FILED
December 10, 2021
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY D/B/A AES INDIANA PURSUANT TO IND. CODE § 8-1-40-16 FOR APPROVAL OF RATE FOR THE PROCUREMENT OF EXCESS DISTRIBUTED GENERATION BY AES INDIANA	))))))))	**CAUSE NO. 45504**

AES INDIANA'S REPLY TO OUCC'S, JOINT PARTIES' AND INDIANA DISTRIBUTED ALLIANCE'S POST HEARING BRIEFS AND PROPOSED ORDERS

The Excess Distributed Generation ("EDG") statutes and net metering rules are different and incompatible. The Indiana General Assembly passed the EDG statutes to end and replace net metering. The requirement that utilities like AES Indiana procure EDG at a statutory, wholesale rate, pursuant to a monetary credit, precludes the Indiana Office of Utility Consumer Counselor's ("OUCC") and IndianaDG's request to determine EDG pursuant to the net metering rules.[1] AES Indiana's proposed methodology for determining EDG, by contrast, implements the EDG statutes' requirements and adheres to their language for determining EDG.

Summary

The main issue in dispute is the frequency for determining the difference between the electricity AES Indiana supplies a DG customer and the electricity the DG customer supplies back AES Indiana – the frequency for determining EDG.

AES Indiana's evidence shows that each read by its bi-directional meters determines that difference and thus determines EDG. The OUCC and Intervenors believe that the existence of

[1] Citizens Action Coalition of Indiana, Inc., IndianaDG, and Solar United Neighbors ("Joint Parties") joined in the OUCC's brief. IndianaDG also filed a separate brief and proposed order.

EDG should be determined once a month, at the end of the billing period, pursuant to net metering's billing rules. The OUCC's and Intervenors' proposed methodology, however, not only imposes elements not in the EDG statutes, but it conflicts with both the Legislature's intent and the EDG statutes' requirements. IndianaDG's attempted policy arguments are unsupported by the facts and are irrelevant to AES Indiana's satisfaction of the EDG statutes' directives.

AES Indiana's method for calculating the EDG rate also exactly follows the statutory language, and neither the OUCC nor IndianaDG argue otherwise. IndianaDG's request that AES Indiana's EDG rate should be determined by the average marginal price for electricity for a subset of hours in 2020 beneficial to solar resources, and not all hours in 2020, has no basis in the statutory language. It should be rejected.

AES Indiana's proposed EDG credit carry-forward policy also tracks the statutory language. The OUCC's and IndianaDG's proposed policy that an EDG credit follow a DG customer to any premises within AES Indiana's system and that a DG customer be paid the value of any such credit upon leaving that system is not supported by statutory language.

For each and all of the reasons below, and those discussed in AES Indiana's proposed order, the Commission should enter AES Indiana's proposed order and reject the OUCC's and IndianaDG's suggested revisions.

Argument

I. The OUCC's and IndianaDG's argument for incorporating net metering's "monthly netting" rule into the EDG statutes conflicts with the EDG statutes' intent, structure, and requirements.

The EDG statutes were intended to eliminate net metering – and specifically to end net metering's requirement to value distributed generation at retail rates – and to establish a new, fairer method for procuring distributed generation. Senator Hershman expressly described that intent:

> This session, I've authored a measure to encourage renewable energy generation while bringing more fairness and market sensibility to the way privately owned solar panels and wind turbines are subsidized by other customers.
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> ***
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> The proposed [EDG statutes] would address "net metering," the practice of requiring electric utilities to purchase energy that is consumer-generated at full retail rates, which are approximately two to three times the actual value of the energy on the market. This practice was established years ago as an incentive to encourage investment in consumer-generated power, including solar and wind at a time when costs were much higher than they are today.
>
> The federal government decided to phase down its incentives for residential renewables as the products become more affordable. Now, Indiana must also evaluate whether to allow the market to determine the appropriate incentives for self-generation.
>
> ***
>
> Further, SB 309 does not stop anyone from self-generating in the future. Hoosiers could still sell the excess they produce back to the grid, receiving a credit based on the value of that same generation on the market, plus 25 percent.
>
> ***
>
> [I]n its current form, the bill offers protections for those who generate energy they sell to the electric utility as well as more fairness for all of the utility's customers who are paying for the incentives of Hoosiers who net meter today.

