

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN )  
POWER COMPANY (I&M) FOR APPROVAL OF )  
CAPACITY PURCHASE AGREEMENT (CPA) )  
AND ASSOCIATED ACCOUNTING AND )  
RATEMAKING TREATMENT, INCLUDING ) CAUSE NO. 46083  
TIMELY RECOVERY OF COSTS THROUGH )  
I&M'S RESOURCE ADEQUACY RIDER (RAR) )  
OF THE COST OF CAPACITY I&M WILL INCUR )  
UNDER THE CPA. )

**SUBMISSION OF PROPOSED ORDER**

Petitioner Indiana Michigan Power Company (I&M or Company), by counsel, submits the attached Proposed Order. An editable version in Word format will be provided to the presiding Administrative Law Judge.

Respectfully submitted,



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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served this 30th day of September 2024, by email transmission, hand delivery or United States Mail, first class, postage prepaid to:

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RECOVERY OF COSTS THROUGH I&M'S ) APPROVED:  
RESOURCE ADEQUACY RIDER (RAR) OF )  
THE COST OF CAPACITY I&M WILL )  
INCUR UNDER THE CPA. )**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Veleta, Commissioner**

**Ann S. Pagonis, Administrative Law Judge**

On June 5, 2024, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. Also on June 5, 2024, I&M filed its prepared testimony and exhibits constituting its case-in-chief, as well as supporting workpapers, from the following witnesses:

- Andrew Williamson – Director of Regulatory Services, I&M
- Mark Becker – Managing Director of Resource Planning, American Electric Power Service Corporation (“AEPSC”)
- Timothy Gaul – Director, Regulated Infrastructure Development, AEPSC
- Dean Koujak – Principal, Charles River Associates
- Justin Dehan – Manager, Regulated Infrastructure Development, AEPSC
- Joshua Burkholder – Managing Director of RTO Strategy and Policy, AEPSC
- Edward Locigno – Manager Regulatory Analysis & Case, AEPSC<sup>1</sup>

On August 16, 2024, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed testimony and exhibits of Utility Analyst John W. Hanks and Senior Utility Analyst Kaleb G. Lantrip. I&M filed the rebuttal testimony of Andrew Williamson on August 29, 2024. On September 19, 2024, the OUCC filed a motion for leave to amend its testimony, which was granted

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<sup>1</sup> I&M filed revisions to its direct testimony on June 27 and July 25, 2024.

by docket entry dated September 20, 2024. The OUCC filed its amended testimony on September 20, 2024. Also on September 20, 2024, I&M filed revised rebuttal testimony reflecting the amendments made to the OUCC's testimony.

The Commission conducted an evidentiary hearing in this Cause on September 23, 2024, at 9:30 a.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated in the hearing by counsel and the evidence and testimony of Petitioner and the OUCC were admitted into the record without objection.

Based upon the applicable law and evidence presented, the Commission now finds:

**1. Notice and Jurisdiction.** Notice of the public hearing in this Cause was given and published by the Commission as required by law. I&M is a "public utility" within the meaning of the term in Ind. Code § 8-1-2-1(a). I&M is subject to the jurisdiction of the Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Petition, ¶3. Pursuant to Ind. Code § 8-1-2-42(a), the Commission has authority to approve rate adjustment mechanisms and the implementation of the Resource Adequacy Rider ("RAR") is consistent with that authority. Accordingly, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

**2. Petitioner's Characteristics.** I&M is a wholly-owned subsidiary of American Electric Power Company, Inc. ("AEP") with its principal offices at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the States of Indiana and Michigan. I&M owns and operates generation, transmission, distribution plant, and equipment within the States of Indiana and Michigan that are used and useful in the furnishing of such electric service to the public. Petition, ¶6.

I&M supplies electric service to approximately 482,000 retail customers in northern and east-central Indiana and 133,000 retail customers in southwestern Michigan. I&M's Indiana service area covers approximately 3,200 square miles. In Indiana, I&M provides retail electric service to customers in the following Indiana counties: Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Hamilton, Henry, Howard, Huntington, Jay, LaPorte, Madison, Marshall, Miami, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells and Whitley. In addition, I&M serves wholesale customers in Indiana and Michigan. Petition, ¶2. I&M's electric system is a fully integrated and interconnected entity that is operated within Indiana and Michigan as a single utility. *Id.*

**3. Relief Requested.** Petitioner requests the Commission issue an order providing for: (i) pre-approval of the Lawrenceburg capacity purchase agreement ("CPA"), including the "Flex-Up" option that would allow I&M to increase the Indiana-specific contract quantity by 143 MW at the same pricing and terms for a total of 840 MW if acceptable regulatory approvals are not obtained from the Michigan Public Service Commission; (ii) the timely recovery of costs for the full CPA term through I&M's RAR of the cost of capacity I&M will incur under the Lawrenceburg CPA, including recovery of project development costs; and (iii) confidential treatment of the Lawrenceburg CPA pricing and other negotiated commercial terms and related confidential information.

