STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC FOR (1) APPROVAL OF ITS PROPOSED PLAN FOR DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS FOR 2020 - 2023, (2) AUTHORITY TO RECOVER ALL PROGRAM COSTS, INCLUDING LOST REVENUES AND FINANCIAL INCENTIVES IN ACCORDANCE WITH IND. CODE §§ 8-1-8.5-3, 8-1-8.5-10, 8-1-2-42(a) AND PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-6; (3) AUTHORITY TO DEFER ALL SUCH COSTS INCURRED UNTIL SUCH TIME THEY ARE REFLECTED IN RETAIL RATES; (4) REVISIONS TO STANDARD CONTRACT RIDER 66-A; AND (5) INTERIM AUTHORITY TO CONTINUE OFFERING ITS CURRENT DEMAND SIDE MANAGEMENT AND ENERGY EFFICIENCY PROGRAMS UNTIL A FINAL ORDER IS ISSUED IN THIS CAUSE	)	**CAUSE NO. 43955 DSM-8**

DUKE ENERGY INDIANA, LLC'S REPLY BRIEF TO THE OUCC AND CAC'S EXCEPTIONS TO ITS PROPOSED ORDER

Duke Energy Indiana, by counsel, respectfully submits its Reply to the Proposed Orders submitted by the Indiana Office of Utility Consumer Counselor ("OUCC") and the Citizens Action Coalition of Indiana Inc.("CAC") submitted in this cause.

Duke Energy Indiana submitted an Energy Efficiency ("EE") Plan that is consistent with its Integrated Resource Plan ("IRP") and is comprised of programs for all customer segments. The Plan includes goals, programs to achieve those goals, program costs and budgets, a robust evaluation, measurement, and verification ("EM&V") plan and a proposal to recover reasonable performance incentives and lost revenues. The EE Plan meets all of the requirements of Ind. Code § 8-1-8.5-10 ("Section 10"). Duke Energy Indiana and the Intervenors have provided the Commission with all of the information necessary for it to make a determination that Duke Energy

Indiana's EE Plan is reasonable and that the Company is entitled to reasonable lost revenues and a reasonable shareholder incentive.

Both OUCC and CAC recommend that the Commission reject Petitioner's Proposed EE Plan in this proceeding, albeit for different reasons. Overall, the OUCC asserts the Petitioner's Proposed EE Plan is "unreasonable in its entirety" and should be rejected by the Commission. The OUCC objects to the inputs to the cost-effectiveness tests, the use of the General Service Light Bulb as the baseline measure for its programs that include light measures, and other issues addressed below. The end result, if the OUCC's position is adopted by the Commission, is that Petitioner would have considerably less program offerings for its customers, at least until such time as Petitioner has a resource capacity need.

The CAC, on the other hand, argues that Petitioner's EE Plan is based on an "outdated"[1] Market Potential Study ("MPS") and an "irredeemably flawed"[2] IRP and would have the Commission require Duke Energy Indiana to file a new EE Plan that comports with its recommendations that it use an updated MPS and an IRP that is not flawed. The CAC seeks to work through these alleged shortcomings in the pending MPS and IRP process for the 2021 IRP, which will form the basis of Duke Energy Indiana's next Plan filing. In other words, CAC asks the Commission to get a jump start on the next EE Plan filing by relying on a yet-to-be completed MPS and IRP.

Petitioner presented a four (4)-year EE Plan for the years of 2020-2023 that is consistent with its IRP, has cost-effective programs, program costs and budgets, includes a robust EM&V Plan. After consideration of the items enumerated in Section 10(j), the Commission should approve Petitioner's EE Plan as reasonable. Upon determination that the EE Plan is reasonable, Petitioner

[1] *CAC Exceptions to DEI Proposed Order*, Page 47.
[2] *Id.*

requests that the Commission approve the continued recovery of lost revenues for the life of the measure and the existing shared savings incentive.

1. <u>Duke Energy Indiana's EE Plan is Consistent with its Most Recent IRP</u>.

CAC spends most of its Proposed Order complaining that Duke Energy Indiana's EE Plan should not be approved based on various complaints about the IRP that underlies the EE Plan at issue in this proceeding. Section 10 requires that an EE Plan be consistent with its IRP. Specifically, I.C. § 8-1-8.5-10(c) states:

> For purposes of this section, "energy efficiency goals" means all energy efficiency produced by cost effective plans that are:
>
> (1) reasonably achievable;
>
> (2) *consistent with an electricity supplier's integrated resource plan; and*
>
> (3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

Emphasis added.

