

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda			√
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF SOUTHERN INDIANA GAS AND)
ELECTRIC COMPANY d/b/a CENTERPOINT ENERGY)
INDIANA SOUTH (“CEI SOUTH”) FOR AN ORDER: (1))
AMENDING THE COMMISSION’S MAY 4, 2022 ORDER IN)
CAUSE NO. 45600 PURSUANT TO IND. CODE § 8-1-2-72 TO)
AUTHORIZE CEI SOUTH TO ENTER INTO AMENDMENTS)
TO THE POWER PURCHASE AGREEMENT (“AMENDED)
PPA”) APPROVED IN THAT CAUSE WITH ORIGIS)
ENERGY AFFILIATE IN SOLAR 1, LLC CONTAINING)
REVISED TERMS UNDER WHICH CEI SOUTH WILL)
PURCHASE ENERGY AND CAPACITY FROM A 150 MW)
SOLAR PROJECT IN KNOX COUNTY, INDIANA (THE)
“KNOX COUNTY SOLAR PROJECT”), AND FINDING)
THOSE REVISED TERMS REASONABLE AND)
NECESSARY; (2) AUTHORIZING THE FULL RECOVERY)
OF THE POWER PURCHASE COSTS UNDER THE)
AMENDED PPA FROM CUSTOMERS THROUGH FUEL)
ADJUSTMENT CLAUSE (“FAC”) PROCEEDINGS OVER)
THE ENTIRE TERM OF THE AMENDED PPA; (3))
AUTHORIZING EXPENSES ASSOCIATED WITH)
ENTERING INTO THE AMENDED PPA BE DEFERRED IN)
THE REGULATORY ASSET THE COMMISSION)
APPROVED IN CAUSE NO. 45600 FOR RECOVERY)
THROUGH THE FAC; AND (4) APPROVING)
CONFIDENTIAL TREATMENT OF THE AMENDED PPA)
PRICING AND OTHER NEGOTIATED COMMERCIAL)
TERMS AND RELATED CONFIDENTIAL INFORMATION.)

CAUSE NO. 45786

APPROVED: FEB 22 2023

ORDER OF THE COMMISSION

Presiding Officers:

David E. Veleta, Commissioner

Jennifer L. Schuster, Senior Administrative Law Judge

On October 19, 2022, Southern Indiana Gas and Electric Company d/b/a CenterPoint Energy Indiana South (“Petitioner,” “CEI South,” or “Company”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause, along with the direct testimony and attachments of the following witnesses in support of its Verified Petition:

- Steven C. Greenley, Senior Vice President of Generation Development;
- Roland A. Rosario, Renewable Energy Development Manager;
- Matthew A. Rice, Director of Indiana Electric Regulatory and Rates; and

- Kara G. Ryan, Vice President and Chief Accounting Officer.

On December 1, 2022, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the direct testimony of Derek J. Leader, Utility Analyst in the OUCC’s Electric Division. CEI South filed a Notice of Intent Not to File Rebuttal Testimony on December 5, 2022. On December 20, 2022, Petitioner filed corrections to Mr. Rice’s direct testimony.

The Commission held an evidentiary hearing in this matter on January 4, 2023 at 1:30 p.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. CEI South and the OUCC, by counsel, appeared and participated in the evidentiary hearing, and the evidence of both parties was admitted without objection.

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

1. Notice and Jurisdiction. The Commission published notice of the evidentiary hearing in this Cause as legally required. Petitioner is a “public utility” as defined in Ind. Code § 8-1-2-1 and an “eligible business” as defined in Ind. Code § 8-1-8.8-6. The Commission may amend its prior orders pursuant to Ind. Code § 8-1-2-72, establish financial incentives to encourage clean energy projects pursuant to Ind. Code ch. 8-1-8.8, and approve certain fuel 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 incorporated under Indiana law and has its principal office at 211 NW Riverside Drive, Evansville, Indiana. Petitioner has authority to engage in and is engaged in rendering electric service within Indiana. Petitioner owns, operates, manages, and controls, among other things, plant, property, equipment, and facilities that are used and useful for the production, storage, transmission, distribution, and furnishing of electric utility service to approximately 150,000 customers in southwestern Indiana. Petitioner is authorized by the Commission to provide electric utility service in all or parts of Pike, Gibson, Dubois, Posey, Vanderburgh, Warrick, and Spencer counties.

