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**FILED**  
April 5, 2016  
**INDIANA UTILITY  
REGULATORY COMMISSION**

**Via E-File**

April 5, 2016

Indiana Utility Regulatory Commission  
Attn: Brenda A. Howe, Secretary to the Commission  
National City Center  
101 W. Washington Street, Suite 1500 E  
Indianapolis, Indiana 46204

***Re: Cause No. 44576***

Dear Ms. Howe:

Attached please find the PETITION FOR RECONSIDERATION OF THE KROGER CO. for filing in the above-referenced case.

Please place this document of file. A copy has been served on all parties identified on the attached certificate of service.

Very truly yours,



Kurt J. Boehm, Esq.  
Jody Kyler Cohn, Esq.  
**BOEHM, KURTZ & LOWRY**

KJB  
Enclosure  
Attachment: Certificate of Service

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| PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY ("IPL")<br>FOR AUTHORITY TO INCREASE RATES AND CHARGES FOR<br>ELECTRIC UTILITY SERVICE AND FOR APPROVAL OF: (1)<br>ACCOUNTING RELIEF, INCLUDING IMPLEMENTATION OF MAJOR<br>STORM DAMAGE RESTORATION RESERVE ACCOUNT; (2) REVISED<br>DEPRECIATION RATES; (3) THE INCLUSION IN BASIC RATES AND<br>CHARGES OF THE COSTS OF CERTAIN PREVIOUSLY APPROVED<br>QUALIFIED POLLUTION CONTROL PROPERTY; (4)<br>IMPLEMENTATION OF NEW OR MODIFIED RATE ADJUSTMENT<br>MECHANISMS TO TIMELY RECOGNIZE FOR RATEMAKING<br>PURPOSES LOST REVENUES FROM DEMAND-SIDE MANAGEMENT<br>PROGRAMS AND CHANGES IN (A) CAP A CITY PURCHASE COSTS;<br>(B) REGIONAL TRANSMISSION ORGANIZATION COSTS; AND (C)<br>OFF SYSTEM SALES MARGINS; AND (5) NEW SCHEDULES OF<br>RATES, RULES AND REGULATIONS FOR SERVICE. | CAUSE NO. 44576 |
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Pursuant to 170 IAC 1-1.1-22(e), The Kroger Co. petitions the Indiana Utility Regulatory Commission for reconsideration of a portion of its March 16, 2016 Order in the above-captioned matter. As set forth in the attached Memorandum in Support, Kroger requests that the Commission reconsider its finding, at page 80 of its Order, that it is not reasonable to require demand billing for Indianapolis Power & Light Company's ("IPL") proposed new riders.

Through the testimony of Kroger's witness Kevin Higgins, Kroger established that several new riders<sup>1</sup> proposed by IPL are designed so that they are billed entirely through an energy (kWh) charge despite the fact that these riders recover either entirely demand-related (kW) costs or mostly demand-related costs. During cross-examination, IPL's expert witness, Dr. Stephen Gaske agreed with Kroger's testimony that these new "all energy"

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riders contain entirely or predominately demand-related costs (see attached Transcript excerpt).<sup>2</sup> Kroger recommended that if the Commission approves any of these four riders, IPL should be required to bill demand-metered customers on a demand basis.<sup>3</sup>

In response to Kroger's recommendation, IPL stated that its proposed "all-energy" rate design should be approved because *"there is a serious question whether IPL's current billing software has [the capability to bill riders on a demand basis] and, if it does, how much it would cost to program it as Kroger wishes."*<sup>4</sup>

In its Order, the Commission found that it would not be reasonable to recover these rider costs through demand charges due to the software issue identified by IPL. The Commission stated on page 80 of its Order:

*"The final issues to resolve are whether the riders should be designed as a demand charge (as recommended by Kroger)... IPL established that its billing system would need significant upgrades to charge on a demand basis, and thus it is not reasonable to require demand billing at this time for these riders and for the lost revenues."*<sup>5</sup>