I.C. § 8-1-8.5-10(j) establishes a list of things the Commission is to consider when approving a Plan. Specifically, the Commission is to consider:

> (3) Whether the plan is *consistent with* the following:
>
> (A) The state energy analysis developed by the commission under section 3 of this chapter.
>
> (B) The electricity supplier's *most recent* long range integrated resource plan submitted to the commission.

Emphasis added.

Therefore, the threshold issue is whether Duke Energy Indiana's Plan is consistent with its most recent IRP. The OUCC did not raise any issues with Petitioner's IRP. CAC witness Grevatt argued that there was more EE "readily available and reasonably achievable" and therefore Duke Energy Indiana programs were not designed to achieve an optimal balance of EE for Duke Energy Indiana customers. Furthermore, CAC's Proposed Order states that "it is not only probable but likely that there are other portfolios that would result in lower cost plans that have not yet even been identified by Petitioner." *CAC Exceptions to DEI Proposed Order*, Page 49. The argument that Duke Energy Indiana should have more EE in its Plan should be rejected as Ind. Code § 8-1-8.5-10-1 *et seq.* requires that the EE Plan be consistent with the most recently submitted IRP, not some hypothetical IRP that might include "other portfolios".

Duke Energy Indiana's Direct and Rebuttal Testimony demonstrate that its EE Plan is consistent with its most recent IRP. Mr. Scott Park presented Direct Testimony comparing the energy, demand, and costs in the 2018 IRP and the proposed EE Plan demonstrating consistency on a MWh, a MW and cost basis. In his Rebuttal Testimony, Mr. Park provided greater detail in the steps necessary to demonstrate consistency between the two.

Duke Energy Indiana demonstrated that its EE Plan is consistent with its most recently submitted IRP and the CAC did not produce testimony to the contrary, but rather leveraged an attack on the IRP itself, reiterating arguments that it made in its comments in the IRP process. CAC argues that Petitioner's EE Plan should be rejected as it is not designed to achieve an optimal balance of energy efficiency in Duke Energy Indiana's service territory.

CAC's Proposed Order states that:

> Given Petitioner's substantial disagreements with CAC and the OUCC about certain programs and EE potential, and the possibility that many of these issues could be addressed collaboratively within the pending MPS and IRP processes, we do not find it prudent or

> reasonable to approve the Plan as it stands today, particularly given Petitioner's request for a four-year plan which would likely short-circuit and undermine the opportunity for collaboration and minimization of controversy in the IRP and MPS development process.

CAC Exceptions to DEI Proposed Order, Page 50.

CAC appears to contemplate that the problems identified in its testimony and Proposed Order can be resolved through the upcoming MPS and 2021 IRP. The upcoming MPS and 2021 IRP are not at issue in this proceeding as the statute requires that the Plan be consistent with "[t]he electricity supplier's *most recent* long range integrated resource plan submitted to the commission." *I.C. § 8-1-8.5-10 (j)(3)* (*emphasis added*). Further, the 2021 IRP process is going forward regardless and will inform EE proposals in the future, as it should. Duke Energy Indiana fails to understand how going forward with EE programing based on the most recent IRP as proposed in this proceeding would impact that process.

As to the 2018 IRP itself, to support its claim that Duke Energy Indiana's IRP, at issue in this proceeding, is irredeemably flawed, CAC alleges that the modeling costs included in the IRP are inconsistent with Petitioner's actual costs of implementing energy efficiency. However, as Mr. Park explained in his rebuttal, Ms. Sommer's analysis contains many factual errors. He testified that correcting her analysis to use the correct actual program costs results in a substantially higher levelized cost per KWh than presented in her testimony. Furthermore, the CAC relies on facts that are not in the record to bolster its argument.[3] The Commission should not accept this argument based on faulty assumptions and inputs as well as facts that are not in the record.

[3] "…however, upon further examination of Mr. Park's analysis, it appears he included Shared Savings performance incentives in his calculation of the DSM program levelized costs…" *CAC Exceptions to DEI Proposed Order,* Page 47.

As to CAC's contention that Duke Energy Indiana did not use the appropriate line loss for translating savings at the meter to savings at the generator, Mr. Park's rebuttal testimony addressed this on page 18. The use of average losses is appropriate given that EE is treated like any other resource in the IRP.

