

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION'S)
INVESTIGATION INTO THE REQUIRED)
PARTICIPATION OF CERTAIN LARGE)
CUSTOMERS IN JURISDICTIONAL ELECTRIC)
UTILITY DEMAND SIDE MANAGEMENT)
PROGRAMS AND ANY ASSOCIATED IMPACTS ON)
A UTILITY'S ANNUAL ENERGY SAVINGS GOALS)
ESTABLISHED IN THE PHASE II ORDER IN CAUSE)
NO. 42693)

CAUSE NO. 44441

APPROVED:

JAN 15 2014

RESPONDENTS: INDIANA REGULATED ELECTRIC)
UTILITIES SUBJECT TO THE PHASE II ORDER)

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Loraine L. Seyfried, Chief Administrative Law Judge

On December 9, 2009, the Indiana Utility Regulatory Commission (“Commission”) issued its Phase II Order in Cause No. 42693 (“Phase II Order”) wherein it found, among other things, that demand side management (“DSM”) must be available to all customer classes to ensure that every Indiana energy consumer has the opportunity to benefit from energy cost reductions that can be achieved through energy efficiency improvements. Phase II Order at 29. Consequently, the Commission established annual energy savings goals for all jurisdictional electric utilities designed to meet an overall goal of 2% annual cost-effective DSM savings within ten years. *Id.* at 30-31. The energy savings goals, while not mandates, were established to ensure all DSM opportunities for all customer classes were fully pursued. We explained that such a broad approach should help ensure that significant reservoirs of untapped cost-effective energy efficiency potential were not omitted from consideration. *Id.* at 30. Nonetheless, the Commission specifically indicated that it was not foreclosing possible consideration of opt-out provisions at some future date. *Id.*

On February 27, 2013, the Commission issued an Order initiating an investigation in Cause No. 44310 to consider “whether to pursue the adoption of a ‘structured’ self-direct DSM program for certain large customers. Specifically, whether the DSM expense allocated to certain large customers for Core and Core Plus Programs should be utilized to fund a self-direct DSM program whereby these qualifying customers may access the funds, or receive credits, to complete defined energy efficiency projects that are subject to evaluation, measurement and verification.” (Order at 1). In establishing the procedural schedule for the investigation, the Presiding Officers’ March 28, 2013 Docket Entry specifically provided that, “related issues, such as opt-out programs and the energy savings goals established in Cause No. 42693, will not be addressed....”

Now further informed by the various positions of the parties in the Cause No. 44310, and concerned that the efforts which would be required to effectuate a structured self-direct DSM program after an order establishing the reasonable parameters for such an offering would not be insignificant, the Commission is persuaded that administrative efficiency is best served by more fully exploring alternative solutions beyond the stated purpose of that proceeding. Although we remain convinced that cost-effective DSM offerings must be available to all customer classes and market segments, we recognize that economic drivers outside the present model may serve as powerful incentives toward that objective. Therefore, we open this investigation to undertake a critical review on the continued reasonableness of certain large customer participation in utility sponsored and Commission regulated DSM programs. This investigation will occur on an expedited basis to ensure continued implementation of the Phase II Order requirements for the submission of three-year DSM plans by the regulated electric utilities and the continued offering of Core Programs. The investigation will also consider any associated and necessary revisions to the energy savings goals established in the Phase II Order.

1. Commission Jurisdiction and Review. Pursuant to Ind. Code § 8-1-2-58, investigations such as this one may be summarily made, with or without notice. If the Commission becomes satisfied that sufficient grounds exist to warrant a hearing pertinent to the matters investigated, Ind. Code § 8-1-2-59 requires that the public utility involved be furnished a statement notifying it of the matters under investigation. In addition to the foregoing statutory provisions, the Commission notes that the Indiana Court of Appeals has specifically found that inherent in this grant of power is the implicit power and authority to “do that which is necessary to effectuate the regulatory scheme.” *South Eastern Indiana Natural Gas v. Ingram*, 617 N.E.2d 943, 948 (Ind. Ct. App. 1993).

The Commission has broad discretion to investigate matters pertinent to public utilities operating within the state. Ind. Code § 8-1-2-58 states:

Whenever the commission shall believe that any rate or charge may be unreasonable or unjustly discriminatory or that any service is inadequate, or can not be obtained, or that an investigation of any matters relating to any public utility should for any reason be made, it may, on its own motion, summarily investigate the same, with or without notice.

Ind. Code § 8-1-2-1(a) defines “public utility” as follows:

...every corporation, company, partnership, limited liability company, individual, association of individuals, their lessees, trustees, or receivers appointed by the court, that may own, operate, manage, or control any plant or equipment within the state for the:

* * *

(2) Production, transmission, delivery or furnishing of heat, light water or power....

Accordingly, the Commission has jurisdiction over the subject matter of this investigation.

2. **Parties.** As this investigation will consider issues associated with the continued implementation of utility sponsored DSM programs and the savings goals established in the Phase II Order for regulated electric utilities, we find that all regulated electric utilities operating within the State of Indiana subject to the Phase II Order should be named Respondents in this Cause and served with a copy of this Order. The Indiana Office of Utility Consumer Counselor should also be included on the service list and participate in this proceeding. In addition, we are aware that certain industrial customers, industrial consumer groups and other advocacy groups will have an interest in the issues that will be investigated in this proceeding and we encourage them to intervene herein.

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

1. An investigation is hereby commenced to allow the Commission to consider and review the reasonableness of continuing to require the participation of certain large customers in utility sponsored and Commission regulated DSM programs and any associated impacts on the energy savings goals established in the Phase II Order.

2. A Preliminary Hearing and Prehearing Conference to establish a procedural schedule is set for February 3, 2014 at 9:30 a.m. local time in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana.

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

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JAN 15 2014

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



**Brenda A. Howe
Secretary to the Commission**