3. The 45600 Order. In its May 4, 2022 Order in Cause No. 45600 (the “45600 Order”), the Commission approved a Long-Term Renewable Power Purchase Agreement with Origis Energy affiliate IN Solar 1, LLC (“Origis”), entered into on August 4, 2021 (the “2021 PPA”), under which Origis would sell, and CEI South would be entitled to, all product and attributes, including all energy, capacity, and RECs associated with the Knox County Solar Project for a 20-year term. In the same proceeding, CEI South sought authority to enter into a PPA to purchase energy, capacity, and RECs from a solar project in Vermillion County, Indiana. CEI South requested that the Commission find both projects were eligible “clean energy projects” for the purposes of Ind. Code ch. 8-1-8.8 and authorize full recovery of the power purchase costs through CEI South’s fuel adjustment clause (“FAC”) proceedings over the entire term of the PPAs. In addition, CEI South requested that the Commission authorize expenses associated with entering into the PPAs be deferred as regulatory assets for recovery through the FAC.

In the 45600 Order, the Commission found the Knox County Solar Project to be a “clean energy project[] under Ind. Code § 8-1-8.8-11.” 45600 Order at 10. The Commission further found

that the energy and capacity the Knox County Solar Project will provide “reasonable and necessary additions to [CEI] South’s portfolio of generating resources to meet the need for electricity within its service area.” *Id.* The Commission also concluded the rates set forth in the 2021 PPA “are reasonable and in the public interest” and, therefore, found CEI South “should be authorized to recover. . . the Knox County Solar Project PPA costs throughout the full term of” the 2021 PPA through the FAC pursuant to Ind. Code § 8-1-8.8-11. *Id.* at 11. Finally, the Commission authorized CEI South to include costs associated with entering into the 2021 PPA and obtaining approval thereof in a regulatory asset and recover those costs as set forth in the 45600 Order. *Id.* at 12.

4. Requested Relief. In its Verified Petition, Petitioner requested the Commission issue an Order: (1) amending the 45600 Order pursuant to Ind. Code § 8-1-2-72 to authorize CEI South to enter into the Amended PPA, which contains revised terms under which CEI South will purchase energy, capacity, and RECs from the Knox County Solar Project, and finding those revised terms reasonable and necessary; (2) authorizing full recovery of the Power Purchase Costs under the Amended PPA from customers through FAC proceedings over the entire term of the Amended PPA; (3) authorizing expenses associated with entering into the Amended PPA to be deferred in the regulatory asset the Commission approved in Cause No. 45600 for recovery through the FAC; and (4) approving confidential treatment of the Amended PPA pricing and other negotiated commercial terms and related confidential information.

5. Evidence Presented.

A. Petitioner’s Case-in-Chief.

i. Mr. Greenley. Mr. Greenley provided an overview of the modifications to the 2021 PPA that are in the Amended PPA. He explained why these modifications are necessary and why the Knox County Solar Project still benefits CEI South and its customers and remains reasonable, necessary, and in the public interest. He stated that the Amended PPA changes very few terms of the 2021 PPA, with the amendments made largely relating to price based on changes in market conditions that have occurred since execution of the 2021 PPA.

Mr. Greenley testified that approval of the Knox County Solar Project was part of CEI South’s Generation Transition Plan (“Plan”). He stated that the Plan required an initial step of identifying and selecting approximately 700-1,000 MWac of solar generation, 300 MWac of wind generation, and approximately 460 MW of natural gas Combustion Turbine (“CT”) generation. Mr. Greenley testified that CEI South filed Cause Nos. 45501, 45564, 45600, and 45754 to begin implementation of the Plan. He described each project and stated that completion of each project is still crucial for Petitioner to meet its capacity needs.