(Brandt Hershman, "Utility Fairness for Hoosier Customers," *The Star Press,* available at https://www.thestarpress.com/story/opinion/contributors/2017/02/23/utility-fairness-hoosiercustomers/98318350/) (cited at IndianaDG Ex. No. 1 Inskeep Direct at 18 n. 11).

The EDG statutes reflect Senator Hershman's intent. Section 15 states that AES Indiana "shall procure" EDG at the statutory rate. Ind. Code § 8-1-40-15.[2] Section 18 then requires AES Indiana to provide the DG customer a monetary credit on the customer's bill for the EDG procured.

The OUCC's and IndianaDG's proposal to incorporate net metering's "monthly netting" into the EDG statutes would conflict with the statutory framework. Their proposed method for determining EDG requires (a) summing the total monthly kWh of electricity supplied to a DG customer by AES Indiana; (b) summing the total monthly kWh of electricity the DG customer supplies back AES Indiana; and then (c) taking the difference between those two monthly kWh sums. (Joint Ex. C, IndianaDG Response to DR 2-7). The DG customer would then be paid the statutory rate for any positive kWh difference resulting from the described kWh set-off.

That methodology – and specifically its kWh set-off – conflicts with Senator Hershman's stated intent to stop valuing DG customers' excess generation at retail rates and Section 18's requirement to procure EDG at the statutory rate. That is, under the OUCC's and IndianaDG's proposed methodology, every kilowatt-hour a DG customer supplies back to AES Indiana sets-off on a 1:1 ratio a kWh of consumption, for which the DG customer would otherwise have to pay retail rates. Thus, net metering's "monthly netting" values at least a portion of a DG's customer's excess generation at retail rates,[3] not the statutory rate, directly contrary to Senator Hershman's stated intent to stop that very practice.

By not including a kWh set-off, and instead providing a monetary procurement credit based on a statutory wholesale rate, the EDG statutes are manifestly incompatible with net metering's

[2] As discussed in more detail below, the statutory rate shall "equal[] the product of: (1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by (2) one and twenty-five hundredths (1.25)." Ind. Code § 8-1-40-17.

[3] IndianaDG has admitted that fact. (Joint Ex. C, IndianaDG Response to DR 2-44).

"monthly netting" rule. The OUCC has specifically acknowledged that Legislative change, stating: "In 2017, the Indiana Legislature passed a law that changed the method to compensate distributed generation customers from a kWh credit to a monetary credit. This change effectively replaced compensation for the credited kWh from the retail rate (as per net metering) to a significantly lower *wholesale rate* multiplied by 1.25." (Cause No. 45378, OUCC App. Br. at 12-13) (emphasis supplied).[4]

It is unremarkable that the definitions at 170 IAC 4-4.2-1(i) and Ind. Code § 8-1-40-5 contain materially similar wording. Both the Commission's net metering rules and the EDG statutes address the same subject matter – DG customers' excess generation. Accordingly, the definitions in the regulation and the statute above are similar. But that similarity in subject matter definitions says nothing about the EDG statute's treatment of that subject matter. Senator Hershman made clear that the intent for the EDG statutes was to eliminate net metering. The EDG statutes implement that intent. The similarity in definitions for the subject matters for each the EDG statutes and the Commission's net meter rule is irrelevant.[5]

In short, the Commission's "monthly netting" rule for net metering conflicts with (1) the requirement that AES Indiana "shall procure" EDG at the statutory rate; (2) the EDG statutes' elimination of a kWh credit methodology (as the OUCC admits); (3) Senator's Hershman's stated intent to stop valuing DG customers' excess generation at retail rates; and (4) the OUCC's own statement that the EDG statutes effectuated a change from net metering to procurement of EDG in

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[4] OUCC Appellant's Brief in Cause No. 45378, pp. 12-13.

[5] Moreover, the "monthly netting" rule which the OUCC and IndianaDG want incorporated into the EDG statutes is not contained in the Commission's definition for "net metering." It is described at 170 IAC 4-4.2-7, making the similarities in the subject matter definitions additionally irrelevant.

a wholesale, not a retail, transaction. The similar subject matter definitions do not, and cannot, change any of those facts.

