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APRIL 10, 2017
INDIANA UTILITY
REGULATORY COMMISSION

Petitioner's Exhibit No. 5
Vectren South
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SOUTHERN INDIANA GAS AND ELECTRIC COMPANY
D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC.
(VECTREN SOUTH)

OFFICIAL
EXHIBITS

IURC CAUSE NO. 44927

DIRECT TESTIMONY
OF
SCOTT E. ALBERTSON
VICE PRESIDENT, REGULATORY AFFAIRS AND GAS SUPPLY

IURC
PETITIONER'S
EXHIBIT NO. 5
DATE 9-6-17 REPORTER AT

ON

LEGISLATIVE AND REGULATORY SUPPORT FOR THE
RECOVERY OF LOST REVENUES

SPONSORING PETITIONER'S EXHIBIT NO. 5,
ATTACHMENT SEA-1

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DIRECT TESTIMONY OF SCOTT E. ALBERTSON

1 I. **INTRODUCTION**

2

3 **Q. Please state your name and business address.**

4 A. Scott E. Albertson

5 One Vectren Square

6 Evansville, Indiana 47708

7

8 **Q. What position do you hold with Petitioner Southern Indiana Gas and Electric**
9 **Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren South" or**
10 **"the Company")?**

11 A. I am Vice President, Regulatory Affairs and Gas Supply for Vectren Utility Holdings,
12 Inc. ("VUHI"), the immediate parent company of Vectren South. I hold the same
13 position with the three utility subsidiaries of VUHI – Vectren South, Indiana Gas
14 Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North") and
15 Vectren Energy Delivery of Ohio, Inc. ("Vectren Ohio").

16

17 **Q. Please describe your educational background.**

18 A. I received a Bachelor of Science degree in mechanical engineering from Rose-
19 Hulman Institute of Technology in 1984. I have been a professional engineer in
20 Indiana since 1990.

21

22 **Q. Please describe your professional experience.**

23 A. I have over 30 years' experience in the utility industry. I began my career with Ohio
24 Valley Gas Corporation in a project engineering position. I have worked at VUHI and
25 its predecessor companies since 1987 in a variety of positions including Operations
26 Staff Manager, Assistant Chief Engineer, Director of Engineering Projects, Director of
27 Engineering, and Director of Technical Services. I was named Director of Regulatory
28 Affairs for VUHI in 2004, and was promoted to my current position effective July 1,
29 2012.

30

31 **Q. What are your present duties and responsibilities as Vice President,**
32 **Regulatory Affairs and Gas Supply?**

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1 A. I have responsibility for coordinating regulatory and rate matters of the regulated
2 utilities within VUHI in proceedings before the Indiana and Ohio utility regulatory
3 commissions. In addition, I am also responsible for overseeing the gas supply and
4 gas transportation functions for VUHI's three gas utilities.
5

6 **Q. Have you previously testified before this Commission?**

7 A. Yes. I testified in Vectren South's two most recent gas general rate cases (Cause
8 Nos. 43112 and 42596), in Vectren North's two most recent general rate cases
9 (Cause Nos. 43298 and 42598), and in Vectren South's most recent electric general
10 rate case (Cause No. 43839). I have also testified in numerous Gas Cost
11 Adjustment ("GCA"), Fuel Adjustment Clause ("FAC"), and other regulatory
12 proceedings on behalf of Vectren North and Vectren South.
13
14

15 **II. PURPOSE**
16

17 **Q. What is the purpose of your direct testimony in this proceeding?**

18 A. My testimony summarizes the legislative and regulatory foundation supporting the
19 recovery of lost revenues associated with the implementation of utility-sponsored
20 Energy Efficiency ("EE") Programs and measures. With support from the record, my
21 testimony concludes that recovery of lost revenues for the full life of each measure is
22 appropriate.
23

24 **Q. Are you sponsoring any attachments in this proceeding?**

25 A. Yes. I am sponsoring the following attachments:

- 26 • Petitioner's Exhibit No. 5, Attachment SEA-1, transcripts of the complete House
27 floor debate that preceded the final vote on SEA 412 on March 24, 2015.
28

29 **Q. Were your testimony and exhibits in this proceeding prepared by you or at
30 your direction?**

31 A. The transcripts were prepared at the Company's direction.
32
33

1 **III. LOST REVENUES**

2
3 **Q. Please describe what is meant by lost revenues.**

4 A. In simple terms, lost revenues (sometimes referred to as "lost margins") are the fixed
5 costs previously approved by the Commission and included in rates that are not
6 recovered as a result of the implementation of EE programs. This is consistent with
7 my understanding of Indiana Code § 8-1-8.5-10 (the "Statute"), specifically
8 subsection (e) which states:

9
10 For purposes of this section, "lost revenues" means the difference, if
11 any, between:

- 12 (1) revenues lost; and
13 (2) the variable operating and maintenance costs saved;
14 by an electricity supplier **as a result of implementing energy**
15 **efficiency programs.** (Emphasis added)
16

17 In Cause No. 43938, the Company's initial three-year Demand Side Management
18 ("DSM") plan ("2011 Plan"), the Company requested, and the Commission found,
19 that "...recovery of lost margins is intended as a tool to remove the disincentive
20 utilities would otherwise face as a result of promoting DSM in its service territory."
21 The Commission went on to say, "the purpose of recovery of lost margins on verified
22 energy savings from DSM programs is to **return the utility to the position it would**
23 **have been in absent implementation of a DSM measure.**" 43938 Order at 41
24 (Emphasis added).