Mr. Greenley testified that the changes made in the Amended PPA were required because the cost to develop a solar project have increased substantially since the 2021 PPA bid, the execution of the 2021 PPA, and the Commission’s approval of the 2021 PPA in Cause No. 45600. Initial amendments were made after a delayed Midcontinent Independent System Operator (“MISO”) Interconnection Study was released, leading Origis to inform CEI South that

interconnection issues required an amendment to the 2021 PPA. Origis also notified CEI South that the cost to construct the Knox County Solar Project had increased.

Mr. Greenley opined that not pursuing the Knox County Solar Project would have adverse consequences for CEI South's customers. He stated that, without the capacity provided by projects approved to date, including the Knox County Solar Project, CEI South could be at risk of having to make high priced purchases from the MISO Planning Resource Auction ("PRA"). He noted that MISO indicated in its 2022 PRA results that "auction results indicate the MISO North/Central Regions have a slightly increased risk of needing to implement temporary controlled load sheds."¹ Mr. Greenley testified that the Knox County Solar Project will help mitigate these risks.

Mr. Greenley stated the Knox County Solar Project is consistent with Petitioner's 2019/2020 IRP and is a step towards a diversification of generation assets that ensures reliable service to CEI South's customers.

Mr. Greenley testified that CEI South has had success in getting renewable projects approved, but is struggling to get the projects in service and available to meet the Company's capacity needs due to the current economic market. He stated that the Posey County Solar Project was downsized from 300 MWac to approximately 191 MWac due to supply chain issues across the energy industry, as well as escalating commodity costs that have impacted the project schedule and timeline. He discussed global supply chain issues and escalating commodity costs that have substantially pushed up the price of completing solar projects and made negotiating the terms of PPAs more difficult.

Mr. Greenley summarized the major terms of the Amended PPA. He opined that amending the 2021 PPA was in the best interest of CEI South and its customers due to the immediate time pressures on CEI South to transition its generation portfolio, and there was a low probability of finding a substitute project at a comparable price to the Knox County Solar Project in the current market. He stated that CEI South must make near-term changes to its portfolio to meet capacity needs. He noted the capacity gap that will be created when A.B. Brown Units 1 & 2 and F.B. Culley 2 are retired and after the anticipated exit of the Joint Operating Agreement for Warrick Unit 4. This gap will create a need for the Knox County Solar Project for CEI South to maintain its Planning Reserve Margin Requirement ("PRMR") position and ensure the required capacity in each season is met. Mr. Greenley noted that CEI South cannot over-rely on the MISO PRA, as Ind. Code § 8-1-8.5-13 requires each public utility be able to reasonably acquire not more than 30% of its PRMR from the PRA. He noted that overreliance on the MISO PRA would increase costs for CEI South customers.

Mr. Greenley concluded his testimony by stating the Amended PPA is reasonable and necessary and in the public interest.

ii. **Mr. Rosario.** Mr. Rosario explained why the Knox County Solar Project was selected in the 2020 Renewable All-Source Request for Proposals ("RFP"). Mr. Rosario testified that, despite the recent price increase of the Knox County Solar Project, CEI

¹ See <https://cdn.misoenergy.org/2022%20PRA%20Results624053.pdf> at Slide 2.

South determined it was in the best interest of its customers to continue with the generation project, leading to CEI South working with Origis to negotiate the Amended PPA.

Mr. Rosario described the Amended PPA, citing three main changes from the 2021 PPA. First, the Amended PPA includes a provision that requires Origis to enter into a contract to purchase photovoltaic (“PV”) solar panels and provide supporting documentation to CEI South evidencing pricing from a nationally recognized Tier 1 manufacturer. Second, the Amended PPA extends the commercial operation date (“COD”) of December 31, 2023 set forth in the 2021 PPA to August 31, 2024, with an agreement that if an order in this Cause has not been obtained to CEI South’s satisfaction by February 28, 2023, then the COD date can be extended by a number of days equal to the delay in obtaining Commission approval. Third, the Amended PPA modifies the price for energy, capacity, and RECs (collectively, the “Product”) to a rate that Mr. Rosario states remains competitive with current PPA prices. Mr. Rosario described in detail the rate structure in the Amended PPA and terms of the Amended PPA regarding interconnection.