Kroger respectfully petitions the Commission to reconsider its finding on this issue. First, the Company did not in fact establish *"that its billing system would need significant upgrades to charge on a demand basis"* as the Commission found on page 80 of its Order. Instead, IPL's rate design expert, Dr. Gaske, stated that he is *"not entirely sure whether their billing system can handle"* charging these riders on a demand basis.<sup>6</sup> So while IPL conceded that its proposed rate design for its new riders fundamentally misaligns cost recovery with cost causation,<sup>7</sup> IPL never went to the trouble of demonstrating that there is a significant software reprogramming issue that is preventing the Company from fixing its proposed rate design. IPL's testimony only speculates that some billing issue may exist. This speculation is not sufficient to overcome the clear showing, supported by Dr. Gaske, that IPL's proposed design for the new riders fundamentally misaligns cost-causation and cost-recovery.

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<sup>2</sup> Transcript of Hearing, pages G-47-50.

<sup>3</sup> In the case of the DSM Rider, Kroger recommended that the Commission either require that the Rider be recovered on a demand basis to reflect the fact that 97% of lost revenues are attributable to lost kW demand, or it should be designed so that 97% of its costs are recovered through a demand charge and 3% are recovered through an energy charge. (Kroger Initial Brief, p. 9)

<sup>4</sup> IPL's Reply to OUCC, Staff and Intervening Parties' Proposed Orders, p. 117.

<sup>5</sup> Order, p. 80.

<sup>6</sup> Transcript of Hearing (September 24, 2015), page G-50. Dr. Gaske stated: *"What I say in there is that from a theoretical perspective, there's no objection to [Kroger's proposal], but I think the company's objection or problem is they're not entirely sure whether their billing system can handle that kind of an adjustment, or it would take quite a bit of re-programming the billing system to change that method."*

<sup>7</sup> Transcript of Hearing, pages G-47-50.

IPL is certainly capable of billing its new riders on a demand basis. IPL's customers pay for demand meters that measure a customer's energy and demand so that IPL can accurately bill for both the demand and energy usage of its customers. IPL uses these demand meters to bill customers separately for demand and energy consumption in base rates. So it is not credible for IPL to claim that it is too difficult to apply this same function to its new riders.

Even if the Company had established that recovering demand-related costs through demand charges is difficult, the Company should undertake that task as a basic courtesy to its customers. By refusing to bill demand-related costs through demand charges, IPL is creating a brand new subsidy paid by high load factor customers to lower load factor customers. Although this misalignment in rates may not be of great concern to IPL because it will not impact the revenues collected by IPL, it has real consequences for IPL's customers. High load factor customers, who use the Company's capacity resources relatively efficiently, will pay significantly more in rider costs than they would if IPL designed its rates to recover demand-related costs from the cost-causer. These customers have no other option, but to take service from IPL. They cannot voice their dissatisfaction with IPL's cavalier attitude toward charging customers for costs caused by other customers by shopping for a new generation supplier.

On behalf of these customers, Kroger requests that the Commission require IPL to fix this problem before instituting its new riders. If it was the Company's money at issue, rather than its customers', IPL would remedy this issue and "software re-programming" would never be raised as an excuse. IPL should design its rates correctly even if it may cause "*a bit of re-programming [of the] the billing system.*" Here, the importance of correctly designed rates for customers far outweighs any speculative inconvenience to IPL.

WHEREFORE, Kroger respectfully petitions the Commission to enter an Order requiring IPL to bill demand-metered customers on a demand basis for the Regional Transmission Organization Adjustment; the OSS Margin Sharing Adjustment; the Capacity Cost Recovery Adjustment and the DSM Adjustment Rider. If this change requires IPL to reprogram its billing software, IPL should be required to make this adjustment.

Respectfully submitted,



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April 5, 2016

# ATTACHMENT

1 of fixed costs that you try to recover in the  
2 demand or customer charge, you have to get it  
3 back in the energy charge.

4 Q So a design like that would help low load  
5 factor industrial customers, but it would  
6 cause a subsidy to be paid by high load factor  
7 industrial customers; correct?

