

**ORIGINAL**

STATE OF INDIANA

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

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF DUKE ENERGY INDIANA, LLC )  
FOR APPROVAL OF: (1) ITS DEMAND SIDE )  
MANAGEMENT AND ENERGY EFFICIENCY )  
PLAN FOR 2024 - 2026, INCLUDING ENERGY )  
EFFICIENCY PROGRAMS AND DEMAND )  
RESPONSE PROGRAMS; (2) ACCOUNTING AND )  
RATEMAKING TREATMENT, INCLUDING )  
TIMELY RECOVERY OF ASSOCIATED )  
PROGRAM COSTS, INCLUDING REASONABLE )  
LOST REVENUES AND FINANCIAL INCENTIVES, )  
AND AUTHORITY TO DEFER COSTS; AND (3) )  
NEW STANDARD CONTRACT RIDER 74, LOAD )  
CONTROL ADJUSTMENT. )**

**CAUSE NO. 45803**

**APPROVED: JUL 26 2023**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Veleta, Commissioner**

**Ann Pagonis, Administrative Law Judge**

On November 9, 2022, Duke Energy Indiana, LLC (“Duke Energy Indiana” or “Petitioner”) filed its Petition and its direct testimony, attachments, and workpapers with the Indiana Utility Regulatory Commission (“Commission”) seeking approval of its 2024-2026 Demand Side Management (“DSM”) and Energy Efficiency (“EE”) Plan (the “DSM/EE Plan”). Also on November 9, 2022, Petitioner filed a motion for protection of confidential and proprietary information that was preliminarily granted on November 29, 2022.

On November 14, 2022, the Citizens Action Coalition of Indiana, Inc. (“CAC”) and, on January 5, 2023, the Duke Industrial Group (“Industrial Group”), petitioned to intervene. CAC’s intervention was granted on November 29, 2022. No objection was made to the Industrial Group’s intervention, which is granted.<sup>1</sup>

On February 9, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) and CAC filed their cases-in-chief. On February 27, 2023, Petitioner filed its rebuttal testimony. On March 17, 2023, the Commission issued a Docket Entry requesting additional information from Duke Energy Indiana and the OUCC regarding their prefilings in this Cause. Duke Energy Indiana and the OUCC filed their responses to the Commission’s March 17, 2023 Docket Entry on March 20, 2023.

---

<sup>1</sup> Due to administrative oversight, a formal docket entry granting Industrial Group’s Motion to Intervene was not issued, but Industrial Group appeared at the hearing and fully participated.

A public evidentiary hearing was held in this Cause on March 21, 2023, at 9:30 a.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the OUCC, CAC, and Industrial Group appeared at the hearing by counsel and offered their respective prefiled testimony and exhibits into the evidentiary record without objection.

The Commission, having considered the evidence and applicable law, finds as follows:

**1. Notice and Commission Jurisdiction.** Notice of the hearing held in this Cause was given and published as required by law. Petitioner is a “public utility” under Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1, and an “electricity supplier” as defined in Ind. Code § 8-1-8.5-10 (“Section 10”). Under Ind. Code §§ 8-1-2-4, -42, -68, -69, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8 (the “DSM Rules”), the Commission has jurisdiction over Petitioner’s DSM and EE program offerings and associated cost recovery. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

**2. Petitioner’s Corporate Status.** Duke Energy Indiana is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office at 1000 E. Main Street, Plainfield, Indiana 46168, and is a wholly owned subsidiary of Duke Energy Indiana Holdco, LLC. It has the corporate power and authority to engage in the business of supplying electric utility service to the public in the State of Indiana.

**3. Petitioner’s Electric Utility Service.** Duke Energy Indiana owns, operates, manages, and controls plant, property, and equipment used and useful for the production, transmission, distribution, and furnishing of electric utility service to the public in the State of Indiana. It directly supplies electric energy throughout its 23,000 square mile service area to approximately 870,000 customers located in 69 counties in the State of Indiana. Petitioner supplies steam service to one customer from its Cayuga Generating Station and to Purdue University via a combined heat and power facility. Petitioner also sells electric energy for resale to other electric utilities that in turn supply electric utility service to numerous customers in areas not served directly by Petitioner.

**4. Requested Relief.** Duke Energy Indiana requests approval of its 2024 through 2026 DSM/EE Plan in its entirety. Petitioner also requests that the Commission authorize timely recovery of all associated program costs as well as recovery of lost revenues and financial incentives. Petitioner proposes to continue to use its Standard Contract Rider No. 66, Energy Efficiency Adjustment (“EE Rider” or “Rider 66”) to recover costs associated with the EE portion of the DSM/EE Plan. Petitioner also proposes Standard Contract Rider No. 74, Load Control Adjustment (“Rider 74”), which would recover indirect and direct costs, the cost of Evaluation, Measurement, and Verification (“EM&V”), lost revenues associated with Power Management for Business, and a financial incentive for demand response (“DR”), if approved. Petitioner also requests authority to use deferred accounting to defer over- and under-recoveries of projected program costs through Riders 66 and 74, pending reconciliation and reflection in retail rates.

**5. Evidence.**

**A. Petitioner’s Case-in-Chief.** Ms. Amy B. Dean, Senior Strategy and Collaboration Manager for Duke Energy Business Services, LLC (“Duke Business Services”), presented the DSM/EE Plan and EM&V procedures, and testified as to how the DSM/EE Plan satisfies the factors for a Commission determination of EE plan reasonableness pursuant to Section 10(j).

Ms. Dean testified Petitioner considered the following information when designing the DSM/EE Plan: the Market Potential Study (“MPS”) performed by Resource Innovations, Inc. (formerly Nexant, Inc.), the state of EE in Duke Energy Indiana’s service territory, past program performance, and new programs. The DSM/EE Plan was designed to be consistent with the EE goals included in Duke Energy Indiana’s 2021 Integrated Resource Plan (“IRP”) in terms of target energy and demand reduction achievement.

Ms. Dean presented the DSM/EE Plan’s annual gross energy savings goals. She stated Petitioner expects to reasonably achieve these goals based on past performance and Duke Energy Indiana’s expert program managers’ experience with the EE market in its service territory, even accounting for an over 90% opt out of eligible non-residential load.

Ms. Dean testified that the DSM/EE Plan contains largely the same EE programs that were approved by the Commission in *Duke Energy Indiana, LLC*, Cause No. 43955 DSM 8 (IURC Dec. 29, 2020) (“DSM 8”). One difference is that the DSM/EE Plan includes a Residential New Construction offering as part of the Smart Saver Residential program. This offering was initially approved in *Duke Energy Indiana, LLC*, Cause No. 43955 DSM 4 (IURC Dec. 28, 2017) (“DSM 4”), but not launched at that time. The Residential New Construction offering was reintroduced to the Oversight Board (“OSB”) for approval in 2022 and is currently in the process of being launched. Ms. Dean summarized the DSM/EE Plan programs as set forth in the table below:

**Duke Energy Indiana 2024 - 2026 Programs**

**Residential**

Agency Assistance Portal  
Energy Efficiency Education  
Program for Schools  
Low Income Neighborhood  
Low Income Weatherization  
Multi-Family Energy Efficiency  
Products & Services  
Home Energy Report  
Residential Energy Assessments  
Smart Saver® Residential

**Non-Residential**

Public Efficiency Streetlighting  
Smart Saver Non-Residential  
  
Business Energy Saver

**Demand Response**

Power Manager  
Power Manager for Business  
Non-Residential Demand Response \*

Key: \* New Program

Ms. Dean explained that, historically, Petitioner had one residential DR program (“Power Manager”) and one non-residential DR program (“Power Manager for Business”). She testified that, as part of this filing, Petitioner is proposing a new Non-Residential DR program to add to its current suite of DR program offerings. Power Manager, Power Manager for Business, and the new Non-Residential DR program are set forth in proposed Rider 74.

Ms. Dean described the proposed new Non-Residential DR program; specific new features include a DR assessment and a dedicated energy consultant to help the customer with emergency and economic curtailment plans. Ms. Dean explained Petitioner would like to implement this new program to help fill what is perceived as a void in offerings to customers, where Petitioner can more aggressively and actively help customers pursue load reduction. Ms. Dean testified that the program passes all four cost-benefit analyses, and that Rider 74 has been designed to allow system benefits and costs to be aligned for all customers. Because of this, all customers can participate in demand response programs offered by Petitioner without opt out.

Ms. Dean testified that all programs pass at least one of the cost-benefit analyses. Regarding the Low-Income Neighborhood and Low-Income Weatherization programs, Ms. Dean noted that these are the only two programs in the DSM/EE Plan that do not pass the Utility Cost Test (“UCT”), but they do pass the Participant Cost Test (“PCT”) cost benefit analysis. Ms. Dean testified that even though these two programs do not pass the UCT, Petitioner believes there are broader benefits beyond the system energy savings to bringing these needed improvements to low-income customers. She said that offering energy efficiency programs to this group of customers, especially where, as here, the DSM/EE Plan (including the two low-income programs) passes the cost benefit analysis under the UCT as a whole, is beneficial.

Ms. Dean also testified that there are individual energy efficiency measures in other programs aside from the two low-income programs that do not pass the UCT. She stated that, although some programs contain measures that do not pass the UCT on a standalone basis, when the entirety of the measures contained in each of the programs is evaluated, all programs except the two low income programs pass the UCT. Ms. Dean testified that it is important to offer customers comprehensive programs, and these measures round out certain technologies that overall have passing scores and ensure a program that can serve all segments of the residential, commercial, and industrial markets.

Ms. Dean explained Petitioner has included a new MPS in the budget for \$275,000, to be recovered as a program cost, that would be used to inform Petitioner’s next IRP due in November 2024. Should funding be approved, Ms. Dean testified that Petitioner will work with the OSB on the request for proposal process and Petitioner and the OSB will jointly oversee the delivery of a final report.

Ms. Dean testified Petitioner is seeking to recover program costs, including direct and indirect costs, the cost of EM&V, lost revenues, and a financial incentive. Petitioner proposes to continue to use Rider 66 which is reconciled annually, to recover costs associated with the EE portion of the DSM/EE Plan. Duke Energy Indiana also proposes to include direct and indirect costs, the cost of EM&V, lost revenues associated with Power Manager for Business, and a financial incentive for DR programs in proposed Rider 74, which would also be reconciled

annually if approved. Ms. Dean testified that the new DR program does not include a request for lost revenue recovery. Total program costs for Petitioner's DSM/EE Plan are \$299,305,841.

Ms. Dean testified Petitioner is requesting lost revenue cost recovery for the life of the measure of the programs as approved in its current DSM/EE Plan, consistent with the Commission's approval in DSM 8. Ms. Dean explained that this proposal for life of measure (or until the next base rate case, if earlier) is reasonable. She testified that it is reasonable because it matches the period over which Petitioner will experience a deficit in fixed cost recovery due to the savings from the EE programs. These savings will occur over the life of each measure or until the new lower level of sales can be worked into a base rate case. She also testified that the currently approved shared savings performance incentive effectively incentivizes Duke Energy Indiana to minimize portfolio costs while striving to achieve as much EE as is reasonably possible.

Ms. Dean testified that Petitioner proposes to maintain its OSB, maintain the 20% discretionary spending cap as approved in DSM 8, and to continue using independent EM&V vendors. Ms. Dean testified that Petitioner would like to have the ability to spend additional monies on the new Non-Residential DR program in order to ensure all potential load reduction savings are achieved. Therefore, Petitioner proposes the Non-Residential DR program not be included in the 20% discretionary spending cap. Otherwise, Ms. Dean testified that Petitioner intends to continue operating the OSB consistent with the relevant authority granted in DSM 8 and its predecessor causes.

She also explained how the proposed DSM/EE Plan meets the requirements of Section 10 and the filing requirements in 170 IAC 4-8-2. She testified that, pursuant to Section 10, Petitioner provided a copy of the Petition and DSM/EE Plan to the OUC and posted an electronic copy of the Petition and DSM/EE Plan on Petitioner's website.<sup>2</sup>

Ms. Dean testified that Petitioner's DSM/EE Plan is in the public interest and consistent with its 2021 IRP. She said it is designed to lower emissions and delay the need to build additional generation in Petitioner's service territory in the future. The DSM/EE Plan reflects a cost-effective portfolio of DSM/EE programs, which can assist customers to manage their energy bills and can be a resource for meeting Petitioner's future generation requirements.