Mr. Rosario testified about the factors driving the need to modify the pricing of the 2021 PPA, including increased prices for raw materials such as steel and aluminum. He described the increasing cost of developing solar resources due to inflation in the cost of modules and other materials.

Mr. Rosario explained that Origis had not procured panels for the Knox County Solar Project before the Amended PPA was executed because the cost of polysilicon modules (a key component in solar modules) had increased due to supply chain issues after the execution of the 2021 PPA. He stated that further issues arose on February 8, 2022 after Auxin Solar Inc. filed a circumvention inquiry request under section 781(b) of the Tariff Act of 1930 and 19 C.F.R. § 351.226(c) alleging that solar cells and modules completed in Cambodia, Malaysia, Thailand, or Vietnam (“CMTV”) using parts and components manufactured in China are circumventing established duties and, accordingly, should be subject to the tariffs in the initial orders. Mr. Rosario stated that the announcement of the investigation alone led to United States companies halting most of their imports of solar cells and modules from the CMTV countries, which provide 80 percent of foreign solar cells and modules to the United States, due to uncertainty over the exact prices and costs of their imports.

Mr. Rosario opined that the Amended PPA price is reasonable and stated it would be ill-advised for CEI South to start over with the acquisition of an equivalent PPA, as it would come at higher cost and significant delay. He stated that an effort by CEI South to try and obtain an equivalent PPA today would cause CEI South to effectively restart the process with a higher PPA cost and would lead to delay in the timing of getting the project online. Mr. Rosario based this opinion on the responses to CEI South’s three recent RFPs. He testified that the Amended PPA price is competitive with the prices available in the market.

Mr. Rosario stated that CEI South’s need for the Knox County Solar Project has increased since the Commission’s Order in Cause No. 45600, citing the capacity gap to achieve the MISO PRMR resulting from the retirement of certain generation assets.

Mr. Rosario described how the PRA works, noting that in the event there are insufficient resources to meet the zone's local clearing requirement or the zone's PRMR, the auction clearing price will be the Cost of New Entry ("CONE") which is the cost of a new natural-gas-fired combustion turbine facility in a given MISO zone. The MISO 2022/2023 PRA Results revealed a capacity shortfall for the MISO North and Central Regions, exposing utilities with net short positions to the PRA auction clearing price of CONE for the planning year, \$236.66/MW-day. Mr. Rosario stated that the substantial cost of paying the PRA CONE price daily to customers illustrates why reliance on others should not be a long-term strategy for CEI South to meet its PRMR.

Mr. Rosario testified that a capacity shortfall presents risks to customers, including a potential load shed impact. He noted a risk of capacity shortfalls in future years in the MISO North/Central Regions and stated that capacity deficits are projected to widen in subsequent years primarily driven by demand growth and the continued retirement of coal fired resources. Mr. Rosario testified that the Knox County Solar Project's 150 MWac, starting with its first year of commercial operation in the 2024/2025 MISO capacity planning year, is necessary to support CEI South's PRMR position and ensure the required capacity in each season is met.

iii. Mr. Rice. Mr. Rice described how CEI South approached the 2019/2020 IRP, and the process CEI South used in developing the 2019/2020 IRP. He opined that the forecasts Petitioner used in the IRP process are reasonable, including the use of consensus forecasts and the transparency and incorporation of stakeholder input throughout the portfolio development process.

Mr. Rice testified the IRP preferred portfolio was selected because it provides a reliable, resilient portfolio that offers a strong mix of traditional and emerging resources with fast start and fast ramping capability. He stated that the preferred portfolio is cost effective and expected to save Petitioner's customers up to \$320 million over the IRP's 20-year planning period, as compared to continuing to operate CEI South's coal units.

