

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY INDIANA, LLC
(“DUKE ENERGY INDIANA”) PURSUANT TO IND. CODE
CHS. 8-1-8.5, 8-1-8.8, AND IND. CODE §§ 8-1-2-0.6 AND 8-1-
2-23 FOR (1) ISSUANCE OF A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY (“CPCN”) PURSUANT
TO IND. CODE CH. 8-1-8.5 TO CONSTRUCT TWO
COMBINED CYCLE (“CC”) NATURAL GAS UNITS, AT
APPROXIMATELY 738 MEGAWATTS (WINTER
RATING) EACH, AT THE EXISTING CAYUGA
GENERATING STATION (“CAYUGA CC PROJECT”); (2)
APPROVAL OF THE CAYUGA CC PROJECT AS A
CLEAN ENERGY PROJECT AND AUTHORIZATION FOR
FINANCIAL INCENTIVES INCLUDING TIMELY COST
RECOVERY THROUGH CONSTRUCTION WORK IN
PROGRESS (“CWIP”) RATEMAKING THROUGH A
GENERATION COST ADJUSTMENT (“GCA”) TRACKER
MECHANISM UNDER IND. CODE CH. 8-1-8.8; (3)
AUTHORITY TO RECOVER COSTS INCURRED IN
CONNECTION WITH THE CAYUGA CC PROJECT; (4)
APPROVAL OF THE BEST ESTIMATE OF COSTS OF
CONSTRUCTION ASSOCIATED WITH THE CAYUGA CC
PROJECT; (5) APPROVAL OF CHANGES TO DUKE
ENERGY INDIANA'S ELECTRIC SERVICE TARIFF
RELATING TO THE PROPOSED GCA TRACKER
MECHANISM; (6) APPROVAL OF SPECIFIC
RATEMAKING AND ACCOUNTING TREATMENT; AND
(7) ONGOING REVIEW OF THE CAYUGA CC PROJECT.

CAUSE NO. 46193

**PETITIONER’S SECOND MOTION FOR PROTECTION AND NONDISCLOSURE OF
CONFIDENTIAL AND PROPRIETARY INFORMATION**

Duke Energy Indiana, LLC (“Petitioner”, “Duke Energy Indiana,” or “Company”) pursuant to 170 IAC 1-1.1-4, Ind. Code § 5-14-3, and Ind. Code § 8-1-2-29, respectfully requests that the Indiana Utility Regulatory Commission (“Commission”) enter a Protective Order prohibiting dissemination outside of the Commission and adopting safeguards for the handling of certain documents to be filed by Duke Energy Indiana containing information that is confidential, proprietary, competitively-sensitive, and/or trade secret and exempt from public disclosure. In support of this Motion, Duke Energy Indiana represents the following:

1. On February 13, 2025, Duke Energy Indiana filed a Petition, along with written testimony, attachments, supporting workpapers, with the Commission seeking issuance of a certificate of public convenience and necessity (“CPCN”) pursuant to Ind. Code ch. 8-1-8.5 to construct two combined cycle (“CC”) natural gas turbines, at approximately 738 megawatts (winter rating) each, at the existing Cayuga Generation Station (“Cayuga CC Project”) and other associated relief as described therein.
2. On May 8, 2025, the Indiana Office of Utility Consumer Counselor (“OUCC”) and other intervenors (collectively “other participating parties”) filed their respective cases-in-chief in this Cause. Certain portions of testimonies, attachments, and workpapers of the other participating parties contain information identified as confidential, proprietary, competitively sensitive and/or trade secret information by Duke Energy Indiana (the “Confidential Information”). Some of this Confidential Information was already granted preliminary confidential treatment by the Commission’s Docket Entry dated February 24, 2025, in this Cause. The Duke Industrial Group has filed its information through the confidential tab of the Commission’s Online Services Portal in accordance with Duke Energy Indiana’s May 12, 2025, Response to its Motion for Confidential Treatment.
3. The specific information that is the subject of this Second Motion is as follows:
 - a. Confidential portions of OUCC witness Baker’s direct testimony, attachments, and workpapers concerning Duke Energy Indiana’s 2024 Integrated Resource Plan (the “2024 IRP”) planning and request for proposal (“RFP”) costs; and
 - b. Confidential portions of CAC witness Inskeep’s, direct testimony, attachments, and workpapers concerning confidential 2024 IRP modeling details.

