

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE VERIFIED )  
PETITION OF INDIANA MICHIGAN POWER )  
COMPANY FOR APPROVAL OF ) CAUSE NO. 46097  
MODIFICATIONS TO ITS INDUSTRIAL )  
POWER TARIFF – TARIFF I.P. )**

**SUBMISSION OF SETTLING PARTIES' PROPOSED ORDER**

Petitioner Indiana Michigan Power Company (I&M or Company), by counsel, submits the Settling Parties' Proposed Order.<sup>1</sup> An editable version in Word format will be provided to the presiding Administrative Law Judge.

Respectfully submitted,



Teresa Morton Nyhart (Atty. No. 14044-49)  
Jeffrey M. Peabody (Atty. No. 28000-53)  
Taft Stettinius & Hollister LLP  
One Indiana Square, Suite 3500  
Indianapolis, IN 46204-2023  
Nyhart Phone: 317-713-3648  
Peabody Phone: 317-713-3647  
Fax: (317) 713-3699  
Nyhart Email: tnyhart@taftlaw.com  
Peabody Email: jpeabody@taftlaw.com

Tammara D. Avant (Atty. No. 31466-49)  
American Electric Power Service Corporation  
101 W. Ohio St., Suite 1320  
Indianapolis, Indiana 46204

<sup>1</sup> The Settling Parties consist of all the parties in this proceeding, namely I&M, the Indiana Office of Utility Consumer Counselor ("OUCC"), the Citizens Action Coalition of Indiana, Inc. ("CAC"), Amazon Data Services, Inc. ("Amazon"), Data Center Coalition ("DCC"), Google, LLC ("Google"), and Microsoft Corporation ("Microsoft").

Phone: (317) 508-9262  
Email: [tdavant@aep.com](mailto:tdavant@aep.com)

Attorneys for Indiana Michigan Power Company

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing was served this 20th day of November, 2024, by email transmission, hand delivery or United States Mail, first class, postage prepaid to:

Lorraine Hitz  
Adam J. Kashin  
Indiana Office Of Utility Consumer Counselor  
115 West Washington Street, Suite 1500 South  
Indianapolis, IN 46204  
LHitz@oucc.IN.gov  
AKashin@oucc.IN.gov  
infomgt@oucc.IN.gov

Douglas W. Everette  
Michael T. Griffiths  
Lora L. Manion  
DENTONS BINGHAM GREENEBAUM LLP  
2700 Market Tower, 10 West Market Street  
Indianapolis, Indiana 46204  
douglas.everette@dentons.com  
michael.griffiths@dentons.com  
lora.manion@dentons.com

Liam H. Michener  
Carolyn P. Michener  
Michener Mullins & Arrington  
117 S. Indiana Ave.  
Sellersburg, Indiana 47172  
lhmichener@mmalawfirm.com  
cmichener@mmalawfirm.com

Nikhil Vijaykar2  
KEYES & FOX LLP  
580 California St. 12th Floor  
San Francisco, CA 94104  
nvijaykar@keyesfox.com

Jennifer A. Washburn  
Citizens Action Coalition  
1915 West 18th Street, Suite C  
Indianapolis, Indiana 46202  
jwashburn@citact.org

Copy to:  
Reagan Kurtz  
rkurtz@citact.org

Joseph P. Rompala  
Todd A. Richardson  
Emily R. Vlasak  
LEWIS & KAPPES, P.C.  
One American Square, Suite 2500  
Indianapolis, Indiana 46282-0003  
JRompala@lewis-kappes.com  
TRichardson@lewis-kappes.com  
EVlasak@lewis-kappes.com

*courtesy copy to:*  
etennant@lewis-kappes.com  
atyler@lewis-kappes.com

James C. Holsclaw  
Taylor Carpenter  
Calfee, Halter & Griswold LLP  
3900 Salesforce Tower  
111 Monument Circle  
Indianapolis, IN 46204  
Jholsclaw@calfee.com  
tcarpenter@calfee.com

Matthew B. Barbara  
Calfee, Halter & Griswold LLP  
The Calfee Building  
1405 East Sixth Street  
Cleveland, OH 44114-1607  
mbarbara@calfee.com

Mark Valentine  
Keyes & Fox LLP  
1580 Lincoln St., Ste. 1105  
Denver, CO 80203  
mvalentine@keyesfox.com

*courtesy copy to:*

Shala Coe  
scoe@calfee.com

*courtesy copy to:*

Alicia Zaloga  
Keyes & Fox LLP  
1155 Kildaire Farm Road, Ste. 202-203  
Cary, NC 27511  
azaloga@keyesfox.com

Corey Cochran  
Keyes & Fox LLP  
1155 Kildaire Farm Road, Ste. 202-203  
Cary, NC 27511  
ccochran@keyesfox.com

Lucas Fykes  
Data Center Coalition  
lucas@datacentercoalition.org

Aaron Tinjum  
Data Center Coalition  
aaron@datacentercoalition.org

Kevin Higgins  
Energy Strategies, LLC  
khiggins@energystrat.com



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Jeffrey M. Peabody

Teresa Morton Nyhart (Atty. No. 14044-49)  
Jeffrey M. Peabody (Atty. No. 28000-53)  
Taft Stettinius & Hollister LLP  
One Indiana Square, Suite 3500  
Indianapolis, IN 46204-2023  
Nyhart Phone: (317) 713-3648

Peabody Phone: (317) 713-3647  
Fax: (317) 713-3699  
Nyhart Email: tnyhart@taftlaw.com  
Peabody Email: jpeabody@taftlaw.com

Tammara D. Avant (Atty. No. 31466-49)  
American Electric Power Service Corporation  
101 W. Ohio St., Suite 1320  
Indianapolis, Indiana 46204  
Phone: (317) 508-9262  
Email: tdavant@aep.com

Attorneys for Indiana Michigan Power Company

135412974v1

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**PROPOSED FORM OF ORDER**

**Presiding Officers:**

**Wesley Bennett, Commissioner**

**Loraine Seyfried, Chief Administrative Law Judge**

On July 19, 2024, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) for approval of certain modifications to I&M’s Industrial Power Tariff – Tariff I.P. Also on July 19, 2024, I&M filed its prepared testimony and attachments, as well as supporting workpapers, of Andrew J. Williamson, I&M Director of Regulatory Services.

On July 29, 2024, Citizens Action Coalition of Indiana, Inc. (“CAC”) filed a Petition to Intervene, which was granted by Docket Entry dated August 6, 2024.

On August 8, 2024, Amazon Data Services, Inc. (“Amazon”) filed a Petition to Intervene, which was granted by Docket Entry dated August 16, 2024.

On August 16, 2024, the Presiding Officers issued a Docket Entry establishing procedural matters for this Cause. The Commission held a Technical Conference on August 22, 2024.

On September 11, 2024, the Data Center Coalition (“DCC”) filed a Petition to Intervene and on September 12, 2024, Google, LLC (“Google”) filed a Petition to Intervene, which petitions were granted by docket entries dated September 19 and 20, 2024. On September 24, 2024, Microsoft Corporation (“Microsoft”) filed a Petition to Intervene, which was granted by Docket Entry dated October 2, 2024.

By Docket Entry dated October 10, 2024, the Presiding Officers denied a motion for modification of the procedural schedule.

On October 15, 2024, the Indiana Office of Utility Consumer Counselor filed the prepared testimony and attachments of OUCC Analysts Patrick A. Kelley and Derek J. Leader. Also on October 15, 2024, CAC filed the direct testimony and attachment of CAC Program Director, Benjamin Inskeep. CAC filed its supporting workpapers on October 17, 2024.

On October 15, 2024, Google filed the prepared testimony and attachments of Justin B. Farr, Director in the firm of Energy Strategies, LLC; Amazon filed the prepared testimony and

attachments of Carolyn A. Berry, Ph.D., a Principal in the Energy Practice at Bates White Economic Consulting, David G. Loomis, Professor Emeritus of Economics at Illinois State University, former Executive Director of the Institute for Regulatory Policy Studies, and President of Strategic Economic Research, LLC, and Michael Fradette, Principal, Energy Strategy by Amazon Web Services, Inc. (“AWS”); and DCC filed the prepared testimony and attachment of Kevin C. Higgins, Principal in the firm of Energy Strategies, LLC. Microsoft filed a notice of intent not to file direct testimony.

On November 1, 2024, Google, Amazon, DCC and OUCC filed a partially opposed joint motion for leave to file cross answering testimony (“Joint Motion”) and CAC filed its opposition to the Joint Motion. The Joint Motion was denied by Docket Entry dated November 4, 2024.

On November 4, 2024, I&M filed the prepared rebuttal testimony, attachments and workpapers of Mr. Williamson, Steven F. Baker, I&M President and Chief Operating Officer, and Alex E. Vaughan, Managing Director of Pricing for American Electric Power Service Corporation (“AEPSC”).

On November 14, 2024, the Commission issued a Docket Entry requesting additional information from I&M, to which I&M responded on November 15, 2024.

The Commission conducted a hearing in this Cause on November 18, 2024, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M, the OUCC, CAC, Google, Amazon, DCC, and Microsoft participated in the evidentiary hearing, by counsel. At the hearing, the parties reached agreement on a modified procedural schedule so as to allow the parties additional time to work towards potential settlement of the issues pending in this Cause, and the hearing was continued to December 20, 2024.

On November 22, 2024, I&M, on behalf of itself, the OUCC, and all intervenors (collectively, the “Settling Parties”), filed a Submission of Unopposed Settlement Agreement and Unopposed Motion for Acceptance of Out of Time Filing. The Motion was granted by Docket Entry dated December 2, 2024.

On December 4, 2024, the Settling Parties filed testimony in support of the Settlement Agreement by the following witnesses: Mr. Williamson, Michael D. Eckert, Chief Technical Advisor in the OUCC’s Electric Division, Mr. Inskeep, Mr. Farr, Mr. Fradette, Mr. Loomis, and Dr. Berry.

The Commission conducted an evidentiary hearing on December 20, 2024, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M, the OUCC, CAC, Google, Amazon, DCC, and Microsoft participated in the evidentiary hearing, by counsel. At the hearing, the Settlement Agreement and the Settling Parties’ respective prefiled direct, rebuttal, and settlement evidence was admitted without objection.

The Commission, based upon the applicable law and the evidence of record, now finds as follows:

**1. Jurisdiction and Notice.** Notice of the hearing in this Cause was given and published by the Commission as required by law. I&M is a “public utility” within the meaning of

Ind. Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana.

**2. I&M's Characteristics and Businesses.** I&M is a corporation organized and existing under the laws of the State of Indiana, with its principal office located at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the states of Indiana and Michigan. I&M owns and operates plant and equipment within the states of Indiana and Michigan that are in service and used and useful in the generation, transmission, distribution, and furnishing of such service to the public. I&M supplies electric service to approximately 482,000 retail customers in Indiana. I&M is a wholly owned subsidiary the American Electric Power Company, Inc. ("AEP"). Pet. Ex. 6 (Petition) at ¶¶1-3.

**3. Relief Requested.** In this proceeding, I&M requests approval to update its Industrial Power Tariff – Tariff I.P. to incorporate certain terms to accommodate large load customers. As originally proposed by I&M, these modifications, also referred to as "Large Load Terms" in this filing, include: 1) applicability to customers with a contract demand in excess of 150 MW, or reasonably expected to exceed 150 MW at one or more aggregated premises; 2) a contract term for an initial period of twenty (20) years and provisions to address assignment of rights or delegations of obligations under the Contract; 3) a Contract Termination Fee that would only apply should there be a permanent closure during the contract term; 4) provisions that allow a customer to reduce its contract capacity by up to twenty (20) percent during the contract term; 5) a ninety (90) percent monthly minimum billing demand; and 6) an increased minimum amount of collateral to be provided by the customer. Pet. Ex. 6 (Petition) at ¶8.

I&M now also requests approval of the Settlement Agreement, which resolves all of the issues in this Cause.

**4. I&M's Evidence.** Mr. Williamson presented the modified Tariff I.P. and explained the modified tariff is needed to address large load customers whose contract capacity exceeds 150 MW or is reasonably expected to grow to exceed 150 MW at one or more aggregated premises. Pet. Ex. 1 (Williamson Direct) at 3. Mr. Williamson referred to the revisions as the "Large Load Terms". *Id.* He testified the Large Load Terms include the following:

- 1) A contract term for an initial period of twenty (20) years and provisions to address assignment of rights or delegations of obligations under the Contract;
- 2) A Contract Termination Fee that would only apply should there be a permanent closure during the contract term;
- 3) Provisions that allow a customer to reduce its contract capacity by up to twenty (20) percent during the contract term;
- 4) A ninety (90) percent monthly minimum billing demand; and
- 5) An increased amount of collateral to be provided by the customer.

*Id.* Mr. Williamson said the proposed revisions to Tariff I.P. would be effective upon issuance of a final order in this Cause and added that large load customers served under these new provisions will be charged for service at the same rates as other customers under Tariff I.P. *Id.* at 3, also at 19.



Mr. Williamson explained why the Company is proposing to make these enhancements now. Pet. Ex. 1 at 4. He said the electric utility industry is in the midst of a transformation, both in terms of customer makeup and in regard to the changes occurring within the generation resources serving customers. *Id.* He added that over the past few years, the electric industry has seen increased activity and interest among large load customers. *Id.* He said this is occurring while at the same time utilities, including I&M, are transitioning their fleets to replace retiring generation resources. *Id.* Mr. Williamson testified that in recent months, the Indiana Governor's office, Indiana Economic Development Corporation, Indiana state representatives, local community leaders and various other local economic development agencies have participated with the United States' leading technology companies to announce significant hyperscaler business investments in I&M's retail service territory, which are expected to begin taking service in 2024 and 2025. *Id.* He stated that once fully operational these new customers will significantly increase I&M's Indiana retail load, and require the Company to make significant transmission and generation infrastructure investments and other long-term financial commitments to provide service. *Id.*

Mr. Williamson added that these customers, and other similarly situated customers, are interested in future opportunities for further load growth. Pet. Ex. 1 at 4. He said the magnitude of demand for electricity associated with these customers is unprecedented and unlike any previous load additions the Company has experienced to date. *Id.* He testified that as the state of Indiana continues to pursue these types of technology investments and with multiple large load customers expected to begin taking electric service from I&M in the next year, now is the right time to address the changing landscape these customers bring to an electric utility like I&M and establish a consistent set of reasonable terms and conditions for large load customers taking service under Tariff I.P. *Id.* He said the proposed tariff modifications ensure that I&M has reasonable terms and conditions of service in place that recognize and address the different needs and unique risks that large load customers present from I&M's other Tariff I.P. customers. *Id.*

Mr. Williamson discussed how these large load additions compare to I&M's current Indiana retail load. Pet. Ex. 1 (Williamson Direct) at 5. He stated that when considering projects that have been publicly announced and other hyperscaler projects the Company is currently engaged in discussions with specific customers on, these new large load additions are expected to grow I&M's current Indiana peak load of approximately 2,800 MW to more than 7,000 MW by approximately 2030. *Id.* He said these customers operate in similar business sectors, expect to operate at very high load factors, and represent a significant change in the customer concentration risk associated with I&M's business going forward. *Id.* To put this into perspective, Mr. Williamson added that a single 150 MW customer is equivalent to approximately 100,000 residential customers. *Id.* He said this is approximately one fourth of I&M's Indiana residential customer base today, or the entire population of Marion and Muncie, Indiana combined. *Id.*

Mr. Williamson explained why the tariff changes are reasonable and necessary. Pet. Ex. 1 at 5. He said the proposed Tariff I.P. refinements are necessary to memorialize a reciprocal commitment from large load customers that reasonably recognizes and aligns with the financial commitments that will be required by I&M to provide these customers with the level of safe, reliable, and adequate service they need to operate their energy-intensive business. *Id.* He testified that Commission approval of I&M's proposed tariff modifications will position the Company to confidently make the financial commitments associated with the unprecedented system improvements and resource additions that will be required. *Id.* Mr. Williamson added that the

proposed tariff modifications will provide new and existing customers and the Company with reasonable financial protections should future conditions arise that impact the operations of a customer's facility and reduce the level of electric demand or consumption, or result in the facility ceasing operation. *Id.* He said these protections are essential given the long-term investments and other financial commitments I&M will be required to make in transmission and generation resources needed to serve the customer's expected peak demand. *Id.* Mr. Williamson stated that while neither the Company nor the customers are expecting these situations, it is important that it is clear among I&M, its customers, the Commission, and other stakeholders how these situations will be managed if they were to occur. *Id.* Mr. Williamson said the modified tariff provisions will better position I&M going forward to achieve the State of Indiana's energy policy objectives as represented by the Five Pillars: Reliability, Affordability, Resiliency, Stability and Environmental Sustainability. *Id.*

Mr. Williamson also discussed why it is appropriate to update Tariff I.P. versus creating a new tariff to serve large load customers. Pet. Ex. 1 (Williamson Direct) at 6. He said Tariff I.P. is appropriate for these large load customers because, while the magnitude of the load is unprecedented, the load characteristics of these customers are not dissimilar to other customers currently served under Tariff I.P. *Id.* He said I&M currently has a wide range of different customers on Tariff I.P. with different load characteristics, including high load factor customers. *Id.* He stated that adding the large load customers to an existing tariff allows for consistency among customers to meet basic service needs. *Id.* Mr. Williamson testified that for basic service needs, it is reasonable to treat similarly situated customers on a consistent basis, as the Company's proposed additional conditions and terms are meant to do. *Id.* He said it also provides for a more timely, efficient, and predictable process to establish service for these large load customers moving forward. *Id.* Mr. Williamson testified that for customers that have unique needs beyond standard service under the tariff, such as demand response, sustainability goals, strategic partnerships, etc., I&M would address those specific situations through other tariffs, riders, or mechanisms, such as a special contract. *Id.*

Mr. Williamson explained the 150MW threshold and why this is reasonable. Pet. Ex. 1 at 6-7. Mr. Williamson said setting a 150 MW minimum ensures that only large loads above this threshold will be subject to the provisions in recognition of the larger needs and risks that serving customers of this size will create. *Id.* Mr. Williamson testified that at the time of filing his direct testimony, I&M does not have a single customer or a group of customers under a common parent taking service under Tariff I.P. over 150 MW. Pet. Ex. 1 at 7. Mr. Williamson explained how I&M will assess a customer's aggregate load with respect to this term and condition of service. *Id.*

Mr. Williamson explained I&M's proposal to require a twenty (20) year contract term for large load customers and why this is reasonable. Pet. Ex. 1 at 8. Mr. Williamson testified that I&M proposes to include this term due to the significant long-term investments and other financial commitments (e.g. Purchase Power Agreements or "PPAs"), primarily in generation and transmission assets, that will be required to serve these large load customers as part of I&M's integrated system serving its Indiana retail customers. *Id.* He said these transmission and generation costs of the integrated system must necessarily be reflected in the Company's rates for service. *Id.* He said it is important for I&M to have a reciprocal long-term commitment from large load customers to support making the necessary long-term investments and commitments. *Id.* He said an initial contract of twenty (20) years provides reasonable assurance that these large load

customers will take service over a period that reasonably aligns with the cost of the significant investments and financial commitments the Company will make to provide service. *Id.* Mr. Williamson added that I&M is seeking a reasonable notice period if a party would intend to discontinue service under the terms of the contract under Tariff I.P. *Id.* He said permanent closure of a customer's operation is addressed separately in I&M's proposed tariff modifications. *Id.*

Mr. Williamson explained I&M plans to serve its expanding customer load through a diversified portfolio of new and existing generation resources with varying asset lives or contract terms. Pet. Ex. 1 (Williamson Direct) at 9. He stated that this will necessarily include resources with both shorter terms (ex. 5 to 15 years) as well as longer terms (ex. 20 to 35 years) more common to new generation resources. *Id.* He said this diversification strategy will allow I&M to manage risk exposure in the event of a future change in load requirements while also balancing that within the Five Pillars of Indiana's Energy Policy. *Id.* He said the proposed contract term, when combined with the other tariff modifications I&M is proposing in this proceeding, provides a reasonable basis for I&M to manage the costs associated with a diversified portfolio of resources that will be needed to meet I&M's growing generation needs. *Id.* He added that since generation resource costs are generally recovered over their respective service lives, the proposed contract term is expected to reasonably align with the costs the Company will be incurring to provide service to these customers. Incorporating this requirement into the tariff provides consistent contract treatment for all large load customers and establishes an important long-term customer commitment to electric service for the Commission to consider as I&M is requesting future approval of generation resources. *Id.*

Mr. Williamson also discussed the proposed assignment of rights or delegation of obligations provision. Pet. Ex. 1 (Williamson Direct) at 9. Mr. Williamson said I&M proposes to include this term to clearly provide large load customers with consistent terms regarding how a situation involving assignment or delegation of rights and obligations under their contract will be handled. *Id.* at 10.

