ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	✓		
Freeman	✓		
Krevda	✓		
Ober	✓		
Ziegner	✓		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY INDIANA, LLC FOR APPROVAL OF PETITIONER'S UPDATED 7-YEAR ELECTRIC PLAN, PURSUANT TO IND. CODE § 8-1-39-9	)))))	**CAUSE NO. 44720 TDISC 7** **APPROVED:** APR 15 2020

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Carol Sparks Drake, Senior Administrative Law Judge

On October 30, 2019, Duke Energy Indiana, LLC ("Duke Energy Indiana" or "Petitioner") filed a Verified Petition requesting approval of its updated seven-year plan for eligible transmission, distribution, and storage system improvements ("Updated T&D Plan"), pursuant to Ind. Code § 8-1-39-9. On November 8, 2019, Duke Energy Indiana filed an Amended Attachment 1 to the Verified Petition and prefiled Petitioner's case-in-chief, which included the direct testimony and exhibits of the following witnesses:

- Cicely M. Hart, Vice President - Customer Delivery Engineering at Duke Energy Business Services LLC ("DEBS");
- Martin D. Dickey, Vice President, Transmission Construction and Maintenance at DEBS; and
- Diana L. Douglas, Director, Rates and Regulatory Planning at Duke Energy Indiana.

Duke Energy Indiana also filed a motion for administrative notice on November 8, 2019, asking the Commission, pursuant to 170 IAC 1-1.1-21(h), to take administrative notice of certain documents Duke Energy Indiana filed in Cause Nos. 44720 and 44720 TDSIC 6 and requesting confidential treatment continue to be given in this proceeding to identified documents from Cause No. 44720. On November 22, 2019, a docket entry was issued in which Duke Energy Indiana was asked to explain the relevance of particular documents from Cause Nos. 44720 and 44720 TDSIC 6 for which administrative notice was requested. On December 2, 2019, in response to the November 22, 2019 docket entry, Petitioner withdrew its request for administrative notice of certain Workpapers from Cause No. 44720 ("44720 Workpapers"). Administrative notice was granted in a docket entry issued on December 3, 2019, except with respect to the withdrawn 44720 Workpapers.

On November 8, 2019, Petitioner also filed a motion for protection of confidential and proprietary information. This motion was preliminarily granted on November 22, 2019, exclusive of the 44720 Workpapers.

On January 28, 2020, the Indiana Office of Utility Consumer Counselor ("OUCC") prefiled the redacted direct testimony of Anthony A. Alvarez, Utility Analyst in the OUCC's Electric Division. The extent of the redactions in Mr. Alvarez's testimony was subsequently revised with amended public and confidential versions of his testimony prefiled consistent with a docket entry issued on February 28, 2020.

On February 18, 2020, Duke Energy Indiana prefiled the rebuttal testimony of Ms. Hart.

An evidentiary hearing was held in this Cause at 9:30 a.m. on March 12, 2020, in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared by counsel, and the evidence of Duke Energy Indiana and the OUCC was admitted without objection.

Based upon the applicable law and the evidence presented, the Commission now finds:

1. <u>Notice and Jurisdiction</u>. Notice of the hearing in this Cause was given and published as required by law. Duke Energy Indiana is a public utility as defined in Ind. Code § 8-1-2-1(a) and 8-1-39-4. Under Ind. Code ch. 8-1-39, the Commission has jurisdiction over a public utility's petition to approve rate schedules establishing a Transmission, Distribution, and Storage System Improvement Charge ("TDSIC") that will allow the periodic adjustment of the public utility's basic rates and charges to provide for timely recovery of 80% of approved capital expenditures and TDSIC costs and approval of eligible transmission, distribution, and storage system improvements. The Commission, therefore, has jurisdiction over Petitioner and the subject matter of this proceeding.

2. <u>Petitioner's Characteristics</u>. Duke Energy Indiana is a public utility and an Indiana corporation with its principal office located in Plainfield, Indiana. Petitioner is engaged in the business of rendering retail electric utility service and owns, operates, manages, and controls, among other things, plant and equipment within Indiana used for the production, transmission, delivery, and furnishing of such service. Duke Energy Indiana provides electric service to more than 840,000 customers in 69 Indiana counties. Petitioner also sells electric energy for resale to municipal utilities, Wabash Valley Power Association, Inc. ("Wabash Valley"), Indiana Municipal Power Agency ("IMPA"), Hoosier Energy Rural Electric Cooperative, Inc. ("Hoosier Energy"), and other electric utilities.

