

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF DUKE ENERGY INDIANA, LLC)
FOR APPROVAL OF A SOLAR SERVICES)
PROGRAM TARIFF, RIDER NO. 26, AND)
APPROVAL OF ALTERNATIVE REGULATORY)
PLAN (“ARP”) AND DECLINATION OF)
JURISDICTION TO THE EXTENT REQUIRED)
UNER IND. CODE 8-1-2.5-1, EST. SEQ.)**

CAUSE NO. 45145

SUBMISSION OF DIRECT TESTIMONY AND ATTACHMENTS OF CAC

Citizens Action Coalition of Indiana, Inc. (“CAC”), respectfully submit the Testimony and Attachments of Kerwin Olson (CAC Exhibit 1) in the above referenced Cause to the Indiana Utility Regulatory Commission.

Respectfully submitted,



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CERTIFICATE OF SERVICE


The undersigned counsel hereby certifies that a copy of the foregoing document was served via electronic mail, this 14th day of January, 2019:

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CAUSE NO. 45145

DIRECT TESTIMONY OF KERWIN OLSON

ON BEHALF OF

CITIZENS ACTION COALITION OF INDIANA

January 14, 2019

1 **Q. Please state your name, position and business address.**

2 A. My name is Kerwin L. Olson, and I am the Executive Director of Citizens Action
3 Coalition of Indiana, Inc. (“CAC”). My business address is 1915 West 18th Street, Suite
4 C, Indianapolis, Indiana 46202.

5 **Q. Please describe your current responsibilities.**

6 A. I have served as CAC’s Executive Director since June of 2011. I am CAC’s chief public
7 policy spokesperson and its chief operating officer and am responsible to its Board of
8 Directors for the overall program and operations management of the organization. Major
9 priorities are established by CAC’s membership at its annual meetings and broad policies
10 are adopted by the Board of Directors at its quarterly meetings. I provide development,
11 supervision and coordination for the implementation of policies and programs based on
12 these priorities. My current responsibilities also include: issue and policy research;
13 lobbying at the Statehouse; legislative outreach and education; community and media
14 outreach; writing press releases, guest columns and op-ed columns; and community and
15 member organizing. I am also CAC’s representative on the board of the Indiana Coalition
16 for Human Services and for other organizations and committees, and I supervise CAC’s
17 participation on numerous energy efficiency and demand-side-management collaborative
18 oversight boards.

19 **Q. Please briefly summarize your prior employment and educational background.**

20 A. I studied American History at the University of Chicago from 1986 to 1989. I joined the
21 staff at CAC thirteen years ago in 2005, working in member outreach. In 2006, I became
22 CAC’s Public Outreach Coordinator, served briefly as its Phone Canvass Director in
23 early 2008, and then served as CAC’s Program Director from the beginning of April of

1 2008. My responsibilities included performing (and supervising others who performed)
2 research on energy and regulatory issues. I have been CAC's primary legislative liaison
3 since 2008. I have served as the Executive Director of CAC since June of 2011. I have
4 attended numerous workshops and seminars on energy, energy efficiency, low-income
5 and consumer issues, renewable energy, coal, coal gasification, carbon capture and
6 sequestration, biomass and bio-fuels, and nuclear energy.

7 **Q. Have you previously filed testimony before the Indiana Utility Regulatory**
8 **Commission ("IURC" or "Commission")?**

9 A. I have testified before the Commission numerous times, including in Cause Nos. 43114
10 IGCC-4S1, 43114 IGCC 5, 43114 IGCC 6, 43114 IGCC 7, 43114 IGCC 9, 43114 IGCC-
11 4S3, 43114 IGCC-15, 43653 (Duke CCS study), 43669 (gas universal service programs),
12 43839 (SIGECO rates), 43912 (NIPSCO DSM), 43922 (NIPSCO Feed-In Tariff), 43967
13 (Indiana Gasification), 44067 (SIGECO Dense Pack), 44310 (Self-Direct Investigation),
14 44339 (IPL CCGT and HSS Refueling), 44393 (NIPSCO Feed-In Tariff 2.0), 44441
15 (Implementation of SEA 340), 44478 (IPL EV), 44720 (Duke TDSIC), 44765 (Duke
16 CCR), 44872 (NIPSCO CCR), 44910 (Vectren TDSIC), 44963 (DEI AMI Opt Out
17 Tariff), 44945 (IPL 2018-2020 DSM), 44967 (I&M rate case), 44988 (NIPSCO-GAS rate
18 case), 45011 (NIPSCO Electric DSM), 45012 (NIPSCO Gas DSM), 45029 (IPL rate
19 case), 45052 (Vectren Gas CCGT CPCN), 45086 (Vectren 50 MW Solar Project), and
20 45142 (Indiana-American rate case). In addition, my duties require me to testify before
21 several of the Indiana General Assembly's House and Senate committees and participate
22 in panel discussions in public forums.

