

ORIGINAL

| Commissioner | Yes | No | Not Participating |
|--------------|-----|----|-------------------|
| Huston | √ | | |
| Bennett | √ | | |
| Freeman | | | √ |
| Veleta | √ | | |
| Ziegner | √ | | |

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF DUKE ENERGY)
INDIANA, LLC FOR APPROVAL PURSUANT TO)
IND. CODE §§ 8-1-2-42(a) AND 8-1-8.8-11 OF A) CAUSE NO. 45907
SOLAR ENERGY POWER PURCHASE)
AGREEMENT, INCLUDING TIMELY COST) APPROVED: OCT 25 2023
RECOVERY AND OTHER ACCOUNTING AND)
RATEMAKING AUTHORITY)**

ORDER OF THE COMMISSION

Presiding Officers:

David E. Veleta, Commissioner

Jennifer L. Schuster, Senior Administrative Law Judge

On June 15, 2023, Duke Energy Indiana, LLC (“Duke Energy Indiana” or “Petitioner”) filed a Verified Petition (“Petition”) with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. In its Petition, Duke Energy Indiana requested approval of a solar power purchase agreement (“PPA”) between Duke Energy Indiana and Ranger Power LLC (“Ranger Power”) for the project known as Speedway Solar (the “Speedway Solar PPA”) as a clean energy project under Ind. Code § 8-1-8.8-11, associated timely cost recovery under Ind. Code § 8-1-8.8-11 for the Speedway Solar PPA, and other accounting and ratemaking authority.

Also on June 15, 2023, Petitioner filed the direct testimony and attachments of the following witnesses in support of its Petition:

- Scott A. Tharp, Business Development Manager III, Business Development and Compliance, Duke Energy Carolinas, LLC;
- Matthew Kalemba, Managing Director IRP & Analytics, Duke Energy Business Services, LLC;
- Robert J. Lee, Vice President, CRA International d/b/a Charles River Associates, Inc. (“CRA”); and
- Suzanne E. Sieferman, Director, Rates and Regulatory Planning, Duke Energy Indiana.

On August 8, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the direct testimony of John W. Hanks, Utility Analyst in the OUCC’s Electric Division.

The Commission held an evidentiary hearing in this Cause on September 11, 2023 at 1:30 p.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the testimony and exhibits of Petitioner and the OUCC were admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published as required by law. Petitioner is a “public utility” as defined in Ind. Code § 8-1-2-1 and an “energy utility” as defined in Ind. Code § 8-1-2.5-2. Petitioner is also an “eligible business” as defined in Ind. Code § 8-1-8.8-6. The Commission may establish financial incentives to encourage clean energy projects pursuant to Ind. Code ch. 8-1-8.8 and approve certain costs pursuant to Ind. Code § 8-1-2-42; therefore, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. Petitioner’s Characteristics. Petitioner is a public utility organized and existing under Indiana law. Its principal office is located at 1000 East Main Street, Plainfield, Indiana. Petitioner is a wholly owned subsidiary of Duke Energy Indiana Holdco, LLC and an affiliate of Duke Energy Business Services LLC and Duke Energy Corporation. It renders electric utility service in Indiana, and owns, operates, manages, and controls, among other things, plant and equipment within the state. The plant and equipment are used for the production, transmission, delivery, and furnishing of such electric service to the public. Petitioner directly supplies electric energy to more than 870,000 customers located in 69 counties in the central, north central, and southern parts of Indiana and supplies steam service to two customers. Duke Energy Indiana also sells electric energy for resale to other electric utilities that supply electric utility service to numerous customers in areas not served directly by Petitioner.

3. The Speedway Solar PPA Project. The Speedway Solar PPA project is being developed in Shelby County, Indiana and will have an installed capacity of approximately 199 megawatts, alternating current (“MWac”). The Speedway Solar PPA provides Duke Energy Indiana with 100% of the electrical output of Speedway Solar over a term of 20 years, beginning at the commercial operation date. The purchase is a bundled product, consisting of the solar energy project’s production, capacity, and environmental attributes.

