FILED
MARCH 21, 2017
INDIANA UTILITY
REGULATORY COMMISSION

OFFICIAL
EXHIBITS

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC FOR APPROVAL OF (1) ITS PROPOSED PLAN FOR DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS FOR 2017-2019, INCLUDING COST RECOVERY, LOST REVENUES AND SHAREHOLDER INCENTIVES IN ACCORDANCE WITH IND. CODE §§ 8-1-8.5-3, 8-1-8.5-10, 8-1-2-42(a) AND PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-6; (2) AUTHORITY TO DEFER COSTS INCURRED UNTIL SUCH TIME THEY ARE REFLECTED IN RETAIL RATES; (3) RECONCILIATION OF DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAM COST RECOVERY THROUGH DUKE ENERGY INDIANA, LLC'S STANDARD CONTRACT RIDER 66A; AND (4) REVISIONS TO STANDARD CONTRACT RIDER 66A	)	**CAUSE NO. 43955 DSM-04**

IURC
PUBLIC'S
EXHIBIT NO. 1
8-17-17 AT
DATE REPORTER

OUCC REDACTED TESTIMONY

OF

EDWARD T. RUTTER – PUBLIC'S EXHIBIT- 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

Respectfully Submitted,

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

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

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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ***Office of Utility Consumer Counselor Redacted Testimony of Edward T. Rutter*** has been served upon the following counsel of record in the captioned proceeding by electronic service on March 21, 2017.

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**REDACTED TESTIMONY OF OUCC WITNESS EDWARD T. RUTTER
CAUSE NO. 43955 DSM-4
DUKE ENERGY INDIANA, LLC**

I. INTRODUCTION

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

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

Q: What is the purpose of your direct testimony?

A: My testimony addresses several elements of Duke Energy Indiana, LLC's ("Duke") proposed DSM plan that are unreasonable, including Duke's lost revenue request, shareholder incentive request, evaluation, measurement and verification ("EM&V") process, and some of Duke's proposed programs. Because the lost revenues, shareholder incentives and EM&V process are unreasonable, the OUCC recommends that the IURC, pursuant Indiana Code ("I.C.") 8-1-8.5-10(m), find Duke's plan unreasonable in its entirety, issue an order setting forth the reasons supporting that determination and allow Duke a reasonable time to submit a modified plan.

Specifically, my testimony explains that

1. While Duke's Utility Cost Test ("UCT') cost and benefit analysis

demonstrates its proposed DSM plan will produce approximately \$320M of benefits in the form of avoided revenue requirements, Duke's \$87M lost revenue and shareholder incentive request, when combined with the \$100M program costs (paid for entirely by ratepayers) effectively gives Duke \$187M of that \$320M benefit. Because Duke pays no program costs, and revenue requirements should flow through to ratepayers, it is unreasonable for Duke's lost revenue / shareholder incentive / program cost request to exceed 50% of the net UCT benefit.

2. Duke's EM&V plan does not include annual EM&V and an accompanying report for each program for which it is requesting program costs, lost revenues and shareholder incentives. This is required by the Commission's DSM Rules, 170 IAC 4-8-4(b). It is unreasonable to permit recovery of those amounts when the proposed EM&V plan violates the Commission's rules and does not allow the Commission or stakeholders to review the annual performance of the programs responsible for generating those amounts.

3. Duke's proposed Incentive Mechanism awards incentives based on a pre-tax rate of return between 8.5% - 11%. Incentives are purportedly necessary to eliminate any disincentive or bias against the utility pursuing DSM and to put DSM on "equal footing" with plant investment. If program costs and lost revenues are akin to a utility's "return of" its investment in plant, then incentives can be seen as the

equivalent of the "return on" investment. Duke's UCT analysis already demonstrates there is no DSM disincentive, but rather a $320M DSM savings incentive. Absent any disincentive, and absent express authorization within the statute, it is unreasonable to award incentives in excess of Duke's current authorized rate of return for any program, and no program should receive any incentives unless it achieves 100% of its savings target. Incentives should be calculated for each specific program, not at the portfolio level.