CAC also argues that Petitioner failed to include an avoided T&D estimate in the selection of energy efficiency. However, as Duke Energy Indiana explained in its response to the Commission's July 17, 2020 Docket Entry regarding the level of Avoided Transmission and Distribution costs that were included when analyzing Energy Efficiency in the Integrated Resource Plan optimization process:

> Avoided Transmission and Distribution ("T&D") costs and impacts influenced the analysis of EE in the IRP in two main areas:
>
> 1) Development of the Energy Efficiency Bundles
>
> Similar to the past, Duke Energy Indiana personnel developed and provided avoided costs to the vendor who performed a MPS. These avoided T&D costs are applied in the MPS as part of the total avoided cost used to perform economic screening of EE measures as described in Section 6.1 DSM Cost-Effective Screening Criteria (MPS, Page 40).[4] This economic potential is further refined, based on anticipated customer adoption, to provide the estimated total achievable EE potential.
>
> This information is then used for the IRP optimization process. The Company combines measures identified in the MPS Achievable Potential based on similar load shapes to develop the final EE bundles. The final bundles are then entered into the IRP models as a selectable resource option for development of the IRP portfolios. These bundles were specified with respect to size and cost using the economic and achievable potentials which were determined, in part, by avoided T&D costs.
>
> The annual avoided T&D costs used in the MPS economic screening are shown in Attachment IURC 1-A to Response to 7-17-20 Docket Entry - IURC 43955 DSM-8.
>
> 2) Adjusting for Avoided T&D energy losses in the IRP
>
> Because EE avoids the loss of energy as it is transmitted to customers, the sizes of the energy efficiency bundles are grossed up by the amount of average losses to the

[4] Attached to the Direct Testimony of CAC witness Jim Grevatt.

> generator level which is done to put EE bundles on par with other generators. This approach is consistent with the current and previous DSM filings.
>
> *Duke Energy Indiana's July 24, 2020 Response to the Commission's 7-17-2020 Docket Entry.*

Although CAC takes great exception to the methodologies used to model EE and to demonstrate consistency between the EE Plan and the IRP, these arguments are not persuasive.

CAC and witness Sommer argue that Petitioner's EE Plan should be rejected and that Duke Energy Indiana should continue to operate under interim authority until such time as a new EE Plan that is consistent with its recommendations is approved. As the crux of CAC's argument is that the EE Plan, at issue in this proceeding, is based on an outdated MPS and an "irredeemably flawed" IRP, of which, the remedy is an updated MPS and a revised IRP. Duke Energy Indiana is currently undertaking these steps as the basis for its *next* EE Plan. If the Commission rejects Duke Energy Indiana's Plan based on an "outdated MPS" and a "flawed IRP", the practical impact is that Duke Energy Indiana will have to wait until the MPS and IRP are completed in November of 2021. Given the contested nature of the IRP, it is not likely that Duke Energy Indiana would be able to file its updated EE Plan until mid to late 2022, which is the time frame that it will be filing its *next* EE Plan under the Company's proposal anyway. The practical impact of CAC's recommendation is to not have any approved Plan for 2020 and 2021, and part of 2022, but to have the EE Plan approved in DSM-4 serves as a 5 or 5 and a half year Plan. This is not consistent with statutory intent, and frankly inconsistent with CAC's goals of increased energy efficiency.

A. Duke Energy Indiana Provided Sufficient Information for the Commission to Make a Determination that the EE Plan Presented is Overall Reasonable.

As required by I.C. § 8-1-8.5-10(h), an EE Plan submitted to the Commission for reasonableness determination must include energy efficiency goals, programs to achieve those goals, program budgets and program costs, and EM&V procedures that include independent

EM&V. Indiana Code § 8-1-8.5-10(h) requires an electric utility to "make a plan filing *not less than* one (1) time every three (3) years . . ." (*emphasis* added).

Duke Energy Indiana presented a four-year EE Plan for calendar years 2020, 2021, 2022, and 2023. Mr. Duff presented program goals for each of the four years of the proposed EE Plan (*Direct Testimony of Timothy J. Duff,* Pages 7-8) that are reasonably achievable, consistent with its IRP and designed to achieve an optimal balance of energy resources in Duke Energy Indiana's service territory as required by I.C. § 8-1-8.5-10(c). Both Mr. Duff *(Direct Testimony of Timothy J. Duff*, Page 8) and Ms. Amy B. Dean *(Direct Testimony of Amy B. Dean,* Page 4 and *Petitioner's Exhibit 2-A*) presented the programs to achieve those goals. Mr. Duff presented program budgets that included the program costs, shared savings and lost revenues. *Direct Testimony of Timothy J. Duff,* Page 9. Finally, Ms. Jean P. Williams presented Duke Energy Indiana's EM&V procedures. *Direct Testimony of Jean P. Williams*, Pages 8-16.