4. Relief Requested. Duke Energy Indiana seeks an order: (1) approving the Speedway Solar PPA and associated timely recovery of costs and expenses as just and reasonable; (2) authorizing Duke Energy Indiana to enter into the Speedway Solar PPA; (3) determining the Speedway Solar PPA to be an eligible clean energy project under Ind. Code § 8-1-8.8-11; (4) authorizing full recovery of the costs under the Speedway Solar PPA from customers pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11 through fuel adjustment clause (“FAC”) proceedings (or successor mechanism) over the term of the Speedway Solar PPA; and (5) approving the proposed accounting and ratemaking treatment pursuant to Ind. Code § 8-1-8.8-11, authorizing recovery of the incremental costs incurred for its current 2021 integrated resource plan (“2021 IRP”), updated modeling, and requests for proposals (“RFPs”) through a regulatory asset to be amortized over a three-year period through Duke Energy Indiana’s FAC rider.

5. Duke Energy Indiana’s Case-in-Chief.

A. Scott Tharp. Mr. Tharp testified that the Speedway Solar PPA project is located in Shelby County, Indiana and will produce 199 MWac of solar generation. The developer for the project is Ranger Power, and the project is expected to be operational by September 2025. He testified that the Speedway Solar PPA provides that Duke Energy Indiana will purchase solar capacity, energy, and ancillary services generated from the Speedway Solar facility at a fixed rate

for a period of 20 years and is expected to produce approximately 426,000 megawatt-hour (“MWh”) per year on average over the 20-year term. The Speedway Solar PPA also gives Duke Energy Indiana ownership of all renewable energy credits (“RECs”) produced by the Speedway Solar facility.

Mr. Tharp testified regarding the major terms of the Speedway Solar PPA and the customer benefits and protections built into the PPA. He stated customers are gaining access to renewable energy and capacity at a competitive price and will receive any benefits from the sale of the solar RECs.

Mr. Tharp summarized how Petitioner came to consider the Speedway Solar PPA. He testified that, in the first quarter of 2022, Duke Energy Indiana issued an RFP for intermittent (renewables) and non-intermittent (thermal and stand-alone storage) resources, for which CRA acted as the third-party administrator of the RFPs. Based on the Petitioner’s 2023 updated modeling to its 2021 IRP, nine solar projects were selected (1,450 MW) to advance to the negotiation phase based on CRA’s ranked order list. Due to the Inflation Reduction Act (“IRA”) and supply chain constraints, updated pricing and commercial operation dates (“CODs”) were requested in August 2022 from the bidders CRA identified as Tier 1 bidders, with updated pricing received in November 2022. In February 2023, after Petitioner had begun early purchased power agreement negotiations with several developers, Ranger Power notified Petitioner that its Speedway Solar project had become available due to failed negotiations with another party. The Speedway Solar project had a lower price per MWh than all other projects submitted into the intermittent RFP, and the lowest levelized cost of energy (“LCOE”) for the study period. After discussions and negotiations, a final agreement was reached for Ranger Power to sell the energy, capacity, RECs, and ancillary services from the Speedway Solar project to Petitioner under a 20-year PPA. He further testified the addition of the Speedway Solar PPA to Petitioner’s portfolio is fully supportive of, and consistent with, the conclusions of the 2021 IRP, as well as the updated modeling performed in 2023.

Mr. Tharp testified that there are no interconnection challenges with the proposed Speedway Solar PPA site. Speedway Solar entered the Midcontinent Independent System Operator, Inc. (“MISO”) interconnection queue in 2017 and has a fully executed Generation Interconnection Agreement (“GIA”) with MISO and Duke Energy Indiana. The total cost of network upgrades is included in the Speedway Solar PPA pricing. Mr. Tharp also provided a construction timeline for the Speedway Solar PPA project.

Mr. Tharp testified that Speedway Solar, LLC filed a petition with the Commission for the Speedway Solar project on April 26, 2019 in Cause No. 45230 pursuant to Ind. Code § 8-1-5.5-5, and the Commission issued an order declining to exercise jurisdiction over the project on September 18, 2019.