23

1 **Q. On whose behalf are you testifying?**

2 A. I am testifying on behalf of CAC.

3 **Q. What did you do to prepare yourself to testify for this proceeding?**

4 A. I reviewed the pre-filed direct testimony of Duke witness Ritch and reviewed most of the
5 discovery in the case. I have also spoken to multiple members of the public regarding
6 Duke's investment in clean energy. Additionally, I participated in conversations with
7 representatives of the Company, the OUCC, and Wal-Mart.

8 **Q. What is CAC's position on solar energy generally?**

9 A. CAC has been a strong proponent of solar energy for decades. We support an "all-of-the-
10 above" solar strategy. This includes our support for utilities building and owning utility-
11 scale solar projects, assuming the costs to be recovered from ratepayers are reasonable.
12 We also support, and would prefer that, utilities enter into long-term power purchase
13 agreements ("PPAs") for the procurement of solar energy from third parties, assuming
14 the costs of the PPAs are reasonable. We have been and remain strong advocates for a
15 renewable energy standard, including a solar set-aside, which would help motivate
16 utilities to begin their transition away from fossil fuels.

17 We also support policies which enable and encourage individual customers, both
18 big and small, to have the ability to install, operate, own, and utilize solar energy and
19 other renewable resources on their own properties, which we feel is their absolute right.
20 And we support policies which would enable customers, both big and small, to procure or
21 otherwise purchase solar energy for their own use at their businesses and homes from a
22 third party or through a collective arrangement like a community-owned and -operated
23 solar project, assuming those arrangements and contracts do not bring excessive harm to

1 non-participating customers, most notably households on fixed- and low-incomes.

2 Recent analysis and reports from state, national, and global entities clearly display
3 the immediacy of the climate crisis. Therefore, it is a moral imperative that we, as a State,
4 do all we can to decarbonize the grid as quickly as we can. We should use all of the tools
5 in the toolbox and begin that transition immediately.

6 **Q. You mentioned recent analysis and reports from State entities related to the climate
7 crisis. Please elaborate.**

8 A. The Purdue Climate Change Research Center (“PCCRC”)¹ is working on a series of
9 reports² which shows how the climate crisis will impact our State and our communities.
10 The reports are also known as the Indiana Climate Change Impacts Assessment.³ The
11 PCCRC describes the effort on their website:

12 *The Indiana Climate Change Impacts Assessment (INCCIA) provides*
13 *accessible, credible climate science to Hoosiers, allowing us to better*
14 *understand climate change-related risks and build more effective plans for*
15 *a more productive future.*⁴

16 Among many other findings, the reports warn us that:

17 *Indiana’s climate is changing. Temperatures are rising, more*
18 *precipitation is falling and the last spring frost of the year has been*
19 *getting steadily earlier.*

20
21 *The data, going in some cases back to 1895, show clear trends, and there*
22 *are no signs of them stopping or reversing. In some cases, these have been*
23 *slow progressions. But the speed with which these changes occur has*
24 *increased significantly in recent decades.*

25
26 *Projections show the pace picking up even more speed as heat-trapping*
27 *gases, produced by humans burning fossil fuels, continue accumulating in*
28 *the atmosphere. Indiana will continue to warm, more precipitation will*
29 *fall, and extremely hot days will be common in many parts of the state.*

¹ <https://ag.purdue.edu/climate/>

² <https://ag.purdue.edu/indianaclimate/>

³ <https://ag.purdue.edu/indianaclimate/about/>

⁴ *Id.*

1 *These changing climate patterns affect us individually and affect many*
2 *aspects of our society, including human health, public infrastructure,*
3 *water resources, agriculture, energy use, urban environments, and*
4 *ecosystems.*

5 To date, the PCCRC has released reports related to climate, health, forest ecosystems,
6 urban green space, agriculture, aquatic ecosystems, and tourism and recreation. Reports
7 discussing water, energy, and infrastructure are forthcoming.