Mr. Rice testified that CEI South has taken steps to begin implementing the preferred portfolio, including by seeking necessary Commission approvals, and described the projects in the preferred portfolio. Despite the increasing difficulty and rising costs in completing solar projects, Mr. Rice opined that it remains crucial that CEI South continue to work to bring these renewable projects online and to identify new projects to meet system needs as identified in the 2019/2020 IRP. He opined that the Amended PPA is consistent with CEI South's 2019/2020 IRP and that it will reasonable and stable energy costs over the long-term.

Mr. Rice stated that, with the downsizing of the Posey County Solar Project, CEI South has received approval of just 626 MWac of approved solar generation capacity. He testified that, based on this shortfall, he has no doubt the completion of the Knox County Solar Project will be consistent with the Preferred Portfolio identified in the 2022/2023 IRP. Mr. Rice further testified that he does not believe the price revision included in the Amended PPA would have changed the results of the 2019/2020 IRP. He noted that the Commission found that the Knox County Solar Project was a "clean energy project" in Cause No. 45600 and stated that the Amended PPA does not change anything that would impact that determination.

Mr. Rice testified that the estimated residential bill impact for a residential customer that uses 1,000 kWh per month is approximately \$3.00 per month. This amount does not include offsets such as REC sales, which are expected to lower customer bills, or other savings associated with the Generation Transition Plan. Mr. Rice stated that, in comparison, the impact of the Knox County Solar Project on customers as presented in Cause No. 45600 was approximately \$2.00 per month.

Mr. Rice testified that the inclusion of the incremental cost of the Amended PPA in the regulatory asset approved in Cause No. 45600 does not have a material impact on residential customer bills. CEI South will recover the Amended PPA costs, including the incremental \$110,000 of deferred costs described by Ms. Ryan through a rate adjustment mechanism under Ind. Code § 8-1-2-42(d). Mr. Rice stated that cost recovery will be administered through CEI South's FAC proceedings and that the deferred costs will be recovered over the 20-year term of the Amended PPA, as approved in the 45600 Order.

iv. Ms. Ryan. Ms. Ryan testified regarding Petitioner's proposal in Cause No. 45600 with respect to the deferral and recovery of direct incremental costs associated with the its solar PPAs. She stated that Petitioner's base rates include a level of operations and maintenance expenses to cover the costs of providing regulated services, but that they do not include the incremental costs associated with entering into contracts for new generation projects. Ms. Ryan stated that Petitioner sought Commission approval to create a regulatory asset and recover the direct incremental expenses associated with PPAs in the FAC because, absent authorization to defer these costs into a regulatory asset and recover them through the FAC, Petitioner will incur costs that would not otherwise be eligible for future recovery. Ms. Ryan testified that because these costs are a necessary and prudent expense associated with entering into a PPA, they are appropriately recovered through rates.

Ms. Ryan testified that the Commission approved CEI South's proposal to recover the incremental costs, totaling \$270,532 between the two PPAs approved in Cause No. 45600, via regulatory assets.

Ms. Ryan stated that CEI South is proposing to recover the costs incurred in negotiating and seeking approval of the Amended PPA in the regulatory asset for the Knox County Solar Project. She opined that the same reasoning on which the Commission based its approval of the creation of the regulatory asset applies to the cost of entering into the Amended PPA. She testified that the costs incurred to negotiate and obtain approval of the Amended PPA were necessary and prudent expenses and are appropriately recovered through rates. Ms. Ryan testified that CEI South is seeking to incorporate an additional \$110,000 in costs in the regulatory asset approved in Cause No. 45600, a total reached by adding together the Amended PPA negotiation legal costs (\$60,000) and the legal expenses for regulatory filings for the Amended PPA (\$50,000).

B. OUCC's Case-in-Chief. Mr. Leader testified about his research on the price of materials for solar panels, which led him to conclude that common metal prices, including copper, steel, and aluminum, have increased. He stated that the prices for other materials, labor, and freight have also increased and discussed the additional tariffs that solar panels entering the United States have been subject to beginning in the summer of 2021, causing the price of assembled or partially assembled solar panels to rise beyond the rise in commodity prices. Mr. Leader cited multiple publications discussing the tariffs and detentions of assembled or partially

assembled solar panels caused both by allegations that solar panels from China were made with forced labor and by a Commerce Department investigation into solar panel imports from the CMTV countries based on allegations that solar panels from China were being resold by these countries. Mr. Leader testified that the Amended PPA will account for these large price fluctuations.

