

**ORIGINAL**

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

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE VERIFIED )**  
**PETITION OF INDIANAPOLIS POWER & )**  
**LIGHT FOR APPROVAL OF DEMAND SIDE )**  
**MANAGEMENT (DSM) PLAN, INCLUDING )**  
**ENERGY EFFICIENCY (EE) PROGRAMS, )**  
**AND ASSOCIATED ACCOUNTING AND )**  
**RATEMAKING TREATMENT, INCLUDING )**  
**TIMELY RECOVERY, THROUGH IPL’S )**  
**EXISTING STANDARD CONTRACT RIDER )**  
**NO. 22, OF ASSOCIATED COSTS )**  
**INCLUDING PROGRAM OPERATING )**  
**COSTS, NET LOST REVENUE, AND )**  
**FINANCIAL INCENTIVES. )**

**CAUSE NO. 45898**

**APPROVED: DEC 27 2023**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Wesley R. Bennett, Commissioner**

**David E. Ziegner, Commissioner**

**Jennifer L. Schuster, Senior Administrative Law Judge**

On May 26, 2023, Indianapolis Power & Light Company d/b/a AES Indiana (“Petitioner” or “AES Indiana”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”), along with the direct testimony, attachments and workpapers of the following witnesses:

- Katie Heard, AES Indiana Demand Side Management (“DSM”) Lead;
- Erik Miller, AES Indiana Resource Planning Director;
- Edward Schmidt Jr., Director – Energy Efficiency, MCR Performance Solutions, LLC (“MCR”); and
- Kimberly Aliff, AES Indiana Revenue Requirements Manager.

On June 2, 2023, the Citizens Action Coalition of Indiana, Inc. (“CAC”) filed its petition to intervene, which was granted by docket entry dated June 13, 2023.

On August 11, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”), filed the testimony and attachments of Brian R. Latham, Utility Analyst in the OUCC’s Electric Division. The CAC did not file testimony.

On September 1, 2023, AES Indiana filed the rebuttal testimony, attachments, and workpapers of Ms. Heard and Ms. Aliff.

On September 13, 2023, the Presiding Officers issued a docket entry requesting information, to which AES Indiana responded on September 15, 2023.

The Commission held an evidentiary hearing in this Cause at 1:30 p.m. on September 20, 2023 in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. AES Indiana, the OUCC, and CAC appeared by counsel and participated in the hearing. The parties presented their respective evidence and waived cross-examination. The parties also submitted a stipulation resolving the contested issues between the parties (“Stipulation”).

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

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

**2. AES Indiana’s Characteristics.** AES Indiana is a corporation organized and existing under Indiana law, with its principal office at One Monument Circle, Indianapolis, Indiana. AES Indiana renders electric utility service in Indiana. AES Indiana owns and operates electric generating, transmission, and distribution plant, property, equipment, and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery, and furnishing of electric energy, heat, light, and power.

**3. Relief Sought.** AES Indiana requests Commission approval of a DSM plan for the 2024 calendar year (“DSM Plan”). The DSM Plan includes EE goals; a portfolio of EE programs and other DSM programs designed to achieve Petitioner’s EE goals and demand savings; program budgets and program costs; and procedures for independent evaluation, measurement, and verification (“EM&V”). The proposed one-year DSM plan for 2024 is primarily the same as the current 2021-2023 DSM programs approved in Cause No. 45370.

The DSM Plan cost recovery proposal includes a request for continued accounting and ratemaking procedures to recover costs through AES Indiana’s Standard Contract Rider No. 22 (Demand Side Management Adjustment) (“DSM Rider” or “Rider 22”), including the direct (including EM&V) and indirect costs of the EE and DSM programs, funds for emerging technology, net lost revenue, and the financial incentive. With respect to the implementation mechanics of cost recovery via Rider 22, AES Indiana is not proposing to make any changes from the accounting and ratemaking treatment for the DSM plan that is currently in effect. AES Indiana also does not propose to make any changes from the current methodology being used to allocate DSM costs between customer classes. AES Indiana is not seeking approval of updated Standard Contract Rider No. 22 billing factors in this proceeding.

AES Indiana’s proposal for lost revenue recovery for the life of the measures reflects the actual reduced kilowatt-hour (“kWh”) or kilowatt (“kW”) sales resulting from the DSM programs, as determined by the independent EM&V evaluator. AES Indiana requests authority to recover a tiered financial incentive through its Standard Contract Rider No. 22. The financial incentive

mechanism being proposed in this case is the same as that currently approved for the 2021-2023 DSM Plan. Under AES Indiana's proposal, the Income Qualified Weatherization ("IQW") program would be excluded from the financial incentive.

Consistent with current practice, AES Indiana proposes to continue to utilize its existing AES Indiana Oversight Board ("OSB") to oversee implementation of the 2024 DSM Plan.

**4. Evidence Presented.**

**A. AES Indiana's Case-in-Chief.** AES Indiana's witnesses identified the DSM Plan's goals, budgets, and costs; discussed the demand and energy impact of and cost/benefit analysis for the DSM Plan; and addressed the Ind. Code § 8-1-8.5-10 ("Section 10") considerations.

Ms. Heard presented the 2024 DSM Plan and associated program operating costs. She testified that the main difference between the proposed request and the DSM plan currently in effect is that general service lighting ("GSL") and specialty lighting have been removed from customer programs to align with federal codes and standards. She opined that filing a one-year plan will provide AES Indiana the opportunity to better evaluate the market and participation without these programs. She said AES Indiana plans to work with expert consultants and program delivery vendors during 2023 to revamp program offerings and will file a two-year DSM Plan for the 2025 and 2026 program delivery years.