8 **Q. You mention recent analyses and reports from global and national entities related to**
9 **the climate crisis. Please elaborate.**

10 A. Yes. In October 2018, the Intergovernmental Panel on Climate Change (“IPCC”) released
11 its “Special Report on Global Warming of 1.5°C”.⁵ The following month in November,
12 the Trump Administration released the “Fourth National Climate Assessment, Volume II:
13 Impacts, Risks, and Adaptation in the United States”⁶.

14 National Geographic published an article⁷ on November 23, 2018 summarizing
15 the Trump Administration report, while also discussing the IPCC report. The article
16 points out findings in the reports which should be of concern to Hoosiers, especially this
17 discussion related to agriculture which was included in the Fourth National Climate
18 Assessment:

19 *Notably, the new report also examines how climate change is affecting*
20 *different sectors of the economy—like agriculture, forests, or fisheries—*
21 *and highlights how they are vulnerable to future change. If climate change*
22 *continues unabated, the report says, the agricultural sector’s annual*
23 *losses could reach billions of dollars by the middle of the century.*⁸

24 Additionally, the article informs us of the imminent threats of the climate crisis

⁵ <https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>

⁶ <https://nca2018.globalchange.gov/>

⁷ <https://www.nationalgeographic.com/environment/2018/11/climate-change-US-report0/>

⁸ *Id.*

1 highlighted in the IPCC report, with dire consequences potentially occurring as soon as
2 2030:

3 *The new document follows on the heels of another widely publicized*
4 *report by the UN's Intergovernmental Panel on Climate Change, which*
5 *spoke bluntly about the challenges the planet faces in limiting the*
6 *damages of climate change. Without aggressive action to control carbon*
7 *emissions, that report warns, climate change could wreak havoc on the*
8 *world's economy, social structures, and natural resources by 2030.*

9 *Taken together, the reports spell out a message of urgency.*⁹

10 In December 2018, Fox News reported on a new analysis released by The Global
11 Carbon Project¹⁰ which informed us that global carbon dioxide emissions increased by an
12 estimated 2.5% in 2018.¹¹ Fox News informed that the United States showed a significant
13 rise in emissions — up 2.5 percent — for the first time since 2013.¹²

14 Lastly, on January 9th of this year, the NY Times reported that America's carbon
15 dioxide emissions rose by 3.4 percent in 2018, the biggest increase in eight years,
16 according to a preliminary estimate published Tuesday.¹³

17 All of these reports, including the work currently being done by the PCCRC,
18 should motivate all of us to do all that we can to mitigate the impacts of the climate crisis.
19 As I previously stated, we need to use all of the tools in the toolbox to decarbonize the
20 electric grid as quickly as possible and transition immediately to clean energy. In my
21 opinion, this means that we must be very deliberate in our work, always having an eye
22 towards greenhouse gas emission reductions and the impact on the climate crisis in each
23 and every case in which we are engaged.

⁹ *Id.*

¹⁰ <http://www.globalcarbonproject.org/>

¹¹ <https://www.foxnews.com/science/carbon-dioxide-emissions-rise-in-2018-scientists-say>

¹² *Id.*

¹³ <https://www.nytimes.com/2019/01/08/climate/greenhouse-gas-emissions-increase.html>

1 **Q. What is CAC’s position on Duke’s request to implement a solar leasing program for**
2 **non-residential customers?**

3 A. While CAC has some concerns and will make certain recommendations, we are
4 supportive of the program. CAC has had multiple discussions over the years with non-
5 profit entities, like churches and schools, who have a very strong desire to install solar-
6 energy on their properties for economic reasons and for environmental stewardship
7 reasons, primarily in response to the climate crisis. Virtually all these entities lack the
8 upfront capital to make the investment. Additionally, these entities lack the tax liability to
9 take advantage of the federal tax credit. This program will enable these entities to have
10 solar installed on their properties and will likely lead to at least 12 additional MWs of
11 solar energy being installed in Indiana which otherwise would not have been installed
12 absent the approval of the program. This program would be another tool in the toolbox in
13 the transition to clean energy in Indiana.