Mr. Leader testified that, based on Petitioner's evidence and his own independent research, he concurred with Mr. Rosario's conclusion that, if CEI South were to obtain an equivalent PPA today, it would be more expensive and experience a significant delay. He concluded that the OUCC does not object to the proposed amendments to the PPA and that the Amended PPA is not unreasonable.

6. Commission Discussion and Findings.

A. Commission Authority to Amend Prior Orders. Ind. Code § 8-1-2-72 grants the Commission the authority to, "at any time, upon notice to the public utility and after opportunity to be heard . . . rescind, alter, or amend any order fixing any rate or rates, tolls, charges, or schedules, or any other order made by the commission[.]" In this Cause, Petitioner requested that we amend the 45600 Order to authorize CEI South to enter into the Amended PPA and approve recovery of the revised costs throughout the terms of the Amended PPA through the FAC mechanism. Petitioner also requested that the Commission authorize CEI South to defer the incremental expenses associated with entering into the Amended PPA for inclusion in the regulatory asset approved in the 45600 Order for future recovery through its FAC over the term of the Amended PPA. As set forth in greater detail below, Petitioner has adequately shown in this Cause that the need for the Amended PPA with Origis was driven by circumstances outside of the control of Petitioner, its terms are reasonable, and entering into the Amended PPA is in the best interest of Petitioner's customers. Mr. Leader of the OUCC concurred that the Amended PPA is not unreasonable, and the OUCC does not object to the proposed amendments to the PPA.

For the reasons discussed below, we authorize CEI South to enter into the Amended PPA. We also approve recovery of the revised costs throughout the term of the Amended PPA through the FAC mechanism. We further find that CEI South should be authorized to defer the incremental expenses associated with entering into the Amended PPA for inclusion in the regulatory asset approved by the 45600 Order for future recovery through the FAC over the term of the Amended PPA.

B. Approval of Knox County Solar Project and Amended PPA as a Clean Energy Project. 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 reasonable and necessary[.]" Ind. Code ch. 8-1-8.8 provides the basis for CEI South's request for Commission approval to enter into the Amended PPA and for assurance of purchased power cost recovery through the full term of the Amended PPA. Ind. Code § 8-1-2-42(d) also authorizes recovery of the cost of fuel included in the cost of purchased electricity.

In Cause No. 45600, we approved the Knox County Solar Project as a “clean energy project” and concluded CEI South is an “eligible business” for the purposes of reviewing its request for financial incentives under Ind. Code § 8-1-8.8-11. The Amended PPA does not change those findings, and we accordingly find that the Knox County Solar Project is a “clean energy project” and CEI South is an “eligible business” for purposes of reviewing its request for related financial incentives under Ind. Code § 8-1-8.8-11.

C. The Amended PPA Remains Reasonable and Necessary. 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 reasonable and necessary. Ind. Code ch. 8-1-8.8 does not set forth specific factors the Commission must consider in determining the reasonableness and necessity of a clean energy project. 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, in determining the reasonableness and necessity of the Amended PPA, we have found it appropriate to consider the following factors: (1) the cost of the project; (2) the consistency of the project with Petitioner’s 2019/2020 IRP; (3) the need for the project; and (4) competitive solicitation of the project.

As noted by Messrs. Rosario and Rice, the Amended PPA makes three main changes to the 2021 PPA as approved in Cause No. 45600. These three changes are: (1) the addition of a provision requiring Origis to enter into a contract to purchase PV solar panels and provide supporting documentation evidencing pricing from a nationally recognized Tier 1 manufacturer, (2) a change in the COD date, and (3) a change in price for the Product.

