

**DIRECT TESTIMONY OF ADAM J. NYGAARD
BUSINESS DEVELOPMENT MANAGER II
DUKE ENERGY CAROLINAS, LLC
ON BEHALF OF
DUKE ENERGY INDIANA, LLC
CAUSE NO. 45276
BEFORE THE INDIANA UTILITY REGULATORY COMMISSION**

I. INTRODUCTION

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Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

A. My name is Adam J. Nygaard and my business address is 400 South Tryon Street,
Charlotte, North Carolina 28202.

Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?

A. I am employed as Business Development Manager II by Duke Energy Business Services
LLC. Duke Energy Business Services LLC is a service company affiliate of Duke
Energy Indiana, LLC (“Duke Energy Indiana” or “Company”). Duke Energy Indiana,
LLC is a wholly-owned, indirect subsidiary of Duke Energy Corporation (“Duke
Energy”).

**Q. PLEASE BRIEFLY DESCRIBE YOUR EDUCATION AND PROFESSIONAL
EXPERIENCE.**

A. I am a registered Project Management Professional and received a Bachelor of Science in
Nuclear Engineering from Pennsylvania State University. I began my career at Duke
Energy in 2009 as a nuclear engineer and have held a variety of responsibilities across
Duke Energy in the areas of nuclear engineering, corporate audit, and commercial solar

1 and wind development. In 2016, I began my current position as Business Development
2 Manager II focusing on development of Distributed Energy Technologies, which includes
3 Combined Heat and Power (“CHP”) projects.

4 **Q. PLEASE BRIEFLY DESCRIBE YOUR DUTIES AS BUSINESS DEVELOPMENT**
5 **MANAGER II.**

6 A. As Business Development Manager II, I am responsible for developing and implementing
7 specific strategies for Duke Energy’s regulated utilities, including investments and
8 products related to distributed energy technologies, such as energy storage, CHP, and
9 microgrids.

10 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

11 A. My testimony will present an overview of the Company’s proposed 16 MW CHP facility
12 (the “Purdue CHP Facility”) to be located on land leased to Duke Energy Indiana by
13 Purdue University (“Purdue”). I will explain what Duke Energy Indiana is requesting in
14 this proceeding and the statutory backdrop for approval.

15 **Q. PLEASE DESCRIBE THE RELIEF SOUGHT BY DUKE ENERGY INDIANA IN**
16 **THIS PROCEEDING.**

17 A. Duke Energy Indiana is requesting that the Indiana Utility Regulatory Commission
18 (“IURC” or “Commission”) approve its proposal to construct the Purdue CHP Facility
19 and also requests that the Commission approve its proposed accounting and rate
20 treatment related to constructing, owning, and operating the Purdue CHP Facility, as
21 more fully described in the testimony of Ms. Suzanne E. Sieferman.

1 **Q. PLEASE PROVIDE AN OVERVIEW OF THE CASE-IN-CHIEF TESTIMONY**
2 **BEING PRESENTED BY DUKE ENERGY INDIANA IN THIS PROCEEDING.**

3 A. In addition to my testimony, Duke Energy Indiana is also presenting the testimony of Mr.
4 Mark E. Landseidel, Mr. Scott Park, and Ms. Sieferman. Mr. Landseidel will provide
5 testimony regarding the Company's cost estimate and construction schedule for the
6 Purdue CHP Facility. Mr. Park will discuss how the proposed Purdue CHP Facility is
7 consistent with the Company's 2018 Integrated Resource Plan ("IRP") and the Certificate
8 of Public Convenience and Necessity ("CPCN") statutory requirements. Ms. Sieferman
9 will provide testimony explaining the Company's proposal to credit the steam sales from
10 the facility back to Duke Energy Indiana customers through the Company's quarterly
11 Fuel Cost Adjustment proceeding ("FAC"). She will also provide testimony supporting
12 the Company's request for deferral of the costs associated with the construction and
13 operation of the proposed Purdue CHP Facility until such costs are reflected in Duke
14 Energy Indiana's base rates and charges.

15 **II. THE PURDUE CHP FACILITY**

16 **Q. PLEASE DESCRIBE THE PROPOSED PURDUE CHP FACILITY.**

17 A. The proposed Purdue CHP Facility will consist of a single 16 MW gas turbine generator
18 ("GTG") with a single heat recovery steam generator ("HRSG") plus a duct burner,
19 which can provide for additional steam output to Purdue, at its discretion. Both the GTG
20 and duct burner will be fueled by natural gas supplied by Vectren Energy Delivery of
21 Indiana, Inc., via Rate 260 – Large Volume Transportation Service. The Purdue CHP
22 Facility can provide up to 150,000 pounds per hour of steam, which will be sold to

1 Purdue per a Steam Purchase and Sale Agreement. See Petitioner's Confidential Exhibit
2 1-A. The project will also be able to serve as a microgrid, which will allow the Purdue
3 CHP Facility to "island", or disconnect from the grid, in the event of a transmission grid
4 outage during which Duke Energy Indiana is unable to energize the transmission line
5 serving Purdue. In such a circumstance, the islanding equipment would act to allow
6 Purdue to purchase the output of the Purdue CHP at Purdue's current rates. The costs
7 associated with the "islanding" equipment will be recovered separately from Purdue via
8 the Company's Standard Contract Rider No. 53 for excess facilities and are not included
9 in the cost recovery requested. The Purdue CHP Facility will be located adjacent to the
10 existing Wade Utility Plant at Purdue University. Purdue will lease the land to Duke
11 Energy Indiana for 35 years via a separate Ground Lease and Easement Agreement. See
12 Petitioner's Exhibit 1-B.

13 **Q. HOW WILL THE PURDUE CHP FACILITY BENEFIT DUKE ENERGY**
14 **INDIANA CUSTOMERS?**

15 A. The Purdue CHP Facility offers Duke Energy Indiana customers several benefits,
16 including, but not limited to, economic benefits, efficiency gains, reduced environmental
17 impacts, and reduced transmission and distribution losses. Economic benefits are driven
18 by steam sales that will be credited back to Indiana customers and low natural gas prices.
19 Economic development benefits are driven by the added construction jobs, full time jobs
20 during operation, and capital that Purdue can now devote elsewhere on its campus. CHP
21 is a smaller, distributed energy technology, which results in less long-term economic risk

1 and provides flexibility to respond to market changes or adopt other more cost-effective
2 technology in the future. Adding natural gas generation to the Duke Energy Indiana
3 portfolio will diversify the current fuel supply and reduce risk to Indiana customers.
4 Efficiency gains are realized by using the waste heat from CHP to produce steam
5 resulting in a total system efficiency of approximately eighty percent (80%). In
6 comparison, conventional fossil-fueled generation facilities in the U.S. average thirty-
7 three percent (33%) efficiency to produce electricity.¹ Combining the production of
8 electricity and steam using CHP also results in less overall emissions, therefore reducing
9 environmental impacts. Since the Purdue CHP Facility is located near customer loads,
10 there will be a reduction in transmission and distribution losses when compared to large
11 conventional generation sources that are typically located further from customer loads.
12 In addition, the Purdue CHP Facility could also delay transmission upgrades in the future
13 that may be required as a result of load growth in the local area. Additionally, the utility
14 working with a customer to build, own and operate a CHP project provides benefits to all
15 customers, because otherwise the customer may decide to self-generate both their steam
16 and electric needs, which would reduce electric fixed cost recovery for the utility – costs
17 that would have to be borne by other customers.

