

REBUTTAL TESTIMONY OF MARIA T. DIAZ
DIRECTOR, RATES AND REGULATORY PLANNING
DUKE ENERGY INDIANA, LLC
CAUSE NO. 45647

BEFORE THE INDIANA UTILITY REGULATORY COMMISSION

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Maria T. Diaz, and my business address is 1000 East Main Street, Plainfield,
3 Indiana.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Indiana, LLC (“Duke Energy Indiana,” “Petitioner,” or
6 “Company”) as Director, Rates & Regulatory Planning.

7 **Q. ARE YOU THE SAME MARIA T. DIAZ THAT PRESENTED DIRECT**
8 **TESTIMONY IN THIS PROCEEDING?**

9 A. Yes, I am.

10 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

11 A. I am responding to the testimony of the Indiana Office of Utility Consumer Counselor
12 (“OUCC”) witness, Mr. Kaleb Lantrip. My testimony will address Mr. Lantrip’s
13 testimony concerning: (1) affordability; (2) disallowance of the equity component of the
14 post-in-service carrying costs on approved capital expenditures which are accrued until
15 reflected in the Company’s rates; and (3) alleged duplication of operation and
16 maintenance costs. I also clarify the source of actual expense for the netting of
17 depreciation expense on retired plant against depreciation on new plant. Lastly, I rebut
18 Mr. Lantrip’s recommendation that the Company recognize an offset in its revenue
19 requirement for the return on net book value of retired assets.

1 Q. MR. LANTRIP'S TESTIMONY INCLUDES SEVERAL POINTS ABOUT
2 AFFORDABILITY. PLEASE RESPOND.

3 A. In response to Mr. Lantrip's testimony regarding what he refers to as the "affordability
4 statute," I note first that the statute's introductory language explains that it is the
5 "continuing policy of the state" (emphasis added) to balance the needs of utilities for
6 infrastructure and the affordability of utility services. Indiana Code § 8-1-2-0.5. I also
7 note that this policy of the State of Indiana does not change the TDSIC statute, Indiana
8 Code § 8-1-39-14, which governs Duke Energy Indiana's TDSIC 2.0 plan. The 2% rate
9 impact limit included in the TDSIC statute protects customers from rate impacts
10 associated with TDSIC investments and safeguards affordability. Further, Indiana Code
11 § 8-1-2-0.5 is consistent with the TDSIC statute in that it encourages planning and
12 investing in infrastructure on a proactive basis rather than addressing infrastructure issues
13 on an emergency basis, which can impact customers' reliability and be costly.

14 In addition to my direct testimony in this proceeding, which demonstrated that the
15 rate impacts satisfied the Indiana Code § 8-1-39-14 requirements, Mr. Pinegar's
16 testimony also emphasized that the Company focused on balancing customer rate impacts
17 with the value of the projects included in TDSIC 2.0, and included a level of investment
18 for TDSIC 2.0 that resulted in an average annual rate impact of 1%, below the 2% annual
19 cap permitted by the TDSIC statute. (Pinegar Testimony, p.16). Mr. Pinegar also
20 explained that the rate impact is not expected to commence until 2024.

21 Mr. Lantrip next testified regarding the existence of special rate recovery granted
22 by the Indiana General Assembly. The Indiana legislature determined that it should be

the policy of the state to provide utilities with “trackers” or riders for certain types of investments, such as through the TDSIC statute. As a result of the TDSIC statute, utilities must petition for a retail rate case before the expiration of the TDSIC plan life; therefore, a full review of Duke Energy Indiana’s basic rates and charges will occur in conjunction with TDSIC 2.0.

Affordability and rate competitiveness are critical metrics for Duke Energy Indiana. Below is the latest publicly available rate data from the Edison Electric Institute (EEI) survey:

EEI Survey: Rate Data		
Company	Total Retail	
	Avg Realization	
	¢/kWh	Rank
Duke Energy Indiana	9.75	1
AEP	10.38	4
AES Indiana	9.98	3
Centerpoint	11.74	5
NIPSCO	9.94	2
Indiana Average	10.09	
East North Central Average	10.76	
USA Average	11.20	
Source: EEI Typical Bills and Average Rates report, Summer 2021		
AS REVISED BY EEI February 10, 2022		

Duke Energy Indiana’s overall retail rates remain competitive even with the implementation of the recent base rate increase approved by the Commission in Cause No. 45253. The Company’s total retail average realization continues to be below national and regional averages and is the lowest among its Indiana peers.

Q. WHAT DOES MR. LANTRIP SAY ABOUT POST-IN-SERVICE CARRYING COSTS (“PISCC”), AND HOW DO YOU RESPOND?

A. Mr. Lantrip stated that Indiana Code § 8-1-39-9 did not provide the necessary authority to request PISCC treatment for both debt and equity because that portion of the statute does not define post-in-service carrying costs. However, Indiana Code § 8-1-39-9 is titled, *“Petition for TDSIC; annual plan update; recovery and deferral of TDSIC costs; limits on timing of petitions.”* Indiana Code § 8-1-39-9 is relevant to any discussion about TDSIC cost recovery because that portion of the statute explains that the deferral of the remaining 20%, which includes post-in-service carrying costs, aligns with the rest of the recovery applicable to the 80%, which is included in the TDSIC Rider. In other words, the 80% includes post-in-service carrying costs.