4. Duke did not comply with several requirements set forth in I.C. 8-1-8.5-10(j), including failing to include a complete cost and benefit analysis required by subsection (j)(2), failing to include a complete analysis on the long-term and short-term effects on customer rates as required by subsection (j)(7), and by seeking recovery of lost revenues other than those associated with the 2017-2019 Plan as required by subsection (j)(8).

5. Duke states its Smart $aver HVAC Program will not be cost effective unless Duke can require participating trade allies to pay Duke for certain referrals. It is unreasonable for Duke to require outside referral payments in order for its programs to pass cost / benefit tests. In addition, Duke claims to have removed its Appliance Recycling Program from the proposed Plan, yet Petitioner's Exhibit 1-A (MG) includes a description of the program, program objectives, marketing plan, projected savings,

program budget, program cost effectiveness and program measure life.

My analysis is confined to Duke's DSM Plan as filed in accordance with I.C. 8-1-8.5-10 and the impact to the ratepayers and the company during the 2017 to 2019 period during which this plan will be in effect.

II. UCT BENEFIT / COST ANALYIS

Q. How should the Commission evaluate Duke's 2017 - 2019 DSM Plan?

A. In addition to the explicit requirements of I.C 8-1-8.5-10(j), the Commission must also make certain that the resulting rates and charges must be "just and reasonable". Such rates appropriately balance both the investor and consumer interests. The consumer interest cannot be disregarded in determining a "just and reasonable" rate.[1]

Q. Does Duke's proposed 2017 - 2019 DSM Plan include sufficient information to determine whether the Plan reasonably balances both investor and consumer interests?

A. Yes. For years, Indiana utilities, the IURC and various stakeholders have adopted the California Standards Practice Manual ("Manual") to assist in evaluating the cost-effectiveness of a DSM program. The four primary tests included in the Manual and adopted for evaluating cost-effectiveness in Indiana are:

- Participant test ("PCT")
- Ratepayer Impact Measure test ("RIM")
- Total Resource Cost test ("TRC")
- Program Administrator Cost test ("PACT"), also known as the Utility Cost Test ("UCT")

[1] *Federal Power Commission et al. v. Natural Gas Pipeline Co. of America et. al.*, 315 U.S. 575, concurring opinion Mr. Justice Black, Mr. Justice Douglas and Mr. Justice Murphy, decided March 16, 1942.

The UCT measures the results of a demand side management program as a resource option and is based on the costs incurred by the program administrator or utility. It excludes participant costs. Test results are usually shown as a benefit-cost ratio, and a portfolio or program is said to have "passed" a test if the benefit-cost ratio is greater than 1.0. A positive UCT score indicates the DSM program(s) reduces the revenue requirement by the net benefit ("NPV") amount. When a utility's revenue requirement is reduced, it typically follows that the revenue requirement to be collected from consumers is also reduced.

Q. How does the UCT benefit result provide insight regarding whether Duke's DSM plan, and the resulting rates and charges, are "just and reasonable"?

A. It would be neither just nor reasonable for the utility to implement a plan paid for entirely by ratepayers that reduces the revenue requirement, then retain 100% that benefit. A 50-50 split reasonably shares this benefit. Therefore, the sum of the direct program costs, lost revenues and shareholder incentives realized by the utility should never exceed 50% of the UCT benefit.

Duke calculates the UCT benefit for the 2017 – 2019 DSM Plan at $[redacted].[2] Fifty percent of that amount is $[redacted]. Duke seeks recovery from ratepayers over the three year life of the Plan of all program costs ($110,233,151)[3] plus lost revenues ($76,449,075)[4] plus shareholder incentives ($10,950,352)[5] for a

[2] Rutter Direct, CONFIDENTIAL Attachment OUCC 1.1-A.

[3] Goldenberg Direct at page 28 "Grand Total" line.

[4] Id. at page 30.

[5] Id.

combined total of $197,632,578. This request is unreasonable as it exceeds 50% of the UCT benefit by $[redacted], depriving ratepayers of a substantial portion of the cost savings benefit they are paying for. That does not balance the interests of the consumer and the shareholder, and is not "just and reasonable".

Q: How does Indiana Code 8-1-8.5-10 (e) define the term "lost revenue"?

A: Indiana Code 8-1-8.5-10(e) defines "lost revenues" as the "difference, if any between: (1) revenues lost and (2) the variable operating and maintenance costs saved by an electricity supplier as a result of implementing energy efficiency programs."

