

**REBUTTAL TESTIMONY OF ROBERT J. LEE  
VICE PRESIDENT OF CRA INTERNATIONAL D/B/A  
CHARLES RIVER ASSOCIATES, INC.  
ON BEHALF OF DUKE ENERGY INDIANA, LLC  
CAUSE NO. 46193  
BEFORE THE INDIANA UTILITY REGULATORY COMMISSION**

**I. INTRODUCTION**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

A. My name is Robert J. Lee, and my business address is 200 Clarendon Street, Boston, Massachusetts 02116.

**Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

A. I am employed by CRA International d/b/a Charles River Associates, Inc. ("CRA") as Vice President.

**Q. ARE YOU THE SAME ROBERT LEE THAT SUBMITTED DIRECT TESTIMONY IN THIS PROCEEDING?**

A. Yes.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. I am providing rebuttal testimony in response to certain testimony submitted by the Indiana Office of Utility Consumer Counsel ("OUCC") and testimony submitted by the Citizens Action Coalition of Indiana, Inc. and Vote Solar. These testimonies were authored by Witness Roopali Sanka and Witness Benjamin Inskeep, respectively.

**Q. HOW IS YOUR TESTIMONY ORGANIZED?**

A. My testimony addresses: (1) the role of the third party administrator, or Independent Evaluator and Monitor ("IEM"), in the evaluation of third-party proposals and Duke Energy Indiana self-build proposals; and (2) the scoring and evaluation of thermal bids

received in the RFPs (as defined in my direct testimony in this cause).

**II. THE ROLE OF THE IEM AND THE EVALUATION PROCESS**

**Q. CAN YOU DESCRIBE THE RESPONSIBILITIES OF THE IEM?**

A. As described in my direct testimony, CRA served as the third party administrator, or IEM, for Duke Energy Indiana's RFPs. In this role, CRA facilitated the development of the threshold requirements for the RFPs, evaluated individual projects based on economic and non-economic factors, and worked closely with the Duke Energy Indiana team to ensure that the RFP processes were executed in accordance with the rules outlined in the final RFP documentation. In its role as the IEM, CRA followed standard industry best practices, including setting up and conducting a solicitation process that was transparent and fair - one where no informational advantage was provided to any interested party and where all proposals were evaluated equally against predetermined evaluation criteria.

**Q. CAN YOU DESCRIBE THE PRODUCTS SOLICITED THROUGH THE RFPs?**

A. Yes. Through each RFP, Duke Energy Indiana considered both intermittent and non-intermittent resources in support of the Company's capacity needs, either existing or in development. In addition, the Company was open to a range of transaction structures including build transfer agreements, asset purchase agreements, and power purchase agreements ("PPAs"). In each RFP, the documents were clear on MISO Zonal location requirements:

**2022 RFP:** Facilities other than wind resources must have a physical location in the region designated as MISO (currently designated as Local Resource Zone 6 ("LRZ6")); be qualified to receive Zonal Resource Credits in or delivered to MISO LRZ6; or be capable of reclassifying as a MISO LRZ6 resource prior to the date of generation need, i.e., 2027/2028 MISO planning year. Wind facilities may be located outside or LRZ6 but must be MISO resources.

**2023/24 RFP:** DEI will consider resources outside LRZ6 only to the extent that there are insufficient resources by technology class bid into the RFP that are qualified to receive Zonal Resource Credits in MISO LRZ6. DEI will accept PPA bids from facilities located outside LRZ6 but PPA bids from such facilities, aside from wind resources, will only be considered for contract term lengths no longer than 5 years. Wind PPA bids may be for longer term lengths. DEI's preference for non-LRZ6 resources would be for resources located in MISO Zones 4 or 7. However, DEI will also consider PPA for wind resources sourced from MISO Zones 2, 3, and 5, in addition to Zones 4, 6 and 7. Other resources may also be considered depending on the nature of the physical interconnection options with MISO and the depth of the offers from conforming resources from similar technology resources.