Mr. Williamson also explained the terms that address permanent closure and reduction to contract capacity provisions and why these terms are reasonable. Pet. Ex. 1 (Williamson Direct) at 10. Mr. Williamson testified that I&M's proposal provides reasonable safeguards to all other customers in the event of an unexpected shut down by a large load customer. *Id.* at 11. He stated that in the event of a permanent closure, I&M is asking the customer to be required to provide formal notice to the Company within three (3) business days of making such a determination. *Id.* He said this notice, along with the payment equal to five (5) years of minimum billing, are important terms to provide I&M as much time as possible and reasonable compensation to allow the Company to prudently manage its ongoing transmission and generation costs in the market and within the timelines of the PJM capacity planning process. *Id.* Mr. Williamson added that I&M's proposal allows for coordination in the event of a change in a large load customer's capacity need. *Id.* He said this flexibility was included in recognition of customer concerns over their ability to project their capacity needs over 20 years while still recognizing the long-term commitments and planning horizons of the Company. *Id.* He said guaranteeing customers the ability to reduce their contract capacity by up to 20%, or more by mutual agreement, provides the customer reasonable flexibility while reasonably limiting the magnitude of the risk to I&M and all other customers. *Id.* He said that consistent with current practices, a customer has the ability to request an increase to its contract capacity in total or in a given year. *Id.* He said the Company will evaluate the request

based on its ability to serve the requested capacity amount. *Id.* He said all requested increases in contract capacity are subject to mutual agreement. *Id.*

Mr. Williamson also discussed the Company's proposed Contract Termination Fee. Pet. Ex. 1 (Williamson Direct) at 11-12. He testified that the Company must make long-term investments and other financial commitments in generation and transmission to meet the needs of new large loads. *Id.* at 11. He said the Company understands that circumstances can change for large load customers and added that if a significant change in circumstances were to occur, the Company needs sufficient time to manage its commitments in an orderly, well-reasoned manner, within regulatory and market timelines. *Id.* Mr. Williamson stated that in establishing the Contract Termination Fee, the Company considered and evaluated the risks by performing a sensitivity analysis related to the potential cost of the generation assets needed to serve the load and the potential market for such assets in the event of a significant change in circumstances. *Id.* He said this sensitivity analysis evaluated varying time horizons from 20 years to 5 years. *Id.*

He presented an analysis in Figures AJW-1 and AJW-2 demonstrating the potential net cost or benefit using a range of asset costs and market conditions compared to the proposed Contract Termination Fee equal to five (5) years of the customers' minimum bill requirement. Pet. Ex. 1 (Williamson Direct) at 12. Mr. Williamson stated that while it is not possible to precisely predict the average cost of the portfolio of future generation resources or the market conditions that would exist at the time a large load customer would permanently close its operations, these sensitivity analyses demonstrate the proposed Contract Termination Fee covers a range of risks. *Id.* He said the Contract Termination fee strikes a reasonable balance by providing a reasonable and predictable amount for all interested parties, the customer, all of the Company's other customers, and the Company. *Id.*

Mr. Williamson also discussed the proposed monthly minimum billing demand provision and why the proposed term is reasonable. Pet. Ex. 1 (Williamson Direct) at 14. Mr. Williamson stated that I&M proposes to include this term for large load customers primarily based on the magnitude and size of these customers and the fact that I&M will need to make long-term investments and other financial commitments for years into the future to have adequate power supply to meet the customers' needs based on the total contract capacity requested by the customer. *Id.* He added that currently, the existing provisions of Tariff I.P. have a billing demand minimum that is 60 percent of contract capacity and said without modification to Tariff I.P. for large load customers, a drop in billing demand to 60 percent by just one of these customers could have significant negative financial consequences for I&M and its customers. *Id.* Mr. Williamson explained that for a large load customer, the difference between a 60 percent and 90 percent minimum billing demand can be the revenue requirement associated with the cost of service of one or more power plants. *Id.* at 14-16. Mr. Williamson's analyses included Figure AJW-4, which demonstrates the potential difference in a 1,000 MW customer's yearly minimum billing demand at 60 and 90 percent compared to their expected yearly bill. *Id.* at 15-16. Mr. Williamson testified that this analysis shows the difference between a 60 percent and 90 percent minimum billing demand, on a yearly basis, is approximately \$90 million, compared to the expected yearly bill of approximately \$500 million. *Id.* at 16.

Mr. Williamson also discussed the included collateral requirements and reasonableness thereof. Pet. Ex. 1 (Williamson Direct) at 16. Mr. Williamson stated that I&M proposes to include

this term because the size and concentration risk of these customers is unlike other customers. *Id.* at 17. He stated that if a large load customer was to unexpectedly exit I&M's service territory and/or system, there is potential for significant financial harm to I&M and its other customers and presented Figure AJW-5 to demonstrate how I&M's expected annual revenues would shift once the hyperscaler loads are fully realized. *Id.* Mr. Williamson testified that with the number of current commitments and potential future interest in I&M's system from large load customers, less than a handful of customers will be the largest single sector for I&M, even greater than I&M's existing residential, commercial, and industrial customers combined. *Id.* He said consequently, it is imperative that other customers and the Company are reasonably protected in the event the unexpected occurs with these large load customers. *Id.* at 17. He added that while no reasonable term can fully insulate I&M and its other customers, the proposed term reasonably increases the requirement of I&M's current Terms and Conditions of Service and provides additional protections in the event a customer does unexpectedly cease taking service from I&M and is unable to pay its remaining charges. *Id.* at 17-18.

Mr. Williamson testified that except for the higher collateral requirements, these proposed provisions would only have impacts if something unexpected occurred -- meaning, if the customer's business operates consistent with the load it is contracting for, the proposed tariff modifications will have no impact on these customers. *Id.* at 18.

Mr. Williamson testified that if the Commission approves the enhancements to Tariff I.P. as proposed by I&M, the Company and its customers will be better protected in the event a large load customer unexpectedly reduces its load or permanently closes its operations. *Id.* He added that having a Commission approved tariff in place for large load customers provides clarity to all parties for how these types of customers will be served. *Id.*

Mr. Williamson clarified that the proposed tariff modifications do not change the terms of service for any existing customers, and that at the time of the filing of his direct testimony, I&M does not have an existing customer taking service under Tariff I.P. exceeding 150 MW. *Id.* at 19.

**5. OUC's Evidence.** OUC witness Kelley evaluated the Company's proposed tariff modifications and analyzed the impact the large load customers are creating on national, state, and local electric demand. Public's Ex. 1 (Kelley Direct) at 1. Mr. Kelley testified that the OUC strongly supports economic development and recognizes the benefits of data center investment. *Id.* He said current utility ratepayers in all classes should be shielded from any stranded costs that may occur. *Id.* He said I&M's proposed tariff includes some safeguards for existing residential, commercial, and industrial customers and testified however, that additional safeguards are needed as discussed in his testimony and that of OUC witness Leader. *Id.* Mr. Kelley stated it is crucial that the principle of cost causation be applied to the data center loads. *Id.* at 2. He said current I&M ratepayers should not be required to subsidize utility investment to accommodate large load requirements. *Id.*

Mr. Kelley reviewed the proposed tariff modifications, the prospective large load customers and the announced capital investment in Indiana related to these projects. *Id.* at 2-4. He said the projected demand of the smallest hyperscaler projects I&M plans to serve will each exceed by a factor of more than 10 times the demand of I&M's current largest single industrial customer. *Id.* at 4.

Mr. Kelley testified AWS' hyperscaler project will be the largest customer to date in I&M's service territory. Pub. Ex. 1 at 6. He said a decrease of 20% of AWS' anticipated energy use of 2,250 MW would reduce I&M's load by 450 MW and added that a loss of that amount would be roughly equivalent to powering 375,000 homes. *Id.* Mr. Kelley testified this is concerning as that would be comparable to turning off the electrical demand to practically all Indianapolis residents with a reported 361,641 occupied households as of the 2020 U.S. Decennial Census. *Id.*

Mr. Kelley acknowledged that I&M is not seeking approval of more generation resources as part of this case but added that the demands of potential hyperscaler customers are relevant to whether the proposed terms of I&M's modified Tariff I.P. are sufficient to protect I&M's other captive ratepayers. Pub. Ex. 1 at 6. He said hyperscaler operations plan to run at full capacity 24/7/365. *Id.* He said unlike other industrial customers, an interruptible tariff is not an option for hyperscalers, meaning I&M will have to provide a high volume of energy at all times. *Id.*

Mr. Kelley discussed local economic impacts. Pub. Ex. 1 at 6-8. He said the Indiana Data Center Tax Incentive offers tax exemptions on energy and equipment for new data centers built in Indiana for up to 50 years. *Id.* at 6-7. He said this was the longest exemption period in any state when it was passed and added that electricity purchases for these facilities are also exempt from state sales tax. *Id.* at 7. Mr. Kelley also reviewed news stories highlighting benefits the Amazon projects will be providing to the local community. *Id.* at 7-8. He said the publicized investments will not help I&M or I&M's ratepayers. *Id.* at 8. He said the large investments announced by Amazon do not reduce the large power demand, power demand variability, or early termination risks and said these are the measures I&M is attempting to address in the Tariff I.P. modifications. *Id.*

Mr. Kelley concluded that existing utility customers need to be protected in the event a hyperscaler terminates an electric service contract early, especially if the utility has invested vast resources to specifically meet the data center's projected demands. Pub. Ex. 1 at 14. He said the OUCC views most of I&M's proposed tariff terms as safeguards for current residential, commercial, and industrial customers and added however, the OUCC remains concerned about the need for additional protections as discussed in Mr. Leader's testimony. *Id.* Mr. Kelley testified the massive demands of hyperscalers will inevitably require new electric power generation and transmission. *Id.* He said all construction and financing costs for these assets - and retirement costs if applicable - should be directed to these large load customers, since they will be the cost-causers. *Id.* He said consistent with the "user pays" paradigm, the large load customers must also be accountable for increased maintenance costs due to additional pressures on transmission systems. *Id.*

OUCC witness Leader also evaluated the Company's proposed tariff modifications. Pub. Ex. 2 (Leader Direct) at 1. Mr. Leader said Petitioner's modifications as proposed would provide some protection to I&M's current residential, commercial, and industrial customers and added however, the Commission should take all steps necessary to mitigate the imposition of stranded costs and load reductions – if they occur – on other ratepayers. *Id.*

Mr. Leader described what a hyperscaler is, discussed the Five Pillars and presented the OUCC's concerns about affordability. *Id.* at 2-4. He said I&M's potential investment to meet the demand of these large load customers raises concerns because of the stranded investment/cost

I&M may incur if a large load customer leaves the system, coupled with the resulting impact such stranded costs may have on all other customers. *Id.* at 4. Mr. Leader discussed the Company's plan to manage the costs associated with a diverse portfolio of resources. He testified that if a large load customer agrees to the terms proposed by I&M, the large load customer tariff rates will not allow I&M to recover the full cost of service to serve that customer. *Id.* at 5.

Mr. Leader said the OUCC supports including at least a 20-year minimum contract term. *Id.* He added however, the initial term of many Purchase Power Agreements ("PPAs") exceeds 20 years and said consequently, if I&M enters into 25 or 30-year PPA contracts to provide power to large load customers, the OUCC is concerned I&M's other customers will become responsible for the stranded costs if the large load customer ceases its operations or otherwise leaves I&M's system before the end of the PPA term, if that term exceeds 20 years. *Id.* at 5.

Mr. Leader testified that I&M's proposed Tariff I.P. modifications require a large load customer to give I&M at least five years prior written notice of any intent to reduce that customer's specified contract capacity, unless the parties mutually agree to a shorter notice period. Public's Ex. 2 at 6. He said the proposed tariff allows a customer to reduce its maximum contracted capacity by up to a total of 20% during the contract period; if mutually agreed, the reduction could be more. *Id.* He said the OUCC is concerned that modification by mutual agreement of any of the Tariff I.P. terms the Commission approves bypasses the Commission's scrutiny and oversight and could be detrimental to I&M's other ratepayers. *Id.* at 6-7. He stated that approving the proposed Tariff I.P. modifications while simultaneously providing for these provisions to not be applicable upon the mutual agreement of only I&M and a large load customer equates to endorsing alternative contract terms that are unknown. *Id.* at 7. He said doing so may adversely affect other I&M customers, may not be in the public interest, and equates to approval by I&M and the customer instead of the Commission. *Id.* He testified therefore, the OUCC recommends the Commission require I&M to take all needed steps to mitigate impact on other ratepayers if a large load customer leaves the system. *Id.* at 7.

Mr. Leader testified the OUCC has concerns about a large load customer reducing its load by 20%. *Id.* at 7. He said if a customer using 1 GW of energy reduces its load by 20%, that would result in a 200 MW load loss for I&M. *Id.* He testified that unless I&M could sell those 200 MWs into the market, this could result in stranded asset costs, which would be passed onto other customers and result in a sizable bill increase. I&M's other customers should not be at risk of bearing these costs. *Id.* Mr. Leader stated that in a discovery response, I&M indicated that a customer could reduce its load by 20% and then terminate the load with a lower fee. *Id.*

Mr. Leader concluded that the OUCC does not oppose I&M's proposed modifications, as they provide some protection to the utility's current customers. *Id.* He said however, the possibilities of stranded costs and load reductions by large load customers raise concerns. *Id.* He said the OUCC recommends the Commission require I&M to take all steps necessary to mitigate the imposition of these costs on other ratepayers. *Id.*

**6. CAC's Evidence.** CAC witness Inskeep testified that the new large loads anticipated for I&M's service territory are unprecedented and staggering, including facilities that will be among the single largest electric users in the state. CAC Ex. 1 (Inskeep Direct) at 4. He said without the prompt implementation of robust consumer protections and enhanced

transparency, existing ratepayers are at extraordinary risk from these new large loads. *Id.* He stated that to its credit, I&M has proactively proposed several constructive tariff revisions that meaningfully address these concerns, while still allowing for some flexibility and customization to address individual customer circumstances. *Id.* at 4-5. He recommended the Commission approve I&M's proposed tariff revisions with certain modifications. *Id.* at 5.

Mr. Inskeep discussed the underlying reasons I&M is proposing tariff changes for new large load customers and expounded on how these large loads will impact I&M. CAC Ex. 1 at 5-8. Mr. Inskeep said this nearly unfathomable load growth projected over a very short time for new data centers does not include other expected load growth in I&M's service territory, including other economic development, rising customer counts, building electrification, electric vehicle charging, and potential technological breakthroughs like green hydrogen, which are also likely to push I&M's capacity and energy needs even higher. *Id.* at 8.

Mr. Inskeep discussed the costs I&M expects to incur to provide electric service to these new large load customers and said this level of investment creates new risk. *Id.* at 10-11. He explained there is project execution risk associated with each new build, which could be magnified by undertaking many of these projects all at once due to the pressure to bring a large amount of generation online in time to meet data center load ramps. *Id.* He said it could also create a cash flow risk to I&M if it is spending large amounts on projects years prior to the costs reflected in rates. *Id.*

Mr. Inskeep testified that the composition of I&M's new large load customers poses unique risks. CAC Ex. 1 at 11. He said the concentration of a majority of I&M's future load and retail sales in one industry at a small handful of facilities significantly increases risk to I&M and to ratepayers. *Id.* He said the new large load customer additions that have been announced or reported on to date are all in the same industry, with each operating one or more new data centers. *Id.* He stated that while some power used by the data centers could be used for cloud computing, it appears that a substantial portion of the power needs for large, new "hyperscaler" data centers like these is for so-called AI. *Id.* He said each data center will use hundreds of megawatts of power or more, further concentrating risk at just a small handful of facilities. *Id.* at 11-12. Mr. Inskeep stated that negative impacts to the tech industry, demand for AI and computational power, or to specific data center facilities could have a ripple effect: power demand could abruptly decline significantly, eroding I&M revenues and resulting in rate increases and credit downgrades, which would lead to a higher cost of capital and changes to cost allocation, possibly resulting in more rate increases to customers. *Id.*

Mr. Inskeep testified that new large load customers create risks to future economic development in I&M's service territory. CAC Ex. 1 at 12. He said for example, customers with new or expanding load could face challenges securing sufficient capacity from I&M within a reasonable timeframe, given the enormity of the task I&M has ahead of it to secure sufficient power for 4.4 GW of data center load. *Id.* He said the addition of the large load will result in significant transmission congestion on I&M's Indiana transmission system, meaning other prospective customers could have to wait years to begin service. *Id.* He said the large loads will also result in substantial changes to cost allocation, with far more PJM costs being allocated to I&M, more I&M company-wide costs being allocated to its Indiana jurisdiction, and more I&M-Indiana costs being allocated to the Tariff I.P. class. CAC Ex. 1 at 13. He said these higher cost



allocations could undermine affordability for other ratepayers, including non-data center prospective Tariff I.P. customers who could decide to site new facilities elsewhere. *Id.*

Mr. Inskeep discussed the reliability risks are associated with large data center load growth. CAC Ex. 1 at 14. He said the North American Reliability Corporation has established a Large Loads Task Force to better understand the reliability impacts of emerging large loads such as data centers. *Id.* at 15.

Mr. Inskeep discussed the Commission's authority to approve the Company's proposed terms and conditions of service. CAC Ex. 1 at 19. He said I&M's proposals, as modified by Mr. Inskeep's testimony, are reasonable and appropriate for addressing the risks to I&M and its ratepayers associated with new large load customers. *Id.* He said failure to adequately protect existing customers could result in existing customers facing large cost shifts and being assessed unjust and unreasonable charges in contravention of the plain language of Ind. Code § 8-1-2-4. *Id.*

Mr. Inskeep discussed the Company's proposed tariff enhancements. *Id.* at 21. He said he broadly supports I&M's proposed tariff revisions as necessary and reasonable, although he recommends certain revisions to address specific issues. *Id.* at 22. He said he appreciates that I&M is seeking reasonable changes to its existing tariff to accommodate new load, while taking a proactive approach to protecting existing customers from potential negative impacts. *Id.* He said he also strongly agrees with I&M's decision to serve new large load customers under a published tariff rather than through individually negotiated special contracts, which are often kept confidential. *Id.* He added the Company's approach is more transparent, administratively efficient, and fair to existing and potential new customers. *Id.*

Mr. Inskeep concurred with I&M witness Williamson that a minimum 20-year contract term, with a five-year advanced notice of cancellation, is reasonable and necessary for customers with loads of 150 MW or larger. CAC Ex. 1 at 22. Mr. Inskeep testified that an even longer contract term could be reasonably justified by I&M, because generation and transmission assets are typically designed and constructed to last much longer than 20 years, and often are depreciated over a term longer than 20 years. *Id.* Mr. Inskeep said therefore, a 20-year contract term still carries risk that I&M would not be made whole if the customer were to cease taking service after 20 years. *Id.*

Mr. Inskeep testified that I&M has also included a term addressing the proposed assignment of rights or delegation of obligations, which includes a commitment from I&M that it will not unreasonably withhold consent for such an assignment or delegation. CAC Ex. 1 at 22. Mr. Inskeep said this provision strikes a reasonable balance between the need for I&M to have a minimum level of certainty, while still allowing reasonable flexibility for new large loads by allowing them to transfer rights or delegate obligations to another party. *Id.* He recommended the Commission approve this proposal. *Id.*

Mr. Inskeep agreed that both a Contract Termination Fee and a limitation on reductions to a large load customer's contract capacity are reasonable and necessary tariff modifications. *Id.* He said I&M's proposed Contract Termination Fee that would only apply if there is a permanent closure during the contract term provides I&M and existing customers with reasonable assurance that a material portion of stranded assets caused by a large load customer would be covered by the

customer, even if they were to cease operations. *Id.* He said this provision would not have any negative impacts on these large load customers if their facilities operate as planned. *Id.*

Mr. Inskeep recommended the Contract Termination Fee be modified so that it is equivalent to eight years of minimum bills instead of only five years. *Id.* He said this adjustment would significantly reduce the risk to ratepayers over a 10-year period and presented an analysis supporting this view. *Id.* at 25-26. Mr. Inskeep testified that his proposed adjustment reduces the potential exposure existing customers will have should these new facilities cease operations early. *Id.* at 25.

Mr. Inskeep said the Company's proposed term to allow a customer to reduce contract capacity by up to 20% with a five-year notice is not adequately protective of existing customers, so he recommended adding two reasonable limitations to contract capacity changes. CAC Ex. 1 at 27. He recommended revising this provision in two ways: (1) capping individual customer reductions to 100 MW in any given year (with a five-year advanced notice); and (2) capping overall reductions across large load customers to 5% of the prior calendar year's I&M-Indiana jurisdictional peak load, on a first-come, first-served basis. *Id.* He said these provisions would limit the capacity reduction "cliff" I&M could otherwise face from one or more very large customers reducing their contract demand by an amount so large it could be difficult to effectively manage. *Id.* at 27-28.

Finally, Mr. Inskeep noted that I&M's proposed revisions also allow for an increase or decrease in contract capacity of more than 20% upon mutual consent. *Id.* at 28. He said he does not object to this optionality, although he is concerned by the opacity of this process and the criteria I&M might use to make this determination with limited, if any, Commission oversight. *Id.* He stated this would, for example, allow a large load customer to reduce their demand by more than 20% and by more than 100 MW in a year if I&M is in a position to effectively manage such a reduction without negative impacts to other customers. *Id.*

Mr. Inskeep strongly agreed with I&M's proposal to increase the minimum billing demand. He noted I&M will be making large generation and transmission investments to serve these 24/7, large, inflexible loads. *Id.* at 30-31. After discussing Mr. Williamson's testimony, Mr. Inskeep said he completely agrees, adding that modifying the minimum billing demand in Tariff I.P. for large load customers is a prudent and reasonable adjustment to mitigate this risk. *Id.* Mr. Inskeep added that his only concern is whether I&M's proposal to increase it to a 90% billing demand minimum goes far enough. *Id.* at 31. He testified that while he thinks a strong argument can be made for further strengthening this provision (e.g., to a 95% minimum billing demand), he believes I&M's proposal strikes a reasonable balance at this time by reducing financial risk to I&M and its ratepayers while still providing some amount of flexibility to large load customers. *Id.* Therefore, Mr. Inskeep recommended the Commission adopt this term as proposed by I&M. *Id.*

Mr. Inskeep testified that I&M's demand charges do not cover all its "fixed" demand-related costs. CAC Ex. 1 at 31. He said the \$10.194/kWh demand charge is comprised of only about 56% of all production costs classified as demand-related, according to I&M. *Id.* He said the remaining 44% of production demand-related cost is included in Block 1 energy charge of \$0.05703/kWh. *Id.* He said the minimum demand charge of \$14.7/kW is comprised of approximately 69% of all production costs classified as demand-related. *Id.* He said therefore, even

under a 90% minimum billing demand, a large load customer might not pay its full cost of service, depending on their electricity usage. *Id.* at 32.