18 **Q. HOW WILL THE PURDUE CHP FACILITY BENEFIT PURDUE?**

19 A. The Purdue CHP Facility will benefit Purdue by providing cost-effective steam and
20 improving reliability. The steam produced by the Purdue CHP Facility will be sold by

¹ <https://www.epa.gov/chp/chp-benefits>

1 Duke Energy Indiana to Purdue under the Steam Purchase and Sale Agreement.
2 Reliability for electric service will be improved through the microgrid, or “islanding”,
3 equipment that will be installed at Purdue’s expense. When islanding, the equipment will
4 disconnect the Purdue CHP Facility from the Duke Energy Indiana grid and provide
5 electricity directly to Purdue. This would only occur if there was a severe outage on the
6 Duke Energy Indiana transmission system that prevented the transmission of power to the
7 Company’s other customers, but due to the CHP location, will still allow for electric
8 service to Purdue. Purdue will continue to pay for service through its negotiated retail
9 electric tariff whether the Purdue CHP Facility is grid-tied or in island-mode.

10 **Q. WAS THE PURDUE CHP FACILITY REVIEWED BY ANY OTHER**
11 **GOVERNMENTAL BODIES?**

12 A. Yes. As can be seen in Petitioner’s Exhibit 1-C, the Purdue CHP Facility project and
13 associated land lease were reviewed by the Indiana Commission on Higher Education and
14 further reviewed by the State Budget Committee and Indiana Governor Eric J. Holcomb.

15 **Q. PLEASE DESCRIBE PETITIONER’S EXHIBITS 1-D AND 1-E.**

16 A. Petitioner’s Exhibit 1-D is a letter of support from President Mitchell E. Daniels, Jr. of
17 Purdue for the proposed Purdue CHP Facility. Petitioner’s Exhibit 1-E is the Verified
18 Petition filed in this proceeding on August 8, 2019.

19 **Q. WHY ELSE WILL THE PURDUE CHP FACILITY BE AN IMPORTANT**
20 **PROJECT FOR THE COMPANY?**

21 A. As CHP technology continues to evolve and improve, and should generation assets
22 become more distributed, quantifying the values and costs of CHP is important for the

1 Company, businesses with large steam loads, Duke Energy customers, and stakeholders.
2 This project will allow Duke Energy Indiana to gain operational experience with
3 distributed generation systems, partner with one of our large customers, and add diversity
4 to our generation fleet.

5 **III. DUKE ENERGY INDIANA'S RESOURCE PORTFOLIO**

6 **Q. HOW DOES THE PURDUE CHP PROJECT FIT INTO DUKE ENERGY**
7 **INDIANA'S RESOURCE MIX?**

8 A. Low cost natural gas makes CHP an attractive option to add to our resource portfolio.
9 The Purdue CHP Facility is a smaller, distributed energy technology, which results in less
10 long term economic risk and allows for flexibility to respond to market changes. The
11 Purdue CHP Facility provides a great opportunity for Duke Energy Indiana to construct,
12 own and operate a cogeneration facility and to potentially expand these opportunities to
13 other Indiana customers in the future.

14 The Purdue CHP Facility is an important collaboration between Duke Energy
15 Indiana and Purdue University to develop, operate and maintain a CHP facility in Indiana
16 for the benefit of our customers. For a more detailed discussion about how the Purdue
17 CHP Facility fits into Duke Energy Indiana's resource mix, please see the Direct
18 Testimony of Mr. Park.

19 **Q. DOES DUKE ENERGY INDIANA BELIEVE THERE IS VALUE IN A DIVERSE**
20 **PORTFOLIO OF GENERATION RESOURCES?**

1 A. Yes. By investing in a diverse generation portfolio, Duke Energy Indiana can respond to
2 customer demand and to provide customers with cost-effective resources that help to
3 insulate against risks in the marketplace.

4 In addition, Duke Energy Indiana customers are interested in a diverse portfolio
5 of options to serve their energy needs. As part of the Company's IRP process, as well as
6 in other forums, Duke Energy Indiana has received feedback from its customers that they
7 are interested in expanding the distributed energy options available to them.

8 **Q. ARE THERE OTHER CONSIDERATIONS THAT LED DUKE ENERGY**
9 **INDIANA TO PROPOSE THE PURDUE CHP FACILITY?**

10 A. Yes. Duke Energy Indiana provides a service to its customers, and to the extent our
11 customers request more generation from distributed energy sources, we want to be
12 responsive. At the same time, we know that our customers are also interested in keeping
13 their rates low. To that end, this project represents a modest investment in distributed
14 energy in a way that attempts to balance those interests. Duke Energy Indiana customers
15 benefit from natural gas CHP baseload energy generation, while the impact on customer
16 rates is kept to a minimum given the relatively small size of the investment and by
17 crediting customers with revenues from the sale of steam to Purdue.

18 Additionally, Duke Energy Indiana's customers are expected to benefit from the
19 federal investment tax credit ("ITC"), which currently allows utilities, among others, to
20 claim a ten percent (10%) credit for investing in geothermal, microturbines and CHP.
21 Ms. Sieferman will explain how customers will receive the benefit of the ITC.

1 A. Yes.

2 **Q. DOES THIS CONCLUDE YOUR PREPARED DIRECT TESTIMONY AT THIS**
3 **TIME?**

4 A. Yes.

PETITIONER'S EXHIBIT 1-A IS CONFIDENTIAL

GROUND LEASE AND EASEMENT AGREEMENT

between

THE TRUSTEES OF PURDUE UNIVERSITY

and

DUKE ENERGY INDIANA, LLC

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1 GROUND LEASE AND EASEMENT AGREEMENT
2 (CHP Facility)

3 This GROUND LEASE AND EASEMENT AGREEMENT (this "Ground Lease"), is
4 dated as of _____, 2019 ("Effective Date") between THE TRUSTEES OF
5 PURDUE UNIVERSITY, a body corporate created and existing under the laws of the State of
6 Indiana ("Landlord") and DUKE ENERGY INDIANA, LLC, an Indiana limited liability company
7 ("Tenant"). Landlord and Tenant are sometimes referred to herein individually as a "Party" and
8 collectively as the "Parties."

