

FILED

JUN 24 2015

INDIANA UTILITY

REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY)
 INDIANA, INC. FOR (i) APPROVAL OF)
 FOUR (4) SOLAR PURCHASED POWER)
 AGREEMENT; (ii) TIMELY RECOVERY)
 OF THE RETAIL JURISDICTIONAL)
 PORTION OF PURCHASED POWER COSTS)
 THROUGH RETAIL RATES PURSUANT)
 TO INDIANA CODE 8-1-8.8; (iii) APPROVAL)
 OF AN ALTERNATIVE REGULATORY)
 PLAN PURSUANT TO INDIANA CODE)
 § 8-1-2.5-1 *ET SEQ.* FOR A MODIFICATION)
 TO ITS *GOGREEN* STANDARD CONTRACT)
 RIDER NO. 56; AND (iv) CONFIDENTIAL)
 TREATMENT OF PRICING AND OTHER)
 PROPRIETARY TERMS OF THE)
 PURCHASED POWER AGREEMENTS)

CAUSE NO. 44578

DUKE INDUSTRIAL GROUP'S RESPONSE TO DUKE'S PROPOSED ORDER

In response to the case presented by Duke and Duke's proposed order, the Duke Industrial Group responds that the Commission should reject Duke's proposal in this proceeding for the following reasons:

1. The Commission should not permit Duke to pass to its ratepayers the cost of Duke's obligations under a settlement agreement never approved by the Commission or ratepayers. In this proceeding, Duke admitted the following:
 - a. Duke entered into a settlement agreement with CAC and others in its air permit proceeding at IDEM relating to the Edwardsport plant.
 - b. The agreement provides for certain "Duke Energy Obligations." Specifically Duke's settlement agreement provides that Duke will retire certain coal generating assets and replace them with electric generation from renewable sources.
 - c. Duke proposes to satisfy some of the "Duke Energy Obligations" through entering the four Purchase Power Agreements ("PPAs") included in this proceeding and to have the ratepayers pay the cost of satisfying those "Duke Energy Obligations" through a tracker. See Tr. 65-66.

Duke would have this Commission turn the Duke Energy Obligations into Duke Ratepayer Obligations. The Commission should not allow this transfer of duty in this proceeding.

Duke can and should fulfill its obligations under the settlement at its own cost. Duke does not need to be able to track the costs to proceed with the four projects. In fact, Duke does not need Commission approval to proceed with the four projects.

After fulfilling the Duke Energy Obligations by undertaking these projects at its own expense, Duke will be able seek rate relief for the projects as part of its next rate case. No legitimate justification has been, or could be, presented to justify shifting Duke Energy's Obligations to ratepayers through a tracker at this time.

2. The Commission should not permit Duke to pass the costs of the PPAs on to ratepayers at this time because of Duke's inaccurate and excessive cost-allocation proposal.

Duke proposes to recover the costs volumetrically through its FAC tracker. Generation costs are historically allocated on demand. Indiana & Michigan Power, Cause No.44075, p. 116-17 (Feb. 13, 2013). SIGECO, Cause No. 43839, p. 64 (Apr. 27, 2011). Utility owned solar generation has recently been allocated on demand. Indiana & Michigan Power, Cause No. 44511, p 11 (Feb. 4, 2015).

Duke models this matter off wind PPAs, but solar generation is clearly distinguishable from wind. Duke's economic analysis in support of this proceeding assigned the solar PPAs significant capacity value. "The equivalent annual capacity value for the twenty (20) MWs of nameplate solar contracts using the MISO methodology resulted in assigning approximately fourteen (14) MWs for the combined solar contracts, or seventy percent (70%) of nameplate capacity." Petitioner's Ex. A, p. 11.