Mr. Inskeep discussed the Company's proposed term addressed to collateral requirements. *Id.* at 32. He agreed with I&M that this is a necessary and reasonable term to address the size and concentration risk of large load customers. *Id.* Therefore, Mr. Inskeep recommended the Commission adopt this term as proposed by I&M. *Id.* at 32.

With respect to interconnection costs, Mr. Inskeep said it is unlikely that new large load customers will be directly assigned the costs for direct connect facilities, given the revenue from a new large load customer would exceed the threshold in I&M's tariff. CAC Ex. 1 at 33. He said this could shift hundreds of millions of dollars in direct connect facility costs caused by new data centers owned by multi-trillion-dollar companies onto I&M's current ratepayers, creating significant cross-subsidization concerns. *Id.* Mr. Inskeep recommended that these costs be directly assigned to the large load customer causing the costs and that I&M Schedule of Tariff Terms and Conditions of Service, 14. Extension of Service, be waived for new large loads so that they are ineligible under this provision. *Id.* He said to the extent necessary to implement this proposal, he requests the Commission grant a waiver of 170 Ind. Admin. Code 4-1-27 with respect to large load customers. *Id.*

Mr. Inskeep recommended that the portion of a new large load customer's load in excess of 150 MW be "firewalled" from existing ratepayers with respect to the cost allocation and cost recovery of generation costs. He proposed I&M procure a separate resource portfolio specifically for new large loads to meet their capacity, energy, and ancillary services needs. *Id.* at 35. He added that these costs would then be exclusively allocated to the new large load customers. *Id.* at 35-36. He said the new large load customers should have the first 150 MW of load included in I&M's class cost of service study as if it was any other Tariff I.P. customer's load, and the large load customer would pay the Tariff I.P. rates and charges associated with the first 150 MW of load. *Id.* at 36. He said I&M could establish separate, additional charges for large load customers that would apply to usage above 150 MW, designed to recover I&M's return of and on generation resources procured exclusively for large load customers. *Id.* He said this would ensure non-discriminatory access for loads of up to 150 MW, while making additional terms for the portion of loads in excess of that amount to properly allocate those costs and avoid rate subsidization. *Id.*

Mr. Inskeep described the relevance of demand response to this case and testified that notwithstanding the inflexible nature of data center loads, there are still opportunities for demand response. CAC Ex. 1 at 37-38. Mr. Inskeep discussed some options available to incent demand response. *Id.* at 38-39. He said it is critical that I&M and the Commission affirm and take the necessary actions now to ensure that residential customers will be protected, to the maximum extent possible, from potential rolling blackouts that could arise as a result of the enormous load growth from data centers. *Id.* at 39. In addition, Mr. Inskeep recommended the Commission consider holding a public technical conference, collaborative, or round table on demand response opportunities for new large load customers that would be open to all Indiana utilities and stakeholders. *Id.* He said given this issue impacts multiple Indiana utilities, it would be beneficial and efficient to have a forum for collectively coordinating on this issue and charting commonsense solutions that are consistent with Indiana's Five Pillars. *Id.*

Mr. Inskeep also addressed reporting requirements. CAC Ex. 1 at 39-41. He said there has been a significant lack of transparency with these new loads—both generally, and in response to specific data requests. CAC Ex. 1 at 40. He recommended that the Commission order I&M not to enter into any new or modified nondisclosure agreements (“NDAs”) with large load customers that would preclude I&M from sharing pertinent information with parties like CAC that do not have a competitive interest under an appropriate NDA in a regulatory proceeding. *Id.* He also recommended that the Commission direct I&M to submit on a quarterly basis going forward a report in this docket that provides certain information with respect to large load customers. CAC Ex. 1 at 41. Mr. Inskeep added that CAC is open to collaborating in good faith with I&M, the OUCC, and other interested stakeholders on such reporting requirements to further clarify and refine these reporting metrics and ensure confidential information is protected, while still providing an appropriate level of transparency on this important issue of public interest. *Id.*

## **7. Data Center Intervenor.**

**A. Amazon.** Mr. Fradette provided background on Amazon’s data center development in I&M’s service territory and in Indiana. Amazon Ex. 1 (Fradette Direct) at 3. He testified that since 2010, the Amazon family of companies have invested \$25.5 billion in Indiana and have added \$25 billion to Indiana’s gross domestic product, helping support customers, employees, and communities. *Id.* at 4. Relevant to the subject of the instant docket, he explained that on April 25, 2024, with the support of Governor Eric Holcomb, Amazon announced plans to invest an estimated \$11 billion in Indiana to build a data center campus located in St. Joseph County, Indiana. *Id.* at 4, 13. He said this data center investment is expected to create at least 1,000 new jobs and is the largest 10 capital investment announcement in Indiana’s history. *Id.* Mr. Fradette also discussed the importance of data centers to the national economy. *Id.* at 5-6.

Mr. Fradette discussed the Tariff I.P. modifications proposed by I&M and impacts the Company’s proposed modifications will have on data center development and operations if approved. *Id.* at 3, 6-7. He claimed the 150 MW threshold figure appears to be random and initially solely targeted to three Large Load Customers and made without consideration of the negative impacts, including commercial unreasonableness imposed. *Id.* at 7-8.

Mr. Fradette testified a 20-year contract term obligation under the proposed terms and conditions of Tariff I.P. is excessive and not reasonable. *Id.* He said I&M confirmed that it has never entered into a 20-year contract term with a non-wholesale customer and that all of its industrial customers having contracts for service with I&M have initial terms of 5 years or less, with almost all of its customers under Tariff I.P. having contracts with a two-year term. *Id.* He added that in his work on behalf of Amazon in other U.S. states, he is not aware of any other electric utility that requires a 20-year contract term within its standard tariff. *Id.*

Mr. Fradette said I&M’s proposals would inappropriately restrict the ability of Large Load Customers to right-size capacity commitments over the 20-year period; would create new systemic risk that I&M would be obligated or incentivized to over-invest in long-term commitments it might otherwise more conservatively manage for the benefit of all ratepayers. *Id.* at 9. He stated that Large Load Customers do not have the same tools, rights, regulations, and access to markets as utilities do to manage this long-term risk and as such, the Commission should not approve I&M’s risk-shifting proposals. *Id.* at 9.

Mr. Fradette stated that the general service life of an I&M asset should not determine the reasonable length of the contract term. *Id.* at 9. Mr. Fradette contended the cost of I&M's investment to support large customers similarly is not proven to be correlated to a particular term of a service contract. *Id.* at 11. He said I&M's new investments effectively pay for themselves within a matter of years at the current 60% minimum demand provision via the terms of the current Tariff I.P., while also positioning I&M to use the growth from Large Load Customers to drive down rates for all of its Indiana and broader AEP ratepayers. *Id.*

Mr. Fradette testified that Amazon forecasts its customers' demand over a 10+ year horizon and added that from this forecast, Amazon develops, builds, and operates data centers globally to deliver the services its customers require. *Id.* at 12. He explained that developing net new large utility loads where there is otherwise such existing idle transmission capacity enables a win-win structure for the utility, regional ratepayers, the community, and Amazon. *Id.* He said the utility is able to realize a new large load thereby increasing its revenues and investments, typically providing a benefit for its shareholders. *Id.* He said ratepayers benefit because the existing cost burden of the exiting underutilized transmission infrastructure is spread across a larger pool of MWs, thus delivering cost savings for existing ratepayers. *Id.* He said the community benefits from the incremental investment, tax revenue, and creation of new direct and indirect jobs. *Id.* He said Amazon is able to invest in and operationalize new data center campuses to ensure it delivers the needed services to its customers, without triggering the long-lead multi-year inter and intra-state transmission build out process. *Id.* at 13.

Mr. Fradette stated that the net effect of the Company's proposed Contract Termination Fee is that a customer must pay all applicable rates and charges for at least 10 years of service, potentially without the customer ever having taken or the utility providing service. *Id.* at 13-14. He explained his view that the proposal is unreasonable because: 1) I&M has made a customer's termination option conditional on the "permanent closure" of the facility; 2) the unilateral imposition of the proposed Tariff I.P. terms, including the Contract Termination Fee, is unfair and unreasonable; 3) while I&M's witness testified that five years of minimum billing is necessary to manage its ongoing transmission and generation costs, I&M does not identify any of its other loads that are subject to this same condition or provide any other supporting data to back up this assertion; 4) the termination fee calculation is inclusive of all demand related charges of I&M, which include Generation Capacity, Transmission related charges, and I&M's use of system, overhead and margin. *Id.* at 13-19.

Mr. Fradette testified that as a regulated utility, I&M has multiple ways that it can reasonably dispose of excess capacity and energy commitments. *Id.* at 17-18. He said at a minimum, any proposed termination fee must include a mechanism whereby I&M would be required to offset any such fee by mitigation its costs. *Id.* at 18. He said the termination fee should simply ensure that remaining ratepayers are not left carrying the burden of stranded investments incurred to serve the incremental load. *Id.* He added it should not include recovery of fixed costs incurred prior to the addition of the incremental load or guarantee a profit for I&M's shareholders. *Id.* at 19.

Mr. Fradette said I&M's proposal to require at least five years' prior written notice of its intent to reduce the contract capacity is not reasonable. *Id.* at 19. He stated this requirement

prevents customers from right-sizing their capacity, resulting in inefficient capacity allocation and this could result in overbuilding and related cost increases. *Id.* at 20.

Mr. Fradette described I&M's proposal for a ninety (90) percent monthly minimum billing demand as a commercially unreasonable take-or-pay structure that would include charges to I&M that include Generation Capacity, Transmission related charges, and I&M's use of system, overhead & margin. *Id.* at 20-21. Mr. Fradette said this minimum billing obligation is not tied to I&M's actual costs to provide transmission and distribution services, but rather unreasonably burdens a specific type of customer with higher utility rates irrespective of I&M's costs of service. *Id.* at 21. Mr. Fradette testified that a 90% minimum billing demand requires a higher committed spend from Large Load Customers, significantly increasing costs over the proposed 20-year contract term. *Id.* He said these increased costs pose a very high barrier to entry for Large Load Customers and would likely drive away future investment in I&M's service territory. *Id.*

Mr. Fradette said a 90% minimum billing demand is unprecedented. *Id.* at 26. He testified that in Amazon's experience under all structures, the minimum billing demand is structured to ensure that incremental costs of service are reasonably recovered by the customer(s) benefiting from the infrastructure. *Id.* at 27. Focusing specifically on regulated utility structures that have a percentage of minimum bill requirement, Mr. Fradette said Amazon has executed agreements from 0% up to 75% minimum demand obligations. *Id.* He said in all of the instances he discussed, the rates are transparently structured to ensure that the incremental cost of service for Amazon is equitably recovered by the utility over the contract term. *Id.*

Mr. Fradette stated it would be more efficient to enter into three special contracts that better reflect the mutual needs of each customer, while ensuring I&M recovers its variable costs and a portion of its fixed cost and added that a special contract arrangement may be a more efficient approach while at the same time allowing the Commission a seat at the table for ensuring appropriate and fair cost recovery. *Id.* at 32. As an alternative to the proposed tariff modifications, Mr. Fradette discussed Cause No. 45975 which involved Duke Energy Indiana. *Id.* at 32-33. He said Amazon would consider alternative tariff provisions if I&M was obligated to build, contract and enable a portfolio of carbon free energy sources to serve this load. *Id.* at 33-34.

Mr. Fradette claimed I&M has not demonstrated that it will not recover more than its cost to serve Large Load Customers if its proposals are adopted and has not demonstrated how its proposed tariff change is a fair policy for the Large Load Customers. *Id.* at 34-35. He concluded that I&M's proposals are not supported by the evidence, and therefore unreasonable. *Id.* at 36; see also Amazon Ex. 3 (Berry Direct) at 3-7; 22-26. He said Large Load Customers will no longer be able to realize reduced electricity consumption demand when technology or other business events reduce its electric demand requirements to less than the 90 percent fixed usage requirement. *Id.* 37.

Amazon witness Loomis testified that I&M's Proposed Tariff I.P. modifications violate the ratemaking principles prohibiting single-issue ratemaking, encouraging incrementalism, collaboration and negotiated settlements. Amazon Ex. 2 (Loomis Direct) at 3-6. He said a twenty-year contract term is too long for any reasonable business to forecast their electricity needs and added that a utility has the ability to aggregate the demand of thousands of customers and shift and redeploy resources as the needs of those customers change over time. *Id.* at 6. Mr. Loomis stated

that the contract termination fee shifts the electricity infrastructure risk from the utility company onto the customer. *Id.* at 6-7.

Mr. Loomis indicated that changes in contract terms are not the only way that I&M can protect itself from loss and stated as a regulated utility I&M has many ways to reduce risk. *Id.* at 8. He stated that in the unlikely event that I&M cannot sell the electricity and capacity at a price that equals or exceeds its cost, they will receive revenue from the customer for the cancelled demand. *Id.* at 8. He said I&M has not proven that the existing 60% rule needs to increase to 90% to provide adequate compensation in addition to the revenue from resale discussed in the previous question. *Id.* at 9. He added that as a last resort, I&M can ask the Commission for permission to adjust rates, explaining that as a regulated utility under rate-of-return regulation, I&M has the right, but not the guarantee, to earn a sufficient return on its prudently incurred rate base and recovery of its allowed operating expenses. *Id.* at 9.

Mr. Loomis discussed the benefits from data centers coming to Indiana and the benefits to AEP from these data centers. *Id.* at 9-11. He also discussed alternatives to I&M's proposal, including 1) the Commission requiring that the tariff changes be made in the context of a full rate case where all the costs, customer classes and alternatives can be examined; 2) adopting a one-year forward notice for capacity adjustment, or a time horizon of no more than three years; 3) allow asymmetrical adjustments so that the customer can increase capacity at a higher percentage than it is allowed to decrease capacity; 4) adopt a four-year contract term rather than the twenty-year term proposed by I&M; 5) if a new entity acquires the data center, allow the new entity to assume the contract without negotiation or approval of I&M; 6) keep the 60% minimum billing demand; and 7) eliminate the five-year termination fee with no alternative. *Id.* at 11-14.

Amazon witness Berry also addressed the Company's proposed 20-year contract length, 90% minimum demand charge, termination fee, maximum 20% reduction in contract quantity (MW), and the 150 MW applicability threshold, and discussed economic and regulatory issues related to the vertically integrated electric utilities. Amazon Ex. 3 (Berry Direct) at 2. While Dr. Berry agreed that anticipated additions of new customers at large demand levels represent a potential challenge in coming years to utilities nationwide, including I&M, she does not believe this constitutes a situation so urgent or novel that it should alter traditional utility planning and ratemaking, nor justify the distinct and inequitable treatment of such customers that would occur under I&M's proposed tariff modifications. *Id.* at 3. She testified that the Company's proposed terms and conditions applicable only to large load customers are arbitrary, do not adhere to good regulatory rate-making principals, and are not economically justified. *Id.* She said the proposed Tariff I.P. is not fair, just, and reasonable. *Id.* at 3-4.

She said the new large load customers will provide benefits to I&M's existing customers by substantially increasing revenues collected under the Tariff I.P.; I&M has estimated the cost of generation investments and identified some transmission investments that it is undertaking or planning to undertake to provide service to approximately 4 GW of new large load; the revenues that I&M will receive from new large load customers far exceed the costs that I&M will incur to serve them; I&M cannot identify any examples of utilities applying tariff terms and conditions comparable to its proposed Tariff I.P. changes; I&M provided no alternatives in testimony to building generation to serve new large load that would reduce the potential risks of stranded assets; I&M's proposed imposition of obligations and restrictions only on customers with loads greater

than 150 MW constitutes a significant and arbitrary difference in treatment that is not supported by a corresponding differential impact to the system relative to similarly situated loads that would not be subject to the proposed terms; I&M's proposal to lock all new large load customers into 20-year contract commitments and 90% minimum demand charges is a departure from traditional practice under utility regulatory principles and would shift risks appropriately borne by the Company to large load customers and perversely incentivize I&M to take on more risk than otherwise; I&M has proposed a termination fee that does not correspond to actual costs incurred by the Company and that is applied indiscriminately to customers regardless of the costs they impose on the system; I&M's proposed changes to Tariff I.P. combined with the Company's intention to make large, rate-based investments to serve load, would provide substantial benefit to I&M's shareholders while pushing virtually all risk to new large load customers; the current challenges facing I&M from anticipated new large load customers are not new to the electric industry. *Id.* at 3-6; also 10-16.

Dr. Berry recommended the proposed modification to increase the minimum demand charge in the Tariff I.P. from 60% to 90% for customers with load greater than 150 MW should be rejected. *Id.* at 7. She said the proposed modification to require a 20-year contract in Tariff I.P. for customers with load greater than 150 MW should also be rejected and added that a contract term for large load customers of four years would fall within a reasonable range for the contract term. *Id.* She testified that given I&M's concerns about the persistence of new large loads, I&M should not plan to rely exclusively on long-term ownership of rate-based assets to serve that load but should pursue available alternatives to establish a diversified supply portfolio that would reduce the risk to all customers. *Id.* Dr. Berry recommended the proposed termination fee for customers with load greater than 150 MW should be rejected and added that termination fees (if any) should be based on the actual unrecovered costs associated with each customer. *Id.* Dr. Berry testified that the proposed modification in the Tariff I.P. to limit a reduction in the contracted capacity of large load customers to 20% of the contract amount should be rejected. *Id.* at 7-8. She said all requested reductions in contract capacity should be allowed subject to a penalty if it is determined that there are unrecoverable costs associated with investments made on behalf of the large load customer. *Id.* at 8. Dr. Berry stated that the proposed modification in the Tariff I.P. to require a 5-year notice period for large customers to terminate services should be rejected. *Id.* She said all requests for termination, independent of a facility's permanent closure, should be allowed subject to a penalty if it is determined that there are unrecoverable costs associated with investments made on behalf of the large customer. *Id.*

**B. DCC.** Mr. Higgins testified that in response to the load-growth-related issues I&M raises, it is reasonable for the Commission to adopt policies that accommodate load growth in a thoughtful and deliberate manner so as to avoid cost shifting if investments are made to serve new load that does not fully materialize, but also to avoid imposing unjust terms on important growing industries. DCC Ex. 1 (Higgins Direct) at 4. Mr. Higgins stated that while it is not unreasonable for the Commission to require large loads of 150 MW or greater to sign long-term contracts, it is preferable for those terms to be negotiated in the context of a special contract. *Id.* Mr. Higgins stated that a fundamental problem with the proposed twenty-year contract term is that the pricing of the fixed cost of production remains open-ended, and therefore, the term (coupled with a 90% minimum demand provision) would erode the Company's incentive to negotiate long-term special contracts that not only protect the interests of the Company and other customers, but are also fair to the large load customer. *Id.* at 9. He stated that to the extent the



Commission determines that a default contract term is necessary in Tariff I.P., the maximum mandatory term should be no greater than ten years, with a 36-month exit notice requirement after five years, and a capacity reduction/termination fee for load reductions greater than 20% that is based on the foregone net revenues from the minimum demand charge over the remaining contract term, after accounting for the release or transfer of the terminated capacity to serve new load. *Id.*; also at 9-18, 21-22. He added that the tariff should permit exiting customers to negotiate mutually agreeable exit terms with I&M. *Id.*

Mr. Higgins said the Commission should reject I&M's proposal to increase the minimum demand charge from 60% to 90% for large load customers. *Id.*; also at 11-16, 22. Mr. Higgins distinguished between the minimum demand charge applicable to production demand and to transmission demand. *Id.* at 12. He observed that in the case of production demand, if a large load customer were to reduce its load significantly, or alternatively, not attain its contracted demand, generating resources that would otherwise have been utilized to serve the customer could be redeployed. *Id.* Mr. Higgins stated that, based on the most recent PJM Base Residual Auction price, a 62% minimum demand charge for production would be a "hold harmless" level, and that a 70% minimum demand charge for production is conservative. He therefore said instead of the Company's proposal, the minimum demand charge applicable to production demand should be set no greater than 70%. *Id.* at 14.

With respect to the minimum demand charge applicable to transmission, Mr. Higgins used I&M's estimates of the incremental cost of transmission (between \$840 million and \$1.05 billion to accommodate an increase in I&M's load from 2,800 MW to 7,000 MW) to calculate a first-year revenue requirement of \$3.07 per kW-month spread across 4,200 incremental MW. *Id.* at 15. Mr. Higgins stated that first-year revenue requirement is significantly less than the current embedded cost OSS/PJM Rider rate of \$8.593 per kW-month. *Id.* Mr. Higgins therefore stated that the 4,200 MW of new billing determinants would put downward pressure on the embedded cost rate for all I&M customers, because the new large load would pay the higher embedded cost rate. *Id.* Mr. Higgins noted that even if a new large load customer entered into a ten-year contract, and its load did not materialize, the customer's contributions to the OSS/PJM rider charge with the current 60% minimum demand charge would more than recover its pro rata share of the incremental transmission revenue requirement; and that consequently, there is no reasonable basis to increase the minimum demand charge applicable to the OSS/PJM Rider above its current 60% level. *Id.* Mr. Higgins therefore recommended that the minimum demand charge applicable to the OSS/PJM Rider should remain at 60%. *Id.* at 4.

