STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY FOR APPROVAL OF A ONE-YEAR EXTENSION OF THE IMPLEMENTATION ITS DEMAND-SIDE MANAGEMENT PROGRAMS FOR 2017 AND FOR APPROVAL OF ASSOCIATED RATEMAKING TREATMENT, INCLUDING EXTENSION OF THE CURRENT RATEMAKING TREATMENT OF SUCH PROGRAMS, *I.E.*, TIMELY RECOVERY OF PROGRAM COSTS, LOST REVENUES, AND A SHARED SAVINGS INCENTIVE VIA STANDARD CONTRACT RIDER NO. 22	)	**CAUSE NO. 44792**

PETITIONER'S SUBMITTAL OF PROPOSED FORM OF FINAL ORDER

Petitioner Indianapolis Power & Light Company, by counsel, respectfully submits to the Indiana Utility Regulatory Commission its Proposed Form of Final Order in this Cause No. 44792.

Dated this 23rd day of September, 2016.

Respectfully submitted,

By: Mark Alson

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CERTIFICATE OF SERVICE

The undersigned, one of the attorneys for Petitioner, hereby certifies that the foregoing was served via Electronic Mail this 23rd day of September, 2016, to the following:

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***PROPOSED* ORDER OF THE COMMISSION**

Presiding Officers:
James F. Huston, Commissioner
Aaron A. Schmoll, Administrative Law Judge

On May 27, 2016, Petitioner Indianapolis Power & Light Company ("IPL" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") its Verified Petition for approval of 2017 electric demand side management programs ("DSM Portfolio" or "DSM Plan") and associated ratemaking treatment. On May 27, 2016, IPL filed direct testimony constituting its case-in-chief. On July 12, 2016, IPL, the Indiana Office of Utility Consumer Counselor ("OUCC"), and Citizens Action Coalition of Indiana ("CAC") filed an Agreed Upon Procedural Schedule. On August 17, 2016, the Commission issued a docket entry accepting the proposed procedural schedule. On May 31, 2016, CAC filed a Petition to Intervene, which was granted on _____________, 2016.

On August 11, 2016, the OUCC submitted a notice of its intent not to file testimony. On August 11, 2016, CAC filed direct testimony. On August 24, 2016, IPL filed rebuttal testimony.

Pursuant to notice duly published as required by law, a public evidentiary hearing was held in this Cause on September 8, 2016 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of the notice of the evidentiary hearing were incorporated into the record and placed into the official files of the Commission. IPL, the OUCC, and CAC attended the evidentiary hearing represented by counsel, at which the prefiled testimony of IPL and CAC were admitted into the record without objection, along with several exhibits consisting of IPL's and CAC's non-confidential responses to discovery requests. CAC's motion for administrative notice of two documents was also granted without objection. All of the parties waived cross-examination of witnesses. No members of the public testified at the hearing.

The Commission, having considered the evidence of record and applicable law, finds as follows:

1. Commission Jurisdiction and Notice. Proper notice in this Cause was given as required by law. IPL is a "public utility" as that term is defined in Ind. Code § 8-1-2-1 and an "electricity supplier" as that term is defined in Ind. Code §§ 8-1-2.3-2(b) and 8-1-8.5-9. In accordance with Ind. Code ch. 8-1-8.5, § 8-1-2-42(a), and 170 IAC 4-8-1 *et seq*., the Commission has jurisdiction over IPL's DSM programs and associated ratemaking treatment. Therefore, the Commission has jurisdiction over IPL and the subject matter of this Cause.

2. IPL's Organization and Business. IPL is an operating public utility, incorporated under the laws of the State of Indiana, with its principal office and place of business at One Monument Circle, Indianapolis, Indiana. IPL renders retail electric utility service to approximately 480,000 retail customers located principally in and near the City of Indianapolis, Indiana, and in portions of the following Indiana counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Owen, Putnam and Shelby. IPL owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy, heat, light and power.

3. **<u>Legal Background</u>.** On March 27, 2014, Senate Enrolled Act 340 ("SEA 340") became law. Among other things, SEA 340 (codified at Ind. Code § 8-1-8.5-9) provides as follows:

> After December 31, 2014, an electricity supplier may offer a cost effective portfolio of energy efficiency programs to customers. An electricity supplier may submit a proposed energy efficiency program to the commission for review. If an electricity supplier submits a proposed energy efficiency program for review and the commission determines that the portfolio included in the proposed energy efficiency program is reasonable and cost effective, the electricity supplier may recover energy efficiency program costs[1] in the same manner as energy efficiency program costs were recoverable under the DSM order issued by the commission on December 9, 2009. The commission may not: (1) require an energy efficiency program to be implemented by a third party administrator; or (2) in making its determination, consider whether a third party administrator implements the energy efficiency program.

SEA 340 also allows large industrial customers to "opt out" of participating in and paying for utility-sponsored DSM programs.

On May 6, 2015, Senate Enrolled Act 412 ("SEA 412") became law. Among other things, SEA 412 (codified at Ind. Code § 8-1-8.5-10) continued the large industrial customer opt out, and required that, by calendar year 2017, an electricity supplier shall petition the Commission for approval of an energy efficiency plan. If such plan is found to be reasonable and to meet certain statutory criteria, the utility shall be authorized to recover direct and indirect

[1] "Energy efficiency program costs" are defined in SEA 340 to include program costs, lost revenues, and incentives approved by the Commission.

program costs, evaluation, measurement and verification ("EM&V") costs, lost revenues, and a financial incentive.

Prior to the enactment of SEA 340 and SEA 412, for many years the Commission has authorized recovery of DSM costs, lost revenues, and performance incentives, on a timely basis pursuant to Ind. Code § 8-1-2-42(a) and 170 IAC 4-8-1- *et seq*. Ind. Code § 8-1-2-42(a) authorizes the Commission to allow recovery of approved costs via tracking mechanisms. 170 IAC 4-8-1 *et seq.* allow electric utilities to recover DSM program costs, lost revenues, and financial incentives.

IPL's current DSM programs, and associated ratemaking treatment, were approved by the Commission on December 17, 2014, in Cause No. 44497. In our Order, we approved IPL's current programs for 2015 and 2016, based upon IPL's three-year (2015-2017) Action Plan, finding that the portfolio of programs was cost-effective and reasonable. We rejected CAC's recommendation that IPL include in its IQW program funding for remediation of health and safety measures, and we declined to require IPL to include CAC as a voting member on its OSB. We approved timely recovery of program costs via IPL's Standard Contract Rider No. 22. We also approved timely recovery through Rider 22 of lost revenues (upon the effective date of IPL's 2016 rate case order), and rejected CAC's recommendation to limit lost revenue recovery to two years, noting that "[l]ost revenues continue to accrue over the useful life of the measure. . . ." Finally, we approved a shared savings incentive based on actual net benefits, as determined by independent EM&V, with the utility retaining 15% of net Utility Cost Test benefits and customers realizing and retaining 85% of Utility Cost Test net benefits. In so doing, we noted that "Indiana recognizes that the offering of incentives is an acceptable and appropriate means of encouraging cost-effective DSM and offsetting the financial bias for supply-side resources" and that "incentives have become more important to support the aggressive pursuit and implementation of cost-effective DSM programs [without mandated energy savings goals]."

4. <u>Relief Requested</u>. IPL requests that the Commission approve a one-year extension of its current DSM programs and current ratemaking treatment. More specifically, IPL requests the following relief in this proceeding, pursuant to Ind. Code § 8-1-8.5-9 ("Section 9"). First, IPL requests approval of its proposed 2017 DSM Portfolio. Second, IPL requests authority to recover direct and indirect program costs, including EM&V costs, associated with its 2017 DSM Plan through its Standard Contract Rider No. 22. Additionally, IPL requests certain spending and program flexibility with regard to its 2017 DSM Plan. IPL also requests authority to recover lost revenues and a shared savings incentive associated with its 2017 DSM Plan, via Standard Contract Rider No. 22. IPL further requests approval to continue to utilize its existing IPL Oversight Board ("OSB") to administer the 2017 DSM Plan. Finally, IPL requests approval of necessary changes to its Standard Contract Rider No. 22 tariff to effectuate approval of the 2017 DSM Portfolio and the other relief requested herein. IPL requests the above authority beginning January 1, 2017, and continuing until the later of December 31, 2017, or the effective date of a Commission order approving IPL's post-2017 DSM programs.

5. <u>IPL's Case-in-Chief</u>. IPL presented the testimony of four witnesses in support of its petition: Lester H. "Jake" Allen, DSM Program Development Manager; Zac Elliot, Manager of Energy Efficiency Programs; Erik Miller, Senior Research Analyst; and Kimberly Aliff, Senior Regulatory Analyst.

a. Lester Allen. Mr. Allen's testimony described the planning process IPL undertook for DSM program delivery in 2017, summarized the current status of IPL's DSM programs, explained the evolving Indiana DSM policy landscape, summarized IPL's request for approval of a one-year extension of the current portfolio of its DSM programs, summarized IPL's requested ratemaking treatment, described the continuing role of the OSB, and explained why the relief requested by IPL is reasonable and consistent with sound regulatory policy, is consistent with IPL's most recent integrated resource plan ("IRP"), serves the public interest, and should be approved.

Mr. Allen explained that IPL was taking a two-phased approach to developing its plans for delivery of post-2016 DSM programs. First, in this case, IPL is requesting approval of a one-year extension of its current DSM programs, supported by an update of its 2015-2016 DSM Action Plan, along with a continuation of the current ratemaking treatment associated with such programs. Second, in a case to be filed in 2017, IPL will propose a 2018-2020 DSM Plan, based on a new market potential study that will be more closely integrated with a new IRP.

Mr. Allen provided a detailed history of IPL's DSM efforts, noting that IPL has offered DSM programs to its customers since 1993, and has been successful in implementing a broad range of programs for its customers. He noted that through April 2016, IPL had realized approximately 67% of the savings targeted by the 2015-2016 DSM Portfolio.

With regard to the Indiana DSM policy landscape, Mr. Allen provided an overview of SEA 412 (Ind. Code § 8-1-8.5-10 or "Section 10"). He noted, however, that IPL was seeking approval of its 2017 DSM Portfolio under Section 9, not Section 10, despite IPL's belief that its proposed 2017 DSM Portfolio meets the Section 10 criteria. With regard to SEA 340, specifically the opt out provisions of that legislation, Mr. Allen testified that as of January 1, 2016, a total of 106 customers representing 22% of IPL's annual sales had opted out of DSM program participation.

Mr. Allen explained that the proposed 2017 DSM Portfolio is comprised of the following programs:

- Residential Lighting
- Residential Income Qualified Weatherization ("IQW")
- Residential Air Conditioning Load Management ("ACLM")
- Residential Multi Family Direct Install
- Residential Home Energy Assessment
- Residential School Kit
- Residential Online Energy Assessment
- Residential Appliance Recycling
- Residential Peer Comparison Reports
- Business Energy Incentives - Prescriptive
- Business Energy Incentives - Custom
- Small Business Direct Install
- Business ACLM

He testified that these programs in total are expected to result in first year gross energy savings of approximately 129,000 MWh, as well as approximately 58 MW of gross demand reduction in 2017. This represents an approximately 0.94% reduction in energy sales and, when sales are adjusted to take into account customers that have opted out, the savings represent about a 1.21% reduction in sales. Mr. Allen testified that the total estimated cost of the proposed 2017 DSM Portfolio, prior to recovery of incentives or lost revenues, is $24.8 million – comparable to the annual budgets approved for 2015 and 2016.

Mr. Allen also discussed the flexibility requested in the 2017 DSM Portfolio implementation. He stated that IPL's request includes spending flexibility of 10% of direct program costs (included in the $24.8 million budget), as well as a request to carryover funds that are not utilized in 2015/2016 into 2017. Additionally, IPL proposes that the 2017 DSM Portfolio budget include indirect program costs and costs associated with emerging technologies, which will provide additional resources to develop, add, and/or modify programs in 2017 as needed. Mr. Allen further explained that IPL also requests that the OSB be authorized to either increase the scale of programs or identify and add new cost-effective programs to produce energy efficiency savings, if appropriate, without coming back to the Commission for pre-approval, but subject to the total authorized 2017 DSM Portfolio budget. IPL is also seeking authority to continue to pay the program delivery costs related to energy services provided through the end of 2016, but not known until 2017.