The Legislature intended the EDG statutes to allow DG customers to "sell the excess they produce back to the grid, receiving a credit based on the value of that same generation on the market, plus 25 percent." (Brandt Hershman, "Utility Fairness for Hoosier Customers," *The Star Press,* available at https://www.thestarpress.com/story/opinion/contributors/2017/02/23/utility-fairness-hoosiercustomers/98318350/). That is exactly what the EDG statutes require. And that is exactly what AES Indiana's proposed methodology for determining EDG accomplishes. AES Indiana's methodology requires AES Indiana to procure every kWh of a DG customer's EDG at the statutory rate. The OUCC's and IndianaDG's proposed "monthly netting" does not. Their proposed "monthly netting" conflicts with the stated intent for the EDG statutes, with both Sections 15 and 18 of the EDG statutes, and with the OUCC's own description of the EDG statutes to the Court of Appeals.

II. AES Indiana's proposed method for determining EDG follows Ind. Code § 8-1-40-5. AES Indiana does not base EDG on customer consumption.

The OUCC and IndianaDG argue AES Indiana's proposed EDG tariff determines EDG based on electricity "produced and used by the DG customer" and not on the components identified in Ind. Code § 8-1-40-5. (OUCC Br. at 3; IndianaDG Br. at 6-7). Even a cursory review of AES Indiana's proposed EDG tariff reveals the OUCC's and IndianaDG's statements as false.

AES Indiana's proposed EDG tariff defines "Net inflow" as "the separate meter channel measurement of energy supplied by Company to Customer as recorded on meter Channel 1." (Petitioner's Ex. No. 2, Fields Supplemental Direct, Attachment MDF-1, at 3). That definition describes "the electricity that is supplied by" an electricity supplier to a DG customer as stated in Section 5 of the EDG statutes. Neither the OUCC nor IndianaDG contend differently.

“Net outflow” is “the separate meter channel measurement of energy being produced by a [DG customer] in excess of the electricity being used by Customer, and which is supplied back to Company as recorded on meter Channel 2.” *Id.* It is difficult to understand how electricity produced by a DG customer in excess of the DG customer’s consumption *and* “which is supplied back to Company” is anything other than “the electricity that is supplied back to [AES Indiana] by the customer” as stated in Ind. Code § 8-1-40-5. DG customers produce electricity, first for their own consumption. The electricity the DG customer consumes is not supplied back to AES Indiana, nor could it be. The only electricity a DG customer can supply back to AES Indiana is that which is “in excess of the electricity being used by Customer.” Accordingly, AES Indiana’s proposed tariff accurately describes the electricity that is “supplied back” to AES, as that phrase is used in Ind. Code § 8-1-40-5.

AES Indiana’s proposed EDG tariff does not use “non-statutory components” to describe EDG. (OUCC Br. at 3). Instead, it accurately defines and describes the statutory components that comprise EDG. That fact cannot be reasonably challenged. The OUCC’s and IndianaDG’s statements to the contrary should be rejected.

A. AES Indiana’s proposal to determine EDG from each reading on Channel 2 of its bi-directional meters matches Ind. Code § 8-1-40-5’s definition for EDG.

AES Indiana witness Matthew Fields explained that each reading on Channel 2 of an AES Indiana bi-directional meter reflects at the time of the read the difference between the amount of electricity supplied to the DG customer and the amount of electricity the DG customer supplies back to AES Indiana, and thus each such read fits the statutory definition for EDG. (Petitioner’s Ex. No. 3 Fields Rebuttal, pp. 5-6). The OUCC and IndianaDG argue that under AES Indiana’s proposed methodology “only one value exists on an instantaneous basis, [accordingly] there is

nothing from which to take the difference as required by Ind. Code § 8-1-40-5," "rendering the first portion of the definition [for EDG] superfluous[,]" (OUCC Br. at 5).[6] The OUCC and IndianaDG are simply wrong.

As the Commission is now well-aware, at any moment electricity flows through AES Indiana's bi-directional meter in only one direction – it is either being supplied by AES Indiana to the DG customer or it is being supplied back to AES Indiana by the DG customer. Channel 1 on the meter records the electricity AES Indiana supplies to the DG customer, which occurs only when the DG customer's generation does not satisfy the customer's load. Channel 2 records the electricity the DG customer supplies back to AES Indiana, which only occurs when the DG customer's generation exceeds his or her load.