14 **Q. Company Witness Ritch states that this program was developed as part of the**
15 **collaborative established pursuant to the 2016 Edwardsport Settlement Agreement**
16 **(“Edwardsport Collaborative”). Do you agree with that claim?**

17 A. Generally, yes. I would agree that the proposed solar leasing program was presented by
18 the Company and discussed as part of the Edwardsport Collaborative. The Company
19 provided ample opportunity for all members of the Edwardsport Collaborative to ask
20 questions, make suggestions, and offer feedback on the proposed program. The Company
21 made it clear on multiple occasions that they intended to file for approval of these
22 programs and that they were interested in hearing everyone’s concerns, feedback, and
23 suggestions.

1 **Q. Who attended the meetings of the Edwardsport Collaborative?**

2 A. The non-Duke parties who attended all or most of the meetings of the Edwardsport
3 Collaborative included representatives of Citizens Action Coalition, Duke Industrial
4 Group and/or Nucor Steel, and the Indiana Office of the Utility Consumer Counselor.
5 The Hoosier Chapter of Sierra Club attended some of the meetings. Additionally, two
6 representatives of the solar installer Johnson-Melloh, Inc., attended the meeting of the
7 Edwardsport Collaborative in which the Company first introduced the proposed program.

8 **Q. Did Citizens Action Coalition provide feedback to the Company regarding the**
9 **program?**

10 A. Yes. After discussions with many of our colleagues and partners, CAC made multiple
11 suggestions to the Company. We were sure to also include the other members of the
12 Edwardsport Collaborative in those discussions. The Company was responsive to our
13 suggestions, and changes were made to the program based on the feedback we provided.

14 **Q. What changes did the Company make to the program based on feedback from**
15 **CAC?**

16 A. Company Witness Ritch discusses these changes in his pre-filed direct testimony. I
17 believe that he accurately represented those changes, but I will restate them here for
18 purposes of the record.

19 We expressed concerns about affiliates of the Company becoming the sole
20 contractor used for the installations. Duke responded to this by agreeing to not use an
21 affiliate for the first five years of the program.

22 In the wake of Senate Enrolled Act 309, we expressed concerns about the
23 program taking up too much of the available room under the system-wide net metering

1 cap. We asked that any installations utilizing this program be allowed to net meter, and
2 also to not count that capacity against the net metering system-wide cap. As stated in
3 their testimony, the Company agreed.

4 Lastly, CAC expressed our desire that the Company not utilize a 30-day filing to
5 seek approval of the program. Obviously, the Company was also responsive to that
6 request.

7 **Q. You mentioned that CAC does have some concerns about the Company's proposed**
8 **program. Please describe those.**

9 A. We are concerned that the proposed tariff and the service agreement does not include any
10 language related to the ownership or the disposition of the Solar Renewable Energy
11 Credits ("SREC"), or the renewable attributes of the electrical output of the solar
12 facilities. The Company clearly states in multiple discovery responses¹⁴ that, should the
13 customer want to retain the SRECs, the customer will have that option when negotiating
14 a final service agreement. CAC would like that to be clearly stated. While not all of the
15 customers participating in the program will desire or require ownership of the SRECs and
16 may prefer the financial benefit associated with selling the SRECs, some customers will
17 require the rights to the SRECs. Therefore, we recommend that the Commission order
18 the Company to modify the tariff and the service agreement to indicate that the SRECs
19 shall be transferred to the customer.

20 CAC also has concerns related to the billing of the solar agreements. We are
21 concerned with the potential combined billing of charges associated with monthly electric
22 service and charges associated with the service agreement. While the proposed tariff

¹⁴ Duke Responses to OUCC Data Requests 1.8, 1.9, 3.01, 3.02, and 3.03, Duke Responses to CAC Data Requests 2.2 and 2.3, and Duke Response to Walmart Data Request 1.1 are included as Attachment KLO-1.