25
26 This policy position comports with the Statute's definition that links revenue recovery
27 to what has been lost as a result of implementing programs. An Evaluation,
28 Measurement, and Verification ("EM&V") process is used to determine the amount of
29 that revenue loss for each program year.

30
31 **Q. Do the Commission's rules also support continuation of Vectren South's lost**
32 **revenue recovery included in its Demand Side Management Adjustment**
33 **("DSMA")?**

34 A. Yes. The Commission's rules found at 170 IAC 4-8-1 *et seq.*, provide support for
35 continuation of Vectren South's recovery mechanism. Specifically, 170 IAC 4-8-3(a)

1 states,

2 ...[T]he commission has developed a regulatory framework that
3 allows a utility an incentive to meet long term resource needs with
4 both supply-side and demand-side options in a least cost manner and
5 ensures that the financial incentive offered to a DSM program
6 participant is fair and economically justified. **The regulatory**
7 **framework attempts to eliminate or offset regulatory or financial**
8 **bias against DSM, or in favor of a supply-side resource, a utility**
9 **might encounter in procuring least-cost resources.** (Emphasis
10 added.)
11

12 The DSMA, and its various components, has been in place for a number of years
13 and will be used to recover the EE Program costs and lost revenues associated with
14 the 2018-2020 Plan, addressing the above-mentioned "regulatory bias" and allowing
15 the Company to continue the type of DSM programs that have been effective in
16 Vectren South's service territory in the past.
17

18 **Q. Historically, has the Commission consistently provided for recovery of**
19 **revenue lost due to utility sponsorship of EE Programs?**

20 A. Yes. In conjunction with its administration of the Utility Powerplant Construction Law,
21 in 1995 the Commission adopted Demand Side Management Rules to create a
22 regulatory framework to support utility reliance on both supply-side and demand-side
23 resource options. As referenced above, 170 IAC 4-8-3(a) states "The regulatory
24 framework attempts to eliminate or offset regulatory or financial bias against DSM, or
25 in favor of a supply-side resource..." More recently, in an order issued in Cause No.
26 43911, the Commission explained that:

27
28 ...the Commission's DSM regulatory framework attempts to offset any
29 financial bias that a supply-side resource may have over a demand-
30 side resource...**The choice of a successful demand-side resource**
31 **investment results in reduced throughput, i.e. sales, which**
32 **reduces the utility's revenue collections.** The choice of a supply-
33 side resource does not produce such an effect. (Cause No. 43911,
34 November 4, 2010, p. 11 (emphasis added)).
35

36 **Q. Has this policy of addressing the inherent financial bias against demand-side**
37 **resources received national recognition and support?**

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1 A. Yes. In 2007, Congress passed the Energy Independence and Security Act
2 ("EISA"), which directed states to consider policies that would establish cost-effective
3 energy efficiency as a "priority resource." Specifically, the EISA provides that **states**
4 **shall consider "removing the throughput incentive** and other regulatory and
5 management disincentives to energy efficiency..." 16 U.S.C. §2621(d) (emphasis
6 added).

7
8 **Q. Over time, has the Commission attempted to address the throughput incentive**
9 **and thereby offset the financial bias against demand-side resources?**

10 A. Yes. Since the inception of Vectren South's DSM programs in the 1990's, as part of
11 the recovery of costs associated with EE Programs, the Commission has approved a
12 lost revenue adjustment mechanism ("LRAM") as a means of recovering lost
13 revenues associated with successful EE programs. An LRAM is a mechanism that
14 compensates an electricity supplier for the portion of its fixed costs that would have
15 been recovered through a customer's purchase of energy that now are not recovered
16 because a customer participates in an EE program designed specifically to help that
17 customer use less energy. This lost revenue occurs when a utility's base rates rely
18 on a traditional volumetric rate design, which establishes rates per kWh of energy
19 use to recoup a portion of the fixed costs incurred to provide service to customers.

20
21 **Q. Under an LRAM, does the utility simply recoup all revenues associated with**
22 **the gross sales actually reduced by EE Programs?**

23 A. No. An EE Program provides an energy reducing measure to a customer, and the
24 life and amount of energy savings attributed to that measure can be determined.
25 However, this calculation is not relied upon to measure lost revenue. Instead,
26 customer behavior is accounted for – for example, because some customers that
27 take advantage of a utility EE Program would have otherwise independently adopted
28 the same efficiency measure, these "free riders" are accounted for via an EM&V
29 process conducted by an independent third party. An LRAM only recognizes net
30 savings from EE measures by excluding such customers/customer savings from the
31 net level determined to have been driven by the Programs. This net amount is used
32 to calculate lost revenue to be recovered in the LRAM.

