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

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN POWER COMPANY (I&M), AN INDIANA CORPORATION, FOR APPROVAL OF A NEW ECONOMIC DEVELOPMENT RIDER TO BE APPLICABLE TO CERTAIN COMMERCIAL AND INDUSTRIAL CUSTOMERS	)))))))	**CAUSE NO. 45781** **APPROVED: MAR 29 2023**

<u>ORDER OF THE COMMISSION</u>

Presiding Officers:
David E. Veleta, Commissioner
Carol Sparks Drake, Senior Administrative Law Judge

Indiana Michigan Power Company ("I&M" or "Petitioner") initiated this Cause on October 7, 2022, by filing a Verified Petition for approval of a new Economic Development Rider ("EDR 2") to be applicable to certain commercial and industrial customers. I&M concurrently prefiled the direct testimony, attachments, and workpapers of Stacie R. Gruca, Regulatory Analysis and Case Manager in I&M's Regulatory Services Department, and Ashley N. Savieo, Director of Economic Development with American Electric Power Service Corporation.

The Indiana Office of Utility Consumer Counselor ("OUCC") prefiled the testimony of John W. Hanks, a Utility Analyst for the OUCC, on January 6, 2023.

I&M did not file rebuttal testimony.

The Commission set this matter for an evidentiary hearing to commence at 9:30 a.m. on February 17, 2023, in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M and the OUCC, by counsel, participated in the evidentiary hearing, and I&M and the OUCC's prefiled testimony and exhibits were admitted without objection.

Based on the applicable law and the evidence presented, the Commission finds:

1. **<u>Notice and Jurisdiction</u>.** Notice of the evidentiary hearing in this Cause was given and published as required by law. I&M is a public utility under Ind. Code § 8-1-2-1(a). The Commission has jurisdiction under Ind. Code §§ 8-1-2-4 and -71 to approve rates and charges for retail electric service a public utility furnishes in Indiana. Additionally, under Ind. Code §§ 8-1-2-24 and -25, the Commission has jurisdiction to approve and modify rates and charges, as necessary, to effectuate special arrangements between a utility and its customers; therefore, the Commission has jurisdiction over I&M and the subject matter of this Cause.

2. **<u>I&M's Characteristics</u>.** I&M is a public electric generating utility, organized and existing under Indiana law, with its principal office and place of business at Indiana Michigan

Power Center in Fort Wayne, Indiana. Petitioner renders electric utility service in Indiana and owns and operates plants and equipment within Indiana that are used for the generation, transmission, delivery, and furnishing of electric service to the public.

3. **Relief Requested.** On March 4, 2009, the Commission issued an Order in Cause No. 43306 approving an EDR for Petitioner's qualified customers receiving service under its Industrial Power Tariff or Tariff IP. The Commission has since approved multiple extensions of the EDR, with the most recent approval rendered in Cause No. 45576.

In this filing, I&M seeks to close the existing EDR tariff to new customers and create a new economic development tariff, EDR 2. In EDR 2, the EDR qualifying requirements are revised. Specifically, EDR 2: (1) reduces the demand threshold for existing customers; (2) increases the full-time-equivalent ("FTE") jobs and capital investment criteria for new customers; (3) restructures the credit option/discount model; and (4) adds language clarifying I&M will not offer EDR 2 to customers who are able to relocate quickly in response to short-term economic signals and/or when load is portable.

4. **I&M's Direct Evidence.** Ms. Gruca described EDR 2 and its new requirements for participating customers. She testified EDR 2 will be available to commercial and industrial customers who meet the following requirements:

> ● New customers with a billing demand of at least 500 kilowatts ("kW") and existing customers increasing their billing demand by at least 250 kW over the average billing demand during the 12 months prior to the customer's date of application for service under EDR 2 ("Base Average Billing Demand").
>
> ● New customers must create at least 20 FTE jobs or exceed $2,000,000.00 of capital investment at the service location. For existing customers, I&M will calculate a score based on the number of FTEs created, capital investment made, Base Average Billing Demand, and estimated load increase in kW. Existing customers must achieve a score of at least 100 to receive discounts under EDR 2.
>
> ● I&M has the right to verify FTE job counts and/or capital investment requirements are met, and each customer must comply with reasonable requests for information so I&M can conduct this verification. Failure to meet the requirements may result in terminating service under EDR 2.
>
> ● Customers must apply for and receive economic development assistance from the State, local government, or a public agency.
>
> ● Customers must demonstrate that, absent the availability of EDR 2, their qualifying new or increased demand would be located outside I&M's service territory or would not be placed in service due to poor operating economics.
>
> ● Revenue from the customer must be expected to exceed the incremental cost of serving that customer over the contract term.