Ms. Heard testified that AES Indiana seeks Commission approval to deliver a reasonably achievable and cost-effective portfolio of DSM programs. She said the portfolio consists of seven residential programs (Appliance Recycling, Residential Demand Response, Efficient Products, Multifamily, School Education, Home Energy Reports, and IQW) and four commercial and industrial ("C&I") programs (Custom, Business Demand Response, Prescriptive, and Small Business Direct Install).

Ms. Heard said AES Indiana projects successful delivery of the 2024 DSM Plan will require spending authority of \$35,540,218 in program direct and indirect costs and expects gross energy savings of 156,202 megawatt-hours ("MWh") over the one-year plan period.

Ms. Heard stated that, consistent with prior Commission orders, AES Indiana requests spending flexibility of up to 10% of the portfolio direct costs for the 2024 DSM Plan. She explained that spending flexibility provides AES Indiana, through the OSB, the ability to pursue cost-effective energy and demand savings opportunities if interest in the market exceeds forecasted customer participation. Increasing the level of participation or inclusion of additional measures may increase direct costs, prompting the need for additional funds. She said AES Indiana has generally been successful in working with its OSB to modify budgets, as necessary, throughout the course of previous program years.

Ms. Heard explained that, given the one-year nature of this plan, AES Indiana proposes to not carry over any unspent funds from its 2021-2023 DSM plan approved in Cause No. 45370 into the 2024 DSM Plan period. She added that, for the same reason, AES Indiana has not included funds for emerging technology initiatives. She said AES Indiana expects to include a request for these types of funding in its next multi-year DSM plan filing.

Ms. Heard said AES Indiana proposes to maintain the current composition of the AES Indiana OSB, which includes voting members from AES Indiana, OUCC, and CAC. She described the continued role of the OSB and ongoing reporting of DSM impacts and expenditures.

Ms. Heard presented the proposed budget for the 2024 DSM Plan and discussed the annual savings goals and costs in comparison to the savings and costs in the 2021-2023 DSM plan, explaining that, overall, the savings are comparable from year to year.

Ms. Heard said that, compared to the 2021-2023 DSM plan, there are no new or material changes to the 2024 DSM Plan program offerings. She testified that there are two program modifications taken into consideration when developing the 2024 DSM Plan. She explained that, during the planning process, AES Indiana worked with vendors and stakeholders to identify opportunities to backfill (but not wholly replace) some of the savings lost due to GSL no longer being a viable EE measure. Ms. Heard added that AES Indiana has removed GSL lighting from the Community-Based Lighting program within the IQW program and replaced it with weatherstripping, door sweeps, and other non-lighting energy efficiency products. She stated that AES Indiana is also proposing to replace GSL lighting with non-lighting energy efficiency measures for School Education kits with measures such as, but not limited to, door sweeps and weatherstripping. Ms. Heard said the changes that impacted lighting are similar for the business programs.

Ms. Heard testified that AES Indiana also recommends to automatically qualify customers for participation in the low-income programs if they are participants in Low Income Home Energy Assistance Program (“LIHEAP”) or other means tested-benefit programs, such as the following: Energy Assistance Program (“EAP”), United Way Winter Assistance Fund, Children’s Health Insurance Program, Supplemental Nutrition Assistance Program (“SNAP”), Special Supplemental Nutrition Program for Women, Infants, and Children (“WIC”), Supplemental Security Income (“SSI”), or Section 8 subsidies.

Ms. Heard discussed the DSM Plan development, including stakeholder involvement. She explained that AES Indiana proposes to maintain the current financial incentive and lost revenue recovery and discussed why recovery of financial incentives and lost revenues is reasonable and necessary. Ms. Heard also described the requirements and steps taken by AES Indiana to comply with Section 10.

Mr. Schmidt presented the cost and benefit analysis of the one-year DSM Plan. He testified that the modeling developed the standard Utility Cost Test (“UCT”), the Total Resource Cost (“TRC”) Test, Rate Impact Measure (“RIM”) Test, and the Participant Cost Test (“PCT”). He said the cost and benefit analysis is consistent with Section 10 and added that the types of costs included in the cost and benefit analysis are well established and defined in the California Standard Practice Manual for Economic Analysis of Demand-Side Program and Projects, which is used throughout the country, including in Indiana.

Mr. Schmidt showed that the 2024 DSM Plan is cost-effective at the overall portfolio level, explaining that the Residential Portfolio has a UCT of 1.34 when including the benefits and costs from the IQW program. He said it has been AES Indiana’s policy to include offerings for the income-qualified segment of customers regardless of cost-effectiveness. He said that in the instant

case, IQW is almost cost-effective at a UCT of 0.99 and thus its inclusion slightly lowers overall benefit/cost ratios. Mr. Schmidt testified that the residential portfolio is also cost effective with a UCT of 1.41 when the IQW program is removed from the cost-effectiveness calculation. Mr. Schmidt added that the business portfolio and overall portfolio are cost effective, as shown in Table EJS-1 and EJS-2.