9 BACKGROUND

10 Landlord has a university campus located in West Lafayette, Indiana, which uses steam for
11 various purposes, including but not limited to heating Landlord's academic, administrative, and
12 residential buildings and generating electricity for use on Landlord's campus. Landlord desires to
13 engage Tenant to convert water into steam that Landlord can purchase from Tenant for use on
14 Landlord's campus and Landlord is willing to (1) lease to Tenant a site on Landlord's campus at
15 which Tenant can produce and provide such steam and (2) provide other supplementary services
16 to Tenant related to the combined heat and power operations to be built and operated by Tenant
17 on Landlord's campus. Tenant is willing to construct, own, and operate a combined heat and power
18 facility consisting of a natural gas fired turbine and associated electric generator, along with an
19 associated heat recovery steam generator and supplementary direct fired natural gas burner, in
20 accordance with the terms and conditions set forth in that certain Steam Purchase and Sale
21 Agreement of even date herewith between Tenant, as seller, and Landlord, as buyer (the "SPSA").
22 Concurrent with the execution and delivery of the SPSA, the Parties are hereby entering into this
23 Ground Lease in order to fulfill, in part, the intentions and objectives of the Parties as set forth in
24 the SPSA.

25 AGREEMENT

26 NOW, THEREFORE, in consideration of the mutual covenants and promises set forth
27 herein and other good and valuable consideration, the receipt and adequacy of which are hereby
28 acknowledged, and intending to be bound hereby, the Parties hereby agree as follows:

29 1. Definitions. For all purposes of this Ground Lease the terms set forth in Exhibit B
30 shall have the meanings assigned to them in said Exhibit B, and include the plural as well as the
31 singular. Any terms used herein that are not defined herein or in Exhibit B shall be given the
32 meanings ascribed thereto in the SPSA, which is incorporated herein and made a part hereof by
33 this reference. To the extent any of the provisions of this Ground Lease expressly conflict with
34 the provisions of the SPSA, the terms and conditions of the SPSA shall control.

35 2. Lease; Term.

36 2.1. Lease of Site; Term. Subject to the terms and conditions set forth in this
37 Ground Lease, Landlord hereby leases the Site to Tenant, and Tenant hereby leases the Site from
38 Landlord, upon the terms and conditions hereof, for the Development Period, and, if applicable,
39 the Operational Term. The Development Period and, if applicable, the Operational Term are
40 herein sometimes collectively referred to as the "Term". The last day of the Operational Term or

41 the date of termination of the SPSA, if earlier, is herein sometimes referred to as the "Term
42 Expiration Date".

43 2.1.1 If Tenant is unable to commence construction of the Facility due to
44 a Force Majeure Event on or before the Construction Commencement Start Date or is unable to
45 complete construction of the Facility during the Development Period due to a Force Majeure Event
46 on or before the Commercial Operation Start Date, Tenant shall notify Landlord with details of the
47 Force Majeure Event and the duration thereof. The Construction Commencement Start Date
48 and/or the Commercial Operation Start Date shall be extended day for day for the Force Majeure
49 Event and the Development Period shall not expire on its scheduled expiration date but shall be
50 automatically extended until the occurrence of the Commercial Operation Start Date with respect
51 to the Facility, subject to Section 2.1.2 hereof. For purposes of this Section 2.1.1, Tenant shall
52 have "commenced construction" of the Facility if and when Tenant first notifies Landlord that
53 Tenant has taken possession and secured the Site, commences the grading on the Site, and is
54 diligently pursuing construction of the Facility on the Site. After such notice from Tenant,
55 Landlord and Tenant shall execute a modification or amendment of this Ground Lease to document
56 the Construction Commencement Start Date.

57 2.1.2 Notwithstanding anything in this Section 2.1 to the contrary, if (a)
58 Tenant has not commenced construction of the Facility by the Construction Commencement Start
59 Date, as may be extended by a Force Majeure Event; or (b) the Operational Term has not
60 commenced on or before the Commercial Operation Start Date, as may be extended by a Force
61 Majeure Event, Landlord may terminate this Ground Lease by notice to Tenant.

62 2.1.3 Notwithstanding anything in this Section 2.1 to the contrary, Tenant
63 may terminate this Ground Lease, without incurring any liability for or as a result of such
64 termination, by delivering written notice of termination to Landlord on or before the Target
65 Commercial Operation Date (as defined in the SPSA), if Tenant has terminated the SPSA pursuant
66 to Section 2.2(1) thereof.

67 2.1.4 Notwithstanding anything in this Section 2.1 to the contrary,
68 Landlord may terminate this Ground Lease, without incurring any liability for or as a result of such
69 termination, by delivering written notice of termination to Tenant on or before the Target
70 Commercial Operation Date, if Landlord has terminated the SPSA pursuant to Sections 2.2(2) or
71 2.2(3) thereof.

72 2.2. AS IS Condition. Except as otherwise expressly provided in this Ground
73 Lease, Tenant hereby agrees, for itself and on behalf of its successors and assigns, (a) that its
74 acceptance of the Site and the Recorded Easement Areas shall be AS IS, WHERE IS and without
75 warranty of any kind as to condition, fitness for Tenant's purpose or otherwise, and (b) waives,
76 releases and discharges Landlord and its successors and assigns, from any and all claims, demands,
77 liability, damages, costs and expenses caused by, related to or arising out of the condition of the
78 Site and the Recorded Easement Areas.

79 3. Severance. The parties agree that all improvements at any time constructed by or
80 for Tenant on the Site or within any Recorded Easement Areas, whether prior to the Effective Date
81 or after same, and all equipment at any time acquired by or for Tenant and located on the Site or

82 within any Recorded Easement Areas, including (without limitation) all improvements and
83 equipment comprising the Facility, are hereby severed by agreement and intention of the parties
84 and shall remain severed from the Site and any Recorded Easement Areas during the Term. All
85 such improvements and equipment shall be considered with respect to the interests of the parties
86 hereto as the sole and exclusive property of Tenant or a Financing Party designated by Tenant
87 during the Term, and, even though attached to or affixed to or installed upon the Site or within any
88 Recorded Easement Areas, shall not be considered to be fixtures or a part of the Site or such
89 Recorded Easement Area and shall not be or become subject to the lien of any mortgage or deed
90 of trust heretofore or hereafter placed on the Site or any Recorded Easement Areas by Landlord.
91 Landlord hereby waives any rights it may have during the Term under the laws of the State of
92 Indiana arising under this Ground Lease or otherwise to any lien upon, or any right to distress or
93 attachment upon, or any other interest in, any item constituting all or any portion(s) of the Facility
94 or any other equipment or improvements constructed or acquired by or for Tenant and located on
95 the Site or within any Recorded Easement Areas.