The other Confidential Information identified in the OUCC's and CAC's cases-in-chief is Confidential Information already granted preliminary confidential treatment by the Commission's Docket Entry dated February 24, 2025, in this Cause.

4. Duke Energy Indiana anticipates the other participating parties will submit unredacted versions of the Confidential Information that is the subject of this Second Motion once a protective order is entered. The Confidential Information may also be discussed in the evidence, pleadings, and other submissions still to be made in this Cause. A Commission protective order will allow the parties to safely file the Confidential Information with the Commission.
5. As explained in the Verified Declaration of Justin D. Sufan (Attachment A), the Confidential Information includes the Company's 2024 IRP and RFP costs as incurred to date.
6. As explained in the Verified Declaration of Nathan D. Gagnon (Attachment B), the Confidential Information includes information, including modeling files, and various supporting information that supports the 2024 IRP. The Company would note, although Duke Energy Indiana's 2024 IRP itself does not contain confidential information, the supporting data, like that cited by CAC witness Inskeep, contains confidential or proprietary information that Duke Energy Indiana believes is exempt from public disclosure.
7. As explained in the attached Verified Declarations, the Confidential Information: (i) is such that it may derive actual and potential independent economic value from being neither generally known to, nor readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Duke Energy Indiana restricts the access of information to only those employees, officers, and representatives of Duke Energy

Indiana or its affiliates who have a need to know about such information due to their job and management responsibilities. Outside of Duke Energy Indiana and its affiliates, this information is only provided to certain persons who have a legitimate need to review the information to participate in this Cause and who sign a confidentiality agreement or are otherwise bound to maintain its confidentiality. The Confidential Information, if disclosed, would have a substantially detrimental effect on Duke Energy Indiana and its stakeholders. The Confidential Information therefore constitutes a trade secret under Indiana law and is entitled to protection from disclosure by the Commission.

8. The Confidential Information identified by Mr. Sufan is similar to confidential, proprietary, competitively-sensitive, and/or trade secret information previously found to be exempt from public disclosure by the Commission. *See, e.g., Re Southern Indiana Gas & Electric Company, Inc.*, Cause No. 45564 (IURC 6/28/2022) (protecting detailed cost estimates from vendors from public disclosure as confidential); *Northern Indiana Public Service Company*, Cause No. 45403 (IURC 1/27/2021) (protecting existing and future estimates of negotiated pricing and other negotiated commercial terms as confidential); and *Re Duke Energy Ind., Inc.*, Cause No. 44734 (IURC 7/6/2016) (protecting pricing, cost and other proprietary terms associated with vendor and contractor agreements as confidential).
9. The Confidential Information identified by Mr. Gagnon is the same confidential, proprietary, competitively-sensitive, and/or trade secret information previously found to be exempt from public disclosure by the Commission in *Re Duke Energy Indiana, LLC*. Cause No. 46155 (IURC 1/15/2025). It is similar to IRP information previously granted protection by the Commission. *See, Re Indiana Michigan Power Co.*, Cause No. 46215, Docket Entry dated

April 7, 2025; and *Re Northern Indiana Public Service Company LLC.*, Cause No. 46172 (IURC 3/19/2025).