We found in the 45600 Order that the 2021 PPA was consistent with Petitioner’s 2019/2020 IRP and was selected based on the results of a competitive RFP process. We also found that the Knox County Solar Project is needed to replace the capacity currently being supplied by coal units set for retirement; that the energy and capacity the Knox County Solar Project will provide to be reasonable and necessary additions to CEI South’s portfolio of generating resources to meet the need for electricity within its service area; and that the project will mitigate risk through diversification and use of an economic mix of resources that provides flexibility. We have no reason to reach a different conclusion in this proceeding, as none of the changes made to the Knox County Solar Project in the Amended PPA impact our determination regarding those issues.

The evidence of record in this Cause also reflects that the Amended PPA still is consistent with the 2019/2020 IRP. Mr. Rice testified he does not believe the price revision included in the Amended PPA would have changed the results of the 2019/2020 IRP; he also stated that he expects the upcoming 2022/2023 IRP to select a similar Preferred Portfolio despite the increase in prices for all solar projects. He also noted that, without the capacity provided by the projects approved to date, CEI South will be at risk of having to make high priced purchases from the MISO PRA.

The sole remaining issue in determining the reasonableness and necessity of the Amended PPA is the continued reasonableness of the price for the Product. The evidence in this Cause supports a finding that the Knox County Solar Project remains a competitively priced solar project under the Amended PPA and that the energy to be obtained from the Amended PPA remains reasonably priced compared to other alternatives available in the market.

The continuing competitive strength of the Amended PPA is supported by the results from CEI South's 2022 All-Source RFP both before and after the Inflation Reduction Act-related proposal updates. Mr. Rosario testified that results of the 2022 All-Source RFP reflect that the Amended PPA remains at a competitive price point in comparison to similarly sized projects.

Further, both Petitioner's witness Mr. Rosario and the OUCC's witness Mr. Leader concluded that, if CEI South were to obtain an equivalent PPA today, it would likely be more expensive. They based their conclusions on separate analyses of global market trends, concurring that the price of raw materials required for solar energy projects and solar PV modules have been subject to significant increase for several reasons, including inflation, supply chain issues, and import tariffs.

The evidence of record reflects that these global economic trends were the reason CEI South needed to renegotiate with Origis and amend the 2021 PPA. The Amended PPA addresses and mitigates the potential impact of future market volatility by requiring Origis to enter into a contract to purchase PV solar panels and provide supporting documentation evidencing pricing from a nationally recognized Tier 1 manufacturer to CEI South. This requirement effectively locks Origis into a price point for PV solar panels that is competitive with the market and reduces the risk of further increases in the price of the Product.

Based on the evidence of record, the Commission finds the price for energy and capacity produced by the Knox County Solar Project under the Amended PPA remains reasonable for a solar project of this nature and scope. Accordingly, the Commission finds that CEI South has provided the best cost estimate of the Amended PPA, and the Knox County Solar Project remains a reasonable and necessary clean energy project under Ind. Code § 8-1-8.8-11 and that the Amended PPA should be approved.

D. Cost Recovery. CEI South proposed that timely cost recovery of the Amended PPA be administered through its FAC proceedings (or successor mechanism), as was approved in the 45600 Order. CEI South also sought confirmation that the costs under the Amended PPA are recoverable through the FAC proceedings (or a successor mechanism) without regard to the Ind. Code § 8-1-2-42(d)(1) test or other FAC benchmarks. The OUCC did not object to the rate per kWh set forth in the Amended PPA.

When we approve a PPA under Ind. Code § 8-1-8.8-11, we must determine that the PPA is in the public interest and is reasonable over its term. Accordingly, we find that, based on the evidence of record, the rates set forth in the Amended PPA are reasonable and in the public interest, and CEI South should be authorized to recover the Knox County Solar Project PPA costs throughout the full term of the Amended PPA through the FAC pursuant to Ind. Code § 8-1-8.8-11 and in the manner Petitioner proposed. Consistent with our finding in the 45600 Order, we further find that Petitioner's recovery of its Amended PPA costs should not be subject to the requirements of Ind. Code § 8-1-2-42(d) or other comparable tests or benchmarks.