Mr. Allen next summarized the ratemaking relief being sought by IPL: timely recovery through IPL Standard Contract Rider 22 of all costs incurred, including direct and indirect program development and implementation costs, lost revenues, and a shared savings incentive – the same ratemaking treatment currently in effect. Mr. Allen explained that IPL is proposing to recover its 2017 DSM costs in the same manner as in previous years, via a DSM rate adjustment mechanism (IPL's Standard Contract Rider No. 22), using allocations on a class basis.

With regard to the OSB, Mr. Allen testified that IPL requests approval to continue to utilize the existing IPL OSB to administer the 2017 DSM Portfolio. As proposed, the OSB will be able to shift dollars within a program budget as needed as well as shift dollars among existing or new programs as long as the programs are cost-effective and the overall approved DSM Portfolio budget is not exceeded. In addition, IPL proposes that the OSB have the same authority to increase funding in the aggregate, without shifting dollars from other programs, by up to 10% of direct program costs, and to modify programs based on a review of initial program results as reported by an independent third party evaluator.

Mr. Allen testified that, in order to avoid interruption of program delivery, IPL seeks these approvals through the later of December 31, 2017, or the effective date of an order approving IPL's post-2017 DSM programs and ratemaking treatment.

Mr. Allen testified that IPL's proposed 2017 DSM Portfolio and associated ratemaking treatment is consistent with regulatory policy and the public interest. He noted that the proposal is consistent with the Commission's DSM rules and past Commission practice, as well as SEA 340 and SEA 412. Mr. Allen emphasized that it is important for the Commission to provide timely cost recovery of DSM-related costs, including recovery of lost revenues and a shared savings incentive, to maintain robust and cost-effective DSM programs in Indiana. He noted the importance of allowing rate recovery of all three cost categories – program cost, lost revenues, and shared savings incentives – which has been recognized by numerous policymakers as well as state and federal governments. He stated that a lack of timely cost recovery in any of these three areas creates a financial disincentive for a utility to aggressively pursue DSM.

Mr. Allen testified as to why it is important for IPL to be allowed timely recovery of DSM-related costs, including lost revenues and financial incentives. He explained that program cost recovery and lost revenue recovery are necessary to eliminate disincentives for a utility to pursue energy efficiency. Without these, he stated, a utility will effectively be financially penalized for pursuing energy efficiency. But these two ingredients alone, while necessary, are not sufficient. Mr. Allen explained that capital is a scarce commodity, and a rational utility will seek to employ its capital in activities where it has the potential to earn a reasonable return. Accordingly, while program cost recovery and full recovery of lost revenues obviates a financial penalty, the opportunity for a financial incentive is another necessary ingredient to truly place energy efficiency on a level playing field with other investments, such as supply-side resource investments. Mr. Allen stressed that this "three-legged stool" – full program cost and lost revenue recovery, plus an opportunity for a financial incentive – is important to produce robust utility-sponsored energy efficiency programs. He testified that lack of recovery in any of these areas creates a financial disincentive to aggressively pursue DSM or serves as a financial penalty for a utility that does aggressively pursue DSM. He noted that the level of DSM proposed in the

2017 DSM Portfolio remains at a level that is significantly greater than most of IPL's preceding DSM plans prior to 2012, and he stated that IPL should not be penalized for its commitment to DSM.

With regard to the shared savings incentive, Mr. Allen also testified that 2017 is the third year of a three-year plan, and as such, it would be reasonable for costs previously approved (such as the shared savings incentive) to remain recoverable. Additionally, he noted the infeasibility of IPL preparing a Section 10 plan just for one year (2017). Finally, he emphasized IPL's long-term and consistent commitment to DSM for the benefit of its customers. With regard to lost revenues, Mr. Allen added that it is important to recognize that lost revenues are a real and calculable cost that extends for the life of the applicable energy efficiency measure (or until a new base rate case, whichever occurs first). He concluded that IPL should be authorized to continue to recover program costs, lost revenues over the life of the measure (or until a new base rate case order), and a shared savings incentive.

b. Zac Elliot. Mr. Elliot's testimony presented and described IPL's 2017 DSM Action Plan Update, described IPL's planning approach which led to the development of the proposed 2017 DSM Portfolio, and provided an overview of the proposed 2017 DSM Portfolio (including program descriptions, forecast participation, estimated savings, and budgets).

Mr. Elliot testified that the 2017 DSM Action Plan Update was updated in advance of this proceeding, and builds upon the 2015-2017 DSM Action Plan prepared and presented as evidence to support IPL's two-year 2015-2016 DSM portfolio (approved in Cause No. 44497). The 2017 DSM Action Plan Update reflects the same portfolio of programs approved by the Commission in Cause No. 44497, and simply represents a request for extension of IPL's current DSM offerings with contemporary updates to planning assumptions for program year 2017.

According to Mr. Elliot, the key changes in this proceeding to the 2015-2017 DSM Action Plan include:

- Updates to projections of avoided costs, retail rates, discount rates, line losses, and other inputs integral to economic modeling.
- Updates to measure-level attributes driven by the completion of, and IPL's adoption of, the Indiana Technical Resource Manual version 2.2 ("IN TRM ver. 2.2").
- Updated cost and performance attributes of Light Emitting Diode ("LED") technologies consistent with the rapidly evolving market and IPL's recent experience.
- The level of large customer opt-outs IPL has actually experienced, and the associated impact on reasonable market potential.

Mr. Elliot explained that the savings projections for the 2017 DSM Action Plan were developed utilizing a bottom-up approach. IPL relied on its outside consultant's industry expertise in addition to IPL's historical measure participation to forecast participation rates for each eligible measure included in the portfolio. Where appropriate, deemed energy and demand savings were applied utilizing EM&V of previously delivered IPL DSM programs or the IN TRM ver. 2.2. For those measures neither included in the scope of previous IPL specific EM&V nor contemplated in the IN TRM ver. 2.2, IPL's consultant projected savings values representative of the characteristics of IPL's service territory.

Mr. Elliot testified that its consultant also utilized a bottom-up approach to forecast direct program costs, which are comprised of five distinct cost categories: (1) IPL labor; (2) education & outreach; (3) implementation; (4) EM&V; and (5) customer incentives. In addition to these five direct program cost categories, Mr. Elliot testified that successful administration of the 2017 DSM Action Plan will require indirect program costs including: (1) umbrella outreach & education; (2) consulting; (3) memberships; (4) staff development; and (5) indirect IPL labor, as follows:

Indirect Program Costs	2017
Umbrella Outreach & Education	$ 750,000
Consulting	$ 175,000
Memberships	$ 50,000
Staff Development	$ 25,000
Indirect IPL Labor	$ 500,000
Total	$ 1,500,000

Mr. Elliot testified that IPL projects the following annual costs will be necessary to successfully administer and implement programs outlined in the 2017 DSM Action Plan Update:

Cost Categories (000)	2017
Direct Program Costs	$20,930,000
Indirect Program Costs	$1,500,000
Shared Savings	$4,265,612
Lost Revenues	$1,836,765
Sub total	$28,532,377
Emerging Technology	$250,000
Spending Flexibility (10% of Direct Program Costs)	$2,093,000
Sub total	$2,343,000
Total	**$30,875,377**

Mr. Elliot testified that the 2017 DSM Portfolio is cost-effective under several cost-benefit perspectives. He explained that IPL analyzed the program economics of the 2017 DSM Portfolio utilizing multiple benefit-to-cost ratio tests. IPL considered all stakeholder perspectives when analyzing the cost-effectiveness of the 2017 DSM Portfolio, including those of participating customers and non-participating customers.

Additionally, Mr. Elliot testified that IPL sought stakeholder input to the extent allowed by the timeframe to develop and submit a plan. IPL provided a summary of the updated 2017 DSM Action Plan to the OUCC and CAC, and solicited feedback prior to submission of this proceeding's filing.

Mr. Elliot explained that IPL intends to act as administrator of the 2017 DSM Portfolio, and will largely rely on third parties to manage the implementation and fulfillment of programs. Ultimately, IPL and its energy service providers will work with a number of trade allies and other small businesses to support outreach and delivery of the programs as proposed in the 2017 DSM Plan.

c. Erik Miller. Mr. Miller testified concerning the cost-effectiveness of the 2017 DSM Portfolio and programs, as well as the methods and assumptions used to conduct the cost-effectiveness analysis, and IPL's plan for conducting ongoing EM&V.

Regarding cost-effectiveness, Mr. Miller testified that IPL's analysis includes the Participant Cost Test ("PCT"), Utility Cost Test ("UCT"), Rate Impact Measure ("RIM") Test, and Total Resource Cost ("TRC") Test. The analysis was performed for 2017 as an extension of IPL's 2015–2016 program offerings. Programs were evaluated using the DSMore model – a nationally recognized economic analysis tool that is specifically designed to evaluate the cost effectiveness of implementing energy efficiency and demand response programs. Mr. Miller explained that, unlike many other DSM evaluation tools, the DSMore model spreads the savings impacts over distributions of hourly energy prices to provide a robust estimate of the value of DSM. Additionally, the model factors in variances due to weather through the use of historical weather data. DSMore model inputs include program costs (internal administration, vendor implementation, customer incentives, EM&V costs, and any incremental customer costs), measure savings, measure useful lives, net-to-gross ratios, and participation rates.

Mr. Miller testified that program costs were determined by reference to 2016 program delivery costs, based on prior contracts and performance in the field, resulting in very accurate estimates. When additional information was needed, IPL consulted with the program vendors that will deliver the 2017 DSM Plan.

Mr. Miller stated that energy and demand savings were determined by using the IN TRM ver. 2.2 or recent EM&V results. For measures that were not addressed in the IN TRM ver. 2.2 or EM&V, IPL used Technical Resource Manual resources from nearby states.

Mr. Miller testified that model inputs include avoided costs specific to IPL, customer rates, discount rates, and escalation rates. Both avoided capacity and operating costs were updated. Avoided costs were calculated by an outside vendor as part of a Fall 2015 Power Reference Case, which will also be used in IPL's 2016 IRP modeling.

Mr. Miller testified that the cost-effectiveness of the proposed 2017 DSM Portfolio and programs, and the results for all four conventional cost-effectiveness tests, are as follows:

IPL's 2017 DSM Plan Cost Effectiveness Results

	UCT	TRC	RIM	PCT
RES	**1.56**	**1.37**		
Air Conditioner Load Management	1.03	1.03	0.92	N/A
Appliance Recycling	1.35	1.35	0.50	N/A
Home Energy Assessment	1.79	1.79	0.55	N/A
Income Qualified Weatherization	1.21	1.21	0.51	N/A
Residential Lighting	2.64	1.39	0.68	2.60
Multifamily Direct Install	3.21	3.21	0.63	N/A
Online Kit	2.73	2.73	0.62	N/A
Peer Comparison	1.01	1.01	0.37	N/A
School Education	2.76	2.76	0.67	N/A
C&I	**2.24**	**1.34**		
Air Conditioner Load Management	0.40	0.40	0.40	N/A
Custom Rebates	3.10	1.59	0.80	2.46
Prescriptive Rebates	3.98	1.74	0.79	2.52
Small Business Direct Install	1.25	1.25	0.55	N/A

Mr. Miller explained IPL's process for determining programs based on the cost-effectiveness results, noting that the results of all tests were reviewed. PL considers the results from the PCT as an indicator of whether customers will adopt the measures offered in a program. A PCT below one indicates that a customer will spend more money than they save from program participation. Thus, these programs are screened out of the portfolio. IPL also looks for programs that pass the RIM test. This test provides an indicator of both efficiency and fairness among customers. Any program passing this test benefits non-participating customers as well as participating customers in the form of lower rates in the long run and should be considered acceptable. Mr. Miller noted that most energy efficiency programs do not pass the RIM test due to the loss in energy sales from savings. Additionally, IPL looks for programs that pass both the TRC and UCT tests. The TRC test compares the total costs and benefits of a program for the whole population of customers. The costs include the total costs to the utility and incremental participating cost to customers, and the benefits include tax incentives plus the avoided costs of energy supply. Program participants benefit through lower bills, whereas non-participants may be burdened by the costs of the program for which they are assessed through higher rates. A TRC test above one indicates that, on average, the customer population as a whole benefits. The UCT assesses the benefits and costs from the utility's perspective by comparing the utility benefits versus the utility costs (e.g., benefits of avoided fuel and operating capacity costs compared to rebates, incentives and administrative costs) – similar to a Present Value Revenue Requirements Integrated Resource Plan analysis. Mr. Miller testified that projected shared savings incentives are included in IPL's cost-effectiveness analyses at the portfolio level.