Mr. Scott Park, Director, Managing IRP & Analytics-Midwest for Duke Business Services, addressed the DSM/EE Plan's consistency with Petitioner's 2021 IRP. He testified the 2021 IRP modeled EE as bundles of energy savings, similar to the way that EE was modeled in Petitioner's 2015 and 2018 IRPs. He explained the 2021 IRP had ten bundles of EE grouped by savings shape and time period. These EE bundles were entered into Encompass, the Capacity Expansion Model used in 2021, as potential resources for the model to select. Encompass could select a different set of EE bundles based on the cost effectiveness of a bundle. Mr. Park stated that for 2021 through 2023, the IRP model was required to select all base bundles that represent the 2021 through 2023 portfolio approved in DSM 8. For 2024 through 2026, the preferred portfolio in the 2021 IRP included the Residential Old Behavior bundle (adjusted for the 2018 measurement and verification).

---

<sup>2</sup> The Commission was unable to locate the electronic copy of the DSM/EE Plan on Petitioner's website at the link provided by Ms. Dean (<https://www.duke-energy.com/our-company/investors/regulatory-information>).

Mr. Park testified that because the low-income programs offered by Petitioner are not economically selected in the IRP modeling but are an important part of the DSM/EE Plan, those programs were included in the IRP preferred portfolio and appended to the DSM/EE Plan as an additional set of measures. He showed the annual amounts of energy efficiency in terms of energy, demand, and costs in the 2021 IRP and the proposed DSM/EE Plan. Additionally, he provided context by showing the percentage share of EE relative to the overall system in the following tables:

| <b>MWh</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|------------|-------------|-------------|-------------|
| IRP MWh*   | 194,809     | 197,885     | 186,454     |
| Filing MWh | 176,895     | 177,287     | 175,559     |

\*Includes starting level of Behavioral savings

| <b>MW</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|-----------|-------------|-------------|-------------|
| IRP MW    | 29.1        | 26.9        | 24.6        |
| Filing MW | 27.1        | 28.0        | 28.4        |

| <b>Program Costs (MM\$)</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|-----------------------------|-------------|-------------|-------------|
| IRP Program Costs           | \$34.1      | \$34.4      | \$34.6      |
| Filing Program Costs        | \$30.5      | \$30.8      | \$30.9      |

| <b>% of System 2024-26</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|----------------------------|-------------|-------------|-------------|
| IRP MWh*                   | 0.58%       | 0.59%       | 0.56%       |
| Filing MWh                 | 0.58%       | 0.57%       | 0.58%       |

| <b>% of System 2024-26</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|----------------------------|-------------|-------------|-------------|
| IRP MW                     | 0.48%       | 0.44%       | 0.41%       |
| Filing MW                  | 0.49%       | 0.51%       | 0.53%       |

| <b>% of System 2024-26*</b> | <b>2024</b> | <b>2025</b> | <b>2026</b> |
|-----------------------------|-------------|-------------|-------------|
| IRP Program Costs           | 3.8%        | 3.2%        | 2.9%        |
| Filing Program Costs        | 3.4%        | 2.9%        | 2.6%        |

\*IRP model system costs which only considers incremental costs

Mr. Park testified that the MPS was completed in early 2021. This was before the proposal for the new seasonal accreditation capacity was made by the Midcontinent Independent System Operator, Inc. In conjunction with Petitioner’s OSB, Petitioner will commission a new MPS that will utilize a seasonal capacity construct to be used for development of DSM bundles for the 2024 IRP. He stated the next plan filing will be developed based, in part, on the 2024 IRP, and Petitioner will do so in a way that is consistent with the IRP and other state requirements.

Mr. Park concluded the DSM/EE Plan is reasonable and consistent with the 2021 IRP on energy, capacity, and cost bases. Mr. Park stated that this filing is comparable to the IRP with respect to the amount of EE and the amount of DR. He further stated the DSM/EE Plan is consistent with the State Utility Forecasting Group’s Indiana 2021 Forecast (“2021 SUFG Forecast”) issued in December 2021, in that the DSM/EE Plan’s incremental impacts are proportional to that of the state level data discussed in the report.

Ms. Jean P. Williams, Manager, DSM Analytics for Duke Business Services, addressed the cost-effectiveness of Petitioner's DSM/EE Plan and its proposed EM&V. She testified Petitioner evaluates the cost-effectiveness of EE programs using the tests specified in the California Standard Practice Manual and presented the cost-effectiveness test scores for the PCT, the UCT, the Total Resource Cost ("TRC"), and the Ratepayer Impact Measure ("RIM"). She testified that all DSM/EE Plan programs, except the Low-Income Weatherization and Low-Income Neighborhood programs, are cost-effective because they passed the UCT and TRC tests. All of the programs, including the low-income programs, pass the PCT. She further testified that the total DSM/EE Plan does not pass the RIM Test. She said that the RIM Test does not indicate whether rates would increase more if the programs in the DSM/EE Plan were not implemented.

Ms. Williams identified the types of evaluations used by Duke Energy Indiana to conduct EM&V. She also noted that Duke Energy Indiana's plan to measure, monitor, and verify its program performance was presented and approved in DSM 8. She testified the evaluation studies will be performed by independent, qualified evaluation professionals. Ms. Williams provided information regarding the initial design, process, and timeframe for the EM&V analysis, which she testified complies with the DSM Rules on EM&V. She said the estimated cost for all EM&V over the three-year portfolio period is \$5,729,591, which is approximately 3.2% of total costs.

Ms. Williams testified that it is not necessary or reasonable for Duke Energy Indiana to file annual evaluation reports for each of its DSM/EE programs because, in most cases, its evaluations encompass both process and impact evaluations. These evaluations require time to allow for sufficient participation, potentially spanning more than one year, and, in the case of impact evaluations using a consumption analysis methodology, the minimum required time is often more than one year of program operation. She testified further that the current evaluation process provides statistically valid and rigorous evaluations for an efficient cost. Annual evaluations would require incremental costs above the usual evaluation costs. By continuing with the current EM&V framework, Ms. Williams testified that Duke Energy Indiana is able to continue providing accurate, statistically valid, and up-to-date impacts.

Ms. Williams stated that Duke Energy Indiana's analysis of the long-term and short-term effect on customer bills relies on the PCT, RIM, and UCT. The PCT compares participant benefits through bill savings plus incentives from the utility relative to the participant's incremental costs to implement the EE measure. The long-term effect on rates and bills of non-participants is demonstrated through the RIM test. If a program's RIM test score is lower than one, it indicates that rates would likely increase over time. The UCT indicates whether revenues would increase more if the programs were not implemented and hence require a rate increase. Ms. Williams testified that because all of the programs, except the Low-Income Weatherization and Low-Income Neighborhood programs, pass the UCT, one can conclude that all customers would benefit in the long-term from implementation of the EE and DR programs.

Ms. Williams testified the EM&V results will be utilized in developing true ups for Rider 66 and proposed Rider 74. Petitioner will use the actual participation information and ex-post load impacts as the basis for retrospective true ups of estimated lost revenues for Rider 66 and proposed

Rider 74, where applicable. Petitioner will also use the ex-post load impacts prospectively to calculate the shareholder incentive.

Ms. Williams said that the programs being offered, with the exception of Low-Income Weatherization and the Low Income Neighborhood programs, were cost effective, that Petitioner has a reasonable plan for EM&V, and that Petitioner has met all requirements under Indiana law and Commission rules for cost effectiveness and EM&V.

Ms. Melissa E. Adams, Director, Portfolio Regulatory Strategy and Support for Duke Business Services, testified about the various calculations performed for this filing and the processes and sources used to develop actual and projected costs for the DSM/EE Plan. Ms. Adams provided a summary of forecasted performance by program, including total requested revenue requirements by year, and the full impact of lost revenues associated with the program performance forecasted through the life of the measure, assuming no impacts from future rate cases.

Ms. Adams testified that calculating incentives at a level that reflects achievement at 100% of target across the entire portfolio results in an eight percent shared savings incentive for all programs eligible for a shared savings performance incentive. She provided the forecasted incentive amounts at the 100% target achievement level for the DSM/EE Plan for each program year as well as each program's contribution toward the DSM/EE Plan incentive amount. The financial incentive was added to the program costs and EM&V for all programs eligible for financial incentives to calculate the input to the revenue requirement and the rate applicable to 2024.

Ms. Adams testified that Duke Energy Indiana is proposing that all programs, except the Low-Income Weatherization and Low Income Neighborhood programs, are eligible for the incentive. She noted that costs for the 2024 MPS discussed in Ms. Dean's testimony were added to the DSM/EE Plan with no incentive included.

Ms. Adams further explained how the 2024 through 2026 lost revenues were calculated prior to any adjustments for the rate case. She testified that, using forecasted monthly participation and impacts per participant, Petitioner calculated the kWh eligible for lost revenue from 2024 through 2026 participation at the meter, net of free riders. She said that because it is not known in what rate schedules forecasted participation will occur, the weighted average lost revenue rates for residential and non-residential programs were applied based on program participation in 2021. She further stated this monthly projected lost revenue for the 2024 through 2026 participation was added to the lost revenue associated with participation from 2020 through June 2022, as well as the forecasted participation for the remainder of 2022 and 2023, with a total amount of lost revenue eligible for recovery in each year of the projection. For forecasted lost revenue for the remainder of 2022, internal participation forecasts were used. For forecasted lost revenue for 2023, participation as filed in *Duke Energy Indiana, LLC*, Cause No. 43955 DSM 11 (IURC November 30, 2022) ("DSM 11") was used. Ms. Adams testified that the same weighted average rates were used in 2022 and 2023 that were used for the 2024 through 2026 forecasted participation. Persisting lost revenues for vintages prior to and including 2020 were adjusted as outlined in DSM 8 due to the rate case in Cause No. 45253.



Ms. Kathryn C. Lilly, Manager, Rates & Regulatory Strategy for Duke Energy Indiana, explained the development of projected rates under the DSM/EE Plan, which includes Rider 66 and the proposed Rider 74. She testified all customers and rate classes are charged for the cost of a vintage year's EE programs to the extent they are or were eligible to participate in the programs offered for that period.

Ms. Lilly explained which EE costs customers who opt out are responsible for. She testified that, consistent with the requirements of Ind. Code § 8-1-8.5-9(f), although an eligible customer who opts out is not responsible for costs of current or future EE programs, the customer remains liable for EE program costs, including lost revenues, financial incentives, and related reconciliations, that accrued, were incurred, or relate to energy efficiency investments made before the effective date of the opt out, regardless of the date on which the rates are assessed.

Ms. Lilly testified that, as approved by the Commission in DSM 8, the 2021 through 2023 program years' lost revenue will be included in Rider 66 rates until the end of measure life for the individual programs or until rates are effective from a base rate case. She testified that, with the approval of the new base rates in Cause No. 45253, persisting lost revenue amounts for calendar years 2012 through 2019 were reset to zero dollars. Additionally, as approved in Cause No. 43955 DSM 1, the lost revenues for these years are also subject to additional reconciliations in future years due to retrospective application of EM&V. Any qualifying customers new to Petitioner's system who sign a demand contract of more than one MW and provide notice of opt out under the terms of Petitioner's tariff will not be responsible for any Rider 66 costs. Ms. Lilly testified that, because all customers benefit from load control programs, customers would not be able to opt out of proposed Rider 74.

Ms. Lilly provided the projected Rider 66 rates developed for the 2024 program year and explained that they were developed using the proposed 2024 program costs, incentives, EM&V, and lost revenues as provided by Ms. Adams. Additionally, 2021 reconciliation values and kWh from DSM 11 were used.

Ms. Lilly testified that Petitioner is proposing to set rates using estimates of the costs and performance incentives based on expected achievement levels, using an expectation of 100% achievement of target. The amounts billed to customers will be trued up to actual costs and energy savings achievements in future rider filings. This reconciliation will be included in the Cause No. 43955 subdocket that is currently being used for the annual reconciliation of DSM/EE.

Ms. Lilly explained how customers are currently charged for demand response programs under Rider 66; Petitioner recovers the costs for Power Manager and Power Manager for Business through an annual tracking mechanism. These program costs are allocated to residential customers for the residential program and to non-residential customers currently opted in to participate in EE. She testified that under proposed Rider 74, the program costs for Power Manager, Power Manager for Business, and the new demand response program will be allocated across all customers – both residential and non-residential, utilizing system coincident peak demands from the last retail rate case, similar to how PowerShare is allocated.