33

1 **Q. Has Vectren South continued to recover its lost revenues due to EE Programs**
2 **in the manner you have described?**

3 A. From the 1990's through program year 2015, the Commission has consistently found
4 in every case involving approval for Vectren South to offer EE Programs, that in
5 order to remove the disincentive associated with EE-driven sales reductions, Vectren
6 South should recoup all lost revenue for the life of each utility-sponsored EE
7 measure that has been implemented. The last of these orders, approving the
8 Company's Revised DSM Plan for 2015, explicitly rejected a proposal to artificially
9 cap such lost revenue recovery at two years versus relying on the life of each EE
10 measure (see Cause No. 44495).

11
12 In the 2015 Indiana legislative session, the legislature passed SEA 412 which
13 required electric utilities to submit EE plans to the Commission at least every three
14 years, and confirmed that integrated resource plans must assess DSM in meeting
15 service requirements. For the first time, the legislature also made the recovery of
16 lost revenue associated with EE Programs mandatory:

17 If the commission finds a plan submitted by an electricity supplier
18 under subsection (h) to be reasonable, **the commission shall allow**
19 **the electricity supplier to recover or receive the following:** (1)
20 Reasonable financing incentives that: (A) encourage implementation
21 of cost effective energy efficiency programs; or (B) eliminate or offset
22 regulatory or financial bias: (i) against energy efficiency programs; or
23 (ii) in favor of supply side resources; and (2) **Reasonable lost**
24 **revenues.** IC 8-1-8.5-10(o) (emphasis added).
25

26 In 2016, after the legislature mandated recovery of lost revenues, the Commission
27 for the first time placed a four (4) year recovery cap on Vectren South's LRAM.
28 (Cause No. 44645, March 23, 2016). Thus, under this new recovery limitation, if
29 Vectren South offers an EE program that has been determined to have (for example)
30 a life of eight (8) years in terms of reducing energy consumption, Vectren South
31 would recover lost revenue for only half of the EE measure's life, despite the
32 reduction in usage that would continue to benefit customers for the full 8-year life of
33 the measure. The recovery of fixed costs in years five, six, seven and eight of a
34 measure's life is as important as it is in year one because the energy efficiency
35 upgrades installed in year one will reduce the utility's sales for the entire eight-year

1 period. On its face, any cap on lost revenue recovery seems inadequate to offset the
2 throughput incentive.

3
4 On March 7, 2017, the Indiana Court of Appeals reversed the Order in Cause No.
5 44645, and that proceeding has been remanded to the Commission.

6
7 **Q. Does the Statute provide for a cap on the recovery of lost revenues?**

8 A. No. In fact, the Statute provides for the EE cost recovery mechanism, if based on a
9 forecast, to be reconciled to ensure only the recovery of "actual program costs,"
10 which it goes on to define as "including reasonable lost revenues and financial
11 incentives based on the evaluation, measurement, and verification of the energy
12 efficiency programs under the plan". Subsection (o). Far from an arbitrary recovery
13 cap, the legislature envisions that lost revenue will be determined using EM&V for
14 the specific EE programs implemented by customers. This approach entails reliance
15 on the life of each EE measure actually implemented to determine the amount of lost
16 revenue and is consistent with the fact that energy savings throughout the life of
17 each measure are used in the applicable benefit/cost test for the measure.
18 Moreover, this EM&V based calculation yields the amount of lost revenue that
19 matches the definition of the term "lost revenue" in subsection (e) of the Statute (the
20 revenue lost as a result of implementing programs). On the other hand, a cap on lost
21 revenues after an arbitrary number of program years (ignoring measure lives), does
22 not fit with the Statute's lost revenue definition which requires a finding of the
23 "revenues lost" by an electric utility due to implementing EE programs which have
24 recognized lives leading to customers' energy savings throughout those lives.

25
26 **Q. Apart from the statutory language you have pointed out, is there any other
27 basis to determine how the recovery of lost revenue is to be determined under
28 the Statute?**

29 A. Yes. In Cause No. 44645, Vectren South's first DSM case in which the Commission
30 conducted its review under the Statute, Vectren South submitted into evidence a
31 transcript of the complete House floor debate that preceded the final vote on SEA
32 412 on March 24, 2015. A video of that debate was archived with other hearing
33 videos and made available to the public on the Indiana General Assembly's website

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1 at www.iga.in.gov/information/archives. Vectren South hired an independent court
2 reporter who watched the hearing video in order to create a transcript of the debate.
3 The reporter, Nancy Trotter, attached to the transcript an attestation of her
4 independence and the accuracy of her transcription. The transcription of the House
5 final debate is attached hereto as Petitioner's Exhibit No. 5, Attachment SEA-1.

6
7 **Q. How does the transcript of the House floor debate pertain to the issue of lost**
8 **revenue recovery?**

9 A. During this final debate, Rep. Pierce opposed the bill and expressly proposed that
10 SEA 412 be revised to limit lost revenue recovery to 3 years for every EE measure.
11 He stated: "...if you're going to do lost revenue recovery, you need to limit it to three
12 years, **but we haven't done that.**" Petitioner's Exhibit No. 5, Attachment SEA-1.
13 (Emphasis added). In response, Rep. Koch explained that the life of each EE
14 program varied and that use of individual program lives, together with EM&V, was
15 the appropriate measure of reasonable lost revenues to be recovered. With respect
16 to revenue recovery he explained: "It's limited to the fixed costs and **it's limited to**
17 **the life of the EE measure, and most importantly, it was the same feature that**
18 **we had in the old plan, the Energizing Indiana plan.**" (Emphasis added). The bill
19 then passed by a 72-26 vote.