3. <u>Background to this Proceeding</u>. On June 29, 2016, the Commission issued its Order in Cause No. 44720 (the "44720 Order") approving the 7-Year Plan and TDSIC Settlement Agreement (the "TDSIC Settlement") entered into on March 7, 2016, by and among Duke Energy Indiana, the OUCC, Duke Industrial Group, Companhia Siderurgica Nacional, LLC, Steel Dynamics, Inc., Wabash Valley, IMPA, Hoosier Energy, and the Environmental Defense Fund (collectively the "Settling Parties"). In the 44720 Order, the Commission also (a) found the projects designated in Petitioner's TDSIC Plan are "eligible transmission, distribution, and storage system improvements" within the meaning of Ind. Code § 8-1-39-2 and eligible for TDSIC treatment in accordance with Ind. Code ch. 8-1-39; (b) authorized Petitioner to implement its TDSIC Rate Schedule pursuant to Ind. Code § 8-1-39-9(a) to recover 80% of eligible and approved capital expenditures and TDSIC costs; (c) authorized Petitioner to recover 80% of its $1.408 billion

TDSIC Plan costs through Standard Contract Rider No. 65 (the "TDSIC Rider"); (d) authorized Petitioner to defer 20% of eligible and approved capital expenditures and TDSIC costs with carrying costs under Ind. Code § 8-1-39-9(b) and recover the deferred capital expenditures and TDSIC costs as part of Petitioner's next general rate case; and (e) approved Duke Energy Indiana's proposed allocation factors based on the revenue requirement by rate group from Petitioner's last retail base rate case in Cause No. 42359.

On March 22, 2017, the Commission issued an Order in Cause No. 44720 TDSIC 1 ("TDSIC 1") approving: (a) an adjustment to Petitioner's TDSIC Rate Schedule via the TDSIC Rider to effectuate the recovery of 80% of approved capital expenditures and TDSIC costs in the amount of $18,049,845; (b) the capital expenditures and TDSIC costs incurred for in-service TDSIC projects through June 30, 2016, and the forecasted TDSIC costs upon which the proposed factors were based; (c) Petitioner's TDSIC Plan as updated in Cause No. 44720 TDSIC 1; (d) interim deferral and recovery of 80% of eligible and approved capital expenditures and TDSIC costs in connection with Petitioner's approved updated TDSIC Plan through the TDSIC Rider and the deferral of 20% of eligible and approved capital expenditures and TDSIC costs in connection with the updated TDSIC Plan, for recovery in Petitioner's next general rate case; and (e) an adjustment of Petitioner's authorized return for purposes of Ind. Code § 8-1-2-42(d)(3) to reflect incremental earnings resulting from the TDSIC Rider, pursuant to Ind. Code § 8-1-39-13(b).

On October 17, 2017, the Commission issued an Order in Cause No. 44720 TDSIC 2 ("TDSIC 2") approving: (1) an adjustment to Petitioner's TDSIC Rate Schedule via the TDSIC Rider to recover 80% of the eligible and approved capital expenditures and TDSIC costs in the amount of $63,216,347; (b) deferral as a regulatory asset, until such costs are included for recovery in Petitioner's next general rate case, of $15,804,086 which represents 20% of eligible and approved capital expenditures and TDSIC costs; (c) deferral on an interim basis and recovery of 80% of eligible and approved capital expenditures and TDSIC costs in connection with the TDSIC Plan through the TDSIC Rider; and (d) an adjustment of Petitioner's authorized return for purposes of Ind. Code § 8-1-2-42(d)(3) to reflect incremental earnings resulting from the TDSIC Rider, pursuant to Ind. Code § 8-1-39-13(b).

On April 11, 2018, the Commission issued an Order in Cause No. 44720 TDSIC 3 ("TDSIC 3") approving Petitioner's TDSIC Plan as updated.

On October 9, 2018, the Commission issued an Order in Cause No. 44720 TDSIC 4 ("TDSIC 4") approving: (1) an adjustment to Petitioner's TDSIC Rate Schedule via the TDSIC Rider to recover 80% of the eligible and approved capital expenditures and TDSIC costs in the amount of $217,078,355; (b) deferral as a regulatory asset, until such costs are included for recovery in Petitioner's next general rate case, of $62,474,738 which represents 20% of eligible and approved capital expenditures and TDSIC costs: (c) deferral on an interim basis and recovery of 80% of eligible and approved capital expenditures and TDSIC costs in connection with the TDSIC Plan through the TDSIC Rider; and (d) an adjustment of Petitioner's authorized return for purposes of Ind. Code § 8-1-2-42(d)(3) to reflect incremental earnings resulting from the TDSIC Rider, pursuant to Ind. Code § 8-1-39-13(b).

On June 19 2019, the Commission issued an Order in Cause No. 44720 TDSIC 5 ("TDSIC 5") approving Petitioner's TDSIC Plan as updated and the continued inclusion of certain designated inspection and replacement or repair components in Petitioner's TDSIC Plan.

On October 8, 2019, the Commission issued an Order in Cause No. 44720 TDSIC 6 ("TDSIC 6") approving: (1) an adjustment to Petitioner's TDSIC Rate Schedule via the TDSIC Rider to recover 80% of the eligible and approved capital expenditures and TDSIC costs in the amount of $405,321,681; (b) deferral as a regulatory asset, until such costs are included for recovery in Petitioner's next general rate case, of $117,708,946 which represents 20% of eligible and approved capital expenditures and TDSIC costs: (c) deferral on an interim basis and recovery of 80% of eligible and approved capital expenditures and TDSIC costs in connection with the TDSIC Plan through the TDSIC Rider; and (d) an adjustment of Petitioner's authorized return for purposes of Ind. Code § 8-1-2-42(d)(3) to reflect incremental earnings resulting from the TDSIC Rider, pursuant to Ind. Code § 8-1-39-13(b).