Mr. Higgins testified that it is not unreasonable for I&M to require that large loads provide enhanced collateral requirements. *Id.* He added the form of collateral and the relationship to the creditworthiness of the customer are not clearly spelled out in the proposed tariff language. *Id.* He recommended that the proposed collateral requirements be modified to state that a customer with a credit rating of at least A- from S&P and A3 from Moody's, or cash on its balance sheet equivalent to ten times the collateral requirement, be exempt from providing collateral. *Id.* at 5; also at 19-20, 22. Mr. Higgins also testified that I&M should commit to delivery of contract capacity on the schedule designated in the electric service agreement and that in the event that I&M is unable to meet the contracted delivery date, remedies should be made available to the customer in the tariff. *Id.* at 5, 21-22.

C. **Google.** Mr. Farr testified that in April 2024, Google announced plans to invest \$2 billion to build a new data center campus located near the City of Fort Wayne, Indiana, within the I&M service territory. Google Ex. 1 (Farr Direct) at 2. He said Google's data center is a new large load that would be directly impacted by the modifications proposed by I&M in this Cause. *Id.* Mr. Farr explained that a data center is a facility designed to house computer systems, telecommunications equipment and data storage infrastructure in a controlled environment where servers and networking hardware operate, supporting services like cloud computing, financial transactions and other data-intensive applications. *Id.* at 4-5. Mr. Farr testified that data centers are an integral part of digital infrastructure underpinning many features of daily life and business operations. He stated that they enable the seamless exchange of data and support the functioning of key economic sectors such as communications, finance, healthcare, retail, service industries and manufacturing. He also explained that data centers' demand for electricity is the result of the aggregation of demand for digital services from individuals and businesses so that as demand for those services grows, and as our business and personal interactions depend more on digital services, data centers' demand for electricity grows too. *Id.* at 5-6.

Mr. Farr recommended the Commission reject I&M's proposed changes to Tariff I.P. as being an unreasonable and an unjust imposition on large load customers without a factual basis of support. *Id.* at 2-3, 14-15. Mr. Farr said he support I&M's proposal to require a customer to provide collateral equal to two years' worth of the customer's non-fuel bill. He included criteria received from I&M in discovery (Attachment JBF-1) and recommended the Commission adopt and memorialize this information in the tariff for clarity and transparency. *Id.* at 22.

Mr. Farr stated that given the circumstance in which the new large load in I&M's territory represents a larger magnitude of load on a per-customer basis than the existing body of customers, it is reasonable to ensure that terms of service appropriately account for the increased risk associated with the concentration of a large amount of load in only a few customers. *Id.* at 15. He also testified that rather than adopting policies applicable to new large load with the goal of insulating I&M from risk associated with the provision of utility service, the Commission should focus on providing sound planning signals to I&M to ensure the investments it pursues are in the public interest and pursued in the most reasonable manner possible. *Id.* at 16-17. Mr. Farr stated that the Commission should focus any changes implemented in this docket on the goal of providing I&M with the sound planning signals for future investment in transmission and generation infrastructure that may be needed to serve new large loads in their service territory. *Id.* at 2, 22-23. He recommended the Commission adopt new policies that include: (1) a 70 MW threshold for application that is sufficient to cover anticipated future load growth; (2) sufficient upfront collateral to ensure that I&M does not invest in additional infrastructure to serve speculative entities; (3) maintaining the 60% minimum demand charge; (4) a commitment term that minimizes the risk of stranded assets; and (5) fair, flexible and transparent terms for the payment of exit fees in the case that a customer opts to terminate or reduce its contractual commitments during the term. *Id.* at 3-4; also at 5-23, 27-28.

Mr. Farr testified that these are key elements to consider in a policy to address customer-specific forecasting risk. *Id.* at 18. He said these elements should be considered together as they interrelate with the goal of ensuring that if a specific customer requests to bring on a new large load, but the load does not materialize as expected over a reasonable horizon, and therefore, the customer fails to fully utilize the reserved load, that customer is appropriately allocated any

stranded costs actually incurred on its behalf. *Id.* Mr. Farr said I&M's proposal contains terms which reflect these elements, but that the specific proposal is too heavy-handed and is not supported by evidence. *Id.* at 18-20. He provided testimony explaining how some of I&M's proposed terms, including the 20-year contract commitment, 90% minimum billing demand, and limitations on a customer's ability to modify its contract capacity created undue, and unjustified, burdens on large load customers. *Id.*

Mr. Farr also expressed concern that I&M's proposed terms were creating an imbalance between the utility and large load customers by shifting risk from I&M to those customers with no reciprocal assurances of supporting the customer's own objections. *Id.* at 23-24. Mr. Farr testified that I&M's continued support of comprehensive special contracts was integral to supporting both Google and I&M to the benefit of other ratepayers; while still addressing risks and facilitating prudent planning and resource investment. *Id.* at 25. He recommended that the Commission approve an order directing I&M to negotiate in partnership with Google to bring forward a comprehensive special contract for approval that enables Google to progress on its business objectives, accelerates advanced solutions and ensures that all costs associated with Google's service are fully covered under the special contract, and protects I&M's other ratepayers from any increase in costs as the result of Google's service. *Id.* at 4, 23-26. He further recommended that the Commission modify the applicability terms of any changes to Tariff I.P. to explicitly acknowledge the role of special contracts in meeting the need of new large load customers. *Id.* at 4, 26, 27-28.

**8. I&M Rebuttal Evidence.** Mr. Baker responded, from a policy perspective, to certain testimony filed in this case by the OUCC and intervenors and reinforced the need for the Commission to establish in a transparent manner important terms and conditions that will apply to how I&M will serve the current and future large loads coming onto the I&M system. Pet. Ex. 4 (Baker Rebuttal) at 3. He addressed the significant task and responsibility I&M is undertaking to provide the near-term electrical energy requirements for massive projects that represent some of the largest investments in the state's history. *Id.* He stated that to support the state's economic development strategy, I&M will be required to integrate potentially the largest electric loads in the state of Indiana onto the electric grid in a compressed timeline. *Id.* He added that the scale of these projects and level of investments required to provide electric service is unlike anything I&M (and most of the country's electric utility companies) has ever experienced. *Id.* Mr. Baker said the tariff provisions are necessary to ensure I&M has reasonable customer protections in place to execute on these projects and address the risks incurred by I&M. *Id.* at 4. He said certain positions taken by intervenors in this proceeding would create challenges in I&M's ability to effectively manage the risks associated with projects of this magnitude. *Id.*

Mr. Baker discussed I&M's role in supporting economic development in I&M's service area. Pet. Ex. 4, at 4-5. He said as it relates specifically to the large load customers, I&M has been tasked with supporting an economic development initiative of the state to attract large data centers into Indiana. *Id.* Mr. Baker explained that to accomplish this task of providing electric service to unprecedented large customer loads in a safe and reliable manner, and take into consideration the interest of both new and existing customers, I&M is implementing a multi-faceted strategy that includes significant generation and transmission investments. *Id.* at 5. He said the tariff modifications proposed in this proceeding, along with potential special contracts for unique customer needs are the essential framework necessary to meet the needs for all parties. *Id.*

He added that it is important for the Commission to understand that all of these strategic elements are being completed in parallel and with a great sense of urgency to meet the timelines requested by the large load customers I&M is currently working with – adding that I&M is scheduled to begin serving these customers later this year and in early 2025. Pet. Ex. 4 at 5. He said the timeliness of a Commission Order approving the Company’s proposed tariff modifications is critical to I&M’s ability to serve these customers with a clear understanding of the terms of service. *Id.*

Mr. Baker responded to Mr. Fradette’s concern that the Company’s proposals, if adopted, will negatively impact any future plans for the development of Amazon’s data centers in I&M’s service territory. Pet. Ex. 4 at 5. Mr. Baker testified that the Company must balance the needs of all customers, including taking steps to safeguard other customers from risks associated with large loads. *Id.* at 5. He stated that from a broader market perspective and his interactions with large load customers, he does not have concerns that the approval of the Company’s proposed tariff modifications will broadly impact future economic development opportunities in I&M’s service territory. *Id.* at 5-6. Mr. Baker explained that having a Commission approved tariff with specific terms and conditions of service for large load customers will be beneficial to I&M, the state of Indiana, and all of I&M’s other customers. Pet. Ex. 4 at 6. He said it will support the “speed to market” economic development strategy by providing customers a clear and well-defined path to begin taking service. *Id.* He said Commission approval of I&M’s proposed tariff modifications, will also provide I&M a level of certainty that will allow the Company to make the transmission and generation investments needed while also providing reasonable safeguards for I&M’s other customers. *Id.*

Mr. Baker agreed with CAC witness Inskeep’s concerns that the data center development would ultimately restrict, rather than foster, additional economic development in I&M’s service territory and he identified these concerns as ones he has spent a lot of time thinking about. Pet. Ex. 4 at 6-7. He said there is a practical reality that when connecting these loads to I&M’s transmission system, I&M will be constrained on available transmission capacity for additional growth. *Id.*

Mr. Baker testified that the capacity needs of the large load customers require significant resources and this in turn impacts the opportunity for other new loads (or expansions of existing customer loads) to be served without delay. Pet. Ex. 4 at 6-7. He said the proposed tariff modifications I&M has proposed in this case recognize that I&M is making a significant commitment to these customers and that it is critical that this commitment be reciprocated. *Id.*

Mr. Baker testified that Amazon witness Berry’s characterization of I&M’s plans for acquiring the generation resources to serve large loads is inaccurate. Pet. Ex. 4 at 8. He said I&M plans to serve this load with a diverse portfolio of generation resources that includes both shorter terms as well as longer terms and will include both power purchase agreements (PPAs) and utility ownership. *Id.* at 9-10. He said Amazon witnesses’ argument regarding I&M self-imposing risks by selecting only utility-owned projects is misinformed, inaccurate and minimizes the role of the Commission in determining what is in the best interest of I&M and all its customers. *Id.* at 9-10.

Mr. Baker responded to Google witness Farr’s concern that the Indiana resource planning and approval process puts Google in the position of having to accept I&M’s resource decisions. Pet. Ex. 4 at 10. Mr. Baker testified that I&M is currently being challenged with acquiring over

4,000 MW of PJM accredited capacity by 2030 to meet its projected load obligations. *Id.* He said this is an unprecedented time in the Company's history and likely in the state of Indiana's history and also comes at a time when PJM has expressed concerns regarding the retirements of existing generation resources and the timing of new generation resources becoming available. *Id.* at 10-11.

Mr. Baker stated that the Company is open to working with the large load customers on future generation opportunities, but it is unlikely this will result in meaningful generation capacity in the short-term to meet the needs of the customers and it does not obviate the need for the tariff modifications. *Id.* at 11.

Mr. Baker also replied to the Google and Amazon witness testimony regarding specific sustainability goals and their respective interest in developing a portfolio that meets their individual business objectives. Pet. Ex. 4 at 11-12. Mr. Baker explained that to the extent there are opportunities for I&M to partner with these customers on specific projects, I&M is very open to having these discussions for a customer-specific contract arrangement but noted the Company is mindful that such opportunities cannot adversely affect I&M's other customers and should be consistent with the Five Pillars. *Id.* at 12.

Mr. Baker also addressed CAC witness Mr. Inskeep's concern that residential customers should be protected from potential rolling blackouts caused by large load customers. Pet. Ex. 4 at 13. Mr. Baker testified that public safety is I&M's number one priority and I&M agrees that it is prudent for a utility to prepare for and respond to such events in a manner that ensures public safety is prioritized by including all types of non-critical loads (such as large industrial or commercial loads) in the Company's emergency load reduction plans. *Id.* He said I&M regularly evaluates and practices its emergency response procedures, including required system actions that would be necessary to respond to an emergency load shedding event required by PJM caused by deficiencies in either transmission and/or generation capacity. *Id.* He said these procedures include pre-determining the sections of the electric system that are subject to forced outages during load shedding events and limiting exposure for critical customer and public infrastructure loads. *Id.* He added that it is important to recognize that each emergency event is unique and may or may not allow for the type of consideration the CAC has proposed. *Id.* He said it is also important to recognize that if this type of event were to occur it would be a significant and unusual and require I&M to coordinate closely with PJM and have all various options available to respond to that specific situation.

Mr. Baker agreed that DCC witness Higgins' incremental cost of transmission is an appropriate estimate of the interconnect costs for the three customers I&M is currently working with, but added that it is important to recognize the Tariff I.P. modifications the Company is proposing in this case are not being proposed only for these three specific customers. Pet. Ex. 4 at 14. He said rather, these modified terms and conditions would be applicable to any future large load customer that would take service from I&M. *Id.* Mr. Baker explained that I&M has started planning and communicating with PJM on the next set of Transmission projects that would be necessary to provide additional capacity for future growth and to ensure a reliable and robust transmission system into the future. *Id.* He said preliminary estimates for future transmission infrastructure are billions of dollars over the next 7-10 years. *Id.* He said I&M has managed this transmission capacity position closely to ensure the reliability of the grid for existing customers and maintain some amount for existing customer expansions, but it is important for all I&M

customers and communities that transmission system investments are made to enable ongoing economic development opportunities. *Id.*

Mr. Baker also responded to DCC witness Higgins' testimony regarding use of special contracts. Pet. Ex. 4 at 15. He testified that I&M spent a significant amount of time prior to making this filing discussing the special contract approach versus the tariff approach adding that his team spent multiple months exploring the special contract path with the large load customers and also conducted meetings and discussions with various stakeholders related to the impacts of the large loads. *Id.* He testified that the Company concluded at the end of those discussions that for I&M to be able to manage the integration of these customers onto the grid in a safe, reliable, secure, and affordable manner, the tariff modifications set forth in this case is the best way to strike the appropriate balance among all stakeholders. *Id.* at 15.

Mr. Baker disagreed with DCC witness Higgins' view that establishing a twenty-year term requirement in Tariff I.P., particularly with a 90% minimum demand provision, would erode the Company's incentive to negotiate long-term special contracts. *Id.* Mr. Baker reiterated that for customers that have unique needs beyond standard service under the tariff, such as demand response, sustainability goals, strategic partnerships, etc., I&M would address those specific situations through other tariffs, riders, or mechanisms, such as a special contract. *Id.* He stated that for standard electric service, I&M will serve these customers under the terms of the Tariff I.P. as approved by the Commission. *Id.*

Mr. Baker also responded to Amazon witness Fradette's statement that imposing a 90% minimum billing demand obligation "would obligate data centers to an unrealistic forecast and level of confidence over a term of 20 plus years and impact the financial viability of current and future investments within I&M's service territory in Indiana." Pet. Ex. 4 at 16. Mr. Baker said he found Mr. Fradette's position in this proceeding to be largely inconsistent with I&M's experience with the large load customers to date. *Id.* He also noted that multiple large load customers have executed service agreements with I&M that have stated contract capacity commitments during the term of the agreement. *Id.* at 16-17.

Mr. Baker said it is also important to emphasize to the Commission that I&M does not in any way set the load ramp or contract capacity for the large load customers. *Id.* He said, if anything, I&M limits the contract capacity based on the amount of transmission capacity available. *Id.* Mr. Baker stated that Mr. Fradette's claim that the large load customers are obligated to an "unrealistic forecast" ignores the fact that it is the customer who has the internal business information necessary to determine the forecast. *Id.* Mr. Baker said it is therefore the customer's responsibility to provide realistic requirements that match their actual business needs and intentions. *Id.* He said I&M is simply acting upon the customer's self-determined power requirements and in-service deadlines as outlined in their contract with the Company to plan and make the long-term commitments necessary to manage the system in a safe and reliable manner. *Id.*

Mr. Baker explained that it is important to note that the acquisitions that I&M makes for generation resources will have contract periods or service lives ranging from five years to thirty-five years. Pet. Ex. 4 at 18. He stated that understanding expected loads over the entire 20-year IRP planning horizon is critical not only in determining the most appropriate resources, but also the terms and/or lives of the resources. *Id.* He said these considerations highlight the importance

of the proposed tariff modifications to provide I&M confidence in the resource selections it will be making early in 2025 to serve future load obligations. *Id.* He said I&M can only plan and make appropriate decisions based on the contract capacity requirements provided to I&M by the large load customers. *Id.*

Mr. Baker also addressed Amazon witness Fradette's opposition to I&M's proposed termination fee. Pet. Ex. 4 at 18. Mr. Baker testified that to the extent the State of Indiana finds itself in a position that the level of termination fees Mr. Fradette references become a reality, it will be highly valuable that the Company's proposed terms are in place. *Id.* Mr. Baker added that from I&M's perspective, the proposed modifications to the Tariff I.P. are designed to protect I&M and its existing customers in the event the large load customers do not meet the plans they have provided to I&M. *Id.* He said that if the large load customers operate as planned and meet the plans that they themselves have provided to I&M, the proposed modifications do not provide any additional burden on the large load customers. *Id.* Mr. Baker explained that I&M has a responsibility to manage the system and provide safe and reliable service to all its customers. *Id.* at 19. He added that with the significant impacts the large load customers will have on the system, it is critically important that they be held accountable to the capacity requirements they provide to the Company as an input to planning the overall system. *Id.*

Mr. Vaughan responded to the cost of service and ratemaking issues raised by the parties to this case, with a focus on the Company's proposed 90% minimum demand charge. Pet. Ex. 5 (Vaughan Rebuttal) at 3. Mr. Vaughan explained the need for and reasonableness of the Company's proposed 90% minimum billing demand can be seen by comparing the Company's historical capacity requirements to serve its load to what it now faces as a result of new large load customers. *Id.* at 4.

Mr. Vaughan testified that after reading Mr. Fradette's claim that the 90% minimum demand proposal was "unprecedented", Mr. Vaughan reviewed publicly available tariffs to see if he could corroborate his claim; he could not. *Id.* at 6. Mr. Vaughan testified that as shown in Figure AEV-2R, it is not uncommon for vertically integrated utilities (i.e., utilities providing both generation and transmission service) to have minimum demand provisions with demand ratchets in excess of 60%, and in some cases the same or higher than the 90% the Company is proposing. *Id.* Mr. Vaughan added that many of the rate structures associated with these higher minimum demand provisions are also what is generally described as "Demand, Energy, Customer" (DEC) tariffs, where the demand costs are recovered almost exclusively through the demand charges. *Id.* He said conversely, the Company's existing, approved Tariff I.P. rate recovers a material amount of demand costs (roughly 44%) through the volumetric energy charge. *Id.* at 6-8. He stated that while the Company does not propose to modify its existing rate design in this case, it is important to recognize this difference when comparing I&M's Tariff I.P. to other tariff provisions. *Id.* Mr. Vaughan testified that because a material amount of the production demand costs is being collected in an energy charge, this means the effective minimum demand being proposed by the Company is actually much lower than 90%, adding that from a production demand cost perspective, the proposed 90% level equates to an approximate 62% minimum demand charge in application. *Id.* at 8.

In response to Amazon witness Berry, Mr. Vaughan clarified that as an initial matter, so long as a large load customer actually meets its contracted capacity each month, regardless of the

load factor it actually achieves, the customer should be indifferent to the proposed change in minimum billing demand as it would have no impact on their rates and charges. *Id.* at 11. He stated that while I&M hopes the new large load customers will meet the forecasted usage and load factors they have provided to the Company, the Company must also reasonably plan for the alternative. *Id.* He testified that witness Berry's testimony does not reasonably reflect the economic rationale for why I&M proposes a 90% minimum billing demand charge. *Id.* He explained that as shown in Figure AEV-3R, the amount of non-fuel cost recovery is highly dependent upon the load's energy usage, and there is a risk of under-recovery as a Tariff I.P. customer's load factor decreases. *Id.* He added that contrary to witness Berry's assertions, this data shows the importance of increasing the minimum billing demand provision to safeguard against a scenario where the large load customer's contracted load does not materialize or the large load customer ceases operations. *Id.*

Mr. Vaughan elaborated on how the Company's proposed 90% minimum billing demand provision protects the Company and its other customers in the event a large load customer ceases operation. *Id.* He said Figure AEV-4R is the same non-fuel cost recovery analysis as shown in Figure AEV-3R, but modified to show the non-fuel generation cost recovery that would be achieved under the current 60% and proposed 90% minimum demand levels if the customer were to cease operations (i.e., operate at a zero load factor). *Id.* Mr. Vaughan testified that this analysis shows that if a large load customer ceases operation, the Company faces significant under-recovery of its non-fuel generation costs under the existing 60% minimum demand billing provision, and increasing the minimum billing demand to 90% for large load customers is a reasonable step towards safeguarding the Company and its other customers from this risk. *Id.* at 12.

Mr. Vaughan also responded to Google witness Farr's testimony regarding the 90% minimum billing demand charge. Pet. Ex. 5 at 13. Mr. Vaughan testified that based on the Company's current resource mix, the Company's average embedded fixed cost of generation capacity is roughly \$690/MW-day. *Id.* He said the equivalent levels of non-fuel generation cost recovery under the 90% and 60% minimum demand levels are \$366/MW-day and \$244/MW-day respectively. *Id.* He stated that as the Company adds a significant amount of generation capacity to serve these new large loads in the coming years, it is not unreasonable to assume that the average rates in Tariff I.P. will reduce over time as the incremental cost of generation resources and increased billing units are figured into the ratemaking equation. *Id.* Mr. Vaughan disagreed with Amazon witness Fradette's (p. 36) suggestion that this potential benefit cuts against the need for a 90% minimum billing demand. *Id.* Mr. Vaughan said this dynamic is another reason to increase the current 60% minimum demand level because lower minimum demand charges provide less protection to existing customers in the future. *Id.* He stated that regardless of whether future retail rates for service go up or down, the higher minimum demand charge remains important to increase the level of confidence that large load customers will reasonably contribute to the fixed costs I&M incurs to provide service and mitigate the adverse impacts that would otherwise occur to I&M's other customers. *Id.* at 13-14.