Ms. Lilly testified that Petitioner is requesting that it be allowed to continue to recover, through a new annual tracking mechanism, the following categories of costs applicable to the proposed portfolio of demand response programs: program costs applicable to DR programs, including costs associated with EM&V of the programs; lost revenues applicable only to Power Manager for Business program to be recovered (the recovery of lost revenues will end to the extent the associated kWh reductions are taken into consideration in future retail electric rate cases); and incentives applicable to demand response programs. She testified further that Petitioner proposes to set rates using estimates of the costs and performance incentives based on expected achievement levels (using an expectation of 100% achievement of target). The amounts billed to customers will be trued up to actual costs and energy savings achievements in future rider filings. This reconciliation will be included in the Cause No. 43955 subdocket that is currently being used for the annual reconciliation of DSM/EE. Ms. Lilly testified retail customers can expect to see a \$1.43, or 0.9%, increase in their monthly bill for projected 2024 rates for proposed Rider 74. This increase does not reflect the reduction in Rider 70 due to customers electing to change to the new DR program.

Ms. Lilly explained the calculation of actual lost revenues in this filing. She stated Petitioner used lost revenue pricing rates (i.e., rates reflecting fixed costs embedded in base rates) that were developed for each rate schedule in the residential and non-residential rate groups that had identified participation. In a few cases where rate schedule level data was not available, average lost revenue pricing rates were developed using rate schedules most likely to be applicable to customers served by the programs. Ms. Lilly noted that these lost revenue rates would change at the time new base rates are approved to reflect the fixed charges embedded in base rates. Ms. Lilly testified that Petitioner seeks to recover lost revenues for the life of measure in Rider 66, and proposed Rider 74 would include lost revenues for one existing program, Power Manager for Business.

Ms. Lilly stated that Petitioner requests authority to continue using the deferral accounting treatment for DSM/EE expenses and revenues to minimize the timing difference between cost or revenue recognition in Petitioner's books and actual cost recovery.

**B. OUCG's Case-in-Chief.** Mr. John E. Haselden, recently retired Senior Utility Analyst in the OUCG's Electric Division, testified that Petitioner is proposing to implement a new DSM/EE Plan containing programs largely the same as those contained in the current plan approved by the Commission in DSM 8, to re-introduce a Residential New Construction program, introduce a new Non-Residential DR program, and for recovery of lost revenues and a shareholder incentive structured in the same manner as the current plan.

He expressed concerns with the following aspects of Petitioner's proposed DSM/EE Plan: the Energy Efficiency Education Program for Schools ("Schools Program"); the Residential Smart Saver Program; Petitioner's calculation of avoided Transmission and Distribution ("T&D") capacity costs; the extent and timing with which Duke Energy Indiana proposes to incorporate measure characteristics contained in the new Indiana Technical Reference Manual ("TRM"); operation of the OSB in terms of access to Petitioner's EM&V contractors; and cumulative lost revenues.

Mr. Haselden testified that the OUC believes that, while it is important to educate children about EE, the Schools Program's cost effectiveness is declining due to the decreased or eliminated presence of LED lighting in the Energy Efficiency Starter Kit (the "Kit"). Should the Kits continue to be distributed, the OUC recommends eliminating all LED lighting measures from the Kits.

Mr. Haselden also testified the recent EM&V report for the Schools Program shows hot water reducing Kit measures, such as low flow showerheads, have low installation rates (39%) and are given to residences with a low percentage of electric water heaters (47%). Together, only about 18% (39% x 47%) of Kit water measures are effective in reducing electric consumption. He stated that the OUC questions the continued cost effectiveness of the Schools Program and recommended Petitioner discontinue distributing the Kits. Mr. Haselden further recommended the Schools Program should be funded as a marketing program and excluded from recovery of lost revenues and shareholder's incentives.

Regarding Petitioner's Residential Smart Saver Program, Mr. Haselden testified that customer incentives for Smart thermostats, Heating, Ventilating, and Air Conditioning ("HVAC"), and Heat Pump Water Heater measures are not cost effective because of the recent increase in the federal minimum efficiency standards for these equipment types. He stated that these measures should be discontinued because continuing to fund these incentives is no longer economical. He also testified that the cost effectiveness of the program is propped up by overstated avoided cost of T&D capacity and he demonstrated how reducing the T&D capacity cost to reasonable levels would result in the program being less than cost effective over the long run.

Mr. Haselden testified further that Non-Participant Spillover ("NPSO") effects should be removed from savings estimates due to three flaws in the evaluation process. Firstly, the EM&V report states surveys of HVAC contractors asked what influence the DSM programs had on the HVAC contractors' business practices of recommending non-rebated EE measures to their Duke Energy Indiana nonparticipating customers. Mr. Haselden states opinions of HVAC contractors are not verifiable sources and the survey results are not based upon data that explain the actions of non-participating Duke Energy Indiana customers. Secondly, he said the survey questions were asked to trade allies, not the actual non-participants. Mr. Haselden contends that this is inherently subjective and less reliable than direct contact with actual non-participants. Thirdly, he states that the opinions of some contractors were extrapolated to apply to the whole population of customers without any supporting evidence.

Mr. Haselden testified that Petitioner does not propose a methodology or process for calculating lost revenues that accurately accounts for "spillover" pursuant to 170 IAC 4-8-6(b). He stated Petitioner includes NPSO within its calculations even though "spillover" is defined within the rule to mean "additional reductions in energy consumption or demand by program participants beyond those directly associated with program participation." 170 IAC 4-8-1(kk). Therefore, Mr. Haselden testified that including NPSO in calculations results in an inflated amount of spillover.

Mr. Haselden also testified that while Petitioner's EM&V plan does describe how the utility will measure its effectiveness in measuring participant spillover pursuant to 170 IAC 4-

84(a)(4)(C), it includes NPSO in its measurements. Mr. Haselden asserted that spillover, as defined in the rule, does not include additional reduction in energy consumption or demand by nonparticipants and, therefore, including NPSO in Petitioner's measurements creates an overstated amount of spillover. Mr. Haselden testified while Petitioner's EM&V plan demonstrates how it will collect data pursuant to 170 IAC 4-8-4(a)(3) (E and F), its data collection includes NPSO. Mr. Haselden stated that no other Indiana investor-owned utilities' DSM plans include NPSO in data, measurements, calculations for lost revenue, net energy savings, or net demand reduction.

Regarding the OUCC's concerns about Petitioner's calculation of avoided T&D costs, Mr. Haselden testified that, in this Cause, Petitioner has not followed through on its commitment in DSM 8 to address the OUCC's concerns regarding Petitioner's method of estimating avoided T&D capacity costs. Mr. Haselden stated that in response to OUCC data request 2.2, Petitioner provided a spreadsheet documenting the identical approach used in DSM 8 with some numbers updated from 2016 to 2020. Mr. Haselden testified that, as such, Petitioner's proposed avoided T&D capacity cost estimating method has not changed and Petitioner addressed none of the problems identified by the OUCC in DSM 8.

Mr. Haselden also testified that Petitioner significantly overstated the avoided cost of avoided T&D capacity, which improves the calculation of the net present value of benefits for DSM programs and consequently increases shareholder incentives, and that the financial incentive calculated by Petitioner is affected directly by the overstated T&D avoided capacity costs.

Mr. Haselden expressed concern as to the avoided T&D capacity cost presented by Petitioner compared to other Indiana utilities. He testified that Petitioner's avoided T&D capacity costs exceed avoided generating capacity costs by a wide margin, unlike other jurisdictional Indiana utilities.

Mr. Haselden testified that the OUCC recommends avoided T&D capacity costs be set to zero for the purposes of calculating the benefit/cost tests and shareholder incentives. He testified that the reason for these recommendations is that absent identification and quantification of specific circuits that would benefit from capacity savings attributed to DSM programs, the requirements of 170 IAC 4-8-7 are not satisfied. He further stated that savings are even more unlikely in an environment where system demand is decreasing. Mr. Haselden testified that Petitioner is investing billions of dollars in its ongoing transmission, distribution, storage, and improvement charge ("TDSIC") program which, aside from upgrading existing T&D circuits, includes new construction to alleviate system capacity constraints. He testified that these are the same issues Petitioner claims DSM alleviates but are being overridden by the TDSIC projects, and that Petitioner's shareholders are already earning a return on TDSIC investments and should not earn an additional incentive through DSM for the same result.

Regarding the OUCC's concerns with Petitioner's intentions concerning incorporating the new Indiana TRM parameters into assumptions about program parameters for its DSM/EE Plan, Mr. Haselden testified in response to OUCC data request 2.8, Petitioner stated the TRM parameters would be incorporated prospectively in future EM&V reports as they occur. He testified that Petitioner does not evaluate all programs annually and several years may pass between evaluations of the same programs. Consequently, Petitioner is proposing the new TRM parameters will only

be applied to a few programs beginning in 2024 and at later dates for all other programs. Mr. Haselden stated that there will be significant changes in measure impacts and useful lives contained in the new TRM that should be applied beginning in 2024 for all programs containing affected measures installed after January 1, 2024. Therefore, the OUCC recommends the Commission require Petitioner to use TRM parameters for all programs for all deemed impacts for measures installed on or after January 1, 2024, and that Petitioner file an update to the DSM/EE Plan reflecting updates to its input assumptions reflective of the new TRM parameters.

Mr. Haselden expressed concern with operation of the OSB in terms of access to Petitioner's EM&V contractors. He testified EM&V reports are given to the OSB by Petitioner only after they have been nearly finalized by Petitioner and Petitioner requests a vote for report approval, and he testified that the OUCC has greater direct access to EM&V vendors with other utilities' OSBs. He testified that the OUCC recommends a more open communication format to facilitate understanding of issues and methods earlier in the process, which would be more efficient in resolving issues.

Finally, regarding the OUCC's concerns with cumulative lost revenues, Mr. Haselden testified the OUCC recommends that the Commission limit the expected useful life of any measure or program to no more than three years for the purpose of recovery of lost revenues. Mr. Haselden based this recommendation upon 170 IAC 4-8-6 which provides for the recovery of reasonable lost revenues so long as other parameters are accounted for in the calculation. Mr. Haselden noted that the efficiency of equipment may degrade over time and lost revenues should decline proportionately; Petitioner did not account for this parameter.

Mr. Brian R. Latham, Utility Analyst in the OUCC's Electric Division, provided an overview of Petitioner's proposed adjustment to its retail electric rates through its Rider 66 for its DSM/EE and an overview of Rider 74. He also verified the accuracy of Petitioner's mathematical calculations deriving its proposed DSM/EE Plan and Load Control Factors, noting nothing came to his attention indicating Petitioner's calculations were incorrect.

Mr. Latham testified that Petitioner is requesting approval of the following: its DSM/EE Plan; projected Program Year 2024 program costs, EM&V costs, and shareholder incentives in its proposed DSM/EE Plan; reconciled actual costs and revenues for January 2020 through December 2022, as proposed in DSM 11; and re-reconciliations for the application of additional EM&V results to 2020 lost revenues as proposed in DSM 8.

Mr. Latham recommended the Commission approve continuation of Petitioner's accounting and ratemaking treatment of its DSM/EE Plan for 2004-2026 and its proposed accounting and ratemaking treatment for its new Rider 74. Mr. Latham also indicated that the OUCC is not opposing Petitioner's Rider 74 proposal.

Finally, Mr. Latham stated that if the Commission rejects a portion of any particular program or finds the entirety of DSM/EE Plan unreasonable, then the OUCC recommends the Commission continue Petitioner's interim program authority previously granted and associated cost recovery using the most-recently approved DSM adjustment factor, subject to reconciliation, until a new plan is approved.

C. **CAC's Case-in-Chief.** CAC presented the testimony of Mr. Benjamin Inskeep, CAC's Program Director. Mr. Inskeep recommended that the Commission order Petitioner to make CAC a voting member of its OSB, testifying that while CAC is a voting member on every other investor-owned electric utility's OSB in the State, CAC is still a non-voting member on Petitioner's OSB. He testified that for over ten years, CAC has attended nearly every meeting and actively participated in and collaborated with the OSB and has shown its commitment to this collaborative process and believes it is a valued partner to Duke Energy Indiana and the rest of the OSB members. Mr. Inskeep testified that if Petitioner does not offer to make CAC a voting member, CAC requests the Commission require Petitioner to do so.