Q. Why is that definition important?

A. The lost revenue definition adopted by the Legislature provides for the recovery of fixed costs associated with the energy sales lost. Fixed costs are set in a base rate case and embedded in approved rates. The fixed costs embedded in base rates have been audited, vetted and approved as being reasonable in the delivery of energy service. Fixed costs do not change with an increase or decrease in the amount of goods or services, in this case energy, produced. Fixed costs are expenses that must be paid by a business entity independent of any business activity.

Q. Do you agree with Mr. Goldenberg's testimony at page 30, lines 12 – 15, that the promotion of energy efficiency causes utilities to experience a reduction in the recovery of their fixed costs absent the recovery of lost revenues or that "Lost revenues are a mechanism to make a utility whole between rate cases"?

A. No. Base rates resulting from the most recent base rate proceeding are designed to recover the adjusted test-year level of fixed costs authorized by the Commission. Duke might not recover that level of fixed costs when the overall sales experienced

Duke in a particular year or period are less than the level of sales approved for the base rate case test year. When Duke realizes a level of sales greater than test year sales, it may recover more than the Commission authorized level of fixed costs.

DSM/EE lost sales are not the only cause, or most likely even the largest cause, of Duke potentially not recovering its Commission-authorized fixed costs or earning its authorized return. When Duke's fixed costs rise, or it is not achieving the authorized return, Duke should file a base rate case, as utilities have done for decades, and not expect to correct that problem through a DSM lost revenue recovery mechanism.

The suggestion put forth by Mr. Goldenberg on page 30 of his pre-filed direct testimony that, "Lost revenues are a mechanism to make a utility whole between rate cases" is offensive to the regulatory compact and violative of Indiana law and Commission orders. Lost revenue recovery is not a mechanism to make a utility whole between rate cases but is defined in I.C 8-1-8.5-10(e) as the difference, if any, between:

> (1) revenues lost; and
> (2) the variable operating and maintenance costs saved by an electricity supplier as a result of implementing energy efficiency programs.

Any lost revenue recovery mechanism that is part and parcel of a filed DSM plan should not be used as a method to make a utility whole between rate cases. This philosophy in general, and legacy lost revenues in particular, may explain why Duke has not filed a base rate request since 2002 and the significant difference between the cost of the DSM plan to ratepayers and the cost of the DSM plan to Duke.

Q. Does DSM/EE impact Duke's ability to earn its Commission authorized return?

A. Duke is provided the opportunity, not a guarantee, to earn the Commission approved authorized return. When a DSM-related sale is not made, Duke loses that opportunity to earn a return resulting from <u>that sale</u> and in turn, impacts Duke's ability to earn its Commission authorized return.

That result happens regardless of whether the current period sales level is equal to, greater than or less than the sales level in the Commission approved test year in the latest base rate proceeding. However, whether Duke earns its Commission authorized return or not, depends on more factors than just a DSM/EE offering. That is what base rate proceedings address, not the single issue ratemaking of Duke's proposed DSM plan.

<u>Lost margin</u> recovery based on DSM/EE sales not made would address Duke's "diluted" opportunity to earn its authorized return caused by those lost sales. DSM <u>lost revenue</u> recovery is not intended to provide recovery of fixed costs or return above and beyond what the Commission authorized in the latest base rate proceeding.

Duke's proposed lost revenues proposed to be recovered from ratepayers of \$76,449,075 exceed lost margins by \$61,908,461 over Duke's three (3) year plan. In other words, Duke proposes to collect about \$61.9M more <u>in lost revenues</u> during the 3-Year Plan than the <u>lost return</u> that might reasonably be attributed to the Plan.

Q. Is the OUCC suggesting that the Commission disallow any lost revenue recovery Duke's proposed 2017- 2019 DSM Plan?

A. No. I.C. 8-1-8.5-10(o) requires that if the Commission finds the Plan to be reasonable, it must also provide for recovery of "reasonable" lost revenues and financial incentives. But "reasonable" lost revenues and financial incentives still need to produce "just and reasonable" rates. The Commission should find Duke's lost revenue and shareholder incentive request to be unreasonable.