20
21 The fact that during the final floor debate the bill sponsor and an opponent of the bill
22 debated the proper duration for lost revenue recovery, with a cap being explicitly
23 discussed as an alternative, and that both agreed that SEA 412, consistent with prior
24 practices, provided recovery for the life of each EE measure, is compelling evidence
25 of the intent of the legislature and is consistent with the language of the Statute.

26
27 **Q. In Cause No. 44645, did the Commission explain its decision to impose a four**
28 **(4) year recovery cap?**

29 A. Yes. The Commission agreed with the Citizens Action Coalition that absent a cap,
30 lost revenues could have a pancake effect, meaning that lost revenues for a number
31 of EE program years could build over time and become quite large in the absence of
32 a rate case.

1 **Q. Please respond to the “pancaking” concern.**

2 A. Recovery tied to the life of each EE measure already limits recoveries regardless of
3 rate case timing. Program lives vary; for example, Vectren South’s 2018-2020 EE
4 Plan includes residential programs with an average life of 10 years. Thus, as an EE
5 Program matures, lost revenue recovery will begin to drop off every year as
6 individual program lives end. More importantly, the recovery ends at the same time
7 the customer savings attributed to any given measure end. An arbitrary cap -- 4-
8 years or otherwise -- destroys that symmetry. That comparison also shows the fact
9 that the recovery cap is a one sided policy – lost revenues stop but the throughput
10 harm to the utility caused by an EE program continues on until the end of each
11 measure’s life. Certainly lost revenue recovery would not and should not extend
12 beyond the life of a measure; the measure life and the lost revenue recovery period
13 should match.
14

15 **Q. Is the pancaking of lost revenues inappropriate?**

16 A. No. The energy savings attributed to an EE measure in the final year of its life
17 produces lost revenues, just as it did in the year the measure was implemented.
18 Lost revenue recovery for a measure that continues to produce savings verified
19 through EM&V should be treated no differently than the recovery related to a newly-
20 implemented measure.
21

22 **Q. Should “pancaking” be viewed in a negative light?**

23 A. No. EE benefits and lost revenues build over time (i.e. they “pancake”), and so too
24 should the corresponding levels of lost revenue recovery.
25

26 **Q. Are there ways to mitigate the magnitude of lost revenues?**

27 A. Over time, yes. Fundamentally, the size of the lost revenues over time is a function
28 of three things: the level of savings attributed to each EE measure implemented, the
29 life of each of those measures, and the amount of a utility’s fixed costs recovered
30 through a usage-based charge. While this is not the appropriate setting in which to
31 address rate design, it cannot be disputed that the more of a utility’s fixed costs that
32 are recovered in a fixed charge, the smaller the size of the resulting lost revenues –
33 pancaked or otherwise.

1

2 **Q. Do the fixed costs a utility recovers through its rates and charges go away**
3 **when customers implement EE?**

4 A. No they do not, and, importantly, customers will ultimately pay them. Absent a
5 mechanism for the recovery of lost revenues, Vectren South's customers implement
6 EE believing they are avoiding fixed costs. Customers should not be sent such an
7 inaccurate price signal.

8

9 **Q. Does the frequency of a utility's rate cases also contribute to the magnitude of**
10 **lost revenues?**

11 A. Yes and no. While the costs recovered via an LRAM would be lessened if rate cases
12 were filed more frequently, the revenues lost as a result of EE are included in base
13 rates each time the utility files a rate case. In either case, the appropriate level of
14 fixed costs will be included in customers' bills. Customer usage at the time of a rate
15 case reflects the usage reductions resulting from EE by increasing unit rates as
16 needed to recoup fixed costs. Thus, via an LRAM or new base rates, the utility
17 should recover the revenues needed to recover the approved level of fixed costs. An
18 LRAM cap is merely a temporary limit on recovery which may force utilities into rate
19 cases sooner and more frequently than would have otherwise been the case had the
20 period of lost margin recovery matched the lives of EE measures implemented by
21 customers. And, as noted by the Court of Appeals, rate cases are "expensive, time
22 consuming, and sometimes result in large, sudden rate hikes for customers." Thus,
23 capping lost revenue recovery to force utilities to file a rate case is not good public
24 policy.

25

26 **Q. If a 4-year cap is applied to lost revenue recovery from EE Programs, would a**
27 **utility be incented to offer only programs that have lives of 4 years or less?**

28 A. Yes, but importantly such programs might well be as costly as those that produce
29 energy savings beyond 4 years. It simply would not make sense to embed such a
30 perverse incentive into the EE Program framework. Given the overall policy
31 objective of eliminating financial bias against EE, LRAM should be designed to
32 effectively address the totality of lost revenues resulting from cost-effective EE
33 measures, rather than from "half measures".