Mr. Inskeep testified that it is CAC's opinion that Petitioner and its OSB should have the ability to rollover unspent funds and associated savings between years within its DSM/EE Plan to keep up momentum and ensure overall three-year targets are being achieved. CAC proposes that Petitioner change its proposal, or the Commission order this change, to better administer the fluctuation between years in its three-year portfolio.

Mr. Inskeep recommended that Petitioner implement a 20% "stretch goal" over and above the energy savings goal so that ratepayers can receive the benefit of additional procurement of the least cost resource available, Mr. Inskeep testified that while CAC supports Petitioner's proposed three-year energy savings goal, CAC and its technical experts believe Petitioner can and should do more as explained in their comments on the 2021 IRP. Thus, CAC proposes Petitioner use best efforts to achieve a "stretch goal" over and above the energy savings goal by increasing the scale of programs and/or identifying new programs and measures, including emerging technologies and delivery channels, to produce additional energy savings. He further stated that CAC also proposes more consideration of the "Expanded Measure List" scenario in the MPS to inform measure types and measure volume for the "stretch goal" and recommended a restructured performance incentive mechanism.

Mr. Inskeep testified that in order to provide Petitioner with the proper incentive to meet both its as-filed energy savings goal and CAC's proposed "stretch goal," CAC recommends a restructured performance incentive (shared savings) mechanism that would more gradually and linearly increase incentives for every five percent of achievement, rather than ten percent. He testified CAC's proposal would also provide a modest increase to the shared savings incentive to Petitioner for high achievement, particularly for savings above and beyond 100% achievement.

Mr. Inskeep offered recommendations for Petitioner's commercial and industrial ("C&I") program offerings and residential DSM/EE programs. Regarding Petitioner's C&I program offerings, CAC recommends that Petitioner should: (1) perform market research for C&I midstream programs to quantify the number, size, and type of distributors operating within its service territory, and to increase the number of enrolled distributors by 25%; (2) expand midstream food service equipment eligibility to include used equipment; (3) create a pathway within the small business program that offers enhanced rebates for self-install measures such as LED linear replacement lamps, thermostats, window A/C, and insulation products; (4) offer enhanced energy management information system incentives if they are not already offered; (5) promote its offerings to C&I customers and opt-out customers to encourage them to opt back into the program

and the following technical services: project engineering, field support, audits, Strategic Energy Management, etc.; and (6) offer compressed air audits at no additional cost to participating C&I customers and opt-out customers to encourage them to opt back into the program.

Regarding residential program offerings, CAC recommends Petitioner do the following: (1) offer residential HVAC and domestic hot water measures through a midstream program by 2025 program delivery; (2) offer induction stoves, ranges, and cooktops as rebated measures; (3) include a separate budget line item for emerging technology/non-program measures to help secure additional savings above the energy savings goal; (4) include a targeted effort to pursue high-use, low income customers with comprehensive measures, including heat pumps and weatherization (similar to Duke Energy Carolinas IQ High-Energy Use Pilot); (5) remove the co-pay for residential home blower door audits; and (6) increase its incentive for geothermal heat pumps to \$700.

Mr. Inskeep expressed concern with the overemphasis of Petitioner's residential behavioral program savings. He testified that CAC is concerned that Petitioner's one-year measure life behavioral program savings make up 32% of its total portfolio savings and 68% of residential portfolio savings, and its projected participation for longer-lived measures that provide significant savings opportunities for customers are correspondingly under-emphasized. CAC suggested that Petitioner revise its DSM/EE Plan and/or work with its OSB to incorporate CAC's program recommendations to place less emphasis on behavioral savings.

Mr. Inskeep next offered three recommendations for attracting opted-out customers back into energy efficiency. These include: (1) revising tariff language to allow customers to opt in at any point in time throughout the year; (2) offering workshops to opted-out customers; and (3) offering a ten percent incentive increase for one year for customers that opt back into participation.

Regarding other program-related recommendations, Mr. Inskeep testified that CAC recommends that Petitioner commit to working with CAC, the OUCC, and other interested stakeholders to develop plans and strategies to leverage Inflation Reduction Act ("IRA") funding and set aside funding to seize opportunities (but keep funding available for other opportunities if IRA items do not yet materialize during the pendency of the DSM/EE Plan).

Mr. Inskeep expressed concern regarding Petitioner's lost revenue recovery proposal for the DSM/EE Plan. He stated Petitioner is currently the only Indiana investor-owned utility that recovers lost revenue without a cap, and CAC recommends that the Commission cap lost revenues to the lesser of four years or the life of the measure.

**D. Petitioner's Rebuttal Testimony.** Ms. Dean responded to concerns raised by the OUCC and CAC regarding the proposed programs in the DSM/EE Plan. Ms. Dean disagreed with OUCC witness Haselden's concerns specific to the cost effectiveness of measures included with the Schools Program and Residential Smart Saver program, as well as overall program cost effectiveness.

In response to the OUCC's concern that the Schools Program will no longer be cost effective with the removal of LED Lighting ("Lighting") from the Kit, Ms. Dean testified that

Petitioner is still evaluating potential measures to replace Lighting beginning in July 2023 and understands that it is necessary to achieve kWh savings as well as keep the Kit cost effective with any changes proposed. She further testified that Petitioner will present information to its OSB once the Lighting review process is completed. The OSB will have the opportunity to review Petitioner's Kit proposal and ensure that any changes made to the Kit are cost effective and that the program offers a meaningful opportunity for customers to become more efficient.

Ms. Dean addressed Mr. Haselden's concerns pertaining to the cost effectiveness of remaining measures of the Kit. She testified that cost effectiveness for a program has historically been and should continue to be reviewed at the program level. Petitioner will continue to review the Kit cost effectiveness through conversations with the OSB. If Petitioner is unable to replace the LED bulbs with other cost-effective measures, it would be open to discussions about continuing the Schools Program without including the program in Petitioner's shared savings incentive structure. Ms. Dean testified that Petitioner does not agree that it should discontinue distributing the Kits.

Responding to Mr. Haselden's concern with the Smart Saver Residential Program offering, Ms. Dean testified that Petitioner is aware that there are measures within the Smart Saver Residential Program that do not pass the UCT, as discussed in her direct testimony. She stated that Petitioner actively manages the cost effectiveness of each program and still believes it is beneficial to offer customers comprehensive programs. Further, Ms. Dean testified that the Commission has recently recognized the benefit of EE/DSM plans that contain measures that do not pass all cost-effectiveness tests. In its January 4, 2023 Final Order in Cause No. 45701, the Commission found that Indiana Michigan Power Company's ("I&M") proposed energy efficiency plan satisfied the cost benefit analysis of Ind. Code § 8-1-8.5-10(j)(2). In doing so, I Commission placed the TRC and RIM score results (under which I&M's proposed plan was not found to be cost-effective) in the context of the UCT and PCT scores (under which I&M's proposed plan was found to be cost-effective) and the energy efficiency plan as a whole. In the January 4, 2023 Final Order in Cause No. 45701, the Commission considered that "customers realize the annual net benefits from the implementation of programs that seek to educate, encourage, and entice customers to the extent practicable and reasonable." Further, with the new minimum efficiency standards for air conditioners and heat pumps that went into effect across the United States on January 1, 2023, Ms. Dean testified that new measure replacements for many of these measures were presented to the OSB on November 16, 2022.

Ms. Dean responded to Mr. Haselden's and the OUCC's concerns with the OSB's access to EM&V vendors. She testified that she was not aware of the OUCC raising this concern in any monthly OSB meeting. She stated that Petitioner commits to working with the OSB to ensure the appropriate level of access is facilitated without creating an overly burdensome process.

In response to Mr. Inskeep's recommendation that CAC be made a voting member of the OSB, Ms. Dean testified that CAC is a valued member of the OSB and has been an active participant and collaborator as part of the OSB even though CAC has not historically been a voting member. Ms. Dean testified that Petitioner believes the OSB has been functioning as an effective body.



In response to Mr. Inskeep's recommendation for a rollover between funds for unspent funds, a "stretch goal," and a new performance incentive mechanism, Ms. Dean testified that Petitioner does not believe they are necessary at this time as Petitioner has had success working within the currently approved OSB framework for necessary program changes and additional funding but expressed appreciation for the suggestion.

Ms. Dean addressed Mr. Inskeep's concerns that there is an over-reliance on residential behavioral savings within the Home Energy Report ("HER") and CAC's recommendations for the program. She testified that the HER is an integral component of Petitioner's overall portfolio and is an important opportunity for Petitioner to engage, educate, and empower residential customers around their energy usage and energy efficiency. Petitioner consistently works to improve the information, personalization, and online engagement for this program to continue to keep it relevant and engaging and uses the platform to effectively cross-promote other energy efficiency programs.

Although Mr. Inskeep proposed several recommendations to residential and non-residential program offerings as well as recommendations related to opted out customers, Ms. Dean testified that Petitioner's staff met with CAC representatives to discuss ideas for collaboration and to ensure Petitioner is pursuing all available avenues for measure offerings. Ms. Dean testified that Petitioner continues to be receptive to continued dialogue on these topics.

Specifically, regarding Mr. Inskeep's recommendation that Petitioner offer residential HVAC and domestic hot water measures through a midstream program by 2025 program delivery, Ms. Dean testified Petitioner is continuing to define partnerships and will continue conversations relating to the expansion of midstream with CAC through the OSB. As to the recommendation that Petitioner remove the co-pay for residential home blower door audits, Ms. Dean testified that there are no additional savings attributed with completing a home blower door audit and, as such, the audit would not only lower the cost benefit analysis for the program, but increase the time spent in home, reducing the amount of time to complete additional home assessments.

Regarding Mr. Inskeep's recommendation for C&I midstream programs, Ms. Dean testified that efforts are already underway to attempt to increase the number of enrolled distributors and enhancements to what was formerly the small business program. These have been included in Petitioner's filing and presented before the OSB, including renaming the program to Business Energy Saver, which will help with expanding the reach of the program. Ms. Dean also testified that Petitioner is currently able to offer energy management information system incentives through its Non-Residential Smart Saver program.

In response to Mr. Inskeep's recommendations for attracting opted out customers, Ms. Dean testified that Petitioner is open to continuing the ongoing discussions on strategies to attract opted out customers. She also testified that so long as testing of necessary modifications to the billing system is complete and successful, Petitioner plans to revise tariff language in its next reconciliation filing to allow customers to opt in during the year.

As to CAC's recommendation that Petitioner commit to working with CAC, the OUCC, and other interested stakeholders to develop plans and strategies to leverage IRA funding, Ms. Dean testified that Petitioner is responding to an Energy Department Request for Information regarding IRA EE rebate programs to provide input on how these programs could be most effective, and Petitioner will provide updates on implementation and opportunities to leverage the IRA as part of its OSB meetings.

Ms. Williams responded to Mr. Haselden's assertion that NPSO in the Residential Smart Saver program was not appropriately evaluated and therefore should be removed and is not authorized under the Commission's administrative rules (170 IAC 4-8). Ms. Williams disagreed, noting that the program's EM&V report discussed by Mr. Haselden is not yet final and testifying that quantifying NPSO using HVAC contractor survey responses as Petitioner did in the program's EM&V report that Mr. Haselden references is a common approach in the evaluation process. Ms. Williams further testified that Mr. Haselden is mistaken in his assertion that no other Indiana investor-owned electric utilities includes NPSO in its data, measurements, or calculations of net energy savings, citing another Indiana utility which includes NPSO. Ms. Williams also testified that in its prior DSM proceedings under Cause No. 43955, Petitioner claimed, and the Commission approved, NPSO savings and that disallowance in this cause would represent a departure from past authority.

Ms. Williams responded to Mr. Haselden's recommendations that new Indiana TRM parameters should apply to all new measures installed after January 1, 2024. She testified that Petitioner intends to use the new Indiana TRM, once complete and approved, in all EM&V prospectively. An evaluation with sample participation occurring after the final completion of the Indiana TRM would utilize the new Indiana TRM parameters, unless Petitioner's third-party evaluators determine inputs captured from participant survey research provide a more accurate estimation of measure and/or program savings. Put more simply, the DSM/EE Plan will reflect the new Indiana TRM through the application of future EM&V results that are prepared by Petitioner's independent evaluators in accordance with the new Indiana TRM, after it is complete and approved.