Ms. Gruca explained that customers participating in EDR 2 must contract for service for eight years. She stated the customer's monthly billing credit will equal the product of the customer's total non-fuel bill and the applicable discount percentage, and the total non-fuel bill will be the customer's bill, excluding all billing associated with the portion of fuel included in base rates and the Fuel Cost Adjustment ("FAC") factor. She advised the applicable discount percentage is based on whether the customer is new or existing, and if the customer discontinues service before the end of the contract, the customer must reimburse I&M for any billing credits received. Additionally, Ms. Gruca stated EDR 2 includes language precluding customers who have the ability to quickly relocate in response to short-term economic signals and/or have load that is portable from being eligible for service under this tariff.

Ms. Gruca also testified I&M will file annual EDR 2 reports providing the same information as Petitioner has provided under its existing EDR. She stated I&M will also retain an analysis for each EDR 2 contract offering until the end of the EDR 2 approval period or I&M's next base rate case. Ms. Gruca noted I&M is asking that certain customer information in its annual reports, specifically, customer names and business addresses, remain confidential because current EDR customers have expressed concern that making this information public allows their competitors to see what EDR discount they are receiving and their load and/or usage information.

Ms. Gruca also explained differences between the existing EDR and EDR 2. She stated EDR 2: (1) reduces the demand threshold for existing customers; (2) increases the FTE jobs and capital investment criteria; (3) restructures the credit option/discount model; and (4) includes tariff language that customers who are able to relocate quickly in response to short-term economic signals and/or when load is portable are ineligible.

Ms. Gruca testified I&M is proposing to end Petitioner's existing EDR and implement EDR 2 to better align economic development credits to reflect the change in I&M's capacity and generation position due to Rockport Unit 2's lease expiration; however, customers already on the EDR tariff or who have an approved application for service under the EDR will continue to be served under that tariff until their contract term expires. Ms. Gruca opined that creating EDR 2 rather than modifying Petitioner's existing EDR will allow for better transition and transparency, with the existing EDR to remain in I&M's tariff book until there are no longer any participating customers. She stated EDR 2 will help I&M avoid a situation where the incremental cost to serve the customer is greater than the customer rate with the EDR 2 credit and address concerns regarding uncertain permanence of load and/or the life of a customer's operations. In her Attachment SRG-1, Ms. Gruca provided the proposed new EDR 2 tariff, and her Attachments SRG-2 and SRG-3 provide a redline and a clean copy of I&M's existing EDR tariff and language confirming that I&M's existing customers may continue service under the EDR tariff.

In addition, Ms. Gruca testified concerning the prospective benefits of EDR 2. She stated EDR 2, as compared to EDR, provides a declining credit option over a longer period which will ease a customer's transition to full tariff rates. Ms. Gruca further stated the changes in EDR 2 will ensure EDR 2 customers pay their fair share of fuel costs and incentivize existing customers to increase their demand.

Ms. Savieo also supported approving EDR 2 by explaining the need for EDR 2 and how it will encourage the growth of existing customers. She testified I&M's economic development efforts helped to create more than 6,500 jobs and more than $2 billion of capital investment in I&M's Indiana service territory. Per Ms. Savieo, I&M's customers benefit from economic development because it fosters a growing economy that helps increase the customer base over which I&M's fixed costs can be spread. She also noted that from 2017 to 2022, 36 new customers and 22 existing customers applied for and were approved for service under I&M's existing EDR, and as of March 2022, 10 customers were receiving an EDR billing credit. Ms. Savieo stated the direct aggregated impact of the approved EDR applications is projected to be $1.425 billion in capital investment and more than 2,200 new jobs.

Ms. Savieo described the benefits and rationale for lowering the minimum demand criteria for existing customers. She stated I&M has received applications from existing customers with incremental demands below the existing EDR eligibility criteria of 500 kW. Ms. Savieo testified that while these customers are less energy intensive, their expansion can bring economic benefits to communities, I&M's customers, and I&M. These customers can provide benefits to the tax base and create additional high paying jobs, but I&M's mid-sized commercial and small industrial customers have had a difficult time qualifying for the EDR. Under EDR 2, she projected customers who have been unable to meet the incremental demand requirements for the current EDR may be treated similar to existing customers who are approved to receive benefits under the proposed EDR 2.

