such claims should be based on demonstrated, measured results.

In the discussion of advanced rate design, participants noted that rates based on average costs provide a poor price signal to motivate energy conservation. Declining block rates (where successive blocks of electricity use are priced at progressively lower per-unit prices) are still available in Indiana. Providing better price signals to energy consumers is an important component of ensuring that Indiana achieves its DSM goals. Technical Workshop participants noted that RTP rates and CPP rates are particularly effective options in this regard. Though interruptible/curtailable rates are widely available to large customers, industrial customers have expressed interest in innovative rate offerings. Participants cited the uncertainty of residential customer response to dynamic pricing signals and communications infrastructure challenges as two areas where further attention is needed.

To facilitate a strategic approach to smart grid development and broader deployment of advanced rate designs in Indiana, the workshop participants reached general consensus on the following:

- Continue to pilot-test smart grid applications, with rigorous field testing and evaluation to verify results;
- Continue to phase out declining block rates, which encourage customers to use more energy, rather than less;
- Pursue broader deployment of dynamic pricing structures, particularly approaches like TOU rates that can be implemented without large-scale technology investments; and
- Conduct research to evaluate customer responses to dynamic pricing.

(ii) Discussion and Findings by the Commission on this Issue.

In the Phase I Order of this proceeding we indicated that we would revisit certain issues identified by the Commission regarding the Energy Policy Act of 2005 and fully consider issues to be addressed in the Energy Independence and Security Act of 2007, regarding integrated resource planning and rate design modifications to promote energy efficiency investments. In addition, we also indicated that we would consider the role and impact that new technologies such as automated "smart" meters can play in the implementation of enhanced DSM Programs. Through this investigation we have examined these issues and, based on the entirety of the

record in this proceeding, find that specific further action on these issues on a standalone basis is unnecessary.

H. Timeline for Future Action. This topic includes consideration of the proposed timeframe for future action presented in the Phase II Report.

(i) Overview of Recommendations in the Phase II Report.

If the Commission elects to implement the DSM framework proposed in this analysis, the critical steps in the process will unfold over the next few years. Workshop participants discussed current processes and reached consensus on the major components of the proposed DSM framework.

- Formation of oversight collaborative for electric DSM;
- Potential study updates, particularly assessments of industrial energy efficiency potential;
- Establishing utility goals;
- DSM planning, including utility coordination on core program offerings;
- Development of evaluation plans; and
- Program launch

As discussed in the Phase II Report, the concluding stages of Phase II of this proceeding will likely continue through much of 2009. 2009 is also a year in which utilities file IRPs. For this reason, a full transition to the framework proposed in this analysis would not be completed until the following IRP cycle in 2011.

(ii) Discussion and Findings by the Commission on this Issue.

As contemplated in the Phase II Report, the Commission has established specific goals for annual DSM savings in this proceeding. Because several utilities have current filings at the Commission, it is not unreasonable to begin to build programs to deliver services beginning in calendar year 2010. In furtherance of this objective, the Commission finds that the DSM Coordination Committee (or the Independent Third Party Administrator), shall report compliance with respect to Core Program offerings; identify existing utility programs that fit within the framework of the Core Programs; and, coordinate the statewide roll-out to occur in 2010 in order to ensure that all jurisdictional utilities have Core Program offerings approved, or being considered, by the Commission by the end of the 2010. While the Commission may be able to provide some degree of flexibility regarding goal achievement within a three year planning period, any delay in offering Core Programs will be deemed a service deficiency. In reaching this conclusion, the Commission recognizes that Indiana utilities are currently offering a significant number of programs compared to past years and believes that the ramp up required to meet the stated goals is achievable.

Based on the findings reflected herein, this Order establishes four overarching objectives with respect to demand side management programs applicable to jurisdictional electric utilities in the State of Indiana. First, the Order establishes an overall annual energy savings goal of 2% to be achieved within 10 years, with interim savings goals to be achieved in years one through nine. Second, this Order establishes certain initial Core DSM Programs that must be offered throughout the State of Indiana. Third, this Order requires the formation and participation in a DSM Coordination Committee by the entities described in this Order. An initial objective of the DSM Coordination Committee is the issuance of two RFPs. The first RFP is to be issued for the selection of an Independent Third Party Administrator to oversee and coordinate the Core Programs established in this Order. The second RFP is to be issued for the selection and utilization of an administrator(s) to undertake Evaluation, Measurement & Verification of DSM program offerings. Fourth and finally, this Order requires the submission of compliance filings including, but not limited to, three year DSM Plans with annual supplemental updates, with the Commission to confirm that the objectives of this Order are being fully satisfied.

While the requirements of this Order are specifically applicable to all jurisdictional electric utilities, as structured, the framework of this Order is intended to invite participation on the part of all electric utilities in Indiana. The following general timeframes and deliverables are applicable to all jurisdictional electric utilities in the State of Indiana:

- **March 1, 2010**
  Filing of proposed RFPs and Organizational Structure of the DSM Coordination Committee, along with additional supporting documentation required by this Order, in the Implementation Subdocket (Cause No. 42693 S-1) to this proceeding;

- **July 1, 2010**
  Submission of first DSM Plan to the Commission to address progress with respect to annual DSM savings goals established in this Order. Subsequent DSM Plans shall be filed with the Commission on July 1, 2013, 2016, and 2019, with annual supplemental updates in the interim periods;

- **December 31, 2010**
  Filing by each jurisdictional utility (or a joint filing by the DSM Coordination Committee or Third Party Administrator) in the Implementation Subdocket that reflects compliance with this Order regarding the requirement that all utilities offer DSM Programs that adhere to the Core Programs established in this Cause; and

- **December 31, 2019**
  Last possible date to demonstrate compliance with overall DSM savings goals established in this Order.

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

1. The Commission hereby establishes an overall annual energy savings goal of 2% to be achieved by jurisdictional electric utilities in the State of Indiana within 10 years, with interim savings goals established in this Order to be achieved in years one through nine.

2. The Commission hereby establishes initial DSM Core Programs that shall be offered by jurisdictional electric utilities throughout the State of Indiana. The Core Programs shall be overseen and coordinated by an Independent Third Party Administrator in a manner consistent with the findings set forth in this Order.

3. The Commission hereby requires the formation of a DSM Coordination Committee comprised of the entities described in this Order. An initial objective of the DSM Coordination Committee shall be the issuance of two requests for proposals ("RFPs"). The first RFP shall be issued for the selection of an Independent Third Party Administrator to oversee and coordinate the Core Programs established in this Order. The second RFP shall be issued for the selection and utilization of an evaluation administrator(s) to undertake Evaluation, Measurement & Verification of DSM program offerings.

4. The Commission hereby finds that in order to ensure that the objectives of this Order are being fully satisfied, compliance filings shall be submitted as ordered in this proceeding to provide a means for Commission review of the following matters: (i) the proposed organizational and operational structure of the DSM Coordination Committee; (ii) the three-year DSM Plans and the annual supplemental updates; (iii) the proposed RFPs required by this Order; and, (iv) any additional compliance filings required under this Order. For this purpose, the Commission hereby establishes an Implementation Subdocket in this proceeding under Cause No. 42693 S-1.

5. The Commission finds that with respect to issues other than compliance with the terms of this Order, that will be overseen by the Commission in the Implementation Subdocket, this proceeding is hereby concluded.

6. This Order shall be effective on and after the date of its approval.

ATTERHOLT, GOLC, LANDIS AND ZIEGNER CONCUR; HARDY ABSENT:
APPROVED: DEC 0 9 2009

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

Brenda A. Howe
Brenda A. Howe, Secretary to the Commission