Ms. Williams addressed Mr. Haselden's belief that there is a lack of direct access to EM&V contractors to review EM&V reports. She testified that Petitioner provides slides to the OSB regarding the status of each program's EM&V reports. The slides indicate who the evaluator is, when the evaluation will start, and when a final report is expected. Then, as EM&V reports are completed, the draft report is shared with the OSB for final approval, and Ms. Williams presents slides with a concise summary of the EM&V results to the OSB. Ms. Williams testified that when the OSB has follow up questions to any EM&V report, Petitioner will reach out to the vendor as a starting point and facilitate meetings between the vendor and OUCC as needed to discuss specific issues. She testified that the current EM&V process is operating sufficiently.

Finally, Ms. Williams testified that there are potential ramifications to adopting Mr. Haselden's recommendations for Petitioner's EM&V vendors. She stated that because Petitioner works with three different EM&V vendors across 14 different programs, adoption of Mr. Haselden's recommendations could result in additional costs that would be borne by Petitioner's programs, potentially impacting cost effectiveness. Meetings scheduled between EM&V, the

OUCC, and the respective third-party vendors would require the vendors to account for incremental evaluation support, above and beyond the estimated cost of the evaluation activities. Ms. Williams testified that Petitioner is not opposed to the OSB having access to vendors as issues or questions arise and allowing Petitioner to facilitate resolution of issues pertaining to EM&V reports and arrange meetings with EM&V vendors on an as-needed basis, stating that this is an efficient way to resolve OSB questions and concerns while avoiding adding additional steps or complexity to the current EM&V process.

Mr. Jayme T. Stemle, Senior Rates & Regulatory Strategy Analyst for Duke Business Services, responded to Mr. Haselden's concern that Petitioner's T&D avoided costs are overstated, resulting in artificially high benefit/cost scores for the DSM programs. Mr. Stemle explained how Petitioner calculated the T&D avoided cost value and provided additional detail supporting those calculations. He noted the Commission has previously approved a very similar avoided cost calculation methodology. Mr. Stemle testified the methodology is also reasonable because the calculation divides the growth-related T&D investment dollars by the growth in peak load, which is, theoretically, a reasonable calculation for growth-related T&D investment throughout Petitioner's service territory. He also testified that Petitioner's TDSIC projects are not growth-related T&D investment dollars. In response to Mr. Haselden's contention that Petitioner's avoided T&D capacity cost is unsupported and unreasonable compared to other Indiana utilities, Mr. Stemle testified that Petitioner has a larger service territory than other Indiana investor-owned utilities, requiring a larger T&D investment, and that Petitioner's T&D avoided costs are lower than the average cost of other utilities in a cited recent study.

Mr. Stemle also cited to additional industry support for including T&D avoided cost for cost effectiveness testing and for support for the approach Petitioner used to estimate the value of avoided T&D costs. He testified that Petitioner explored other calculation methodologies but determined that they produced unreasonable results for T&D avoided costs due to low peak demand load growth in Petitioner's forecast. In the future, Petitioner may consider other methods to calculate T&D avoided costs but, at this time, it has chosen to continue to use its proven method to achieve a reasonable result.

Mr. Stemle disagreed with Mr. Haselden that T&D capacity benefits are only created when DSM programs alleviate capacity issues on specific circuits and because none of Petitioner's DSM programs target specific circuits avoided T&D costs should be set to zero. He testified it is difficult to forecast which customers will use Petitioner's DSM programs and which circuits will be affected, and therefore, using a system-wide average to estimate the T&D avoided cost is reasonable. Mr. Stemle further testified that setting avoided T&D costs to zero is unreasonable because EE programs reduce the energy power plants must produce and the T&D system capacity needed to transport electricity from power plants to customers. In addition, he testified it is more difficult and costly to build a DSM resource on a specific circuit in a short time period at exactly the time the resources will be needed to avoid a T&D expansion. Mr. Stemle also testified that the Commission, in finding Petitioner's avoided cost calculation approach in DSM 8 was reasonable, noted that Petitioner used a system-wide average to estimate avoided T&D costs due to the difficulty of identifying specific circuits that may be affected by the EE programs.

In response to Mr. Haselden's statement that Petitioner's TDSIC program includes upgrading existing T&D circuits and new construction to alleviate system capacity, Mr. Stemle testified that Petitioner's TDSIC projects are not considered in the calculation of T&D avoided cost. The TDSIC capital expenditures are capital projects that support improved reliability of existing circuits. The capital expenditures used to calculate T&D avoided cost are load growth related capital projects.

Ms. Adams responded to Mr. Haselden's assertions that T&D costs should only be considered avoidable when there is a transmission line or distribution circuit capacity deficit that would otherwise need to be met through new T&D resources, testifying that the ability to avoid future load growth related T&D system investments through customer participation in EE/DSM programs is accomplished over time through the cumulative participation of each incremental participant. Ms. Adams testified that adopting Mr. Haselden's recommendations would result in Petitioner changing the avoided costs used in analyzing its programs and would not provide for a consistent set of EE and DR programs. Ms. Adams further testified that zeroing out avoided T&D benefits in years that Petitioner has adequate capacity as recommended by Mr. Haselden would adversely affect the cost effectiveness scores for all DSM/EE Plan programs and result in a much smaller portfolio.

Ms. Adams also addressed Mr. Haselden's concerns around measure level cost effectiveness, testifying that the most appropriate way and long accepted protocol to evaluate cost effectiveness and shareholder incentives is at the program level.

Ms. Adams disagreed with Mr. Haselden's assertion that lost revenues should be limited to the lesser of life of the measure or three years and Mr. Inskeep's recommendation that the expected useful life of any measure or program be limited to the lesser of life of the measure or four years for the purpose of recovery of lost revenues, testifying that doing so disincentives electric utilities to promote DSM programs or, if the utility does promote DSM programs, it creates a loss of revenue needed to cover fixed costs previously incurred on behalf of customers. Recovery of these lost revenues is an important mechanism to reducing this disincentive and providing for recovery of fixed costs. Ms. Adams testified that limiting lost revenues to anything other than life of the measure (or until the lower sales level is included in base rates) is a subjective cap on lost revenues, and noted that the Commission approved the recovery of lost revenues over a measure's life or until a utility's next base rate case, whichever is shorter, in DSM 4, and its approval was affirmed by the Indiana Court of Appeals, and the Commission approved this approach again in DSM 8.

Regarding Mr. Inskeep's suggestion that Petitioner, or the Commission, should make clear that any lost revenue recovery shall be effectively capped through the implementation of new base rates and charges, Ms. Adams testified that projected lifetime lost revenues do not include any assumption of a rate case occurring during the 2024-2026 timeframe. However, if a rate case were to occur in that period, requested lost revenue recovery would be adjusted consistent with the manner after Commission approval in Cause No. 45253, Petitioner's most recent rate base case. Persisting lost revenue amounts from calendar years prior to the test period would be reset to zero and remain zero. Lost revenues for the test period would be zero during the test period and until the rate case effective date and then be adjusted to account for the difference between the

forecasted amount used in rate development and the actual participation throughout that same period. The difference would be collected beginning on the rate case effective date and continuing through the life of the measure, allowing Petitioner to recover the full extent of the reduction in sales resulting from DSM/EE programs during the test period.

Ms. Adams concluded by recommending a modification to Mr. Inskeep's proposed changes to the performance incentive, suggesting the maximum incentive level be maintained at ten percent while implementing Mr. Inskeep's suggestion of the 0.5% increments between 80% and 100%, testifying that this would be a potential beneficial modification that will motivate higher levels of energy efficiency achievement.

**E. Industrial Group's Cross Exhibits.** The Industrial Group offered eight cross exhibits, which were admitted into the record without objection. IG CX-1 and CX-2 are Petitioner's response to IG Discovery Requests 2.1 and 2.2, respectively, in which Duke Energy Indiana stated that Petitioner has not yet completed the standard contract for customers seeking to participate in Petitioner's proposed DR program. IG CX-3, CX-4, and CX-5 are Petitioner's responses to IG Discovery Requests 2.3, 3.04, and 3.06, respectively, in which Duke Energy Indiana identified terms and conditions related to participation in Petitioner's proposed DR program, including a non-compliance penalty related to the flexibility add-on option. IG CX-6 is Duke Energy Indiana's response to IG Discovery Request 4.01, in which Petitioner described the differences between the proposed non-compliance penalty for the proposed DR program and Petitioner's existing offerings. Finally, IG CX-7 and CX-8 are Duke Energy Indiana's responses to IG Discovery Requests 4.02 and 4.03, in which Petitioner agreed that the terms and conditions of the proposed DR program were not currently before the Commission, that the Industrial Group was not waiving any rights to challenge the terms and conditions once they are presented to the Commission, and that Petitioner agreed to work with the Industrial Group in developing the proposed terms and conditions.

**6. Commission Discussion and Findings.** Petitioner requests approval of its proposed DSM/EE Plan for the period 2024 through 2026 in its entirety, and timely recovery of all associated program costs, including direct and indirect costs of the programs, costs associated with EM&V, and reasonable lost revenues for its energy efficiency programs and Power Manager for Business, as well as financial incentives pursuant to Section 10.

Section 10(h) requires electricity suppliers, such as Duke Energy Indiana, to file at least once every three years, a petition for approval of a plan that includes:

- (1) energy efficiency goals;
- (2) energy efficiency programs to achieve the energy efficiency goals;
- (3) program budgets and program costs; and
- (4) evaluation, measurement, and verification procedures that must include independent evaluation, measurement, and verification.

Once such a plan has been submitted, the Commission is required to consider the following ten factors enumerated in Section 10(j) to determine the overall reasonableness of the proposed plan:

- (1) Projected changes in customer consumption of electricity resulting from the implementation of the plan.
- (2) A cost and benefit analysis of the plan, including the likelihood of achieving the goals of the EE programs included in the plan.
- (3) Whether the plan is consistent with the following:
  - (A) The state energy analysis developed by the Commission under Ind. Code § 8-1-8.5-3.
  - (B) The electricity supplier's most recent IRP submitted to the Commission.
- (4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the EE programs included in the plan, including the alignment of the procedures with applicable environmental regulations, including federal regulations concerning credits for emission reductions.
- (5) Any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of an EE program or from the overall design of a plan.
- (6) Comments provided by customers, customer representatives, the OUCC, and other stakeholders concerning the adequacy and reasonableness of the plan, including alternative or additional means to achieve EE in the electricity supplier's service territory.
- (7) The effect, or potential effect, in both the long term and the short term, of the plan on the electric rates and bills of customers that participate in EE programs compared to the electric rates and bills of customers that do not participate in EE programs.
- (8) The lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier.
- (9) The electricity supplier's current IRP and the underlying resource assessment.
- (10) Any other information the commission considers necessary.

If the Commission finds the plan to be reasonable in its entirety, the Commission shall: (1) approve the plan in its entirety, (2) allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism, (3) allocate and assign costs associated with a program to the class or classes of customers that are eligible to participate in the program, and (4) allow recovery of reasonable financial incentives and lost revenues. Section 10(k) and Section 10(o). If the Commission finds the plan is not reasonable because costs associated with one or more programs included in the plan exceed the projected benefits of the program(s), the Commission may exclude the program(s) and approve the remainder. Section 10(l). If the Commission finds the plan is not reasonable in its entirety, then the Commission's order shall set forth the reasons for its determination and the electricity supplier shall submit a modified plan within a reasonable time. Section 10(m).

Accordingly, we consider Petitioner's request for approval of its proposed DSM/EE Plan.

**A. Presentation of a Plan.** The evidence establishes that Duke Energy Indiana is an electricity supplier as defined by Section 10(a) and that it made a submission under

Section 10(h) seeking approval of a proposed plan. We therefore begin our substantive analysis in considering the first factor under Section 10(h), EE goals.

Based on the evidence presented, as discussed below, we find that Duke Energy Indiana's 2024 through 2026 DSM/EE Plan satisfies the requirements of Section 10(h).

i. **EE Goals.** Section 10(c) specifically defines "energy efficiency goals" as:

[A]ll energy efficiency produced by cost effective plans that are:

- (1) reasonably achievable;
- (2) consistent with an electricity supplier's integrated resource plan; and
- (3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

Petitioner's proposed EE goals to be achieved through its DSM/EE Plan are expected to result in energy savings of approximately 1.15% of eligible retail sales for each year of three-year plan, assuming 90% of eligible non-residential load has opted out of participation. The DSM/EE Plan contains largely the same energy efficiency programs that were previously approved by this Commission in DSM 8, except for the Residential New Construction offering within Smart Saver Residential, which was initially approved in DSM 4. Further, based on past performance and Duke Energy Indiana's program managers' experience with the EE market in its service territory, Petitioner believes it can reasonably achieve the goals for 2024 through 2026.