**Q. WERE THERE OTHER RESTRICTIONS OR BID REQUIREMENTS IN EACH RFP ASIDE FROM THE ZONAL PREFERENCES?**

A. Yes. Each RFP targeted supply side, transmission connected resources with certain minimum MW requirements and in-service date targets. Both RFPs restricted unit contingent bids from coal-based resources.

**Q. HOW WERE THE RESTRICTIONS DEVELOPED FOR EACH RFP?**

A. Prior to the launch of each RFP, CRA worked closely with representatives from Duke Energy Indiana to understand its range of needs for the capacity resources, as well as the risks and concerns about current and future market conditions and regulations that may impact the medium and longer-term value of assets in the Midcontinent Independent System Operator Inc. ("MISO"). The threshold requirements for the RFPs were developed based on those discussions.

**Q. IN YOUR OPINION, WERE THE THRESHOLD REQUIREMENTS FOR THE RFPs OVERLY OR UNUSUALLY RESTRICTIVE?**

1 A. No. CRA has been very active in RFP development and execution over the past ten years.  
2 I have worked with a number of Indiana and MISO utilities over that period on targeted  
3 and all-source RFPs. The threshold requirements for Duke Energy Indiana's RFPs were  
4 similar to many others that CRA has executed in recent years.

5 **Q. HAS DUKE ENERGY INDIANA'S RFP STRUCTURE PREVIOUSLY BEEN**  
6 **REVIEWED IN A COMMISSION PROCEEDING?**

7 A. Yes. In Cause No. 45907, in which I served as a witness, the Commission authorized  
8 Duke Energy Indiana to enter into the Speedway Solar PPA and approved associated  
9 recovery.<sup>1</sup> The 2022 RFP process, as administered by CRA and with the zonal  
10 restrictions I discuss above, supported the selection of the Speedway Solar PPA.

11 **Q. WHAT DID THE COMMISSION CONCLUDE ABOUT THE RFP**  
12 **METHODOLOGY IN CAUSE NO. 45907?**

13 A. The Commission found that the Speedway Solar PPA was the result of a "thorough and  
14 competitive RFP process."<sup>2</sup>

15 **Q. DID ANY PARTY OBJECT TO OR RAISE CONCERNS REGARDING THE RFP**  
16 **PROCESS OR RFP REQUIREMENTS IN CAUSE NO. 45907?**

17 A. No, they did not.

18 **Q. WHY WERE THE LOCATION RESTRICTIONS UPDATED BETWEEN THE**  
19 **2022 RFPS AND THE 2023/24 RFPS?**

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<sup>1</sup> *Duke Energy Indiana, LLC*, Cause No. 45907 (IURC 10/25/2023), Order at pp. 11-12.

<sup>2</sup> *Id.* at p. 9.

1 A. The loosening of zonal preferences between the 2022 RFPs and the 2023/24 RFPs was  
2 designed to provide potential bidders with greater clarity about the participation  
3 requirements and to ensure that the RFP attracted as many bidders and projects as  
4 possible given the risks associated with soliciting medium and long-term resources in  
5 support of customer needs.<sup>3</sup>

6 **Q. FROM THE IEM'S PERSPECTIVE, WHY IS CLARITY IN PARTICIPATION**  
7 **REQUIREMENTS IMPORTANT?**

8 A. Clear, unambiguous, participation requirements help attract bidders and projects that are  
9 well-positioned to meet a utility's stated need. In addition, bidders that believe they are  
10 well-positioned for an RFP are likely to submit a serious, aggressive bid into the process.  
11 When participation requirements are unclear, poorly defined, and/or overly broad, the  
12 RFP may generate interest from resources not suited to meet the utility's resource  
13 requirements or, worse, discourage suitable projects from participating. In addition, the  
14 bids themselves may not be structured in a way that best meets the needs of a utility's  
15 customers.