Mr. Vaughan also disagreed with Amazon witness Fradette's contention that the Company's proposed increase to Tariff I.P.'s minimum demand clause provides the Company with an incentive to over-invest in utility-owned resources. Pet. Ex. 5 at 14. He said the minimum charge is based on the allocated cost of service to the class in question, regardless of whether the underlying utility infrastructure providing service is owned by the Company or contracted for from a third party. *Id.* He stated the proposal is in no way an incentive for the Company to "over-invest"



but rather it is a way to protect existing customers and balance the future cost responsibility between new and existing customers should a large load customer in the future cause some amount of stranded costs. *Id.*

Mr. Vaughan also testified that from a cost of service or ratemaking perspective, it is not necessary for the Commission to wait for a general rate case proceeding to address the Company's proposed Tariff I.P. modifications, particularly the 90% minimum demand provision, as Amazon witness Loomis claimed. *Id.* at 14-15.

Mr. Vaughan also responded to Amazon witness Berry's contention that the amounts paid by large load customers for local transmission costs would, like generation, go to reducing rates for other customers and represent an amount foregone by new large load customers by paying the average system cost instead of the incremental cost to serve them. *Id.* at 15. He stated that this assumption is incorrect and is counter to the foundational ratemaking concept of cost causation. *Id.* Mr. Vaughan testified that a portion of the zonal transmission revenue requirement associated with the system that will serve I&M's peak load will be reallocated based on the coincident peak loads of the load serving entities within the zone. *Id.* He said the actual incremental zonal transmission cost increase that the Indiana retail jurisdiction would receive from an increase in peak demand of 4,000 MW would be closer to \$431 million annually, rather than the \$83.9 million referenced in witness Berry's testimony. *Id.*

Mr. Vaughan testified that it is also incorrect to assume, as witness Berry does, that the only costs to serve new large load customers are the truly incremental system costs. *Id.* He said these large, high load factor loads will be utilizing the existing, robust zonal transmission system and the Company's entire generation resource portfolio (existing assets plus incremental) and as such should share in the cost responsibility for the costs to serve them. *Id.* Mr. Vaughan said those costs will be a mix of existing system embedded costs and incremental costs. *Id.*

Mr. Vaughan stated that witness Higgins is correct that load growth is anticipated for other load serving entities in the AEP Zone, but added this does not, however, change the need for the protections set forth in I&M's modified terms and conditions. Pet. Ex. 5 at 17. He said AEP Ohio has publicly discussed upwards of 5,000 MW of load growth over a similar period of time as I&M is expecting to experience its large near-term growth. *Id.* He stated that using the same analysis that identified \$431 million in incremental transmission costs to the Indiana retail jurisdiction discussed above, but also accounting for 5,000 MW of load growth elsewhere in the zone, still results in roughly \$294 million of incremental zonal transmission expense allocations to I&M's Indiana retail jurisdiction. *Id.* at 17.

Mr. Vaughan also responded to the assertions of Amazon witness Berry and DCC witness Higgins that only a 60% minimum demand level is needed for transmission charges to adequately protect customers. *Id.* Mr. Vaughan testified that because these customers' load additions will cause a reallocation of the existing total zonal transmission revenue requirement per the FERC-approved cost allocation methods, a 60% minimum demand level is not sufficient to protect existing customers. *Id.* He said using the same assumed 4,000 MW peak addition, he estimated that an 88% minimum demand for the transmission charges collected through the PJM/OSS Rider represents the breakeven point where other customers should be indifferent from a transmission cost recovery standpoint. *Id.* at 17-18. Mr. Vaughan noted that this analysis assumes no

incremental investments in transmission infrastructure, which is a conservative assumption as Company witness Baker discusses the expected levels of incremental transmission investment to be potentially significant. *Id.*

In response to the Intervenor testimony regarding special contracts, Mr. Vaughan testified that in his experience with this issue across the AEP system Operating Companies, special contracts are generally warranted and appropriate for reasons not applicable to the Large Load Customers. *Id.* at 18-19. He stated that a customer simply wanting to receive service through a special contract so that it can negotiate its own unique deal is not appropriate, warranted by cost-of-service considerations, or administratively efficient for the utility and commission in question. *Id.*

Mr. Vaughan also responded to the direct assignment and cost allocation concerns raised by the OUCC witnesses. Pet. Ex. 5 at 20-22. Mr. Vaughan agreed with Mr. Kelley that the addition of these new large load customers creates new risks and challenges for I&M and its other customers. *Id.* at 22. Mr. Vaughan also agreed that it is important that sufficient safeguards be in place to protect I&M and its other customers from potential adverse consequences should one or more of these customers cease operations or otherwise leave I&M's system. *Id.* He added that with the proper safeguards in place, all customers can benefit from the traditional ratemaking approach and the potential for downward pressure on average rates arising from these loads through said approach. *Id.*

Mr. Vaughan disagreed with Mr. Inskeep's contention that placing large load customers with existing customers could create significant cross-subsidization concerns and with his recommendation that new large load customers should be partially "firewalled" from existing customers with respect to cost allocation and cost recovery of generation costs. Pet. Ex. 5 at 22-23. He explained that these concerns are better addressed in a subsequent rate case but noted that there are benefits to setting rates using average system costs, rather than directly assigning costs as Mr. Inskeep recommends. *Id.* at 22-23.

Mr. Vaughan disagreed with Google witness Farr's statement that I&M's proposed tariff modifications will have an impact on how I&M allocates costs among customer classes, as well as how costs are allocated between jurisdictions. *Id.* at 23. Mr. Vaughan stated that I&M's proposal in this case is directed to the terms and conditions of service applicable to large load customers within the Tariff I.P. class. *Id.* He said cost allocation issues, whether between customer classes or between jurisdictions, are outside the scope of this proceeding and are properly addressed in the context of a rate case that includes a request for a revenue change that would impact such allocations. He added that I&M's proposal in this case does not "box in" or otherwise inhibit the ability of the Commission or parties to address cost allocation issues in a subsequent proceeding. *Id.* at 23-24.

Mr. Williamson responded to the testimony offered on behalf of DCC, Google, and Amazon regarding use of customer-specific or special contracts. Pet. Ex. 2 (Williamson Rebuttal) at 4-16. He clarified that his direct testimony states that special contracts can be used to support the unique needs of customers, but that does not mean that those same customers should not be subject to a standard tariff for their basic or standard electric service needs. *Id.* at 4. He said, in other words, large load customers can receive electric service under Tariff I.P. and also have a

special contract to adjust their monthly electric service charges for other services, such as demand response, sustainability programs, or strategic partnerships and added that this is commonly done today for several of I&M's Tariff I.P. customers. *Id.* Mr. Williamson testified that prior to filing this case, I&M invested a significant amount of time over several months with multiple large load customers attempting to negotiate terms and conditions of service that could be established through a special contract framework. *Id.* Mr. Williamson stated that after many months, it became increasingly clear that it would be very difficult, if not impossible, to achieve a reasonably consistent set of terms and conditions of service amongst all the large load customers as it related to standard electric service, and added that during this same period, I&M received inquiries from other potential large load customers, indicating the number of large load customers could further increase in the future, making the consistency between special contracts even less likely to be achievable. *Id.*

Mr. Williamson discussed the current status of the large load customers in I&M's Indiana retail service territory, summarizing that the executed Transmission Letters of Agreement represent approximately 3,700 MW of total load through 2030 and stating I&M will require a significant amount of new generation to serve its growing load. *Id.* at 6-7. Mr. Williamson also discussed the potential for other large load customers to take service in Indiana in the future. *Id.* at 7-8.

In response to the parties' specific recommendations, Mr. Williamson noted generally that there is considerable variation in the parties' recommendations. *Id.* at 16. He said on the one hand, the large load customers that filed testimony in this proceeding generally argue that I&M's proposed tariff modifications are unreasonable and/or too stringent. *Id.* He said on the other hand, the consumer parties (OUCC and CAC) generally agree with I&M's proposed terms and conditions but suggest additional safeguards may be necessary to protect I&M's other customers. *Id.* He sees these differing viewpoints as reinforcing the need for a balanced and consistent approach that recognizes the concerns raised by all parties while ensuring I&M and its customers (both existing and prospective) have clear guidance as to how such matters will be addressed going forward. *Id.* He said the proposals made by I&M in this proceeding strike an appropriate balance and should be approved. *Id.* at 16.

Mr. Williamson explained why the fact that the claims that proposed tariff modifications have not been imposed elsewhere in the United States is not a valid reason to reject them. *Id.* at 17-18. Pointing to the size of the large loads, he said the past is not representative of the future and what has not been done up to this point in time cannot be relied upon as a basis of whether the modifications proposed by I&M are reasonable and necessary in the future. *Id.* He said in other words, it should not be surprising that I&M's proposed modifications have not been previously employed elsewhere because of the unprecedented nature of the situation facing I&M today. *Id.*

Mr. Williamson disagreed with DCC witness Higgins' position regarding the Company's proposed 20-year contract term and explained why I&M's proposal is not unreasonably one-sided. Pet. Ex. 2 at 18-19. In response to Mr. Higgins' proposed ten-year term, Mr. Williamson said the sensitivity analysis presented in his direct testimony indicates that the amount of risk is expected to decline the longer the contract term. *Id.* at 19. He testified that while under some asset cost and market conditions, a ten-year contract term coupled with I&M's proposed Contract Termination Fee could sufficiently cover I&M's financial risk, a longer-term contract will provide greater

assurance that a large load customer terminating its contract does not result in excess capacity costs that negatively impact I&M's other customers. *Id.* at 20.

Mr. Williamson also responded to DCC witness Higgin's position that it would be inefficient to lock a large load customer into capacity it did not need, particularly given the anticipated growing demand for capacity identified by I&M. Pet. Ex. 2 at 20. Mr. Williamson said this is precisely why I&M included language in the proposed modifications to Tariff I.P. to allow for contract capacity reductions greater than 20 percent upon mutual agreement. *Id.* Mr. Williamson said it is also reasonable that large load customers be limited on how much they can reduce contract capacity without any certainty that the financial implications can be managed without causing significant financial harm to I&M and its other customers. *Id.* He said I&M's proposal establishes reasonable guardrails beyond which a large load customer cannot unilaterally change its contract capacity. *Id.*

Mr. Williamson also responded to the testimony offered by Google witness Farr and Amazon witness Loomis that a 20-year term is too long for any reasonable business to forecast their electricity needs. Pet. Ex. 2 at 21-22. Mr. Williamson said the 20-year contract term is designed to provide reasonable assurance that large load customers will take service over a period that reasonably aligns with the significant investments and financial commitments the Company will make to provide service. *Id.* Mr. Williamson said not only is I&M planning for the load over a similar period of time as the proposed contract term, I&M will also be entering into financial commitments for a similar period. *Id.* Mr. Williamsons stated the 20-year term is reasonable given the significant long-term financial commitments the Company will undertake to serve the related load. *Id.*

Mr. Williamson also addressed Amazon witness Fradette's testimony regarding I&M's current customer contract periods and I&M's current asset service lives. Pet. Ex. 2 at 22. Mr. Williamson testified that I&M has historically been long on generation, which enabled I&M to serve its growing load without incurring a substantial increase in I&M's overall fixed costs. *Id.* He said this is not the situation today and explained it is clearly evident I&M will require a significant amount of generation to serve its growing load. *Id.* He said this will undoubtedly result in a significant and long-term increase in I&M's fixed costs and added that it is important and necessary that the large load customers contributing to these increased resource commitments have a corresponding commitment to maintaining service with I&M. *Id.* Mr. Williamson stated that Mr. Fradette's testimony fails to acknowledge or recognize the scale and magnitude of the large load customers, explaining that Amazon's projected load itself will exceed the load of all of I&M's Indiana retail industrial and commercial customers combined. *Id.* Mr. Williamson said never in I&M's or AEP's history has a single customer's load been this large. He added it is unreasonable and imprudent to assume I&M could shift and redeploy resources should the needs of large loads decrease. *Id.*

In response to DCC witness Higgins' proposal to modify the collateral requirements, Mr. Williamson testified that while cash on the balance sheet is considered a credit positive, it is only one attribute when determining a customer's creditworthiness. *Id.* at 25. He said requiring both a public debt rating (Moody's/S&P), along with a liquidity covenant puts I&M in the best position to ensure that a large load customer and/or its guarantor is willing and able to provide payment in the event that an early termination occurs. *Id.*

Mr. Williamson also responded to CAC witness Inskip recommendation to change the contract capacity change provision to: (1) cap individual customer reductions to 100 MW in any given year (with a five-year advance notice); and (2) cap overall reductions across large load customers to 5% of the prior calendar year's I&M-Indiana jurisdictional peak load, on a first-come, first-served basis. *Id.* Mr. Williamson said I&M does not oppose consideration of the CAC's recommendations but also feels that the terms proposed by I&M may better balance customer flexibility with customer protections. *Id.*

Mr. Williamson disagreed with Amazon witnesses Fradette and Loomis regarding the notice period to reduce contract capacity. *Id.* at 26-27. Mr. Williamson testified that while it is true that I&M's load obligations and resource commitments can change annually, that does not mean that I&M can simply acquire or unwind significant amounts of long-term generation resources annually or effectively. *Id.* at 26. He explained that the majority of capacity in PJM is acquired before or during the Base Residual Auction (BRA) and in order to effectively optimize excess capacity, it requires the sale to occur years in advance of product being sold. *Id.* Mr. Williamson added that in a typical auction cycle, an FRR entity must submit a compliant plan more than three years before the delivery year begins. *Id.* He stated that while I&M's load forecast could be adjusted prior to the delivery year, there may be an inability to adjust its capacity resources in a cost-effective manner to those changes. *Id.* Mr. Williamson stated that for this reason, Large Load customers need to be responsible for their forecast. He said I&M's five-year notice reasonably recognizes that it is prudent utility practice to acquire generation prior to PJM's three-year forward capacity planning market. *Id.*

**9. Settlement Agreement and Supporting Testimony.** Despite the complexity and number of issues raised in this proceeding, the Settling Parties reached a comprehensive agreement, as reflected in the Settlement Agreement. We recognize that all the parties in this proceeding joined the Settlement Agreement. These parties represent varied and competing customer groups and interests, including residential and large load customers, encompassing all I&M rate classes.

All parties of record in this Cause are signatories to the Settlement Agreement filed with the Commission on November 22, 2024, which resolves all pending issues in this Cause. The Settlement Agreement was admitted into the record as Joint Exhibit 1, is attached to this Order, and is incorporated by reference. The witnesses offering settlement testimony discussed the arm's-length nature of the negotiations and efforts undertaken to reach an uncontested and balanced settlement that fairly resolves all issues in the case.

Mr. Williamson testified the Settlement Agreement is a package agreement that reasonably resolves all pending issues among the Settling Parties. He said taken as a whole, the Settlement Agreement represents the result of arm's-length negotiations by a diverse group of stakeholders with differing views on the issues raised in the docket. Pet. Ex. 3 (Williamson Settlement) at 3. He testified party experts were involved with legal counsel in the development of both the conceptual framework and the details of the Settlement Agreement and that a significant number of hours were devoted by the Settling Parties to discussions, the collaborative exchange of information, and settlement negotiations. *Id.*

Mr. Williamson stated that as discussed within the Company's direct and rebuttal testimony, I&M is anticipating unprecedented load growth driven by new Large Load Customer demand. Pet. Ex. 3 at 3. He said the Company requires significant transmission and generation infrastructure investments and other long-term financial commitments to serve I&M's growing Indiana retail load. He stated from the Company's perspective, it is reasonable and necessary to establish terms and conditions for service that safeguard against the cost impacts that can occur if the new load does not fully materialize or prematurely terminates. He said while the parties in this proceeding generally agreed on the need for safeguards, the parties disagreed as to the extent of the safeguards, as shown in Figure AJW-2R to his rebuttal testimony.

Mr. Williamson testified this is a complex situation and there is no easy solution that perfectly satisfies every stakeholder interest. Pet. Ex. 3 at 4. He said the Settling Parties, however, worked cooperatively to achieve a reasonable balance. He explained the settlement discussions provided I&M and the other Settling Parties an opportunity to delve into each other's concerns, ideas and interests. He further said I&M appreciates the significant time the other Settling Parties devoted to understanding the Company's perspectives and objectives relevant to the ongoing provision of retail service to I&M's customers. Likewise, I&M devoted significant time to understanding the perspectives and objectives of the other Settling Parties.

Mr. Williamson testified that ultimately, the joint efforts of the Settling Parties allowed them to reach a unanimous and balanced Settlement Agreement that fairly resolves all the issues in this case and adopts important safeguards. He said the Company considered the Five Pillars during the course of the settlement discussions and that the outcome is consistent with these pillars and the testimony on these considerations in this Cause. He expressed his opinion that the Settlement Agreement is in the public interest and reasonably resolves all issues in this docket without further expenditure of the time and resources of the Commission and the Settling Parties in the litigation of these matters.

Mr. Eckert testified the Settlement Agreement resolves critical issues intended to prevent I&M's costs to serve these Large Load Customers from being shifted to I&M's other customers and to protect I&M and its other customers by agreeing upon the terms to which the Large Load Customers will be bound, the extent the Large Load Customers may reduce their capacity over that term, the collateral that must be maintained, the exit fees, and other contract terms, including the allocation of I&M's revenue requirement among its rate classes. Pub. Ex. 3 (Eckert Settlement) at 2.

Mr. Eckert testified the Settlement Agreement is the product of intense negotiations, with each Settling Party compromising on challenging issues to reach an overall agreement that balances ratepayers' interests. He said it was critical to the OUCC that the risks Large Load Customers pose for I&M's other ratepayers be mitigated. Pub. Ex. 3 at 3. He said the nature of the Settling Parties' compromise included assessing the litigation risks associated with a contested proceeding. Given the ratepayer benefits and the mitigation of ratepayer risks achieved under the Settlement Agreement, the OUCC, as the statutory representative of all ratepayers, concluded the Settlement Agreement is a fair resolution of the issues, supported by the evidence, is in the public interest, and should be approved. *Id.*

Mr. Inskeep testified the Settlement Agreement is the product of intense and lengthy negotiations, with each party making compromises to reach a settlement that balances the interests of I&M, new and prospective data center customers, and existing ratepayers. CAC Ex. 2 (Inskeep Settlement) at 2. He explained the Settlement Agreement maintains the same general type of modifications to Tariff I.P. as originally proposed by I&M, but with changes to certain details of the terms and conditions of service for new Large Load Customers that reflect compromise among the parties. He said the Settlement Agreement includes numerous other terms addressing issues of great importance to certain Settling Parties, including terms addressing cost allocation, collaboration on additional topics such as demand response and a clean transition tariff, reporting requirements, and funding to the Indiana Community Action Association (“INCAA”) to support income-qualified Hoosiers. CAC Ex. 2 at 3. He concluded the terms of the Settlement Agreement are reasonable, supported by the evidence, and provide a fair resolution to the issues raised in this proceeding. He requested that the Commission find that the Settlement Agreement is consistent with the public interest and approve it. *Id.* at 2.

Mr. Farr testified the Settlement is a comprehensive resolution to various concerns expressed by multiple parties to this proceeding, all of whom had distinct viewpoints. Google Ex. 2 (Farr Settlement) at 1. He explained that in his opinion, this case is about balancing risks. He said as described in his direct testimony, he finds that it is reasonable for the Commission to consider adoption of tariff revisions that will help ensure that I&M is planning for a prudent amount of investment and, to the degree that a specific customer’s demand forecast proves inaccurate, that the financial risks of that inaccuracy be borne by the specific customer, not I&M’s greater body of ratepayers. He said in its sum, he finds that the Settlement agreement achieves that objective. He expressed his belief that the terms contained in the Settlement create the proper balance between Large Load Customers and the Company; while also providing significant protections to I&M and other ratepayers. *Id.* at 3. He testified the issues raised in this case were challenging, encompassing a complex array of opinions on how best to achieve the optimal regulatory outcomes between I&M, the Large Load Customers, and the Company’s other customers. *Id.* at 8. He said despite the range of views, the Settling Parties were able to come to the negotiating table and find consensus on terms which resolve the case. He said in his opinion, the Settlement does that in a manner which protects the interests of the participating parties in a manner consistent with sound rate design principles. *Id.*

Mr. Fradette, Mr. Loomis, and Dr. Berry all recommended approval of the Settlement, which they said is based on appropriate regulatory policy and rate design principles, including appropriate allocation of costs to serve Large Load Customers. Amazon Ex. 1S (Fradette Settlement) at 2; Amazon Ex. 2S (Loomis Settlement) at 4; Loomis Settlement at 4. They said the Settlement is well within the range of outcomes from a litigated case. They further testified that the Settlement is the result of a collaborative negotiation process that supports I&M’s abilities to: (a) provide cost-effective, dependable service to all customers; and (b) continue pursuing opportunities that enable third party economic development and investment of large loads, such as Amazon’s data centers, within I&M’s service territory. *Id.* at 4; Berry Settlement at 3; Loomis Settlement at 3.

We discuss the terms of the Settlement Agreement and supporting evidence in greater detail below.

**10. Commission Discussion and Findings.** Settlement is a reasonable means of resolving a controversial proceeding in a manner that is fair and balanced to all concerned. We note that Indiana law strongly favors settlement as a means of resolving contested proceedings. *Mendenhall v. Skinner & Broadbent*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes.”). The Settlement Agreement represents the proposed resolution of the issues in this Cause by all of the parties of record, including the OUCC. “It is undisputed that the policies favoring settlement agreements are ‘further enhanced’ when one of the parties proposing the settlement is the OUCC.” *Nextel West Corp. v. Indiana Util. Reg. Comm’n.*, 831 N.E.2d 134, 156 (Ind. Ct. App. 2005), *trans. denied*. As the Commission has previously discussed, settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coal. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coal.*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coal. v. Public Service Co.*, 582 N.E.2d 330 (Ind. 1991)). The Commission’s procedural rules require that settlement be supported by probative evidence. 170 Ind. Admin. Code 1-1.1-17(d). Before the Commission can approve the Settlement Agreement, the Commission must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2 and that it serves the public interest. In the current Cause, the Commission has before it substantial evidence with which to judge the reasonableness of the terms of the Settlement Agreement.