96 4. Rent. Rent for the entire Term (both the Development Period and the Operational
97 Term) of this Ground Lease shall consist of the payment on or before the Effective Date in the
98 amount of One Hundred and No/100 Dollars (\$100.00), the receipt and sufficiency of which
99 Landlord hereby acknowledges. In the event of early termination of this Ground Lease before the
100 Term Expiration Date, no part of the Rent paid to Landlord by Tenant shall be repaid or refunded
101 to Tenant.

102 5. Further Assurances. Landlord and Tenant each agree to execute and deliver all
103 further instruments and documents and take any further action that may be reasonably necessary
104 to effectuate the purposes and intent of this Ground Lease regarding the Facility. To such end,
105 Landlord shall grant to Tenant for the benefit of Tenant and Tenant's Parties, or to such entity as
106 Tenant may reasonably request in connection with the development, construction, ownership,
107 operation and maintenance of the Facility, at no additional consideration, nonexclusive easements
108 on land selected by Landlord in close proximity to the Site and which is owned or controlled by
109 Landlord, and any improvements thereon, as Landlord and Tenant deem reasonably necessary or
110 desirable in connection with the development, construction, ownership, operation and maintenance
111 of the Facility (the "Operational Easements") as well as an easement for purposes of
112 interconnection with Tenant's main distribution system (the "Electrical Interconnection
113 Easement") (the Operational Easements and the Electrical Interconnection Easement herein
114 collectively referred to as the "Easements", each also herein sometimes referred to as an
115 "Easement" and the area(s) burdened thereby, the "Easement Areas"). During the Development
116 Period, Tenant will determine the location of the Easement Areas, with Landlord's prior approval,
117 by one or more ALTA/ACSM Land Title Surveys obtained by Tenant at its expense and certified
118 to Landlord and Tenant and Landlord will execute one or more easement agreements prepared by
119 Tenant, in forms and contents reasonably satisfactory to both Landlord and Tenant, reflecting the
120 Easements and the Easement Areas, which easement agreements shall be recorded in the Official
121 Records at Tenant's expense and copies thereof (the "Recorded Easements") provided to Landlord
122 promptly after such recording. The Easement Areas identified in the Recorded Easements are
123 sometimes referred to herein as the "Recorded Easement Areas". Landlord shall grant Tenant for
124 the benefit of Tenant and Tenant's Parties, or to such entity as Tenant may reasonably request in
125 connection with the development, construction, operation and maintenance of the Facility, at no
126 additional consideration, one or more temporary, nonexclusive license agreements from time to

127 time during the Term on land selected by Landlord in close proximity to the Site to facilitate the
128 staging of any development, construction, operation and maintenance of the Facility. To such end,
129 Landlord and Tenant shall enter into separate license agreements, the terms and conditions of
130 which shall be mutually satisfactory to both Landlord and Tenant and which shall identify the
131 purpose of the license, the area to be licensed, the term of the license, the insurance required of
132 Tenant or any Tenant Parties and Tenant's indemnification of Landlord and Landlord Parties
133 during the term of the license. Landlord shall not grant or convey any easement or other interest
134 on the Site or the Recorded Easement Areas that, if used or enjoyed in accordance with its terms:
135 (i) would materially interfere with Tenant's operation, use and enjoyment of the Facility, the Site,
136 and/or the Recorded Easements, Tenant's performance under the terms of the SPSA, or Tenant's
137 production of electricity at the Site, (ii) would materially interfere with Landlord's operation, use
138 and enjoyment of Landlord's Property, or (iii) would materially adversely affect Landlord's title to
139 the Site and the Recorded Easement Areas, the reversionary interest therein, or Landlord's interests
140 under the Ground Lease and the Recorded Easements. All Recorded Easements associated with
141 the operation of the Facility shall automatically terminate as of the date the Term terminates or
142 expires, inclusive of any recognized and permitted holdover period and shall acknowledge the
143 expiration or early termination of this Ground Lease will constitute the termination of the Recorded
144 Easements. If there are any mortgages, deeds of trust or other security interests or the like
145 encumbering the Site (or any portion(s) thereof) or any Recorded Easement Areas described in the
146 Recorded Easements which would have priority over this Ground Lease, within 30 days after
147 Tenant's written request, Landlord shall obtain a commercially reasonable subordination, non-
148 disturbance and attornment agreement, in a form satisfactory to Tenant, from any lender or
149 beneficiary which provides, among other things, that Tenant's occupancy or use of the Site and the
150 Recorded Easements in accordance with the terms of this Ground Lease and any applicable
151 Recorded Easements will not be disturbed. Landlord reserves to itself, its successors and assigns,
152 together with the right to grant and transfer all or a portion of the same, the following (collectively,
153 "Landlord Easements"): nonexclusive easements for ingress and egress and for the installation,
154 placement, maintenance and replacement of electric, gas, telephone, cable television, water and
155 sanitary sewer lines, drainage facilities or any other utilities (collectively, "Landlord Utilities"),
156 and of landscaping on, over, under or across those portions of the Site not improved with the
157 Facility or other major structures existing from time to time pursuant to the terms and conditions
158 of this Ground Lease, together with the right, at reasonable times and following reasonable prior
159 written notice to Tenant, to enter upon the Site in order to service, maintain, repair, reconstruct,
160 relocate or replace any of such Landlord Utilities or landscaping; provided, however, no prior
161 written notice shall be necessary in the event of an Emergency. In using the rights reserved
162 hereunder, Landlord agrees that such use shall be at times and in a manner that shall not materially
163 interfere with Tenant's operation, use and enjoyment of the Facility, the Site, and/or the Recorded
164 Easements, emergencies excepted.