Mr. Schmidt identified the programs that score below 1.0 for the cost-effectiveness tests and opined that such programs may have other societal benefits, or the benefits are difficult to quantify and have been generally accepted as appropriate DSM programs, subject to budget restrictions. He said that, in the instant case, the Appliance Recycling Program (“ARP”) has, like all such programs nationwide, experienced substantial increases in the third-party, or vendor, cost of recycling, but is retained since the program does add savings to the portfolio and is a valued service to customers. He added that, absent the inclusion of general service LED lighting and given the high labor and administrative costs of in-school education, the School Education program bears UCT and TRC values less than 1.0, but is retained given its continued contribution of savings to the portfolio and the high value AES Indiana and many stakeholders place on education. Mr. Schmidt noted that the residential and overall portfolios remain cost effective.

Mr. Schmidt testified that AES Indiana considers the effect, or potential effect, in both the long term and short term, of the proposed DSM 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 (Section 10(j)(7)).

Mr. Miller discussed how the 2024 DSM Plan EE goals are reasonably achievable and designed to achieve an optimal balance of energy resources in AES Indiana’s service area. He also described AES Indiana’s plan for conducting independent EM&V. Mr. Miller explained that the 2024 DSM Plan is consistent with AES Indiana’s most recent long-range integrated resource plan (“IRP”) and underlying resource assessment submitted to the Commission (Sections 10(j)(3)(B) and 10(j)(9)). Mr. Miller also opined that the DSM Plan’s direct costs are reasonable in light of the cost of DSM selected in the 2022 IRP. Finally, Mr. Miller addressed the independent EM&V and alignment with Section 10(j)(4).

Ms. Aliff testified that AES Indiana is seeking approval of the same cost recovery mechanism that was previously authorized by the Commission in Cause No. 45370 and added that AES Indiana proposes to continue to use the forecast and reconciliation method currently approved for program operating costs, lost revenues, and financial incentives. Ms. Aliff said AES Indiana also proposes to continue to submit annual filings under Rider 22, which establishes a January through December billing period for this rider. She discussed the financial incentive mechanism and the calculation and tracking of lost revenues. She said the estimates of kWh consumption and kW demand reductions tie directly to the net kWh and net kW in the 2024 DSM Implementation Plan, which have been adjusted to reflect the net-to-gross ratio for each program to account for free ridership. She said the DSM lost revenues reflected in AES Indiana’s billing for retail service under Rider 22, including any reconciled amount of over/under recovery, will continue to be included in the fuel adjustment clause (“FAC”) earnings test. She presented the estimated rate impact on residential customer using 1,000 kWh per month.

**B. OUCC's Evidence.** Mr. Latham recommended the Commission deny the School Education Program ("SEP") or, alternatively, deliver it as part of Petitioner's DSM marketing program. Mr. Latham noted that Mr. Schmidt stated that the program is not cost-effective, but is retained given its continued contribution of savings to the portfolio and the high value AES Indiana and many stakeholders place on education. Mr. Latham said education is an important aspect to AES Indiana's SEP; however, this goal could be achieved by converting the program to marketing.

Mr. Latham said that, considering the SEP's UCT is 0.50, the OUCC recommends the Commission deny the SEP program, thus savings ratepayers program costs and up to \$71,408 in financial incentives, unless Petitioner agrees to reallocate the program costs to other cost-effective DSM programs. Mr. Latham said the goal of school education can still be achieved by including the SEP in the DSM marketing budget. He said, alternatively, in the event the program is not removed or converted to marketing, AES Indiana should present the OSB with a list of measures designed to make the SEP cost-effective and provide updated benefit/cost scores by October 31, 2023.

Mr. Latham also testified that the OUCC recommends the Commission deny the ARP. He stated that, as with the SEP, Petitioner's ARP's UCT score (0.71) does not pass the benefit/cost test. He testified that denying the ARP plan would save ratepayers program costs and up to \$75,556 in financial incentives unless Petitioner agrees to reallocate the program costs to other cost-effective DSM programs.

Mr. Latham discussed AES Indiana's flexible spending proposal and recommended savings goals be adjusted upward to account for energy and/or demand savings whenever Petitioner seeks to use flexible funding, as those funds were not accounted for in the utility's initial savings goal. He said the adjusted higher goal should be used when calculating financial incentives.

Mr. Latham also discussed the impact the Plan would have on the monthly bill for a residential customer using 1,000 kWh per month. He said that Ms. Aliff's testimony shows the estimated bill for such customer would be reduced under AES Indiana's proposed DSM Plan by \$0.37 (or a 0.31% decrease). He stated that this calculation includes the cost of the proposed one-year DSM Plan, plus the legacy lost revenue from the 2021-2023 DSM Plan. Mr. Latham said his calculations confirm the same reduction in Ms. Aliff's testimony.

Finally, Mr. Latham testified that he has no concerns with how AES Indiana completes its DSM tracker reconciliation or the proposed cost elements it seeks to recover. He recommended the Commission approve Petitioner's proposed accounting and ratemaking treatment in this Cause.

**C. AES Indiana's Rebuttal.** Ms. Heard noted that, through its OSB review process, the CAC provided feedback and comments regarding the design, budgets, and savings goals of its proposed one-year DSM Plan, which AES Indiana considered prior to filing this case. She stated that AES Indiana did not receive any comments or concerns from the OUCC prior to the filing of this proceeding. She testified that, while AES Indiana does not agree with the OUCC's positions, in the spirit of compromise and to further avoid controversy, AES Indiana proposes

certain modifications to AES Indiana's proposed one-year DSM plan to address the OUCC's recommendations.

Ms. Heard stated that the Commission has used the portfolio approach to assess cost-effectiveness, and this approach recognizes that there may be sound reasons to continue a DSM program that is not cost effective. Such programs may have other societal benefits or benefits that are difficult to quantify. She testified that, while certain DSM programs may run into challenges as economic conditions and technology changes, the continuation of the program can allow these challenges to be addressed while avoiding the start-up and ramp-up costs and potential consumer confusion that would be incurred if a program is discontinued and subsequently restarted.