Mr. Tharp opined that the Speedway Solar PPA qualifies as a clean energy project under Indiana law. Ind. Code § 8-1-8.8-2 defines a “clean energy project” as including “[p]rojects to develop alternative energy sources, including renewable energy projects[.]” In addition, “solar energy” is specifically listed as one of the clean energy resources in Ind. Code § 8-1-37-4(a), thus making it a “renewable energy resource” under Ind. Code § 8-1-8.8-10. He testified the Speedway

Solar PPA also promotes a “robust and diverse portfolio of energy production or generating capacity, including . . . the use of renewable energy resources,” which are needed “if Indiana is to continue to be successful in attracting new businesses and jobs.” Ind. Code § 8-1-8.8-1(a)(2). Mr. Tharp testified that the Commission has consistently held that renewable energy projects undertaken pursuant to a PPA are “clean energy projects” under Ind. Code ch. 8-1-8.8.

Mr. Tharp testified that, if the Commission approves the Speedway Solar PPA, it is reasonable for the costs to be recovered through rates, as is provided for in Indiana statutes designed to promote renewable generation. He opined that assurance of cost recovery over the life of the contract is necessary because this is a long-term commitment.

Mr. Tharp stated that Petitioner is requesting approval to include in a regulatory asset its incremental expenses incurred for the 2021 IRP, its updated modeling, and the RFPs associated with new generation (including identification of the Speedway Solar PPA opportunity). He opined that these costs are reasonable expenses associated with entering into a PPA and, therefore, are appropriately recovered through rates. Clean energy projects are specifically encouraged by Ind. Code ch. 8-1-8.8, and Ind. Code § 8-1-8.8-11 authorizes the Commission to create financial incentives for the development of alternative resources. Therefore, approval of the relief Petitioner seeks is consistent with Indiana energy and regulatory policy. Mr. Tharp also testified that the Speedway Solar PPA and the proposed associated cost recovery are just and reasonable, because Duke Energy Indiana is seeking to diversify its supply side resources. He opined that the Speedway Solar PPA project is cost effective and will enhance Petitioner’s supply portfolio.

Mr. Tharp testified that, consistent with GAO 2022-01, the Speedway Solar project will be connected to MISO, that there is a fully executed GIA for the Speedway Solar project with MISO and Duke Energy Indiana, and that the project is expected to provide 100 MW of accredited capacity in all seasons except for winter (10 MW) in the first MISO planning year. After that, the solar resource will be awarded a seasonal accreditation commensurate with past performance during peak periods, as revised by MISO’s tariff from time to time.

Mr. Tharp concluded by discussing the five attributes of electric utility service (reliability, resilience, stability, affordability, and environmental sustainability) set forth in Ind. Code § 8-1-2-0.6 and that Petitioner has considered these five attributes in requesting the relief sought in this cause. He stated that the Speedway Solar PPA promotes reliability, because the addition of energy is needed to supply the aggregate power and energy requirements of electricity consumers at all times, particularly as other facilities are retired. Moreover, while solar resources are intermittent in nature, they are no more impacted by short circuits or unanticipated loss of system components than other generation resources. As to resiliency and stability, Petitioner’s preferred resource portfolio, which includes solar energy, helps to minimize the risk of sustained disruption. Solar assets are also well suited to provide a stable source of energy in the summer when usage is at its highest.

With respect to affordability, Mr. Tharp testified that the Speedway Solar PPA supports the provision of retail electric utility service that is affordable and competitive across customer classes; the Speedway Solar PPA represents a competitive and economic component to Petitioner’s

generation portfolio. Finally, he stated that the addition of clean solar energy is consistent with the environmental sustainability attribute, since solar energy is a renewable, clean energy source.

B. Matthew Kalemba. Mr. Kalemba testified regarding Petitioner’s 2021 IRP analyses, as well as the updated modeling performed in 2023, and how the Speedway Solar PPA is consistent with Duke Energy Indiana’s preferred resource portfolio from the 2021 IRP.