Ms. Savieo explained that EDR 2 will allow I&M to continue to help communities attract and grow jobs. It also aligns with the State's economic development efforts because it helps make Indiana's cost of doing business more competitive and attracts new jobs and capital investment. Ms. Savieo testified the scoring rubric for existing customers and minimum demand and jobs or investment criteria for new customers ensures the level of discount matches the incremental jobs, capital investment, and demand. She stated this results in a rate that does not shift the cost burden to other customers. Ms. Savieo testified the EDR 2 tariff language prohibiting portable load customers also ensures I&M is incentivizing only investments that provide sustainable economic benefits.

5. <u>OUCC's Evidence</u>. Mr. Hanks offered testimony explaining the OUCC's analysis of I&M's proposal to terminate its existing EDR as an option for new customers and replace it with EDR 2. He explained the changes in the EDR and why I&M is requesting these changes. Mr. Hanks also described the scoring system I&M proposes to use to determine the eligibility of existing customers for EDR 2.

Mr. Hanks noted a concern the OUCC had earlier with I&M's existing EDR, advising that in Cause No. 44913, I&M's proposed changes made the EDR open-ended, from the OUCC's perspective, when compared to other major utilities' EDR offerings. This prompted the OUCC to recommend the Commission deny I&M's proposed modifications in that filing. Subsequently, the OUCC and I&M resolved the OUCC's concerns in a settlement. Mr. Hanks testified EDR 2 does not prompt the same concerns.

Mr. Hanks recommended the Commission approve the termination of I&M's existing EDR, as proposed, and the implementation of EDR 2.

6. **<u>Commission Discussion and Findings</u>.** The Commission has repeatedly recognized the importance of economic development programs and supported efforts by Indiana's utilities to attract additional investments within their service territories through economic development rates. As the Commission has previously stated:

> This Commission fully recognizes the importance of electric economic development rates in aiding the attraction and retention of job intensive industrial and large commercial enterprises. As such, we have done our best to accommodate the specific needs of each and every electric utility in the state in the design and approval of economic development rates. It is our intent to foster quality economic development whenever possible.

In re Indiana Michigan Power Co., Cause No. 41366 at p. 7 (IURC October 13, 1999).

The Commission finds the evidence in this Cause demonstrates EDR 2 is better aligned with economic development credits that reflect the change in I&M's capacity and generation position due to the Rockport Unit 2 lease expiring and increased market prices. EDR 2 should also allow I&M to avoid a situation where the incremental cost to serve the customer is greater than the customer rate. Additionally, I&M showed EDR 2 is designed to help address Petitioner's concerns regarding the uncertain permanence of load due to a customer's ability to quickly move and/or have portable load. The Commission finds proposed EDR 2 creates a balance that allows Petitioner's customers to continue to grow load while also providing benefits to I&M's customers, communities, and I&M. Importantly, I&M's customers will not be adversely impacted by EDR 2.

Based on the evidence presented and our discussion above, the Commission finds I&M's proposal to close its existing EDR to new customers and implement EDR 2 is reasonable, just, and serves the public interest. We further find I&M's proposed reporting requirements associated with EDR 2 are reasonable and should be approved. More specifically, I&M is directed to prospectively file an EDR 2 report annually under this Cause providing the information I&M currently provides in Cause No. 44913 with respect to its EDR tariff, as identified in Ms. Gruca's testimony (Petitioner's Exhibit No. 1 at pp. 11-12). Consistent with I&M's current EDR reporting, the Commission finds participating customers' names and business addresses shall be provided confidentially when filing the annual EDR 2 report, as the record supports such confidentiality, so the EDR discount received, and participating customers' load/usage information is not publicly available.

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

1. I&M is authorized to close its existing EDR to new customers and implement EDR 2 as Petitioner proposed.

2. Prior to implementing EDR 2, I&M shall file its EDR 2 tariff and revised EDR tariff under this Cause for approval by the Commission's Energy Division. EDR 2 shall be effective on or after the Order date, subject to the Division's review and agreement with Petitioner's EDR 2 and revised EDR tariff language.

3. On or before March 31 of each year, commencing in 2024, I&M shall file under this Cause a report that complies with the reporting requirements set forth above in Finding No. 6 with respect to EDR 2; provided, customer names and business addresses included in the annual report are deemed confidential, and such information shall be submitted under seal referencing this Order.

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

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

APPROVED: MAR 29 2023

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

Dana Kosco Digitally signed by Dana Kosco Date: 2023.03.29 10:18:53 -04'00'

Dana Kosco
Secretary of the Commission