III. DUKE'S EM&V PLAN

Q. Does Duke's proposed DSM Plan comply with I.C. § 8-1-8.5-10(h)(4) which requires "evaluation, measure, and verification procedures that must include, evaluation, measurement, and verification"?

A. Yes. Petitioner's Exhibit 3-A provides an initial design for the EM&V analysis for the proposed energy efficiency programs.

Q. Does this initial design for the EM&V analysis comply with the Commission's DSM rule 170 IAC 4-8-4, Demand-side management program evaluation?

A. No. Section 4(a) of the rule sets forth various EM&V analyses that must be performed. Section 4(b) requires reports with the EM&V results be submitted to the IURC annually. Duke is seeking cost recovery, lost revenues and shareholder incentives for each year of the 2017 to 2019 DSM Plan. However, Duke's EM&V Plan included in Petitioner's Exhibit 3-A, does not generate an EM&V report for each program for each year.

2017 EM&V Reports:

- Agency Assistance Portal
- Energy Efficiency Education Program for Schools
- Neighborhood Energy Saver
- Multi Family EE Products & Services
- Residential Energy Assessments
- Residential Smart Saver*
    - HVAC and Building Shell

- Power Manager® Demand Response
  - Power Manager® AC
- Power Manager® for Business
- Smart Saver Non-Res
  - Prescriptive 2

No EM&V for: Home Energy Report; Residential Smart Saver – Online Store, LED, Free LEDs, Water Heating, Pool Pumps, Water; Power Manager Demand Response - WH, PM Apts., Small Business Energy Saver, Smart Saver Non-Res – Custom 2

2018 EM&V Reports:

- Agency Assistance Portal
- Neighborhood Energy Saver
- Energy Efficiency Education Program for Schools
- My Home Energy Report
- Residential Smart Saver*
  - Online Store & LED
  - Free Led Lighting
  - Water Heating, Pool Pumps, Water
- Power Manager® Demand Response
  - Power Manager® AC & WH, PM Apts. (WH&AC)
- Power Manager® for Business
- Small Business Energy Saver
- Smart Saver Non-Res
  - Custom 2
  - Prescriptive 2

No EM&V for: Multi Family EE Products & Services, Residential Energy Assessments Residential Smart Saver*HVAC and Building Shell

2019 EM&V Reports:

- Energy Efficiency Education Program for Schools
- Neighborhood Energy Saver
- Multi Family EE Products & Services
- Residential Energy Assessments
- Residential Smart Saver*
  - Retail Lighting
  - HVAC & Building Shell
  - Water Heating, Pool Pumps, Water
- Power Manager® Demand Response
  - Power Manager® AC & WH, PM Apts. (WH&AC)
- Power Manager® for Business

- Small Business Energy Saver
- Smart Saver Non-Res
  - Custom 2

No EM&V for: Agency Assistance Portal, Smart Saver Non-Res Prescriptive 2

Q. Since the Duke EM&V Plan does not comply with Commission rule 170 IAC 4-8-4(b) what does the OUCC recommend regarding Duke's request for program costs, shareholder incentives and lost revenue recovery?

A. It is unreasonable for Duke to be permitted the opportunity to recover program costs, shareholder incentives and lost revenues in any year when EM&V is not performed and reports are not provided to the IURC as required by 170 IAC 4-8-4. As I.C. 8-1-8.5-10 requires the IURC to allow recovery of "reasonable" lost revenues and shareholder incentives, no amount is reasonable unless the programs that generate those amounts have been EM&V'd, and both stakeholders and the IURC can review the evaluated, measured and verified results. The OUCC recommends the IURC find Duke's EM&V Plan unreasonable.

IV. SHAREHOLDER INCENTIVES

Q. Is Duke seeking to recover incentives in the 2017 - 2019 DSM Plan?

A. Yes. Mr. Goldenberg testifies Duke is entitled to a reasonable financial incentive under Ind. Code § 8-1-8.5-10(o) of $10,950,352. Duke is seeking a cost-plus tiered incentive structure based on energy savings achievements for the portfolio for each program year. Duke proposes to calculate the incentive at a portfolio level, as a percentage of costs incurred for incentive-eligible programs using the total energy savings achievement level for the portfolio of eligible programs. The shareholder incentive sought for recovery by Duke through approval of the 2017 – 2019 DSM

Plan is $10,950,352.[6]

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

A. No. It is unreasonable to award financial incentives to programs that do not at least meet savings goals approved by the Commission. In an environment where a utility's DSM Plan must be consistent with the utility's IRP and the method used in developing the IRP is selected by the utility, it is crucial that the reasonable incentives are awarded only to programs that meet or exceed goals. As a result, it is also unreasonable to calculate financial incentives at the portfolio level. Incentives should be calculated and paid at the program level, so a few strong performing programs do not cover for weak performers.