4. **<u>Relief Requested in this Cause</u>.** In accordance with Ind. Code § 8-1-39-9, Petitioner requests approval in this Cause of its Updated T&D Plan. No rate adjustment approval is requested.

5. **<u>Duke Energy Indiana's Case-In-Chief</u>.**

A. **<u>Ms. Hart</u>.** Ms. Hart testified that Duke Energy Indiana's filing in this Cause is limited to providing the Updated T&D Plan for August 31, 2019, through 2022. She stated that Duke Energy Indiana normally makes a spring TDSIC filing seeking rate recovery for TDSIC projects placed in-service during the prior calendar year, but the spring 2020 filing is being suspended because Duke Energy Indiana has a pending base rate case. Petitioner plans to resume its normal TDSIC filing schedule in October 2020 by filing another plan update.

Ms. Hart testified that Duke Energy Indiana's Updated T&D Plan continues to reflect the overall $1.408 billion investment agreed upon in the TDSIC Settlement. For the first 44 months of executing Petitioner's TDSIC Plan, she testified Duke Energy Indiana is on-track to deliver the improvements and associated benefits at the cost the Commission approved in the 44720 Order. The Updated T&D Plan includes an updated forecast for the remainder of 2019 and for the remaining three years of the TDSIC Plan.

Ms. Hart testified there are uncontrollable issues when planning project in-service dates over the course of a seven-year program that could delay in-service dates from one year to the next, such as hurricane support, loss of outage capability, loss of contractor resources, and local weather events. She testified Petitioner has been managing this through TDSIC filings with carry over projects. Ms. Hart testified that projects in 2022 are expected to hold the same uncertainty with in-service dates; therefore, Petitioner may be unable to finish a project started in 2022 by year-end, needing to carry this over into 2023. Ms. Hart testified such projects are part of Duke Energy Indiana's seven-year TDSIC Plan and if completed in calendar year 2023 and the $1.408 billion cap is not exceeded, should be subject to being filed for rate recovery in Petitioner's spring TDSIC Rider filing. Ms. Hart further testified that Petitioner expects the last rate recovery filing for the TDSIC Plan to be filed in the spring of 2024.

Ms. Hart testified the forecasted costs for capital projects in the Updated T&D Plan do not exceed the overall TDSIC Settlement cap of $1.408 billion. She also testified the projects are being implemented per the TDISIC Plan the Commission approved and meet the requirements of Ind. Code § 8-1-39-2. Ms. Hart testified that each of the projects is a new project not previously included in Petitioner's rate base, and within the Updated T&D Plan there are no duplicate projects.

Ms. Hart testified that Petitioner's updated forecast shows Duke Energy Indiana intends to complete the majority of the approved T&D scope of work while providing equivalent customer value. Petitioner forecasts finishing 2019 at approximately $755 million. This is 6% above the four-year $714.4 million cumulative cap. Ms. Hart acknowledged that Petitioner's request for rate recovery in future TDSIC filings will be limited to the cumulative cap. She testified that for the remaining scope of the Updated T&D Plan, Petitioner is on-track to complete the Updated T&D Plan as proposed and within the TDSIC Settlement cost cap although cost increases, primarily in labor and material, have added pressure to outer year cost estimates and scope. As projects are elaborated into a better class of cost estimate, Ms. Hart stated their scope becomes more defined, so while it is unlikely Petitioner achieves the same scope as originally identified (i.e., exact unit counts) within the cap constraint, Ms. Hart stated the overall value customers are receiving for the dollars spent is at least equal. Ms. Hart testified Duke Energy Indiana is on track to deliver on its Updated T&D Plan commitment with as much customer value as its capital cost of $1.408 billion and is confident in its ability to achieve the Updated T&D Plan by the end of 2022.

Ms. Hart explained Petitioner's overall strategy to assure TDSIC Plan performance. She testified Petitioner has adjusted future plan years to level resource and financial forecast models. Ms. Hart stated that as the Updated T&D Plan estimates for outer years have elaborated to predominately Class 2 and Class 3 estimates, the contingency has been fully allocated or accounted for within the seven-years of the plan. Ms. Hart testified that as Petitioner elaborated project estimates, necessary scope was refined which added value to the project and achieved the desired risk reduction but also increased costs. She testified the impact to the overall Updated T&D Plan is that some projects have been moved to the alternate list to stay within the cumulative $1.408 billion cap. Overall, Petitioner is moving approximately 14% of the original project set to the alternative list, forecasted through 2022.

Ms. Hart testified that no projects or categories were added to the distribution circuit projects in the Updated T&D Plan. For 2019, the overall project scopes for the distribution circuit plan remained largely the same, with individual work orders within the projects moving in and out of the plan. Ms. Hart stated movement of work orders between years is expected and is used to adjust for emerging system priorities, and unit counts remain in alignment with the seven-year scope. Ms. Hart testified the net distribution circuit work orders moved to or from the alternate list in 2019 represents less than 2% of the distribution circuit improvement plan.

