

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANA MICHIGAN POWER)
COMPANY, AN INDIANA CORPORATION, FOR)
AUTHORITY TO INCREASE ITS RATES AND)
CHARGES FOR ELECTRIC UTILITY SERVICE)
THROUGH A PHASE IN RATE ADJUSTMENT; AND)
FOR APPROVAL OF RELATED RELIEF INCLUDING:)
(1) REVISED DEPRECIATION RATES, INCLUDING)
COST OF REMOVAL LESS SALVAGE, AND)
UPDATED DEPRECIATION EXPENSE; (2))
ACCOUNTING RELIEF, INCLUDING DEFERRALS)
AND AMORTIZATIONS; (3) INCLUSION OF CAPITAL)
INVESTMENT; (4) RATE ADJUSTMENT)
MECHANISM PROPOSALS, INCLUDING NEW)
GRANT PROJECTS RIDER AND MODIFIED TAX)
RIDER; (5) A VOLUNTARY RESIDENTIAL)
CUSTOMER POWERPAY PROGRAM; (6) WAIVER)
OR DECLINATION OF JURISDICTION WITH)
RESPECT TO CERTAIN RULES TO FACILITATE)
IMPLEMENTATION OF THE POWERPAY)
PROGRAM; (7) COST RECOVERY FOR COOK)
PLANT SUBSEQUENT LICENSE RENEWAL)
EVALUATION PROJECT; AND (8) NEW SCHEDULES)
OF RATES, RULES AND REGULATIONS)

CAUSE NO. 45933

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

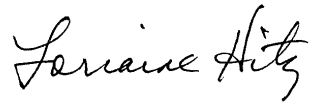
PUBLIC'S EXHIBIT NO. 3

TESTIMONY OF OUCC WITNESS

WES R. BLAKLEY

NOVEMBER 15, 2023

Respectfully submitted,



Lorraine Hitz
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TESTIMONY OF OUCC WITNESS WES R. BLAKLEY
CAUSE NO. 45933
INDIANA MICHIGAN POWER COMPANY

I. INTRODUCTION

1 **Q: Please state your name, business address and employment capacity.**

2 A: My name is Wes R. Blakley, and my business address is 115 W. Washington St.,
3 Suite 1500 South, Indianapolis, Indiana 46204. I am a Senior Utility Analyst for
4 the Indiana Office of Utility Consumer Counselor ("OUCC"). My qualifications
5 are attached to this testimony as Appendix A.

6 **Q: What is the purpose of your testimony?**

7 A: The purpose of my testimony is to provide analysis and make recommendations on
8 proposals Indiana Michigan Power Company ("I&M" or "Petitioner") made in its
9 case-in-chief. Specifically, I recommend denial of I&M's proposed Grants Projects
10 Rider and its proposed modifications to its Tax Rider proposal. I also recommend
11 recalculation of the IURC Fee used in I&M's gross revenue conversion factor.

12 **Q: To the extent you do not address a specific item or adjustment, should that be**
13 **construed to mean you agree with I&M's proposal?**

14 A: No. Excluding any specific issues, adjustments, or amounts proposed by I&M
15 from my testimony does not indicate my approval of those adjustments or
16 amounts. The scope of my testimony is limited to the specific items addressed
17 herein.

II. GRANTS PROJECTS RIDER

18 **Q: Please briefly explain I&M's proposal related to Grant Projects.**

19 A: Because new direct cash funding is available from federal grants created with the
20 passing of the Infrastructure Investment and Jobs Act, I&M is proposing an

1 expedited review process for projects that are awarded a direct grant from the
2 federal government. If the Indiana Utility Regulatory Commission
3 (“Commission”) approves projects on an expedited basis, I&M proposes to file its
4 Grant Projects Rider (“GPR”) requesting cost recovery related to the approved
5 grant projects.

6 **Q: Please explain how I&M’s proposed GPR mechanism is intended to work.**

7 A: According to I&M witness Dona Seger-Lawson, Petitioner expects the GPR to be
8 a temporary mechanism that recovers project costs, including grant amounts, until
9 those costs are included in base rates. I&M has projects that are part of its Capital
10 Forecast that it intends to implement regardless of whether a grant is received, and
11 projects that are not part of its Capital Forecast for which it may pursue grant
12 funding to complete the projects.¹

13 Projects in I&M’s Capital Forecast will be placed in base rates and include
14 the full value of their capital cost (operations and maintenance (“O&M”), property
15 tax and return on rate base). Once I&M receives grant funding, it would reflect a
16 credit in the GPR to accumulated depreciation in the amount of the grant less
17 income taxes, which has the effect of reducing plant and return “on.”² For Projects
18 not in I&M’s Capital Forecast, I&M would include the revenue requirement for
19 these projects in the GPR, less the amount of grant awarded against the capital
20 costs,³ reducing the return “on” and return “of” in the GPR.