Because electricity can flow in only one direction at a time, when there is a positive reading on Channel 1 (i.e., greater than zero), the reading on Channel 2 is zero. Similarly, where there is a positive reading on Channel 2, the reading on Channel 1 is zero. Transparently, every reading on Channel 2 reflects a positive difference at the time of the read between: (1) the electricity that is supplied by AES Indiana to the DG customer; and (2) the electricity that is supplied back to AES Indiana by the DG customer, and therefore each Channel 2 reading reflects EDG as defined in Ind. Code § 8-1-40-5 for each such meter read. AES Indiana's proposed method for determining EDG does not ignore either component of the statutory definition for EDG, both are captured with

[6] AES Indiana does not use the word "instantaneous" in describing its method for determining EDG. The OUCC and IndianaDG unilaterally, and wrongly, characterize AES Indiana's methodology as "instantaneous netting," or "no-netting." As IndianaDG states, those labels are "misnomers." (IndianaDG Br. at 7). AES Indiana has made clear that it believes each reading on Channel 2 of its bi-directional meters reflects the "difference" articulated in Ind. Code § 8-1-40-5.

each meter read. Zero is a value, properly included in the math for determining EDG. The OUCC and IndianaDG simply refuse to recognize that fact.

The evidence shows that each reading on Channel 2 of AES Indiana's bi-directional meters necessarily fits Section 5's definition for EDG and therefore each such read reflects EDG. The sum of such reads for the month reflects a DG customer's monthly EDG, which AES Indiana will procure at the statutory rate.

III. IndianaDG's policy arguments are almost exclusively either hyperbole or speculation and are not based in fact.

IndianaDG alleges that AES Indiana's proposed method for calculating EDG seeks "regulatory treatments that serve to financially prevent customers from using sunshine to illuminate, cool, heat, and power their homes and buildings." *Id.* at 7. That statement has no connection to the evidence. The reality is AES Indiana's proposed EDG rate and method for calculating EDG strictly follow the EDG statutes. As the OUCC has admitted, the procurement of EDG is a wholesale transaction, for which DG customers are paid 125% of the wholesale rate. As Senator Hershman made clear, the 125% increase to the wholesale rate is intended to move the procurement of distributed generation to a market rate, while creating an incentive for the growth of distributed generation resources. *See* Brandt Hershman, "Utility Fairness for Hoosier Customers," *The Star Press*, available at https://www.thestarpress.com/story/opinion/contributors/2017/02/23/utility-fairness-hoosiercustomers/98318350/). Nothing in the statutes or elsewhere prevents customers from using sunshine to illuminate, cool, heat, and power their homes and buildings. The EDG statutes actually create an incentive for customers to do so. To the extent IndianaDG disagrees, its dispute should be directed to the Legislature, not AES Indiana or the Commission.

Additionally, more than once IndianaDG wrongly implies that AES Indiana proposed its method for calculating EDG as a means to "crush" competition from customer-owned generation resources and to move "the utility directly toward monopolizing the installation of solar energy in its service area." (IndianaDG Br. at 7-8).[7] There is no record evidence to support those statements, and IndianaDG cites to nothing in its brief. They are unsupported hyperbole, not evidence nor arguments from evidence, and they should be ignored.

Similarly, IndianaDG's statements that AES Indiana's proposed method for determining EDG will "decimate the distributed solar industry," that it is "financially crushing to prospective DG customers," that it "pushes solar installation businesses to cease their operations in Indiana," that it "furthers the monopoly's stranglehold over captive Hoosier ratepayers," and that it creates "little reason to deploy innovative win-win ways to incorporate customer DG exports and any potential for future customer battery storage and/or other technologies, to benefit both themselves *and* the grid," (emphasis original), are nothing but unsupported speculation without a basis in fact, which should be given no weight.[8]

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[7] *See also* IndianaDG Br. at 7 ("Electricity from sunshine is not for the electric utility to financially monopolize.") and at 9 ("Simply connect the Indiana rate regulation dots and it pictures AES and other Indiana electric utilities wanting customer DG solar financially disadvantaged through no netting in order to maximize utility earnings and further apply their monopoly ability to rate base and rate recognize their own or contracted solar installations."). And, IndianaDG's statement that AES Indiana's proposal seeks "regulatory treatments that serve to financially prevent customers from using sunshine to illuminate, cool, heat, and power their homes and buildings." *Id.* at 7.