While our decision is based on the entire record, the foregoing summary of the evidence facilitates our consideration. As discussed in greater detail below, the Commission concludes the Settlement Agreement, taken as a whole, is a fair and reasonable resolution of the issues presented in this Cause, is supported by the record, and is in the public interest. Accordingly, the Commission approves the Settlement Agreement in its entirety. We discuss the specific terms of the Settlement Agreement below.

**A. Applicability.** In its case-in-chief, the Company proposed that the Large Load Tariff terms would apply based on a threshold of greater than 150 MW, which would apply to both individual and aggregated sites. Pet. Ex. 1 (Williamson Direct) at 6-7. Mr. Williamson explained I&M proposed the 150 MW minimum threshold because of the significance of the financial commitment I&M must make to serve loads of that magnitude or greater into the future and the customer concentration risk it represents to I&M’s business and its cost of serving all of its customers. *Id.* He stated that at this level of new load, I&M expects to make significant financial commitments to secure new generation resources. *Id.*

The record shows the OUCC did not oppose I&M’s proposal and the CAC supported it. Pub. Ex. 2 (Leader) at 10; CAC Ex. 1 at 22. Witnesses for Intervenor Google and Amazon



opposed this threshold. More specifically, Google witness Farr (p. 4) suggested a 70 MW threshold would be more appropriate to cover anticipated future load growth. He raised a concern that the Company's proposed threshold may be too high and will not appropriately account for the risk of demand uncertainty. He stated that at 150 MW, I&M would be covering the largest customers who are growing in I&M's service territory but noted there are a number of new customers seeking service in the range of 70-150 MW. He acknowledged that I&M is correct in its assertion that 150 MW is a large load, but added the same could be said for a threshold of 70 MW. Amazon witness Fradette (p. 7) contended the Company's 150 MW threshold appears to be random and targeted to the initial three Large Load Customers.

Mr. Williamson testified that as part of the give and take of settlement negotiation, the Settling Parties compromised by agreeing to a lower individual site threshold. Pet. Ex. 3 (Williamson Settlement) at 5. Under the Settlement Agreement, the Tariff I.P. Large Load Customer terms will apply to customers taking service on I&M Tariff I.P. with contract capacity greater than or equal to 70 MW at an individual site or 150 MW on an aggregated basis ("Large Load Customer"). Settlement Agreement, § I.A.1. The Company will exercise reasonable discretion when choosing to aggregate premises as set forth in the Settlement Agreement. The Settling Parties also agreed that the Large Load Customer terms shall only apply to new load, or an expansion of existing load, occurring on or after January 1, 2024.

Based on the record, the Commission finds the Settling Parties' agreement on the applicability of the Large Load Terms to be reasonable. In particular, we recognize that the agreed Large Load Customer threshold of 70 MW at an individual site or 150 MW on an aggregated basis reasonably captures customers for whom I&M would need to make significant financial investments to serve. We further find that applying the Large Load Customer terms only to new load, or an expansion of existing load, occurring on or after January 1, 2024 reasonably safeguards I&M's existing customers. Accordingly, we find this term of the Settlement Agreement to be reasonable and in the public interest.

**B. Mandatory Term.** As discussed above, the Company originally proposed an initial contract term of 20 years. The OUCC and CAC supported this proposal. DCC proposed ten years, Google contended the contract term should minimize the risk of stranded assets, and Amazon proposed four years. I&M's rebuttal testimony (Pet. Ex. 2, p. 19) acknowledged that a ten-year contract term coupled with I&M's proposed Contract Termination Fee could sufficiently cover I&M's financial risk under some asset cost and market conditions, but a longer-term contract was a preferable safeguard.

As shown in Section I.A.2 of the Settlement Agreement, the Settling Parties agreed to an Initial Contract Term of not less than 12 years, commencing after any Load Ramp Period ends. The Load Ramp Period can be no greater than five years. The Load Ramp Period is the later period of time from when: (a) electric service is available to the Large Load Customer or (b) the Large Load Customer is scheduled to begin taking electric service, until the time the Large Load Customer's maximum contract capacity is billed. The Contract Term is defined as the combined period of time associated with any Load Ramp Period plus the Initial Contract Term.

Mr. Williamson testified that as part of the negotiated package, the agreement on the Initial Contract Term strikes a reasonable balance of the diverse positions amongst the Settling Parties

and provides for a substantially longer commitment than I&M requires as an initial contract term from other Tariff I.P. customers. Pet. Ex. 3 at 6.

Mr. Eckert testified that the agreed mandatory term helps reduce the risk of stranded asset costs for I&M and their potential recovery from I&M's other customers and/or shareholders. Pub. Ex. 3 at 6.

Mr. Inskeep testified that the Settlement Agreement would establish a minimum contract term for Large Load Customers of 12 years, plus the Large Load Customer's designated Load Ramp Period, if any, which can last up to five years. CAC Ex. 2 at 5. He said in other words, most Large Load Customers would be expected to have a 14 to 17 year contract term, assuming a 2-5 year Load Ramp Period. He said this is significantly longer than the current two-year minimum contract term specified in Tariff I.P., and only modestly shorter than the 20-year term proposed by I&M in its case-in-chief, which he supported in his direct testimony. He stated the Settlement Agreement minimum contract term length reasonably balances the need expressed by I&M for Large Load Customers to make a long-term financial commitment consistent with the large investments that I&M will be making on their behalf, concerns expressed by consumer advocates regarding potential cost shifts if a Large Load Customer were to suddenly reduce or discontinue service, and the desire expressed by large customers for additional contract flexibility.

Mr. Farr testified the Settlement specifically allows for a Load Ramp Period of not more than 5 years. Google Ex. 2 at 4. He said this allows a customer to specify defined, stepped, load levels as it moves towards its ultimate contract demand. He added this will enable the customer to align its contract with its business needs while also ensuring that I&M is planning and investing based on an accurate signal of demand. *Id.*

Mr. Fradette testified the mandatory term that the Settling Parties agreed upon after much discussion is fair, just, and reasonable, in the context of the overall settlement package. Fradette Settlement at 5. Likewise, Dr. Berry and Mr. Loomis both agreed that the mandatory term provision is fair, just, and reasonable. Berry Settlement at 3; Loomis Settlement at 3.

The record shows there was general acknowledgement amongst the parties that an initial contract term longer than the current two-year minimum contract term specified in Tariff I.P. would be reasonable for Large Load Customers. At the same time, several parties raised concerns with I&M's original proposal of a 20-year term. The parties, through the Settlement Agreement, have resolved this issue through an agreement that a Large Load Customer will be subject to a minimum contract term for Large Load Customers of 12 years, plus the Large Load Customer's designated Load Ramp Period, if any, which can last up to five years. The record shows the agreed term reasonably balances the diverse views of the Settling Parties while providing for a substantially longer commitment from Large Load Customers than I&M requires as an initial contract term from other Tariff I.P. customers. The record further shows that the minimum contract term, when coupled with the other provisions of the Settlement Agreement, provides reasonable financial safeguards for I&M and its other customers. The agreed mandatory term will also help Large Load Customers align their contract with their business needs while also ensuring that I&M is planning and investing based on an accurate signal of demand. Accordingly, we find this provision to be reasonable, in the public interest, and should be approved.

**C. Monthly Billing Demand.** I&M's direct testimony explained why it supported revising the minimum billing demand from 60% to 90% for Large Load Customers as a reasonable way to protect I&M and its other customers by mitigating the potential volatility and variability associated with Large Load Customers. Williamson Direct, Q. 22. As stated in Mr. Williamson's rebuttal testimony (p. 24), multiple intervenor witnesses questioned the need for the Company's proposed revision to Tariff I.P.'s minimum billing demand provision. As shown in Figure AJW-2R in Mr. Williamson's rebuttal, the DCC proposed 70% on production demand; 60% for the OSS/PJM Rider, and Amazon and Google proposed 60%. The record shows both the OUCC and CAC agreed with I&M's proposal.

As shown in Section I.A.3 of the Settlement Agreement, the Settling Parties agreed to an 80% minimum monthly billing demand. As shown by Settlement Agreement Attachment A, the Settling Parties agreed to the following language for the Tariff I.P. monthly billing demand clause for Large Load Customers:

The Monthly Billing Demands for Large Load Customers in kW for each plant shall be taken each month as the single-highest 15-minute integrated peak in kW, as registered at such plant during the month by a demand meter or indicator, subject to the Off-Peak Hour Provision, but the monthly demand so established shall in no event be less than the greater of (a) 80 percent of the Large Load Customer's contract capacity specified for the applicable time period of the Contract Term; or (b) 80 percent of the Large Load Customer's highest previously established Monthly Billing Demand during the past 11 months. The Metered Voltage adjustment, as set forth above, shall not apply to the Large Load Customer's minimum Monthly Billing Demand.

Mr. Williamson testified the agreed minimum billing demand provision balances customer flexibility with assurances that Large Load Customers provide financial support for the significant transmission and generation infrastructure needed to serve such load. Pet. Ex. 3 at 7. He said importantly, the 80% minimum billing demand provision is combined with the enhanced minimum charge terms described below. He said the combination of these two minimum charges reflects a reasonable and balanced compromise amongst all Settling Parties and provides important financial protections for all I&M customers. *Id.*

Mr. Eckert testified the Settlement Agreement increases the monthly billing demand for Large Load Customers from that in I&M's current Tariff I.P. Pub. Ex. 3 at 7. He said the agreed monthly minimum billing demand provision reduces the risk of stranded assets and better ensures Large Load Customers pay their fair share of the costs I&M incurs to serve their added load. *Id.*

Mr. Farr noted that under the Settlement, I&M is only applying the 80% minimum monthly billing demand to the Large Load Customer's load ramp capacity as specified in its contract. Google Ex. 2 at 4. He said when coupled with the agreed-upon minimum charge provision in the Settlement, this allows the customer greater flexibility in its planning as it moves its facility to full operation without imposing a significant financial obligation which is not tied to its actual level of service for the period. *Id.*

The record reflects the parties had differing positions and concerns regarding I&M's original proposal to increase the minimum monthly billing demand for Large Load Customers from the current 60% to 90%. The Settling Parties resolved those concerns through Section I.A.3 of the Settlement Agreement, which provides for an 80% minimum monthly billing demand. The record shows an 80% minimum monthly billing demand reasonably balances I&M's interest in ensuring Large Load Customers provide financial support for the significant transmission and generation infrastructure needed to serve them; Large Load Customers' interest in flexibility; and other customers' interest in mitigating the potential volatility and variability associated with Large Load Customers in an appropriate manner, particularly when consideration is given to the other provisions of the Settlement Agreement approved herein. Based on the record, the Commission finds the agreed-upon tariff language regarding the monthly billing demand to be reasonable and in the public interest.

**D. Minimum Charge.** As shown by Settlement Agreement Attachment A, the Settling Parties agreed to the following language for the Tariff I.P. minimum charge clause for Large Load Customers:

Large Load Customers are subject to a minimum monthly charge for each plant equal to the sum of: (a) the Monthly Service Charge; (b) the product of the Minimum Demand Charge and the Monthly Billing Demand; (c) the product of the Step 1 Embedded Capacity Charge and the Monthly Billing Demand; and (d) the sum of the product of each demand charge in all applicable demand related riders in effect at the time and the Monthly Billing Demand. The Step 1 Embedded Capacity Charge rate will be computed as follows: (Block 1 Energy Rate less Block 2 Energy Rate) multiplied by Block 1 Energy Hours less (Minimum Demand Charge less Demand Charge).

The Step 1 Embedded Capacity Charge under this tariff shall be as follows:

Tariff Code	Service Voltage	Step 1 Embedded Capacity Charge (\$/kW)
327	Secondary	13.289
322	Primary	12.427
323	Subtransmission	12.271
324	Transmission	10.959

By way of example, the Step 1 Embedded Capacity Charge, under Tariff I.P. as of November 14, 2024, for Transmission Service Voltage: (\$0.05058/kWh - \$0.01286/kWh) \*410 hrs - (\$14.70/kW-mo – \$10.194 /kW-mo) = \$10.959/kW.

The record reflects the minimum demand charge is necessary to allow I&M to reasonably recover its cost of providing service on a monthly basis. Pet. Ex. 2 at 30. As stated in the rebuttal testimony of Company witness Vaughan (pp. 10-11), it is important to safeguard against a scenario where the Large Load Customer's contracted load does not materialize or the Large Load Customer ceases operations. In that scenario, the expected energy usage will not exist at the level forecasted or at all. This is important because the record shows the Company's Tariff I.P. rate structure recovers certain production demand costs through the first block energy charge. See Pet. Ex. 5 at 8.

Mr. Williamson testified the Settlement Agreement restructures the Company's original minimum charge proposal to also include demand costs embedded in the Block 1 Energy Charge through the Step 1 Embedded Capacity Charge. Pet. Ex. 3 at 8. He explained including the Step 1 Embedded Capacity Charge in the minimum charge computation establishes an overall higher minimum charge, which ensures greater cost recovery in the event of significantly lower levels of anticipated load and/or permanent closure than compared to the Company's original proposal. *Id.* at 8-9. He said the 80% minimum billing demand combined with the Step 1 Embedded Capacity Charge as part of the minimum charge results in a compromise between positions where all parties' interests are addressed. He testified reducing the minimum billing demand from 90% to 80% allows additional operational and planning flexibility for the Large Load customer, while the addition of the Step 1 Embedded Capacity Charge allows for greater existing customer and company protection by requiring a higher minimum bill than I&M's original proposal. *Id.* at 9. He said also, because demand costs are also recovered through various rate adjustment mechanisms, the agreed Tariff I.P. language also clarifies that "all applicable demand related riders" are included in the minimum monthly charge calculation.

Mr. Williamson further provided an example demonstrating the greater existing customer and Company protections resulting from the Settlement Agreement. Pet. Ex. 3 at 9, Figure AJW-1S. More specifically, Mr. Williamson explained that the annual minimum bill for a 1,000 MW customer provided by the Settlement Agreement is approximately \$76 million higher than under I&M's original proposal of 90% minimum demand.

Mr. Eckert testified that under the Settlement Agreement, Large Load Customers must pay the demand component of all applicable riders in effect at the time, thereby encompassing riders with a demand component that may hereafter be approved during the Contract Term. Pub. Ex. 3 at 8.

Mr. Inskeep testified the Settlement Agreement modifies the calculation of the monthly minimum charge for Large Load Customers. CAC Ex. 2 at 5. He said the calculation of the monthly minimum charge now includes the Step 1 Embedded Capacity Charge ("ECC"), which under current rates is \$10.959 per kW for Tariff I.P. transmission customers, and will be based on the greater of 80% of the customer's contract capacity or 80% of its highest monthly billing demand from the prior 11 months. He said the inclusion of the Step 1 ECC modifies the effective monthly charge to the \$275 monthly fixed charge plus an aggregate minimum demand charge totaling \$35.034 per kW applied against the greater of 80% of the Large Load Customer's contract capacity or its peak demand from the prior 11 months. He said the end result is that consumers are better protected in the event that a Large Load Customer reduces their load to much less than their contract capacity in a given month. *Id.* at 6.

Mr. Inskeep provided an example of how the monthly minimum charge is impacted by the Settlement Agreement. CAC Ex. 2 at 6. He said for example, a new Large Load Customer with a contract capacity of 1,000 MW and a load factor of 85% is expected to pay a monthly bill of about \$41.0 million, or \$492.3 million per year. He said under the current terms of Tariff I.P., which is based on a minimum billing at 60% of contract capacity, this customer would have a minimum bill of about \$14.4 million, or \$173.3 million per year. In I&M's case-in-chief, it proposed increasing this to 90%, resulting in a monthly minimum of about \$21.7 million, or \$260.0 million per year. Mr. Inskeep stated that as shown in his Table 2, the Settlement Agreement increases the monthly minimum bill to about \$28.0 million, or \$336.3 million per year, which is roughly double the current monthly minimum charge under Tariff I.P. He said this is a significantly higher level of protection that benefits I&M and its existing customers. CAC Ex. 2 at 6.

The record demonstrates the Settling Parties have worked to craft an overall package of provisions that reasonably address concerns raised by the parties related to I&M's original proposal while maintaining, and indeed strengthening, customer protections related to the addition of Large Load Customers to I&M's system. In particular, we note the settlement testimony of I&M and the CAC regarding the comparative impact of the terms of the Settlement Agreement for a Large Load Customer based on usage and load factor. That evidence shows a meaningfully higher minimum monthly bill under the settlement tariff as compared to I&M's existing Tariff I.P. structure. CAC Ex. 2 at 6. The Commission concludes, based on the evidence presented, that the Settling Parties' agreement with respect to the minimum charge for Large Load Customers is reasonable and should be approved.

**E. Collateral Requirements.** In its case-in-chief, I&M proposed to include additional collateral requirements for Large Load Customers. The record shows I&M proposed to include these terms because the size and concentration risk of these customers is unlike other customers. Pet. Ex. 1 (Williamson Direct) at 17. If a Large Load Customer was to unexpectedly exit I&M's service territory and/or system, there is potential for significant financial harm to I&M and its other customers. The record further shows that with the number of current commitments and potential future interest in I&M's system from large load customers, less than a handful of customers will be the largest single sector for I&M, even greater than I&M's existing residential, commercial, and industrial customers combined. *Id.* Consequently, it is imperative that other customers and the Company are reasonably protected in the event the unexpected occurs with these large load customers.

The only contested issue regarding the Tariff I.P. collateral requirements concerned the DCC's proposed exemption. Mr. Higgins proposed that the proposed collateral requirements be modified to state that a customer with a credit rating of at least A- from S&P and A3 from Moody's, or cash on its balance sheet equivalent to ten times the collateral requirement, be exempt from providing collateral. DCC Ex. 1 (Higgins Direct) at 5. In rebuttal, Mr. Williamson stated that requiring both a public debt rating (Moody's/S&P), along with a liquidity covenant puts I&M in the best position to ensure that a large load customer and/or its guarantor is willing and able to provide payment in the event that an early termination occurs. Pet. Ex. 2 at 25.

The Settling Parties agreed that the Collateral Requirement I&M proposed in its Petition and Direct Testimony shall be adopted. However, the Settling Parties also agreed that a Large Load Customer with a credit rating of at least A- from S&P and A3 from Moody's and liquidity greater

than ten times the Collateral Requirement shall be exempt from the Collateral Requirements. A Large Load Customer that does not have a credit rating from S&P and Moody's but maintains liquidity greater than ten times the Collateral Requirement (evidenced by providing quarterly financial statements and certification that on the date financial statements are provided that the Large Load Customer's liquidity meets the ten times threshold) shall be exempt from 50 percent of the Collateral Requirements not to exceed an exemption of more than \$250 million. For additional clarity, the Settlement Agreement also sets forth how the Collateral Requirement will be met. Settlement Agreement, Section I.A.5.

Mr. Williamson testified that this negotiated part of the settlement package is consistent with his rebuttal testimony with respect to public companies that have a credit rating and puts in place additional provisions to address private companies that do not have a credit rating and provides for a reasonable resolution to the diverse views of the Settling Parties. Pet. Ex. 3 at 10.

The Commission finds the collateral requirements set forth in the Settlement Agreement are reasonable and should be approved. While no reasonable term can fully insulate I&M and its other customers, the agreed term reasonably increases the requirement of I&M's current Terms and Conditions of Service and provides additional protections in the event a customer does unexpectedly cease taking service from I&M and is unable to pay its remaining charges. More specifically, the collateral requirement provision agreed to by the Settling Parties maintains I&M's proposal based on credit metrics while also allowing for potential Large Load Customers without a credit rating to offset a portion of their collateral requirement through sufficient liquidity, subject to reasonable financial documentation. This reasonably protects I&M and its other customers while providing a reasonable alternative for private companies that do not have a credit rating.

**F. Contractual Flexibility and Exit Fee.** In its case-in-chief, I&M recognized that a Large Load Customer should be provided reasonable flexibility to reduce their maximum contract capacity during the term of the contract. Pet. Ex. 1 (Williamson Direct) at 10. I&M originally proposed that the tariff would allow a customer to reduce its contract capacity up to 20% but allow for additional flexibility in mutually agreeable circumstances that are beneficial, or at least not detrimental, to the customer, the Company, and all other customers. The Company also proposed the customer give at least five (5) years' prior written notice of its capacity reduction. In the event of a permanent closure, the Company proposed the customer shall notify the Company within three (3) business days of making this determination. The Company also proposed to establish a minimum five-year commitment under the Tariff and provide the customer the ability thereafter to exit the contract by providing a one-time payment ("Contract Termination Fee") equal to five (5) years of the customers' minimum bill in the event of a permanent closure. Pet. Ex. 1 at 10; Pet. Ex. 2 at 35. I&M's objective was to provide the customer reasonable flexibility while reasonably limiting the magnitude of the risk to I&M and all other customers. Pet. Ex. 1 at 10-11.

The record reflects the OUCC did not oppose the Company's contract termination fee but expressed concern regarding contract capacity reductions greater than 20%. Pub. Ex. 2 at 7. The CAC proposed a termination fee of eight years of minimum bills, and caps on contract capacity reductions. CAC Ex. 1 at 42. Witnesses for DCC, Google and Amazon challenged the Company's proposal based on various arguments as summarized in Figure AJW-2R to Mr. Williamson's Rebuttal Testimony. For example, Mr. Farr testified that the Commission should adopt fair and transparent fees to cover foregone net revenues from the minimum demand charge if excess

capacity, released by a customer, is not used; but he was critical of I&M's proposed 20% limitation on the reduction of capacity over the 20-year life of the contract. Mr. Farr stated that, as originally proposed, I&M made no provision for I&M's ability to use any excess capacity to serve other customers or otherwise reduce a customers' financial obligations. Google Ex. 1 at 20-21.