4. **Statutory Framework.** Ind. Code § 8-1-2-42(a) authorizes rate adjustment mechanisms for the recovery of costs incurred in the provision of retail service. House Enrolled Act 1007, codified at Ind. Code § 8-1-2-0.6, sets forth five attributes (also referred to as the “Five Pillars” the Commission will also consider in this matter.<sup>2</sup>

5. **Petitioner’s Case-in-Chief.**

A. **Lawrenceburg CPA Overview.** The Lawrenceburg Capacity Purchase Agreement (“CPA”) is a six-year, capacity-only contract between I&M and Lawrenceburg Power, LLC (“Lawrenceburg”). The Lawrenceburg CPA is Indiana-specific and provides for the purchase of 697 MW of firm PJM-accredited capacity beginning in PJM Planning Year 2028/2029 (or June 1, 2028) and ending with the PJM Planning Year 2033/2034 (or May 31, 2034). Petition, ¶8. The Lawrenceburg CPA also has a “Flex-Up” Option as further identified below. The source of the capacity is the existing Lawrenceburg natural gas combined cycle turbine facility that went into commercial operation in 2004 and which is located in Lawrenceburg, Indiana. Petition, ¶9. This facility is connected to the AEP transmission system. *Id.*

Mr. Williamson testified the Lawrenceburg CPA is a capacity-only contract I&M has entered into with Lawrenceburg Power, LLC for 697 MW of firm capacity. Williamson Direct at 9. He said I&M’s contract does not include any energy purchases. He explained since the CPA is associated with an existing generation facility, I&M had more flexibility on how to structure the contract. He said I&M chose to enter into two separate state-specific CPAs to provide each state control or assurance that approval of the contract was not contingent on the other state. *Id.* at 10. He stated the contracts were split on an 83 percent Indiana and 17 percent Michigan basis which represents the approximate percentage of the load ratio share of each state when considering I&M’s retail operations and I&M’s firm wholesale load obligations. *Id.* He explained the pro rata share of the wholesale demand allocation was spread over I&M’s Indiana and Michigan retail demand allocations. As a result, I&M has entered into two state-specific contracts with Lawrenceburg for a total of 840 MW of firm unforced capacity (UCAP) from the Lawrenceburg Electric Generation station. He noted the Indiana contract is for 697 MW of firm capacity and the Michigan contract is for 143 MW of firm capacity. In addition, Mr. Williamson said I&M negotiated contractual terms that allow Indiana to increase, or “Flex-Up”, its retail share of the capacity purchased from Lawrenceburg to the full 840 MW at the same pricing and terms, if the Company is unable to obtain the relief it seeks from the Michigan Public Service Commission (“MPSC”). Mr. Gaul provided additional details regarding the structure and terms of the Lawrenceburg CPA.

B. **Integrated Resource Plan.** Mr. Williamson testified I&M is undergoing a major generation transformation as Rockport Unit 2 has fully transitioned to a merchant unit and Rockport Unit 1 will retire from service by the end of 2028. Williamson Direct at 7. He stated the retirement of these units provides a significant opportunity for I&M to further diversify its generation portfolio and reduce carbon emissions. He said the Petition in this proceeding is a result of I&M’s 2021 Integrated Resource Plan (“IRP”), the planning tool I&M utilizes to determine how

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<sup>2</sup> On June 28, 2023, the Commission issued General Administrative Order 2023-04 establishing guidelines regarding the Five Pillars.

to meet the ongoing need for reliable and economic electric demand in the Company's service area. *Id.*

Mr. Williamson and Mr. Becker testified that the proposed Lawrenceburg CPA is consistent with the Preferred Portfolio that was the result of the IRP process and is an important step in replacing the capacity from the Rockport facility by the end of 2028. Williamson Direct at 7; Becker Direct at 27-28. Mr. Williamson said the objectives and metrics that I&M used during the IRP process to determine the Preferred Portfolio were very closely aligned with the Five Pillars. Williamson Direct at 8-9.

**C. All-Source Request for Proposal and Project Evaluation/Selection.** Mr. Williamson and Mr. Dehan discussed the competitive procurement process used to select the proposed CPA. Williamson Direct at 13-14; Dehan Direct at 3-7. Mr. Dehan explained I&M developed a 2023 All Source Request for Proposal ("RFP") to solicit responses from the market for capacity and energy resource needs identified in I&M's Preferred Portfolio beginning with the 2028/2029 PJM Planning Year. Dehan Direct at 3-4. They explained the RFP was designed in a way that allowed for an open, non-discriminatory competitive procurement process that considered both third-party and utility ownership, a range of resource types or combinations of resource types, various sizes and capacities within practical limits, ancillary services, and cost reducing benefits. Williamson Direct at 13; Dehan Direct at 4. Mr. Williamson added that the RFP was also structured to comply with the terms of the Settlement Agreement approved by the Commission in its Order issued on December 8, 2021 in Cause No. 45546. Williamson Direct at 13.

Mr. Williamson testified the 2023 All Source RFP was informed by the best available market information prior to its issuance, included expanded geographic boundaries to increase access to wind resources and involved a pre-issuance stakeholder process to obtain, consider, and incorporate feedback from stakeholders and developers. Williamson Direct at 13-14. Mr. Dehan provided further information on the development of the structure and requirements of the RFP, including the incorporation of stakeholder input. Dehan Direct at 5-7. Mr. Williamson and Mr. Dehan also testified that I&M used Charles River & Associates to fulfill the role of Independent Monitor, manage the stakeholder process, conduct the Eligibility and Threshold review for all proposals, and monitor the RFP administration from issuance to selection of a shortlist. Williamson Direct at 14; Dehan Direct at 5.