1 language does appropriately state that the customer will not be subject to the
2 disconnection of retail energy services due to non-payment of service agreement fees, we
3 recommend that the Commission order the Company, or that the Company voluntarily
4 agree, to bill all customers for service agreement fees separately from the charges related
5 to retail energy service, regardless of whether or not the Company's billing system is
6 capable of combining the two. Having two separate bills, for this type of program, is
7 more appropriate.

8 CAC, as well as many of our allies and partners, also have concerns regarding
9 Duke potentially being the only provider of solar leases in their service territory. Duke is
10 already a monopoly, in that customers in Duke's service territory cannot receive retail
11 energy services from a company other than Duke. However, that monopoly should not
12 be extended behind the meter with respect to financing options available to customers for
13 installations designed to primarily serve the electric load of the customer. Indeed, the
14 Company acknowledges in their direct testimony that customers may currently use other
15 vendors and utilize a variety of financing options to install a system on their property.¹⁵
16 However, the Company's testimony is silent regarding whether or not those financing
17 options include leasing. CAC would recommend that in order to maintain a competitive
18 playing field and to ensure that customers are receiving the best available price, the
19 Commission should expressly state that customers do have the absolute right to use the
20 vendor of their choice, including Duke, to install behind the meter solar facilities utilizing
21 a leasing arrangement or other financing options.

22 Lastly, CAC has some concerns related to the below-line accounting treatment
23 requested by the Company. We are concerned about the potential that some costs, most

¹⁵ Petitioner's Exhibit 1, page 6, lines 9-11.

1 notably the labor costs of Company personnel assigned to work on this program, could be
2 charged to retail, non-participating customers. To alleviate these concerns, the
3 Commission should order the Company to file or the Company should agree to file, at
4 least annually, a compliance report detailing the participation in the program and showing
5 the accounting for all costs associated with the implementation, marketing, and
6 management of the program. Additionally, all information included in that report should
7 be made public, with the exception of sensitive customer information.

8 **Q. What is your recommendation?**

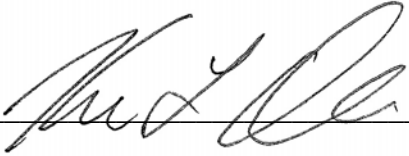
9 A. CAC recommends the Commission approve this program, but order the Company to: (1)
10 modify the tariff and service agreement to clearly indicate that the SRECs shall be
11 transferred to the customer; (2) bill customers separately for this program, not combining
12 it with the bill related to charges for retail energy service; (3) file, at least annually, a
13 public compliance report detailing participation in the program and showing the
14 accounting for all costs related to the implementation, marketing and management of the
15 program. Additionally, the Commission should include language in the final order
16 which expressly states customers have the absolute right to use the vendor of their choice,
17 including Duke, to install behind the meter solar facilities utilizing a leasing arrangement
18 or other financing options.

19 **Q. Does this conclude your testimony?**

20 A. Yes.

VERIFICATION

I, Kerwin Olson, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.



Kerwin Olson

January 14, 2019

Date

ATTACHMENT KLO-1

OUCG
IURC Cause No. 45145
Data Request Set No. 1
Received: October 31, 2018

OUCG 1.8

Request:

Does the customer retain the environmental benefits including Solar Renewable Energy Credits (“SRECs”)?

Response:

No. The environmental attributes will be retained by Duke Energy Indiana, unless otherwise conveyed to the participating customer through service agreement negotiations.

OUCG
IURC Cause No. 45145
Data Request Set No. 1
Received: October 31, 2018

OUCG 1.9

Request:

Where in Petitioner's Exhibit 1-b is the ownership of environmental attributes addressed?

Response:

To the extent participating customers are interested in retaining the environmental attributes of their facilities, terms conveying them to those customers will be addressed in a separate exhibit added to the Solar Energy Services Agreement.

OUCG
IURC Cause No. 45145
Data Request Set No. 3
Received: November 29, 2018

OUCG 3.1

Request:

For current net metered customers, does DEI consider the renewable attributes of power exported from such systems to be the property of DEI or the customer that produced them?