The Settlement Agreement maintains a Large Load Customer's flexibility to reduce its contract capacity after the first five years without paying an Exit Fee. Settlement Agreement, Section I.A.6. The total capacity reduction under this provision is limited to 20%, except by mutual agreement between the Company and the Large Load Customer, which the Company shall only grant in circumstances that are beneficial, or at least not detrimental, to the Large Load Customer, the Company, and all other customers.

Mr. Williamson testified this provision is consistent with the proposal discussed in his direct testimony (p. 10). Pet. Ex. 3 at 12. He said the flexibility recognizes there may be situations where allowance for larger contract capacity reductions without payment of an Exit Fee would make sense, if I&M was able to avoid or offset the exposure to long-term excess capacity risk. He said by way of example, one such scenario would be the situation where the Company has not yet acquired the long-term generation needed to serve that additional increment of load in the future and could avoid that financial commitment and cost, it may be reasonable to accept the greater reduction to the contract capacity commitment beyond the 20%. Pet. Ex. 3 at 12.

Mr. Williamson testified Section I.A.6 of the Settlement Agreement also addresses the notification process necessary to reduce capacity by up to 20%. He said the Settling Parties agreed that the Large Load Customer must provide I&M at least 42 months' notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought. He stated this 42 months' notice period requires notice months prior to PJM's three-year capacity auction cycle to provide the Company time to incorporate such changes into its capacity planning ahead of PJM's Base Residual Auction associated with PJM Delivery Year for which the reduction or termination is sought. Pet. Ex. 3 at 12.

Mr. Williamson testified Section I.A.6.b of the Settlement Agreement resolves the Settling Parties' dispute regarding the Termination Fee. He explained the Settling Parties agreed that a Large Load Customer may terminate its contract or reduce its contract capacity beyond 20% at any time after the first five years of the contract by giving I&M at least 42 months written notice prior to the beginning of the PJM Delivery Year for which the reduction or termination is sought, subject to payment of a capacity reduction/termination fee ("Exit Fee"). He said the Exit Fee shall be due and payable to I&M upon the effective date of the contract termination or the effective date of the capacity reduction.

Mr. Williamson explained how the Exit Fee will be calculated. He stated the Settling Parties agreed that the Exit Fee shall be calculated as the nominal value of the remaining Minimum Charge for the terminated/reduced capacity in excess of the 20% allowed reduction for the first year of the Exit Fee Period; and for any remaining year of the Exit Fee Period the Exit Fee shall be calculated in the same manner as the first year, minus the OSS/PJM Rider's (or the same cost addressed in another rider's) contribution to the Minimum Charge. Pet. Ex. 3 at 13. He said the Exit Fee Period is defined as the Large Load Customer's then remaining Initial Contract Term, or



any agreed extension, and that the Settlement Agreement establishes that the Exit Fee Period shall not be less than one year and not exceed five years. *Id.*

Mr. Williamson next explained why the OSS/PJM Rider's contribution to the Minimum Charge is removed from the calculation after the first year. He stated the demand related component of the OSS/PJM Rider exists currently to recover the Company's allocated share of the zonal revenue requirement for the AEP transmission zone. Pet. Ex. 3 at 13. He said a load's contribution to the peaks used in that allocation process will drop out or be removed from the process on a one-year lag following their reduced or ceased operations. For example, he said a load that were to cease operations in 2024 would still contribute to the costs allocated to the Company during the following 2025 calendar year; and would no longer contribute to the allocation of such costs to the Company in 2026. He stated this is the reason for the Settlement wording regarding the OSS/PJM Rider and the minimum charge. Mr. Williamson testified the timing in which the OSS/PJM Rider recovers demand-related costs associated with the service provided to Large Load Customers was the subject of discussion amongst the Settling Parties. Ultimately, in the interest of settlement and mitigating potential short-term negative impacts to remaining customers, the Settling Parties agreed to this condition as a component of the overall package. Pet. Ex. 3 at 13.

Mr. Williamson next discussed Section I.A.6.c of the Settlement Agreement. He testified in this section, the Settling Parties agreed that following receipt of proper notice and through the Exit Fee Period, I&M will use reasonable efforts, consistent with its obligations as a public utility, to mitigate the Exit Fee amount by evaluating the opportunity to assign the terminated/reduced capacity to serve new Large Load Customers, to expand service to existing Large Load Customers, or otherwise secure offsetting expected revenues. Pet. Ex. 3 at 14. He said additionally, the remainder of any mitigating amounts owed to the Large Load Customer shall be delivered to the Large Load Customer, or its designated successor, after all outstanding balances have been resolved.

Mr. Williamson testified that as explained in his rebuttal (p. 38), I&M's goal is to avoid having excess capacity in the event of a Large Load Customer ceasing operations. He said in an event where a Large Load Customer was exiting I&M's system, the ideal scenario would be to have another Large Load Customer continuing the service at the same location or establishing service at another location resulting in a similar ongoing long-term commitment for that capacity. He said the ideal scenario, however, may not exist, and I&M will use reasonable efforts to evaluate alternative solutions consistent with the Company's obligations. Pet. Ex. 3 at 14. He said from the Company's perspective the negotiation resolution of this issue reasonably addresses the Company's concerns and is a reasonable part of the overall settlement package. He said the Settlement Agreement resolution of this issue is reasonably designed to allow I&M to find a solution to mitigate I&M's exposure to long-term excess capacity costs while balancing that with a Large Load Customer's interest in mitigating the Exit Fee where possible. Pet. Ex. 3 at 14.

Mr. Williamson stated Section I.A.6.d of the Settlement Agreement sets forth an agreed dispute resolution process. He said if there is an issue concerning the calculation of the Exit Fee, that either I&M or the Large Load Customer view as in need of escalation, the Settlement Agreement provides that either I&M or the Large Load Customer may request escalation. He said while escalation is a common business practice, including it in the Settlement Agreement provides

clarity by setting out an agreed timeline for issue resolution. Pet. Ex. 3 at 15. He said this paragraph also clarifies that the dispute resolution process does not limit or otherwise affect the ability of either the Large Load Customer or the Company to file a formal proceeding requesting the Commission to resolve the dispute. *Id.*

Finally, Mr. Williamson discussed Section I.A.6.e of the Settlement Agreement. He said as shown in Figure AJW-2R, the Company originally proposed that a Large Load Customer would not assign its rights or delegate its obligations without the written consent of the Company. Pet. Ex. 3 at 15. He said Amazon proposed that assignment or delegation be allowed without negotiation or approval of I&M and that the other parties' witnesses did not address the issue. Mr. Williamson testified Section I.A.6. paragraph e. of the Settlement Agreement reasonably resolves this issue by providing that a Large Load Customer shall not assign any of its rights or delegate any of its obligations under the Contract without the written consent of the Company. An assignment or delegation in violation of this Section is null and void. *Id.*

Mr. Eckert testified that the Settlement Agreement affords contractual flexibility while mitigating the potential impact on I&M's other ratepayers by not allowing a reduction during the first five years, limiting the reduction to a total of up to 20 percent, and requiring at least 42 months prior written notice. Pub. Ex. 3 at 9. He said Section I.A.6.a includes further protection for I&M's ratepayers by precluding an agreement being made to reduce a Large Load Customer's capacity by more than the 20 percent total without payment of a capacity reduction/termination fee if the result of that reduction is detrimental to I&M's other customers. Pub. Ex. 3 at 10. He said this safeguard helps to ensure that the rates for other ratepayers are not adversely impacted by a mutual agreement that reduces a Large Load Customer's capacity greater than a total of 20 percent. *Id.*

Mr. Inskeep testified regarding the impact of the Settlement Agreement on the Exit Fee. He testified the Settlement Agreement would result in an Exit Fee totaling more than \$1 billion for a 1,000 MW large load customer that discontinued service five or more years prior to the end of its contract term. CAC Ex. 2 at 7. He said this is a substantial Exit Fee providing significant protection to I&M and consumers should a large load customer discontinue service, as I&M will use revenues from the Exit Fee to offset remaining costs incurred to serve the customer, protecting remaining customers from rate increases associated with the loss of the large load customer. He stated the Settlement Agreement also allows the opportunity for large load customers to receive a refund on their Exit Fee should I&M successfully mitigate the impacts of the large load customer's reduction or discontinuation of service. CAC Ex. 2 at 7.

Mr. Farr testified that this provision was one example of how the modifications in the Settlement establish an appropriate degree of balance. He explained that a Large Load Customer can reduce their contract capacity beyond 20% without a fee if certain specified conditions, including I&M's agreement, are met, or if those conditions are not met, by paying an Exit Fee. Google Ex. 2 at 4-5. He noted the Exit Fee is subject to I&M's mitigation efforts to use that capacity for other purposes that would secure offsetting revenues for the Company. He said these provisions act in harmony to provide customers with reasonable flexibility in setting, and adjusting, their contract capacity while still protecting other ratepayers and I&M. He testified it is particularly important that the Exit Fee is subject to mitigation not simply through expanding service to new or existing customers, but also through other potential means. Google Ex. 2 at 5. He said this reflects a more balanced approach to setting, and mitigating, the Exit Fee by properly

keeping the burden on I&M to act prudently in making resource decisions. He said overall, the provisions described above work together to establish a greater degree of flexibility for the Large Load Customers to match potentially changing business conditions and plans than the initial set of proposed modifications. *Id.*

Mr. Fradette noted the Settlement Agreements provides flexibility which allows a Large Load Customer: (a) to reduce Contract Capacity by up to 20% without a fee upon providing notice as defined in the Settlement; and (b) to reduce Contract Capacity by an amount greater than 20%, upon providing notice as defined in the Settlement and subject to an Exit Fee, which can be mitigated. Fradette Settlement at 6. He testified this flexibility was critical in the overall evaluation and ensures a fair, just, and reasonable resolution for all Settling Parties.

The record reflects general recognition among the Settling Parties that contractual flexibility was important for Large Load Customers, but that such flexibility must be balanced against the potential risks to the Company and other customers in the event the Large Load Customer were to significantly deviate from its contractual capacity. While we recognize I&M's goal is to avoid having excess capacity in the event of a Large Load Customer ceasing operations, we must also recognize that the ideal scenario, in which another Large Load Customer establishes service resulting in a similar ongoing long-term commitment for that capacity, may not exist. Accordingly, it is important that the Commission establish safeguards in the event a Large Load Customer reduces its contract capacity or terminates its contract early while still expecting I&M to pursue alternative, if less than ideal, solutions in that event.

Through the Settlement Agreement, the Settling Parties negotiated a resolution that reasonably balances the various stakeholder concerns and positions while maintaining a reasonable balance between customer flexibility and safeguards in the event a Large Load Customer must reduce or terminate load. More specifically, the combination of terms found in Section I.A.6 of the Settlement Agreement, when taken as a whole, create a framework whereby a Large Load Customer can have a reasonable level of contractual flexibility while ensuring that significant reductions in capacity, or termination of load, do not detrimentally impact I&M's remaining customers. In particular, we note that the Settlement Agreement's resolution of this issue is reasonably designed to allow I&M to find a solution to mitigate I&M's exposure to long-term excess capacity costs while balancing that with a Large Load Customer's interest in mitigating the Exit Fee where possible. At the same time, the record shows that the Exit Fee provided for in the Settlement Agreement is substantial, totaling more than \$1 billion for a 1,000 MW Large Load Customer that discontinued service five or more years prior to the end of its contract term. CAC Ex. 2 at 7. We find these Settlement Agreement provisions, working in concert, provide significant protection to I&M and customers should a large load customer discontinue service. Accordingly, we find the Settling Parties' agreement with respect to contract flexibility and Exit Fees to be reasonable and in the public interest and should be approved.

**G. Special Contracts.** In its direct and rebuttal testimony, I&M recommended the Commission approve I&M's proposed modifications to Tariff I.P. to establish a consistent framework for the terms and conditions of basic or standard service for Large Load Customers. The Company proposed that special contracts be utilized to address unique needs or opportunities that are not available through I&M's tariffs, if, and as, they arise. In other words, under the Company's original proposal, Large Load Customers could receive electric service under Tariff

I.P. and also have a special contract to adjust their monthly electric service charges for other services, such as demand response, sustainability programs, or strategic partnerships. Pet. Ex. 2 at 4. The record shows this is commonly done today for several of I&M's Tariff I.P. customers. *Id.*

As shown in Figure AJW-2R, witnesses for Amazon, DCC, and Google testified for various reasons that it is preferable to serve large loads through terms of a negotiated special contract. *See also* Pet. Ex. 2 at 4-5, 11-14; Pet. Ex. 4 at 15. The CAC strongly agreed with I&M's decision to serve Large Load Customers under a published tariff rather than through individually negotiated special contracts, which are often kept confidential. In CAC's view the tariff approach is more transparent, administratively efficient, and fair to existing and potential new customers. CAC Ex. 1 at 22.

Mr. Williamson testified this issue was the subject of substantial discussion during settlement negotiations. He said ultimately, the Settling Parties recognized that Indiana's regulatory framework – through Indiana Code §§ 8-1-2-24 and -25 – allows customer specific contracts to be brought to the Commission. Pet. Ex. 3 at 16. He stated the Settlement Agreement balances the diverse views of the parties on this subject by recognizing this. He said put another way, the Settling Parties agreed that special contract requests from potential and existing Large Load Customers shall continue to be addressed by I&M consistent with the Company's existing practices. He noted the Settlement Agreement also provides that I&M will bring those special contracts to the Commission for review and approval in accordance with Indiana Code §§ 8-1-2-24 and -25.

Mr. Farr testified the Settlement definitively states that I&M will treat requests for special contracts consistent with the statutory provisions which allow for such contracts. He explained although I&M never proposed to eliminate such contracts, its initial proposal could be read as a limitation on the conditions under which I&M would consider this approach. Google Ex. 2 at 6. He said the language in the Settlement is important in preserving opportunities for collaboration and the development of shared solutions to provide service to Large Load Customers. More specifically, he stated it allows for the potential to pursue innovative solutions beyond the limited range of areas identified by I&M in its initial proposal. Google Ex. 2 at 6.

The Commission finds the Settlement Agreement provision related to special contracts provides clarity with respect to service under Tariff I.P. and appropriately recognizes Indiana's regulatory framework allows customer-specific contracts to be brought to the Commission. Ind. Code §§8-1-2-24 and -25. Accordingly, we approve this provision of the Settlement Agreement.

**H. Full Planning Studies.** Section I.A.8 of the Settlement Agreement provides that Full Planning Studies, including steady-state and dynamic studies, required because of the potential addition of a Large Load Customer shall be paid solely by the Large Load Customer.

Mr. Inskeep testified that this term is one of several ways the Settlement Agreement addresses concerns about cost allocation raised in his direct testimony. He said Term I.A.8 provides that Full Planning Studies that are required because of the potential addition of large load customers will be paid solely by the large load customer. He explained this helps alleviate concerns that portions of such costs could otherwise be allocated to other ratepayers in the future. CAC Ex.

2 at 7. Based on the evidence presented and the overall Settlement Agreement, we find this term reasonable.

**I. Collaboration.** Section I.A.9 of the Settlement Agreement provides that the Settling Parties will work collaboratively on topics of interest, namely a Clean Transition Tariff; Load Shedding Events, and Demand Response. Mr. Williamson testified these topics were discussed in the testimony of various witnesses, including Google witness Farr (pp. 10-12), CAC witness Inskeep (pp. 37-39); and I&M witnesses Baker (pp. 13-14) and himself (rebuttal pp. 35, 44-45). Pet. Ex. 3 at 17.

With respect to the Clean Transition Tariff, Section I.A.9.a of the Settlement Agreement provides I&M will work collaboratively with the Settling Parties to develop a new customer program tariff proposal that enables participants to support investment in carbon-free resources while ensuring that all program costs are covered by program participants and remaining consistent with the Five Pillars.

Mr. Farr testified that the Clean Transition Tariff is an optional customer program tariff proposal that enables participants to support investment in carbon-free resources, while ensuring that participating customers cover the full cost of those investments. Google Ex. 2 at 6; see also Fradette Settlement at 3-4; Berry Settlement at 3; Loomis Settlement at 3. Mr. Farr testified that I&M, obviously, could not commit to proposing such a program, but stated the willingness to work with the Large Load Customers and other Settling Parties in the potential development of such a program is important. He said from his perspective it shows an understanding of the need to work together to address the complexities inherent in addressing the energy transition and customers' own business objectives. Google Ex. 2 at 6.

The Settlement Agreement also provides a schedule for updating the Commission on these discussions. More specifically, the Settlement Agreement states I&M will target October 1, 2025, as the date for I&M to petition the Commission for approval of a proposal. I&M retains the right to make the ultimate decision as to whether to file the proposal with the Commission for approval and this decision will be informed by the collective support for the proposal among the collaborative participants. If I&M elects not to petition the Commission for approval of a proposal, the Settlement Agreement provides that I&M will notify the Commission through a compliance filing in this Cause. In doing so, I&M will explain its decision and provide the Commission with comments solicited from the collaborating participants regarding their position on the proposal. Settlement Agreement, Section I.A.9.a.

With respect to Load Shedding Events and Demand Response, the Settlement Agreement acknowledges that I&M will continue to prioritize public safety in its emergency load reduction plans. Settlement Agreement, Section I.A.9.b. Mr. Williamson testified this issue was discussed in the rebuttal testimony of I&M witness Baker – the Company's President and Chief Operating Officer. Pet. Ex. 3 at 17.

Mr. Williamson testified the Settlement Agreement provides that I&M will convene one or more meetings of the Settling Parties to discuss: 1) the Company's emergency response procedures, including required system actions that would be necessary to respond to an emergency load shedding event required by PJM that is caused by deficiencies in either transmission and/or

generation capacity and consider the potential need to modify such procedures due to the Large Load Customers; and 2) existing and potential demand response opportunities for Large Load Customers. *Id.*

Mr. Williamson noted the Settling Parties welcome a Commission representative to participate in this discussion. He said the Company will convene the initial meeting within ninety days of a Commission Final Order approving this Settlement Agreement and will file a report in this proceeding with the Commission upon conclusion of the discussion. He said these Settlement Agreement terms and the associated activities serve to reasonably address important concerns and interest of various Settling Parties in a collaborative manner. Pet. Ex. 3 at 18.

The Commission finds the Settling Parties' agreement to work collaboratively with respect to a Clean Transition Tariff; Load Shedding Events, and Demand Response to be reasonable and in the public interest. More specifically, the record shows that there is interest amongst the parties in exploring carbon-free resources. The Settlement Agreement provides that the Settling Parties will discuss an optional customer program tariff proposal that would enable participants to support investment in carbon-free resources and that I&M will report back to the Commission on the outcome of those discussions. With respect to load shedding events, the record reflects I&M regularly evaluates and practices its emergency response procedures, including required system actions that would be necessary to respond to an emergency load shedding event required by PJM caused by deficiencies in either transmission and/or generation capacity. Pet. Ex. 4 at 13. These procedures include pre-determining the sections of the electric system that are subject to forced outages during load shedding events and limiting exposure for critical customer and public infrastructure loads. *Id.* The Settlement Agreement is consistent with this testimony. Finally, with respect to demand response, the record shows I&M recognizes the importance of demand response and is committed to exploring unique opportunities with large load customers to utilize demand response to reduce I&M's future capacity obligations. Pet. Ex. 2 at 44. We find the Settlement Agreement reasonably addresses and sets forth the Settling Parties' agreement to work collaboratively to discuss existing and potential demand response opportunities for Large Load Customers. Accordingly, we approve these terms of the Settlement Agreement.

**J. Reporting.** The prefiled testimony in this Cause reflects CAC witness Inskeep (pp. 40-41) made specific recommendations regarding ongoing reporting, which he proposed occur quarterly. Mr. Inskeep's testimony also raised concerns about transparency with these new loads, and nondisclosure agreements ("NDAs") between CAC and the data center parties. *Id.* I&M's rebuttal testimony (pp. 46-47) explained that the Company understands the CAC's interest in Large Load Customers. Pet. Ex. 2 at 46-47. Mr. Williamson's rebuttal explained the CAC's specific recommendation raises some concerns, including concerns about the frequency of the reporting, the fact that the Company already reports on numerous matters, the importance of additional reporting requirements being clear and providing a benefit and not duplicating other public processes, and the need to protect the confidential and competitively-sensitive information. *Id.*

The Settling Parties agreed that I&M will report to the Commission, on a semi-annual basis, the information enumerated in the Settlement Agreement. Settlement Agreement, Section I.A.10. More specifically, the Settling Parties agree the confidential report shall include the following with respect to Large Load Customers: i) the number of executed ESAs and transmission

letters of agreement (“LOAs”) (semi-annual additions and cumulative total); ii) Contract Termination Fees assessed (number of fees assessed and dollar amount of each); iii) Notices of reduction to contract capacity with each MW reduction separately identified; iv) Status update on prospective Large Load Customers providing the number of customers and total load at the following development stages: (1) expressed interest, (2) undergoing AEP Transmission Planning internal analysis, (3) Executed LOA, (4) executed electric service agreement, and (5) site in service; v) Summary information regarding aggregate investments made by I&M to serve Large Load Customers including, but not limited to, direct connect facilities, local network upgrades, other transmission investment, and other distribution system investment (if applicable) as quantified in executed LOAs; vi) Aggregate Large Load Customer MW in service; and vii) Aggregate Large Load Customer MWh in service. Settlement Agreement, Section I.A.10.b.