¹ Direct Testimony of I&M witness Dona Seger-Lawson, p. 26, ll. 5-9.

² *Id.*, lines 10-20.

³ *Id.*, ll. 21-28.

1 **Q: Does the Indiana Code authorize and quantify what qualifies as an investment**
2 **for GPR treatment, and how GPR revenue requirements should be**
3 **calculated?**

4 A: No. The Indiana Code has several detailed statutes permitting cost recovery for a
5 wide range of capital investments. This includes a clean energy statute permitting
6 tracker recovery for generating unit investments including wind, solar, organic
7 biomass, hydrogen, hydropower, gas, and nuclear power generation. Ind. Code § 8-
8 1-8.8-11 lists clean energy incentives available for clean energy projects if they are
9 found to be “just and responsible.” I&M tracks pollution control and renewable
10 energy investments under this statute. Indiana has a transmission, distribution, and
11 storage system improvement charge (“TDSIC”) statute under I.C. ch. 8-1-39-1, *et*
12 *seq.* The TDSIC statute allows tracker recovery of approved transmission and
13 distribution investments and costs.

14 **Q: Has I&M utilized TDSIC cost recovery?**

15 A: No. I&M has chosen to recover transmission and distribution investments in
16 frequent rate cases, which it has filed every two years although I&M witness
17 Jennifer L. Fischer presented in her testimony revenue allocation factors that I&M
18 would propose in a future Transmission, Distribution, and Storage System
19 Improvement Charge (“TDSIC”) proceeding following this rate case.⁴

20 **Q: Does I&M have other statutes it can use for tracked recovery of investments?**

21 A: Yes. Another statute, I.C. ch. 8-1-8.4-1, *et seq.*, known as the Federally Mandated
22 Costs Statute, also provides recovery for plant investments that are considered
23 necessary to comply with federal rules.

⁴ Direct Testimony of I&M witness Jennifer L. Fischer, p. 25, ll. 9-11.

1 **Q: Do any of these statutes authorize GPR projects as proposed by I&M?**

2 A: No. Indiana's utility laws provide specific recovery for specific types of
3 investments with different requirements, but do not include a statute dealing with
4 direct cash from grants given by the federal government, which are financed by
5 taxes paid by a utility's customers. There is no statutory direction for reviewing
6 whether these programs are needed or cost-effective, or how to fairly provide cost
7 recovery.

8 **Q: What has I&M proposed for the GPR?**

9 A: I&M proposes an "expedited" review process of 90 days,⁵ which gives little time
10 for project analysis and an unusual cost recovery proposal that needs further
11 analysis.

12 **Q: What type of projects has I&M proposed for the GPR?**

13 A: OUCC Witness Brian Wright provides more detail regarding the projects and costs
14 that I&M seeks to include in the GPR. One of the projects I&M requests cost
15 recovery for is fiber optic technology for provision of mid-mile rural broadband.
16 As discussed by Mr. Wright, the OUCC supports rural broadband expansion but
17 does not support the use of electric rates to recover costs of investments not
18 directly needed to provide electric service.

19 **Q: Does I&M need tax dollars to invest in projects benefiting its shareholders?**

20 A: No. I&M's parent company American Electric Power is a multibillion-dollar
21 electric holding company with \$2.3 billion in 2022 earnings, on \$19.6 billion total
22 revenues based on \$71.3 billion in net assets.⁶ I&M is a regulated public electric

⁵ Seger-Lawson, p. 30, l. 17.

⁶ American Electric Power 2022 Annual Report.

1 utility in Indiana and Michigan and can acquire equity and debt capital for needed
2 investments through both states' regulatory processes. I&M can also file for plant
3 investment trackers related to generation and maintenance, such as its
4 Environmental Cost Recovery ("ECR") tracker. All the plant investment trackers
5 provide for a return "on" and "of" investments through depreciation, in addition to
6 taxes and O&M. What I&M suggests regarding crediting customers for the grants
7 through the Grants Projects Rider does not remedy the risk that investments
8 normally made to provide safe, reliable, and affordable service will not occur.
9 Instead, I&M will be incented to invest in possibly more expensive projects that
10 are not directly needed in the provision of utility service but would contribute to
11 higher earnings for I&M at the expense of its customers. I would also note that
12 Indiana water/wastewater utilities have sought and received grants for years
13 without seeking the creation of new trackers as a result.

14 **Q: What is your assessment of I&M's GPR proposal?**

15 A: It should be denied. I&M's case-in-chief does not include adequate support for the
16 proposed GPR or any need for it. There are no schedules demonstrating the actual
17 calculation of the GPR. Recovery of costs relating to grants is not clearly
18 demonstrated. The Commission should deny the GPR, as I&M has not
19 demonstrated a need.