[8] IndianaDG citation to Mr. Ludwig's testimony for its statements regarding the effect of the EDG statutes on the Indiana solar industry, does not help. Mr. Ludwig's testimony provides no foundation of any kind for his statements regarding the effects of the new EDG statutes. Like IndianaDG, he simply proclaims his predictions, without citing any studies, treatises, or even anecdotes. Mr. Ludwig's predictions are therefore also rank speculation, which cannot benefit this Commission.

IV. IndianaDG's citation to a Kentucky order is irrelevant.

IndianaDG discusses at length a decision from the utility commission in Kentucky, (IndianaDG Br. at 8-9), purportedly as support for its request that the Commission incorporate net metering's "monthly netting" into the EDG statutes, despite the Legislature's unambiguous decision to end net metering. The cited Kentucky order, however, has no relevance here, most obviously because the Kentucky statute expressly states – as quoted by IndianaDG – that compensation for customer distributed generation will be determined by the difference between customer generation and customer consumption "over a billing period."[9] Thus, the Kentucky statute expressly resolves the issue that IndianaDG challenges. That statutory difference makes the Kentucky decision entirely irrelevant to the issues before the Commission here.[10]

V. There is nothing in Ind. Code § 8-1-40-17 to support IndianaDG's position that the EDG rate should be set based on a subset of hours beneficial to solar resources.

Ind. Code § 8-1-40-17 states that the rate for procurement of EDG shall equal "(1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by (2) one and twenty-five hundredths (1.25)." Ind. Code § 8-1-40-6 defines the "average marginal price of electricity" as "the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member."

IndianaDG argues that because solar resources comprise the vast majority of DG resources the "average marginal price of electricity paid by the electricity supplier during the most recent

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[9] As quoted by IndianaDG, the Kentucky statute states that "net metering means the difference between the dollar value of all electricity generated by an eligible customer-generator that is exported to the grid *over a billing period* and the dollar value of all electricity consumed by the eligible customer-generator *over the same billing period*." (IndianaDG Br. at 9) (emphasis supplied and internal quotations and citations omitted).

[10] The Kentucky statute also addresses net metering, not the new paradigm in the EDG statutes.

calendar year" should not be determined by the locational marginal prices ("LMPs") AES Indiana paid for all hours in 2020, but only by those hours in 2020 during which solar resources produce electricity or, at a minimum, that the EDG rate should be weighted in favor of the hours during which solar resources produce electricity. (IndianaDG Ex. No. 1 Inskeep Direct at pp. 83, 13). There is nothing to support that position.

IndianaDG does not attempt to explain how its position comports with the statutory language. At best, it implicitly argues that the phrase "during the most recent calendar year" can be interpreted to mean "at any point during the most recent calendar year." The statute, however, does not say that, and such an interpretation is unreasonable.

If the Legislature had intended the phrase "during the most recent calendar year" to actually mean the average price paid during any combination of hours in the most recent calendar year it could have easily identified those hours or stated that intent, and it did neither, directly or indirectly. Moreover, the phrase "during the most recent calendar year" cannot be reasonably interpreted to refer to the prices paid at *any* point during the most recent calendar year, since the possible different time period combinations for such a measurement would be virtually innumerable, making application of the statue nearly impossible.

"When the Legislature has specified the manner in which something is to be done, that is how it is to be done." *Re Indianapolis Power & Light Co.*, Order in Cause No. 39437 at p. 54, 1993 WL 13811976, 145 P.U.R. 4th 513 (IURC August 18, 1993). Sections 6 and 17 of the EDG statutes are clear. They instruct that the average marginal price of electricity for purposes of determining the EDG procurement rate shall be based on the "average price paid by the electricity supplier during the most recent calendar year." There is only one reasonable interpretation of that statute. The EDG rate is based on the prices for every hour such prices were paid in the most

recent calendar. No other interpretation makes sense. AES Indiana's proposed EDG rate follows that interpretation of Sections 6 and 17, and neither the OUCC nor IndianaDG contend otherwise. AES Indiana's proposed EDG rate should be approved.

VI. AES Indiana's EDG credit carryover policy complies with Indiana Code § 8-1-40-18, IndianaDG's proposed policy does not.

Indiana Code § 8-1-40-18 provides:

> An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer's monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

Consistent with that language, AES Indiana proposes that DG customers' EDG credit carry forward from month to month, to be applied against that DG customer's future volumetric charges for as long as the customer receives electric service from AES Indiana at the premises. When the customer moves from the premises or disconnects from the AES Indiana system, any remaining EDG credit will benefit all AES Indiana retail customers through the FAC. That proposal follows the above statutory language.