Mr. Dean Koujak discussed the goal of the 2023 All Source RFP, as well as the eligible technologies and bidder thresholds, which he said are substantially the same or similar to other RFPs he had overseen. Koujak Direct at 4-6. He described the evaluation and stakeholder processes and said each was reasonable. *Id.* at 6-8. Mr. Koujak provided an overview of the RFP results and explained the selection of ten proposals as part of the final shortlist as well as post-shortlist negotiations. *Id.* at 8-11. He provided a supporting report and concluded that: (i) I&M developed the RFP documentation in a clear and transparent manner; (ii) I&M performed the evaluation on a fair and consistent basis in-line with the process noted in the RFP; (iii) the criteria used in the evaluation is in-line with typical utility practice and reasonable to achieve the goals of the RFP; (iv) the shortlisting of finalists was also performed on a fair and consistent basis with the process published in the RFP; and (v) there is no evidence that the evaluation and selection process caused any unfair advantage or disadvantage to any interested respondent. *Id.* at 13-14; Attachment DDK-1.

Mr. Gaul further discussed the shortlist due diligence and contract negotiation efforts for the Lawrenceburg CPA. Gaul Direct at 4. He stated I&M began commercial contractual negotiations in the fall of 2023 once all parties were formally notified that their bids were selected for shortlist negotiations as a result of the 2023 All Source RFP process described by I&M witnesses Dehan and Koujak. He explained due diligence efforts for the Lawrenceburg CPA focused on review and assessment of the facility's past performance (Generating Availability Data System (GADS) data), current operations and maintenance practices, a site review of the facility itself, and review of any future planned upgrades or major maintenance events. Gaul Direct at 4. He said formal commercial and contractual discussions included regular discussions on key contract terms and refining the agreement structure to best align with I&M's capacity needs. *Id.*

Mr. Gaul testified the primary issues impacting the Lawrenceburg CPA negotiation included upcoming federal regulations for carbon emitting generation resources, recent changes in PJM's capacity accreditation methodology, and more holistically, an underlying critical need for a reliable capacity resource that mitigates risks inherent with new generation resources and supports I&M meeting its capacity obligations once Rockport retires in 2028. Gaul Direct at 4-5. More specifically, Mr. Gaul explained that in May 2023, the EPA proposed Clean Air Act emission limits and guidelines for carbon dioxide (CO<sub>2</sub>) from fossil fuel-fired power plants. He said EPA's proposals set limits for new gas-fired combustion turbines, existing coal, oil and gas-fired steam generating units, and certain existing gas-fired combustion turbines. *Id.* at 5. He explained under the proposed rules, facilities like the Lawrenceburg Generating Station – *i.e.*, Fossil Fuel-Fired Stationary Combustion Turbines greater than 300 MW with capacity factors greater than 50% - would need to incorporate either the use of carbon capture and sequestration ("CCS") technology by 2035 or the co-firing of 30 percent (by volume) low-GHG hydrogen by 2032 and 96 percent low-GHG hydrogen by 2038 to remain operational. *Id.* He testified both of these potential carbon mitigation requirements present uncertain risks and costs associated with the ongoing operation of the facility if they were required. He said after the Lawrenceburg CPA was selected for the RFP shortlist, the parties continued to negotiate refinements to the agreement to account for the anticipated changes between the proposed and final EPA GHG rules. *Id.*

Mr. Gaul and Mr. Burkholder discussed the impact of changes to PJM's capacity market rules and generation interconnection process on the negotiation of the Lawrenceburg CPA. Mr. Burkholder explained PJM modified their approach for accreditation and risk modeling that in turn affects the planning reserve requirements ("PRM"). Burkholder Direct at 3-6. He said the overall impact of PJM's changes resulted in an overall lower PRM, reducing I&M's capacity PRM obligations as detailed by Mr. Becker. *Id.* at 6. Mr. Burkholder stated the changes to PJM's generation interconnection process also impacted I&M's resource selections. More specifically, he noted that certain projects were qualified by PJM to proceed under the "Fast Lane" process that was part of FERC-approved interconnection process reforms. Burkholder Direct at 6. Second, he said it was determined that a repowering option for the existing Rockport site would not meet the required commercial operations date based on how such a project would be considered in the reformed PJM interconnection process. *Id.* Mr. Gaul testified these changes were important for negotiations because 1) it had a direct impact on the amount of accredited capacity that the Lawrenceburg Generating Station could be expected to support, and 2) it reduced the expected accredited capacity value of many of the other resources submitted into the 2023 All Source RFP. Gaul Direct at 5-6.