The Settling Parties agreed that the reported Confidential Information shall be exempt from public disclosure, and the confidential portions of the report shall not be provided to the Large Load Customers or other competitively interested stakeholders. Settlement Agreement, Section I.A.10.a. The confidential portion of the report will be provided to the OUCC and CAC subject to agreed procedures (or, in the absence of agreement, Commission ordered procedures) for the protection of the Confidential Information. *Id.*

Per the Settlement Agreement, the first semi-annual report will be filed within six months of a Commission Final Order approving this Settlement Agreement. Settlement Agreement, Section I.A.10.c. Also, upon Commission request following the filing of any semi-annual report, copies of executed ESAs and transmission LOAs shall also be provided to the Commission, subject to the protection of the Confidential Information. The Settling Parties agreed that should the Commission request these documents, the Confidential Information will also be provided to the OUCC and CAC subject to agreed-upon or, in the absence of agreement, Commission ordered, terms of protection of the Confidential Information. *Id.* As is the case with the underlying reports, the confidential documents will not be provided to the Large Load Customers or other competitively interested stakeholders.

Section I.A.10.e of the Settlement Agreement addresses certain mechanics associated with the agreed reporting. The Settlement Agreement provides that prior to the filing of the initial report, the Settling Parties will work together to: (1) reach agreement on the terms of non-disclosure agreements; and then (2) on the content and format of a public version of the report and any other information provided to the Commission under this provision to be filed pursuant to 170 IAC 1-1.1-4(i)(2). In the event the Settling Parties are not able to reach agreement on either (1) or (2), a request for the Commission to establish such terms on these matters may be made to the Commission. Section I.A.10.f clarifies the scope of the negotiated resolution -- namely that this Settlement Agreement does not limit the ability of the Commission or any Settling Party in any future proceeding or other venue to seek information through discovery or requests for same or similar information or to request the Commission to modify or discontinue the reporting requirements.

Mr. Williamson testified in support of the agreed-upon reporting provisions. He testified that ultimately, the Settling Parties agreed that I&M will report to the Commission, on a semi-annual basis, the information enumerated in the Settlement Agreement. He noted this frequency is less often than CAC originally recommended and more often than the annual reporting preferred

by I&M. Pet. Ex. 3 at 18. He said importantly, the agreed reporting is subject to the protection of confidential and competitively sensitive information to be reported. He said it is also important to recognize the need to protect the confidential and competitively sensitive nature of the information from disclosure extends to public disclosure as well as to disclosure to data centers or other entities with a competitive interest. *Id.*

Mr. Williamson stated that due to the confidential and competitively sensitive nature of the information involved, it was challenging to wrestle with the desire for transparency and reporting. He said from I&M's perspective, as part of the negotiated settlement package, the reporting provisions reasonably balance the divergent concerns of the parties and provide a path for the Commission to resolve disputes on the terms of nondisclosure agreements and the content of public versions of the reports if necessary. Pet. Ex. 3 at 20.

Mr. Inskeep testified that regarding CAC's concern about transparency, Term I.A.10 of the Settlement Agreement establishes a new semi-annual reporting requirement for I&M on its Large Load Customers. He stated this will provide consumer advocates and the Commission with additional information at a more frequent cadence about the electricity and capacity needs of Large Load Customers, notices by those customers to reduce their contract capacity, Contract Termination Fees (Exit Fees) assessed by I&M, a status update on the "queue" of Large Load Customers in various stages of planning new facilities in I&M's service territory, and summaries of investments made by I&M to serve Large Load Customers. CAC Ex. 2 at 9. He said the CAC is especially supportive of Term I.A.10.e, which provides that Settling Parties will collaborate on reaching a non-disclosure agreement and on the content and format of a public version of the report. *Id.*

The record shows the Settling Parties have agreed to a set of reporting requirements that, taken as a whole, provide meaningful information regarding the addition of Large Load Customers in I&M's service area. The record further shows the protection of the confidential information to be submitted in the semi-annual reports is of the utmost importance to I&M, the data center parties, and the OUCC and CAC. The Settling Parties agreed to the filing in this Cause of a joint motion or other request in accordance with 170 I.A.C. 1-1.1-4(i)(2) to support the confidential treatment of the Confidential Information identified in the Settlement Agreement. As discussed in greater detail in below, the Commission finds the confidential information to be submitted in the semi-annual reports shall be made exempt from public disclosure. Accordingly, we approve the reporting provisions of the Settlement Agreement. I&M is directed to file its first semi-annual report within six months of this Order.

**K. Grid-Enhancing Technologies.** Section I.A.11 of the Settlement Agreement provides that following the submittal of its 2024 Integrated Resource Plan ("IRP") and prior to I&M's next IRP, I&M will conduct a study, with input from interested Settling Parties as to the scope of the study and with opportunities for stakeholder feedback during the course of the study, to evaluate the potential of grid-enhancing technologies, such as sensors, power flow control devices, and analytical tools that maximize the transmission of electricity across the existing system. The results of the study, to the extent applicable, will be shared (subject to agreed provisions for the protections of confidential and competitively sensitive information, including customer specific data) as part of the IRP stakeholder process and may be incorporated into the resource options considered in I&M's next IRP(s). Settlement Agreement, Section I.A.11.



Mr. Williamson discussed this settlement provision and noted many witnesses in this Cause discussed the impact of the hyperscalers on transmission. Pet. Ex. 3 at 20-21. He said to this end, the Settling Parties agreed to obtain more information for potential incorporation into the Company's IRP process.

Mr. Farr testified that as part of its next Integrated Resource Planning cycle, I&M has committed to conduct a study to evaluate the potential of grid-enhancing technologies including sensors, power flow control devices, and analytical tools that maximize the transmission of electricity across the existing system. Google Ex. 2 at 7. He said these technologies offer the potential to expand transmission capacity in a timely and cost-efficient manner and are an important part of building a grid that is reliable and affordable. He stated this commitment under the Settlement Agreement furthers the opportunities for collaborative approaches among parties to address future investment needs. *Id.*

The record shows that many witnesses in this Cause discussed the impact of the hyperscalers on transmission, including OUCC witness Kelley (p. 14), CAC witness Inskeep (pp. 18-19), I&M witness Baker (pp. 5-18), and DCC witness Higgins (p. 15). This testimony highlights the ongoing importance of transmission planning and efficiency. We find the Settling Parties' agreement to obtain more information for potential incorporation into the Company's IRP process to be supported by the evidence presented in this Cause, reasonable, and should be approved.

**L. Grid-Reliability and Addition of Large Customer Load.** Section I.A.12 of the Settlement Agreement provides that I&M (and its technical experts) will meet with interested stakeholders to discuss the process and implications of interconnecting Large Load Customers and provide an opportunity for questions and feedback from parties, including but not limited to the appropriate bar for entry into I&M's queue, queue management, interconnection requirements, and load ramping requirements. I&M also agreed to make a good faith effort to implement reasonable improvements to this process that are identified from this discussion.

Mr. Williamson testified that during the course of the settlement discussions, CAC voiced a desire to learn more about grid-reliability as it relates to the addition of these large customer loads. Pet. Ex. 3 at 21. He described the Settlement Agreement provision addressing CAC's desire and noted I&M also agreed to make a good faith effort to implement reasonable improvements to this process that are identified from this discussion. *Id.* The Commission finds the Settlement Agreement term related to grid reliability and the addition of large customer load to reasonably address the CAC's desire for additional information and find this term reasonable in light of the Settlement Agreement as a whole.

**M. Cost Allocation.** Under Section I.A.13 of the Settlement Agreement, the Settling Parties agree that the Settlement Agreement does not limit the ability of the Commission or the Settling Parties to address cost allocation issues in a subsequent proceeding.

Mr. Williamson testified that Section I.A.13 of the Settlement Agreement sets forth the Settling Parties' agreement that this Settlement Agreement does not limit the ability of the Commission, the Settling Parties, or the OUCC to address cost allocation issues in a subsequent proceeding. He said from the Company's perspective, this provision is reasonable because the

appropriate place to address cost allocation concerns is in the context of a case where the Company is proposing a change in its rates. Pet. Ex. 3 at 22.

Mr. Inskeep stated this provision allows CAC and other Settling Parties to raise cost allocation issues in other cases, such as rate cases and tracker filings. He said this is a reasonable resolution to a contested issue in this case because it allows this important issue to be more extensively examined in appropriate proceedings. CAC Ex. 2 at 8.

The Commission finds the Settling Parties' agreement with respect to cost allocation is reasonable, supported by the evidence, and reasonably resolves this contested issue.

**N. Cost of Service Study.** The Settlement Agreement provides that prior to filing its next basic rate case, I&M agrees to prepare an analysis applying a 12 coincident peak ("CP") demand allocator to the class cost-of-service study ("CCOSS"). Settlement Agreement, Section I.A.14. The Settlement Agreement notes that I&M is not obligated to propose use of the 12 CP CCOSS analysis or take a position in support of or against the analysis in its next basic rate case. I&M will include the analysis in its workpapers filed with the Commission in its next basic rate case and all parties, including I&M, will have the opportunity to take any position with respect to the aforementioned analysis as they deem appropriate in the next basic rate case and each reserves the right to present their own alternative analysis and proposals. *Id.*

Mr. Inskeep testified that the 12 CP study could be an incremental step towards improving existing cost allocation methodologies. CAC Ex. 2 at 8. He said CAC appreciates I&M's willingness to analyze this alternative cost allocation method and present its analysis as part of its next rate case, which can help lay the foundation to a constructive examination of this issue. *Id.*

The overall terms of the Settlement Agreement and the supporting settlement testimony show the agreement with respect to the cost of service study is reasonable. I&M is directed to include the 12 CP CCOSS analysis in its workpapers filed with the Commission in I&M's next basic rate case.

**O. Contribution to INCAA.** Section I.A.15 of the Settlement Agreement provides that Amazon, Microsoft, and Google each agree that, no later than six months after their respective service energization within I&M's service territory, each will provide annual funding for a period of five years to Indiana Community Action Association ("INCAA") to support income qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities, as provided in the Settlement Agreement.

Mr. Eckert testified that Amazon, Microsoft, and Google agreed to contribute to INCAA to provide customer benefits. Pub. Ex. 3 at 11. He noted the funding will support income qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities.

Mr. Inskeep testified that Settlement Agreement Term I.A.15 provides that Amazon, Microsoft, and Google each agree that, no later than six months after their respective service energization within I&M's service territory, each will provide \$500,000 per year for five years to INCAA to support income-qualified customers in Indiana, including supporting health and safety to enhance weatherization. CAC Ex. 2 at 8. He said Large Load Customers are currently able to

opt-out of utility demand-side management (“DSM”) programs and thereby avoid contributing funding to these beneficial customer programs. He explained as a long-time advocate for energy efficiency and programs to improve affordability for low-income customers, CAC is particularly appreciative that the Settlement Agreement includes this substantial funding, totaling \$7.5 million, for assistance to these customers. *Id.*

Mr. Farr explained this funding will help INCAA provide important energy assistance to customers, including assisting with health and safety investments so that energy efficiency measures can move forward. Google Ex. 2 at 7. He said this helps ensure that some customers will have access to a greater range of services than before, offering improvements to their homes and quality of life. He stated this term aligns with the three companies’ own, publicly stated, interest in pursuing efficiency; and, more importantly, is a further sign of their long-term commitment to Indiana, and the communities in which they are establishing their physical presence. *Id.*

The record reflects that, as part of the overall Settlement Agreement, Amazon, Microsoft, and Google each agree that, no later than six months after their respective service energization within I&M’s service territory, each will provide annual funding for a period of five years to INCAA to support income qualified customers in Indiana, including supporting health and safety to enhance weatherization opportunities, as provided in the Settlement Agreement. The respective Settling Parties agreement on this matter will provide valuable long-term support to enhance the quality of life for income qualified customers in Indiana. We find these customer benefits are reasonable, in the public interest, and further support approval of the Settlement Agreement as a whole.

**P. Other Matters.** Section I.A.16 of the Settlement Agreement provides that any matters not addressed by the Settlement Agreement will be adopted as proposed by I&M in its direct case. Mr. Williamson testified that this type of provision is commonly included in the Company’s settlement agreements before this Commission. Pet. Ex. 3 at 23. We find the Settling Parties’ agreement with respect to other matters is reasonable, supported by the evidence presented, and should be approved.

**Q. Tariff.** Mr. Williamson testified that Settlement Agreement Attachment A is a clean copy of the Tariff I.P. updated to reflect the terms of the Settlement Agreement. Pet. Ex. 3 at 23. Mr. Williamson also provided Attachment AJW-1S, a redlined document comparing the agreed tariff provisions to the ones originally proposed by I&M. *Id.*

**R. Ind. Code §§ 8-1-2-0.5 and -0.6.** Mr. Williamson testified that although the current filing does not fall within the scope of the matters for which the Commission has indicated utilities should provide information regarding the Five Pillars, he said I&M nonetheless recognized that the service to the Large Load Customers should align with the Five Pillars. Pet. Ex. 3 at 25. He explained that as a regulated utility, I&M has an obligation to provide a safe and reliable supply of electricity for its customers in accordance with Indiana’s Five Pillars of energy policy. *Id.* He said the Settlement Agreement supports system reliability, resiliency, and stability by providing I&M and its customers the financial assurances and appropriate tariff protections needed to make the significant and necessary financial commitments in generation resources and the transmission system for all I&M customers. He explained the Settlement Agreement supports affordability by providing Large Load Customers with access to the Tariff I.P. rate under normal business

conditions and benefiting all customers as a result of increased load. He testified in the event of a business disruption by the Large Load Customers that causes them to deviate from their plans, the agreed tariff modifications provide protections for existing customers to minimize adverse financial impacts. He said with respect to environmental sustainability, the agreed tariff modifications, if approved by the Commission, provide I&M with the financial assurances needed to make appropriate investments in a diverse portfolio of generation resources that will likely include a substantial amount of clean energy resources. *Id.* He stated additionally, the Settlement Agreement provides for collaboration on a Clean Transition Tariff that would seek to advance clean resources for Hoosier customers. *Id.*

Mr. Eckert testified the Tariff I.P. modifications agreed upon in the Settlement Agreement better address the affordability objective identified in the Five Pillars and better protect I&M's other customers from the prospect of stranded costs from load reductions by Large Load Customers. Pub. Ex. 3 at 4. More specifically, he identified the following terms as addressing the affordability pillar: 1) Mandatory Contract Term; 2) Monthly Minimum Billing Demand; 3) Minimum Charge; 4) Collateral Requirement; 5) Contractual Flexibility and Exit Fees and said these terms will provide protection to I&M's customers from the risks that attend the addition of the Large Load Customers to I&M's system. *Id.* at 4-5. Mr. Eckert testified the Settlement Agreement also addresses reliability, resiliency, and stability. Pub. Ex. 3 at 5. He explained how the terms related to load shedding events and demand response, grid-enhancing technologies, and grid-reliability highlight how I&M and the other Settling Parties can work together to achieve reliability, resiliency, and stability. *Id.* Finally, Mr. Eckert noted the Settlement Agreement addresses environmental sustainability. *Id.* at 5-6. He noted under the Settlement Agreement, I&M will work collaboratively with the Settling Parties to develop a new customer program tariff proposal that enables participants to support investment in carbon-free resources while ensuring that all program costs are covered by program participants. *Id.* at 6.

Mr. Inskeep testified the Settlement Agreement is consistent with the Five Pillars. More specifically, he stated the Settlement Agreement will help to address reliability, affordability, resiliency, stability, and environmental sustainability as new large load customers come to I&M's service territory. CAC Ex. 2 at 9. He said the strengthened contract provisions such as the longer contract term, minimum charge, and Exit Fee will provide increased certainty and stability to I&M's revenues, which will allow I&M to make investments necessary for reliability, resiliency, and stability. He said these and other Settlement Agreement provisions also guard against potential cost shifts in the event that a large load customer use less electricity than planned or discontinue service early, which is a substantial benefit to customer affordability. *Id.*

Finally, Mr. Inskeep testified the Settlement Agreement will promote environmental sustainability through (1) funding provided to INCAA that will increase low-income weatherization opportunities (Term I.A.15); (2) collaboration between parties on demand response and a clean transition tariff, which could help accelerate the adoption of environmentally sustainability sources of generation (Term I.A.9); and (3) collaboration between parties on grid enhancing technologies (Term I.A.11). CAC Ex. 2 at 9-10.

Through Ind. Code § 8-1-2-0.5, the Indiana General Assembly established the state's policy recognizing utility service affordability for present and future generations. This legislative policy states affordability should be protected when utilities invest in infrastructure necessary for system

operation and maintenance. Through Ind. Code § 8-1-2-0.6, the Indiana General Assembly declared it is the continuing policy of the state that decisions concerning Indiana's electric generation resource mix, energy infrastructure, and electric service ratemaking constructs must consider each of five pillars of electric utility service: reliability, affordability, resiliency, stability, and environmental sustainability.

The record shows I&M and the other Settling Parties gave consideration to the Five Pillars enumerated in Ind. Code § 8-1-2-0.6. The record further shows the Settlement Agreement is consistent with and promotes reliability, affordability, resiliency, stability, and environmental sustainability. Accordingly, we find the Settlement Agreement is consistent with the legislative directives and that this lends further support to our approval of the Settlement Agreement as a whole.

**11. Conclusion.** The testimony supporting the Settlement Agreement explains why the Settlement Agreement, when considered as a whole, is reasonable and in the public interest. As noted above, all customer classes, as well as Large Load Customers, were represented by the Settling Parties through the settlement discussions.

The record shows I&M is beginning to provide service to large load customers and the level of service required will be growing rapidly. Therefore, it is important that service be provided pursuant to terms and conditions that reasonably address the unprecedented size and unique risks and adequately protect I&M and its other customers. The tariff approach establishes a reasonable and balanced foundation for standard electric service which provides reasonable financial protections and customer flexibility and is consistent across similarly situated customers. Notably, the agreed-upon tariff modifications do not preclude I&M from entering into special contracts with large load customers and submitting those agreements for Commission approval. We are also persuaded to approve the Settlement Agreement because all parties of record, representing diverse interests, are signatories to the Settlement Agreement and they each recommend approval of the agreement.

Based upon our review of the record as a whole and consideration of the Settlement Agreement terms in totality and the admitted testimony and exhibits, the Commission finds that the Settlement Agreement represents a just and reasonable resolution of the issues. The Commission further finds the Settlement Agreement is reasonable, supported by substantial evidence, and in the public interest. Accordingly, the Settlement Agreement is approved in its entirety.

**12. Effect of Settlement Agreement.** The Settling Parties agreed that the Settlement Agreement and each term, condition, methodology, and exclusion contained therein reflect a fair, just, and reasonable resolution and compromise for the purpose of settlement in this proceeding, and that the Settlement Agreement shall not constitute, and shall not be used as, precedent or be deemed an admission by any person or entity in any other proceeding before the Commission except to the extent necessary to implement or enforce this Settlement Agreement. Consequently, with regard to future citation of the Settlement Agreement or of this Order, the Commission finds our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at 7-8 (Ind. Util. Reg. Comm'n Mar. 19, 1997).

**13. Confidential Information.** Motions seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3 were filed by Amazon on August 26, 2024, and by I&M on November 4, 2024. Each request was supported by affidavit showing certain documents to be admitted into evidence contained trade secret information within the scope of Ind. Code § 5-14-3-4(a)(4) and Ind. Code § 24-2-3-2. On September 6, 2024 and November 6, 2024, the Presiding Officers issued docket entries finding such information confidential on a preliminary basis. Subsequent to the docket entries, the parties submitted designated confidential information.

On December 12, 2024, the Settling Parties submitted a Joint Motion requesting that designated customer-specific and confidential information be submitted in accordance with the reporting requirements set forth in the Settlement Agreement and be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The Joint Motion was supported by affidavits from I&M witness Williamson and from Ms. Amanda Peterson Corio, Director of Clean Energy and Power at Google, and requested that the Commission Order in this Cause make a determination that the confidential versions of the semi-annual Large Load Customer reports be exempt from public disclosure so as to permit I&M to submit the reports under seal. We find it administratively efficient to address and approve the Settling Parties' request now, rather than require the Settling Parties to support each report on a filing-by-filing basis, as it is reasonably anticipated that the types of confidential information to be provided in each report will remain consistent.

After reviewing the designated confidential information, we find all such information qualifies as confidential trade secret information pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. Each moving party takes reasonable steps to maintain the secrecy of the information, and disclosure of such information would cause harm to the moving party. Therefore, we find that this information (including the confidential information submitted pursuant to the reporting requirements approved herein) should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29 and held confidential and protected from public disclosure by this Commission.

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

1. The Settlement Agreement, a copy of which is attached to this Order, is approved.
2. I&M's proposed Tariff I.P., as modified by the Settlement Agreement and shown in Settlement Agreement Attachment A, is approved.
3. Prior to implementing its revised Tariff I.P., I&M shall file the tariff under this Cause for approval by the Commission's Energy Division. Such tariff shall be effective on or after the Order date subject to Division review and agreement.
4. The information submitted or to be submitted under seal in this Cause pursuant to the parties' requests for confidential treatment, including the confidential versions of the Large Load Customer reports, is determined to be confidential trade secret information as defined in Ind.

Code § 24-2-3-2 and shall be held as confidential and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

5. I&M shall file semi-annual Large Load Customer reports under this Cause consistent with the Settlement Agreement. I&M shall file its first report within six months of the date of this Order.

6. I&M is directed to include the 12 CP CCOSS analysis in its workpapers filed with the Commission in I&M's next basic rate case.

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

**HUSTON, BENNETT, FREEMAN, VELETA AND ZIEGNER CONCUR:  
APPROVED:**

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

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Dana Kosco  
Secretary of the Commission

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