1

2 **Q. Is Vectren South asking the Commission to approve an LRAM in this**
3 **proceeding that is based on EE measure life instead of a capped period?**

4 A. Yes. The Commission's role is to implement the Legislature's intent, which is known
5 based on the plain language of the Statute and a review of the House floor debate.
6 Moreover, for over 20 years, the Commission has carried out a policy of addressing
7 the throughput incentive. To do so effectively, lost revenue recovery must match the
8 loss of revenue as determined by EM&V. Customers benefit from EE programs that
9 avoid supply-side resource costs and save variable costs. On the other hand, unlike
10 supply side resources, utilities do not earn a return on EE. Thus, at a minimum, lost
11 revenue (fixed cost recovery) must be adequately addressed to support continued
12 use of EE. For this reason, the Legislature in SEA 412 mandated continued use of
13 EE with plan proposals required at least every three (3) years, but tied that
14 sponsorship to required lost revenue recovery. The arbitrary LRAM cap interferes
15 with this appropriate regulatory policy and fails to support EE.

16

17

18 **IV. CONCLUSION**

19

20 **Q. Does this conclude your direct testimony in this proceeding?**

21 A. Yes.

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VERIFICATION

I, Scott E. Albertson, Vice President, Regulatory Affairs and Gas Supply, at Vectren Utility Holdings, Inc., affirm under the penalties of perjury that the statements and representations in my foregoing Direct Testimony in this Cause are true to the best of my knowledge, information and belief.



Scott E. Albertson

Dated: April 10, 2017

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LEGISLATIVE HEARING

SENATE BILL 412

MARCH 24, 2015

A TRANSCRIBED RECORD

BY: NANCY A. TROTTER



Tri-State Reporting, Inc.

901 S. KENMORE DRIVE • EVANSVILLE, INDIANA 47714

(812) 477-7666

tsreporting.com



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1 MR. SPEAKER: Senate Bill Number 412.

2 Representative Koch.

3 CLERK: A bill for enactment to Indiana Code
4 concerning utilities.

5 MR. SPEAKER: Representative Koch recognized
6 to speak on Senate Bill 412.

7 REPRESENTATIVE KOCH: Thank you,
8 Mr. Speaker, ladies and gentlemen of the House. I
9 bring you Senate Bill 412 which comes to us from
10 Senators Merritt, Head, and Breaux. I'd like to
11 thank my co-sponsor, Representative Morrison. The
12 bill came from the Senate on a bipartisan basis and
13 came through house committee also bipartisan.

14 Following a -- just first some history.
15 Following a 2004 proceeding based on the Certificate
16 of Need law, the IURC issued a decision in 2009 that
17 required our state's investor-owned electric
18 utilities to achieve an energy savings target of two
19 percent within ten years. Additionally, the
20 commission established the need for two, third-party
21 administrators, one for program implementation and
22 another for the evaluation, measurement, and
23 verification of the reported statistics.

24 Since the issuance of the IURC's decision,
25 concerns were raised about the program's overall

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1 expense and whether it was appropriate to have a
2 state-wide goal when each service territory is
3 unique. Consequently, during the 2014 session,
4 Senate Enrolled Act 340 was enacted into law so that
5 the General Assembly could put a pause on the program
6 and further explore the concept. That's what brings
7 us here today.

8 Following the passage of SEA 340, the
9 Governor asked the IURC to provide recommendations on
10 DSM, demand-side management, and energy efficiency
11 policies and programs so that they may serve as a
12 framework for potential legislation in the upcoming
13 2015 session of the General Assembly, which we're now
14 in. Knowing how important energy efficiency is to a
15 number of stakeholders, the IURC solicited feedback
16 and in return received hundreds of comments and
17 response. The process was open and transparent and
18 those comments, all of which were taken into
19 consideration, are still available online.

20 After conducting its review, the Commission
21 made the following recommendations. First, codify
22 the submission of Integrated Resource Plans, IRPs, by
23 the state's utilities. This practice is already
24 underway at the administrative level. Second was to
25 tie energy efficiency goals to the utility's IRPs,

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1 and third, to make sure that the utility programs are
2 cost effective.

3 So why is energy efficient important? It
4 reduces demand for electricity which reduces the need
5 to build new generation facilities and avoids the
6 costs associated with those facilities. It also
7 keeps electricity bills lower by reducing the amount
8 of electricity a ratepayer consumes. It's all part
9 of and above -- all of the above approach to energy.

10 Now, this bill before you essentially does
11 four things. First, it codifies the submission of
12 IRPs by the utilities per the Commission's
13 recommendation. Next, it requires investor-owned
14 utilities to file a petition with the IURC at least
15 once every three years requesting approval for each
16 utility's energy efficiency goals and programs.
17 Third, it establishes the regulatory framework for
18 those cases and gives the IURC discretion to approve
19 or deny a utility's proposal based on its
20 reasonableness, and finally, it preserves the
21 industrial opt-out provision.

22 Now, an IRP is a plan by a public utility
23 that assesses energy needs and the generation
24 resources needed to meet those needs in both the
25 short and long term. Because this is a holistic look

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1 at both the needs and the available resources, it's
2 an excellent tool for the utility to assess what
3 would be a reasonable cost-effective, energy
4 efficiency goal. That's why the Commission made that
5 recommendation in its letter to the Governor late
6 last year.