Mr. Miller noted that certain proposed programs do not pass the traditional benefit-cost tests. However, these programs have other societal benefits or the benefits are difficult to quantify and have been generally accepted subject to budget restrictions. Specifically, low-income weatherization programs typically do not pass these cost-effectiveness tests; but Mr.

Miller emphasized that IPL believes it is important to provide low-income customers DSM program offerings in order to give such customers the opportunity to participate in programs that will help them control their energy usage and their energy bills. Additionally, IPL proposes to continue offering the C&I ACLM program despite not being cost effective. Mr. Miller explained that IPL has offered the ACLM program to residential customers since 2003, expanding to the C&I sector in 2012 to provide equity across customer sectors. IPL proposes to continue to offer the C&I ACLM program in order to maintain this equity among sectors. Additionally, Mr. Miller noted that this program is still relatively small with the burden of high fixed costs. Over time as new participants are added, IPL anticipates increased cost effectiveness as the high fixed costs are spread over more savings.

Mr. Miller next testified concerning IPL's EM&V protocols and procedures. He explained that an independent third party has been contracted to perform EM&V of IPL's 2015–2016 programs approved by the Commission in Cause No. 44497. IPL intends to extend the contract for EM&V of the 2017 programs because these programs are an extension of IPL's 2015-2016 programs. IPL plans to work with its OSB to gain approval of this request.

Mr. Miller testified that the EM&V plans will meet or exceed the requirements of the Commission's rules. IPL will use the *IPL EM&V Framework*, which was approved by the IPL OSB in June 2015, as a guiding document for the scope of work with IPL's third party EM&V contractor. Where applicable, the scope of work will include:

- Process evaluations so that program delivery can be improved to maximize cost-effectiveness and customer satisfaction;
- Impact evaluations to measure the gross and net impacts of measures and programs;
- Verification that measures have been installed and identify discrepancies in the reported quantities; and
- Calculation of the cost-effectiveness parameters.

Mr. Miller explained that a considerable amount of valuable work was accomplished through the Indiana Demand Side Management Coordination Committee ("DSMCC") EM&V Subcommittee over the past several years. Work products that include the Indiana Technical Reference Manual and the Indiana Evaluation Framework are efforts worthy of continuing. IPL proposes to continue working with other utilities and interested parties to that end.

d. Kimberly Aliff. Ms. Aliff testified about (1) the impact of the 2017 DSM Portfolio on the approved cost recovery mechanism utilized in the Company's semi-annual filings (Cause No. 43623-DSM-X), including the allocation of cost recovery among the customer classes; (2) IPL's proposal to continue earning performance incentives using a shared savings methodology and how the performance incentives should be accounted for in the fuel adjustment clause ("FAC") earnings test; (3) the calculation of lost revenues and how the proposed lost revenues recovery should be accounted for in the FAC earnings test; and (4) the bill impacts associated with implementation of the 2017 DSM Portfolio.

Ms. Aliff explained that IPL is seeking a cost recovery mechanism similar to what has been previously authorized by the Commission most recently in Cause No. 44497. IPL proposes to continue to prepare semi-annual filings under Standard Contract Rider No. 22 ("Rider 22") to recover the forecasted costs (including shared savings incentives and lost revenues) of the IPL 2017 DSM Plan over six-month periods that match the billing periods of the tracker. The semi-annual periods of January to June and July to December will continue to be used. The 2017 DSM Plan expenditures will continue to be forecasted semi-annually and reconciled to actual expenditures in a subsequent semi-annual filing.

Ms. Aliff sponsored the cost allocation basis to the customer classes for each component of the 2017 DSM Portfolio. As reflected in IPL's recent base rate case in Cause No. 44576, she noted that lighting customers are now included in IPL's rate adjustment mechanisms. Accordingly, a portion of DSM costs will be allocated to rate codes APL and MU-1 for both residential and C&I programs. Ms. Aliff explained that the residential allocation factors are based on each class' share of the twelve monthly average system peaks used to allocate production plant, operating expenses and depreciation expenses, from the Company's cost of service study prepared for IPL's most recent base rate case in Cause No. 44576. She further testified that commercial and industrial customer allocation factors are based on each class' share of the twelve monthly average system peaks from the Cause No. 44576 cost of service study, excluding those customers who have chosen to opt-out of participation in IPL's DSM programs.

Ms. Aliff next testified about IPL's shared savings incentive. As a component of its 2017 DSM Plan, IPL is proposing to continue the performance based incentive mechanism approved in Cause No. 44497. The proposed shared savings incentive is calculated as 15% of the net present value of UCT's net benefits. The net benefits of the UCT equate to the difference between the costs avoided by DSM programs and the costs incurred by the utility to deliver the program. She testified that shared savings incentives are contemplated by the IURC's DSM rules; for example, 170 IAC 4-8-7(a) specifically refers to an incentive mechanism based on "a percentage share of the net benefit attributable to a demand-side management program." She noted that shared savings can be used as an incentive for the implementation of cost effective DSM programs by sharing the measurable net benefits of DSM programs between customers and the utility. In addition, Ms. Aliff pointed out that the Order in Cause No. 44497 states:

> [W]e note that our DSM rules specifically allow for shared savings incentives. 170 IAC 4-8-7(a)(1) refers to "[g]rant[ing] a utility a percentage share of the net benefit attributable to a demand-side management program" - the very definition of a shared savings mechanism. Further, 170 IAC 4-8-7(f) specifically requires that "[a] shareholder incentive mechanism must reflect the value to the utility's customers of the supply-side resource cost avoided or

deferred by the utility's DSM program minus incurred utility DSM program cost." This requirement is directly met by a shared savings mechanism.

Consistent with the existing shared savings incentive calculation, IPL is proposing to continue to earn performance incentives on all cost-effective programs with a UCT greater than 1.0, except for the IQW program. As described by Mr. Miller, all programs proposed in the 2017 DSM Plan, other than the C&I ACLM program, are cost-effective. Ms. Aliff further noted that the performance incentive will be based on actual (ex-post) net savings and will be trued-up after EM&V for 2017 is completed. Also consistent with treatment of performance incentives approved in the Commission's 43623, 43960, 44328, and 44497 Orders, IPL proposes the shared savings incentives billed, including any reconciled amount of over/under recovery, will continue to be included in the FAC earnings test.

Ms. Aliff next testified about the calculation and recovery of lost revenues. She explained that estimates of the kWh consumption and kW demand reductions per participant and the number of participants for each program were determined from the analysis prepared by IPL Witnesses Elliot and Miller. For programs where historical participation was reported by rate code, estimated participants were allocated between the individual rate codes based upon the historical participation. For other programs, estimated participants were allocated based upon the ratio of the annual historical kWh consumption within their rate class. Allocated participants by rate were then multiplied by the estimated kWh consumption and kW demand reductions by participant to determine the total kWh consumption and kW demand amounts by rate within each program and then totaled by rate. For the 2017 DSM Portfolio estimates, these amounts for each individual rate were then multiplied by the lost revenue margin rates per kWh and kW as presented in the Cause No. 44576 Compliance Filing (dated March 23, 2016). This methodology was also used most recently in IPL's Rider No. 22 proceeding in Cause No. 43623 DSM-13.

The estimates of kWh consumption and kW demand reductions tie directly to the Net Incremental Energy Savings and Net Incremental Demand Savings in the 2017 DSM Action Plan Update (Petitioner's Attachment ZE-1), which have been adjusted to reflect the net to gross ratio for each program to account for free ridership. However, to the customer's benefit, IPL does not start calculating lost revenue until the month following installation of the measures.

Ms. Aliff emphasized that the participation in DSM programs by customers reduces kWh consumption and kW demand which results in reduced revenue collections for utilities (such as IPL) which are only partially offset by a reduction in base fuel and variable operations and maintenance ("O&M") costs. To calculate lost revenues, the lost revenue margin rates begin with IPL's approved rate block for each rate schedule at which customers' marginal energy consumption or demand occurs (determining the impact to IPL's revenues) and are adjusted to remove the base cost of fuel, variable O&M expenses, and applicable Indiana Utility Receipts Tax (determining the expenses IPL avoids by not generating the electricity that would have otherwise been consumed). The result is the decrease to operating margin (a financial penalty) that IPL experiences as a result of implementing energy efficiency programs. This impact to operating margin continues until the earlier of the end of the energy efficiency measure life, or the effective date of a new base rate case order. Ms. Aliff testified that the DSM lost revenues billed, including any reconciled amount of over/under recovery, will continue to be included in the FAC earnings test.

According to Ms. Aliff, the overall average monthly impact of IPL's 2017 DSM proposal, relative to basic rates and charges, is shown as follows:

Estimated Bill Impact			
		DSM 2017 excluding persisting lost revenue	DSM 2017 with persisting lost revenue
Base Rates	$97.42		
DSM-13 factor (pending)	$3.72	$2.91	$3.32
Bill including factor	$101.14	$100.33	$100.74
Change relative to Base Rates	3.82%	2.99%	3.41%
Change relative to DSM-13		-0.80%	-0.39%

6. **<u>CAC's Case-in-Chief</u>.** Shawn M. Kelly, an independent consultant, testified on behalf of the CAC. The purpose of his testimony was to provide his opinion as to whether or not IPL's 2017 DSM Portfolio is reasonable and cost effective under Indiana Code § 8-1-8.5-9. Mr. Kelly recommended that the Commission approve IPL's 2017 DSM Portfolio, but also requested that the Commission require IPL to implement several recommendations included in his testimony, as follows: (1) increase the amount of savings to a reasonable and cost-effective level that would provide a comparable level of energy services; (2) place a 4-year or life of the measure cap, whichever is shorter, on lost revenues attributed to IPL's 2017 DSM Plan; (3) add health and safety funding to IPL's IQW program for an average of $500 per customer; (4) make CAC a voting member on the IPL OSB; (5) deny IPL's request for a performance incentive consistent with recent commission orders, but if a performance incentive is approved, it should be based on multiple performance metrics, be subject to a financial cap, and be contingent upon lost revenue recovery being limited to the shorter of 48 months or the life of the measure; (6) initiate an investigation into lost revenues and DSM cost recovery filings for the five investor-owned electric utilities in Indiana; and (7) order the IPL OSB to begin discussions on expanding low-income programs before its next DSM plan filing.

With regard to the level of savings included in IPL's 2017 DSM Plan, Mr. Kelly opined that the Plan was not reasonable because IPL is leaving a great deal of cost-effective savings on the table. In support of this opinion, Mr. Kelly referenced that DSM in IPL's 2014 IRP was represented as a reduction in the load and not as a selectable resource in the capacity expansion model. He noted that the Commission's Electricity Division Director's Final Report on the 2014-2015 IRPs submitted by IPL and other utilities found that the utilities may be using a hardwired fixed amount of DSM in their IRP scenarios. In this report, the Director noted his concern that if the bundling of various DSM programs is not done with care and sufficient detail, an unintentional bias may result which would cause the capacity expansion planning model to not pick DSM even though a more careful packaging of DSM might have resulted in its inclusion. In Mr. Kelly's view, even though IPL is going through the process of developing its 2016 IRP, IPL's customers are losing out on cost-effective savings because of the flaws in IPL's 2014 IRP.

Mr. Kelly also testified that IPL's proposed savings for 2017 is significantly below its former 2017 savings goal from its 2012 market potential study. He conceded that some of this reduction is due to large industrial customers no longer participating in the programs, but contended that even after taking that into consideration, IPL's 2017 goal is only 1.2 percent of eligible sales. This compares with the former 2017 target of 1.7 percent for 2017, based on IPL's 2012 market potential study. Mr. Kelly also testified that IPL's 2017 savings goal is significantly lower than its goals for 2014 through 2016. He again conceded some of this is caused by the opt-out of industrial customers, but he stated that it also appears IPL has ramped down many of its programs.