Ms. Hart provided an updated cost estimate for the distribution circuit improvement projects in the Updated T&D Plan. She testified that several factors impacted the financial forecast for these projects. First, Duke Energy Indiana experienced increased construction labor cost expenditures due to work orders left from the 2018 storm support effort described in TDSIC 5, and many construction resources left Petitioner's system to support other efforts such as the California wild fires. She stated this led to the affected contractors billing time and equipment rates for much of the year which can be more expensive. Ms. Hart stated that in addition, internal union labor contract negotiations are expected in 2020, and these may impact costs. Petitioner's cost estimates have been updated based on predictable labor wages and known historical factors. Another factor she identified is the shortage of utility industry construction resources. Ms. Hart testified qualified electric line resources have been trending down in laborers while trending up in cost. She testified this is expected to continue through the remainder of the Updated T&D Plan. Petitioner has included this increase in construction labor in its future year estimates, along with its standard 3% compounding escalation. Lastly, economic pressure around national tariffs could also impact Petitioner's material costs. Since the full extent of these impacts is currently unknown, she testified Petitioner did not modify its estimates to account for material rate increases, but Petitioner expects to gain more details in 2020.

Ms. Hart testified the distribution team worked in 2019 to catch up on the distribution circuit improvement plan schedule. For this update, she stated Petitioner is caught up and projecting to slightly exceed the cumulative cap goals. Ms. Hart testified the distribution circuit improvement plan has been impacted by cost increases, with Duke Energy Indiana enduring two separate construction labor wage increases due to contractor negotiations. Although engineering costs have held steady, she stated engineering labor is estimated to go up for the remaining three years of the Updated T&D Plan. Ms. Hart stated these increases are accounted for in Petitioner's refined estimate and offset by contingency, underruns, and project movement. Ms. Hart testified these variances, combined with necessary scope additions, have forced reprioritization of the overall distribution circuit improvement plan. Some work orders have either been moved to the alternate list or cancelled. Ms. Hart testified that even with these cost increases and project movement, distribution has produced an additional 9% customer value.

Ms. Hart testified that Petitioner's methodology for recoverable operation and maintenance ("O&M") expenditures in the currently approved TDSIC Plan has not changed in the Updated T&D Plan. Compared to Petitioner's TDSIC 5 submittal, the forecasted seven-year O&M cost in the Updated T&D Plan has decreased from approximately $93.0 million to $83.2 million, which she testified is due to greater cost estimate elaboration, changes between capital and O&M accounting, and normal annual capitalization policy updates. Ms. Hart testified that Duke Energy Indiana will start implementing the integrated volt-var control projects in 2020 and will report benefits in 2021.

Ms. Hart testified that Petitioner provided a comprehensive list of each project in the Updated T&D Plan and their respective updates. Petitioner also provided a detailed forecast update for the 2019 distribution circuit projects. She testified the Updated T&D Plan reflects the best estimate of Duke Energy Indiana's distribution circuit projects, and the estimated costs are consistent with the TDSIC Settlement.

B. **Mr. Dickey**. Mr. Dickey testified the transmission line, transmission substation, and distribution substation portions of the Updated T&D Plan are generally being executed within the scope and schedule approved in the 44720 Order, as well as trending closely with the overall cost estimate for transmission line and substation costs. Petitioner is projecting $851 million in transmission capital additions in the Updated T&D Plan. The TDSIC 7 total capital investment in transmission line and substation work for 2016, 2017, 2018, and 2019 is $429 million, representing ten percent less than the value projected in TDSIC 5. Petitioner projected that by the end of 2019, $111 million in transmission substation, transmission line, and distribution substation capital projects will be placed into service. Mr. Dickey testified that Duke Energy Indiana is completing the work scope as outlined in TDSIC 5.

Mr. Dickey testified the Updated T&D Plan includes refinements to scope and cost, adding incremental customer value. He stated additional units or hardware were added to the initial scope to maximize reliability and safety. Mr. Dickey testified no new transmission line substation or transmission line projects were added to the Updated T&D Plan. He stated it was anticipated the original projects within the TDSIC program would experience estimate uncertainty and execution risks across the life of the seven-year plan. These were addressed by including contingency dollars within the program, but he testified the portion of program contingency for transmission business projects is insufficient to cover completion of the elaborated scopes of all the projects originally filed, so approximately $128 million of these projects were moved to the program alternate list. These changes include updated projections through all seven years of the TDSIC Plan. Mr. Dickey testified that in total these changes account for 13% in asset deferrals and 13% in additional asset value, providing equivalent value as proposed. Mr. Dickey described the drivers behind the asset additions to approved project substation scope.