8 A Yes.

9 Q I would like to discuss some of the new riders  
10 that are proposed in this case, and I'm -- I  
11 apologize; I'm going to have to reference  
12 Mr. Cutshaw's direct testimony because he  
13 explains these riders.

14 Let's start with the Regional  
15 Transmission Organization factor. Mr. Cutshaw  
16 on Page 27 of his direct, he states that "The  
17 RTO Adjustment factor is intended to timely  
18 recover the excess (or deficit) of an estimate  
19 of the net Non-Fuel Costs to be billed by MISO  
20 compared to the amount of such net costs  
21 approved to be included in the determination  
22 of basic charges for service in this  
23 proceeding."

24 Mr. Cutshaw, I think,  
25 characterizes these as demand costs that are

1       going to be recovered through the RTO  
2       adjustment factor.

3                       Do you agree with that?

4   A   Yes.

5   Q   And that's reflected in your filing because as  
6       these costs are allocated to the different  
7       rate classes, you're allocating those on the  
8       basis of demand; correct?

9   A   Yes, for the base rate purpose.

10   Q   But once you get within the -- each schedule,  
11       they're recovered on a KWH -- on an energy  
12       basis from each customer; correct?

13   A   As long as they are part of the rider, yes.

14   Q   Now, the same for the OSS margin adjustment,  
15       Mr. Cutshaw states on Page 29 of his direct  
16       that the OSS margin adjustment is allocated to  
17       classes based on demand allocators but then  
18       billed to demand billed customers on the basis  
19       of KWH energy; is that correct?

20   A   Yes.

21   Q   And, again, that's to reflect the fact -- the  
22       first part of it is to reflect the fact that  
23       you review this as a demand charge -- or these  
24       are demand costs; correct?

25   A   Yes.



1 Q But once you get within the rate class, again,  
2 they're recovered 100 percent on energy;  
3 correct?

4 A While they're part of the rider, yes.

5 Q And this is going to sound familiar, but the  
6 capacity cost recovery adjustment, the CAP  
7 adjustment, is another new rider; correct?

8 A Yes.

9 Q And, again, you can just tell by the name of  
10 it -- the name of the rider, capacity costs,  
11 that's demand costs; right?

12 A Yes.

13 Q And those are recovered through energy charges  
14 from customers?

15 A I'd have to review that CAP adjustment, the  
16 proposed CAP adjustment. You would have to  
17 ask Mr. Cutshaw.

18 Q Well, can you please turn to Page 49 of your  
19 rebuttal testimony?

20 A Yes, and I see where you're referring to, and  
21 the answer is yes.

22 Q Okay, thank you.

23 Now, here in Question 63 and  
24 Question 64, you're talking about these three  
25 riders and Mr. Higgins' proposal to recover

1       these riders from customers on a KW basis to  
2       reflect -- because that would be reflective of  
3       cost causation; correct?

4   A   Yes.

5   Q   And you don't seem to -- you -- hopefully I'm  
6       characterizing your testimony correctly. You  
7       don't -- at least you don't state that you  
8       disagree with that; you just indicate how that  
9       would affect customers; correct?

10  A   Right. What I say in there is that from a  
11       theoretical perspective, there's no objection  
12       to it, but I think the company's objection or  
13       problem is they're not entirely sure whether  
14       their billing system can handle that kind of  
15       an adjustment, or it would take quite a bit of  
16       re-programming the billing system to change  
17       that method.

18  Q   Sure. Were you in the Hearing Room yesterday  
19       when I was discussing the same type of problem  
20       with Mr. Allen?

21  A   No, but I had sort of a general  
22       characterization of it told to me.

23  Q   Mr. Allen stated the same thing essentially  
24       that there's a billing issue.

25                   Now, you have three new riders

### CERTIFICATE OF SERVICE

I hereby certify that true copy of the foregoing was served by electronic mail (when available) or regular U.S. mail, postage prepaid (unless otherwise noted), this 5<sup>TH</sup> day of April, 2016 to the parties listed below.



Kurt J. Boehm, Esq.  
Jody Kyler Cohn, Esq.  
John P. Cook, Esq.

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