Mr. Kelly testified that there are additional opportunities for energy efficiency beyond what IPL is proposing in its 2017 DSM Plan. He stated that IPL should, at a minimum, pursue all reasonably achievable savings by increasing the goals for those programs unaffected by opt-out customers to levels consistent with its 2012 market potential study. Additionally, Mr. Kelly testified that IPL should work with the OSB to explore additional programs, such as new construction programs and a residential prescriptive program.

Mr. Kelly next addressed the issue of lost revenues. He noted that CAC has consistently argued that the utilities are over-collecting revenues from customers that are not truly lost revenues, and that the accumulation of lost revenues from multiple program years and long periods between rate cases creates a harmful “pancake effect” that was never intended.

Mr. Kelly stated that a shorter of four years or the life of a measure cap is a reasonable limit to place on lost revenue recovery – although CAC disagrees with the Commission's determination in other cases that this cap should only apply to program years at issue in current DSM approval proceedings and not to past program years (“legacy lost revenues”).

Mr. Kelly next argued that EM&V results do not truly represent lost revenues. He stated that the utility industry is exceedingly reliant on studies from third-party vendors. Further, he believes the EM&V vendors should report directly to the Commission rather than the utility.

Mr. Kelly opined the true measure of lost revenues is to evaluate actual customer usage. He claimed that EM&V does not take into consideration other impacts that may have driven usage up as a result of more efficient usage of energy – the so-called ”rebound effect.” He pointed out that, according to IPL, IPL does not measure the rebound effect in its EM&V reports.

Mr. Kelly claimed that there is a potential with the current lost revenue calculation methodology that utilities are double-collecting revenues from customers because of the lack of billing analysis. He claimed that a customer that implements energy efficiency measures but has some usage increases leads to the utility over-collecting lost revenues, regardless of the reason why the customer's usage increased in some respects. As support for his argument, Mr. Kelly cited the fact that IPL customers’ weather-normalized usage in aggregate has not decreased as much as the energy efficiency measures EM&V results indicate. He further supported this argument by pointing out that the lost revenue adjustment mechanism gives the utility an incentive to increase energy usage on their system, which acts in conflict with goals to reduce usage.

Mr. Kelly opined that EM&V is valuable information to help improve program design and implementation, but it should not be utilized as the sole resource in determining the amount of lost revenue collection. He offered his opinion that EM&V vendors are not truly independent, despite the fact that the IPL OSB has input into vendor selection and gets an opportunity to review all EM&V reports, because the vendor is ultimately accountable to the utility who pays the vendor's fees. In his view, a better approach to ensure true independence would be to have the Commission select and manage the relationship with the EM&V vendors.

Mr. Kelly suggested that the Commission open an investigation into the investor-owned utilities electric DSM rider filings to create consistency in the format and methodologies of each filing and to simplify these schedules wherever possible. CAC recommends this investigation also include a review of lost revenues to give the Commission and stakeholders comfort that customers are not paying for lost revenues that are not truly lost.

Regarding IPL's IQW program, Mr. Kelly testified that IPL should include in this program funding of $500 in health and safety measures per household. As support for this recommendation, he noted that the average number of IPL customers that were turned down due to health and safety concerns is approximately 306 per year – 20 percent of total IQW jobs. He also noted that three other electric utilities do fund health and safety measures in their IQW program budgets, and such funding has been approved by the Commission. Mr. Kelly opined that increasing the overall budget to include health and safety measures would not have a significant impact on rates.

Mr. Kelly testified that IPL should broaden its low-income program in other ways, as well. He stated that the current program mainly focuses on single-family homeowners. He believes a large portion of the low-income community in IPL's service territory is being missed; a stronger effort is needed to target renters of single-family homes and multi-family units. He also testified that increasing more specific outreach and education to the low-income community would help greatly. He pointed to a strong model from Ameren Missouri, which focuses on a combination of weatherization efforts for low-income, multi-family complexes and energy efficiency education that engages customers to learn how to reduce their energy bills. Mr. Kelly recommended for 2017 that the Commission approve the current IQW program with an increased budget of $250,000 to include health and safety funding for an average of $500 per IQW participant. For the other enhancements, he suggested the OSB begin collaborating on an expanded low-income program to culminate in a new filing before the Commission.

Regarding the IPL OSB, Mr. Kelly testified and recommended that CAC be granted voting member status. He noted that this was the current structure for the OSBs for Indiana Michigan Power Company, Northern Indiana Public Service Company, and Vectren. In support of his recommendation, Mr. Kelly testified that stakeholders should have a strong influence on savings levels, program designs, and other outcomes. He stated that CAC will continue to raise program issues with every utility in its capacity as an OSB member, but without a vote, CAC remains an undervalued OSB member. He concluded by opining that granting CAC OSB voting member status will make collaboration on IPL's 2018-2020 DSM filing more effective.

Finally, Mr. Kelly addressed the issue of performance incentives. He stated that CAC believes IPL's request for a shared savings incentive should be denied in this proceeding and then re-evaluated in its Section 10 filing for program years 2018-2020. He noted that denial of performance incentives would be consistent with recent Commission orders in other cases decided under Section 9.

7. <u>IPL Rebuttal Testimony</u>. IPL witnesses Allen and Elliot testified in rebuttal.

a. Lester Allen. Mr. Allen responded to issues raised by CAC witness Kelly relating to lost revenues, financial incentives, the development of IPL's 2017 DSM Portfolio, the administration of EM&V vendors, and the composition of IPL's OSB.

Mr. Allen offered his opinion that some of Mr. Kelly's testimony positions were disappointing and at odds with IPL's longtime and consistent commitment to providing DSM opportunities for its customers. He noted that IPL has been a dependable and good actor in DSM programs and has a track record of program success, starting in the early 1990s. He further noted that IPL has been a leader in the state in terms of scale and scope of DSM program delivery and IPL's current proposal to extend its DSM programs for 2017 continues its good faith efforts to provide energy savings options for customers and stakeholders.

Mr. Allen stated that IPL believes performance incentives, such as its shared savings incentive, are necessary and appropriate. Incentives are necessary to put DSM on the level playing field with supply-side resources from the utility perspective, and incentives are appropriate in this particular case as IPL's 2017 DSM Plan is simply the third year of a three-year plan that includes a shared savings incentive. He emphasized that nothing has changed in the last two years that somehow makes IPL's shared savings incentive unnecessary or inappropriate.

Mr. Allen further testified that a shared savings incentive is reasonable because it aligns IPL's interests with the interests of its customers, is based on cost-effective DSM results, and is earned when savings are realized. Mr. Allen emphasized that program costs recovery and lost revenue recovery are necessary to incentivize a utility to pursue DSM, but they are not sufficient to truly put energy efficiency on a level playing field with supply-side resources. Financial incentives, such as IPL's shared savings incentive, are the third leg of the stool necessary to encourage utilities to pursue energy efficiency, by providing a "return" on prudent energy efficiency investments, analogous to the return available for prudent supply-side investments. Mr. Allen reiterated that IPL is proposing exactly the same shared savings incentive as was approved by the Commission in Cause No. 44497 for program years 2015 and 2016.

Mr. Allen noted that Mr. Kelly provided no evidence to support his contention that continuation of a shared savings incentive for IPL is unreasonable. Rather, Mr. Kelly simply cited a few recent Commission orders whereby other Indiana utilities were denied the ability to recover a financial incentive for plans submitted under Section 9. Mr. Allen testified that IPL's situation is distinguishable and IPL should be authorized to continue its shared savings incentive for a number of reasons. First, this is the third year of a 3-year plan filed in 2014 for which a shared savings incentive was approved for 2015 and 2016. Second, it is consistent and appropriate to authorize the same incentives for the third year of the 3-year plan, particularly as nothing material has changed with respect to IPL's offering of DSM programs in 2017, as compared to 2015 and 2016. Third, the Commission's DSM rules are still in effect and allow for performance incentives. Fourth, it would have been highly inefficient and costly for IPL to have developed a separate interim IRP analysis outside of the normal IRP cycle for the sole purpose of modeling DSM as a selectable resource in order to be in a position to present a Section 10 plan in this proceeding – especially when there was a 3-year action plan filed in 2014 which included 2017. Fifth, the amount of DSM requested in 2017 is consistent with and in the range of the amount of DSM preliminarily selected as a resource in IPL's draft 2016 IRP for 2018 through 2020. Sixth, the approach used to identify the target level of DSM for 2017 in this proceeding is reasonable; it has been the standard approach to determining the appropriate amount of DSM for more than two decades. The new approach of making DSM a selectable resource corroborates IPL's requested level of DSM for 2017. Seventh, IPL has been a consistent, long-time advocate and practitioner of DSM.

In sum, Mr. Allen emphasized that IPL has not proposed any changes to the current incentive approach in this request for a one-year extension of its current programs. IPL is only seeking to apply the same construct previously approved by the Commission that encourages IPL to maximize the benefits in the delivery of cost-effective DSM programs.

With regard to lost revenues, Mr. Allen stated that lost revenue recovery calculated using independent EM&V results is reasonable and consistent with long-standing industry and Commission practice. He characterized CAC's criticism of the EM&V approach in favor of an alternative billing analysis approach as another attempt to deprive utilities of lost revenue recovery in cases where sales volumes may have increased for reasons entirely unrelated to DSM. Mr. Allen noted that the approach used by IPL's independent EM&V evaluator is consistent with framework adopted several years ago by the DSMCC and is consistent with industry practice. He further noted that CAC had opportunities to propose alternative methodologies during IPL OSB meetings but chose not to do so. He pointed out that the Commission has relied on EM&V to calculate lost revenues since the early 1990s, and that Commission's DSM rules contemplate the use of EM&V to calculate lost revenues. He noted that the EM&V performed by IPL's independent third-party evaluator fully complies with the Commission's DSM rules.

Mr. Allen also pointed to the fact that discussions held in the Indiana General Assembly during the passage of SEA 412 indicate that EM&V should be used to calculate lost revenues. For example, the House Sponsor of Senate Bill 412 stated that "lost revenues were a feature of the old plan and under this bill are subject to very stringent EM&V requirements." Further, Mr. Allen testified that the EM&V methodology used by IPL's independent third-party evaluator is similar to the approach used by other utilities in Indiana and across the country. In contrast, he noted that Mr. Kelly's position is inconsistent with the well-established and accepted practices of an entire industry with years of experience and expertise.

Mr. Allen also provided examples of several downsides associated with trying to calculate lost revenues using the billing analyses as suggested by Mr. Kelly. For example, it would be necessary to randomly select control groups for each program. This would not only be impractical, but also would render a large portion of IPL's customer base ineligible to participate in energy efficiency programs. Additionally, Mr. Kelly's proposal fails to account for changes in the load (for example, load growth in the absence of DSM programs). Also, Mr. Kelly's methodology does not account for the temporal nature of energy efficiency installations and corresponding lost revenue. His testimony shows savings amounts that are annualized, while IPL's methodology begins to calculate lost revenues only after a measure is installed and implemented.

Regarding Mr. Kelly's suggestion that the Commission should hire and manage EM&V vendors, Mr. Allen testified there is no indication or evidence that such a change is necessary. He opined that IPL's EM&V evaluator is professional, expert, independent, transparent, and open to working with stakeholders. He noted that the evaluator is not simply selected by IPL, but more accurately is selected by the IPL OSB, and CAC has input into that selection process. Additionally, CAC's suggestion would add administrative burdens to the Commission's already significant workload – and would not noticeably decrease the utility's workload. Finally, Mr. Allen noted that CAC has not pointed to any deficiencies in the EM&V vendor or the EM&V study themselves. Mr. Allen emphasized that IPL's independent EM&V vendor takes a rigorous approach to evaluating the performance of IPL's programs. He also noted that IPL's 2015 program evaluation met a 90 percent confidence and 10 percent precision level in all critical estimates.

Mr. Allen also took issue with Mr. Kelly's position that lost revenue recovery should be artificially capped at four years. Mr. Allen stated that full lost revenue recovery for the life of the measure is necessary to avoid penalizing the utility for implementing DSM. Moreover, he testified that if lost revenue recovery is artificially capped at something less than the applicable measure life, the cost-effectiveness and IRP analyses should also reflect such shorter artificial caps. Mr. Allen emphasized that lost revenues are a real cost of engaging in utility energy efficiency programs, and sales are lost throughout the useful life of the measures unless or until base rates are reset in a rate case.