Ms. Dickey reviewed the 2017-2022 Updated T&D Plan for transmission substation, transmission line, and distribution substation projects. He testified no new transmission substation or transmission line projects or project categories were added to the Updated T&D Plan, and no such projects have been moved from the alternate list into the plan since TDSIC 3. A small portion of one line rebuild was moved from the alternate list into the 2017 plan, and for purposes of TDSIC 7, fifteen projects were moved to the alternate list. He testified these fifteen projects expanded in scope or differed in technical approach from the original plan as they progressed through engineering development or they were moved to make room within the cumulative cost cap for the refined scope of the remaining projects in the Updated T&D Plan. Projects which had been forecasted to go in-service between 2020 and 2022 were moved to the alternate list to allow for continued refinement of cost and scope. Mr. Dickey testified that as these projects continue to be updated they may be returned to the core TDSIC Plan if there is sufficient room within the TDSIC Settlement cost cap. He testified the original filed value of these fifteen projects is equal to 10% of the overall TDSIC Plan. Mr. Dickey testified a small number of projects listed in TDSIC 5 have been deferred to the alternate list or cancelled because the work scope is being accomplished by another project or will not be required, and he explained how the cost estimates for the Updated T&D Plan were updated.

Mr. Dickey testified the costs for projects placed in-service through 2018 have continued to experience debits and credits as expenses are processed following their in-service date. He testified that $13 million in additional expenses for these projects are included in the Updated TDSIC Plan and anticipated for future recovery. Compared to the TDSIC 5 forecast, he stated the overall costs are 1% more ($2 million) than forecasted.

Mr. Dickey testified that although an increase in failure rate was included in the original estimate for the GLT pole replacement project, the failure rate has exceeded expectations;

consequently, the GLT pole replacement volume has increased over the TDSIC 1 projection. More specifically, Mr. Dickey testified that in Petitioner's original TDSIC filing, Duke Energy Indiana projected replacing a total of 2,688 poles over the seven-year plan. In TDSIC 3, that projection increased to 4,709 poles. As the GLT pole replacement program estimates were further elaborated, it is projected Petitioner will not be able to perform this incremental amount of scope value within the cumulative cap limits; therefore, Duke Energy Indiana reduced the total seven-year transmission pole replacement forecast to the original volume of 2,688 and has updated the capital cost estimate to $80 million. Through 2019, Mr. Dickey stated a total of 2,310 poles are projected to have been replaced.

Mr. Dickey advised that Petitioner has accelerated certain projects into the 2019 in-service plan from future plan years to take advantage of system outage opportunities, optimize internal and external labor, leverage construction economies of scale, and keep pace with program in-service commitments. He stated these changes also add resiliency to Duke Energy Indiana's system earlier than planned.

Mr. Dickey identified the 2019 in-service projects with variances forecasted to be greater than +20% as compared to the TDSIC 5 filing, noting Petitioner is not requesting recovery of these projects in this Cause. Excluding the GLT pole replacement program, the capital costs of the projects in the Updated T&D Plan are $2.2 million greater than the TDSIC 5 forecast, representing a net 2% increase. Mr. Dickey testified Duke Energy Indiana will provide more detailed explanations for any projects that go over by more than 20% in future TDSIC proceedings.

Mr. Dickey testified the Updated T&D Plan is in the public interest and is forecasted to stay under the approved capital cost cap. He stated Petitioner is continually improving estimates and processes, and there has been a reduction in the overall amount of O&M included for transmission line, transmission substation, and distribution substation projects, with O&M decreasing by approximately 16% from the TDSIC 1 estimate. Mr. Dickey testified Petitioner has provided the best estimate of the costs of the eligible transmission improvements, public convenience and necessity require each component of the Updated T&D Plan, and the estimated costs justify the incremental benefits of the Updated T&D Plan. He stated the Updated T&D Plan supports a significant reduction of operational risk through replacement of aging infrastructure, improving the overall customer experience. By executing the Updated T&D Plan, Mr. Dickey testified the transmission and distribution system risk profile can be reduced by approximately 30%. Mr. Dickey opined that the projects and programs in the Updated T&D Plan are reasonable, necessary, and justified by significant reliability and modernization benefits.

C. <u>Ms. Douglas</u>. Ms. Douglas testified that Petitioner is not requesting revised TDSIC rates in this proceeding. Petitioner has filed a general base rate case that is pending in Cause No. 45253, with that case including forecasted TDSIC in-service plant as of December 31, 2020, as well as the 20% deferral amounts associated with Petitioner's in-service TDSIC investment. Ms. Douglas testified the approved TDSIC 6 rates will be adjusted in a compliance filing timed with the implementation of the base rates approved in Cause No. 45253 to remove costs included in base rates and update Petitioner's rate of return, depreciation rates, and/or allocation factors as appropriate to reflect the rate case outcome. She stated Petitioner plans to update the seven-year TDSIC Plan in its filing in the fall of 2020 in TDSIC 8, with an adjustment in rates in the TDSIC 9 spring 2021 filing to reconcile costs and rates billed via the TDSIC Rider in 2019 and 2020. Subsequently, Duke Energy Indiana intends to return to an annual October TDSIC plan filing and an April rate adjustment filing. Ms. Douglas testified that based on the Updated T&D Plan costs, estimated post-in-service carrying costs, and depreciation expense, and subject to the statutory 2% revenue cap, the average annual total retail impact compared to retail revenue for the 12 months ended June 30, 2019, is estimated to be less than 1% over the seven-year period. She testified this is in line with the rate impact of the TDSIC Plan update presented in TDSIC 5.