10. Courts in Indiana look to the Indiana Uniform Trade Secret Act, Ind. Code § 24-2-3-2, for guidance as to whether information is trade secret or proprietary business interest entitled to protection from disclosure. *Star Scientific, Inc. v. Carter*, 204 F.R.D. 410, 414 (S.D. Ind. 2001). The Confidential Information falls within the purview of the Indiana Uniform Trade Secret Act. The Confidential Information is not publicly available and (i) is such that it may derive actual and potential independent economic value from being neither generally known to, nor readily ascertainable by proper means by, other persons who could obtain economic value from its disclosure or use; and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. In *Star Scientific*, the court recognized that a protectable trade secret includes any information or compilation which is used in one's business and which gives the business an opportunity to obtain an advantage over competitors that do not have the information. *Star Scientific, Inc. v. Carter*, 204 F.R.D. at 414-415.
11. Based upon the above description of material for which Duke Energy Indiana seeks protection and the attached Verified Declarations, Duke Energy Indiana requests the Commission enter a preliminary determination that the Confidential Information appears to be confidential and trade secret within the meaning of Ind. Code § 5-14-3-4(a) as defined by Ind. Code § 24-2-3-2, for the limited purpose of allowing Duke Energy Indiana or the participating parties to safely submit or otherwise make available the Confidential Information under seal for an *in camera* inspection by the presiding Administrative Law Judge and Commission for a final determination of the appropriateness of Duke Energy Indiana's request for protection. Duke

Energy Indiana's request is consistent with Indiana law, otherwise complies with Commission precedent, and should be granted.

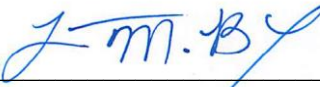
12. Once a preliminary determination is made that the Confidential Information is exempt from public disclosure, Duke Energy Indiana or the participating parties will submit the Confidential Information to the Presiding Administrative Law Judge using the confidential tab of the Commission's Online Services Portal. This submission will be made subject to and contingent upon the right to retrieve the Confidential Information before it can be disclosed to any members of the public should the Commission, upon a final determination, find that the material submitted under seal should not be protected.
13. Duke Energy Indiana requests that the Commission protect the Confidential Information from disclosure and limit access to those Commission employees with a need to review the confidential and proprietary information.
14. To the extent not already provided, Duke Energy Indiana will provide the Confidential Information to the OUCC pursuant to a standard non-disclosure agreement between Petitioner and the OUCC and to the parties who have been granted intervenor status in this Cause pursuant to an appropriate protective agreement that is acceptable to Duke Energy Indiana. If necessary, Duke Energy Indiana will request that the Commission enter a protective order safeguarding the dissemination of the Confidential Information.

WHEREFORE, Duke Energy Indiana respectfully requests that the Commission make and enter appropriate orders in this Cause:

1. Finding the Confidential Information to be preliminarily confidential for the limited purpose of allowing Duke Energy Indiana or a participating party to safely file the Confidential Information with the Commission under seal;
2. Thereafter make a final determination that the Confidential Information is exempt from public disclosure under Ind. Code § 8-1-2-29 and § 5-14-3-4;
3. Adopting the procedures set forth herein to ensure that the Confidential Information is appropriately secured and made available only to the appropriate Commission members and employees on a need-to-know basis, and who are under an obligation not to disclose such confidential information to any third party; and
4. Granting to Duke Energy Indiana such other relief as may be appropriate.

Respectfully submitted,

DUKE ENERGY INDIANA, LLC

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was electronically delivered this 20th day of May, 2025 to the following:

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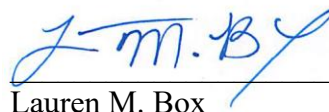
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VERIFIED DECLARATION OF JUSTIN G. SUFAN

Justin G. Sufan, hereby declares:

1. I am employed by Duke Energy Indiana, LLC (“Petitioner,” “Duke Energy Indiana,” or the “Company”), as Vice President, Rates & Regulatory Strategy.

2. I have personal knowledge of the confidential, proprietary, competitively-sensitive and trade secret nature of the Confidential Information addressed herein and in the accompanying Second Motion for Protection through direct contact with this information and through my investigation with other Duke Energy Indiana employees who work directly with the Confidential Information. I have personal knowledge of efforts taken by Duke Energy Indiana to maintain the secrecy of the Confidential Information through direct contact with these efforts and through my investigation of these efforts with other employees who work directly with these procedures.