Mr. Kalemba stated the 2021 IRP includes the addition of 150 MW of solar-powered generation in 2023, with another 250 MW being added in 2024 and 200 MW in 2025. As a result of the 2021 IRP seeking to add up to 600 MW of solar-powered generation to Duke Energy Indiana’s generation portfolio by 2025, Petitioner initiated an all-source RFP seeking both intermittent and non-intermittent sources of generation. Although the 600 MW resource addition did not necessarily contemplate the proposed Speedway Solar PPA specifically, it reflected that Petitioner’s preferred resource portfolio included solar additions of approximately 600 MW. In 2023, Petitioner performed updated modeling to assess the impacts of significantly changed circumstances since December 2021, including MISO’s implementation of the seasonal accreditation capacity (“SAC”) construct and the passing of the IRA at the federal level. The updated modeling allowed solar generation that was reflective of the prices of the RFP bids to be selected, and the resulting portfolio included the addition of 320 MW of solar generation each in 2025 and 2026. Petitioner also had updated data for its load forecast, commodity costs, and technology costs that could be reflected in an updated analysis.

Pursuant to GAO 2022-01, Mr. Kalemba provided a description of the Speedway Solar PPA’s anticipated impact on Petitioner’s resource adequacy and reliability, as well as a description of the Speedway Solar PPA’s expected capacity factors, dispatchability, and accreditation characteristics.

Based on MISO-given values for renewable contribution to peak, Petitioner estimated that the Speedway Solar project contributes about 30% of its 199 MWac of installed capacity towards meeting summer peak demand, about 20% towards meeting fall peak demand, about 5% towards meeting winter peak demand, and about 10% towards meeting spring peak demand in Duke Energy Indiana. Mr. Kalemba testified that the pricing for the Speedway Solar PPA is consistent with the pricing modeled in the 2021 IRP; the updated modeling specifically included several price tranches of PPA solar based on the results of the RFP. The Speedway Solar PPA price is reflective of the first tranche of PPA solar included in the updated portfolio in 2025.

C. Robert J. Lee. Mr. Lee testified that, in 2022, Duke Energy Indiana engaged CRA to aid in the design, administration, and evaluation of two RFP processes: one for intermittent resources and another for non-intermittent resources. CRA provided an opinion letter that included a rank ordering of projects submitted in the RFPs. The projects were categorized into resource types such as solar, wind, thermal, and storage proposals, and their ranking was based on predetermined scoring criteria developed before the RFP launch. The goal of this process was to ensure transparency, fairness, and non-discrimination in the RFPs, with no preferential treatment given to any bidder. The RFP design involved collaboration between CRA and Duke Energy Indiana to define objectives, requirements, and evaluation criteria, ensuring transparency and clarity in the documentation.

Mr. Lee testified that 31 bidders submitted prequalification applications for the RFPs, proposing over 18 gigawatts (“GW”) of installed capacity (“ICAP”). While not all prequalified projects ultimately submitted formal bids, the RFPs garnered substantial interest and competitive proposals. Mr. Lee testified that, in total, over 12 GW of ICAP was offered into the RFPs, providing a wide range of capacity choices across technologies and acquisition structures

Mr. Lee testified that CRA independently evaluated all proposals based on predetermined criteria, including economic and non-economic factors. Duke Energy Indiana was not directly involved in scoring the proposals, maintaining bidder confidentiality, and only received general information about the process’s progress. Some bids were disqualified for various reasons, such as not meeting site control standards, location requirements, reliance on uncertain retirement of existing facilities, or insufficient information on developmental technology. The RFPs culminated in a rank-ordered list of qualifying projects, categorized by technology type. Duke Energy Indiana and CRA performed advanced due diligence on these projects to make informed selections based on their resource planning requirements.

Mr. Lee testified that the Speedway Solar PPA was not initially bid into the intermittent RFP because it had been contracted to a different off taker but became available in February 2023. After evaluation, it was selected as a Tier 1 project because it offers low-cost renewable energy and capacity support for Duke Energy Indiana’s needs.

D. Suzanne E. Sieferman. Ms. Sieferman testified regarding Petitioner’s proposed accounting and ratemaking treatment related to the Speedway Solar PPA.