IndianaDG argues that DG customers' EDG credit should follow them to new premises within the AES Indiana system and that DG customers should be paid the value of the EDG credit if they leave the system. Neither concept is consistent with Section 18. IndianaDG again wants to change the statute's words and add words not in Section 18.

First, Section 18's language is clear. It states EDG "shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at *the* premises." (emphasis supplied). The phrase "*the* premises" unambiguously refers to a *specific* premises – the premises the customer occupies at the time he

or she receives the EDG credit. IndianaDG again wants to change the statutory language to say that the EDG credit will carry forward "as long as the customer receives retail electric service from electricity supplier at *any* premises *within the utility's system*." This Commission must, however, enforce the statute as written. *Re Indianapolis Power & Light Co*., Order in Cause No. 39437 at p. 54, 1993 WL 13811976, 145 P.U.R. 4th 513 (IURC August 18, 1993). AES Indiana's proposed EDG credit policy follows and applies the statutory language and should be enforced.

Second, IndianaDG wants to create a new right not found in the EDG statutes. It wants the Commission to grant DG customers the right to receive payment of any EDG credit when they leave the system. There is, however, no such language in the EDG statutes affording such a right, as the Commission has previously found. (Cause No. 45378, Order at pp. 32-33).

Additionally, Mr. Cutshaw explained that IndianaDG's proposed EDG credit policy would result in AES Indiana's other customers losing the benefit of the forfeited credits through the FAC and that AES Indiana's other customers would have to pay rates to cover the cost of paying exiting DG customers' remaining EDG credit. (Petitioner's Ex. No. 4 Cutshaw Rebuttal at p. 19, line 19-22). Thus, IndianaDG's proposed policy reflects merely a cost shift from the exiting DG customer to other customers.

For each of the above reasons, the Commission should reject IndianaDG's attempts to re-write Ind. Code § 8-1-40-18, enforce it as written, and approve AES Indiana's compliant EDG credit carryforward policy.

VII. IndianaDG's discussion of the need for a cost study and of potential cross subsidization are red herrings.

IndianaDG wrongly states that AES Indiana should be required to "robustly and transparently" show its method for determining EDG "is fair to DG and other customers, such as

through a class cost of service study using load research data on the utility's existing DG customers or a DG cost-benefit analysis." (IndianaDG Br. at 2).

That statements emanates from IndianaDG's incorrect premise that AES Indiana is seeking approval of a "new," "novel," and "change[d]" methodology for determining EDG. (IndianaDG Br. at 3, 7, 8, 11). As noted above, the change from net metering to a utility's procurement of EDG comes from the Legislature. The Legislature, not AES Indiana, decided to eliminate net metering and replace it with the EDG statutes, which are incompatible with net metering. Even the OUCC acknowledges the source and nature of that change. *See* OUCC App. Br. at 12-13 ("In 2017, the Indiana Legislature passed a law that changed the method to compensate distributed generation customers from a kilowatt-hour credit to a monetary credit. This change effectively replaced compensation for the credited kilowatt-hours from the retail rate (as per net metering) to a significantly lower wholesale rate multiplied by 1.25.").

This Cause is about AES Indiana's proposed EDG rate and, secondarily, about the EDG statutes' direction for procuring EDG. Criticisms of the effects or wisdom of the EDG statutes should be reserved for the Legislature. IndianaDG's false premises leads to its incorrect conclusion regarding the need for the identified cost studies.

Additionally, as Mr. Cutshaw identified, cost of service studies are typically relevant when a utility provides services which may impose a cost on its customers. That is not at issue here. In this case, the issue is AES Indiana's procurement of EDG from DG customers, which, as the OUCC notes, is essentially a wholesale purchase transaction, for which a cost of service study is not relevant. (Petitioner's Ex. No. 4 Cutshaw Rebuttal at 8-9).