6. **OUCC's Direct Evidence.** Mr. Alvarez testified the Updated T&D Plan cost estimates remain within the approved $1.408 billion total capital cost cap; however, on an annual cost cap basis, the 2018-2019 project costs are higher than their respective caps, alleviating the need for large plan adjustments in 2020-2022. Although 2018 in-service costs were lower than expected in TDSIC 5, costs were 14.5% higher than the 2018 annual cap and caught up in 2018 with the cumulative cap. He stated forecasted projects placed in-service in 2019 were higher than estimated in TDSIC 5, with overall project costs increasing to 5.6% above the cumulative cap. With forecasted 2019 costs over the cumulative cap level, the Updated T&D Plan costs are 2.7% less than the annual 2020 cap.

Mr. Alvarez testified that Petitioner should continue to plan for and assure its TDSIC projects are completed and placed in service without the need for schedule extensions beyond 2022. He testified Duke Energy Indiana should take the steps needed to put in place the project management requirements needed to complete (and place in service) projects within the original seven-year plan timeframe. Mr. Alvarez stated such steps may include starting projects earlier and/or adopting compressed schedules to alleviate the schedule risks and putting a comprehensive plan in place. He recommended Petitioner provide testimony in TDSIC 8 addressing the issue of projects with completion risks, identifying necessary changes to manage the schedule for these projects, and proposed project execution solutions to eliminate the completion risks. Mr. Alvarez testified that at this time, the OUCC does not agree that spring 2024 is the appropriate time period for a final filing for rate recovery upon the TDSIC Plan since Petitioner's plan terminates more than a year earlier. He recommended the Commission explicitly reserve judgment on extending Petitioner's last TDSIC rate recovery filing to 2024, thereby affording Petitioner the opportunity to propose necessary project schedule changes and execution solutions in its next TDSIC filing when these can be reviewed by the Commission, the OUCC, and any interested parties.

Mr. Alvarez testified Petitioner maintained the same TDSIC Plan structure and cost breakdown in this filing as presented in its previous TDSIC filings. He stated that using the data and information in Petitioner's exhibits, he performed a project category cost breakdown to complete a high-level review of the relationship between the approved cap and the funding levels. Mr. Alvarez stated Petitioner has maintained the approved caps. He also reviewed the material, labor, and indirect cost components of the Updated T&D Plan by focusing on identifying the movements of, and changes in, the different cost components when compared to the TDSIC 5 plan. He testified the results of his analysis show the increased materials ($39.8 million) and labor costs ($21.2 million) more than accounted for the overall distribution project category increases and the cost estimate changes in the latest plan update. Distribution indirect costs decreased by $5.3

million in the latest plan update. Mr. Alvarez testified he had no issues related to the overall cost increases in the Updated T&D Plan.

Mr. Alvarez also reviewed and evaluated the programs driving the overall distribution project variances in the Updated T&D Plan. He testified that since Petitioner's pending base rate case will absorb into rates, if approved, the actual costs of the distribution projects placed in service on or before the cut-off date of the future test year period in that case, the distribution variance analysis results in this proceeding raise no concerns.

Mr. Alvarez testified his cost component analysis of the transmission category in the Updated T&D Plan showed an overall cost decrease in the transmission category driven by the general decrease in materials, labor, and indirect cost components of transmission line projects. He stated the transmission category retained $6.0 million in contingency. Mr. Alvarez testified that he reviewed and evaluated the transmission projects with variances greater than 20% that Petitioner identified, and he provided a summary explanation for each variance. Mr. Alvarez testified that similar to the distribution project cost variances, the rate case will absorb into rates, if approved, the actual costs of transmission projects placed in service on or before the rate case cut-off date; therefore, after reviewing and evaluating the transmission projects with variances greater than 20%, the variance analysis results raise no concerns.

Mr. Alvarez testified the OUCC reviewed Petitioner's Updated T&D Plan in detail to ensure the projects are planned, constructed, and put into service in a cost-efficient manner that delivers the maximum value to Petitioner's ratepayers. He stated the OUCC met with Petitioner's TDSIC project team on three occasions during this proceeding, and Petitioner demonstrated that Duke Energy Indiana has maintained and followed the same management system, industry standards, internal project management guidelines, and made no change with the management structure of its TDSIC program in the Updated T&D Plan.

Mr. Alvarez recommended the Commission allow Petitioner the opportunity to propose necessary project schedule changes and execution solutions in its next TDSIC Plan update and, in the meantime, reserve judgment on extending Duke Energy Indiana's last TDSIC rate recovery filing to the spring of 2024, more than a year beyond December 31, 2022, when its TDSIC Plan ends.