Mr. Gaul testified that in light of the EPA's proposed greenhouse gas rules, both parties recognized that any reasonable long-term agreement would have to address the need for the facility to either: 1) engage in significant capital expenditure to implement either CCS or hydrogen co-firing operations by 2035, or 2) allow for the agreement to be terminated in the event that the costs of carbon compliance rendered the facility uneconomic to operate. Gaul Direct at 7. He said in response to these concerns, consideration was given to a revised contract performance period that would both serve the near and intermediate term capacity needs of I&M (six-year term, 2028/2029 through 2033/2034 PJM Planning Year (PY)), while also reducing the potential that Lawrenceburg Power, LLC would have to implement GHG mitigation measures in order to fulfill its obligations under this contract. *Id.* He said in addition, to resolve the potential for variability in Lawrenceburg's accredited capacity created by PJM's new capacity accreditation methodology, consideration was given to a fixed Unforced Capacity (UCAP) bid option during the Bid Confirmation process. He explained under a fixed UCAP contract, I&M would be unaffected by changes in the Lawrenceburg facility's yearly capacity accreditation allowing for more reliable and stable planning of its Fixed Resource Requirement ("FRR") portfolio. *Id.*

Mr. Gaul testified a fixed 540 MW UCAP bid was initially selected for shortlist negotiations and during the shortlist due diligence efforts, I&M further determined that the combined effect of potential delay risks associated with contracts with new projects under development and PJM's revised capacity accreditation methodology added risk to I&M's ability to reliably meet its capacity obligations upon retirement of the Rockport Plant. To address this concern, he said an expanded fixed-UCAP bid option for the Lawrenceburg facility was considered in the Portfolio Optimization Analysis ("POA") analysis conducted by Mr. Becker. In this scenario the total fixed UCAP product was 840 MW from the Lawrenceburg facility, which has a nameplate capacity of 1,240 MW. He stated the 840 MW fixed UCAP bid was divided into two state-specific agreements representative of each state's proportionate share of I&M's load; a 143 MW agreement for Michigan and a 697 MW agreement for Indiana that includes a 'Flex-Up' option to the full 840 MW if acceptable regulatory approvals are not obtained from the MPSC with respect to the 143 MW agreement. *Id.*

Mr. Gaul testified that as further discussed by Mr. Becker, I&M undertook the POA to assess the optimal resources from the 2023 All Source RFP shortlist process. Gaul Direct at 8. He said the Lawrenceburg 840 MW CPA was selected as part of the 2023 All Source RFP and supported by the POA analysis. He noted the Lawrenceburg CPA provides value by complementing a portfolio of diverse generation resources with a firm capacity product that will meet I&M's near and intermediate term capacity needs resulting from the retirement of the Rockport plant. *Id.* He testified Lawrenceburg will serve as a "bridge resource" that provides additional time to analyze changes in market pricing, capacity values, environmental rule changes, and determine a plan for new generation additions under I&M's forthcoming IRP process.

Mr. Gaul noted the Lawrenceburg Generation Station is an existing operating resource that is not subject to delays in its interconnection, local approval risk, or supply chain uncertainty, and therefore serves as a reliable solution for providing timely delivery of the Company's near-term capacity needs upon retirement of the Rockport facility. Gaul Direct at 8-9. He said the facility has been operating since 2004 and has undergone numerous upgrades over that time to ensure efficient and reliable operation. *Id.* at 9. Mr. Gaul concluded that contracting with an existing asset helps minimize the risks he described in his testimony. He explained market pressures are greater for a



facility that is under development, versus one that is already connected to the PJM grid and commercially operational. He said as an existing resource, the Lawrenceburg facility provides necessary and timely capacity without any of the development risks currently impacting new generation builds. In this way, the Lawrenceburg CPA serves as an important capacity resource that helps to ensure that I&M continues to meet its FRR plan while transitioning to new energy resources. *Id.*

Mr. Williamson reiterated that I&M's IRP process and POA have clearly established a need for capacity. He said the Lawrenceburg CPA is one of the best scoring projects from the 2023 All Source RFP which means, when compared to alternatives available in the market, this project is one of the best alternatives I&M has to meet its capacity obligations. Williamson Direct at 15.

**D. CPA Price.** Mr. Gaul testified regarding the structure and terms of the Lawrenceburg CPA. He testified that I&M will contract for a six-year, 697 MW capacity-only product (starting in the 2028/2029 PJM Planning Year through the 2033/2034 Planning Year) with a negotiated price per MW-day for the length of the term. Gaul Direct at 9. He further identified the total Indiana-specific contract cost for 697 MW over the six-year term, as well as the total contract cost if the Flex-Up Option is exercised. *Id.* at 9-10; Attachment TBG-1C. Mr. Gaul also described the activities associated with the development costs associated with the CPA.