Ms. Sieferman testified that Petitioner is proposing that the retail portion of the charges for the Speedway Solar PPA be recovered through Duke Energy Indiana’s quarterly FAC proceedings. She testified assurance of timely cost recovery of the full costs for the full term of the Speedway Solar PPA is available relief under Ind. Code § 8-1-2-42(a) for clean energy projects and consistent with Commission precedent, and Petitioner is, therefore, proposing cost recovery for the full term of the Speedway Solar PPA for the retail portion of the costs associated with the PPA. Petitioner proposes including the costs of the solar power purchases incurred by Petitioner pursuant to the Speedway Solar PPA as a component of the quarterly FAC factor to be administered via Standard Contract Rider No. 60 or a successor mechanism.

Ms. Sieferman explained that Petitioner proposes to treat the purchased power costs associated with the Speedway Solar PPA as a designated native load resource. She stated the calculation of the quarterly recovery of the Speedway Solar PPA costs will follow standard FAC methodology, and the costs incurred under the Speedway Solar PPA will be included in the fuel forecast used to develop the quarterly fuel cost factor and will be included in the reconciliation of actual to forecasted costs as a part of the standard FAC reconciliation. She testified the costs will be allocated between retail and native wholesale jurisdictional sales using the same methodology as is used for other solar PPA costs included in the FAC.

Ms. Sieferman also testified that, as opportunities arise, Petitioner intends to use the associated solar RECs for current or future customer renewable programs, as well as engage in third-party sales, with the retail jurisdictional portion of any net proceeds from the sales of the solar RECs flowing back to customers through the FAC process. She testified the net proceeds from the sales of RECs obtained through the Speedway Solar PPA will be used to reduce the fuel cost, including the cost of the Speedway Solar PPA, to be included in the FAC calculation. She testified that this proposed treatment of the Speedway Solar PPA costs will not be a burden upon or slow down the processing of the FAC filings. Petitioner also intends to hold and retire the RECs if that approach better aligns with Petitioner's environmental goals.

Ms. Sieferman testified to the estimated annual cost associated with the Speedway Solar PPA. She explained the annual cost associated with the Speedway Solar PPA is not an incremental cost to native customers, as the purchases under the Speedway Solar PPA will displace the cost of the highest cost generation or purchase resource at the top of the native stack which otherwise would have served native load. The difference between the cost of the Speedway Solar PPA and the displaced cost will be the impact on the fuel costs that will be subject to the FAC, and depending on the hour, the displaced cost may be greater than the cost of the Speedway Solar PPA, such as when natural gas peaking units or higher priced MISO purchases will be displaced, or it may be less than the cost of the Speedway Solar PPA.

Ms. Sieferman testified Petitioner is also seeking to recover the expenses associated with entering into the Speedway Solar PPA, including incremental costs incurred for the IRP planning process and the RFP process through a newly created regulatory asset. She testified that these incremental costs associated with the Speedway Solar PPA are a necessary and prudent expense that would otherwise not be recovered through the current level of ongoing operations and maintenance expenses set in Petitioner's most recent rate case in Cause No. 45253. Base rates do not include incremental costs associated with entering into contracts for new generation projects. Absent seeking recovery of these incremental costs in this proceeding, she stated that Petitioner would not have a mechanism for future recovery.

Ms. Sieferman testified the actual costs incurred to date related to Petitioner's 2021 IRP, the updated modeling, and the associated RFP is \$1,068,963. Petitioner proposes to recover these costs by allocating this amount across the clean energy projects Petitioner is currently planning to pursue, resulting in an amount of \$129,024 associated with the Speedway Solar PPA. Petitioner requests that this amount be amortized over a three-year period and recovered through the quarterly FAC proceedings along with the direct costs of the Speedway Solar PPA. She stated that the proposed three-year amortization period is consistent with the time period used for amortization of plan development costs in Petitioner's environmental compliance proceedings.