Ind. Code § 8-1-8.5-10(l) establishes a procedure for the Commission to follow if "the commission determines that an electricity suppliers plan is not reasonable because the costs associated with one (1) or more **programs** included in the plan exceed the projected benefits of the **program** or **programs**, the commission:

> (1) may exclude the **program** or **programs** and approves the remainder of the plan; and
> (2) shall allow the electricity supplier to recover only those **program** costs associated with the portion of the plan approved under subdivision (1) on a timely basis through a periodic rate adjustment mechanism."
> **(Underline and emphasis added)**

This language authorizes the Commission to exclude **program(s)** when the **program(s)** costs exceed the benefits. Each **program** must have benefits that exceed its costs (excluding a home energy efficiency assistance **program** for qualified customers of the supplier). Since the Commission makes its

[6] Public's Attachment ETR-1

reasonableness determination at the program level under Section (l), it is unreasonable to calculate and award incentives on anything other than on the program level.

Further, any financial incentives ultimately approved by the Commission under subsection (o) as reasonable should be subject to the overall 50% cap on the sum of program costs, lost revenues and incentives which is based upon the utility's calculated UCT benefit discussed previously in my testimony.

Q. Does the OUCC have a proposed method to determine reasonable financial incentives?

A. Yes. As testified to above, financial incentives for DSM plans should be calculated on a program level, and only for those programs that achieve a minimum of 100% of the plan's program estimated savings. In addition, incentives paid as a percentage of costs, expenditures or other benchmark should never exceed the utility's rate of return authorized in its most recent base rate case. Duke's proposed Incentive Mechanism awards incentives based on a pre-tax rate of return between 8.5% - 11%. Duke's weighted average cost of capital approved in its last base rate case is 7.30%, where the Commission determined a reasonable fair rate of return was between 4.30% to 6.63%. Final Order in Cause No. 42359 (5/18/04), page 54.

Incentives are purportedly necessary to eliminate any utility disincentive or bias against pursuing DSM. If program costs and lost revenues are akin to a utility's "return of" its investment in plant, then perhaps incentives should be seen as the equivalent of the "return on" investment. Duke's UCT analysis discussed above demonstrates there is no DSM disincentive, but rather a $320M bias in favor of

DSM. Absent any disincentive, it is unreasonable to award incentives in excess of Duke's current authorized rate of return for any program. Furthermore, while some statutes expressly permit a rate of return greater than that approved in the most recent base rate case for some specific types of investment, I.C. 8-1-8.5-10 contains no such language.

V. I.C. 8-1-8.5-10(J) TEN FACTOR TEST

Q. Is Duke's proposed DSM Plan reasonable in light of the ten factor test set forth in I.C. 8-1-8.5-10(j)?

A. No. Duke's proposed DSM Plan does not fully comply with subsections (j)(2), (j)(7), or (j)(8).

Q. How does Duke's proposed DSM Plan fail to comply with subsection (j)(2)?

A. Duke's DSM Plan does not provide a cost and benefit analysis required in subsection (j)(2) that includes "program costs" as they are defined in IC 8-1-8.5-10, subsection (g). The California Standards Practice Manual includes program costs when defining the term "costs" as it is used in calculating the RIM, PACT/UCT and TRC cost and benefit analyses. The DSM statute has defined program costs in subsection (g). There is no statutory language supporting the idea that costs mandated to be considered in a cost and benefit analysis under subsection (j)(2) is somehow different than the costs included under "program costs" as set forth in subsection(g). All "program costs", as that term has been plainly defined by the Indiana Legislature, must be included in the development of costs used in calculating the cost and benefit analysis referred to in IC 8-1-8.5-10(j)(2).