7. **<u>Duke Energy Indiana's Rebuttal Evidence</u>.** In her rebuttal testimony, Ms. Hart took issue with the OUCC's disagreement with spring 2024 being the appropriate time period for final rate recovery related to the Updated T&D Plan. She stated the OUCC's position fails to recognize the realities of completing the Updated T&D Plan and associated rate recovery. Ms. Hart stated that projects placed in service by December 21, 2022, could continue to incur costs for multiple reasons, including: (i) restoring vegetation to areas disturbed during ground construction; (ii) processing credits for returns of materials not needed for a project; and (iii) invoice timing. She testified that, historically, nearly all invoice changes (debits and credits) occur in the year following project conclusion, with some occurring two years after projects are placed in-service.

Ms. Hart testified that Petitioner's TDSIC filings present calendar year-end amounts per the accounting books and records for in-service projects. To meet the spring 2023 cost recovery filing for December 31, 2022, in-service projects, all invoices would need to be received and expenses booked by the end of December 2022, which Ms. Hart stated is unlikely. She testified it is very likely invoices will be received and expenditures or credits incurred during calendar year 2023 and, to a lesser extent, 2024 for 2022 calendar year in-service projects.

Ms. Hart opined that net charges and credits incurred on in-service projects after 2022 should be included in the TDSIC Rider as additional costs or a reduction in overall costs. She testified that Mr. Alvarez's proposal could result in customers having to wait to realize savings from overall cost reductions until Petitioner's next base rate case which is unnecessary because the TDSIC Rider will continue after 2022 for annual true-ups until all costs from the seven-year period are included in retail rates through a base rate case. Ms. Hart testified that since the TDSIC Rider will remain effective, it makes sense to include all costs and credits associated with all in-service projects and not arbitrarily cut off project amounts as of December 31, 2022. She stated doing so would be inconsistent with the incentives the legislature provided for TDSIC plans.

Ms. Hart testified that although Petitioner has demonstrated its ability to deliver on the pace of the TDSIC Plan, it is possible risks may cause in-service dates originally planned to be prior to the end of 2022 to occur in 2023. She testified these uncontrollable issues may include hurricane support, loss of outage capability, loss of contractor resources, or local weather. Ms. Hart testified that to manage a program of this scale, elaborate scheduling processes occur to optimize material and labor resources while minimizing safety risks, costs, and service interruptions. She testified that changes to the TDSIC Plan to attempt to further minimize December 31, 2022, in-service risks may result in sub-optimal results in safety, costs, or system reliability.

Ms. Hart requested the Commission not reserve judgment on this issue as the OUCC recommended so that Petitioner can better plan its 2021 and 2022 projects, knowing in advance that it may include costs post-2022 that are part of the seven-year plan in the TDSIC Rider. Ms. Hart asked the Commission to clarify: (1) whether costs incurred and invoices received after calendar year 2022 on projects included in the seven-year plan and placed in-service prior to the end of 2022 may be recovered in the TDSIC Rider for the current seven-year plan; and (2) if there are projects that are not in-service by year-end 2022 but complete in-service in 2023, such projects and related costs will also qualify to be included in the TDSIC Rider for the Updated T&D Plan.

8. **<u>Statutory Requirements</u>.** Ind. Code § 8-1-39-9(a) permits a public utility that provides electric utility service to petition the Commission for approval of the utility's periodic adjustment of its basic rates and charges to provide for timely recovery of 80% of approved capital expenditures and TDSIC costs. This subsection further provides that the petition must: (1) use the customer class revenue allocation factor based on firm load approved in the public utility's most recent retail base rate case order; (2) include the utility's seven-year plan; and (3) identify projected effects of the seven-year plan on retail rates and charges. Ind. Code § 8-1-39-9(b) provides that the public utility shall defer the remaining 20% of approved capital expenditures and TDSIC costs, including depreciation, allowance for funds used during construction, and post-in-service carrying costs, and shall recover those capital expenditures and TDSIC costs as part of its next general rate case. Ind. Code § 8-1-39-9(c) provides that a public utility may not file a petition under subsection (a) within nine months after the Commission issues an order changing the utility's basic rates and charges with respect to the same type of utility service. Ind. Code § 8-1-39-9(d) provides that a public utility that implements a TDSIC under this chapter shall petition the Commission for review and approval of its basic rates and charges before the expiration of its seven-year TDSIC plan. Ind. Code § 8-1-39-9(e) provides that a public utility may file a petition under this section not more than once every six months.

9. Commission Discussion and Findings. Duke Energy Indiana submitted its Verified Petition and supporting testimony and exhibits to demonstrate compliance with the requirements of Ind. Code § 8-1-39-9 and the Cause No. 44720 Order.

A. Updated TDSIC Timing. Ind. Code § 8-1-39-9(e) states that "[a] public utility may file a petition under this section not more than one (1) time every six (6) months." Petitioner filed its petition in this Cause requesting approval of its Updated T&D Plan consistent with the terms of the Settlement Agreement approved in the 44720 Order and not within six months of its TDSIC 6 filing. Ms. Douglas testified the approved TDSIC 6 rates will be adjusted in a compliance filing timed with the implementation of the base rates approved in Cause No. 45253 to remove costs included in base rates and update the rate of return, depreciation rates, and/or allocation factors as needed to reflect the rate case outcome. Ms. Douglas also testified that Petitioner will update the Updated T&D Plan in fall 2020 in TDSIC 8, with an adjustment in rates in the TDSIC 9 spring 2021 filing to reflect a reconciliation of costs and rates billed via the TDSIC Rider in 2019 and 2020. Subsequently, the filing schedules will return to an annual October updated plan filing and annual April rate adjustment filing. The Commission finds the resumed schedule is consistent with the TDSIC filing timeline the Commission found reasonable in TDSIC 1. The Commission also finds Petitioner's TDSIC 7 filing is consistent with Ind. Code § 8-1-39-9(e) and is reasonable.