The OUCC focuses on Section 10(c), which states that "'energy efficiency' goals means all energy efficiency produced by *cost effective* plans . . ." and argues that Duke Energy Indiana's cost effectiveness analysis has a number of flaws. Specifically, the OUCC argues that there are "[s]hortcomings in Petitioner's avoided T&D capacity costs, avoided generation capacity costs, program design, GSL baseline assumptions and estimated useful lives all directly impact Petitioner's benefit/cost analyses and recommend that the Commission reject the Plan at issue in this proceeding." As discussed in Petitioner's rebuttal testimony and its Proposed Order in this proceeding, the OUCC's alternatives to cost-effectiveness calculations are wrong and should be rejected.

The OUCC argues that Duke Energy Indiana's avoided T&D capacity costs should be set to zero subject to actual evidence presented or by a standard methodology established by the

Commission and recommended that the Commission require Petitioner to re-calculate the benefit/cost tests using the its desired amounts and discounted treatment of avoided capacity costs.

Mr. Jayme T. Stemle's Rebuttal Testimony supported the Company's use of a system-wide average to estimate the T&D avoided cost for cost-effectiveness purposes as reasonable because it is difficult to forecast which customers will use the Company's DSM programs and which circuits will be affected. Contrary to the OUCC's contention, it is not reasonable to set avoided T&D costs to zero because EE programs reduce the T&D system capacity needed to transport electricity from power plants to customers. If the Commission adopts the OUCC's proposal, it will increase the cost of the Company's EE programs because it is more difficult and costly to build a DSM resource on a specific circuit in a short time period at exactly the time the resources will be needed to avoid a T&D expansion. *Rebuttal Testimony of Jayme T. Stemle*, Pages 7-8.

The OUCC also argues that Petitioner's use of halogen light bulbs as its baseline for the cost-effectiveness comparison is incorrect and encourages the Commission to order Duke Energy Indiana to use non-Energy Star LEDs. Mr. Haselden recommended that "Petitioner use LEDs as the baseline bulb with a sunset date for market baseline transformation effective January 1, 2021." *OUCC's Exceptions to Duke Energy Indiana's Proposed Order*, Page 8. In its Proposed Order, the OUCC admits that its position will "effectively eliminate GSL LEDs as a cost-effective DSM measure as program costs would exceed the nominal energy savings . . ." *OUCC's Exceptions to Duke Energy Indiana's Proposed Order*, Page 14. Petitioner's witness, Ms. Williams, thoroughly refuted the OUCC's argument in her rebuttal testimony. *Rebuttal Testimony of Jean P. Williams*, Pages 4-5. The Commission should not rely on Mr. Haselden's anecdotal testimony to deprive Duke Energy Indiana's customers of lighting measures that continue to be cost effective. While reducing LED GSL bulbs being offered through its programs, the Company appropriately

recognized the US Department of Energy's 2019 action that eliminated the backstop authority for GSLs still effectively allowing halogen GSLs to be sold.

The OUCC raised several concerns with Duke Energy Indiana's proposed programs; however, the programs proposed for this proceeding are substantially the same as the programs offered since 2018 as approved in DSM-4. The OUCC took umbrage with the inclusion and design of the Outdoor Lighting Modernization program. CAC did not object to the inclusion of this program; and, in fact, recommended that the Outdoor Lighting program be eligible for a shared savings incentive. As the CAC stated, "this program is no different from any other cost effective EE program that incentivizes customers to take on additional expense in order to become more energy efficient." *CAC Exceptions to DEI Proposed Order,* Page 57. As Company Witness Ms. Amy Dean explained in her rebuttal testimony, "Duke Energy Indiana's program is structured to directly provide the rebate to the customer". *Rebuttal Testimony of Amy B. Dean,* Page 6. Like the Company's other DSM programs, the Outdoor Lighting Modernization program is focused on O&M items such as customer rebates and incentives and not capital investment. Duke Energy Indiana believes this will lead to success because the customer will receive a cash incentive upfront to help offset the customer's cost to upgrade to LED. Thus, there will be an incentive for customers to participate in the program. *Rebuttal Testimony of Amy B. Dean,* Pages 6-7.

Mr. Grevatt recommends a number of programmatic additions that may or may not be consistent with the profile modeled in Petitioner's IRP.

Neither OUCC nor CAC dispute that Duke Energy Indiana presented program budgets, program costs, and EM&V procedures that include independent EM&V; therefore, Petitioner met the threshold requirement that it present a Plan as defined in Section 10(h) and all of its elements.

In this proceeding, Petitioner proposed a four-year EE Plan to increase alignment with its IRP and the next Plan filing. For both Cause No. 43955 DSM-4 and this filing, due to delays in securing EE Plan approval, Duke Energy Indiana had to request interim authority to avoid program interruption. Approval of Petitioner's four-year EE Plan should avoid the need for interim authority.