Response:

The renewable attributes (solar renewable energy certificates, or SRECS, in this specific case) are the property of the customer whose system produced them.

OUCG
IURC Cause No. 45145
Data Request Set No. 3
Received: November 29, 2018

OUCG 3.2

Request:

If DEI considers the renewable attributes in (1.) to be the property of DEI, does DEI sell the SRECs to other entities? If not, what does DEI do with the SRECs?

Response:

N/A. Please see the Company's response to OUCG 3.1.

OUCC
IURC Cause No. 45145
Data Request Set No. 3
Received: November 29, 2018

OUCC 3.3

Request:

If DEI considers the renewable attributes in (1.) to be the property of DEI, does DEI report the renewable energy hours as part of its generation mix?

Response:

N/A. Please see the Company's response to OUCC 3.1.

CAC
IURC Cause No. 45145
Data Request Set No. 2
Received: November 30, 2018

CAC 2.2

Request:

Please see Duke Response to OUCC Data Request 1.8:

- a. Does the Company intend to include the projected value of the Renewable Energy Credits (“RECs”) or Solar Renewable Energy Credits (“SRECs”) into the lease agreement with those customers who do not have an interest in retaining the RECs or SRECs, in an effort to reduce the total costs to the leasing customer? If yes, what is current projected value of those RECs and SRECs?
- b. Assuming the Company retains the RECs or the SRECs, does the Company intend to use the RECs or SRECs for compliance purposes in other states or other regions? If yes, does that mean those RECs and SRECs will be retired and not sold for cash?
- c. Assuming the Company retains the RECs or the SRECs, does the Company intend to sell those RECs or SRECs for cash? If yes,
 - i. what will the Company do with the revenues generated from the sale of the RECs or SRECs?
 - ii. into which market or state will the Company sell those RECs or SRECs?
- d. Is Duke Energy or any of its affiliates subject to any laws, policies, regulations, or rules in any other state or region which requires compliance through the use of RECs or SRECs? If yes, please list the state or region as well as the applicable law, policy, regulation, or rule.

Response:

- a. The Company will include the projected value of the Environmental Attributes should the customer decline to retain the Environmental Attributes themselves. This projected value will decrease the total cost the customer will pay as part of the agreement with the Company. The Company does not presently have a projected value of the Environmental Attributes as the value will be dependent upon external market conditions at the time of the transaction.
- b. Should the Company retain the Environmental Attributes, it will monitor the market conditions and its internal business requirements to determine the best

course of action.

- c. Unknown at this time.
- d. Yes, Duke Energy Carolinas, LLC and Duke Energy Progress, LLC are subject to the Renewable Portfolio Standard of Senate Bill 3. Duke Energy Ohio, LLC is subject to the Alternative Energy Standard which is specified in 4928.64 of the Ohio Revised Code. Both of these laws require compliance through the use of RECs or SRECs. No other Duke Energy affiliates have compliance requirements with regards to the use of RECs or SRECs.

CAC
IURC Cause No. 45145
Data Request Set No. 2
Received: November 30, 2018

CAC 2.3

Request:

Please see Duke Response to OUCC Data Request 1.9:

Admit or Deny: As part of the leasing agreement negotiations, a participating customer will be allowed to retain the environmental attributes of the customer's facility if the customer indicates to the Company a desire to do so. If the response is anything other than an unqualified admission, please explain in detail.

Response:

Admit.

Walmart, Inc.
IURC Cause No. 45145
Data Request Set No. 1
Received: November 30, 2018

Walmart 1.1

Request:

Reference the Company's response to OUCC Data Request 1.8 and 1.9. Please confirm whether DEI intends to provide the environmental attributes (i.e., Renewable Energy Credits ("RECs") or Solar RECs ("SRECs")) to customers participating in the Company's proposed program.

- a. To the extent that DEI does not transfer the RECs/SREs to the customer or retire them on the customer's behalf, what does DEI intend to do with the RECs/SRECs generated by participation in this program?

Response:

The Company will provide the customer the option to retain the environmental attributes as part of their participation in the Company's program. Should the customer decline the retain the environmental attributes, the Company will monitor the market conditions and its internal business requirements to determine the best course of action.