7 With regard to the timeline, utilities are
8 required to file every three years. This provides
9 consistency and sets expectations. It also gives the
10 utilities time to ramp up their respective programs
11 and importantly for the evaluation, measurement, and
12 verification of such programs to be meaningful.

13 And speaking of evaluation, measurement, and
14 verification, that's another important part of this
15 bill. It was a part of the former Energizing Indiana
16 Program and an element that we have kept so that the
17 program results can be independently reviewed. This
18 provides checks and balances and gives the
19 Commission, utilities, and stakeholders the
20 information they need to assess the programs and the
21 progress being made.

22 We've heard quite a bit about the regulatory
23 framework that's established with this bill and I can
24 assure you that much time and effort has been spent
25 exploring all options. In fact, we've even

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1 incorporated amendments in both the House and the
2 Senate to make the bill stronger based upon the
3 feedback we've received, from adding more explicit
4 EM&V language to clarifying the industrial opt-out
5 process. We've made sure the feedback has been
6 incorporated, and throughout all of this, we've also
7 ensured that the IURC has the discretion it needs and
8 that energy efficiency will be a part of every
9 utility's portfolio.

10 And last but not least, the bill preserves
11 the opt-out process from SEA 340 put in place last
12 year. For those who don't serve on the Utilities
13 Committee, we heard from multiple businesses last
14 year stating that they can and will do energy
15 efficiency on their own. Indy Act (phonetic)
16 testified this year that while many businesses have
17 opted out, others have stayed and that the process is
18 working as intended.

19 Thank you. I would ask for your support of
20 this bill and the continuation of energy efficiency
21 programs in Indiana.

22 MR. SPEAKER: Further discussion.
23 Representative Pierce. Recognized to speak on the
24 bill.

25 REPRESENTATIVE PIERCE: Thank you,

1 Mr. Speaker and ladies and gentlemen of the House. I
2 think it's important before we vote on this bill to
3 review a little bit about where -- how we got here
4 and Representative Koch went over some of that in his
5 presentation, but you remember that last year, we had
6 a bill moving through the process which was just
7 focused on whether or not it was reasonable to let
8 industrial users out of energy efficiency programs,
9 but when the bill got to the floor of this House, we
10 decided that it would be a better policy just to
11 destroy the entire existing energy efficiency
12 program, and that's what we did on a second reading
13 amendment, we wiped out a program that for every one
14 dollar that was spent, three dollars in savings
15 accrued for ratepayers. We decided that wasn't good
16 enough.

17 That bill got down to the Governor.
18 Apparently he wasn't overly excited about it but he
19 didn't stop it either, and he said, never fear, I'm
20 going to work with my IRC and I'm going to come up
21 with an even better energy efficiency plan. And so
22 after months and months of study and careful
23 consideration, the plan was unveiled. What was the
24 plan? Oh, let the utilities propose whatever they
25 want. Who needs a goal? Utilities, they kind of

1 know best, we'll let them handle it. And so that
2 process began and the utilities, they came in, they
3 knew we would be considering what to do, whether we
4 needed a more robust program like we had before, so
5 they put in some plans, tried to signal us we
6 shouldn't do anything too harsh to them, and so now
7 we have a bill moving through the process that is
8 really a very weak response to what we had before.

9 Now, the irony of this bill is we were told
10 the whole reason why we had to destroy the last
11 program was that it would be too expensive of a
12 burden on the ratepayer. So now we have a program,
13 the way it's being administered, that allows a
14 utility to recover its lost revenues for as long as
15 the energy efficiency measure is considered effective
16 or in place. This is contrary to how every other
17 state that has lost recovery does it. They all say
18 you get to recover your lost revenues for three
19 years, perhaps less if you come in for a rate case,
20 but that's the accepted standard, and when we talked
21 about this on second reading, I mentioned that we
22 have national authorities in energy efficiency saying
23 if you're going to do lost revenue recovery, you need
24 to limit it to three years, but we haven't done that.

25 So what we're doing is we're putting in

1 place a program that's going to cost more compared to
2 the rate of return on investment than we had before.
3 So we're not going to get nearly as much back for
4 ratepayers as we're going to require them to put in,
5 and we're going to have these utilities recovering
6 lost revenues just on its most recent set of
7 proposals until 2035.

8 Now, some might say, oh, we can rely upon
9 the Utility Commission, they'll save us because the
10 plans have to be reasonable. Well, with all due
11 respect to the IURC, I've heard that so many times.
12 I heard it when it came to the Rockport Synthetic Gas
13 Plant, which I guess has now been shelved, but we
14 were going to count on them to make sure that was
15 implemented properly. They couldn't even figure out
16 what the word guarantee meant and we had to come back
17 and kill that off here because they couldn't execute
18 it properly. They basically said a contract which
19 was outrageous was just fine.

20 When we had a proposal for a so-called clean
21 coal plant by Duke Energy at Edwardsport, that was
22 because we had slathered on incentive after
23 incentive, give away after give away to the utilities
24 that wanted to do a clean coal plant, and we ended up
25 with an Edwardsport plant that's not functioning too

1 well, that's costing us a giant fortune, that's been
2 mired in scandal, and we were told we could count on
3 the Utility Commission to do that.