**Description of the Confidential Information for
Which Protection is Sought**

3. I am supporting the request of the Company for protection of Confidential Information as identified in the Second Motion for Protection.

**The Information Contained in the Confidential Information
Derives Independent Economic Value By
Reason of the Fact that it is Not Publicly Available**

4. The Confidential Information includes cost information of Duke Energy Indiana and its vendors related to Duke Energy Indiana’s long-term resource planning process through the design, administration, and bid evaluation of its all-source request for proposal (“RFP”) process in partnership with CRA International d/b/a Charles River Associates, Inc. (“CRA”) and

the 2024 Duke Energy Indiana Integrated Resource Plan (“IRP”). Public disclosure of this Confidential Information could harm Duke Energy Indiana and its customers by disclosing Duke Energy Indiana’s expectations with respect to carrying out such activities. Thus, other suppliers or vendors would have the advantage of knowing how to price or negotiate to provide services or resources, which could potentially increase the costs of these services or resources. In effect, knowledge of the Confidential Information by other suppliers or vendors could establish a ceiling in future negotiations. Further, public disclosure of the information could also allow suppliers or competitors of Duke Energy Indiana an unfair opportunity to analyze Duke Energy Indiana’s operations and make pricing decisions.

5. Further, the Confidential Information discloses confidential terms of the agreement between Duke Energy Indiana and CRA. This information is confidential by terms of the agreements entered into between Duke Energy Indiana and the company. The contractual provisions at issue are commercially-sensitive terms which were agreed upon through arms-length negotiations. Public disclosure of this Confidential Information could cause economic harm to Duke Energy Indiana and its customers. Duke Energy Indiana regularly negotiates contracts for these types of services in its usual course of business and will continue to do so in the future as IRPs and RFPs occur at a predictable cadence. If the Confidential Information became generally known or readily ascertainable to other parties with whom Duke Energy Indiana negotiates, this knowledge would provide an unfair advantage to those parties. Disclosure of the information could also hinder competitive negotiations because it could establish operational expectations in future contract negotiations.

6. Duke Energy Indiana will submit unredacted versions, to the extent practicable, of these documents including the Confidential Information once a protective order is entered.

**The Information is Not Generally Known, Readily Ascertainable
by Proper Means by Other Persons Who Can
Obtain Economic Value from its Disclosure or Use**

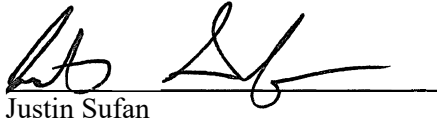
7. The Confidential Information is not readily available in the public domain and Duke Energy Indiana take steps to protect this information from public disclosure. No reasonable amount of independent research could yield this information to other parties.

**The Information is the Subject of Efforts Reasonable
Under The Circumstances to Maintain Its Secrecy**

8. The Confidential Information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Duke Energy Indiana restricts access to the information to only those employees, officers and representatives of Duke Energy Indiana who have a need to know about such information due to their job and management responsibilities or are otherwise bound to keep the information confidential. Outside Duke Energy Indiana, this information is only provided to certain persons who have a legitimate need to review the information to participate in this Cause and who sign a confidentiality agreement.

VERIFICATION

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

Signed: 
Justin Sufan

Dated: 05/20/2025

VERIFIED DECLARATION OF NATHAN D. GAGNON

Nathan D. Gagnon hereby declares:

1. I am employed by Duke Energy Business Services, LLC, a service company affiliate of Duke Energy Indiana, LLC (“Duke Energy Indiana” or the “Company”) and a subsidiary of Duke Energy Corporation (“Duke Energy”), as Managing Director, IRP & Analytics. In this role, I led the development of Duke Energy Indiana’s 2024 Integrated Resource Plan (the “2024 IRP”).