Petitioner's process for developing its DSM/EE Plan will be consistent with the EE goals established in its 2021 IRP. The consistency can be seen on a MWh, a MW, and cost basis.

Further, Petitioner selected the EE programs based upon the extensive analysis conducted as part of the MPS and IRP development processes. The DSM/EE Plan was designed by considering information from the MPS, the state of EE in Duke Energy Indiana's service territory, past program performance, and new programs. Petitioner designed its DSM/EE Plan to be consistent with the EE that was included in its preferred portfolio in the most recent IRP in terms of target energy and demand reduction achievement.

CAC recommended Petitioner implement a 20% "stretch goal" over and above the energy savings goal, to be achieved by increasing the scale of programs and/or identifying new programs and measures, as well as more consideration of the "Expanded Measure List" scenario in the MPS to inform measure types and measure volume for the "stretch goal." Petitioner does not believe a "stretch goal" is necessary at this time as Petitioner has had success working within the currently approved OSB framework for necessary program changes. As the currently approved OSB framework has been operating successfully with respect to program changes, we are not persuaded to require the implementation of a stretch goal.

Accordingly, we find Duke Energy Indiana has proposed EE goals that are reasonably achievable, consistent with its 2021 IRP, and designed to achieve an optimal balance of energy resources over time.

ii. **EE Programs.** The DSM/EE Plan contains residential energy efficiency programs and non-residential energy efficiency programs designed to achieve the set EE goals. Except for the Residential New Construction offering within Smart Saver Residential, the proposed EE programs are essentially the same as those currently being implemented. The Residential New Construction offering within Smart Saver Residential was initially approved in DSM 4 but is only recently in the process of being launched after receiving OSB approval.

The OUCC raised concern with the cost-effectiveness of several programs, which we discuss further below in our consideration of the costs and benefits of each proposed program. CAC, however, argued that Petitioner's portfolio of residential programs is over-reliant on short-lived residential behavioral program savings in the HER program, which CAC asserted would not endure in a way that will effectively help mitigate Petitioner's projections for load growth.

The record reflects that HER is an integral, cost-effective component of Petitioner's overall portfolio and is an important opportunity for Petitioner to educate residential customers about their energy usage and energy efficiency. Customers learn details around their energy usage, are engaged to become more efficient through comparison to other similarly situated customers, and are empowered to become more efficient through targeted energy efficiency actions.

CAC also proposed several recommendations to residential and non-residential program offerings as well as recommendations related to opted out customers. Petitioner's staff met with CAC representatives to discuss ideas for collaboration and to ensure Petitioner is pursuing all available avenues for measure offerings. Petitioner continues to be receptive to continued dialogue on these topics. CAC further proposed Petitioner offer residential HVAC and domestic hot water measures through a midstream program by 2025 program delivery, to which Ms. Dean responded Petitioner is continuing to define partnerships and will continue to have conversations relating to the expansion of midstream programs with CAC through the OSB. We encourage the parties to continue these conversations and explore options.

CAC also recommended that Petitioner remove the co-pay for residential home blower door audits. However, we agree with Ms. Dean that there are no additional savings attributed with completing a home blower door audit. The audit would not only lower the cost benefit analysis for the program, but increase the time spent in home, reducing the amount of time to complete additional home assessments.

CAC made a number of recommendations for Petitioner's C&I midstream programs. The record reflects that efforts are already underway to attempt to increase the number of enrolled distributors, and enhancements to what was formerly the small business program have been included in Petitioner's filing and presented before the OSB, including renaming the program to Business Energy Saver, which will help with expanding the reach of the program. In addition, Petitioner is currently able to offer energy management information system incentives through its Non-Residential Smart Saver program. For the remaining non-residential CAC recommendations, Petitioner is open to continuing conversations with CAC and the OSB. We encourage the parties to continue these conversations and explore available options.



CAC proposed several recommendations for attracting opted out customers back into energy efficiency programs. The evidence reflects that Petitioner is open to continuing the ongoing discussions on strategies to attract opted out customers. As long as testing of necessary billing system modifications is complete and successful, Petitioner plans to revise tariff language in its next reconciliation filing to allow customers to opt in during the year. We encourage the continuance of such conversations and also encourage Petitioner to pursue options to permit customers to opt-in through the year.

With respect to the DR program, we note that Petitioner and the Industrial Group have agreed to work collaboratively to address issues related to the customer-specific contracts that will be required to participate in those programs. We note that the terms and conditions of the new demand response programs are not currently before the Commission.

Based on the evidence presented, we find that Petitioner's proposed DSM/EE Plan includes a reasonable mix of residential and non-residential EE programs that are designed to meet Duke Energy Indiana's EE goals.

**iii. Program Budgets and Costs.** Ms. Dean identified the annual budget associated with the DSM/EE Plan and the costs associated with each of the programs, for a total of \$180,198,406 over the period 2024 through 2026, exclusive of a financial incentive and lost revenues. Ms. Dean testified that this amount includes direct and indirect program costs, customer incentives, and independent EM&V. Petitioner proposed to include funding for a new MPS in the budget, to be recovered as a program cost, that would be used to inform Petitioner's next IRP, due in November 2024. Petitioner proposes no changes to the OSB's authority to approve new programs without seeking approval from the Commission so long as those program budgets are within the 20% spending cap previously approved for existing programs' approved budgets. Petitioner requests that one exception to the 20% discretionary spending cap as approved in DSM 8 be made. Petitioner asks that Non-Residential Demand Response program be exempted to ensure that all potential load reduction savings are achieved. We deny this request because the Non-Residential Demand Response program costs should be included in the 20% spending cap to promote consistency in the treatment of EE and DR programs.

**iv. Independent EM&V.** Petitioner states that the DSM/EE Plan includes EM&V with a process for independent evaluation of the programs. The EM&V processes that Petitioner currently uses and will continue to use if its DSM/EE Plan is approved. The OUCC raised concerns surrounding access to EM&V vendors, which we discuss further below in our consideration of EM&V procedures. Accordingly, we find that Petitioner's proposed DSM/EE Plan includes a process for independent EM&V.

**B. Reasonableness of the Plan.** Having determined that Petitioner has submitted an energy efficiency plan as required by Section 10(h), we next analyze the overall reasonableness of the DSM/EE Plan through the factors set forth in Section 10(j).

**i. Projected Changes in Customer Consumption (Section 10(j)(1)).** Ms. Dean identified the targeted energy savings resulting from implementation of the DSM/EE Plan, which are reflected below:

| <b>Duke Energy Indiana Projected Energy Savings<br/>(MWh Gross Savings @Plant)</b> |             |             |             |
|--|-------------|-------------|-------------|
|  | <u>2024</u> | <u>2025</u> | <u>2026</u> |
| <b>Total</b>   | 195,313     | 196,409     | 195,036     |

These projected savings, along with Petitioner’s load forecast in its 2021 IRP, enable us to consider projected changes in customer consumption of electricity resulting from implementation of the DSM/EE Plan. Because Petitioner’s proposed programs are designed to result in energy savings of 1.15% of eligible retail sales each year of the DSM/EE Plan, accordingly, we find it reasonable to expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs.

ii. **Cost-Benefit Analysis (Section 10(j)(2))**. Section 10(j)(2) requires a cost-benefit analysis of the proposed plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan. To this end, 170 IAC 4-8-2 requires the use of, at a minimum, the TRC, PCT, UCT, and RIM tests. Each of these tests is designed to compare various costs and benefits from a different perspective. The TRC test helps determine whether EE is cost effective overall whereas the PCT, UCT, and RIM tests to determine whether the program design and efficiency measures provided by the program are balanced from the perspective of the participant, utility, and non-participants, respectively. The purpose of applying several different tests is to provide a more comprehensive analysis of the cost effectiveness than that which can be accomplished with just one of the tests. Consideration of multiple cost-effectiveness tests allows us to better evaluate the reasonableness of individual programs and the overall portfolio. A minimum score of 1.0 under each test indicates the program is cost-effective under that test.

Duke Energy Indiana evaluated the cost-effectiveness of its proposed programs in the DSM/EE Plan using the standard TRC, PCT, UCT, and RIM tests. Ms. Williams explained the purpose of the various tests and provided the test results for each of Duke Energy Indiana’s proposed programs. All programs passed at least one of the cost-benefit analyses. All of the programs passed the UCT and TRC Tests, except the Low-Income Weatherization and Low Income Neighborhood programs, which did pass the PCT. Although very few of the EE programs passed the RIM test, this is not unusual because it includes lost revenues as a program cost. The DSM/EE Plan was informed by the MPS and actual market experience, creating a high level of confidence that the DSM/EE Plan is achievable. The calculation of the overall portfolio cost and benefit analysis was performed utilizing the UCT with a score of 2.02, meaning the benefits are 202% of the costs of the DSM/EE Plan, as set forth in Petitioner’s Exhibit 1, Attachment 1-B.

The OUCC voiced concern that the Schools Program will no longer be cost effective with the removal of Lighting from the Kit. However, Lighting is not the only kWh savings component of the Kit offering. Petitioner is still evaluating potential measures to replace Lighting beginning in July 2023 and understands that it is necessary to achieve kWh savings as well as keep the Kit cost effective with any changes proposed. Ms. Dean further testified that Petitioner will present information to its OSB once the Lighting review process is completed.

The evidence demonstrates that the OSB will have the opportunity to review Petitioner's Kit proposal and ensure that any changes made to the Kit are cost effective and that the program offers a meaningful opportunity for customers to become more efficient. Petitioner will continue to review the Kit cost effectiveness through conversations with the OSB, and if Petitioner is unable to replace the LED bulbs with other cost-effective measures, Petitioner is willing to hold discussions about continuing the Schools Program without inclusion in Petitioner's shared savings incentive structure. Further, cost effectiveness for a program has historically been and should continue to be reviewed at the program level. However, we recognize that the OUCC's concerns regarding the potential inability to achieve reasonable cost effectiveness with modified Kits. For these reasons, we find Petitioner's approach to the Schools Program to be reasonable, subject to and conditioned upon Petitioner, in consultation with the OSB, being able to achieve reasonable cost-effectiveness. If Petitioner is unable to achieve cost-effectiveness, the non-cost-effective Kit measure shall be removed for purposes of lost revenue and shared saving incentives. Petitioner shall file the finalized Schools Program with the Commission under this Cause.

The OUCC also raised concern with the Smart Saver Residential Program offering, contending that the program's smart thermostats, HVAC, and Heat Pump Water Heater measures are not cost effective and should be removed as measures incentivized by the program. Ms. Dean testified that Petitioner is aware that there are measures within the Smart Saver Residential Program that do not pass the UCT, but Petitioner actively manages the cost effectiveness of each program and still believes it is beneficial to offer customers comprehensive programs. Additionally, the Smart Saver Residential Program passes the UCT at the program level.

In *Ind. Mich. Power Co.*, Cause No. 45285 (IURC Feb. 3, 2021) at 30 ("45285 Order"), the Commission found that the cost-effectiveness of the entire program portfolio is considered to support the availability of a suite of programs. By doing so, we allow the opportunity for a broad range of customers to participate in utility-sponsored EE programs. In the 45285 Order, we found that it is critical that EE programs be offered on a continued basis given that program infrastructure must be kept in place if EE is to remain a potentially cost-effective resource over time. Additionally, we have considered that it is not feasible for these programs to be turned off and on in response to sudden changes in economics. We also acknowledged the considerable disagreements about avoided cost estimates and other drivers of program evaluation, which could impact the results of benefit/cost tests. 45285 Order at 30. While not all measures within the Smart Saver Residential Program pass the UCT on a standalone basis, we agree it is beneficial and reasonable to offer customers comprehensive programs and these measures round out certain technologies that overall have passing scores to ensure a program can serve all market segments. As noted by Ms. Adams, cost effectiveness is calculated at the program level due to the difficulty in allocating and assigning costs down to the measure level. Many assumptions and allocations need to be made to take program level detail down to the measure level. Further, with the new minimum efficiency standards for air conditioners and heat pumps that went into effect across the United States on January 1, 2023, new measure replacements for many of these measures were presented to the OSB on November 16, 2022. We find replacement measures are appropriately addressed through the OSB process.