With respect to the SEP, Ms. Heard stated this program has been a long-standing component of AES Indiana's DSM offering and opined that it should not be discontinued at this time. However, in the spirit of compromise, AES Indiana proposes to continue to measure and claim energy savings as part of the DSM portfolio but forego recovery of lost revenue and financial incentives from the savings achieved through the SEP. She opined that this approach reasonably addresses the OUCC's concern while providing an opportunity to continue to pursue energy savings and maintain this delivery channel. She added AES Indiana will continue to work with the OSB to explore measures to improve the cost-effectiveness of this program.

With respect to the ARP, Ms. Heard explained that, while AES Indiana disagrees with the OUCC that the program should be eliminated based solely on its individual UCT score, AES Indiana accepts Mr. Latham's recommendation to remove the program offering from the DSM portfolio for the 2024 program year.

Ms. Heard presented updated cost-effectiveness results, portfolio budget, and portfolio goals to reflect her recommendations. She explained that removal of the ARP from the 2024 DSM portfolio improves the portfolio UCT score (including IQW) from 2.12 to 2.15. She said the 2024 DSM Plan as modified in AES Indiana's rebuttal remains reasonably aligned with the 2022 IRP and market potential study.

Ms. Heard also responded to the OUCC's recommendation regarding spending flexibility. She clarified that, while the OUCC's testimony discusses this recommendation under the heading of "Flexible Spending," it is really a proposal to change the existing financial incentive mechanism. She opined that the OUCC's proposal should not be adopted because it would: 1) discourage the pursuit of additional cost-effective savings; 2) create a moving savings goal, which would complicate planning and implementation efforts; and 3) distract from the intended use of spending flexibility.

She stated AES Indiana proposes to maintain its current financial incentive mechanism, which uses a performance tier structure and percentage of expenditures approach. She opined that the OUCC's recommendation would effectively eliminate the top financial incentive tier by removing any ability for AES Indiana to receive a performance incentive above the 100% achievement level. She also opined that the OUCC's approach would complicate DSM planning and implementation efforts because the savings goal would become a moving target, rather than something approved by the Commission at the time the plan is approved. She said this makes it more difficult to monitor progress during the program year and harder to develop effective

implementation plans. Finally, Ms. Heard stated the spending flexibility provisions of the proposed 2024 DSM Plan are intended to position the AES Indiana OSB to continue to use best efforts to pursue cost-effective energy savings for the benefit of customers as market conditions warrant. She said that allowing spending flexibility to be used as a means of reducing the performance incentive mechanism would unreasonably complicate this purpose and distract from plan implementation. She said the OUCC's recommendation may also have the unintended consequence of discouraging the pursuit of new programs or ideas and limiting program innovation. Given the one-year nature of the proposed DSM Plan, Ms. Heard recommended the Commission maintain the existing financial incentive structure, as proposed by AES Indiana in its case-in-chief.

Ms. Aliff presented updated calculations of financial incentives and lost revenues, based on Ms. Heard's rebuttal testimony. She explained that the foregone financial incentives and lost revenues agreed to by AES Indiana in rebuttal reduces the overall estimated bill impact of the revised 2024 DSM Plan. She recommended the Commission approve the 2024 DSM Plan as revised in AES Indiana's rebuttal testimony.

**D. Stipulation.** At the hearing, the parties submitted a Stipulation resolving the contested issues based upon the evidence presented. The parties agreed that the 2024 DSM Plan should use the program operating budgets and savings goals as set forth in Petitioner's case-in-chief. They also agreed that the program operating budget originally allocated to the ARP should be used towards other, cost-effective DSM programs, with the intent that the 2024 DSM Plan portfolio cost-benefit results will not be reduced from Petitioner's case-in-chief values as a result of such allocations. The existing OSB authority and procedures will be used to determine how to allocate the budget previously allocated to the ARP. In addition, given the one-year nature of this plan, no changes will be made to flex spending or the incentive structure at this time. The parties have also agreed not to use the order in this case as precedent, nor this Stipulation as an admission or waiver, in any future case, with respect to issues regarding DSM Plan flex spending or incentive structure. Finally, the parties agreed that the 2024 DSM Plan portfolio cost-benefit results set forth in Petitioner's case-in-chief are reasonable and support approval of the 2024 DSM Plan.

**5. Commission Discussion and Findings.** Petitioner requests approval of its proposed DSM Plan for the calendar year 2024 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 EE programs, as well as financial incentives pursuant to Section 10.

The parties also seek Commission approval of their Stipulation, which, together with the evidence not in dispute, resolves all issues in this case. In this instance, we have treated the Stipulation as a settlement between the parties because it is supported by their prefiled evidence. However, we would caution parties in future cases from attempting to use such an agreement to circumvent the Commission's formal settlement rules and procedures, including filing settlement testimony and evidence where necessary.

The Stipulation functions, in effect, as a settlement and settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v.*



*Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). Any settlement agreement that is approved by the Commission “loses its status as a strictly private contract and takes on a public interest gloss.” (quoting *Citizens Action Coalition of Indiana, Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather, [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406. Any Commission decision, ruling, or order—including the approval of a settlement—must be supported by specific findings of fact and sufficient evidence, as well as a determination that the decision, ruling, or order is not contrary to law. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Indiana, Inc. v. Public Service Co. of Indiana, Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before we can approve the parties’ Stipulation, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Stipulation is reasonable, just, and consistent with the purpose of applicable law, is not contrary to law, and serves the public interest.