**E. Accounting and Ratemaking.** Mr. Locigno addressed the accounting and ratemaking associated with the Lawrenceburg CPA. He said I&M seeks timely cost recovery under Ind. Code § 8-1-2-42(a) through a rate adjustment mechanism. Locigno Direct at 4. He said I&M proposes timely cost recovery be administered through the RAR proceedings, which is an existing rate adjustment mechanism approved by the Commission through which I&M recovers the costs of I&M's purchased capacity resources. *Id.* He said I&M requests that the Commission find the Lawrenceburg CPA reasonable and necessary and authorize the associated timely cost recovery throughout the entire six-year term of the agreement. He stated I&M also seeks confirmation that the costs thereof are recoverable through the RAR proceedings (or successor recovery mechanism). *Id.*

Mr. Locigno testified I&M's proposal is consistent with the purpose of the RAR recovery mechanism the Commission approved in Cause Nos. 44967, 45235, 45576, and 45933. He said it is also consistent with the Commission's order in Cause No. 45869, wherein the Commission approved comparable relief for the Montpelier CPA. Locigno Direct at 4. He said the RAR tracks the non-fuel<sup>3</sup> portion of I&M's purchased power costs including the costs associated with capacity-only purchases. *Id.*

Mr. Locigno stated I&M incurred reasonable and necessary costs related to the development of the Lawrenceburg CPA that are not otherwise captured by the ratemaking process. Locigno Direct at 4-5. He said I&M requests Commission approval to establish a regulatory asset and authority to recover these costs in the RAR over a period of two years, including a pre-tax return on the unamortized balance, which is consistent with the authority approved by the Commission in Cause No. 45868. He testified the CPA development costs incurred as of April 30, 2024, are approximately \$2.89 million. *Id.* at 5. He said additional costs will continue to be

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<sup>3</sup> Excluding those costs, if any, recovered through the Fuel Adjustment Clause ("FAC").

incurred until all condition precedents and other applicable contract terms are met and final. He stated following the Commission's approval of I&M's request, I&M will include the final CPA development cost balance in the RAR. *Id.*

Mr. Locigno also provided an estimate of the overall incremental rate impact of the Lawrenceburg CPA to I&M's customers. He estimated the average year 1 rate impact on an Indiana jurisdictional basis for all rate classes, as well as the additional incremental rate impact if the Commission were to approve the Flex-Up option. Locigno Direct at 7; Attachment EJM-1C. Mr. Locigno also discussed recent cost reductions associated with I&M's generation transformation and provided an overall estimated year one rate impact inclusive of the CPA, the other projects that resulted from the 2023 All Source RFP, the projects approved in Cause Nos. 45868 and 45869, and the cost reductions associated with both Rockport Units 1 and 2. *Id.* at 7-8; Attachment EJM-2C. He stated the estimated bill impact for a residential customer with 1,000 kWh of usage would be an increase of approximately \$3.65 based on the cost of the Lawrenceburg CPA and a decrease of approximately \$16.00 based on the net bill impact presented in Attachment EJM-2C, which includes the estimated cost reductions associated with Rockport. *Id.* at 8.

**F. Benefits and Public Interest.** Mr. Williamson testified the Lawrenceburg CPA provides a number of benefits to I&M customers. Williamson Direct at 15. He noted the Lawrenceburg CPA is one of the best scoring projects from the 2023 All Source RFP which means, when compared to alternatives available in the market, this project is one of the best alternatives I&M has to meet its capacity obligations. *Id.* In addition, he said the CPA, when combined with I&M's existing generation resources and other new capacity additions identified in the IRP, provides I&M with a diversified generation portfolio that takes advantage of the positive attributes of each generation resource to provide safe and reliable service to I&M's customers. *Id.* at 16. He also said the CPA allows I&M to utilize an existing generation resource located in Indiana to meet its capacity obligation. He said this eliminates siting concerns, delays in interconnection approvals, supply chain concerns, and a number of other potential risks associated with new generation resources. *Id.* He added the CPA provides an opportunity to balance I&M's immediate need for firm long-term capacity with the opportunity in six years to re-evaluate options for flexible and dispatchable resources, which will allow I&M to consider, and potentially take advantage of, new technologies that have matured and become commercially available that support I&M's goals to support a transition to a cleaner energy future. Mr. Williamson further testified the CPA includes an Indiana-specific contract that reduces regulatory risk for I&M customers by assuring that if the CPA is approved in Indiana this resource will serve Indiana customers. Finally, he noted the term associated with the CPA provides protections against potential uncertain future cost increases that could result from US EPA Section 111(d) Greenhouse Gas Standards as further discussed by I&M witness Gaul. *Id.*

Mr. Williamson explained the Flex-Up option in the CPA is beneficial to I&M's customers and provides Indiana a unique opportunity to access additional firm capacity associated with an existing resource at a competitive price. Williamson Direct at 17. He stated since I&M's 2021 IRP, several companies have announced significant investments in I&M's retail service territory that will require additional generation capacity in order to serve the future load. He said the Flex-Up option would provide valuable and affordable resource adequacy support. Additionally, he explained the Flex-Up also provides a hedge related to any future unforeseen delays, policy changes, or issues that could potentially impact the development timelines of the renewable

projects I&M is currently pursuing as a replacement for Rockport. *Id.* He said project delays due to interconnection timelines, local approvals, and supply chain constraints have been experienced by projects across the industry and while I&M and its developers continue to work to mitigate such risks, they are largely outside the control of both the developer and I&M. He said the approval of the Flex-Up associated with an existing resource, such as the Lawrenceburg facility, will provide mitigation against any future, unforeseen risks that may materialize. *Id.* at 17-18.