As both Mr. Lantrip and I discuss in our testimonies, the weighted average cost of capital language is interspersed in the TDSIC statute and does not limit the calculations to debt only.¹ It is common utility practice for pretax returns and the weighted average cost of capital to include both debt and equity.

¹ **IC 8-1-39-3 Pretax return.** “As used in this chapter, "pretax return" means the TDSIC revenues necessary to: (1) produce net operating income equal to the public utility's weighted cost of capital multiplied by investments in eligible transmission, distribution, and storage system improvements...”

IC 8-1-39-7 TDSIC costs. “As used in this chapter, "TDSIC costs" means the following costs incurred with respect to eligible transmission, distribution, and storage system improvements incurred both while the improvements are under construction and post in service.....(5) Pretax returns.”

IC 8-1-39-13 Determination of pretax return. “(a) For purposes of calculating the TDSIC costs of a public utility, the commission shall determine an appropriate pretax return for the public utility. In determining the appropriate pretax return, the commission may consider the following factors:... (2) The public utility's capital structure.”

1 Mr. Lantrip states GAAP accounting as his rationale for the exclusion of equity in
2 the PISCC calculation. He states, “GAAP only permits costs that would otherwise be
3 expensed for post-in-service capitalization.” This is not correct. Assuming the
4 Commission approves the carrying costs as recoverable, GAAP provides that both the
5 debt and equity return can be deferred as a regulatory asset for post-in-service
6 capitalization.

7 Generally, utility assets constructed are managed in total along with the rest of the
8 Company’s long-lived investments. Because the recovery of those costs does not occur
9 immediately at in-service, accrual of financing costs at the weighted average cost of
10 capital, which includes an equity component along with debt, represents the
11 comprehensive cost incurred by the Company for the period after the assets are placed in
12 service until the collections occur. Further, the TDSIC statute does not prohibit the
13 application of an equity component in the PISCC calculation. In fact, the Commission
14 has approved the equity component of the post-in-service carrying charge in prior TDSIC
15 cases, and the Company is not requesting any different treatment than what has been
16 previously approved in other Indiana TDSIC cases.²

17 As stated above, the TDSIC statute and utility practice are clear regarding including
18 the equity return, yet Mr. Lantrip incorrectly suggests the Company should provide
19 evidence it would be in financial distress without the additional deferral of equity. There

² Duke Energy Indiana’s TDSIC 1.0 plan in Cause No. 44720 on June 29, 2016; AES Indiana’s (formerly Indianapolis Power and Light) TDSIC plan in Cause No. 45264 on March 4, 2020; Northern Indiana Public Service Company’s (NIPSCO) TDSIC plan in Cause No. 45557 on December 28, 2021; and CenterPoint’s (formerly referred to as Vectren South) TDSIC plan in Cause No. 44910 on September 20, 2017.

1 is no requirement under Indiana law that Duke Energy Indiana make such a showing, and
2 the Commission should not require it now.

3 **Q. MR. LANTRIP RECOMMENDS THE COMMISSION LIMIT OPERATION AND**
4 **MAINTENANCE (“O&M”) EXPENSE IN THE TDSIC 2.0 PLAN. PLEASE**
5 **RESPOND.**

6 A. Mr. Lantrip recommends the Commission limit the Company’s recovery of O&M
7 expense to the amount the Petitioner has justified as incremental expense above and
8 beyond what was approved in its most recent base rate case, Cause No. 45253. However,
9 the TDSIC Rider already limits the recovery to incremental O&M costs in parts 2.b and
10 5.e of the Duke Energy Indiana tariff. I disagree with the recommendation that additional
11 supporting documentation should be provided to recover O&M costs to ensure there is no
12 duplication. As clearly explained in my direct testimony (page 3, lines 14 – 18), none of
13 these new projects were included in the Company’s rate base in Cause No 45253.
14 Therefore, none of the related project O&M would have been allowed to be included (nor
15 was it included in the 2020 retail rate case) as the Commission approved O&M costs
16 representative of the test year, 2020.

17 The project O&M identified in this proceeding begins three years later and beyond
18 and is directly related to the TDSIC 2.0 capital projects. Because these costs are
19 occurring after installation of the assets, such as inspecting of the lines and line transfers,
20 the Company expenses the O&M. It is unrealistic to expect that improved and new assets
21 would not result in related O&M.