4 And so what we're doing is we're repeating
5 the mistakes of the past over and over again. We're
6 going to implement an energy efficiency program
7 that's not very effective, it's probably going to
8 cost ratepayers more than the old plan when you look
9 at what the payback is actually going to be. We've
10 literally gotten to the point where our energy rates
11 are increasing and they're increasing because of
12 decisions we've made right here in this body. We
13 have had writer upon writer, give away upon give
14 away. We have now arrived at the point where we
15 can't think of anything else we can give to the
16 utility energies except for now, we'll pay them not
17 even to provide energy. Now, before we used to do a
18 lot of things that would let the customers be
19 overcharged, but at least they were getting something
20 for their overcharge. Now we've got a point where to
21 2035, we're going to have our constituents paying for
22 energy they're not even consuming with no real limit.
23 Is that progress? Is that the way to go?

24 For this bill, the goal is no longer energy
25 savings. The goal is ensuring that the energy

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1 utilities remain whole, that they remain profitable,
2 that they keep getting the bucks rolling in the door.
3 Is that what we're about here? This is really a sad
4 state of affairs and you have to ask yourself when is
5 it going to end? Year after year after year we give
6 more away to our utilities, and at the same time, we
7 miss the opportunity over and over again to do the
8 real things in energy policy that would put our state
9 on a firm footing for the future and would save our
10 ratepayers a lot of money.

11 So while it might be easy to say, well,
12 maybe I don't like this bill, this energy efficiency
13 plan as well as the last one but, hey, it's a plan,
14 hey, I can vote for efficiency, why don't we just go
15 ahead and say yes, and you know, I probably have been
16 tempted to go along with that. I told the Governor's
17 energy person that if we could get rid of this
18 loophole, this gaping lost revenue recovery loophole,
19 where we're not limiting the recovery in any
20 significant way that, you know, I wouldn't do
21 somersaults over the bill but I could support it
22 because it would be better than nothing. But it's
23 not better than nothing with this giant target on the
24 ratepayer's back, where we're going to have them
25 paying year after year after year, double payment,

1 they're going to come in eventually on a base rate
2 case, they're going to get all of those fixed costs
3 covered, but they're still going to get that energy
4 efficiency lost recovery year after year after year
5 just on the plans alone approved before this bill.
6 We'll have lost recovery going out probably beyond
7 the time most of us are here. We can do a lot
8 better.

9 Let's defeat this bill. Let's go back to
10 the drawing board. Let's have a plan that really
11 helps our ratepayers, not the utilities.

12 MR. SPEAKER: Further discussion on the
13 bill. Representative Riecken.

14 REPRESENTATIVE RIECKEN: (Inaudible).

15 MR. SPEAKER: You're recognized to speak on
16 the bill.

17 REPRESENTATIVE RIECKEN: Will the author
18 yield, sir?

19 MR. SPEAKER: Will the author yield? He
20 yields.

21 REPRESENTATIVE RIECKEN: Thank you, sir.
22 Mr. Speaker and Representative Koch, I have lost it
23 in here. I've been conflicted on this entire issue
24 of recovery. It's been explained to me that the
25 recovery could last longer than the life of the

1 device, the light bulb, years and years and years
2 past that. Could you explain the lost recovery as it
3 is in the bill at this point?

4 REPRESENTATIVE KOCH: I appreciate the
5 question, Representative Riecken, and we did spend a
6 great deal of time on that on second reading, but to
7 your specific question, the lost revenues are limited
8 to the life of the energy efficiency measure, and let
9 me give you some examples. A compact florescent
10 light bulb is five years, an HVAC tune-up is five
11 years, a residential refrigerator/freezer replacement
12 is eight, variable frequency drives for commercial
13 HVAC is 15, LED exit signs are 16, and residential
14 roof, attic, ceiling insulation is 25 years. Now,
15 these are not just pulled out of the air. There's a
16 manual used by the IURC of generally accepted
17 principles, so the lost revenues are limited to the
18 life of the energy efficiency major, and keep in
19 mind, it's fixed costs only, not the variable costs.

20 So without repeating everything that we went
21 over yesterday on second reading, it is not unlimited
22 and it's not the full amount. It's limited to the
23 fixed costs and it's limited to the life of the
24 energy efficiency measure, and most importantly, it
25 was the same feature that we had in the old plan, the

1 Energizing Indiana Plan. So if it was good enough
2 for that, it's good enough for this, and thank you
3 for the question.

4 REPRESENTATIVE RIECKEN: Thank you, sir, and
5 thank you, Representative Koch. I wish this whole
6 issue of the utility and the recovery and -- was a
7 lot easier, but it isn't, I think it's confusing for
8 all of us, but the one thing that I really do have a
9 problem with, and it's going to be ongoing until we
10 come to the term- -- until we come to terms with
11 terminology. Reasonable and reasonableness does not
12 include or does not suggest that it is affordable,
13 and until we come to the point that we actually have
14 reasonable and affordable, we're going to be looking
15 at costs that just keep going up, and it is a concern
16 for me. I do thank you for explaining that portion
17 in the bill and I respect that your opinion is
18 exactly what it says. Thank you.