Indiana law strongly favors settlement as a means of resolving contested proceedings. *See, e.g., Georgos v. Jackson*, 790 N.E.2d 448, 453 (Ind. 2003) (“Indiana strongly favors settlement agreements.”); *Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes.”) (citation omitted). A settlement agreement “may be adopted as a resolution *on the merits*, if [the Commission] makes an independent finding supported by substantial evidence on the record as a whole that the proposal will establish just and reasonable rates.” *Mobil Oil Corp. v. Fed. Power Comm’n*, 417 U.S. 283, 314 (1974) (emphasis in original) (internal quotation marks omitted); *see also, e.g., Indianapolis Power & Light Co.*, Cause No. 39938, 1995 WL 735722 (IURC Aug. 24, 1995) (quoting *Mobil Oil Corp.*, 417 U.S. at 314).

**A. Statutory Framework.** Section 10(h) requires electricity suppliers, such as AES Indiana, to file at least once every three years, a petition for approval of 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 energy efficiency 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 long-range [IRP] submitted to the commission.

(4) The inclusion and reasonableness of procedures to evaluate, measure, and verify the results of the energy efficiency 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 energy efficiency program or from the overall design of a plan.

(6) Comments provided by customers, customer representatives, the office of utility consumer counselor, and other stakeholders concerning the adequacy and reasonableness of the plan, including alternative or additional means to achieve energy efficiency 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 energy efficiency programs compared to the electric rates and bills of customers that do not participate in energy efficiency 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 integrated resource plan and the underlying resource assessment.

(10) Any other information the commission considers necessary.

Under Section 10(k), if the Commission finds the plan to be reasonable in its entirety, it 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, and

(3) allocate and assign costs associated with a program to the class or classes of customers that are eligible to participate in the program.

Under Section 10(o), the Commission must also allow the recovery of reasonable financial incentives and lost revenues for an approved plan.

**B. Ind. Code § 8-1-8.5-10(h) Requirements.** It is undisputed that AES Indiana is an electricity supplier as defined by Section 10(a) and that it has made a submission under Section 10(h) seeking approval of a proposed plan. The Verified Petition in this Cause, and supporting evidence, include all four of the elements required to satisfy Section 10(h), as explained further below.

**i. EE Goals.** Section 10(c) defines “energy efficiency goals” as all energy efficiency produced by cost-effective plans that are: (1) reasonably achievable; (2) consistent with an electricity supplier’s IRP; and (3) designed to achieve an optimal balance of energy resources in an electricity supplier’s service territory.

AES Indiana’s proposed EE goals to be achieved through its 2024 DSM Plan are expected to result in energy savings of approximately 1.51% of eligible retail sales for 2024. More specifically, the 2024 DSM Plan portfolio is expected to achieve gross savings of 156,202,053 kWh, broken down by program as follows:

Program	Energy Savings		Demand Savings	
	Gross kWh	Net kWh	Gross kW	Net kW
Unallocated	2,151,646	1,298,245	361	222
Residential Demand Response	2,012,122	2,012,122	49,899	49,899
Efficient Products	11,323,748	10,205,621	3,309	2,537
Multifamily	2,678,148	2,675,512	29	29
School Education	5,008,968	5,008,968	367	367
Home Energy Reports	21,924,000	21,924,000	6,090	6,090
Income Qualified Weatherization	5,073,246	5,073,246	127	127
Custom	36,235,919	32,012,327	3,391	3,032
Business Demand Response	0	0	452	452
Prescriptive	65,251,819	50,136,761	14,228	11,127
Small Business Direct Install	4,542,438	4,010,325	308	288

Residential	50,171,878	48,197,714	60,182	59,270
Business	106,030,175	86,159,413	18,379	14,899
Direct Subtotal	156,202,053	134,357,128	78,561	74,170

Portfolio Total	156,202,053	134,357,128	78,561	74,170
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Petitioner’s Exhibit 1, Attachment KH-2, at 3; *see also* Joint Exhibit 1 (Stipulation) (reassigning savings goal for ARP to other, cost-effective DSM programs).

Based on the evidence of record, we find the energy savings goal for the 2024 Plan is reasonably achievable, consistent with AES Indiana’s 2022 IRP, and is designed to achieve an optimal balance of energy resources in AES Indiana’s service territory.

ii. **EE Programs.** The OUCG raised a concern regarding the inclusion of the SEP and the ARP based upon their individual cost-effectiveness scores. However, the record reflects that the parties have now resolved their positions regarding these programs through their Stipulation.

In evaluating past DSM Plans, the Commission has emphasized the cost-effectiveness of the entire program portfolio to support the availability of a suite of programs. This approach creates the opportunity for a broad range of customers to participate in utility-sponsored EE programs. *Ind. Mich. Power Co.*, Cause No. 45285, at 30 (Feb. 3, 2021) (a partially settled case) (“45285 Order”). It is also important that EE programs be offered on a continued basis given that infrastructure must be kept in place if EE is to remain a potentially cost-effective resource over time. *See* 45285 Order at 30. Therefore, we find AES Indiana’s rebuttal proposal to maintain the SEP delivery channel (while foregoing associated lost revenue and financial incentives) reasonable for this one-year program. We further accept and approve the parties’ Stipulation that the program budget associated with the ARP be maintained and applied towards other cost-effective DSM programs, with the intent that the 2024 DSM Plan portfolio cost-benefit results will not be reduced from the values contained in Petitioner’s case-in-chief as a result of such allocations. We further find the OSB shall use its existing authority and procedures to determine how to allocate the budget previously allocated to the ARP.