6. OUCC's Case-in-Chief. Mr. Hanks confirmed Petitioner's description of the characteristics of the Speedway Solar PPA and testified that the Speedway Solar PPA is consistent with the capacity additions identified in Petitioner's 2021 IRP and its updated modeling performed in 2023. He also discussed the regulatory asset requested by Petitioner in this cause. Mr. Hanks testified that he does not object to the creation of a regulatory asset for Petitioner to recover the incremental costs associated with updating the 2021 IRP and the associated RFPs.

Mr. Hanks stated that the OUCC recommends the Commission approve the Speedway Solar PPA project. He testified that the OUCC believes the cost of the project is competitive with the proposals received in Petitioner’s 2022 RFP and that the addition of the solar generation capacity is consistent with Petitioner’s most recent IRP and the updated modeling. He also stated that the OUCC does not oppose the Commission creating a regulatory asset to recover actual costs associated with Petitioner’s most recent IRP, updated modeling, and associated RFPs.

7. Commission Discussion and Findings.

A. Clean Energy Project and Financial Incentives. Ind. Code § 8-1-8.8-11 provides that “[a]n eligible business must file an application to the commission for approval of a clean energy project” and directs the Commission to “encourage clean energy projects by creating certain financial incentives for clean energy projects, if the projects are found to be just and reasonable[.]” An “eligible business” is an energy utility that “undertakes a project to develop alternative energy sources, including renewable energy projects[.]” Ind. Code § 8-1-8.8-6(3). As addressed above, Duke Energy Indiana is an “energy utility.”

A “clean energy project” includes “[p]rojects to develop alternative energy sources, including renewable energy projects[.]” Ind. Code § 8-1-8.8-2(2). Solar energy is specifically identified as a clean energy resource in Ind. Code § 8-1-37-4(a)(2), making it a “renewable energy resource” under Ind. Code § 8-1-8.8-10. The Speedway Solar PPA is a renewable energy resource under Ind. Code § 8-1-8.8-10(a)(1). Although Duke Energy Indiana is not constructing and will not own the physical facilities comprising the Speedway Solar facility, it is proposing to enter into the Speedway Solar PPA to purchase the capacity and energy from this facility and is, therefore, contributing to the development of the project. Therefore, we find that Duke Energy Indiana is an “eligible business” for purposes of reviewing its request for the creation of financial incentives under Ind. Code § 8-1-8.8-11. These statutes provide the basis for Duke Energy Indiana’s request for Commission approval to enter into the Speedway Solar PPA and for assurance of purchased power cost recovery through the full term of the Speedway Solar PPA. Ind. Code § 8-1-2-42(a) also authorizes tracking mechanisms, as approved by the Commission, for recovery of costs of purchased electricity.

Under Ind. Code § 8-1-8.8-11, the Commission shall encourage clean energy projects by creating financial incentives for such projects, if found to be just and reasonable. Ind. Code ch. 8-1-8.8 does not set forth specific factors the Commission must consider in determining whether a clean energy project is just and reasonable. The Commission has, however, considered some of the factors in Ind. Code chs. 8-1-8.5 and 8-1-8.7 in similar cases. Therefore, we find it is appropriate to consider the following factors in determining whether the Speedway Solar PPA is just and reasonable: (1) the cost of the Speedway Solar PPA; (2) the consistency of the Speedway Solar PPA with Petitioner’s 2021 IRP; (3) the need for the Speedway Solar PPA; and (4) competitive solicitation of the Speedway Solar PPA.

i. Cost of the Speedway Solar PPA. The evidence in this Cause supports a finding that the Speedway Solar PPA is competitively priced and that the energy to be obtained from the Speedway Solar PPA is reasonably priced compared to other alternatives. Mr. Tharp testified that the Speedway Solar project had a lower price (\$/MWh) than all other projects

submitted into Petitioner's intermittent RFP and the lowest LCOE for the study period, and Mr. Kalembe explained that the pricing for the Speedway Solar PPA is consistent with the pricing modeled in the 2021 IRP. Mr. Hanks testified that the OUCC believes the cost of the project is competitive with the proposals received in the RFP. Based on the evidence of record, the Commission finds Duke Energy Indiana has provided the best cost of the Speedway Solar PPA, and the costs are reasonable for a solar PPA of this nature and scope.