Mr. Lantrip also points to the TDSIC 1.0 plan in Cause No. 44720 and concludes it is unproven to have O&M costs over and above what is in the current TDSIC Rider. The TDSIC 1.0 reference is not an appropriate comparison either because the TDSIC 1.0 O&M costs are specific to the TDSIC 1.0 plan. TDSIC 1.0 allows the inclusion of O&M costs, and TDSIC 2.0 has not proposed any different treatment than what has been approved for TDSIC 1.0 for O&M costs. Indiana Code § 8-1-39-7 explicitly states that TDSIC costs include “the following costs incurred with respect to eligible transmission, distribution, and storage system improvements incurred both while the improvements are under construction and post in service:… (2) Operation and maintenance expenses.”

Witness Mr. Lewis in his direct testimony (page 42, line 4) also explains that inclusion of project specific O&M is included in the TDSIC 2.0 cost estimate and that is standard practice in the utility industry.

In conclusion, TDSIC 1.0 O&M remains in the TDSIC Rider. TDSIC 1.0 project-specific O&M that occurred in 2020 was not included in the test period expenses for the rate case. The Company did not include any duplicative O&M in this proceeding.

Q. WHAT DOES THE COMPANY MEAN WHEN IT STATES IT WILL PRESENT ACTUAL CALCULATIONS SUPPORTING THE REDUCTIONS FOR THE DEPRECIATION EXPENSE CREDITS?

A. In Mr. Lantrip’s OUCC Attachment KGL-1 (OUCC 2.1), I explained in the Company’s discovery response that forecasted depreciation will be trued up to actual depreciation expense including retirement credits. Actual depreciation expense will be calculated. For the actual retirement credits, the Company will use the most recent five years of

1 actual retirements reported in the FERC Form 1 at the FERC account level by
2 transmission and distribution. The use of a 5-year ratio was explained in another
3 response from the Company to an OUCC discovery request, OUCC Attachment KGL-1
4 (OUCC 2.3) attached to Mr. Lantrip's testimony. As updated by Mr. Lantrip, NIPSCO's
5 pending proposal on depreciation netting was approved by the Commission in Cause No.
6 45557 on December 28, 2021 whereby the Commission concluded as to the
7 appropriateness of developing an average retirement rate by FERC account and applying
8 it as an offset to the recovery of depreciation expense in TDSIC tracker filings. Thus,
9 NIPSCO's approved proposal uses an average rate of retirement percentages based on
10 actual FERC Form 1 data as the source for the depreciation expense credits, as does Duke
11 Energy Indiana's TDSIC 2.0 proposal. Both the Company and Mr. Lantrip agree that
12 implementing depreciation netting is appropriate for TDSIC 2.0.

13 **Q. DO YOU AGREE WITH THE REGULATORY TREATMENT MR. LANTRIP**
14 **RECOMMENDS FOR RETIRED ASSETS REMAINING IN BASE RATES THAT**
15 **WERE INCLUDED IN THE RECENT RATE CASE?**

16 A. No, I do not. Mr. Lantrip recommends that the Commission order the Company to
17 recognize an offset for the return on the net book value of retired assets as a result of the
18 TDSIC 2.0 plan in its revenue requirement.

19 The Company is not proposing any different treatment than was approved in
20 TDSIC 1.0 for the returns on retired assets in base rates. In other TDSIC cases, the
21 Commission has specifically ordered that double-recovery concerns are addressed by
22 depreciation netting methodologies, which the Company has proposed in TDSIC 2.0.

1 The Commission likewise concluded that reductions to returns on retired assets in rate
2 base were not reasonable and did not conform to the TDSIC statute. The Commission, in
3 NIPSCO's recently approved TDSIC case in Cause No. 45557 (pages 65-66), explained
4 the following:

Additionally, with regard to... arguments about potential duplicative or double recovery, we note that we have recently addressed this very same argument offered in the context of IPL's electric TDSIC Plan and NIPSCO's gas TDSIC Plan. For example, in the 45330 TDSIC 1 Order (at page 19), we found: "We agree with Petitioner that the netting of depreciation expense reflected in its proposal has the effect of reducing Petitioner's pre-tax return. We recently approved IPL's netting proposal as appropriately addressing the double recovery concern raised by the OUCC and found that based on the reduction to TDSIC cost recovery, no further adjustment to the WACC was required. Indeed, we commended IPL's approach. Similarly, here we find...evidence that it is not reasonable to....further effectively adjust the assets that were included in rate base in Petitioner's most recent base rate case. The TDSIC Statute addresses TDSIC costs, not rate-based asset costs. See Indiana Code § 8-1-39-7. Thus, we find Petitioner's proposed depreciation netting addresses the OUCC and....double recovery concerns and that no further depreciation adjustment is necessary. (Emphasis added.)" No additional evidence or distinguishing factors have been offered....in this proceeding, and we thus decline to reverse our prior orders...

5 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

6 **A.** Yes, it does.

VERIFICATION

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

Signed: Maria T. Diaz
Maria T. Diaz

Dated: March 4, 2022