Q. How does Duke's proposed DSM Plan fail to comply with subsection (j)(7)?

A. This subsection requires that approval of the proposed DSM Plan must take into account the impact of the Plan on ratepayers. This topic is addressed in Petitioner's Exhibit 3, the pre-filed Direct Testimony of Ms. Jean P. Williams. Duke's cost to implement the 2017-2019 DSM Plan is $0.19 per kWh saved. See Attachment ETR-1. Ratepayers will actually pay significantly more, about $.033 per kWh saved during the life of the 2017-2019 Plan. Duke failed to clearly and transparently provide the actual cost to ratepayers as part of the Plan. Thus, Duke's analysis of the long term and short term effects on customer bills is incomplete.

Q. How does Duke's proposed DSM Plan fail to comply with subsection (j)(8)?

A. Subsection (j)(8) specifically states the Commission shall consider the lost revenues and financial incentives associated with the plan. It does not include language supporting the inclusion of those costs from prior plans. Duke seeks recovery of lost revenues for prior plans, not just the 2017-2019 Plan. Petitioner's Exhibit 5-B (ABD) page 1, shows the lost revenues include amounts for measures installed during years 2012 through 2016. The inclusion of lost revenues for years prior to the three (3) years included in the Plan is not consistent with subsection (j)(8).

The OUCC firmly disagrees with Duke's interpretation relative to its compliance with these four items within the IC 8-1-8.5-10(j) ten factor test. The Commission should find these failures sufficient to render Duke's proposed Plan unreasonable in its entirety.

VI. THE SMART $AVER HVAC RESIDENTIAL AND APPLIANCE RECYCLING PROGRAMS

SMART $AVER HVAC RESIDENTIAL PROGRAM

Q: What concerns does OUCC have regarding the Smart $aver HVAC Residential Program?

A: Mr. Goldenberg claims that, in order to offset program costs and make the Smart $aver HVAC Program cost effective, Duke needs participating trade allies to pay Duke for referrals that result in sales.[7] If Duke cannot design a cost-effective program without third party referral fees, the program should be found to be unreasonable.

Q: Is DEI seeking shareholder incentives for the Smart $aver HVAC Program?

A: Yes. It is also unreasonable to award DEI shareholder incentives when the program is only cost effective after it is subsidized by participating trade allies.

Q: What recommendations does OUCC make in regard to the Smart $aver HVAC Program?

A: The IURC should reject the referral fee process and if it determines the resulting program benefits do not exceed the program costs, the IURC should remove this program from the Plan pursuant to I.C. 8-1-8.5-10(l).

APPLIANCE RECYCLING PROGRAM

Q: **At page 11 of his direct testimony, Mr. Goldenberg states the Appliance Recycling Program was removed from DEI's energy efficiency (EE) portfolio. Do you agree?**

A: Perhaps Duke intended to remove the Appliance Recycling Program from the Plan, but the program is included in Petitioner's Exhibit 1-A (MG)[8] along with a description of the program, program objectives, marketing plan, projected savings, program

[7] See Petitioner's Witness Michael Goldenberg, P. 17 at line 9.

[8] See Petitioner's Exhibit 1-A (MG), page 25.

budget, program cost effectiveness and program measure life.

Mr. Goldenberg also states the 2015 EM&V report for this program showed both the refrigerator and freezer measures barely passing cost-effectiveness testing. He indicates that recent quotes from program implementers are higher than previous vendor's, causing the program to fail cost effectiveness tests. He also states "The Company continues to seek other avenues to make the program cost effective; however, to date, we have not been successful in this undertaking."[9]

Q: What is OUCC's recommendation regarding the Appliance Recycling Program?

A: Duke needs to demonstrate that this program has been excluded from the proposed Plan, consistent with Mr. Goldenberg's testimony, and demonstrate that the proposed budget contains no costs for this program. If costs are included in the proposed budget, Duke needs to remove those costs, recalculate and provide a corrected budget. If Duke is seeking anything other than the complete removal of the program from the Plan, it should make that plain.