Regarding CAC's suggestion that the Commission initiate an investigation into utility lost revenues, Mr. Allen testified that such an investigation is not warranted. Again, lost revenues are a real and calculable cost to utilities resulting from implantation of DSM programs. This reality is recognized by many experts, regulators, and legislators. There is simply nothing to investigate.

Contrary to Mr. Kelly's assertions, Mr. Allen argued that IPL's development of its 2017 DSM Portfolio was reasonable. He noted that it is the third year of the previously filed three-year plan, developed using a methodology that has been in use in Indiana for years. He further explained that IPL is addressing the DSM methodology concerns cited in the 2014 IRP Director's Report in its current 2016 IRP process. Mr. Allen pointed out it would not make sense for IPL to develop a separate, interim IRP analysis just for this 2017 DSM case.

Finally, Mr. Allen testified that IPL continues to believe that its OSB should remain as currently constituted. He testified that the OSB functions well and the appropriate voting members are the utility that is accountable for its DSM programs (IPL), and the statutory representative of all utility customers in the state (OUCC). He stated that CAC has ample opportunity as a nonvoting member to provide input, review proposals, etc., but including CAC as a voting member would be duplicative of the OUCC's role and would leave IPL, the party ultimately responsible for its DSM programs, as a potentially minority member.

b. Zac Elliot. Mr. Elliot responded to Mr. Kelly's arguments about the projected level of 2017 savings and IPL's program designs. Regarding the reasonableness of IPL's 2017 savings, Mr. Elliot emphasized there is no evidence that IPL's 2017 Portfolio leaves significant cost-effective savings on the table. In fact, he testified, IPL's anticipated 2017 savings level is consistent with the range of achievable savings for 2017 from IPL's 2012 Market Potential Study. Mr. Elliot noted that Mr. Kelly relied on IPL's 2012 Action Plan, which he mistakenly referred to as the 2012 Market Potential Study, to support his argument that IPL's 2017 proposed savings level is unreasonable. In fact, Mr. Elliot testified that the projected net energy impacts from this 2017 proposal are 106,327 MWh, whereas the 2012 Market Potential Study showed a range of savings for 2017 between 89,000 and 158,000 MWh. Further, Mr. Kelly's advocated savings level would be at the uppermost extremity of achievability, as shown in the 2012 Market Potential Study. This upper level of achievability would require ideal markets, implementation, and customer preference conditions and represents a maximum target that an administrator can "hope to achieve." It also involves incentives that represent a substantial portion of the incremental costs, combined with high administrative and marketing costs. In other words, to even hope to achieve the levels Mr. Kelly advocates would require budgets and expenditures at the most aggressive end of the spectrum. Plus, factors over which IPL has little or no influence, such as customer preferences and adoption behavior, would have to optimally align with those factors under IPL's control.

Mr. Elliot explained that the Action Plan cited by Mr. Kelly (as opposed to the Market Potential Study), represented a good faith attempt by IPL to define a plan that would achieve compliance with the targets previously prescribed by the Commission. He also noted that in an attempt to meet those prior DSM targets, IPL would have been required to pursue significantly more non-cost-effective measures and programs.

Further, Mr. Elliot explained that the reduction in expected 2017 savings, compared to years 2015 and 2016, is explained in part by the number of large customers that have opted out of IPL's programs. The other significant contributor to this reduction is the residential lighting program, due to the proposed removal of compact fluorescent lamps ("CFLs") in the 2017 plan. In 2015 and 2016, CFLs represented approximately 80 percent of the residential lighting program impact, but are not modeled as an eligible measure in 2017. IPL's residential lighting program will rely solely on LED impacts in 2017, and IPL does not project LED sales sufficient in 2017 to replace the significant savings historically contributed by CFL sales. However, IPL anticipates that LED sales will continue to gain market share in coming years, thus increasing gross energy savings potential.

In sum, Mr. Elliot emphasized that the current 2017 savings goal is reasonable and is within the range of savings identified by IPL's 2012 Market Potential Study, while Mr. Kelly's proposal is beyond the maximum achievable level identified in that study. The relatively small extent to which IPL's proposed energy savings goal for 2017 is lower than that of 2015 and 2016 results from the ability of large customers to opt out and from IPL's proposed discontinuance of CFL lighting in its programs.

Mr. Elliot also addressed CAC's assertions that IPL should make programmatic changes. First, with regard to Mr. Kelly's contention that IPL should consider a new construction program and prescriptive rebates for non-lighting measures, Mr. Elliot testified that IPL has offered prescriptive rebates for residential HVAC equipment and new construction in prior years. However, IPL experienced low volumes of participation for both programs and both programs had poor program cost-effectiveness. In IPL's 2014 DSM plan case (Cause No. 44328), Mr. Elliot testified that IPL was proposing to discontinue the residential HVAC program due to lack of cost-effectiveness, and the Commission's Order in that case states that "no party took issue with IPL's decision to discontinue the PerfectCents Residential HVAC program," including CAC, a party to that proceeding.

Regarding the new construction program, Mr. Elliot noted that program was particularly challenging given the fact that IPL's rebates targeted all-electric homes. He noted that the program was met with reluctance from the building community to install all-electric space and water-heating equipment given the low cost of natural gas, and building envelope measures had minimal electricity savings impact in natural gas heated homes. Mr. Elliot noted that the IPL OSB, including CAC, agreed to discontinue the program in July 2014.

With regard to CAC's recommendation that IPL budget funds to remediate health and safety issues in its IQW program, Mr. Elliot noted that neither IPL nor its customers have historically borne the costs for remediating health and safety related issues in the IQW program. He noted that in Cause No. 44497, the Commission concluded it would not require IPL to fund health and safety measures in connection with its IQW program because "we have not been presented with sufficient evidence justifying a requirement that ratepayers subsidize these improvements for other ratepayers." Mr. Elliot discussed what IPL has done to address the high participant deferral rate due to health and safety issues. First, he testified, IPL has maintained a gas leak procedure similar to the process developed by the DSMCC during Energizing Indiana. This procedure involves decreasing audit deferrals by having auditors wear personal metering devices that measure both carbon monoxide and ambient methane levels. If a gas leak is detected but the ambient meter does not alarm, the auditor can continue with the audit. Second, Mr. Elliot testified that IPL has begun to track IQW deferral reasons in greater detail in an effort to better understand the underpinnings of annual deferral rates. He noted that in 2015, IPL had an overall completion rate of 38% for the IQW program, meaning that the program experienced an overall deferral rate of 62%. He noted that in 2015, 12% of audits scheduled were deferred due to health and safety reasons, and 50% were deferred due to customers canceling or rescheduling the appointment. He noted that under IPL's vendor agreement, customers are contacted in advance of the audit to mitigate deferrals and three reschedule attempts are made if the audit is canceled. Further, Mr. Elliot stated that because that the cancelation rates were significantly higher than health and safety deferral rates in 2015, IPL is working to increase completion rates by offering $25 promotional incentives to customers who complete the audit -- in addition to the measures offered through the program. Additionally, Mr. Elliot testified that during the site visit IPL has been able to convert many of the IQW health and safety deferrals to Home Energy Assessments, providing energy saving benefits to the customer. Home Energy Assessments do not provide air sealing and insulation measures, thereby mitigating the health and safety risks associated with sealing at the home. Lastly, Mr. Elliot testified that IPL continues to provide reports to Citizens Energy when natural gas safety related items are encountered in the field. While health and safety deferral reasons vary, he noted that over 50% of the health and safety related deferrals are natural gas related.

Consistent with the Commission's recommendation to explore alternative sources of funding of health and safety, Mr. Elliot testified that IPL has met and continues to meet with a number of local community development corporations, neighborhood groups, and community based organizations, in an effort to find health and safety dollars. He noted, however, that these organizations may have home repair dollars available for only a few homes a year and as a result, there is minimal potential to meaningfully impact deferral rates through this funding. He stated that IPL will continue its efforts to seek alternative sources of funding for health and safety remediation.

Mr. Elliot also testified that IPL has continued to look for ways to improve its IQW program and has successfully launched several initiatives in the last couple of years. For example, IPL has developed a partnership with local food pantries to distribute energy efficient LED lamps to recipients of food pantry services. During food pantry distribution dates, customers can also schedule an IQW audit, in addition to receiving LEDs. Mr. Elliot testified that IPL has also partnered with several neighborhood groups and community development corporations to sponsor and participate in community-focused events. During these events, IPL has been able to target specific areas with IQW audits and LED giveaways to provide direct energy saving benefits in local communities. Lastly, Mr. Elliot testified that IPL is proposing to offer ENERGY STAR® refrigerator replacements and is considering the addition of smart thermostats to IQW participants beginning in 2017, which should provide significant additional benefits for eligible customers.

Mr. Elliot next addressed Mr. Kelly's argument that IPL should also consider expanding its low-income program to include non-owner-occupied single-family residences and multi-family units. Mr. Elliot noted that IPL does offer IQW to both owner-occupied and non-owner-occupied single-family residences. In fact, 18% of those who enrolled in IPL's IQW program in 2015 were non-owner occupiers of the residence. Additionally, many multi-family properties qualify for the program, because IPL defines an eligible single-family residence to include no more than four adjacent units. Further, for any residence that does not meet the definition for single-family, those residences would qualify for IPL's Multifamily Direct Install program. The Multifamily Direct Install program resembles IPL's IQW program in terms of measures installed, with the exception of building envelope measures.

Finally, Mr. Elliot responded to Mr. Kelly's position that IPL should expand its energy efficiency outreach and education to its low-income customers. Mr. Elliot agreed, and stated that IPL has been expanding outreach and education activities in 2015 and 2016. As mentioned above, IPL has expanded and continues to expand its outreach efforts through partnerships with community organizations. These activities include direct interaction with customers at food pantries, as well as community outreach and education partnerships with community based organizations. Mr. Elliot emphasized that IPL is always willing to discuss additional outreach channels with its OSB.

8. Commission Discussion and Findings. IPL requests approval for a one-year extension of its current DSM programs and the current ratemaking treatment authorized for such programs. IPL's current DSM programs for which it seeks authority to continue to implement in 2017 are as follows:

- Residential Lighting
- Residential Income Qualified Weatherization ("IQW")
- Residential Air Conditioning Load Management ("ACLM")
- Residential Multi Family Direct Install
- Residential Home Energy Assessment
- Residential School Kit
- Residential Online Energy Assessment
- Residential Appliance Recycling
- Residential Peer Comparison Reports
- Business Energy Incentives - Prescriptive
- Business Energy Incentives - Custom
- Small Business Direct Install
- Business ACLM

IPL requests that we continue to approve its OSB as currently constituted and that we grant its OSB oversight over certain budget or spending flexibility and certain program flexibility (10% spending flexibility, approval to carryover unused funds from 2015/2016, and programmatic flexibility for the OSB to modify or add cost-effective programs and emerging technologies). IPL also requests that we approve the overall DSM program budget (direct and indirect program costs, emerging technologies and spending flexibility), and that we approve continuation of lost revenue recovery and the shared saving incentive approved in Cause No. 44497. IPL requests that our approvals in this Cause commence January 1, 2017 and continue until the later of December 31, 2017 or the date of our order in IPL's next DSM plan approval proceeding. Finally, IPL requests that we authorize it to make changes to its Standard Contract Rider No. 22 consistent with these requested approvals.

IPL presented evidence that its 2017 programs in total are expected to result in first year gross energy savings of approximately 129,000 MWh and approximately 58 MW of gross demand reduction in 2017. This represents an approximately 0.94% reduction in energy sales and, when sales are adjusted to take into account customers that have opted out, the savings represent about a 1.21% reduction in sales.

IPL estimated the total cost of its proposal for 2017 as follows.

Cost Categories (000)	2017
Direct Program Costs	$20,930,000
Indirect Program Costs	$1,500,000
Shared Savings	$4,265,612
Lost Revenues	$1,836,765
Sub total	$28,532,377
Emerging Technology	$250,000
Spending Flexibility (10% of Direct Program Costs)	$2,093,000
Sub total	$2,343,000
Total	**$30,875,377**

IPL noted that the total estimated cost of the proposed 2017 DSM programs, prior to recovery of incentives or lost revenues, is $24.8 million – comparable to IPL's annual budgets approved for 2015 and 2016.