CAC recommended that the Commission reject Duke Energy Indiana's EE Plan and, in the alternative, only approve a two or three-year Plan. To support their argument, Mr. Grevatt expressed concern that there are potential risks to a four-year EE Plan to the extent that program implementation strategies, budgets, and savings levels are "locked-in". *Direct Testimony of Jim Grevatt*, Page 10. In response to CAC's concern about locking in program implementation strategies, budgets, and savings levels, Mr. Duff, in his rebuttal testimony, proposed that the Oversight Board ("OSB") have increased discretionary authority to modify, add, or discontinue programs up to twenty percent (20%). *Rebuttal Testimony of Timothy J. Duff*, Page 16. Neither the OUCC nor CAC opposed this in their Proposed Orders. *OUCC Exceptions to Duke Energy Indiana's Proposed Order*, Page 21 and *CAC's Exceptions to DEI Proposed Order*, Page 57.

Duke Energy Indiana's effort to better align its EE Plan and the IRP will result in better administrative efficiency as the Company and Intervenors will not need to wrangle over requesting interim authority, make a filing, and go through the hearing process at the Commission. The Commission should approve Petitioner's 4-year EE Plan to avoid disruptions in offering customers its EE programs and provide for administrative inefficiencies.

Despite OUCC and CAC's contention to the contrary, Duke Energy Indiana provided testimony in support of all of the elements necessary for an EE Plan and therefore the Commission looks to the ten (10) factors that are enumerated in I.C. § 8-1-8.5-10(j) to determine the

reasonableness of the Plan. As OUCC and CAC challenge the sufficiency of many of these factors, Duke Energy Indiana responds to each of these ten (10) factors as follows:

1. Projected Changes in Customer Consumption of Electricity Resulting from the Implementation of the Plan.

CAC argues that differences between the MPS and the 2018 load forecast would have likely led to additional energy savings. *CAC Exceptions to DEI Proposed Order*, Page 51. This argument was soundly refuted in Mr. Phillip O. Stillman's Rebuttal Testimony where he explained that the MPS and the IRP look to different planning horizons and that the MPS forecast does not include the impacts of EE programs, whereas the IRP does. *Rebuttal Testimony of Phillip O. Stillman*, Pages 4-5. Also, Mr. Stillman presented a table that demonstrated that the 2017 and 2018 load forecast were very similar. *Rebuttal Testimony of Phillip O. Stillman*, Page 5. As such, this argument should be rejected.

Mr. Duff presented the Company's goals and projected changes in customer consumption on page 7 of his Direct Testimony. Furthermore, it is reasonable to expect that changes in consumption occur as customers participate in energy efficiency programs; indeed, the goal of EE is to reduce customer consumption. Duke Energy Indiana provided testimony that allows the Commission to find that it met this consideration.

2. A Cost and Benefit Analysis of the Plan, Including the Likelihood of Achieving the Goals of the Energy Efficiency Programs Included in the Plan.

OUCC raised several issues with Petitioner's cost and benefit analysis. Specifically, the OUCC argues that there are "[s]hortcomings in Petitioner's avoided T&D capacity costs, avoided generation capacity costs, program design, GSL baseline assumptions, and estimated useful lives all directly impact Petitioner's benefit/cost analyses," that support its recommendation that the Commission reject the Plan at issue in this proceeding. As discussed in Petitioner's Rebuttal

Testimony and its Proposed Order in this proceeding, the OUCC's alternatives to cost-effectiveness calculations are wrong and should be rejected.

As stated in Mr. Stemle's rebuttal testimony, using a system-wide average to estimate the T&D avoided cost is reasonable because it is difficult to forecast which customers will use the Company's DSM programs and which circuits will be affected. The methodology that Duke Energy Indiana employed assumes customers adopt DSM programs across the system in a manner that will result in load reduction across all circuits including those with and without immediate capacity concerns, potentially extending expansion needs further into the future and extending the life of existing equipment. *Rebuttal Testimony of Jayme T. Stemle*, Page 7. Contrary to the OUCC's contention, it is not reasonable to set avoided T&D costs to zero because EE programs reduce the T&D system capacity needed to transport electricity from power plants to customers. If the Commission adopts the OUCC's proposal, it will increase the cost of the Company's EE programs because it is more difficult and costly to build a DSM resource on a specific circuit in a short time period at exactly the time the resources will be needed to avoid a T&D expansion. *Rebuttal Testimony of Jayme T. Stemle*, Page 8.