**6. OUC's Evidence.** OUC witness Hanks reviewed the Preferred Portfolio associated with I&M's 2021 IRP, the 2023 IRP update, and the POA presented in this Cause. He testified I&M has committed to retiring Rockport Units 1 and 2 by 2028, which leads to a capacity deficit between 750-850 MW. Pub. Ex. 1 (Amended Hanks) at 3. He said in addition, I&M witness Williamson describes capacity needs arising from \$16 billion of investment announced by General Motors and Samsung related to a new battery plant, as well as projects with Amazon Web Services and Google related to new data centers, requiring a gigawatt (1,000 MW) increase in I&M's capacity requirement by the 2027/2028 PJM Planning Year. *Id.* He said these greater capacity requirements have not yet been incorporated into the load forecast of the 2021 IRP analysis, the 2023 IRP update, or the POA offered in this case. *Id.* He recommended I&M include updated load forecasts within future IRP updates. *Id.* at 8.

Mr. Hanks also testified regarding the Five Pillars codified at Ind. Code § 8-1-2-0.6. He stated the inclusion of the capacity of this generation facility to operations supports reliability, stability, and resiliency for I&M and its customers by meeting the capacity shortfall identified in the IRP due to the retirement of Rockport Units 1 and 2 with a dispatchable generation facility. Pub. Ex. 1 at 7. He stated affordability is crucial when determining the generation needed to service projected load, and this is best viewed holistically within the context of resource selection used within the IRP. *Id.* at 7-8. He noted that based on the cost comparison between the cost estimated in the IRP and the actual cost for the Lawrenceburg CPA, the economics are favorable for the proposal. Pub. Ex. 1 at 8. He stated the OUC does not oppose the Lawrenceburg CPA because of the relatively attractive economics of the project and the need for capacity after the retirement of Rockport Units 1 and 2, as well as to serve the projected increase in load related to data centers and battery plants. *Id.*

OUC witness Lantrip recommended the Commission approve the Lawrenceburg CPA. Pub. Ex. 2 (Amended Lantrip) at 3. Mr. Lantrip testified recovery of the Lawrenceburg CPA costs through the RAR is consistent with the request and approval I&M secured in Cause No. 45869 for its Montpelier CPA contract. Pub. Ex. 2 at 3-4. He recommended the Commission approve I&M's request to recover the development costs incurred through April 2024, by way of a regulatory asset over the suggested two-year period. *Id.* at 5-6.

Mr. Lantrip also testified regarding the bill impact for the Lawrenceburg CPA. He recalculated the bill impact for a residential customer using 1,000 kWh per month based on the 697 MW base capacity proposal, rather than the Flex-Up version of the contract provisions as originally presented by I&M witness Locigno. Pub. Ex. 2 at 6-7. He ultimately recommended I&M's proposed ratemaking treatment be approved. *Id.* at 7.

**7. Petitioner's Rebuttal.** In rebuttal, Mr. Williamson testified that the parties agree that I&M has a need for additional capacity and, as explained in I&M's case-in-chief, I&M has a

significant need for additional capacity during the term of the CPA. Williamson Revised Rebuttal at 2. He said the Flex-Up Option is an opportunity to acquire firm accredited capacity that is not subject to development risk or delays, at a competitive price to help meet this acknowledged need. *Id.*

Mr. Williamson responded to OUCC witness Hanks' concern that the IRP update and POA do not reflect new load addition associated with hyperscaler facilities. He explained the purpose of the POA was to address the market changes that have occurred since I&M's September 2023 IRP update and focus on optimizing the resources necessary to replace Rockport. Williamson Rebuttal at 3. He noted the POA selected the full 840 MW Lawrenceburg CPA to serve I&M's existing load, and that it is only logical to conclude that if I&M's load requirement would have been higher, the POA would have continued to select the full 840 MW CPA. Williamson Rebuttal at 2. He further stated the hyperscaler load growth will be incorporated in I&M's 2024 IRP where it can be further assessed. *Id.* at 3.

Mr. Williamson explained I&M has a real and immediate need for additional capacity beyond replacing Rockport due to the publicly announced projects identified in his direct testimony, both of which are currently under physical construction, and additional hyperscaler business development that is underway. *Id.* at 2.

Mr. Williamson concluded by noting the OUCC recognizes I&M needs additional capacity and that the Lawrenceburg CPA is a relatively low-cost option to address some of that need. Williamson Rebuttal at 4 (citing Hanks Direct, p. 8). He said I&M has a significant need for additional capacity during the term of the Lawrenceburg CPA due to load growth associated with hyperscaler and other industrial customers. He said the Flex-Up Option provides additional firm accredited capacity associated with an existing resource at a competitive price to serve this load growth and support resource adequacy, reliability and affordability for I&M's customers. *Id.* He stated the Commission should approve the Lawrenceburg CPA, inclusive of the Flex-Up option, along with the associated project development costs. *Id.*

**8. Commission Discussion and Findings.** The evidence of record in this Cause supports a finding that the relief requested herein should be approved, as recommended by both Petitioner and the OUCC. As discussed in greater detail above and below, the record shows I&M has a real and significant need for additional capacity during the term of the Lawrenceburg CPA and that the Lawrenceburg CPA (including the Flex-Up Option) provides a cost-effective and economic solution to the Company's growing capacity needs and provides the best available option to procure affordable firm accredited capacity for Indiana customers. The evidence further indicates the Lawrenceburg CPA will produce benefits for I&M and its customers. As set forth below, the Commission finds that the approval we grant herein is in the public interest.