III. MODIFIED TAX RIDER

20 **Q: Please explain I&M's proposal regarding its current Tax Rider.**

21 A: I&M's current tax rider was approved in Cause No. 45576 to pass unprotected
22 Excess Accumulated Deferred Federal Income Tax ("EADFIT") credits back to

1 ratepayers as a result of the federal Tax Cut and Jobs Act of 2017 (“TCJA”). The
2 Tax Rider was also approved in that Cause to recover Net Operating Loss
3 Carryforward, but I&M has not recovered any costs, as it awaits a private letter
4 ruling from the Internal Revenue Service. The unprotected EADFIT has been
5 passed back, and the Tax Rider was set to zero in February 2023. In this Cause,
6 I&M requests to further modify its tax rider to include changes made by the
7 passage of the Inflation Reduction Act (“IRA”) by including potential production
8 tax credits (“PTCs”) associated with the Cook Nuclear Facility and the Corporate
9 Alternative Minimum Tax (“CAMT”).⁷ The CAMT is a new tax that imposes a
10 15% minimum tax on adjusted financial statement income (“AFSI”) for
11 corporations with average annual AFSI over a three-tax year period in excess of \$1
12 billion. The earliest the PTCs will be available for the Cook Nuclear Plant is 2025,
13 and I&M’s calculation of its current AFSI⁸ totals \$142 million, well below the \$1
14 billion AFSI threshold. Therefore, the calculation shows zero CAMT adjustment.
15 It is doubtful I&M will have annual average AFSI over a three-tax year period
16 exceeding \$1 billion in a year any time soon. In fact, I&M has a \$352 million
17 unadjusted net income requirement in this Cause, which is much lower than \$1
18 billion.

19 **Q: Does the OUCC oppose I&M’s proposed changes its Tax Rider to address a**
20 **total company federal tax change?**

⁷ Seger-Lawson Direct, p. 33, ll. 4-9.

⁸ Workpaper of Criss and Seger-Lawson WP-Tax, p. 2.

1 A: Yes. Originally, I&M's Tax Rider was approved to return Excess ADFIT
2 associated with the TCJA to customers. That authority is limited and based on tax
3 changes that are known and have been addressed in Commission orders. I&M's
4 proposal to expand its Tax Rider to reflect an unknown potential increase in
5 federal tax expense with the new CAMT resulting from the passage of IRA
6 legislation is inappropriate. Tax changes are complicated, and the implementation
7 of those changes may be contested regarding utilities. I&M should not have the
8 authority to implement a total company federal tax expense change through the tax
9 rider.

IV. IURC FEE

10 **Q: Please discuss the IURC Fee used by I&M to calculate its Gross Revenue**
11 **Conversion Factor.**

12 A: I&M used an incorrect rate for the IURC Fee of 0.2516%⁹ in its calculation of its
13 gross revenue conversion factor. The correct rate for the IURC Fee
14 is .1467603%. I&M should update its revenue conversion factor accordingly.

V. CONCLUSION

15 **Q: Please summarize your recommendations.**

16 A: I recommend the Commission:

- 17 1) Deny I&M's proposed Grants Projects Rider;
- 18 2) Deny I&M's proposal to recover total company tax changes associated
- 19 with the IRA in the form of the new corporate alternative minimum tax
- 20 ("CAMT") though the tax rider; and

⁹ I&M Exhibit A-8, line 4.

1 3) Require I&M to adjust its gross revenue conversion factor to use the

2 current IURC rate of .1467603%.

3 **Q: Does this conclude your testimony?**

4 **A: Yes.**

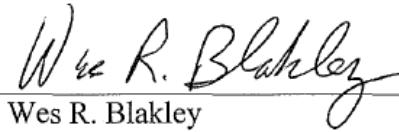
APPENDIX A

1 **Q: Please describe your educational background and experience.**

2 A: I received a Bachelor of Science Degree in Business with a major in Accounting
3 from Eastern Illinois University in 1987 and worked for Illinois Consolidated
4 Telephone Company until joining the OUCC in April 1991 as a staff accountant.
5 Since that time, I have reviewed and testified in hundreds of trackers, rate cases
6 and other proceedings before the Commission. I have attended the Annual
7 Regulatory Studies Program sponsored by NARUC at Michigan State University
8 in East Lansing, Michigan as well as the Wisconsin Public Utility Institute at the
9 University of Wisconsin-Madison Energy Basics Program.

AFFIRMATION

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



Wes R. Blakley
Senior Utility Analyst
Indiana Office of Utility Consumer Counselor

Cause No. 45933
Indiana Michigan Power Co.

November 15, 2023
Date

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing *Indiana Office of Utility Consumer Counselor Public's Exhibit No. 3 Testimony of OUCC Witness Wes R. Blakley* has been served upon the following counsel of record in the captioned proceeding by electronic service on November 15, 2023.

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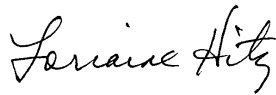
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