The OUCC asserts that avoided generation capacity costs were not an issue with respect to their use in determining the cost effectiveness of individual programs. However, the OUCC asserts these costs unreasonably inflate shareholder incentives. This assertion is incorrect. As stated in the rebuttal testimony of Company Witness, Ms. Karen K. Holbrook, the Company has calculated avoided capacity benefits consistently with the calculations approved in Cause No. 43955 DSM-4 and previously approved filings. *Rebuttal Testimony of Karen K. Holbrook*, Page 3. Additionally, whether the Company has a planning reserve margin deficit is of no consequence in how avoided costs are calculated. To follow the OUCC's argument to its conclusion would have the Company

frequently changing the avoided costs used in analyzing its programs and would not provide for a consistent set of energy efficiency programs, which is one key to a successful portfolio of programs. *Rebuttal Testimony of Karen K. Holbrook,* Page 3.

The OUCC spills a lot of ink misrepresenting the Company's LED GSL programs. Specifically, the OUCC takes issue with the use of halogen bulb as the "baseline" while ignoring the facts set forth in the rebuttal testimony of Company Witness Ms. Jean Williams:

> On September 4, 2019, the DOE issued a Final Order withdrawing the 2017 DOE expanded definition of GSL that covered specialty bulbs. In the Order, which is a Final Order, not a Notice of Proposed Rulemaking as indicated in Witness Haselden's testimony, the DOE made clear that the backstop requirement that would have prohibited the sale of GSL bulbs that exceed 45 lumens per watt effective January 1, 2020, is not triggered. For this reason, many of the documents cited by Mr. Haselden, including the Northwest Energy Efficiency Alliance ("NEEA") Study, assumed the backstop requirement would be triggered on January 1, 2020. This is no longer the case. The studies referenced by Mr. Haselden refer to the impending January 1, 2020, backstop requirement as a key driver toward the market transformation he believes justifies a change in the baseline. However, the fact is that backstop requirement did not go in place January 1, 2020, and customers are still able to purchase GSL bulbs that are below the 45 lumen per watt efficiency standard. *Rebuttal Testimony of Jean P. Williams,* Page 5.

As Ms. Williams makes clear, the OUCC's assertion ignores key regulatory changes that have prolonged the life of the halogen bulb in the marketplace. Failing to contemplate the impact of the regulatory changes on the marketplace disqualifies the OUCC position. The Company's "baseline" bulb should be set on the data currently available and not the anecdotal observations of the OUCC's witness during his visits to the grocery store.

CAC raised no issues with the Company's cost-effectiveness calculations. Duke Energy Indiana did not make changes to the way it has calculated the cost benefits analysis in this proceeding. Duke Energy Indiana provided testimony that allows the Commission to find that it met this consideration.

3. Whether the Plan is Consistent with the Following:

(A) The state energy analysis developed by the commission under section 3 of this chapter.

(B) The electricity supplier's most recent long range integrated resource plan submitted to the Commission.

In its Proposed Order, the OUCC stated that Petitioner's Plan is consistent with its IRP. *OUCC Exceptions to Duke Energy Indiana's Proposed Order*, Page 20. CAC argued that Duke Energy Indiana's Plan is based on a "flawed" IRP and is not consistent with the IRP. *CAC Exceptions to DEI Proposed Order*, Pages 52-53. This topic was discussed above and should be rejected.

4. The Inclusion and Reasonableness of Procedures to Evaluate, Measure, and Verify the Results of the Energy Efficiency Programs Included in the Plan, Including the Alignment of the Procedures with Applicable Environmental Regulations, Including Federal Regulations Concerning Credits for Emission Reductions.

The OUCC argued that there were serious concerns with the impact impacts to the EM&V process. *OUCC exceptions to Duke Energy Indiana's Proposed Order,* Page 20. The OUCC asserts there are multiple inputs to the benefit/cost evaluation over which Duke Energy Indiana's independent EM&V evaluator has no control because they are provided by the Company and not vetted by the independent EM&V evaluator. *OUCC exceptions to Duke Energy Indiana's Proposed Order,* Page 14. Further, the OUCC argues the Company does not have its independent EM&V evaluators run DSMore, but instead itself runs, UIPlanner by Utilities International. *OUCC exceptions to Duke Energy Indiana's Proposed Order,* Page 14. Despite these assertions, the OUCC fails to demonstrate that the Company's EM&V is insufficient, other than making the claim. As clearly stated by Ms. Holbrook, the Company's EM&V is robust and transparent:

> DSMore is used to calculate the annual avoided costs, based on the hourly shape of each and every measure and its annual kWh and kW (impact assumptions). Those results, by individual participant, are then pulled into another software program, UIPlanner, and then multiplied by the participation at a measure level. The outcome are the calculations of the

> total NPV of avoided costs, monthly and annual kWh and kW, and lost revenue. UIPlanner also receives costs from the Company's general ledger that it pulls in to calculate program costs, cost recovery revenue, and shareholder incentive. Because UIPlanner is used for revenue recognition, it is subject to numerous Sarbanes-Oxley controls that have been reviewed and audited by internal auditors and shared with external auditors as well. *Rebuttal Testimony of Karen K. Holbrook*, Page 5.