16 **Q. SHOULD AN IEM CONSIDER CHANGING THE PROCESS RULES IN**  
17 **RESPONSE TO THE BIDS RECEIVED?**

18 A. No. In *Allegheny Energy Supply Co., LLC*, 108 FERC ¶ 61,082 (2004) (Allegheny), the  
19 Federal Energy Regulatory Commission (FERC) enumerated four principles of a  
20 competitive solicitation and the role of the independent third party in meeting those  
21 principles. While these principles are targeted at affiliate transaction scenarios, they do

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<sup>3</sup> Lee Direct, p. 10, lines 7-12.

represent best practices in RFP design. These include:

1. **Transparency** – The solicitation process should be open and fair.

No party should have an informational advantage in any part of the solicitation process, and bidding under the process should be open to all interested parties.

2. **Definition** – The product(s) sought through the RFP process should be precisely defined.

Definition should be clear and non-discriminatory, including the specifications of the desired capacity, fuel type, plant technology, and transmission requirements.

3. **Evaluation** – Evaluation criteria should be standardized and applied equally to all bids and bidders.

The RFP should clearly specify the criteria (economic and non-economic) and the relative importance of each criterion under which bids will be evaluated in the decision-making process.

4. **Oversight** – an independent third party should design the solicitation, administer bidding, and evaluate bids prior to the company's selection.

The independent third party should oversee the design, administration, evaluation of the process, and make a determination that the RFP process is transparent, fair, and not influenced by any affiliate relationships.

Changing the threshold requirements for participation or deviating from the evaluation criteria for the process would violate the definition and evaluation principles originally enumerated by FERC related to competitive solicitations.

**III. SCORING AND EVALUATION OF THERMAL BIDS**

**Q. HOW DO YOU RESPOND TO OUCC WITNESS SANKA'S CLAIM THAT DUKE ENERGY INDIANA NARROWED THE SCOPE OF ITS RFP BY NOT FULLY EVALUATING THE POSSIBILITY OF IMPORTING EXTERNAL CAPACITY?**

A. It is an unfair criticism. Through the RFPs, Duke Energy Indiana solicited bids in support of long-term capacity needs. The ability to import external capacity and the value of that external capacity is subject to change over time based on changes in load, resources, transmission capability and other factors. The Company approximated the relative value of external resources in the 2023/24 RFPs by laying out resource location preferences. These preferences began with (1) facilities located inside the Duke Energy Indiana load balancing authority ("LBA"); (2) those located in LRZ6 but outside the LBA; (3) those located in LRZ4 or 7; (4) those located in LRZ2, 3 or 5; and (5) other resources. While eligible to bid, the 2023/24 RFPs clearly stated that resources located outside LRZ6 would only be considered to the extent there were insufficient LRZ6 resources bid by technology. The LRZ6 resource preference was included to recognize that more distant, long-term resources represented a potential risk for customers.

**Q. OUCC WITNESS SANKA TESTIFIED THAT DUKE ENERGY INDIANA SHOULD HAVE CONSIDERED THE <BEGIN HIGHLY CONFIDENTIAL>**  
[REDACTED]  
[REDACTED] **<END HIGHLY CONFIDENTIAL> – DESPITE THEIR NONCONFORMANCE WITH RFP BID REQUIREMENTS. HOW DO YOU RESPOND TO THIS POSITION?**

A. I disagree. In each case, considering the bids would have required a change in the stated requirements associated with RFP evaluation. Regarding the **<BEGIN HIGHLY CONFIDENTIAL>** [REDACTED] **<END HIGHLY CONFIDENTIAL>**, the limitations on accepting unit-contingent bids from coal-fired facilities was included in the RFP to

1 protect customers from potential future costs or operating restrictions on coal as a result  
2 of tightening environmental and air quality regulations. These would include climate-  
3 related initiatives or restrictions. In the case of the <BEGIN HIGHLY  
4 CONFIDENTIAL> [REDACTED] <END HIGHLY  
5 CONFIDENTIAL> bid, Ms. Sanka suggests that the Company should have considered  
6 the PJM-based resource by investigating potential avenues or options associated with  
7 reclassifying the resource as MISO. From a process perspective, it would have been  
8 improper to bypass the stated qualification standards for the RFP in support of a single  
9 bid. Investigating options and costs associated with such reclassification are the  
10 responsibility of the bidder.