19 MR. SPEAKER: Further discussion on the
20 bill. Representative Soliday recognized to speak.

21 REPRESENTATIVE SOLIDAY: Thank you,
22 Mr. Speaker, ladies and gentlemen of the House. Let
23 me just talk to you about a couple of practical
24 things and in some of the hyperbole get to what the
25 facts are. Everyone has their right to an opinion

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1 but there is only one set of facts.

2 We need a bill. We probably should not have
3 taken it out last year. We need a bill. This is a
4 good bill. There's been a lot of thought put into
5 it, a lot of testimony. Recovery. There is no state
6 in the union that has a state law that caps recovery
7 at 36 months. That is hyperbole out of one
8 organization on the Internet. Fact. Look it up.
9 There are four states that have a cap that was agreed
10 to in a settlement, litigation settlement, so we're
11 not -- we're not way out of step with the entire
12 universe here.

13 The plans that the IURC is to approve, it's
14 deliberate that way. The region I live in is not the
15 same as Vanderburgh County. Different utilities,
16 different regions, different issues. Clearly a
17 reason to make it more flexible because one size does
18 not fit all.

19 So the issue of reasonability in law is
20 called the reasonable man. The word reasonable is
21 used over and over and over in the law. I didn't go
22 to law school. I stayed in the Holiday Inn Express
23 once. The reasonable man is a principle of law. If
24 we were to strike it from all of our laws, we
25 wouldn't have much left and we wouldn't have much

1 left in the courts. This is a good bill. We've
2 spent a lot of time on it, heard a lot of testimony.
3 I'd urge you to vote for it.

4 MR. SPEAKER: Further discussion. Chair
5 sees none. Author has the right to close.

6 REPRESENTATIVE KOCH: Thank you,
7 Mr. Speaker. I appreciate very much the discussion
8 and debate both in committee and here on the floor.
9 I just want to underscore a few things.

10 This bill is the product of an independent
11 study done last summer at the request of the IURC by
12 the Energy Center of Wisconsin, the Commission's own
13 work last summer. As we discussed, lost revenues
14 were a feature of the old plan and under this bill
15 are subject to very stringent EM&V requirements, and
16 lost revenue -- request for lost revenues can and
17 will be denied by the Commission if they're not
18 appropriate.

19 To my friend Representative Pierce's concern
20 that this plan will cost more, I see no evidence of
21 that. I would like to continue that discussion. If
22 you know something I don't, Representative Pierce, I
23 would certainly like to see that and share that with
24 the Senate author, but there's no evidence of that.

25 And finally, I want to make perfectly clear,

1 this is not cart blanch for utilities to draft their
2 own plan. Those plans must be subject to specific
3 criteria and have required contents that are set
4 forth in the bill on pages 9 and 10, and under the
5 bill, the IURC can and will reject a plan that does
6 not conform to those requirements.

7 Thank you for your attention during this
8 very important discussion. Thank you for the
9 discussion Representative Pierce, Riecken, Soliday,
10 and others. I'd urge your support.

11 MR. SPEAKER: The question is on the final
12 passage of the bill. All of those in favor will,
13 when the machine is open vote aye, those opposed will
14 vote no. Clerk will open the machine.

15 (VOTE TAKEN.)

16 MR. SPEAKER: All the members voted. Tally
17 the roll. Tally shows 72 members voting aye, 26
18 voting no. The bill has passed. Shall the title of
19 the bill remain the title of the act? The clerk will
20 inform the Senate of the passage of the bill.
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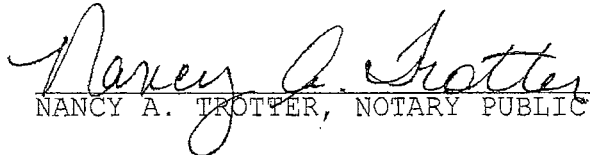
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1 STATE OF INDIANA)
2) SS:
3 COUNTY OF VANDERBURGH)

4 I, NANCY A. TROTTER, A NOTARY PUBLIC AT LARGE IN AND
5 FOR THE STATE OF INDIANA, DO HEREBY CERTIFY:

6 THAT I TRANSCRIBED THE DISCUSSIONS REGARDING SENATE
7 BILL 412 FROM MARCH 24, 2015, AND THAT THE TYPEWRITTEN
8 TRANSCRIPT ABOVE IS A TRUE RECORD OF THE STATEMENTS GIVEN,
9 AND THAT I AM NOT A RELATIVE OR EMPLOYEE OR ATTORNEY OR
10 COUNSEL OF ANY OF THE PARTIES, NOR A RELATIVE OR EMPLOYEE OF
11 SUCH ATTORNEY OR COUNSEL, NOR AM I FINANCIALLY INTERESTED IN
12 THIS ACTION.

13 IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND
14 AFFIXED MY NOTARIAL SEAL ON THIS THE 26TH DAY OF OCTOBER,
15 2015.

16 
NANCY A. TROTTER, NOTARY PUBLIC

17 MY COMMISSION EXPIRES:
18 FEBRUARY 9, 2017
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