Recognizing cost-causation principles would result in assigning any of these costs that were to be approved for recovery from ratepayers on the basis of demand. Therefore, to the extent the Commission authorizes tracker recovery for these costs, Duke could include them in Rider 70, which is allocated on demand.¹

As has been shown to this Commission, Duke's last rate case demand allocation factors are no longer accurate. As shown in the testimony of Nick Phillips, since Duke's 2002 cost of service study, overall sales have increased by 10% but HLF sales have decreased by 12%. Phillips Testimony, page 9. The Commission should not enable Duke to continue to avoid a rate case and misallocate costs by expanding tracking treatment, using inaccurate allocation methods and inaccurate allocators. Such a result would be unjust and unreasonable.

¹ Duke already plans to include the MISO Zonal Resource Credits associated with the PPAs in Rider 70.

3. Duke's proposal is not reasonable and necessary.

Turning to the "reasonable and necessary" standard under Indiana Code § 8-1-8.8-11, the evidence shows that Duke's proposal does not meet this standard. It was undisputed that Duke has no current need for capacity. Neither Duke's most recently filed IRP, nor its 2014 summer reliability presentation (Ex. NP-1) called for the addition of capacity in 2015-2016. The timing of adding this solar generation is driven by the Duke Energy Obligations under its unapproved settlement agreement. Duke's IRP also noted that the cost of solar generation is declining. Lower costs in the future will facilitate Duke's requirement of making a reasonable proposal. If another basis for rejecting Duke's proposal were needed, requiring Duke to fund its obligations until its proposal meets the "reasonable and necessary" standard is a good basis.

4. Conclusion.

Duke's cost-recovery proposal must be denied in this proceeding. The solar projects do not meet the reasonable and necessary standard under Indiana Code § 8-1-8.8-11, and its proposed tracker and cost allocation methods are not reasonable. Duke can meet the Duke Energy Obligations by going forward with the PPAs² at Duke's expense as it should. Duke can, and the Commission should require Duke to, forego cost recovery from ratepayers until its next rate case where a proper allocation can be put in place and Duke may be able to satisfy the reasonable and necessary requirement.³

Respectfully submitted,

LEWIS & KAPPES, P.C.

/s/ Jennifer W. Terry

Timothy L. Stewart, Atty No. 2189-49

Jennifer W. Terry, Atty No. 21145-53-A

LEWIS & KAPPES, P.C.
One American Square, Ste. 2500
Indianapolis, Indiana 46282
Telephone: (317) 639-1210
Facsimile: (317) 639-4882
Email: TStewart@Lewis-Kappes.com
JTerry@Lewis-Kappes.com

² While the PPAs are conditioned on cost recovery to Duke's satisfaction, the Settlement Agreement is not.

³ We note that Duke ignores the parts of the settlement agreement which could result in saved costs to the Company. Under the settlement agreement Duke commits to retire several coal-fired generation units. Duke fails to net the new solar project costs against any cost savings from retiring the coal units.

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing document was served via electronic mail, hard copies available upon request, this 24th day of June, 2015, upon the following:

<p>Melanie Price Kelley A. Karn DUKE ENERGY BUSINESS SERVICES LLC 1000 East Main Street Plainfield, IN 46168 Melanie.price@duke-energy.com Kelley.karn@duke-energy.com</p> <p>Anne E. Becker LEWIS & KAPPES, P.C. One American Square, Suite 2500 Indianapolis, IN 46282-0003 abecker@lewis-kappes.com</p>	<p>A. David Stippler Randall Helmen Jeffrey Reed OFFICE OF UTILITY CONSUMER COUNSELOR 115 West Washington Street, Suite 1500 South Indianapolis, IN 46204 dstippler@oucc.in.gov rhelmen@oucc.in.gov jreed@oucc.in.gov infomgt@oucc.in.gov</p>
--	---

/s/ Jennifer W. Terry
Jennifer W. Terry

LEWIS & KAPPES, P.C.
One American Square, Suite 2500
Indianapolis, IN 46282-0003
Telephone: (317) 639-1210
Facsimile: (317) 639-4882