165 6. Surrender of Site Upon Early Termination. Upon the early termination of this
166 Ground Lease pursuant to Sections 11, 13.2 or 15 hereof and provided the SPSA is terminated,
167 Tenant shall surrender to Landlord the Site and any applicable Recorded Easements related to the
168 Site, as provided in this Section 6. Except as herein provided, in accordance with and subject to
169 the terms of Section 3 above, within 60 days after the early termination pursuant to Sections 11,
170 13.2 or 15 hereof and so long as the SPSA has been terminated, Tenant shall commence to clear
171 the Site and decommission, dismantle and remove the damaged Facility and all other property of
172 Tenant located on the Site and the applicable Recorded Easement Areas, returning same to their

173 condition as of the Effective Date to the extent reasonably practical, and shall fully complete such
174 clearing, decommissioning, dismantling and removal (the "Decommissioning Activities") within
175 270 days of commencement of such Decommissioning Activities ("Final Decommissioning
176 Date"). Notwithstanding any of the foregoing, if Landlord is entitled to purchase the Facility
177 pursuant to the provisions of Section 16 of the SPSA and notifies Tenant of its desire to so purchase
178 the Facility, the Final Decommissioning Date shall not occur prior to the date that is 270 days
179 following Landlord's notice to Tenant that it no longer desires to purchase the Facility. Landlord
180 hereby grants to Tenant and Tenant's Parties a license to enter upon the Site and the Recorded
181 Easement Areas to perform the activities required to be performed by Tenant for the
182 Decommissioning Phase pursuant to this Section 6, which license shall be effective commencing
183 upon the date of termination pursuant to Sections 11, 13.2 or 15 hereof and shall terminate upon
184 the date on which such Decommissioning Activities are fully complete, but no later than the Final
185 Decommissioning Date, or such later date as may be agreed to by Landlord. Tenant shall notify
186 Landlord at least twenty (20) days before Tenant commences the Decommissioning Activities,
187 which Tenant may only commence after Tenant or its contractors secure the Site and take all
188 reasonable safety precautions with respect to the Decommissioning Activities to be performed and
189 shall comply with all reasonable safety measures and with all applicable Laws for the safety of
190 persons or property. Tenant further covenants and agrees that Decommissioning Activities shall
191 be at times and conducted in a manner that will not cause disruption to the operations of Landlord's
192 Property.

193 All property of Tenant not removed on or before the last day of the Final Decommissioning
194 Date, as same may have been extended, shall be deemed abandoned. Tenant hereby agrees that
195 Landlord may, at Landlord's option: (a) remove all such property of Tenant from the Site after the
196 Final Decommissioning Date and cause its transportation and storage, all at the sole cost and risk
197 of Tenant, and Landlord shall not be liable for damage, theft, misappropriation or loss thereof or
198 in any manner in respect thereto; or (b) declare any or all of such property of Tenant the sole
199 property of Landlord. Landlord shall be entitled to dispose or take control and ownership of such
200 property, as Landlord deems fit, without the requirement of an accounting. Tenant shall pay all
201 costs and expenses of such removal, transportation and storage. Tenant shall reimburse Landlord
202 upon demand for any expenses reasonably and actually incurred by Landlord with respect to
203 removal or storage of abandoned property and with respect to restoring the Site and Recorded
204 Easement Areas in accordance with the terms and conditions of this Ground Lease. Tenant shall
205 indemnify and hold harmless Landlord from any loss or liability including, without limitation,
206 reasonable attorneys' fees and expenses, resulting from Tenant's failure to observe or perform this
207 Section 6, which indemnification shall survive the expiration or termination of the Term.

208 7. Nontermination. Notwithstanding anything in this Ground Lease to the contrary,
209 this Ground Lease shall not terminate, nor shall Tenant's interest under this Ground Lease and the
210 Recorded Easements in the Site, the Recorded Easement Areas, or the Facility be extinguished,
211 lost, conveyed or otherwise impaired, or be merged into or with any other interest or estate in the
212 Site, the Recorded Easement Areas or any other property interest granted to Tenant under this
213 Ground Lease and the Recorded Easements, in whole or in part, by any cause or for any reason
214 whatsoever, except as a result of a Termination Event. Without limiting the generality of the
215 foregoing, the Parties hereto acknowledge and agree that, absent a Termination Event, this Ground
216 Lease shall not be terminated by Landlord; provided, however, subject to the provisions of Section
217 13.5 below, upon a Termination Event, this Ground Lease shall be terminated and of no further

218 force and effect, except for the provisions herein that expressly survive expiration or termination
219 of this Ground Lease.

220 8. Possession and Quiet Enjoyment. As long as no Tenant Event of Default under this
221 Ground Lease has occurred and is continuing beyond any applicable cure period, Landlord
222 covenants and agrees that Tenant shall enjoy quiet possession of the Site and the Recorded
223 Easements without any disturbance from Landlord or any person lawfully claiming by or through
224 Landlord, subject to the terms and provisions of this Ground Lease and the Recorded Easements.

225 9. Use of Site; Development of Facility.

226 9.1. Use. During the Term, Tenant shall have exclusive use of the Site subject
227 to the terms and conditions of this Ground Lease. Tenant shall use the Site and the Recorded
228 Easement Areas for purposes related to due diligence investigations and studies, and the
229 construction, use, operation, repair, ownership, replacement, modification, upgrade or
230 maintenance of the Facility, subject to the terms and conditions set forth in this Ground Lease, and
231 for no other purpose whatsoever.

232 9.2. Construction of the Facility.

233 (a) General Provisions. Tenant, at its expense, and with Landlord's
234 reasonable cooperation (at no third party cost to Landlord), shall be responsible for obtaining any
235 Governmental Approvals (hereinafter defined) necessary for the construction and operation of the
236 Facility. To the extent permitted by applicable Laws, all permits, licenses, exemptions and
237 certifications for the construction of the Facility shall be in the name of and for the benefit of
238 Tenant or any Tenant Party designated by Tenant.

239 (b) Facility.

240 (i) Subject to the terms and conditions set forth in this Ground
241 Lease, Tenant, at its expense, shall commence construction of the Facility on or before the
242 Construction Commencement Start Date. All improvements and alterations to the Site and
243 Facility, including the electrical interconnection facilities located within the Recorded Easement
244 Areas, shall be made in accordance with Comparable Industry Standards.

245 (ii) Landlord shall ensure that neither Landlord nor any other
246 person or entity claiming by or through Landlord shall materially interfere with or obstruct in any
247 way Tenant's use of the Site for the construction, installation, maintenance, repair or replacement
248 of the Facility, except as expressly set forth in this Ground Lease. Without limiting the generality
249 of the foregoing, Landlord shall not locate any new equipment, construct any new improvements,
250 or relocate any existing equipment or other improvements upon the Site (or permit any other person
251 or entity claiming by or through Landlord to do so) without Tenant's prior written consent, which
252 consent shall not be unreasonably withheld, conditioned or delayed.

