STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY INDIANA, INC. FOR (i) APPROVAL OF FOUR (4) SOLAR PURCHASED POWER AGREEMENTS; (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 § 8-1-2.5-1ETSEQ. FORA 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

NUCOR STEEL-INDIANA'S RESPONSE TO DUKE ENERGY'S AND OUCC'S PROPOSED ORDERS[1]

Nucor Steel-Indiana, a division of Nucor Corporation ("Nucor"), by counsel, files its response to Duke Energy Indiana, Inc.'s ("DEI") and the Office of Utility Consumer Counselor's ("OUCC") Proposed Orders in the above captioned cause and requests that the Indiana Utility Regulatory Commission reject the requested relief for the following reasons:

1. Duke Energy Indiana's 2013 Integrated Resource Plan Reflects No Demonstrated Need for Solar until 2018.

Under the Indiana Utility Regulatory Commission's ("Commission") own administrative rules, jurisdictional electric utilities are required to submit Integrated Resource Plans (IRPs) every two years. *See* 170 IAC 4-7 et. seq. These biennially required filings describe how the utility plans to deliver safe, reliable, and efficient electricity at just and reasonable rates. DEI's most recent IRP was filed with the Commission on November 1, 2013. A review of DEI's 2013 IRP reflects

[1] Nucor also incorporates by reference the arguments raised by the Duke Industrial Group to the extent they are not addressed in Nucor's own Response.

that DEI's own plan, which contains a planning assumption that a "generic legislative (renewable) requirement will be imposed at either the state or federal level" has no demonstrated need for solar generation *until* 2018 (*See* DEI's 2013 IRP, p. 9, Administrative Notice granted March 2, 2015). Yet, despite DEI's own projections of its future generation needs, DEI has prematurely and without justification, "shoehorned" a solar generation PPA proposal to meet a contractual obligation without sufficient justification to add generation outside of its own planning horizon. Moreover, the 2013 IRP's solar generation addition that is projected for 2018 is also predicated upon a statutory renewable generation requirement even though DEI acknowledges, in its rebuttal testimony, that even today there are no state or federal mandates in place. *See* Northrup Rebuttal at p. 4. Furthermore, the 2013 IRP implicates possibly 60 MW of solar generation in 2018 yet DEI is proposing instead, today, curiously 20 MW.

Attempts to gloss over the inconsistencies between DEI's own IRP and the solar PPA proposal with respect to the timing of possible solar generation additions as well as the size of the addition by suggesting retirement of certain DEI generation units necessitates such additions, fails as well.[2] DEI's 2013 IRP contemplates the closings of these units without solar additions now claim to be needed now due to these retirements. (*See* DEI's 2013 IRP, p. 8 and 12. *See* also, Table 1-A: Portolio Details reflecting DEI's Portfolio scenarios all which include the closing of WR units 2-6.).

DEI's justification for the proposed solar PPAs is conclusory and without merit given its own 2013 IRP. DEI currently in its planning process for its 2015 IRP. Given the upcoming filing, it would behoove DEI to wait until its 2015 IRP is filed with the Commission which would presumably contain updated generation analysis as well as any state or federal renewable mandates.

[2] *See* Northrup Rebuttal at p. 3

2. The Proposed Solar PPA Framework and its Cost Recovery is Flawed and Without Merit

Assuming, *arguendo*, that DEI can demonstrate a present need for solar, which Nucor disputes, the proposed solar PPAs as well as the regulatory framework, as outlined by DEI witnesses, is flawed and fails to meet the Commission's requirements that rates be just and reasonable. DEI chose to unilaterally put out a request for proposal for solar generation to meet its own legal obligations contained in a settlement agreement which was never presented to the Commission for review or approval. While DEI may be free to enter into contractual arrangements as it sees fit, including the Edwardsport Air Permit Settlement, what it is not free to do is to take the cost and regulatory implications of those contractual arrangements and to pass them onto the ratepayers in the "after the fact" inherently flawed.[3] The evidence presented reflects that:

a. DEI drafted and issued the solar RFPs without any input from any of the parties to whom it now attempts to pass on the solar PPA costs;

b. DEI alone created the parameters of the cost/benefit analysis of the RFP responses received to determine the winning bids, which on a stand-alone basis, 2 of the 4 awarded bids are actually not cost-effective[4];

c. DEI alone drafted the contract terms for the solar PPAs including the language regarding price payable by DEI and the basis of such;

d. DEI alone determined that it would allow intercompany transfers or sales of the REC credits without any "walls" or codes of conduct governing the affiliate relationships regarding the intercompany transfers or sales;

[3] Nucor also notes that it was not a party to the Edwardsport Air Permit Settlement Agreement (Cause No. 44578 IURC Hearing Transcript, Northrup at p. 78).
[4] *Id.* at 57.

e. DEI alone determined that it will decide what the "market" price will be for the RECs without providing any transparency regarding how it ultimately makes the determination of the REC "market";

f. DEI's stated "need" to gain experience with multiple renewable projects on its grid ignores the reality of DEI's own experience to date regarding renewable energy. DEI witness Northrup noted that he is responsible for all six DEI regulated jurisdictions, his team was responsible for providing the analysis and Mr. Northrup testified "[he has] participated in all jurisdictions". *Id.* at 73. And, DEI already has had experience here in Indiana with its Go Green Program, which was first approved by this Commission over 9 years ago in which the Petitioner also sought "experience" in renewable energy[5].

g. OUCC's proposed after the fact annual reporting requirements and proposed sunset review of the REC transactions provides only an arithmetic confirmation of the calculations provided solely by DEI. Additionally the review lacks consumer protections including but not limited to "clawbacks" to the ratepayers benefit[6];

In sum, DEI's requested relief should be denied. DEI fails to meet its requisite burden that the solar PPA proposal benefits consumers. The proposed solar PPA is merely a guise to cover the costs DEI has incurred by entering into a contractual arrangement regarding its Edwardsport Air Permit Settlement Agreement. That settlement agreement was never presented to the Commission for review or approval. The proposed solar PPAs now before us, being "shoehorned" into DEI's generation portfolio, is really an effort to meet DEI's legal obligations to third parties and to pass those costs onto ratepayers, including Nucor, who was not a party of the underlying settlement agreement. For all of these reasons, the Petitioner's requested relief should be denied.

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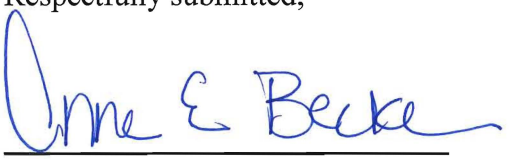
[5] *See* DEI Petition in IURC Cause No. 44283.
[6] *See* OUCC redlines to DEI's Proposed Order in this docket.

Respectfully submitted,



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CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing document have been served upon the following via electronic mail, this 24th day of June, 2015:

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