Furthermore, contrary to IndianaDG's implication, AES Indiana does not, anywhere, contend that its method for determining EDG needs to be approved "to avoid loss of fixed cost

recovery." (IndianaDG Br. at 11). Mr. Cutshaw explains that DG customers' self-generation increases the likelihood of cross subsidization from non-DG customers. (Petitioner's Ex. No. 4, Cutshaw Rebuttal at 12, 13). His testimony was, however, in partial response to IndianaDG's unfounded criticism that AES Indiana does not know the cost to serve DG customers. *Id.* at 13 ("Consequently, I disagree with IndianaDG Witness Inskeep's contention . . . that the Company does not have an understanding of the cost incurred to serve an Excess DG residential customer."). Mr. Cutshaw's explanation of the likely cross subsidization was not offered as a justification for AES Indiana's proposed method for determining EDG, which merely applies and follows the relevant statutory language.

Finally, IndianaDG's attempts to minimize the reality of the cross-subsidization Mr. Cutshaw describes undermines IndianaDG's policy statements. Specifically, in arguing that any cross-subsidization is *de minimis*, IndianaDG emphasizes the small number and insignificant output of DG customers in AES Indiana's system. (IndianaDG Br. at 11-12). That position conflicts with IndianaDG's statements that not allowing DG customers the benefit of net metering, and procuring their EDG at the wholesale, statutory rate, will drive solar businesses out of Indiana, will deprive the State of an economic development engine that creates local jobs, creates state and local tax revenue, expands value clean energy deployment, and provides direct benefits to all consumers." (IndianaDG Br. at 1-2). DG customers cannot be both too small to consider for the effect of cross-subsidization, but so meaningful as to affect the entire Indiana economy if they are not given the benefit of net metering. IndianaDG cannot have it both ways.

Similarly, IndianaDG states any cross-subsidization cannot be meaningful because DG customers' facilities are intended not to generate more than the DG customers' annual load. (IndianaDG Br. at 13). Yet elsewhere IndianaDG states that AES Indiana's method for

determining EDG will incentivize DG customers to export to the grid as little electricity as possible (*id.* at 9) – the very thing that should rarely happen with a system sized to meet only DG customers' load.

VIII. IndianaDG's summary of the EDG statutes' legislative history does not support continuing net metering's "monthly netting" rule.

IndianaDG witness Inskeep purports to summarize the general legislative history for what became the EDG statutes. (IndianaDG Ex. No. 1 Inskeep Direct at 16-20). Mr. Inskeep testified that the first draft of the proposed new statutory structure contemplated that DG customers buy 100% of their needed electricity from the utility and sell to the utility 100% of their generated electricity. *Id.* at 17-19. The bill then changed to its current form. From that history, IndianaDG concludes that through the current EDG statutes the Legislature intended to retain net metering's "monthly netting" rule. (IndianaDG Br. at 3-4). There is, however, nothing to support IndianaDG's conclusion.

Logically, the rejection of a "buy all, sell all" structure does not mean adoption and retention of any element of net metering. There is no evidence of any kind that the "buy all, sell all" structure was rejected because it did not retain net metering's "monthly netting" rule. Nor is there any evidence that the current EDG statutes were intended to retain net metering's "monthly netting" rule. The evidence is to the contrary.

Indisputably, the Legislature decided to end net metering, not to continue it. The OUCC told the Court of Appeals that very fact. And, according to Senator Hershman, given the decreased costs of distributed generation resources, the Legislature specifically wanted to stop valuing DG customers' excess generation at retail rates, which is inherent to net metering's requirement that each kWh of customer generation set-off a kWh of consumption. (Sen. Brandt Hershman, "Utility Fairness for Hoosier Customers," *The Star Press*) (cited at IndianaDG Ex. No. 1 Inskeep Direct

at 18 n. 11). Given that expressed intent, it makes no sense that the Legislature intended to retain net metering's "monthly netting" rule, which, on its face, values a portion of DG customers' excess generation at retail rates, through its 1:1 kWh set off. IndianaDG admits that fact. (Joint Ex. C, IndianaDG Response to DR 2-44).

The cited legislative history does not support IndianaDG' position. In reality, it shows the Legislature created a new method for procuring DG customers' excess generation. As shown above, that new method – i.e., the method described in the EDG statutes – is incompatible with net metering. AES Indiana's proposed methodology for determining EDG strictly complies with the EDG statutes and should be approved.

Conclusion

For all the above reasons, and those identified in AES Indiana's proposed order, the Commission should approve AES Indiana's proposed order.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing was served this 10th day of December, 2021 via electronic email, First Class United States Mail, postage prepaid upon the following:

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DMS 21515859v1