IPL's proposal is supported by an updated DSM Action Plan which accounts for (1) updates to avoided costs, rates, discount rates, line losses, etc.; (2) updates to measure-level attributes, driven by the IN TRM ver. 2.2; (3) updated cost and performance attributes of LED lighting technologies; and (4) the level of large customer opt-outs IPL has actually experienced. IPL's proposal is also supported by cost-benefit analyses, which demonstrate that the entire portfolio of proposed programs is cost effective under both the UCT and TRC perspectives, and the individual programs – with the exception of the Business ACLM program – are also cost-effective under both the UCT and TRC perspectives.

a. IPL's Projected Savings and Planning Process. CAC takes issue with IPL's projected 2017 savings level, arguing that it is unreasonably low. We are not persuaded that the level of projected 2017 savings is unreasonable. IPL has demonstrated that its projected 2017 savings are in the range expected by its 2012 Market Potential Study and subsequent Action Plan updates, even with lower savings due to customer opt outs and the transition from CFL to LED lighting. CAC has mistakenly confused the 2012 Market Potential Study with the 2012 Action Plan, and Mr. Elliot has explained that the Action Plan targeted an aggressive high level of savings in order to try and reach previous Commission energy efficiency targets. Further, Mr. Elliot explained that to reach those targets, IPL would have to spend more on marketing, advertising, and customer incentives. Additionally, issues outside of IPL's control, such as customer preferences and adoption rates – would have to be realized, as well. We conclude that the Market Potential Study is a more realistic and achievable measure of expected savings, and that IPL's 2017 DSM proposal is in line with the 2012 Market Potential Study.

We are also not persuaded by CAC's contention that IPL's IRP process was flawed and therefore its DSM portfolio is unreasonable. We agree with Mr. Allen that utilities', including IPL's, IRP processes are evolving toward modeling DSM as a selectable resource, as opposed to modeling DSM largely outside of the IRP process. While we believe this evolution is positive, it does not negate the reasonableness of past IRP processes and results, nor does it indicate that IPL's proposed 2017 DSM portfolio is unreasonable. In fact, Mr. Allen's testimony indicates that its preliminary 2016 IRP, which is modeling DSM as a selectable resource, is producing similar DSM results. Moreover, the preferred forum for this issue is the utility's IRP stakeholder process. While we continue to believe that utilities should strive to evaluate energy efficiency and supply-side resources in a consistent and comparable manner, we also recognize that there are differences between energy efficiency and supply-side resources that may require utilities to model energy efficiency and supply-side resources in slightly different ways for IRP purposes. Notably, IPL's proposed 2017 DSM Portfolio is premised upon a market potential study and is a continuation of its existing portfolio of programs, which we have previously approved. Additionally, the proposed 2017 DSM Portfolio is a very short-term issue (one year only), while CAC's argument goes to a long-term IRP planning issue. For all of these reasons, we reject CAC's recommendation that we order any changes to the proposed 2017 program portfolio as a result of its IRP concerns. In sum, we find that IPL's projected level of 2017 savings is reasonable.

b. IPL's Program Portfolio and Budgets. By virtue of its decision not to file testimony in this proceeding, we infer that the OUCC is generally supportive of IPL's proposed 2017 DSM programs. CAC also appears supportive of most of the programs that make up IPL's proposal, but contends that (1) IPL should include in its IQW program budget $500 per home to allow for remediation of health and safety issues, and (2) IPL should expand its programs for residential and low-income customers in other ways.

With regard to CAC's recommendation concerning funding health and safety remediation efforts through IPL's IQW program, we note that IPL's research and statistics on the issue of IQW "deferrals" indicate that the majority of such deferrals stem from customer cancellations, not health and safety issues, and that IPL is attempting to reduce cancellations through a variety of creative and proactive means. The evidence also indicates that gas leak issues account for a number of health and safety deferrals, and that IPL continues to employ protocols that allow auditors to continue to work in certain gas leak situations where ambient meters indicate that methane and carbon dioxide levels are acceptable. Further, IPL continues to report such issues to

Citizens Energy. Finally, we note that IPL continues to seek outside funding for remediating health and safety issues, although that funding is limited. For all of these reasons, we decline to adopt CAC's recommendation that we require IPL to modify its IQW program to include funding for health and safety measures. We continue to believe that IPL's IQW program strikes a reasonable balance between cost-effectiveness and assistance for low-income customers. Adopting CAC's recommendations would increase the cost of the program and would require funding for health and safety remediation measures to be provided by other customers. However, we encourage IPL and its OSB to continue to search for alternative sources of funding to address these issues (while recognizing that such alternative sources of funding may be limited).

We next address CAC's argument that IPL should broaden its low-income program in other ways, such as by targeting renters of single-family homes and multi-family units, and by increasing more specific outreach and education to the low-income community. Mr. Elliot's testimony demonstrates that both single-family home renters and multi-family unit renters are already eligible to participate in IPL's programs. Further, Mr. Elliot's testimony shows that IPL has increased outreach and education to the low-income community. Accordingly, while we continue to encourage such outreach and education, we will not direct IPL to make any program changes.

With regard to CAC's contention that IPL's program portfolio should include new construction programs and a residential prescriptive program, we are persuaded by the evidence that IPL has implemented such programs in the past, and reasonably discontinued them for valid reasons related to participation levels, competing natural gas prices, and cost-effectiveness concerns. We find that IPL's program portfolio is reasonable and we will not direct IPL to add new construction or residential prescriptive programs.

No party took issue with IPL's proposed program budgets, direct or indirect costs, 10% spending flexibility, emerging technology budget, carryover and use of unused 2015/2016 funds, or requested OSB authority to transfer funds between programs or modify, add, or terminate programs consistent with cost-effectiveness. We find these aspects of IPL's proposal to be reasonable and consistent with past practice. Accordingly, we approve IPL's proposed program budgets (including the budget for emerging technology), grant it 10% direct cost spending flexibility, approve the carryover and use in 2017 of any unused 2015/2016 program funds, and authorize the IPL OSB to transfer funds between programs, add, or modify, or terminate programs, as it deems necessary and reasonable, consistent with principles of cost-effectiveness. Further, based on the evidence presented, the Commission finds that IPL's proposed 2017 DSM Portfolio is cost-effective, reasonable and should be approved.

c. **Term of Approval.** IPL has requested a one-year extension of its DSM Portfolio and associated ratemaking treatment, from January 1, 2017 to the later of December 31, 2017, or the effective date of our order in IPL's next DSM plan approval proceeding, so as to avoid disruption in program implementation should such order not be issued by December 31, 2017. No party expressed any objection to the proposed term of our approval. Based on the evidence, the Commission finds that our approvals herein should extend from January 1, 2017 to the later of December 31, 2017 or the effective date of our order in IPL's next DSM plan approval proceeding. However, in order to facilitate an order in IPL's next DSM plan approval proceeding by approximately year-end 2017, we direct IPL to petition the Commission and seek approval of its post-2017 DSM plan no later than May 31, 2017.

d. Governance Oversight Board. IPL requests approval to continue to utilize its existing OSB to assist in the administration of the 2017 DSM Plan. The Commission has previously approved OSBs to oversee and monitor energy efficiency programs for utilities. *See, e.g., Indiana Michigan Power Co.,* Cause No. 43959, 2011 Ind. PUC LEXIS, (IURC Apr. 27, 2011); *Southern Indiana Gas and Elec. Co.,* Cause No. 43427, 2009) Ind. PUC LEXIS 495, (IURC Dec. 16, 2009). No party to this proceeding opposed the continuation of IPL's currently approved OSB to administer IPL's 2017 DSM Plan. However, CAC requested that the Commission require that IPL include CAC as a voting member in IPL's OSB (in addition to IPL and the OUCC). IPL expressed concern, noting that the OUCC already represents all customer interests and CAC representation would therefore be duplicative. IPL indicated that CAC attends the OSB meetings and provides input as a non-voting member. IPL also indicated that it should not be a potential minority vote on its own OSB given its ultimate accountability and responsibility for the successful delivery of its DSM programs. Further, IPL presented evidence from Cause No. 44497 indicating both the OUCC's and CAC's views that IPL's OSB worked well as currently constituted.

The Commission will not require CAC to be included on the OSB as a voting member. We agree that these DSM programs are IPL's ultimate responsibility, and for this reason, IPL should not be placed in a potentially minority position with respect to program decisions. We also agree that the OUCC is statutorily charged with representing all customers, and that CAC's participation as a voting member could potentially be duplicative. The evidence shows that the other OSB members welcome CAC's input, and we encourage the OSB to continue to seek input from CAC and other interested parties.

e. **EM&V.** IPL presented its proposed EM&V plans, consistent with the provisions of 170 IAC 4-8-1 *et seq*. and consistent with EM&V approved by the Commission's Order in Cause No. 44497. IPL witnesses testified that IPL, with agreement of the OSB, will engage an independent EM&V vendor, and that the EM&V protocols for its 2017 DSM Portfolio will meet or exceed the requirements of 170 IAC 4-8-1 *et seq*. No party to this proceeding opposed the continuation of IPL's currently approved EM&V program for its 2017 DSM Portfolio or took issue with IPL's current EM&V processes, although CAC did take issue with the use of EM&V to calculate lost revenues, as is discussed below. CAC also recommended that the Commission retain and manage utilities' EM&V vendors. IPL opposed this recommendation, noting that this would increase the Commission's workload with no discernible benefits. We agree. The Commission accordingly finds that IPL's proposed EM&V processes for 2017 are reasonable.

f. **Ratemaking Treatment.** Cost recovery is an essential component of meaningful utility investments in energy efficiency. The generally accepted cost recovery framework is typically referred to as the "three-legged stool," consisting of: (a) program cost recovery, (b) lost revenue recovery, and (c) financial incentives.[2] This policy is widely recognized, in Indiana and elsewhere. For example, our DSM rules represent "a regulatory framework that allows a utility an incentive to meet long term resource needs with both supply-side and demand-side resource options in a least-cost manner and ensures that the financial incentive offered to a DSM program participant is fair and economically justified." *See* 170 IAC 4-8-3(a). This regulatory framework "attempts to eliminate or offset regulatory or financial bias against DSM, or in favor of a supply-side resource, a utility might encounter in procuring least-cost resources." *Id*. We will, where

[2] ACEEE, The Old Model Isn't Working: Creating the Energy Utility for the 21st Century, http://aceee.org/files/pdf/white- paper/The_Old_Model_Isnt_Working.pdf.

appropriate, "review and evaluate, as a package, the proposed DSM programs, DSM cost recovery, lost revenue, and shareholder DSM incentive mechanisms." *See* 170 IAC 4-8-3(c).

The Indiana General Assembly, in SEA 340, has recognized the legitimacy of this "three-legged stool." SEA 340 explicitly recognizes that program costs, lost revenues, and investment incentives are legitimate costs of energy efficiency. *See* Ind. Code § 8-1-8.5-9(d). Similarly, with SEA 412, the Indiana General Assembly confirmed that reasonable program costs, lost revenues, and investment incentives should all be reflected in a utility's rates. *See* Ind. Code § 8-1-8.5-10(h), (k).

These three components of energy efficiency cost recovery are widely recognized by other states, the federal government, and energy efficiency experts. For example, ACEEE has noted that, "in order to prioritize investments in energy efficiency over new power generation, utility regulators need to adopt a new business model. The model encourages utilities to save energy through a 'three-legged stool' approach that supports the financial interests of utilities and provides their customers with cheaper, cleaner energy through improvements in energy efficiency."[3] Consistent with this approach, federal law states that "[t]he rates allowed to be charged by any electric utility shall (i) align utility incentives with the delivery of cost-effective energy efficiency; and (ii) promote energy efficiency investments."[4] Many states have adopted such an approach; for example, the Mississippi PSC unanimously decided to use the "three-

[3] *Id*. *See also* Section 10 of 111(d) of the Clean Air Act, which contemplates the use of "economic incentives" for promoting DSM and EE. *See also* Kate Konschnick and Ari Peskoe, who note that twenty- six states had EERS by 2013, and by mid-2012, twenty-three states offered incentives to utilities. ("Efficiency Rules," Harvard Law School Policy Initiative (2014) at p. 12.)