CAC raised concerns with Petitioner's low-income weatherization program and that EM&V will identify options for improvement. Duke Energy Indiana will continue to work with CAC and the OSB to address any concerns raised in the EM&V.

5. Any Undue or Unreasonable Preference to any Customer Class Resulting, or Potentially Resulting, from the Implementation of an Energy Efficiency Program or from the Overall Design of a Plan.

The OUCC did not raise any issues regarding this factor. CAC raised issues on the Company's overreliance on the MyHER residential program. *CAC Exceptions to DEI Proposed Order*, Page 53. However, it does not allege that Petitioner's EE Plan creates an undue or unreasonable preference to any customer class. Duke Energy Indiana provided testimony that allows the Commission to find that it met this consideration.

6. Comments Provided by Customers, Customer Representatives, the Office of Utility Consumer Counselor, and Other Stakeholders Concerning the Adequacy and Reasonableness of the Plan, Including Alternative or Additional Means to Achieve Energy Efficiency in the Electricity Supplier's Service Territory.

The OUCC's Proposed Order enumerated the various ways that Petitioner took Stakeholder Comments into consideration. *OUCC Exceptions to Duke Energy Indiana's Proposed Order*, Page 20. The CAC, on the other hand, argues that there is no evidence that Duke Energy Indiana incorporated any feedback into its filing. *CAC Exceptions to DEI Proposed Order*, Page 54. This overlooks the changes the Company made in its rebuttal filing in response to the CAC's direct testimony. Specifically, in response to concerns raised in the CAC's testimony regarding a four-year EE Plan and programs and budgets being locked in, Mr. Duff testified that the Company is

proposing that the OSB have increased discretionary authority to modify, add, or discontinue programs up to 20%. *Rebuttal Testimony of Timothy J. Duff,* Page 16. To improve the Low-Income Weatherization program offering, Ms. Dean testified the Company is willing to remove the requirement that the health and safety component must average no more than $250 per home. She stated that the maximum amount provided per home would still remain at $750, which would allow the Indiana Housing & Community Development Authority ("IHCDA") to be able to complete additional health and safety measures, without having to track the average cost for the program. Ms. Dean also testified that the Company is willing to open the program to renters. *Rebuttal Testimony of Amy B. Dean,* Pages 14-15. Duke Energy Indiana provided testimony, and the OUCC concurred, that allows the Commission to find that it met this consideration.

7. The Effect, or Potential Effect, in Both the Long Term and the Short Term, of the Plan on the Electric rates and Bills of Customers that Participate in Energy Efficiency Programs Compared to the Electric Rates and Bills of Customers that do not Participate in Energy Efficiency Programs.

The OUCC found that Duke Energy Indiana has reasonably addressed the requirements; CAC raised no issues with this section.

8. The Lost Revenues and Financial Incentives Associated with the Plan and Sought to be Recovered or Received by the Electricity Supplier.

As in years past, the Parties remain hostile to lost revenue recovery. The arguments marshaled against lost revenue recovery include the magnitude of lost revenues and the need for a "cap" on lost revenues. As in the past, these arguments are without merit. First, the magnitude of lost revenues is simply a result of the robustness and success of the Company's historical DSM programs and achievements. The fact is, if a utility is going to pursue a robust DSM program, it is going to realize a robust level of lost revenues.

Section 10 provides that if the Commission finds the Utility's EE Plan to be reasonable, the utility should be entitled to reasonable lost revenues. Petitioner's proposal is to recover lost revenues directly attributable to energy efficiency impacts that are subject to EM&V by an independent third party. EM&V ensures that the lost revenues sought to be recovered are only those that result from Duke Energy Indiana's successful implementation of programs.

The OUCC asserts it is unable to determine whether the Company's EE Plan is reasonable in its entirety and thus shareholder incentives and lost revenues are unreasonable. *OUCC exceptions to Duke Energy Indiana's Proposed Order*, Page 15. The OUCC does not provide any other analysis as to the unreasonableness of the lost revenues.

The CAC argued that lost revenues should be capped at the shorter of three (3) years or life of measure but did not offer support for limiting lost revenue recovery to three (3) years as opposed to some other time frame. CAC also argues that Duke Energy Indiana's proposed lost revenue recovery transfers risks to customers because it doesn't take into account changes in sales volumes for reasons other than successful implementation of EE. *CAC Exceptions to DEI Proposed Order*, Page 55. This argument ignores the fact that lost revenues for the life of the measure represent real costs to Duke Energy Indiana.