**A. Reasonableness of the CPA Terms and Price.** The Lawrenceburg CPA is a capacity-only contract for 697 MW of firm capacity, with a Flex-Up Option for an additional 143 MW of firm capacity. The record shows the Lawrenceburg CPA resulted from a competitive All Source RFP and is one of the best scoring projects available in the market to fulfill the capacity need consistent with that identified through the IRP planning process. Williamson Direct at 14-15; Dehan Direct at 3-7; Gaul Direct at 3-11. The record further shows how the Lawrenceburg CPA's terms were negotiated to account for market events and issues and to otherwise address concerns

identified by I&M. *Id.* Accordingly, the Commission finds the CPA terms and price to be reasonable and should be approved.

The record shows the OUCC does not oppose the Lawrenceburg CPA. Pub. Ex. 1 at 8; Pub. Ex. 2 at 3. As noted above, the record shows I&M has an immediate capacity need that justifies the additional capacity provided in the Flex-Up Option. *See, e.g.*, Williamson Rebuttal at 2-4. More specifically, the record shows the retirement of Rockport Units 1 and 2 by 2028 leads to a capacity deficit between 750-850 MW. Becker Direct at 18, Figure MAB-5; Pub. Ex. 1 at 3. Additional capacity needs arising from a new battery plant and data centers will require a gigawatt (1,000 MW) increase in I&M's capacity requirement by the 2027/2028 PJM Planning Year. Williamson Direct at 17; Pub. Ex. 1 at 3. While the OUCC notes that I&M's IRP and POA did not reflect this significant load increase (Pub. Ex. 1 at 6), the record shows that I&M's POA, which incorporates capital costs from the 2023 RFPs, updated resource capacity accreditation from PJM, and other factors, selected the full 840 MW from the Lawrenceburg CPA. Pub. Ex. 1 at 6; Becker Direct at 27. In other words, even before consideration of the need for an additional 1,000 MWs of capacity I&M has already identified a need for the full capacity offered from the Lawrenceburg facility. Based on the evidence presented, the Commission finds approval of the entire 840 MW Lawrenceburg CPA, including the Flex-Up Option, is reasonable and appropriate.

**B. Lawrenceburg CPA Cost Recovery.** I&M proposes recovery of the Lawrenceburg CPA costs through its RAR filed under Cause No. 45164, consistent with the Commission's approval in Cause No. 45869 for I&M's Montpelier CPA contract. Locigno Direct at 4; Pub. Ex. 2 at 3-4. In addition, I&M seeks approval to establish a regulatory asset to recover development costs associated with the Lawrenceburg CPA over a two-year period through the RAR filing. Locigno Direct at 5; Pub. Ex. 2 at 4-5. The record reflects the OUCC did not oppose I&M's requested cost recovery of the CPA and development costs. Pub. Ex. 2 at 5-6.

The record shows the CPA development costs are reasonable and necessary to execute the long-term CPA contract and should be fully recoverable. Accordingly, the Commission approves the CPA development costs incurred as of April 30, 2024 in the amount of approximately \$2.89 million for ratemaking treatment in the RAR. I&M is authorized to record all actual CPA development costs, including costs associated with the Flex-Up Option, as a regulatory asset. In a future RAR proceeding I&M will present and support CPA development costs incurred above the \$2.89 million for ratemaking treatment over a period of two years.

Accordingly, we authorize I&M to recover the costs associated with the Lawrenceburg CPA throughout the entire six-year term of the CPA as proposed by I&M. The Commission further finds the costs approved for recovery herein are recoverable through I&M's RAR proceedings (or subsequent recovery mechanism).

**C. Ind. Code §§ 8-1-2-0.5 and -0.6.** In House Enrolled Act 1007 (codified at Ind. Code § 8-1-2-0.6), effective July 1, 2023, the Indiana General Assembly declared it is the continuing policy of the state that decisions concerning Indiana's electric generation resource mix, energy infrastructure, and electric service ratemaking constructs must consider each of the Five Pillars of electric utility service enumerated in the statute: reliability, affordability, resiliency, stability, and environmental sustainability. While these pillars were recently codified, they are based on the "The Five Pillars of Electric Utility Service" and the "Managed Transition to

Renewable Energy Resources” outlined in the 21st Century Development Task Force Report. I&M’s Preferred Portfolio additions, when combined with I&M’s current generation resources, directly align with these pillars by providing “a diverse resource mix that leverages the strengths of, and mitigates the weaknesses inherent in, each type of generation resources.” Williamson Direct at 8, citing 21st Century Energy Policy Development Task Force Report, October 19, 2022, Page 9.

As discussed by Mr. Williamson, the objectives and metrics I&M used during the IRP process to determine the Preferred Portfolio were very closely aligned with the work of the 21<sup>st</sup> Century Energy Policy Development Task Force. Williamson Direct at 8. I&M’s primary objectives were affordability, sustainability, reliability, and resource diversification. *Id.* The record shows the Lawrenceburg CPA is a critical element in implementing this Preferred Portfolio.