VII. RECOMMENDATIONS

Q. What is the OUCC recommending in this proceeding?

A. Each of the shortcomings described above are sufficient grounds for the Commission to reject at least some portion of Duke's proposed DSM Plan. The I.C. 8-1-8.5-10(n) requires that unless the Commission approves the plan in its entirety, or removes only programs that are not cost effective, it must reject the plan in its

[9] Goldenberg Direct at pages 11-12.

entirety. The OUCC recommends the Commission do just that, issue an order explaining the reasons supporting its findings and provide Duke a reasonable time to file a modified plan. The OUCC suggests several of its recommendations might form the foundation for a more reasonable plan, including

- A reasonable level of program costs, lost revenues and incentive recovery be approved that does not exceed 50% of the benefit realized under the UCT;

- Reasonable financial incentives are those awarded only for programs that meet or exceed the approved savings goals; and only for programs EM&V'd for the years which lost revenues and incentives are sought; and calculated at the program level as opposed to the portfolio level;

- Reasonable financial incentives should not exceed the rate of return utility's authorized in its most recent base rate case;

- Require compliance with the plain language of I.C. 8-1-8.5-10, including the definition of "program costs" in subsection (g) and the ten factor test included in subsection (j), including a consistent application of "program costs" as part of the cost and benefit analysis required by subsection (j)(2) and the cost and benefit analysis discussed in subsection (l).

Q. Does this conclude your testimony?

A: Yes.

APPENDIX TO TESTIMONY OF OUCC WITNESS EDWARD T. RUTTER

Q: Please describe your educational background and experience.

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

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

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

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

A: I have previously testified before the Indiana Utility Regulatory Commission (Commission) in Cause Nos. 44311, 44331, 44339, 44363, 44370, 44418, 44429, 44446, 44478, 44486, 44495, 44497, 44526, 44540, 44542, 44576, 44602, 44403, 44634, 44645, 44688,44794 plus 43827 and 43955 DSM dockets and several sub-dockets.. I have also testified before the regulatory commissions in the states of New Jersey, Delaware, Maryland, Pennsylvania, New York, Connecticut, Georgia, Florida, North Carolina, Ohio, Oklahoma, Virginia and Wisconsin. In addition to the states mentioned, I submitted testimony before the utility regulatory commissions in the Commonwealth of Puerto Rico and the U.S. Virgin Islands. I have also testified as an independent consultant on behalf of the U.S. Internal Revenue Service in Federal Tax Court, New York jurisdiction.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

By: Edward T. Rutter
Indiana Office of
Utility Consumer Counselor

3/21/2017
Date:

PUBLIC'S ATTACHMENT ETR-1

DUKE ENERGY INDIANA, LLC
DSM 3-YEAR PLAN
TOTAL COST TO RATEPAYER UNDER THE DSM 3-YEAR PLAN
2017 TO 2019

DESCRIPTION	PROGRAM YEARS 2017 - 2019 $'s
PROGRAM COSTS PER DSM PLAN: (a)	
DIRECT ADMINISTRATIVE COSTS	$38,887,186
INDIRECT ADMINISTRATIVE COSTS	9,931,390
CUSTOMER INCENTIVES	57,734,182
EM&V	3,680,392
TOTAL PROGRAM COSTS	110,233,150
ADDITIONAL COSTS TO THE RATEPAYER PER DSM PLAN:	
LOST REVENUES: (a)	
DSM PLAN NET LOST REVENUE SOUGHT BY DUKE FOR RECOVERY FROM RATEPAYERS	76,449,075
COMPANY INENTIVES BASED ON SHARED SAVINGS CONSTRUCT	10,950,352
TOTAL ADDITIONAL COSTS TO THE RATEPAYER PER DSM PLAN	87,399,427
TOTAL DSM PLAN COSTS CHARGED TO THE RATEPAYER	$197,632,577
DSM PLAN ENERGY SAVINGS kWh (b)	590,275,111
COST TO RATEPAYER PER KwH SAVED PER DSM PLAN	
PROGRAM COST PER KwH	$0.19
ADDITIONAL COSTS TO THE RATEPAYER PER kWh	$0.15
TOTAL COST TO RATEPAYER PER kWh	$0.33
(a) Table page 30, Pre-Filed Direct Testimony of Mr. Michael Goldenberg	
(b)Table page 8, Pre-filed Direct testimony of Mr. Michael Goldenberg	

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Excluded from public access per A.R. 9(G).

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ATTACHMENT

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