253 (iii) Prior to any installation or alterations of the Facility, Tenant
254 will submit applicable architectural plans and specifications to Landlord for review and approval
255 as set forth in Exhibit C attached hereto and made a part hereof. Tenant will not commence any
256 installation or alteration work until Landlord is reasonably satisfied that the installations or

257 alterations can be completed and the equipment installed can be operated and maintained without
258 unreasonable interference with Landlord's operations at Landlord's Property. Any material
259 replacement, modification or upgrade of the Facility during the Term after the Commercial
260 Operation Start Date and during the Operational Term (not to include periodic equipment repairs,
261 replacements and/or upgrades) may only be made after the applicable architectural plans and
262 specifications as set forth in Exhibit C have been submitted to and approved by Landlord's Capital
263 Program Management Team (the "Planning Office"), which approval by Landlord's Planning
264 Office shall not be unreasonably withheld, conditioned or delayed. Landlord's approval of any of
265 Tenant's architectural plans and specifications shall not imply Landlord reviewed and approved
266 the same for quality, design, code compliance or other like matters and neither Landlord nor its
267 Planning Office shall have any liability whatsoever in connection therewith and shall not be
268 responsible for any omissions or errors contained in Tenant's engineering plans and specifications.

269 (iv) All improvements to the Facility located within the Site and
270 the electrical interconnection facilities located within the Recorded Easement Areas shall be at
271 Tenant's expense. Tenant shall have the right to replace, repair, add or otherwise modify its
272 equipment or any portion(s) thereof, whether the equipment is specified or not on any exhibit
273 attached hereto, during the Term of this Ground Lease provided such activities are performed in
274 compliance with all applicable Laws. Further, such activities shall not unreasonably interfere with
275 Landlord's Condensate Interconnection Facilities, without Landlord's prior written consent.
276 Landlord will, at its sole cost and expense, install, own, operate, maintain, repair, and, as necessary,
277 replace all portions of the Condensate Interconnection Facilities located anywhere external to the
278 Site; provided, however, Landlord will not be required to make repairs or replacements of the
279 Condensate Interconnection Facilities caused by Tenant's replacement, repairs, additions or
280 modifications of Tenant's equipment or any portion(s) thereof without Landlord's prior written
281 consent.

282 (v) At all times during the Term, Landlord shall not take or
283 permit any action on or about the Site or any Recorded Easement Areas that would materially
284 interfere with Tenant's use and operation of the Facility. If Tenant believes Landlord has
285 materially interfered with Tenant's use and operation of the Facility, Tenant shall notify Landlord
286 and give Landlord a reasonable opportunity to cure such interference.

287 (vi) As of the Effective Date of this Ground Lease, Landlord
288 represents that, to Landlord's Knowledge, there are no installations, equipment or facilities of any
289 type or nature on the Site or within the Electrical Interconnection Easement Area which will
290 materially interfere with Tenant's use and operation of the Facility, fulfilling its obligations under
291 the SPSA or producing and delivering electricity throughout the Term.

292 (vii) Tenant will conduct criminal background checks on all
293 employees working on the Project and will refrain from bringing or sending any employee(s) to
294 the Site, Purdue University or other property owned by Landlord that Tenant reasonably believes
295 poses a threat to property or persons. Additionally, Tenant shall not knowingly allow any
296 registered offenders under Ind. Code ch. 11-8-8 to work on the Project or, at Tenant's request, to
297 visit the Site. Tenant agrees to impose this same criminal background check requirement on any
298 contractors used by Tenant in fulfillment of its responsibilities under this Ground Lease.

299 (viii) It is understood and agreed that Tenant shall be permitted to
300 use contractors to perform its obligations under this Ground Lease. Notwithstanding the use of
301 contractors engaged by Tenant, Tenant shall remain fully liable for the performance of its
302 obligations and such delegation shall not relieve Tenant from any of Tenant's obligations or
303 liabilities under this Ground Lease. Tenant shall cause the contractor to comply with the terms
304 and conditions of this Ground Lease in the performance of any work performed hereunder.

305 (ix) If Tenant desires to perform any construction or alterations
306 outside of the Site and the Recorded Easements related to the Project after the Development Period,
307 prior to commencing any such construction or alteration, Tenant must submit the applicable plans
308 and specifications to Landlord as set forth in Exhibit C for Landlord's review and approval as
309 described in said Exhibit C and the proposed new Easement Areas for Landlord's review and
310 approval. Tenant will not commence any such construction or alteration work outside of the Site
311 until Landlord and Tenant have agreed and documented the Easement Areas and new Recorded
312 Easements ("New Recorded Easements") and Landlord is reasonably satisfied that the construction
313 or alteration can be completed without unreasonable interference with Landlord's operations at
314 Landlord's Property. Landlord's approval of Tenant's applicable architectural plans and
315 specifications (as defined in Exhibit C) shall be for its sole purpose and shall not imply Landlord
316 reviewed and approved the same for quality, design, code compliance or other like matters, and
317 Landlord shall not have any liability whatsoever in connection therewith and shall not be
318 responsible for any omissions or errors related to Tenant's architectural plans and specifications.
319 Any such construction or alteration related to the Project outside of the Site shall be at Tenant's
320 sole cost and expense and shall be consistent with the terms of the applicable New Recorded
321 Easements.

322 (x) Landlord will install, at Landlord's sole cost and expense, a
323 wastewater lateral over Landlord's Property from the Site to Landlord's existing sanitary sewer
324 system. Such installation shall be located in a Recorded Easement Area and documented in a
325 Recorded Easement following the process and procedure set forth in Section 5 hereof. On and
326 after substantial completion of such wastewater lateral and Landlord's notice thereof to Tenant,
327 Tenant shall be required, at Tenant's sole cost and expense, to periodically maintain, repair and/or
328 replace, as reasonably necessary, the wastewater lateral, based on Landlord's reasonable
329 requirements as set forth in such Recorded Easement.

330 (c) Governmental Approvals. It is understood and agreed that Tenant's
331 ability to use the Site is contingent upon its obtaining, after the Effective Date of this Ground
332 Lease, all of the certificates, permits and other approvals, including but not limited to, approval of
333 the state regulatory commission, that may be required by any Federal, State or Local authorities
334 (collectively the "Governmental Approvals") in order to permit Landlord to enter into this Ground
335 Lease and to permit Tenant's use of the Site or the Recorded Easement Areas as set forth above.
336 At Tenant's request, Landlord shall, at no additional expense to Landlord, reasonably cooperate
337 with Tenant in obtaining such Governmental Approvals and shall join with Tenant in all such
338 applications and proceedings reasonably required to facilitate the issuance of such Governmental
339 Approvals. In the event that any of such applications for such Governmental Approvals should be
340 finally rejected prior to the Construction Commencement Start Date and Tenant determines that
341 such Governmental Approvals may not be obtained prior to the Construction Commencement Start
342 Date and absent a mutual extension of the Construction Commencement Start Date, Tenant or

343 Landlord shall have the right to terminate this Ground Lease. Notice of the Tenant's or Landlord's
344 exercise of its right to terminate pursuant to the foregoing sentence shall be given to the other Party
345 in writing prior to the Construction Commencement Start Date.