As discussed above, the Lawrenceburg CPA is important for reliability. Lawrenceburg is an existing generation facility that has been in operation since 2004, which avoids development risk associated with new generation and provides a high degree of assurance that the capacity I&M is purchasing through the CPA will be available throughout the term of the contract. Williamson Direct at 8. Rejection of the CPA could potentially jeopardize reliability and likely lead to higher costs for I&M’s customers. Allowing I&M to enter into the Lawrenceburg CPA provides I&M the flexibility to adapt to changes in policies and in the market and better positions I&M to timely develop the capacity needed to serve customers.

With respect to affordability, we find the estimated rate impact specific to the Lawrenceburg CPA shown by Petitioner’s witness Mr. Locigno is reasonable. Mr. Locigno stated the estimated bill impact for a residential customer with 1,000 kWh of usage would be an increase of approximately \$3.65 based on the cost of the Lawrenceburg CPA (including the Flex-Up Option). Locigno Direct at 8. OUCC witness Lantrip recognized the bill impact of the CPA. Pub. Ex. 2 at 7. Mr. Locigno also presented the estimated rate impact considering a holistic view of I&M’s generation transformation, including the cost of the CPA, the other projects that resulted from the 2023 All Source RFP, the projects approved in Cause Nos. 45868 and 45869, and the cost reductions associated with both Rockport Unit 1 and Unit 2. Locigno Direct at 7-8. This analysis shows the impact is a net reduction in costs for customers. In other words, the steps Petitioner has taken to transition its generation fleet, including the cost of the Lawrenceburg CPA, is expected to result in a net cost savings for I&M and ultimately, I&M’s customers.

The resiliency pillar recognizes that Indiana’s electric infrastructure should be appropriately invested in and provide the necessary resources for the system to adapt to changing conditions and withstand and rapidly recover from disruptions or off-nominal events. The record shows I&M has structured the contract to purchase firm accredited capacity to provide assurance that the volume of capacity purchased by I&M will be available throughout the term of the agreement, supporting the adequacy of Petitioner’s electric utility service. Williamson Direct at 8-9.

Similarly, the stability pillar considers the ability of the system to maintain a state of equilibrium during normal and abnormal conditions or disturbances and deliver a stable source of electricity. A stable source of electricity is important to Indiana’s economy as advanced manufacturing industries and other businesses require a stable source of electricity. Allowing I&M

to move forward with the proposed Lawrenceburg CPA better positions I&M to provide a resilient system and deliver a stable source of electricity. Williamson Direct at 9.

Finally, the environmental sustainability pillar includes: the impact of environmental regulations on the cost of providing electric utility service and demand from consumers for environmentally sustainable sources of electric generation. I&M's IRP reasonably considered both.

As reflected throughout this Order and summarized in this Section, the Commission has considered the Five Pillars enumerated in Ind. Code § 8-1-2-0.6 in reaching our decision in this proceeding. The Commission finds I&M's proposals are consistent with the legislative directives.

**D. Conclusion.** I&M has established a need for capacity. The Lawrenceburg CPA proposed in this proceeding is the result of a robust IRP and competitive procurement process and represents a reasonable, least cost portfolio for I&M to utilize in meeting its ongoing obligation to provide adequate and reliable service and facilities consistent with Indiana energy policy. We find the evidence presented in this proceeding supports approval of the entire CPA, including the associated cost recovery proposed by I&M. The Lawrenceburg CPA will provide needed capacity, diversify I&M's supply portfolio, and support reliability while also reasonably balancing affordability of service.

**9. Confidential Information.** On June 5, 2024, I&M filed a motion seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The request was supported by an affidavit showing the designated documents offered into evidence at the evidentiary hearing were trade secret information within the scope of Ind. Code § 5-14-3-4(a) (4) and Ind. Code § 24-2-3-2. On June 28, 2024, the Presiding Officer issued a docket entry finding such information confidential on a preliminary basis. I&M subsequently submitted designated confidential information in accordance with this finding.

After reviewing the designated confidential information, the Commission finds all such information qualifies as confidential trade secret information pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. I&M takes reasonable steps to maintain the secrecy of the information and disclosure of such information would cause harm to I&M. Therefore, we affirm the preliminary ruling and find this information should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29 and held confidential and protected from public disclosure by this Commission.

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

1. I&M is authorized to enter into the Lawrenceburg CPA with Lawrenceburg Power, LLC or its assigns/successors.
2. The Lawrenceburg CPA and CPA Flex-Up Option are approved as proposed by I&M.

3. I&M's costs for the Lawrenceburg CPA, including the Flex-Up Option, are approved.

4. I&M is authorized to recover the costs incurred under the Lawrenceburg CPA, including the Flex-Up Option, over its full six-year term pursuant to Ind. Code § 8-1-2-42(a), through I&M's RAR proceedings (or successor rate adjustment mechanism).

5. I&M's proposed accounting and ratemaking treatment of CPA development costs, including Flex-Up option development costs, is approved.

6. The confidential information filed under seal in this Cause shall continue be treated by the Commission as confidential and not subject to public disclosure.

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

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

**APPROVED:**

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

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**Dana Kosco  
Secretary of the Commission**

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