The OUCC also asserted that the cost effectiveness of the Smart Saver Residential Program is artificially supported by an overstated avoided T&D cost and that the calculation of avoided T&D capacity costs should be set to zero for the purposes of calculating the benefit/cost tests and shareholder incentives. In rebuttal, Mr. Stemle testified as to how Petitioner calculated the T&D avoided cost value and provided additional detail supporting those calculations. The record reflects there is industry support for including T&D avoided cost for cost effectiveness testing and for the approach Petitioner used to estimate the value of avoided T&D costs. We note that Petitioner explored other calculation methodologies but determined that they produced unreasonable results for T&D avoided cost due to low peak demand load growth in Petitioner's forecast and that Petitioner has chosen to continue to use its proven method to achieve a reasonable result. Therefore, we approve the proposal.

Mr. Haselden argued further that T&D capacity benefits are only created when DSM programs alleviate capacity issues on specific circuits. Because none of Petitioner's DSM programs target specific circuits, avoided T&D costs should be set to zero. We acknowledge that the ability to avoid future load growth-related T&D system investments through customer participation in EE/DSM programs is accomplished over time through the cumulative participation of each incremental participant. Adopting Mr. Haselden's recommendations would result in Petitioner changing the avoided costs used in analyzing its programs and would not provide for a consistent set of EE and DR programs. Further, zeroing out avoided T&D benefits in years that Petitioner has adequate capacity would adversely affect the cost effectiveness scores for all DSM/EE Plan programs and result in a much smaller portfolio.

Mr. Stemle explained the difficulty with forecasting which customers will use Petitioner's DSM programs and which circuits will be affected, prompting the use of a system-wide average to estimate the T&D avoided cost. Additionally, because EE programs reduce the energy power plants must produce and the T&D system capacity needed to transport electricity from power plants to customers it would be unreasonable to set avoided T&D costs to zero. Mr. Stemle also testified that it is more difficult and costly to build a DSM resource on a specific circuit in a short time period at exactly the time the resources will be needed to avoid a T&D expansion. In finding Petitioner's avoided cost calculation approach in DSM 8 was reasonable, this Commission recognized that Petitioner used a system-wide average to estimate avoided T&D costs due to the difficulty of identifying specific circuits that may be affected by the EE programs, and we continue to find such approach to be reasonable.

Mr. Haselden also contended that Petitioner's avoided T&D capacity cost is unsupported and unreasonable compared to other Indiana utilities. However, the evidence demonstrates Petitioner has a larger service territory than other Indiana investor-owned utilities, requiring a larger T&D investment, and that Petitioner's T&D avoided costs are lower than the average cost of other utilities.

Lastly, Mr. Haselden argued that Petitioner's TDSIC program includes upgrading existing T&D circuits and new construction to alleviate system capacity. We agree with Mr. Stemle that Petitioner's TDSIC projects are not considered in the calculation of T&D avoided cost. The TDSIC capital expenditures are capital projects that support improved reliability of existing

circuits; whereas the capital expenditures used to calculate T&D avoided cost are load growth related capital projects.

Based on the evidence presented, we find Petitioner's T&D avoided cost calculation methodology is reasonable and that Petitioner has demonstrated that the DSM/EE Plan is reasonably cost-effective.

**iii. Consistent with State Energy Analysis and Utility IRP (Section 10(i)(3)).** Ind. Code § 8-1-8.5-3 requires the Commission to develop, publicize, and keep current an analysis of the long-range need for the expansion of electric generation facilities and sets forth certain requirements that the analysis must include. The Commission has previously acknowledged that a state energy analysis that meets all the statutory criteria set forth in Ind. Code § 8-1-8.5-3 does not currently exist. See *e.g.*, *Northern Indiana Public Service Co. LLC*, Cause No. 45456 (IURC Sept. 1, 2021). However, as Mr. Park testified, the proposed DSM/EE Plan is consistent with the 2021 SUFG Forecast. Accordingly, we find the evidence supports that Petitioner's proposed DSM/EE Plan is consistent with the 2021 SUFG Forecast and, as previously discussed, we find that the DSM/EE Plan is consistent with Petitioner's 2021 IRP.

**iv. EM&V.** The evidence presented demonstrates that evaluation for all programs in the DSM/EE Plan will be conducted by independent evaluators. Ms. Williams testified that the independent evaluators would most often perform a process evaluation and an impact evaluation. Ms. Williams described the process and rigor that Petitioner applies to its EM&V. She noted that Petitioner's approach to EM&V was approved in DSM 8 and presented a current schedule of EM&V timelines for each program. Ms. Williams testified that, because its evaluations encompass both process and impact evaluations, which often require more than one year to complete, it is not necessary or reasonable for Duke Energy Indiana to file annual evaluation reports for each of its DSM/EE programs. She testified further that the current evaluation process provides statistically valid and rigorous evaluations for an efficient cost.

Ms. Williams testified that Petitioner would continue to file in accordance with 170 IAC 4-8-4(b) copies of its EM&V studies completed within a given year and would work with its OSB by providing draft EM&V studies and periodic updates on evaluation status and progress. Petitioner's estimated EM&V costs for the duration of the proposed DSM/EE Plan is \$5,729,591, or approximately 3.2% of total program costs.

The OUCC argued that there are flaws in the evaluation process to determine NPSO savings in the Residential Smart Saver program and, therefore, savings attributed to NPSO should be completely removed. The evidence demonstrates that the EM&V report the OUCC took issue with is not the final report. The evidence shows that quantifying NPSO using HVAC contractor survey responses is a common approach in the evaluation process, according to the National Renewable Energy Laboratory Uniform Methods Project protocols. Therefore, we find that Petitioner's methodology for evaluating NPSO is appropriate.

The OUCC also argued that Petitioner's EM&V plan does not fully satisfy the requirements of 170 IAC 4-8-4(a)(4)(C) and 170 IAC 4-8-4(a)(3) (E and F) because, respectively, it includes NPSO in its measurements and data collection. The OUCC also asserted that no other Indiana

investor-owned electric utilities include NPSO in its data, measurements, or calculations of net energy savings. In its prior DSM proceedings under Cause No. 43955, Petitioner claimed, and the Commission approved, NPSO savings. Additionally, Indiana Michigan Power Company included NPSO in its data, measurements, or calculations of net energy savings in its April 2022 report, “2021 Indiana Legacy Programs EM&V Report.” We agree with Petitioner that NPSO is properly included in Petitioner’s savings calculations in the Residential Smart Saver program.

The OUCC expressed concern as to the OSB’s access to Petitioner’s EM&V contractors, stating EM&V reports are given to the OSB by Petitioner only after they have been nearly finalized and ready for a vote of approval. The OUCC recommended more direct access to EM&V vendors earlier in the process to resolve any issues that might arise. Ms. Williams described the EM&V process and testified that when the OSB has follow up questions to any EM&V report, Petitioner will reach out to the vendor as a starting point and facilitate meetings between the vendor and OUCC as needed to discuss specific issues. She testified that the current EM&V process is operating sufficiently and that because Petitioner works with three different EM&V vendors across fourteen different programs, adoption of Mr. Haselden’s recommendations could result in additional costs that would be borne by Petitioner’s programs, potentially impacting cost effectiveness. Ms. Williams testified that Petitioner is not opposed to the OSB having access to vendors as issues or questions arise and allowing Petitioner to facilitate resolution of issues pertaining to EM&V reports and arrange meetings with EM&V vendors on an as-needed basis.

Based on the evidence presented, we find that the current EM&V process offers a reasonable means of resolving OSB questions and concerns while avoiding adding additional steps, complexity, and/or cost to the current EM&V process and find further that Petitioner’s proposed EM&V procedures to independently verify the results of its proposed programs and the estimated EM&V costs are reasonable.

**v. Undue or Unreasonable Preference to Customer Classes.** The DSM/EE Plan offers a variety of programs and measures for both residential and non-residential customers. It includes several delivery channels to ensure that interested customers have an opportunity to participate. The evidence demonstrates the costs have been appropriately allocated to customer rate calculations consistent with accepted ratemaking practices. There was no evidence presented identifying any undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the DSM/EE Plan. While CAC argued that Duke Energy Indiana over relies on the HER program to the detriment of other residential programs and longer-lived measures, we disagree for the reasons explained earlier in this Order. Accordingly, we find the DSM/EE Plan will not result in undue or unreasonable preference to any customer class.

**vi. Stakeholder Comments.** This provision simply requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders concerning the adequacy and reasonableness of the DSM/EE Plan. As Petitioner witness Dean testified, in preparation of the DSM/EE Plan, Petitioner worked collaboratively with its OSB on the MPS, with a final report delivered on April 2, 2021. Petitioner also met with the OUCC, CAC, and the Industrial Group to discuss the proposed DSM/EE Plan for feedback prior to its filing with the Commission. Furthermore, the OUCC and CAC provided

comments through the evidence they presented in this proceeding, which the Commission has considered and addressed in making its determinations in this Order.

**vii. Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-participants.** Petitioner provided evidence of the short-term bill impacts on customers as well as various cost-effectiveness tests, some of which are designed specifically to evaluate the long-term effect of the proposed programs on the electric rates and bills of both participating and non-participating customers. Petitioner's witness Lilly testified that the short-term effect for participating customers is reduced energy consumption, which can result in lower energy bills. The projected long- and short-term impact on customer rates and bills for both program participants and non-participants were considered and presented in Petitioner's case-in-chief. In addition to the calculation and presentation of the projected Rider 66 rates, Petitioner evaluated each program under the PCT and RIM test to assess the impact it is projected to have on the rates and energy bills of participating and non-participating customers. Based on the estimated bill impacts and cost-effectiveness test results, the Commission finds the effect or potential effect of the DSM/EE Plan on the electric rates and customer bills of participants and non-participants to be reasonable.

**viii. Lost Revenues and Financial Incentives.** If the Commission finds that an electricity supplier's EE plan is reasonable, Section 10(o) requires us to allow an electricity supplier to recover the following:

- (1) Reasonable financial incentives that:
  - (A) encourage implementation of cost-effective energy efficiency programs; or
  - (B) eliminate or offset regulatory or financial bias:
    - (i) against energy efficiency programs; or
    - (ii) in favor of supply side resources.
- (2) Reasonable lost revenues.

Accordingly, the Commission must consider whether the DSM/EE Plan provides for reasonable financial incentives and reasonable lost revenues.

**a. Lost Revenues.** Petitioner is requesting lost revenue cost recovery for the life of the measure (or until the next base rate case, if earlier) of the programs approved in its DSM/EE Plan, consistent with the Commission's prior approval in DSM 8. Of the proposed portfolio of DR programs included in Rider 74, Petitioner requests lost revenues for only one existing program, Power Manager for Business. Petitioner's Exhibit 4, Attachment 4-B, sponsored by Ms. Adams, shows the lost revenue amounts of each program by year. Total lost revenue recovery is estimated to be \$103,926,272.

The OUCC recommended the Commission limit the expected useful life of any measure to the lesser of life of the measure or three years for the purposes of lost revenues, and CAC recommended that the Commission cap lost revenue recovery to the lesser of four years or the life of the measure. CAC also recommended that Petitioner should clarify, or the Commission should make clear, that lost revenue recovery be effectively capped through the implementation of new base rates and charges.

Ms. Adams, in rebuttal, testified that imposing such caps causes a disincentive for electric utilities to promote DSM programs or, if the utility does promote DSM programs, it creates a loss of revenue needed to cover fixed costs previously incurred on behalf of customers. Recovery of these lost revenues is an important mechanism to reducing this disincentive and providing for recovery of fixed costs.

Ms. Adams further testified that limiting lost revenues to anything other than life of the measure (or until the lower sales level is included in base rates) is a subjective cap on lost revenues, and that as Petitioner is required to file a rate case before the expiration of its TDSIC plan, the full amount of the lost revenues recovery through DSM/EE will be mitigated by the implementation of new base rates.

EM&V is the most established approach to reasonably estimating energy savings and lost revenues associated with EE programs. Petitioner's approach appears reasonably designed to ensure it recovers only the lost revenues that EM&V can establish with a high degree of confidence that will result from savings driven by EE measures. Although we recognize that EM&V degrades over time based on accumulated changes, this degradation is built into the EM&V process. Neither the OUCC nor CAC offered a basis on which we could make factual findings that a three- or four-year cap, or any other limitation, would allow Petitioner to recover reasonable lost revenues. As we have previously explained, "[i]t is inherent that energy savings validated by EM&V will create lost revenues. Consequently, cost-effective EE programs should have lower program costs with larger energy savings, which does result in higher lost revenues relative to program costs." *S. Ind. Gas and Elec. Co.*, Cause No. 44927 at 24 (IURC Dec. 28, 2017). This Commission has previously approved in both DSM 4 (affirmed on appeal) and DSM 8 the recovery of lost revenues over a measure's life or until a utility's next base rate case, whichever is shorter.