Therefore, the Commission approves the offering of the DSM Programs as modified in AES Indiana’s rebuttal and consistent with the Stipulation.

iii. **Program Budgets and Costs.** AES Indiana identified the annual budget associated with the one-year 2024 DSM Plan, as modified in rebuttal and by the Stipulation, as follows:

	<b>2024</b>
Direct Costs	\$34,060,219
Indirect Costs	\$1,480,000
<b>Sub total</b>	<b>\$35,540,219</b>
Financial Incentives	\$3,739,350
Lost Revenues	\$4,257,032
<b>Sub total</b>	<b>\$7,996,382</b>
<b>Total</b>	<b>\$43,536,601</b>

Lost Revenues (Legacy)	\$13,822,639
<b>Total (w/ Legacy)</b>	<b>\$57,389,240</b>

*See* Pet. Ex. 1 at 14; Joint Ex. 1 (Stipulation). We find the budgets reasonably reflect the amount necessary to achieve the energy savings goals.

Consistent with prior Commission orders, AES Indiana requested spending flexibility of up to 10% of the portfolio direct costs for the 2024 DSM Plan. As discussed above, the OUCG proposed changes to the spending flexibility and incentive structure. The parties’ Stipulation

provides that, given the one-year nature of AES Indiana’s DSM Plan, no changes should be made to flex spending or the incentive structure at this time. Accordingly, we find AES Indiana’s proposed spending flexibility is reasonable.

iv. **Independent EM&V and Reporting.** The 2024 DSM Plan includes a process for independent EM&V, and applying and for working with Petitioner’s independent evaluation vendor and its OSB to incorporate requirements needed to comply with any federal and/or state emissions credit plan.

After reviewing the evidence of record, we find that Petitioner’s proposal to continue the EM&V process and reporting that is currently was not opposed by any party, and we find that the proposed independent EM&V procedures for the 2024 DSM Plan are reasonable and compliant with Section 10.

C. **Reasonableness of the 2024 DSM Plan.** Section 10(j) identifies ten factors the Commission must consider in determining whether a plan submitted under Section 10(h) is reasonable. For the reasons set forth below, we find that AES Indiana’s 2024 DSM Plan, as modified in rebuttal and by the Stipulation, is reasonable and is approved.

i. **Projected Changes in Customer Consumption (Section 10(j)(1)).** AES Indiana identified the annual projected energy savings resulting from implementing the proposed 2024 DSM Plan as modified in rebuttal and by the Stipulation, as 156,202,053 kWh (gross). The evidence also shows that the 2024 DSM Plan is expected to result in approximately 78.20 MW (gross) in demand savings.

We find these projections indicate the expected change in customer consumption as a result of AES Indiana’s 2024 DSM Plan goals. The record reflects that the annual level of gross energy savings from the Plan EE goals averages approximately a 1.16% reduction of projected AES Indiana retail sales, when the sales are not adjusted downward to reflect customers that have opted out of participation in AES Indiana’s DSM programs. When sales are adjusted to consider customers that have opted out, these gross energy savings represent about 1.51% of the remaining (non-opted out) sales. Therefore, we find it is 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)).** 170 IAC 4-8-2 requires the use of, at a minimum, four tests — the PCT, RIM Test, program administrator cost test (or UCT), and TRC Test — as part of the cost-benefit analysis required by Ind. Code § 8-1-8.5-10(j)(2). Each of these tests is designed to compare various costs and benefits from a different perspective.

The record reflects that the DSM Plan, as modified in rebuttal and by the Stipulation, remains cost-effective on a portfolio basis. The total portfolio approach to cost-effectiveness is consistent with Commission DSM/EE policy. See *Commission Investigation*, Cause No. 42693, at 13 (April 23, 2008) at 13 (“[T]he use of cost-benefit tests provides assurance that individual programs or portfolios can be justified on cost-effectiveness grounds.”). The parties agreed that the program operating budget originally allocated to the ARP will be used towards other, cost-effective DSM programs with the intent that the 2024 DSM Plan portfolio cost-benefit results will

not be reduced from Petitioner’s case-in-chief values as a result of such allocations. With respect to the IQW program, Ind. Code § 8-1-8.5-10(h) authorizes the inclusion in a DSM Plan of home energy efficiency assistance programs for qualified customers regardless of whether the program is cost-effective. Therefore, based on the evidence of record, we find that the DSM Plan portfolio of programs is cost-effective and otherwise satisfies this statutory criterion.

iii. **Consistency with State Energy Analysis and IRP (Section 10(i)(3))**. 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., Indianapolis Power & Light Co.*, Cause No. 45370, at 10 (Dec. 29, 2020). Ms. Heard testified that AES Indiana has considered the 2024 DSM Plan’s consistency with the state energy analysis and noted that AES Indiana provided the State Utility Forecasting Group (“SUFG”) with information related to AES Indiana’s DSM Plan development. She said the AES Indiana-provided information was considered by the SUFG in its development of the 2021 Indiana Electricity Forecast. We find that appropriate consideration has been given to consistency with the SUFG Forecast.