346 (d) Inspections. Tenant shall permit Landlord and its authorized agents
347 and employees, upon reasonable prior written notice, to enter the Site and Facility periodically
348 during the Term for the purpose of inspecting the same to ensure Tenant is developing,
349 constructing, operating and maintaining the Site and Facility in conformity with the requirements
350 of this Ground Lease or performing any work that may be necessary by reason of Tenant's default
351 under this Ground Lease. Landlord shall use commercially reasonable efforts to ensure any such
352 entry will not materially interfere with Tenant's use and operation of the Facility, fulfilling its
353 obligations under the SPSA or producing and delivering electricity throughout the Term. Nothing
354 herein shall imply a duty on the part of Landlord to do any work, and the performance thereof by
355 Landlord shall not constitute a waiver of any default of Tenant.

356 9.3. Operation and Maintenance. At all times during this Term, Tenant
357 covenants and agrees that it will, at its own cost and expense, develop, construct, maintain, operate
358 and manage the Site, the Facility and any other improvements installed by Tenant on the Recorded
359 Easement Areas in a good order, condition and repair (including replacement if warranted)
360 consistent with Comparable Industry Standards and consistent with its obligations under the SPSA,
361 reasonable wear and tear excepted. Landlord is not obligated to maintain, repair or replace the Site,
362 the Facility or the Recorded Easements.

363 9.4. Access Drive. During the Term, Landlord shall allow (and Tenant may
364 construct) a permanent means of ingress and egress to and from the Facility between the Facility
365 and the most convenient public road (or private road consistently maintained by Landlord and
366 constantly available for Tenant's use) (the "Access Drive"), which shall be operated and
367 maintained by Tenant and shall be cleared, graded, improved and maintained with a surface
368 passable at all times by a two-wheel drive vehicle. The improvements to the Access Drive shall
369 be made in accordance with applicable Laws. Prior to any installation of such improvements,
370 Tenant will submit detailed engineering plans to Landlord's Planning Office for review and
371 approval, including the location of the Access Drive and such improvements to the Access Drive.
372 Tenant will not commence any installation work until Landlord is reasonably satisfied that the
373 installations can be completed and the equipment installed can be operated and maintained without
374 unreasonable interference with Landlord's operations at Landlord's Property, and Landlord's
375 Planning Office has approved all construction plans and specifications, such approval by
376 Landlord's Planning Office not to be unreasonably withheld, conditioned or delayed. Landlord's
377 approval of all such construction plans and specifications shall be for its sole purpose and shall not
378 imply Landlord reviewed and approved the same for quality, design, code compliance or other like
379 matters and neither Landlord nor its Planning Office shall have any liability whatsoever in
380 connection therewith and shall not be responsible for any omissions or errors contained in such
381 approved construction plans and specifications. The improvements to the Access Drive will be
382 surrendered to Landlord in good condition and repair, reasonable wear and tear excepted, on the
383 earlier of the Term Expiration Date or the Final Decommissioning Date. At Landlord's sole
384 discretion, Landlord and Tenant will enter into a separate access drive easement, which when
385 recorded, will become one of the Recorded Easements.

386 9.5. Liens. Tenant shall keep the Site and Recorded Easement Areas free and
387 clear of any lien or encumbrance arising out of work performed, materials furnished or obligations
388 incurred in connection with Tenant's obligations for construction, utilities and services, repairs or
389 alterations under this Ground Lease. In the event any lien is placed upon the Site or Recorded
390 Easement Areas as a result of any act or omission of Tenant or any Tenant Parties, Tenant shall
391 pay such lien or may provide a bond or otherwise insure Landlord against such lien within 60
392 calendar days after notice to Tenant of such lien being perfected, and may thereafter contest such
393 lien or payment at Tenant's sole cost and expense. Tenant shall indemnify Landlord against any
394 loss, damage, cost or expenses in connection with any such lien or encumbrance that may be
395 claimed or asserted against the Site or Recorded Easement Areas. If Tenant fails to discharge any
396 lien created or established in violation of Tenant's covenant herein, Landlord, without declaring a
397 default hereunder and without relieving Tenant of any liability hereunder, may, but shall not be
398 obligated to, discharge or pay such lien (either by paying the amount claimed to be due or by
399 procuring the discharge of such lien by deposit or by bonding proceedings), and any amount so
400 paid by Landlord and all costs and expenses incurred by Landlord in connection therewith shall be
401 paid immediately by Tenant to Landlord upon demand. If any liens or encumbrances, as described
402 in this Section 9.5, are filed against the Facility, which liens constitute liens against the Site or
403 Recorded Easement Areas, Landlord may, if Tenant fails to discharge such liens as herein
404 provided, discharge such liens as set forth herein. Tenant's obligations under this Section 9.5 shall
405 survive the expiration or termination of the Term.

406 10. Insurance.

407 10.1. Tenant's Coverage. Tenant will maintain during the Term of this Ground
408 Lease, and will require any general contractor of Tenant retained to perform significant
409 construction or demolition work at the Facility or on the Site to maintain during the term of such
410 work, the insurance coverages and amounts required of Seller as set forth in the SPSA.

411 10.2. Landlord's Coverage. Landlord shall maintain its customary commercial
412 general liability insurance coverage (including self-insurance) (not less than \$2,000,000 per
413 occurrence/\$10,000,000 aggregate) covering legal liability for bodily injury (including death),
414 property damage and personal injury. This insurance shall include under each of its respective
415 policies its employees with respect to their participation in this Ground Lease while they are
416 carrying out their official duties for the Landlord.

417 10.3. Certificates. Prior to the date Tenant has "commenced construction" of the
418 Facility as referenced in Section 2.1.1., Tenant shall provide Landlord with written evidence of the
419 insurance required in Section 10.1 above in the form of appropriate insurance certificates
420 specifying amounts of coverage and expiration dates of all policies in effect. Tenant agrees to
421 make Landlord an additional insured on Tenant's commercial general liability and automobile
422 liability policies, and will provide Landlord with copies of policy endorsements reflecting
423 Landlord's status as an additional insured thereunder. With respect to the insurance provided to
424 Landlord hereunder, (i) Tenant will procure from each insurer a waiver of subrogation in
425 Landlord's favor and (ii) such insurance will be primary to any other insurance carried by Landlord.
426 Insurance coverage provided by Tenant under this section will not include any of the following:
427 (i) any claims made insurance policies; (ii) any self-insured retention or deductible amount greater
428 than \$250,000.00, unless approved in writing by Landlord; (iii) any endorsement limiting coverage

429 available to Landlord which is otherwise required by this section; and (iv) any policy or
430 endorsement language that (A) limits the duty to defend Landlord under the policy or (B) provides
431 coverage to Landlord only if Tenant is negligent.