Additionally, the OUCC contended that Petitioner has not proposed a method or process for calculating lost revenues that accurately accounts for "spillover" pursuant to 170 IAC 4-8-6(b). For the reasons we discussed in our consideration of the reasonableness of Petitioner's EM&V, we find that Petitioner has accurately accounted for spillover.

Therefore, based on the evidence presented, we find that lost revenue recovery for the life of the measure for Petitioner's DSM/EE Plan programs, or until Petitioner's next base rate case, whichever is shorter, is reasonable. Petitioner has an EM&V program in place to verify EE impacts, which accounts for free-ridership, and provides an independent basis for verifying lost revenues associated with its DSM/EE Plan programs. Our conclusion is consistent with past precedent, the DSM Rules, and Section 10, which recognize that EE programs are designed to reduce energy sales, thereby reducing utility revenues.

**b. Financial Incentives.** Petitioner requests approval to earn a financial incentive on all programs in its DSM/EE Plan except the Low-Income Weatherization and Low Income Neighborhood programs. The costs of the 2024 MPS were added to the DSM/EE Plan with no incentive included. Petitioner also requests that its proposed financial incentive mechanism, which is based on the performance of the portfolio of programs measured in terms of its actual, independently verified, net energy and demand savings compared to projected net energy



and demand savings, be effective for all eligible programs offered to customers during the DSM/EE Plan. Total estimated shared savings is \$15,181,163.

Petitioner initially proposed a shared savings tiered-incentive structure based on energy saving achievements for the DSM/EE Plan for each program year, as measured by EM&V, such as was previously approved by the Commission in DSM 8. CAC recommended a restructured performance incentive mechanism, which would more gradually and linearly increase incentives for every five percent of achievement, rather than ten percent. Petitioner supports CAC’s proposed performance incentive structure with a slight modification, removing a higher level of incentive than what Petitioner, stakeholders, and the Commission have come to expect as outlined below:

| Achievement Level (kWh) | Duke Energy Indiana’s Current Incentive (per DSM 8) and Initial Proposal<br><br>(% of NPV of UCT net benefits) | CAC Incentive Proposal<br><br>(% of NPV of UCT net benefits) | Duke Energy Indiana’s Modified Incentive Proposal<br><br>(% of NPV of UCT net benefits) |
|-------------------------|--|--|---|
| <70%                    | 0.0%   | 0.0%   | 0.0%  |
| 70%                     | 0.0%   | 0.0%   | 0.0%  |
| 75%                     | 5.0%   | 5.0%   | 5.0%  |
| 80%                     | 6.0%   | 6.0%   | 6.0%  |
| 85%                     | 6.0%   | 6.5%   | 6.5%  |
| 90%                     | 7.0%   | 7.5%   | 7.0%  |
| 95%                     | 7.0%   | 8.0%   | 7.5%  |
| 100%                    | 8.0%   | 9.0%   | 8.0%  |
| 105%                    | 8.0%   | 10.0%  | 8.5%  |
| 110%                    | 10.0%  | 11.0%  | 10.0%   |
| 115%                    | 10.0%  | 12.0%  | 10.0%   |
| >115%                   | 10.0%  | 13.0%  | 10.0%   |

Both Section 10(o)(1) and the DSM Rules at 170 IAC 4-8-7 authorize the Commission to approve reasonable performance incentives to encourage the implementation of DSM programs to address the regulatory or financial bias against such programs. Petitioner has sufficiently demonstrated that its DSM/EE Plan and proposed programs are reasonable and that its EE goals are consistent with its 2021 IRP and designed to achieve an optimal balance of energy resources in its service territory.

The OUCC asserted that Petitioner overstated the avoided cost of avoided T&D capacity, improving the calculation of the net present value of benefits for DSM programs and consequently increasing shareholder incentives and, as such, Petitioner has not met the requirement in 170 IAC 4-8-7(c). For the reasons set forth in our consideration of the cost-benefit analysis, in which we found Petitioner’s T&D avoided cost calculation methodology to be reasonable, we do not find that the financial incentive is affected by overstated T&D avoided capacity costs.

The Commission finds that tying performance incentives to the tiered levels of energy savings achieved and the net present value of the net benefits of the UCT as proposed by Petitioner on rebuttal is reasonable. This structure encourages Petitioner to minimize program costs while also striving to achieve as much cost-effective energy efficiency as reasonably possible. Based on the evidence presented, we find Petitioner's modified proposed financial incentives are reasonable.

9. **Petitioner's IRP.** The DSM/EE Plan's consistency with Petitioner's IRP and underlying resource assessment is discussed above.

A. **Conclusion on DSM/EE Plan.** Based on the evidence presented and considering the factors discussed above, we find Duke Energy Indiana's proposed DSM/EE Plan to be reasonable in its entirety and is approved.

B. **Program Cost Recovery and Accounting Authorizations.** Petitioner proposes to continue to use Rider 66, which is reconciled annually, to recover costs associated with the EE portion of the DSM/EE Plan, including direct and indirect costs, the cost of EM&V, lost revenues, and a financial incentive. Petitioner also proposes to include direct and indirect costs, the cost of EM&V, lost revenues associated with Power Manager for Business, and a financial incentive for DR programs in new proposed Rider 74. Petitioner also requests authority to use deferred accounting on an ongoing basis, including the authority to defer the over and under recoveries of projected DSM/EE Plan program costs through Riders 66 and 74, pending reconciliation, and the authority to defer any costs incurred in implementing the DSM/EE Plan until such costs are reflected in retail rates. As such, Petitioner requests approval of Rider 74 and authority to adjust Rider 66 and Rider 74 accordingly. No party opposed Petitioner's request; the OUCC recommended the Commission approve continuation of Petitioner's accounting and ratemaking treatment of its DSM/EE Plan for 2024-2026 and its proposed accounting and ratemaking treatment for Rider 74.

Section 10 provides that once an electricity supplier's EE plan is approved, the Commission shall allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism. The Commission's DSM Rules at 170 IAC 4-8-5 also provide authorization for the recovery of such program costs.

Having found Petitioner's DSM/EE Plan to be reasonable, we authorize and approve Rider 74, which Petitioner will file with the Commission's Energy Division at the time of its next reconciliation filing. We further find Petitioner is authorized to recover its program costs associated with the DSM/EE programs approved herein and defer any costs incurred in implementing the DSM/EE Plan until such costs are reflected in retail rates, all as proposed.

C. **Oversight.** Petitioner proposed to maintain its current OSB consistent with DSM 8 and predecessor authorities, including maintaining the current 20% discretionary spending cap. The OSB meets monthly with four quarterly in-person meetings and seven telephone conferences. At each meeting, the OSB reviews the previous month's scorecard on the performance of each program in the portfolio, the year-to-date performance, and what is expected for the remainder of the year. During the quarterly in-person meetings, the OSB has a more in-depth meeting to review EM&V draft reports and other substantive issues. Petitioner has also

proposed the ability to spend additional monies on the new Non-Residential Demand Response program, to which the 20% discretionary spending cap would not apply. We deny this proposal to promote consistency in the treatment of EE and DR programs.

CAC proposed that CAC be made a voting member of the OSB. Ms. Dean testified that CAC is a valued member of the OSB and has been an active participant and collaborator, even though it has not historically been a voting member, and that the OSB has been functioning as an effective body. CAC also proposed a rollover for unspent funds and associated savings between years within the DSM/EE Plan. Ms. Dean testified that the OSB has been functioning effectively and that Petitioner does not believe a funding rollover is necessary at this time as Petitioner has had success working within the currently approved OSB framework for additional funding. As the OSB has been functioning as an effective body with CAC as a non-voting member and the OSB's discretionary spending cap has been operating successfully, we are not persuaded to mandate that CAC be made a voting member of the OSB or to require the rollover of funds as proposed by CAC.

CAC also recommended that Petitioner commit to working with CAC, the OUCC, and other interested stakeholders to develop plans and strategies to leverage IRA funding. Ms. Dean testified that Petitioner is responding to an Energy Department Request for Information regarding IRA EE rebate programs to provide input on how these programs could be most effective, and Petitioner will provide updates on implementation and opportunities to leverage the IRA as part of its OSB meetings. We find it is appropriate to present such information to the OSB, and we encourage Petitioner to do so.

Otherwise, no party voiced any objection to Petitioner's proposals. Except for the request for the Non-Residential Demand Response program to be an exception to the 20% discretionary spending cap, we find Petitioner's oversight approach reasonable and so approve.

**D. TRM.** The OUCC recommended that the new Indiana TRM parameters should apply to all new measures installed after January 1, 2024. Ms. Williams responsively testified that Petitioner intends to use the new Indiana TRM, once complete and approved, in all EM&V prospectively. Ms. Williams testified that an evaluation with sample participation occurring after the final completion of the Indiana TRM would utilize the new Indiana TRM parameters, unless Petitioner's third-party evaluators determine inputs captured from participant survey research provide a more accurate estimation of measure and/or program savings. Ms. Williams stated that the DSM/EE Plan will reflect the new Indiana TRM through the application of future EM&V results that are prepared by Petitioner's independent evaluators in accordance with the new Indiana TRM, after it is complete and approved. We find Petitioner's approach to implementation of the new Indiana TRM, upon its final completion, to be reasonable and appropriate.

**E. Program Scorecard.** Under Petitioner's predecessor DSM proceedings held under Cause No. 43955, the Commission ordered Petitioner to provide information regarding its program scorecards so interested parties would have a better understanding of the savings being achieved in each portfolio program. Petitioner has been and continues to file its quarterly scorecards in the DSM 8 proceeding. We hereby order that Petitioner shall continue to file its

quarterly scorecards containing the information required by the DSM 8 Order but that such filings shall now be made under this Cause.

7. **Confidential Information.** Petitioner filed a Motion for Protection of Confidential and Proprietary Information on November 8, 2022, which was supported by Affidavits, showing certain exhibits and workpapers filed in this proceeding were trade secret information as defined in Ind. Code § 24-2-3-2 and excepted from public disclosure under Ind. Code § 5-14-3-4(a)(4). The Presiding Officers found such information to be confidential on a preliminary basis. Accordingly, having reviewed the confidential information, we find that all such information qualifies as trade secret information and should continue to be held confidential pursuant to Ind. Code §§ 8-1-2-29 and 5-14-3-4(a)(4).

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

1. Petitioner's DSM/EE Plan is reasonable and approved as discussed herein.
2. Prior to implementing the approved rate, Petitioner shall file Standard Contract Rider 74, the tariff and applicable rate schedules under this Cause for approval by the Commission's Energy Division. Such rate shall be effective on or after the Order date subject to Division review and agreement with the amounts reflected.
3. Petitioner shall file under this Cause with the Commission's Energy Division its finalized Schools Program as discussed in section 6(B).
4. Petitioner's request for and timely recovery, through Riders 66 and 74, of all associated program costs of the DSM/EE Plan, including all direct and indirect costs of operating the programs, costs associated with EM&V, and reasonable lost revenues and financial incentives, is approved consistent with the terms of this Order.
5. Petitioner's request for the authority to defer the over and under recoveries of projected DSM/EE Plan program costs through Riders 66 and 74 pending reconciliations in subsequent rider periods and the authority to defer any costs incurred in implementing the DSM/EE Plan until such time as Duke Energy Indiana is authorized to recognize such costs in retail rates is approved.
6. Petitioner will continue to maintain its OSB as discussed herein.
7. Pursuant to 170 IAC 4-10-7, Petitioner shall publish notice of the Petition and DSM/EE Plan on its website and file proof of such publication with the Commission no later than 30 days after the effective date of this Order.
8. In accordance with 170 IAC 4-8-4, Petitioner shall file under this Cause and post to its website, annually, a document containing information, data, and results from its EM&V activities. In addition, Petitioner shall file its EM&V reports and quarterly scorecards under this Cause.

9. The material submitted to the Commission under seal is declared to contain trade secret information as defined in Ind. Code § 24-2-3-2 and, therefore, is excepted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

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

**HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR:**

**APPROVED: JUL 26 2023**

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

---

**Dana Kosco**  
**Secretary of the Commission**