Regarding consistency with AES Indiana’s most recent IRP, we found above that the DSM Plan EE goals, as modified in rebuttal and by the Stipulation, are consistent with AES Indiana’s most recent IRP. We also find that the 2024 DSM Plan, as modified in rebuttal and by the Stipulation, is reasonable and consistent with the IRP.

iv. **EM&V (Section 10(i)(4))**. For the reasons discussed above, we find that the EM&V for the 2024 DSM Plan is reasonable and compliant with Section 10.

v. **Undue or Unreasonable Preference to Customer Classes (Section 10(j)(5))**. Ms. Heard testified that AES Indiana has made every effort to offer a robust and diverse group of cost-effective DSM programs for all customers. 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 Plan. Thus, our analysis of this issue weighs in favor of the DSM Plan’s reasonableness.

vi. **Stakeholder Comments (Section 10(j)(6))**. Ms. Heard testified AES Indiana meets regularly with the AES Indiana DSM OSB and trade allies and considers their input in the development of the proposed DSM Plan. She said stakeholder input was also received and considered by AES Indiana as part of the IRP Stakeholder process. Additional input was received through the participation of the OUCC and CAC in this docketed process, resulting in the Stipulation. Thus, the Commission has considered such comments in making its determinations in this order, and we find the stakeholder comments weight in favor of the DSM Plan’s reasonableness.

vii. **Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-Participants (Section 10(j)(7))**. Mr. Schmidt testified that AES Indiana considered stakeholder perspectives when analyzing the cost-effectiveness of the 2024 DSM Plan, including those of participating customers and non-participating customers. Ms. Aliff calculated the overall rate impact by customer class and the monthly bill impact on a residential customer using 1,000 kWh per month, and OUCC witness Latham confirmed Ms. Aliff’s calculation. In rebuttal, Ms. Aliff presented an updated monthly bill impact estimate based

on the rebuttal modifications to the 2024 DSM Plan. Based on AES Indiana's rebuttal position, a residential customer using 1,000 kWh per month will see a bill reduction from \$118.39 to \$117.82, or negative 0.48%.

Mr. Latham stated he found no issues with Petitioner's proposed accounting and ratemaking treatment and recommended the Commission approve AES Indiana's proposed accounting and ratemaking treatment. Based on the evidence of record, we find the effects or potential effects of the DSM Plan on electric rates and customer bills of participants and non-participants to be reasonable.

**viii. Lost Revenue and Financial Incentive (Section 10(j)(8)).** If the Commission finds that an electricity supplier's EE plan is reasonable, Sections 10(k) and 10(o) require us to allow an electricity supplier to recover through a rate adjustment mechanism:

- (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.

Because we have found AES Indiana's DSM Plan is reasonable, we must consider whether AES Indiana's proposal provides for reasonable financial incentives and reasonable lost revenue. We note that 170 IAC 4-8 authorizes the provision of financial incentives and lost revenue that the Commission finds reasonable for other types of DSM programs.

**1. Lost Revenues.** AES Indiana proposes to maintain authorization to recover lost revenues incurred for all programs for the life of the measure, three years from implementation of any measure installed, or until measure-related energy savings are reflected in new base rates and charges, whichever occurs earlier. This methodology was requested and approved as part of the Settlement Agreement in Cause No. 45370. AES Indiana agreed to forego recovery of lost revenue from the School Education Program. Attachment KA-4R to Petitioner's Exhibit 4 (Aliff Rebuttal) reflects an estimate of the lost revenue for the 2024 Plan year as modified in rebuttal.

Mr. Latham raised no concerns with AES Indiana's proposal and recommended the Commission approve AES Indiana's proposed accounting and ratemaking treatment. Based on the evidence of record, the Commission finds and concludes that the DSM Plan proposal for recovery of lost revenues is reasonable and AES Indiana's proposal is approved.

**2. Financial Incentives.** AES Indiana proposes continuing the tiered, performance-based financial incentive mechanism currently in place, calculated as a percentage of total spending on direct program costs. The financial incentive would be earned on all programs except the IQW Program and the SEP. Mr. Latham raised no concern regarding the performance-based financial incentive mechanism structure and recommended the Commission approve AES Indiana's proposed accounting and ratemaking treatment. Based on the evidence of

record, the Commission finds AES Indiana's proposal to maintain the financial incentive mechanism currently in place is reasonable and AES Indiana's proposal is approved.

**3. Utility's Current IRP and the Underlying Resource Assessment (Section 10(j)(9)).** Based on our review of the evidence of record, the governing statute, and the discussion above, we find that the evidence demonstrates that the 2024 DSM Plan, as modified in rebuttal and by the Stipulation, is consistent with AES Indiana's 2022 IRP.

**4. Conclusion on DSM Plan.** Based on the evidence of record and our consideration of the factors enumerated in Section 10(j), we find and conclude that AES Indiana's DSM Plan, as modified on rebuttal and by the Stipulation, is reasonable in its entirety, is in the public interest, and is approved.

**D. Program Cost Recovery.** 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. Section 10(k)(2). The DSM rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5. AES Indiana is seeking approval of the same cost recovery mechanism that has been previously authorized by the Commission, most recently in Cause No. 45370. Mr. Latham recommended the Commission approve AES Indiana's proposed accounting and ratemaking treatment. Having found AES Indiana's 2024 DSM Plan, as modified on rebuttal and by the Stipulation, to be reasonable in its entirety, we, therefore, find that AES Indiana shall be authorized to recover its associated program costs, including direct and indirect costs of operating the programs, net lost revenue, financial incentive, and EM&V costs, through Rider 22 as proposed by AES Indiana.