As recognized by the Indiana General Assembly, lost revenues are a real cost of energy efficiency and a utility is entitled to recover these costs. *I.C. § 8-1-8.5-10(o)(2)*. As the Commission has repeatedly stated, "the purpose of lost revenue recovery is to return the utility to the position it would have been in absent implementation of EE . . . ." *Cause No. 43955 DSM-3 Final Order*, Page 48. Duke Energy Indiana is not required to show that it has suffered harm as of the time of its last rate case, nor is it required to consider other opportunities for sales. Furthermore, the IRP analysis already includes the impact of lost revenues and the IRP found it

cost-effective to include the EE portfolio, demonstrating that all customers benefit even with recovery of all lost revenues over the measure life. The Company is entitled to those lost revenues that accrue from its energy efficiency programs, as determined by its EM&V.

The OUCC recites a litany of reasons why Duke Energy Indiana should not be entitled to its requested performance incentive. Specifically, the OUCC asserts that it has "serious concerns" with the Company's estimated useful lives and avoided energy costs which causes the proposed incentives to be unreasonable. *OUCC Exceptions to Duke Energy Indiana's Proposed Order,* Page 10. The OUCC's complaint about the Company's avoided energy cost input rests entirely on the use of a carbon tax in the calculation. The OUCC ignores the following evidence from the rebuttal testimony of Mr. Scott Park:

> There is growing belief that carbon regulation is becoming more of a question of when rather than if it will come to pass. Generally speaking, carbon regulation will improve the value proposition of energy efficiency and will do so for the portion of measure lives that realize savings after carbon regulation begins. For example, it is appropriate for an energy efficiency measure implemented in 2021 with a measure life of ten (10) years to benefit from the additional savings provided after carbon regulation is assumed to be present (the IRP assumed carbon regulation starting in 2025 for two (2) of the scenarios evaluated). *Rebuttal Testimony of Scott Park*, Pages 8-9.

The growing belief that carbon regulation will be a reality in the coming years should not be entirely ignored by the Company's calculation. As Mr. Park asserts, the impact carbon regulation will have on the value proposition should be considered.

The OUCC further claims the Company's avoided T&D costs "artificially increases shareholder incentives". *OUCC Exceptions to Duke Energy Indiana's Proposed Order*, Page 11. As stated above, Mr. Stemle's Rebuttal Testimony debunks the OUCC contention. Using a system-wide average to estimate the T&D avoided cost is reasonable because it is difficult to forecast which customers will use the Company's DSM programs and which circuits will be

affected. The methodology that Duke Energy Indiana employed assumes customers adopt DSM programs across the system in a manner that will result in load reduction across all circuits including those with and without immediate capacity concerns, potentially extending expansion needs further into the future and extending the life of existing equipment. *Rebuttal Testimony of Jayme T. Stemle,* Page 7.

The CAC did not take exception to Duke Energy Indiana's proposed shared savings incentive.

As the Commission found in IURC 43955 DSM-4:

> … it is preferable for performance incentives to be tied to both tiered levels of energy savings achieved and the net present value of the net benefits of the UCT. By using this type of structure, the utility is encouraged to minimize program costs while striving to achieve as much cost-effective energy efficiency as reasonably possible.
>
> *December 28, 2017 DSM-4 Final Order,* Pages 44-45.

Duke Energy Indiana proposed the same incentive and no party has demonstrated that this incentive structure has not been effective in incentivizing Duke Energy Indiana to minimize costs and achieve maximum energy efficiency. The Commission should approve Duke Energy Indiana's lost revenue recovery and performance incentive as they are reasonable and consistent with DSM-4.

9. The Electricity Supplier's Current Integrated Resource Plan and the Underlying Resource Assessment.

This issue was discussed above.

10. Any Other Information the Commission Considers Necessary.

The OUCC recommended and Duke Energy Indiana agrees that the Company should continue to file its program scorecards. As such, Duke Energy Indiana requests additional

language be added to item 7 in the "THEREFORE" clause at the end of its Proposed Order. Duke Energy Indiana requests that item 7 read as follows:

7. Petitioner will continue to file its EM&V reports as required in Cause Nos. 43955 DSM-2, DSM-3 and DSM-4, under this current Cause of action.

CONCLUSION

Duke Energy Indiana presented a strong case that included all information necessary to make a determination that its EE Plan presented is consistent with its IRP and reasonable. The Company is therefore entitled to reasonable shareholder incentives and lost revenues.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was electronically delivered this 29th day of October, 2020, to:

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