ii. **Consistency of Speedway Solar PPA with 2021 IRP.** As described above, the record demonstrates, and the parties agreed, that the Speedway Solar PPA is consistent with the preferred portfolio identified in Petitioner's 2021 IRP, which included 600 MW of solar additions in the 2023 through 2025 timeframe. Petitioner's updated modeling included 320 MW of solar additions in that same time period. Based on the evidence of record, we find that the Speedway Solar PPA is consistent with Duke Energy Indiana's 2021 IRP.

iii. **Need for the Speedway Solar PPA.** Mr. Kalembe testified that the Speedway Solar PPA fulfills a capacity need identified in the 2021 IRP and provides energy and capacity needed to meet Petitioner's electric load requirements, based on MISO-given values for renewable contribution to peak. Mr. Hanks testified that the OUCC believes the addition of the solar generation capacity is consistent with Petitioner's most recent IRP and the updated modeling. The Commission has recognized that fuel diversity may help mitigate risk and that there are benefits of adding energy and capacity from renewable resources located in Indiana to a utility's portfolio. Therefore, based on the evidence of record, the Commission finds that Petitioner has shown a need for the Speedway Solar PPA.

iv. **Competitive Solicitation for the Speedway Solar PPA.** As described in further detail above, we find that the evidence of record demonstrates that the Speedway Solar PPA was the result of a thorough and competitive RFP process that reflects current market conditions. Mr. Hanks testified the OUCC agreed that the cost of the PPA is competitive with the proposals received in the 2022 RFP. The record further demonstrates the Speedway Solar PPA terms, including pricing, were reached after arm's-length negotiations.

v. **Conclusion.** The Commission finds that the Speedway Solar PPA is a clean energy project under Ind. Code § 8-1-8.8-11. We also find that the energy and capacity the Speedway Solar PPA will provide to be just and reasonable additions to Duke Energy Indiana's portfolio of generating resources to meet the need for electricity within its service area. We further find the Speedway Solar PPA will mitigate risk through diversification and use of an economic mix of resources that provides flexibility. The record shows that adding the Speedway Solar PPA to Petitioner's resource mix will timely provide needed energy and capacity. The OUCC recommended that the Commission approve the Speedway Solar PPA.

Thus, based on our consideration of the above factors, we find that the Speedway Solar PPA is just and reasonable under Ind. Code § 8-1-8.8-11 and approve the same.

B. Cost Recovery. Duke Energy Indiana proposed that timely cost recovery of the Speedway Solar PPA be administered through its FAC proceedings (or successor mechanism). The OUCC did not object to approval of recovery of direct costs through the FAC tracker. Based on the evidence of record, we find that the rates set forth in the Speedway Solar PPA are reasonable and in the public interest.

We authorize Duke Energy Indiana to recover the Speedway Solar PPA costs throughout the full term of the Speedway Solar PPA through the FAC pursuant to Ind. Code § 8-1-8.8-11 and in the manner Petitioner proposed. Based on the record and consistent with Commission decisions in other PPA proceedings, we further find that Petitioner’s recovery of its PPA costs should not be subject to the requirements of Ind. Code § 8-1-2-42(d) or other comparable tests or benchmarks.

C. Financial Incentives. Ind. Code § 8-1-8.8-11 authorizes the Commission to approve financial incentives for renewable energy projects, such as the Speedway Solar PPA.

The Commission has broad authority to decide what is appropriate to be recovered through rates under Ind. Code § 8-1-8.8-11, which states that “[t]he commission shall encourage clean energy projects by creating the following financial incentives for clean energy projects, if the projects are found to be just and reasonable[.]”