**E. Oversight.** AES Indiana requested approval to continue to utilize its OSB to assist in the administration of the 2024 DSM Plan. Ms. Heard said the AES Indiana OSB will have the ability to shift dollars within the portfolio using spending flexibility, as described above, as well as shift dollars among programs in the 2024 DSM Plan, so long as the approved budget is not exceeded. She added that AES Indiana requests that the AES Indiana OSB maintain its authority to approve new DSM programs during the period that these approvals are in effect (calendar year 2024). Funding for any new program addition would not be in excess of the total approved spending, as authorized in this proceeding. The funds would either be moved from a program that is under performing or from the requested spending flexibility. No party opposed this proposal.

The Commission has previously approved OSBs to oversee and monitor energy efficiency programs for utilities. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 45370, at 13 (Dec. 29, 2020). Based on our review of the record, we find AES Indiana's proposed ongoing use of the OSB is reasonable.

**F. Program Scorecard.** Pursuant to our order in Cause No. 45370, AES Indiana is currently submitting its quarterly scorecard reports and annual EM&V reports related to the 2021-2023 DSM Plan in Cause No. 45370. Petitioner proposed to file quarterly scorecard reports related to the 2024 DSM Plan to the Commission in this docket. Petitioner further proposed to submit a final EM&V report on or before July 1 of each year, summarizing the prior year's



DSM efforts and evaluated results. Finally, Petitioner proposes to continue submitting scorecard reports to the OSB to be reviewed during AES Indiana's monthly OSB meeting. These proposals continue the EM&V process and reporting that is currently in place. No party opposed these proposals. The ongoing reporting provides the Commission a better understanding of the savings being achieved during the implementation of the DSM Plan. Based on our review of the evidence of record, we find AES Indiana's proposed reporting is reasonable. The quarterly scorecards and annual EM&V report associated with the 2014 DSM Plan shall be filed under this Cause.

**G. Approval of Stipulation.** Based upon the above discussion and findings, the Commission finds that the Stipulation is reasonable and consistent with the governing regulatory framework. The resolution of the pending matters set forth in the Stipulation is within the scope of and supported by the evidence presented by the parties. The Stipulation incorporates concessions by Petitioner and reflects a reasonable compromise on all issues raised in this proceeding. We find that the Stipulation will allow AES Indiana to offer cost-effective EE and demand response programs to customers.

Based on the evidence of record, the Commission finds that the Stipulation is reasonable, is in the public interest, and is approved. Regarding future citation of this order, our approval herein should be construed in a manner consistent with our finding on the precedential value of settlement agreements in *Richmond Power & Light*, Cause No. 40434 (March 19, 1997).

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

1. The Stipulation, a copy of which is attached hereto, is approved and incorporated herein by reference.
2. AES Indiana's proposed 2024 DSM Plan, as modified on rebuttal and by the Stipulation, including the proposed budgets, is approved.
3. AES Indiana's requested accounting and ratemaking treatment, including timely recovery of costs associated with its 2024 DSM Plan, including direct (including EM&V costs), and indirect costs of operating the programs, net lost revenue, and financial incentive, is approved.
4. The accounting procedures necessary to implement the recovery of program costs are approved.
5. AES Indiana is authorized to recover all its costs associated with the 2024 DSM Plan through its Rider 22 as proposed by AES Indiana.
6. AES Indiana shall file quarterly scorecards and an annual final EM&V report on or before July 1 of each year. These filings shall be made electronically under this Cause.
7. This Order shall be effective on and after the date of its approval.

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

**APPROVED: DEC 27 2023**

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

\_\_\_\_\_ on behalf of  
**Dana Kosco**  
**Secretary of the Commission**

Indianapolis Power & Light Company  
d/b/a AES Indiana  
Cause No. 45898

Agreed Stipulation

Petitioner AES Indiana, the Indiana Office of Utility Consumer Counselor (“OUCC”), and the Citizens Action Coalition of Indiana, Inc. (“CAC,” and collectively, the “Parties”) agree to the following stipulation based upon the evidence presented in this Cause:

1. The Parties agree the 2024 DSM Plan should use the program operating budgets and savings goals as set forth in Petitioner’s Case-in-Chief. More specifically, the overall savings goal shall be 156,202,053 kWh (as set forth in Attachment KH-2, page 3 of AES Indiana witness Heard’s direct testimony). The overall portfolio operating budget shall be \$35,540,219 (as shown in Attachment KH-2, page 3 of Ms. Heard’s direct testimony).
2. The Parties agree that the program operating budget originally allocated to the Appliance Recycling Program should be used towards other, cost-effective DSM programs, with the intent that the 2024 DSM Plan portfolio cost-benefit results will not be reduced from Petitioner’s Case-In-Chief values as a result of such allocations. The Parties agree to use the existing DSM Oversight Board authority and procedures to determine how to allocate the budget previously allocated to the Appliance Recycling Program.
3. The Parties agree that, given the one-year nature of this plan, no changes should be made to flex spending or the incentive structure at this time, and the Parties agree not to use the Final Order in this case as precedent, nor this stipulation as an admission or waiver, in any future case, with respect to issues regarding DSM Plan flex spending or incentive structure.
4. The Parties agree that the 2024 DSM Plan portfolio cost-benefit results set forth in Petitioner’s Case-in-Chief are reasonable and support approval of the 2024 DSM Plan.
5. The Parties agree to file an agreed proposed order incorporating these stipulations.

IURC  
JOINT

EXHIBIT No. 1  
9-20-23 YR  
DATE REPORTER

OFFICIAL  
EXHIBITS