[4] Section 111(d) of the Public Utility Regulatory Policies Act of 1978 (16 U.S.C. 2621(d)), as amended by section 532 of the Energy Independence and Security Act of 2007.

legged stool" approach.[5] Numerous states allow program recovery costs, as well as performance incentives and lost revenues, including, among others, Kentucky, Ohio and Connecticut.[6]

We examine IPL's proposal to continue its current cost recovery mechanisms, in light of these policy considerations.

(1) Cost Recovery. With respect to its 2017 DSM Portfolio, IPL proposes to recover its budgeted DSM costs on a projected/reconciled basis, via its Standard Contract Rider No. 22. . Should actual costs deviate from IPL's projections, IPL will utilize its semi-annual DSM rider mechanism to reconcile any differences. No party took issue with IPL's proposal for recovering its DSM program development, implementation, and EM&V costs. Having reviewed the evidence of record, the Commission finds that the proposed cost recovery methodology is reasonable, is consistent with the requirements of 170 IAC 4-8-5, and should be approved. Accordingly, IPL is authorized to recover program costs and other approved budget items (e.g., indirect costs, EM&V costs) related to[7] the period of January 1, 2017 through the later of December 31, 2017, or the effective date of our order in IPL's post-2017 DSM plan approval proceeding, on a timely basis via its Standard Contract Rider No. 22.

(2) Lost Revenue Recovery. IPL proposes continuation of its existing lost revenue recovery via its Standard Contract Rider No. 22, as approved in Cause Nos. 44497 and 44576. CAC opposed IPL's recovery of lost revenues, arguing that EM&V protocols are not sufficient

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[5] Presentation of Mississippi Development Authority (n.d.) Retrieved on September 21, 2016 from: http://annualmeeting2013.naseo.org/Data/Sites/2/presentations/Zweig.pdf.

[6] National Action Plan for Energy Efficiency (2007). *Aligning Utility Incentives with Investment in Energy Efficiency*. Prepared by Val R. Jensen, ICF International. Retrieved on September 21, 2016, from https://www.epa.gov/sites/production/files/2015-08/documents/incentives.pdf. *See also* Kate Konschnick and Ari Peskoe, who noted that by mid-2012, twenty-three states offered incentives to utilities. ("Efficiency Rules," Harvard Law School Policy Initiative (2014) at p. 12.) *See also,* The Edison Institute for Energy Efficiency, *State Electric Efficiency Regulatory Frameworks (December 2014),* which indicates that by December 2014, 32 states allowed some form of fixed cost (lost revenue) recovery, and 29 states allowed performance incentives. Retrieved on September 21, 2016, from http://www.edisonfoundation.net/iei/Documents/IEI_stateEEpolicyupdate_1214.pdf.

[7] Including costs related to 2017 DSM programs but actually paid post-2017.

to justify lost revenue recovery and therefore IPL had not justified its proposal for lost revenue recovery. In support of its position, CAC presented evidence that on a weather-normalized basis, IPL's overall sales had increased rather than decreased. Alternatively, CAC argued that IPL's lost revenue recovery should be capped at four years. CAC also requested that the Commission initiate a generic investigation into lost revenue recovery for Indiana utilities (among other things).

The Commission's DSM rules state that "the Commission may allow the utility to recover the utility's lost revenue from the implementation of a demand-side management program sponsored or instituted by the utility." *See* 170 IAC 4-8-6. Similarly, lost revenues are explicitly defined as a legitimate and recoverable cost of energy efficiency in Section 9 (*see* Ind. Code § 8-1-8.5-9(d)). Both the statute and our rules recognize that recovery of lost revenues is an important ingredient in a successful DSM program and represents sound regulatory policy. The evidence in this case shows that IPL has voluntarily proposed significant DSM investments that, absent the Commission granting lost revenues, will financially harm IPL's shareholders.

CAC proffers a somewhat creative argument, positing that EM&V processes are not sufficient to be used to calculate lost revenues, and that lost revenue recovery should be denied. Instead, CAC argues that weather-normalized billing analyses should be used – asserting, in essence, that if a utility's weather-normalized sales have increased, it should not be allowed to recover lost revenues. This argument is simply old wine in a new bottle; CAC continues to argue that a utility should not be allowed to recover lost revenues if its year-over-year sales increase for any reason (apparently other than weather). And as with past CAC arguments, this argument against lost revenue recovery misses the point. The Commission addressed and decided this very issue in *In re the Verified Petition of Southern Indiana Gas and Electric Company*, IURC Cause

No. 44495, (Oct. 15, 2014) (the "*Vectren Order*.") In the *Vectren Order,* the Commission noted, regardless of whether sales are higher now than at the time of the last rate case, that does not change the fact that utilities are entitled to recovery of lost revenues. Specifically, the Commission stated:

> While we agree with the CAC that a utility's ability to recover lost revenues is not automatic and may be periodically reviewed, we have also previously explained that the recovery of lost revenues is a tool to assist in removing the disincentive a utility may have in promoting DSM in its service territory. *See* 170 lAC 4-8-6(c); *Southern Ind. Gas & Elec. Co.,* Cause No. 43938 at 40-41 (IURC August 31, 2012). We also explained that because the purpose of lost revenue recovery is to return the utility to the position it would have been in absent implementation of DSM, simply eliminating lost revenue recovery when sales are higher than the levels used to develop a utility's current base rates would be contrary to this purpose. *Id.*

(Vectren Order, at p. 10)

The Commission's findings in the *Vectren Order* recognize that the purpose of lost revenue recovery is to put the utility in the position it would have been in absent implementation of DSM, and that is precisely what IPL has requested in this case. CAC attempts to makes the argument that the reduction in overall IPL annual sales should correspond to the annual savings from DSM, and because of this, further investigation should be conducted into the EM&V methodology used to calculate the annual savings. However, CAC presents an over-simplified analysis that does not consider the fact that many customers may have increased load over the same time period. The EM&V methodology used by IPL is standard across the industry and has been used in Indiana since the inception of Energizing Indiana. Based on results of the current EM&V practice, the savings that occur absent freeriders would not have occurred had the programs not been implemented and are thus eligible for lost revenue recovery. CAC has presented no evidence that EM&V protocols are conceptually insufficient to calculate lost revenues, nor has CAC presented any evidence that IPL's EM&V protocols are insufficient or flawed. CAC has failed to provide evidence that implementation of IPL's 2017 portfolio of DSM programs would not result in lost revenues.

CAC next argues that lost revenue recovery, for 2017 programs and for previously-approved programs ("legacy lost revenues") should be capped at four years or the measure life, whichever is shorter. With regard to "legacy lost revenues," we note that what is at issue in this proceeding is ratemaking treatment for IPL's 2017 DSM programs, not ratemaking treatment for IPL's pre-2017 DSM programs. The ratemaking treatment for such pre-2017 programs has been authorized in previous cases, for example, Cause No. 44497. Accordingly, we reject CAC's recommendation that lost revenues for IPL's pre-2017 DSM programs be limited.

Concerning the lost revenues that are at issue in this proceeding – lost revenues that will result from implementation of IPL's 2017 programs -- although we have recently accepted such a cap in other cases, we decline to do so in this case, for several reasons. First and foremost, we believe that such a cap ignores the fact that savings, as well as lost revenues, accrue for the life of the measure. In other words, a measure with a 10-year life will continue to provide energy savings for 10 years, not for an arbitrary four-year period. As the Indiana General Assembly has made clear – in both SEA 340 and SEA 412 – lost revenues are real and calculable costs to a utility as a result of implementing DSM programs. It would be inequitable to arbitrarily cut off lost revenue recovery while the benefits of the measures, in the form of energy efficiency savings, continue to accrue to customers. Moreover, in this particular case, IPL has recently completed a base rate case, which mitigates our concern expressed in other cases about the "pancake effect" of lost revenues. Further, Indiana would be an outlier in capping lost revenue recovery in the absence of a utility settlement agreement or a utility proposal to do so. At least sixteen states allow lost revenue recovery through adjustment mechanisms, and in the absence of such a utility proposal or settlement, none of those states limit the time period over which lost revenue recovery may take place (other than tying lost revenue recovery to the life of the measure).[8] Another fourteen states address lost revenue recovery through decoupling

[8] *See, e.g.*, *Consideration of Sections 532 & 1307 of the Energy Indep. & Sec. Act of 2007,* No. 31045, 2010 WL 5144859 (Ala. Pub. Serv. Comm'n Oct. 28, 2010) (discussing a Rate Stabilization and Equalization mechanism in effect for Alabama Gas Company and Alabama Power Company); *In Re Alabama Gas Corp.*, No. 18046, 2013 WL 8210834 (Ala. Pub. Serv. Comm'n Dec. 20, 2013) (modifying Alabama Gas Company's Rate Stabilization and Equalization mechanism); *In the Matter of the Application of Arizona Pub. Serv. Co. for A Hearing to Determine the Fair Value of the Util. Prop. of the Co. for Ratemaking Purposes, to Fix A Just & Reasonable Rate of Return Thereon, & to Approve Rate Schedules Designed to Develop Such Return.*, No. 73183, 2012 WL 1996807 (Ariz. O.L.C. May 24, 2012) (approving a non-precedential settlement agreement which included a lost revenue adjustment mechanism for the Arizona Public Service Company). *See also In the Matter of the Application of UNS Gas, Inc.'s Request for Approval of Rider R-6 Lost Fixed Cost Recovery Tariff Adjustment*, No. 75173, 2015 WL 4390053, at *1 (Ariz. O.L.C. July 15, 2015) (adopting Lost Fixed Cost-Revenue mechanism adjustment); *In Re Innovative Approaches to Ratebase Rate of Return Ratemaking*, 285 P.U.R.4th 513 (Ark. Dec. 10, 2010), *aff'd on reh'g* (approving investor owned utilities recovery of "lost contributions to fixed costs"); *See, e.g.*, *In the Matter of the Application of Pub. Serv. Co. of Colorado for Approval of A No. of Strategic Issues Relating to Its Demand Side Mgmt. Plan.*, No. 13A-0686EG, 2014 WL 3368570 (Colo. Pub. Utilities Comm'n July 1, 2014) (approving Public Service Company of Colorado's DSM plan, providing for ability to recover a "disincentive offset" or "bonus"); *In Re Westar Energy, Inc.*, No. 10-WSEE-775-TAR, 2011 WL 1227146 (Kan. Comm'n Jan. 31, 2011) (authorizing Westar Energy, Inc. and Kansas Gas and Electric Company to recover lost margins from implementation of an energy efficiency program through completion of its next rate case); Ky. Rev. Stat. Ann. § 278.285 (permitting utilities to "recover the full costs of commission-approved demand-side management programs and revenues lost by implementing these programs"). *See also In the Matter of: Application of Kentucky Power Co. for (1) Auth. to Modify Certain Existing Demand-Side Mgmt. Programs; (2) Auth. to Implement New Programs; (3) Auth. to Discontinue Certain Existing Demand-Side Mgmt. Programs; (4) Auth. to Recover Costs & Net Lost Revenues, & to Receive Incentives Associated with the Implementation of the Programs; & (5) All Other Required Approvals & Relief*, No. 2015-00271, 2016 WL 1029315 (Ky. Pub. Serv. Comm'n Mar. 11, 2016) (approving utility's DSM portfolio and request for lost revenue and performance incentives, without any cap on lost revenue); *Louisiana Pub. Serv. Comm'n, Ex Parte*, No. R-31106 (Sept. 20, 2013), <http://tinyurl.com/LAPublicServComm> (authorizing a lost contribution to fixed cost mechanism for efficiency programs in its "Quick Start" Energy Efficiency rules for electric and gas utilities); *In Re: Proposal of the Mississippi Pub. Serv. Comm'n to Possibly Amend Certain Rules & Regulations Governing Pub. Util. Serv.*, No. 2010-AD-2, 2013 WL 4047511, (Miss. Pub. Serv. Comm'n July 11, 2013) (adopting Rule 29, which authorized cost recovery of incremental program costs and the lost contribution to fixed cost); Missouri Energy Efficiency Investment Act, Mo. Ann. Stat. § 393.1075 (authorizing utilities to file pans to recover a portion of the net benefits of demand-side energy efficiency programs); Nev. Rev. Stat. Ann. § 704.785 (mandating that Public Utilities Commission adopt regulations authorizing an electric utility to recover an amount based on the measurable and verifiable effects of the implementation by the electric utility of energy efficiency and conservation programs approved by the Commission); N.C. Gen. Stat. Ann. § 62-133.9 (stating that the "Commission shall, upon petition of an electric public utility, approve an annual rider to the electric public utility's rates to recover all reasonable and prudent costs incurred for adoption and implementation of new demand-side management and new energy efficiency measures. Recoverable costs include, but are not limited to, all capital costs, including cost of capital and depreciation expenses, administrative costs, implementation costs, incentive payments to program participants, and operating costs."); *See also* North Carolina Utility Commission Rules R8-68 and R8-69 (adopting rules related to annual rider); Ohio Rev. Code § 4928.143(B)(2)(h) (authorizing an electric utility to submit a plan that, among other things, provides "for the utility's recovery of costs, including lost revenue, shared savings, and avoided costs"); Okla. Admin. Code 165:35-41-4 (utility required to present "detailed explanation of the utility's request for recovery of prudently incurred program costs, recoupment and calculation of lost net revenue, and additional incentives the utility proposes it requires to make the programs workable"); S.C. Code Ann. § 58-37-20 (whereby the Public Service Commission is authorized to "establish rates and charges that

mechanisms.[9] Regardless of which lost revenue recovery mechanism they employ, none of these states have adopted any binding authority that would limit a utility's lost revenue recovery to four years, or any other set time period.