2. I have personal knowledge of the confidential, proprietary, competitively-sensitive and trade secret nature of the Confidential Information addressed herein and in the accompanying Second Motion for Protection through direct contact with this information and through my investigation with other Duke Energy Indiana employees who work directly with the Confidential Information. I have personal knowledge of efforts taken by Duke Energy Indiana to maintain the secrecy of the Confidential Information through direct contact with these efforts and through my investigation of these efforts with other employees who work directly with these procedures.

**Description of the Confidential Information for
Which Protection is Sought**

1. I am supporting the request of the Company for protection of Confidential Information as identified in the Second Motion for Protection.

**The Information Contained in the Confidential Information
Derives Independent Economic Value By
Reason of the Fact that it is Not Publicly Available**

2. The Confidential Information consists of confidential and proprietary information and data used to develop the 2024 IRP. Some of this data is the confidential information of third parties who take reasonable steps to protect their confidential information, such as only releasing such information subject to confidentiality agreements. Some of the data is the confidential information of Duke Energy Indiana. Public disclosure of the Confidential Information could harm these third parties and Duke Energy Indiana, as it would provide direct competitors of these companies with insight into the operations of the companies and how they price their products and services. Disclosure of this information could therefore hinder the companies' competitive advantage in the market for future projects. Further, public disclosure could harm Duke Energy Indiana in particular, if potential third parties were aware that the information contained in their products would be provided to their direct competitors or anyone else who has not otherwise contracted for access to this information, it could result in fewer third parties being willing to contract with Duke Energy Indiana and could result in higher costs for future work.

3. As I explained in my affidavit in Duke Energy Indiana's Petition in Cause No. 46155 concerning this same information, a part of the Confidential Information for which Duke Energy Indiana seeks confidential treatment in this proceeding is the modeling dataset, including the inputs and outputs from our modeling. In developing the 2024 IRP, we used the EnCompass modeling system developed by Yes Energy, which is subject to a Licensing Agreement with Yes Energy. This Licensing Agreement contains confidentiality provisions to protect Yes Energy's proprietary format of the dataset. See Attachment B of the Cause No. 46155 Petition.

4. In developing the 2024 IRP, we used Horizon Energy’s proprietary national database for the EnCompass modeling software, which is subject to a Licensing Agreement with Horizons Energy. This Licensing Agreement contains confidentiality provisions to protect Horizons Energy proprietary format of the dataset. *See Attachment C of the Cause No. 46155 Petition.*

5. In developing the 2024 IRP, we used data provided by Guidehouse, Inc. including, among other things, ten year installed capital cost projections regarding solar, wind and energy storage technologies, both nationally and within Duke Energy service territories. We agreed to keep such information confidential. *See Attachment D of the Cause No. 46155 Petition.*

6. In developing the 2024 IRP, we used data provided by Burns & McDonnell Engineering Company, Inc. (“Burns & McDonnell”) such as installed capital cost projections of natural gas, coal, Combined Heat and Power (CHP), wind, solar, and energy storage technologies, both nationally and within Duke Energy service territories. We agreed to keep such information confidential. *See Attachment E of the Cause No. 46155 Petition.*

**The Information is Not Generally Known, Readily Ascertainable
by Proper Means by Other Persons Who Can
Obtain Economic Value from its Disclosure or Use**

7. The Confidential Information is not readily available in the public domain. Duke Energy Indiana and the third-party companies identified above take steps to protect this information from public disclosure. No reasonable amount of independent research could yield this information to other parties.

**The Information is the Subject of Efforts Reasonable
Under The Circumstances to Maintain Its Secrecy**

8. The Confidential Information has been the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Duke Energy Indiana restricts access to the information to only those employees, officers and representatives of the companies who have a need to know about such information due to their job and management responsibilities or are otherwise bound to keep the information confidential. Further, Duke Energy Indiana is contractually bound by confidentiality obligations that prohibit the disclosure of this information to unauthorized third parties. Outside Duke Energy Indiana, this information is only provided to certain persons who have a legitimate need to review the information to participate in this Cause and who sign a confidentiality agreement.

VERIFICATION

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

Signed: Nathan Gagnon
Nathan Gagnon

Dated: 05/20/2025