11 **Q. CAC AND VOTE SOLAR WITNESS INSKEEP TESTIFIED THAT THE 2022**  
12 **RFP WAS “NOT SUCCESSFUL AT ELICITING COMPETITIVE THERMAL**  
13 **BIDS” AND CLAIMED THIS CALLS INTO QUESTION THE**  
14 **REASONABLENESS OF DUKE ENERGY INDIANA’S BEST ESTIMATE FOR**  
15 **THE CAYUGA CC.<sup>4</sup> WITNESS INSKEEP’S CRITICISM FOCUSES ON THE**  
16 **NUMBER OF THERMAL BIDS; DOES THAT REFLECT HOW**  
17 **COMPETITIVENESS SHOULD BE EVALUATED IN AN ALL-SOURCE**  
18 **SOLICITATION?**

19 **A.** No. Evaluating the competitiveness of an RFP is not simply a matter of the number of  
20 projects or the MWs bid. The 2022 RFPs solicited bids from a range of technologies and  
21 those bids were used as part of the Company’s broader resource planning. Ex-ante, there

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<sup>4</sup> Inskeep p.29, lines 9-11.



1 was no guarantee that any thermal resources would be part of the Company's final  
2 preferred plan. In that sense, the thermal resources bid into the process were competing  
3 not only with other potential thermal resources, but also with intermittent resources,  
4 storage, and other technologies. All bids into the RFPs were bids that were competitive  
5 with the Cayuga option, even if the rank ordering of RFP bids was technology-based. The  
6 RFP was part of a broader, planning-driven exercise and was not a competition amongst  
7 thermal-only resources.

8 **Q. WITNESS INSKEEP COMPARES A LOWER-SCORING CAYUGA**  
9 **CONFIGURATION TO ANOTHER BID TO SUGGEST THE PROJECT**  
10 **UNDERPERFORMED. DOES THAT MISREPRESENT HOW CAYUGA WAS**  
11 **EVALUATED IN THE RFP?**

12 A. Yes. Mr. Inskeep mischaracterizes my direct testimony by focusing on a single  
13 configuration of the Cayuga project. Multiple configurations were submitted as part of  
14 the RFP process, including both 1x1 and 2x1 combined cycle options. The comparison  
15 Mr. Inskeep references is based on the <BEGIN HIGHLY CONFIDENTIAL> [REDACTED]  
16 [REDACTED] <END HIGHY CONFIDENTIAL>, which was not the highest  
17 scoring Cayuga bid. The <BEGIN HIGHLY CONFIDENTIAL> [REDACTED]  
18 [REDACTED] <END HIGHLY  
19 CONFIDENTIAL>, received a higher score. Comparing only the lower-scoring option  
20 does not reflect the full range of proposals evaluated or how Cayuga performed overall in  
21 the scoring process.

Q. ASIDE FROM THAT MISCHARACTERIZATION, WITNESS INSKEEP NOTED THAT <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] [REDACTED] [REDACTED] <END HIGHLY CONFIDENTIAL>. SHOULD THIS RAISE CONCERNS?

A. No. It is correct that <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] [REDACTED] [REDACTED] <END HIGHLY CONFIDENTIAL>. However, the difference in <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] [REDACTED] <END HIGHLY CONFIDENTIAL> scoring was significant between Cayuga and <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL>. Cayuga received <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL> points on that metric while <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL> received only <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL> points. The primary driver of difference was asset location. <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL>. Cayuga is located within Duke Energy Indiana's LBA. The scoring for the difference in location alone was more than the <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL> had across the combined scoring for the <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL>.