We are persuaded if a state is interested in encouraging robust utility-sponsored energy efficiency programs, sound regulatory policy compels the conclusion that full lost revenue recovery must be allowed. Arbitrarily limiting a utility's recovery to the first four years of a program's life would defeat the purpose of making the utility whole after energy efficiency programs are implemented. The better public policy is to allow the utility to recover its reasonable lost revenues for the full life of the efficiency measure. Such recovery will make the utility whole, relative to where it would have stood financially without energy efficiency programs, while at the same time, will not reward the utility for declines in electricity sales unrelated to such programs.

Notably, prior to the codification of full lost revenue recovery through SEA 340 and SEA 412, the Commission has allowed utilities full lost revenue recovery on several occasions. *See, e.g.*, *Petition of N. Indiana Pub. Serv. Co. for Approval of Elec. Demand Side Mgmt. Programs to Be Effective Jan. 1, 2015 Through Dec. 31, 2015*, 44496, 2014 WL 6466719, at *22 (Nov. 12, 2014) (authorizing NIPSCO to recover lost revenues for the remainder of the useful lives of the program measures, while expressly declining to limit the recovery period to the lesser of two

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ensure that the net income of an electrical or gas utility regulated by the commission after implementation of specific cost-effective energy conservation measures is at least as high as the net income would have been if the energy conservation measures had not been implemented."); *See, e.g.*, *In re NorthWestern Corporation d/b/a NorthWestern Energy for Approval of its South Dakota Demand Side Management Plan*, GE09-001 (May 11, 2010); *In Re Montana-Dakota Utilities Co.*, Docket No. 20004-65-ET-06, 2007 WL 1231445 (Wyo. Jan. 9, 2007) (authorizing a tracking adjustment mechanism, including direct lost revenue recovery).

[9] *State Electric Efficiency Regulatory Framework*, Institute for Electric Innovation Report, December 2014 (identifying the fourteen jurisdictions that had approved revenue decoupling: California, Connecticut, District of Columbia, Hawaii, Idaho, Maryland, Massachusetts, New York, Ohio, Oregon, Rhode Island, Vermont, Washington, and Wisconsin).

years or the life of the measure). Consistent with this past practice, the Commission's 1995 rules did not contain any sort of cap. Accordingly, the Commission finds that IPL's proposal for continuation of its current full lost revenue recovery via Standard Contract Rider No. 22 is consistent with applicable Indiana statutes and our DSM rules, is reasonable, and should be approved.

(3) Performance Incentives. IPL proposes continuation of the shared savings incentive mechanism approved in Cause No. 44497. This incentive mechanism allows IPL to retain, as financial incentive, 15% of net UCT benefits, with the majority of such benefits (85%) going to customers. CAC opposes any incentives, but recommends that if an incentive is approved, it should be based on multiple performance metrics, be subject to a financial cap, and be contingent upon lost revenue recovery being limited to the shorter of 48 months or the life of the measure. CAC provides no evidentiary or policy rationale for its position; Mr. Kelly simply cites recent Commission orders which have denied financial incentives in Section 9 cases.

Financial incentives for DSM are recognized in the Commission's rules as a way to "eliminate or offset regulatory or financial bias against DSM, or in favor of supply-side resources. . . . ."[10] Public service commissions in other jurisdictions have also recognized the important role that financial incentives play in encouraging effective DSM programs. *See, e.g.*, *In Re: Proposal of the Mississippi Pub. Serv. Comm'n*, 2010AD2, 2013 WL 4047511, at *11 (Miss. P.S.C. July 11, 2013) (finding that in order "[t]o address disincentives for energy efficiency investments, the utilities may propose an approach to earn a return on energy efficiency investments though a shared savings or other performance based incentive mechanism to make these investments more like other investments on which utilities earn a return"); *In the Matter of Application of Duke Energy Carolinas, LLC*, E-7, 2013 WL 5870222, at *26 (N.C.

[10] 170 IAC 4-8-3

Util. Comm'n Oct. 29, 2013) (recognizing that "a shared savings mechanism rewards the utility for the pursuit and achievement of cost-effective EE and DSM").

As with program cost recovery and lost revenue recovery, financial incentives are part of the "three-legged stool" that is necessary for demand-side resources to be placed on more of a level playing field with supply-side resources. As with program cost recovery and lost revenue recovery, both SEA 340 and our DSM rules allow for financial incentives. Moreover, without mandated energy savings goals, if anything, incentives have become more important, not less important.

While we have recently rejected the use of financial incentives in Section 9 cases, we agree with IPL that its position is different is several critical ways. IPL is requesting approval of the third year of a three-year DSM plan, and it makes sense to authorize the same incentives for such; nothing material has changed with respect to IPL's offering of DSM programs in 2017, as compared to 2015 and 2016; IPL could not feasibly prepare a new IRP and a Section 10 case for its 2017 plan; the approach used for IPL's 2017 (and 2015-2016) DSM planning is reasonable, even if IRP modeling is evolving and improving; the amount of DSM requested in 2017 is consistent with and in the range of the amount of DSM preliminarily selected as a resource in IPL's draft 2016 IRP for 2018 through 2020; both the Commission rules and Section 9 allow for financial incentives; and last but not least, IPL has consistently pursued and achieved robust DSM programs and results for over 20 years, and should be rewarded, not penalized, for doing so.

As for the structure of incentives that should be approved in this case, we note that our DSM rules specifically allow for shared savings incentives. 170 IAC 4-8-7(a)(1) refers to "[g]rant[ing] a utility a percentage share of the net benefit attributable to a demand-side management program" – the very definition of a shared savings mechanism. Further, 170 IAC 4-8-7(f) specifically requires that "[a] shareholder incentive mechanism must reflect the value to the utility's customers of the supply-side resource cost avoided or deferred by the utility's DSM program minus incurred utility DSM program cost." This requirement is directly met by a shared savings mechanism.

We are not persuaded by CAC's recommendation that any shared savings incentive be accompanied by additional performance metrics, a cap, and a tie to a four-year cap on lost revenues. A shared savings incentive, coupled with approved DSM budgets in which a utility must operate, provides both an implicit floor and cap. The floor is zero, which is what the utility will earn if it fails to achieve cost-effective savings. The cap will be the product of the approved budget, combined with the cost-effectiveness the utility ultimately achieves. Similarly, additional performance metrics are not needed with a shared savings incentive. A shared savings mechanism is inherently driven by a critical performance metric – achievement of cost-effective savings. Under a shared savings incentive, the utility's incentive will be maximized by both the volume and cost-effectiveness of savings achieved. Finally, CAC's desire to tie any financial incentives to a cap on lost revenue recovery is inappropriate. Full program cost recovery, full lost revenue recovery, and a reasonable financial incentive are all necessary ingredients to encourage robust utility-sponsored DSM programs.

As with lost revenue recovery, a majority of other states utilize performance incentives in connection with utility-sponsored DSM,[11] which corroborates Indiana's position that financial incentives are an important aspect of robust energy efficiency programs. For all the foregoing

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[11] According to the Edison Foundation, in 2014, 29 states authorized performance incentives (and 2 states were considering performance incentives). *See State Electric Efficiency Regulatory Frameworks, IEI Report*, December 2014, published by the Edison Foundation's Institute for Electric Innovation.

reasons, we find that continuation of IPL's current shared savings mechanism is reasonable and should be approved.

(4) Tariff Changes. IPL requested approval of necessary tariff changes to effectuate approval of the 2017 DSM Portfolio and associated approved ratemaking treatment. No party to this proceeding opposed IPL's proposal to update the formula and definitions used in Standard Contract Rider 22 – Demand Side Management Adjustment Factors to effectuate these changes. The Commission accordingly finds that IPL's proposed changes to its tariff should be approved.

(5) Request for Initiation of Generic Proceedings. CAC requested that the Commission open an investigation into investor-owned utilities' electric DSM rider filings to create consistency in the format and methodologies of each filing and to simplify these schedules wherever possible. CAC recommends this investigation also include a review of lost revenues. CAC cited no evidence in support of its recommendation indicating that such an investigation into DSM rider filings is needed. If CAC believes that a utility's DSM rider filings are unclear or confusing, it can make recommendations for improvements within such individual rider filings. With regard to lost revenues, we note that the legislature in SEA 340 and SEA 412 made clear that lost revenues, along with program costs and performance incentives, are legitimate costs eligible for recovery through rates. Moreover, the Commission currently has a pending rulemaking addressing IRP and DSM issues. Accordingly, we see no need to initiate an investigation into either utilities' DSM rider filings or lost revenues.

(6) Small Business Impact. The Commission must consider in accordance with 170 IAC 4-8-8, the impact that such a plan as IPL's 2017 DSM Portfolio may give an unfair competitive advantage to IPL in the provision of energy efficiency programs. The Commission accepts Mr. Elliot's testimony, which noted that IPL and its energy service providers will work with a number of trade allies and small businesses to support outreach and delivery of the programs as proposed in the 2017 Portfolio. Therefore, the Commission concludes that IPL's plan will not provide an unfair competitive advantage as contemplated by in 170 IAC 4-8-8.

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

1) Petitioner's proposed one-year extension of its current DSM Portfolio for 2017, based on its 2015-2017 Action Plan, is hereby approved, as described above, to be effective from January 1, 2017 through the later of December 31, 2017, or the date of our order in a future case addressing Petitioner's proposed post-2017 DSM programs and plan;

2) Petitioner is hereby granted authority to recover its 2017 DSM Portfolio costs (including direct costs, indirect costs, EM&V costs, and emerging technology costs) up to a total amount of $24,773,000 (which includes 10% of direct costs as spending flexibility), through Petitioner's Standard Contract Rider No. 22;

3) Petitioner is hereby granted authority to recover lost revenues resulting from implementation of its 2017 DSM Portfolio, as proposed by Petitioner (and subject to reconciliation per EM&V results), through its Standard Contract Rider No. 22;

4) Petitioner is hereby granted authority to recover a shared savings incentive associated with its 2017 DSM Plan, as proposed by Petitioner, through its Standard Contract Rider No. 22;

5) Petitioner is hereby granted authority to utilize its proposed evaluation, measurement and verification processes for its 2017 DSM Plan;

6) Petitioner is hereby authorized to make necessary tariff changes to effectuate approval of the 2017 DSM Plan and associated ratemaking treatment;

7) Petitioner is hereby authorized to continue to utilize the IPL Oversight Board in its current composition to administer the 2017 DSM Plan;

8) The IPL Oversight Board shall have authority to transfer funds between programs, utilize an additional 10% of direct program costs in spending flexibility, and add, modify, or terminate programs based on cost-effectiveness;

9) The Commission will not launch a generic investigation into utilities' rider filings or lost revenues; and

10) IPL is directed to file a petition with the Commission for approval of proposed post-2017 DSM programs no later than May 31, 2017.

STEPHAN, FREEMAN, HUSTON, WEBER, 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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Brenda A. Howe, Secretary to the Commission