Ms. Hart testified that costs incurred and invoices received after calendar year 2022 on projects included in the Updated TDSIC Plan that are placed in-service during 2022 should continue to be recovered in the TDSIC Rider for this seven-year plan. She also asserted that if there are projects that are not in-service by the end of 2022 but are completed in 2023 and Petitioner's $1.408 billion cap has not been exceeded, such projects and their related costs should be recoverable via the rider for this plan. The OUCC, however, recommended the Commission reserve judgment upon Petitioner's request to extend Duke Energy Indiana's last rate recovery filing for this seven-year TDSIC Plan until the spring of 2024. In rebuttal, Duke Energy Indiana noted it has had roll-over expenses each year that are due in the calendar year after the year projects are placed in-service, with such expenses including late invoices and site cleanup work after in-service is declared. Petitioner also asserted it should be entitled to full TDSIC treatment for projects costs incurred after 2022 and for projects placed in service in 2023 and their related costs. It is not the Commission's role, however, to issue advisory pronouncements upon the recovery of TDSIC costs that are not actually before the Commission and which, at this time, are speculative.

We find the OUCC's request to not determine in this proceeding the extent of Petitioner's future TDSIC cost recovery is reasonable and is appropriate. As of this filing, through 2019, Duke Energy had expended approximately $755 million in connection with its seven-year plan, exceeding the four-year $714.4 million cumulative cap. It is unknown at this juncture whether Petitioner will reach this cap before year-end 2022 and even more speculative as to what costs

Petitioner may seek to recover after 2022, including whether these will be related to projects placed in-service before year-end 2022 or for projects not yet completed at that time. Duke Energy Indiana has significant time to critically assess its TDSIC project schedule, make the changes Petitioner deems necessary to deliver all projects on time, and pursue opportunities to reduce project completion risk before filing TDSIC 8 and prior to the current Updated T&D Plan expiring. The Commission also finds that a detailed, project-specific list clearly explaining why any extended recovery period is warranted should accompany an extended cost recovery request, as opposed to seeking unidentified, conceptual cost recovery beyond year-end 2022. While the Commission anticipates Petitioner will receive invoices after December 31, 2022, for in-service projects completed earlier, that does not support the cost-recovery extension of more than a year into 2024 that Duke Energy Indiana proposed. Without being provided with specific costs and justification or knowing the status of Petitioner's cost cap in the fall of 2021, the Commission finds it is premature to consider Duke Energy Indiana's requested extended relief.

B. <u>Petitioner's Updated T&D Plan</u>. As described in the testimony and exhibits of Ms. Hart and Mr. Dickey and incorporated into Duke Energy Indiana's petition by reference, in this Cause Petitioner presented its Updated T&D Plan. This testimony confirmed the overall scope and intent of the Updated T&D Plan has not changed from the currently approved TDSIC Plan; no projects were added to the Updated T&D Plan, and project moves between years were consistent with the approved TDSIC Settlement. Petitioner's cost estimates remain below the $1.408 billion total capital cost cap approved in the 44720 Order. Mr. Alvarez recommended the Commission approve the Updated T&D Plan. The Commission finds Petitioner is executing its TDSIC Plan consistent with the TDSIC Settlement approved in the 44720 Order and that the Updated T&D Plan is reasonable, meets the requirements of Ind. Code § 8-1-39-9, and should be approved.

10. <u>Confidential Information</u>. On November 8, 2019, Petitioner filed a motion requesting protection of confidential and proprietary information along with supporting affidavits showing the documents to be submitted to the Commission contained confidential, proprietary, competitively sensitive, and/or trade secrets as defined under Ind. Code §§ 23-2-3-2 and 5-14-3-4, except for certain workpapers for which Petitioner withdrew its request for confidentiality. On November 22, 2019, the Presiding Officers preliminarily determined that trade secret information should be subject to confidential procedures, as supported by Petitioner's affidavits. The Commission finds all such information preliminarily granted confidential treatment is confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and should be held by the Commission as confidential and protected from public access and disclosure.

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

1. Petitioner's Updated T&D Plan is approved.

2. The information Petitioner filed in this Cause pursuant to its motion for confidential treatment, as discussed in Finding No. 11 above, is deemed confidential pursuant to Ind. Code §§

5-14-3-4 and 24-2-3-2, exempt from public access and disclosure by Indiana law, and will be held by the Commission as confidential and protected from public access and disclosure.

3. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:

APPROVED: APR 15 2020

I hereby certify that the above is a true and correct copy of the Order as approved.

Mary M Becerra

Mary Becerra
Secretary of the Commission