**CONFIDENTIAL**> metrics. Facilities located outside Duke Energy Indiana's LBA create the risk of price separation between the cost of load and the value of generation as well as potential separation on the cost of capacity charged to Duke Energy Indiana and the value of the capacity paid for the generating resource.

**Q CAN YOU DESCRIBE THE <BEGIN HIGHLY CONFIDENTIAL>**  
**<END HIGHLY CONFIDENTIAL>**  
**PROPOSAL?**

**A. <BEGIN HIGHLY CONFIDENTIAL>**  
**<END HIGHLY CONFIDENTIAL>**. As of the 2022 RFPs proposal due date, this facility was delivering capacity, energy, and ancillary services into PJM.

**Q. OUCC WITNESS SANKA TESTIFIED THAT THE <BEGIN HIGHLY CONFIDENTIAL>**  
**<END HIGHLY CONFIDENTIAL>**  
**AMONG THE NON-INTERMITTENT 2022 RFP RESOURCE BIDS. IF THE PROJECT SCORED <BEGIN HIGHLY CONFIDENTIAL>**  
**<END HIGHLY CONFIDENTIAL>, WHY WAS IT NOT CHOSEN?**

**A.** It is correct that **<BEGIN HIGHLY CONFIDENTIAL>**  
**<END HIGHLY CONFIDENTIAL>** among the Non-Intermittent 2022 RFP resource bids. However, scoring was based on assumptions outlined in the proposal - specifically that reclassification from PJM to MISO would be a straightforward process. During advanced due diligence, Duke Energy Indiana identified

1 additional complexities and/or potential risks associated with that transition.

2 **Q. DID THE PROCESS DESIGN ANTICIPATE FURTHER BID REVIEW AND**  
3 **EVALUATION AFTER CRA MADE RECOMMENDATIONS ON PROJECT**  
4 **RANKINGS?**

5 A. Yes. The RFP document stated "CRA will review proposals in each RFP and identify a  
6 set of resources for advancement for final due diligence." The issues flagged for

7 <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL>

8 were not issues that CRA could reasonably have evaluated during the RFP itself.

9 **Q. OUCC WITNESS SANKA CLAIMS THAT DUKE ENERGY INDIANA AND CRA**  
10 **PROVIDED TOO LITTLE INFORMATION TO EXPLAIN HOW THE <BEGIN**  
11 **HIGHLY CONFIDENTIAL> [REDACTED] <END HIGHLY CONFIDENTIAL> BID WAS**  
12 **SCORED IN KEY AREAS, PARTICULARLY ECONOMICS AND SYSTEM**  
13 **BENEFITS. DOES THIS SUGGEST THE BID'S POTENTIAL VALUE WAS**  
14 **OVERLOOKED?**

15 A. No. <BEGIN HIGHLY CONFIDENTIAL> [REDACTED] <END

16 **HIGHLY CONFIDENTIAL>** in the Non-Intermittent 2022 RFP category, which

17 reflects its relative economic and system value compared to other bids. The scoring

18 methodology was applied consistently across all proposals. Additional detail on

19 economic or benefit scoring would not have changed its ranking. Furthermore, the

20 proposal was advanced for further due diligence - demonstrating that it was treated as a

21 serious and potentially viable option. Any additional analysis or clarification regarding

22 the proposal would have been addressed during that next phase of review, consistent with

1 the established RFP process.

2 **Q. TO CONCLUDE, WHAT IS YOUR OVERALL PERSPECTIVE ON THE RFP**  
3 **PROCESS?**

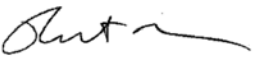
4 A. The RFP framework was applied in an impartial and consistent manner. CRA followed  
5 industry best practices to ensure the process was transparent and fair to all participants.  
6 Each proposal was evaluated under the same scoring criteria, and bids that warranted  
7 further review were advanced accordingly.

8 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

9 A. Yes.

## VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed:   
Robert J. Lee

Dated: 5-29-25