7. **Financial Incentives.** Ind. Code § 8-1-8.8-11 authorizes the Commission to approve financial incentives for renewable energy projects. In Cause No. 45600, Petitioner sought, and the Commission granted, CEI South authority to defer expenses associated with entering into the Knox County Solar Project PPA, and the companion Vermillion County Solar Project, as regulatory assets for future recovery through the FAC over the terms of the Knox County and Vermillion County PPAs. In this Cause, CEI South requested the Commission authorize expenses associated with entering into the Amended PPA be deferred in the regulatory asset the Commission approved in the 45600 Order for recovery through the FAC.

Ms. Ryan explained that the costs incurred in negotiating and seeking approval of the Amended PPA total an additional \$110,000, including legal costs and expenses for regulatory filings. Ms. Ryan noted that the additional costs associated with the Amended PPA, amortized over 20 years, will not have a material impact on CEI South's customers' monthly bills. Mr. Leader did not object to Petitioner's request.

For the same reasons we granted Petitioner's request to defer expenses as regulatory assets in the 45600 Order, we grant Petitioner's request to defer incremental expenses incurred by CEI South in entering into the Amended PPA through the same regulatory asset. The need to negotiate and obtain Commission approval of an amendment to the 2021 PPA was driven by circumstances beyond CEI South's control. Accordingly, we find the evidence in this proceeding supports approving Petitioner's proposal to recover the incremental costs described by Ms. Ryan through the regulatory asset approved by the Commission the 45600 Order for future recovery through the FAC over the term of the Amended PPA.

8. **Supply Chain Reporting.** In the 45600 Order, we found that, due to recent global supply chain issues and geopolitical unrest that could limit the availability of components necessary to build solar projects, Petitioner shall provide an update on any supply-chain-related challenges and/or delays starting one year after the date of the order in that case and continuing on an annual basis until both the Knox County Solar Project and the companion Vermillion County Solar Project were placed into commercial operation. We find that Petitioner should continue to provide the supply chain updates directed in the 45600 Order.

9. **Confidentiality.** On October 19, 2022, CEI South filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information ("Motion"), supported by Mr. Rosario's affidavit, showing that documents to be submitted to the Commission contained trade secrets as defined by Ind. Code § 24-2-3-2 and within the scope of Ind. Code § 5-14-3-4(a)(4). On November 1, 2022, a docket entry was issued finding the information described in the motion to be confidential on a preliminary basis.

After reviewing the designated confidential information, the Commission finds such information qualifies as confidential trade secret information under Ind. Code §§ 5-14-3-4 and 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means, and Petitioner takes reasonable steps to maintain its secrecy. Disclosure of such information could harm Petitioner; therefore, the Commission affirms the preliminary ruling on confidentiality and finds 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, held as confidential, and protected from public disclosure by this Commission.

IT IS THEREFORE ORDERED BY THE INDIANA REGULATORY COMMISSION that:

1. Petitioner is authorized to enter into the Amended PPA with Origis or its assigns and/or successor, and the Commission’s May 4, 2022 Order in Cause No. 45600 is hereby amended pursuant to Ind. Code § 8-1-2-72 to authorize CEI South to enter into the Amended PPA.

2. The Knox County Solar Project remains a reasonable and necessary clean energy project under Ind. Code § 8-1-8.8-11 under the terms of the Amended PPA.

3. Petitioner is authorized to recover the cost of the Amended PPA over its full term as proposed, pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, to be administered within CEI South’s FAC proceedings (or a successor mechanism). As we found in Cause No. 45600, this recovery shall not be subject to Ind. Code § 8-1-2-42(d) tests or FAC benchmarks.

4. Petitioner is authorized to use the proposed ratemaking treatment to defer incremental expenses incurred to enter into the Amended PPA as part of the regulatory asset the Commission approved in Cause No. 45600 and to recover such deferred costs through the FAC in accordance with Ind. Code § 8-1-8.8-11.

5. Petitioner shall file annual supply chain updates as described herein.

6. Petitioner’s request for confidential trade secret treatment is granted, and all such Confidential Information shall continue to be excepted from public disclosure.

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

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

APPROVED: FEB 22 2023

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

Dana Kosco
Secretary of the Commission