Petitioner is seeking to recover the expenses associated with entering into the Speedway Solar PPA, including incremental costs incurred for the IRP planning process and the RFP process, through a newly created regulatory asset. Ms. Sieferman testified the actual costs incurred to date related to Petitioner’s 2021 IRP, the updated modeling, and the associated RFP total \$1,068,963. Allocating this amount across the clean energy projects Petitioner is currently planning to pursue results in the amount of \$129,024 associated with the Speedway Solar PPA. Petitioner requests that this amount be amortized over a three-year period and recovered through the quarterly FAC proceedings along with the direct costs of the Speedway Solar PPA. Mr. Hanks did not object to Petitioner’s estimate of these costs or their reasonableness and stated that the OUCC does not oppose the Commission creating a regulatory asset to recover actual costs associated with the 2021 IRP, updated modeling, and associated RFPs.

Duke Energy Indiana’s request to recover the modest amount of costs necessarily incurred as part of entering into the Speedway Solar PPA is within the Commission’s authority to grant “[o]ther financial incentives the commission considers appropriate” under Ind. Code § 8-1-8.8-11(a)(4). The costs at issue are one-time expenses reasonably incurred as part of entering into the Speedway Solar PPA. Absent the ability to recover incremental costs associated with entering into the Speedway Solar PPA, Petitioner may have less incentive to enter into contracts for these types of clean energy transactions, even when doing so would benefit customers and the environment, and might instead pursue the construction of alternative projects, where these types of incremental costs could be capitalized.

For these reasons, we approve Petitioner’s proposal to recover the incremental costs described by Ms. Sieferman via a regulatory asset for future recovery through Petitioner’s FAC mechanism.

D. Five Pillars. Ind. Code § 8-1-2-0.6 provides that it is the continuing policy of the State of Indiana “that decisions concerning Indiana’s electric generation resource mix, energy infrastructure, and electric service ratemaking constructs must consider” reliability, affordability, resiliency, stability, and environmental sustainability (commonly referenced as the “Five Pillars”).

The record demonstrates that, in deciding to pursue the Speedway Solar PPA, Petitioner considered the Five Pillars. Mr. Tharp testified the Speedway Solar PPA promotes reliability, because the addition of energy is needed to supply the aggregate power and energy requirements of electricity consumers at all times, particularly as other facilities are retired. Regarding resiliency and stability, Mr. Tharp explained that Petitioner’s preferred resource portfolio, which includes solar energy, helps to minimize the risk of sustained disruption. He also testified that the Speedway Solar PPA supports the provision of retail electric utility service that is affordable and competitive across customer classes. Mr. Tharp described how the addition of clean, renewable solar energy supports environmental sustainability.

8. Confidential Information. On June 15, 2023, Petitioner filed a motion seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The request was supported by affidavits showing the designated documents comprised trade secret information within the scope of Ind. Code § 5-14-3-4(a) (4) and Ind. Code § 24-2-3-2. On June 27, 2023, the Presiding Officers issued a docket entry finding such information confidential on a preliminary basis. The parties subsequently submitted the designated confidential information.

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

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

1. Duke Energy Indiana is authorized to enter into the Speedway Solar PPA with Ranger Power or its assigns and/or successor.
2. The Speedway Solar PPA and associated timely recovery of costs and expenses is just and reasonable.
3. The Speedway Solar PPA is an eligible clean energy project for the purposes of Ind. Code § 8-1-8.8-11.
4. Duke Energy Indiana is authorized to fully recover the Speedway Solar PPA costs over its full term as proposed, pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, through its

FAC proceedings (or successor mechanism). This recovery shall not be subject to Ind. Code § 8-1-2-42(d) tests or FAC benchmarks.

5. Duke Energy Indiana is authorized to use the proposed accounting and ratemaking treatment to defer expenses incurred for the 2021 IRP, updated modeling, and RFP through a regulatory asset to be recovered through its FAC rider, to be amortized over a three-year period, in accordance with Ind. Code § 8-1-8.8-11.

6. The information Duke Energy Indiana filed in this Cause pursuant to its motion for confidential treatment is deemed confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, exempt from public access and disclosure by Indiana law, and held confidential and protected from public access and disclosure by the Commission.

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

HUSTON, BENNETT, VELETA, AND ZIEGNER CONCUR; FREEMAN ABSENT:

APPROVED: OCT 25 2023

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

Dana Kosco
Secretary of the Commission