432 10.4. Full Limits Coverage. Notwithstanding the minimum limits of coverage set
433 forth above, Tenant will name Landlord, its officers, directors, employees, subsidiaries,
434 successors, and assigns as additional insureds for the full limits of insurance coverage purchased
435 by Tenant. The additional insured coverage provided pursuant to this Section 10.4 will provide
436 coverage to Landlord, its officers, directors, employees, subsidiaries, successors, and assigns, for
437 all claims, losses, demands, liens, causes of action or suits, judgments, fines, assessments,
438 liabilities, damages and injuries (including death) covered by Section 12 herein below. Tenant is
439 responsible for payment of all deductibles, self-insured retentions or similar charges for the
440 additional insured coverage required pursuant to this Section 10.4.

441 10.5. Waiver of Insurance; Right to Self-Insure. Notwithstanding anything herein
442 to the contrary, Tenant shall have the right to self-insure through Duke Energy Corporation
443)“DEC”(as to any insurance required hereunder, subject to the terms and conditions set forth in,
444 and in accordance with, the provisions of the SPSA. With respect to any self-insurance by any
445 Tenant, (i) such self-insurance by Tenant must be permitted by all federal, state, county, municipal
446 and other governmental statutes, laws, rules, orders, regulations and ordinances affecting the Site
447 and the Facility or otherwise applicable to Tenant, and (ii) Tenant will protect Landlord to the
448 same extent as it would if it had the insurance policies required hereunder. As set forth in the
449 SPSA, this right to self-insure is personal to Duke Energy Indiana, LLC, and shall not apply to any
450 permitted assignee or subtenant unless Landlord consents to such in writing. The minimum
451 amounts of insurance coverage required of Tenant hereunder will not be construed to create a limit
452 on Tenant's liability with respect to its indemnification obligations hereunder.

453 10.6. Right to Cure. If a Party fails to procure or maintain any insurance required
454 pursuant to Section 10, the other Party will have the right, but not the obligation, upon not less
455 than 30 days prior written notice from such other Party to the non-performing Party, to procure
456 such insurance on behalf of the non-performing Party and in any such event such other Party will
457 be entitled to recover the premiums paid for such insurance as an amount due under this Ground
458 Lease.

459 11. Damage or Destruction of Facility. If, at any time during the Term of this Ground
460 Lease, the Facility shall be wholly or partially damaged or destroyed by Casualty, then Tenant
461 shall cause the same to be repaired, replaced, or rebuilt in accordance with this Section 11 and all
462 requirements of Section 9.2 within twenty-four (24) months after the occurrence of any major
463 damage or destruction and if not major, then within twelve (12) months after the occurrence. The
464 repairs shall restore the Facility to a condition which is not less than the condition it was in
465 immediately prior to the Casualty. The repairs shall be made in a good and workmanlike manner
466 using new, quality materials, products and equipment; and the Facility, after completion of the
467 repairs, shall conform and otherwise comply in all material respects with all applicable Laws. All
468 insurance proceeds paid by Tenant's insurers on account of the Casualty shall be paid to Tenant as
469 its sole property, to be used by Tenant in connection with repairing the Facility, if applicable.
470 Notwithstanding anything to the contrary contained herein, Tenant shall have the option to
471 terminate this Ground Lease by written notice to Landlord given within ninety (90) days after the

472 occurrence of any material damage or destruction that renders the Facility unfit, in Tenant's
473 commercially reasonable discretion, for the generation and delivery of Steam, if the damage or
474 destruction occurs within the last sixty (60) months of the Term of this Ground Lease and Tenant
475 shall surrender the Site, the Facility and the Recorded Easement Areas as provided in Section 6
476 above and subject to the provisions of the SPSA.

477 12. Liabilities.

478 12.1. General.

479 (a) Tenant shall indemnify, defend and hold harmless Landlord and
480 Landlord's Parties from any and all third party claims, losses, expenses, liabilities, actions, suits,
481 or judgments for personal injury or property damage, including without limitation reasonable
482 attorneys' fees and costs of enforcement (collectively, "Losses") by reason of, resulting from,
483 whether directly or indirectly, or arising out of or related to (i) Tenant's or Tenant's Parties'
484 ownership, operation, use or maintenance of the Facility, the Recorded Easement Areas or the Site;
485 (ii) the negligence or willful misconduct of Tenant or any Tenant Party in connection with the
486 transactions contemplated by this Ground Lease; (iii) any release of Hazardous Materials on the
487 Site caused or permitted by Tenant or any Tenant Party; or (iv) any environmental claim from a
488 third party or by Landlord with regard to a violation or alleged violation of any Environmental
489 Laws by Tenant or any Tenant Party. Tenant's indemnification under this Section 12 should be
490 construed to be in addition to, and not in lieu of, the indemnifications made by Tenant, as seller,
491 for the benefit of Landlord, as buyer, under the SPSA.

492 (b) The provisions of this Section 12.1 shall survive the expiration or
493 termination of the Term.

494 12.2. Consequential Damages. Notwithstanding anything to the contrary in this
495 Ground Lease, neither Party hereto shall be liable to the other for consequential or punitive
496 damages, including but not limited to loss of use or loss of profit or revenue.

497 13. Default.

498 13.1. Events of Default. The following events shall be deemed to be events of
499 default by Tenant ("Tenant Events of Default") under this Ground Lease:

500 (a) Failure to pay any payment required to be made hereunder,
501 including taxes or any other sum to be paid hereunder within 20 Business Days after the date the
502 same is due which shall have remained unpaid for 20 Business Days after written notice of such
503 failure has been given to Tenant by Landlord.

504 (b) Failure to comply in any material respect with any material term,
505 provision or covenant of this Ground Lease, other than the payment of sums to be paid hereunder,
506 without curing such failure within 30 days after due written notice thereof from Landlord to the
507 extent such failure is capable of being cured within such 30 day period; or if such failure cannot
508 reasonably be cured within the said 30 days and Tenant shall not have commenced to cure such
509 failure within said period and shall not thereafter with reasonable diligence and good faith proceed
510 to cure such failure.

511 (c) Any Event of Default (as defined in the SPSA) by Tenant under the
512 SPSA which results in the termination of the SPSA.

513 (d) Tenant shall file in any court pursuant to any statute, either of the
514 United States or any state, a petition in bankruptcy or insolvency, or for reorganization, or for the
515 appointment of a receiver or trustee of all or any portion of Tenant's property, or makes an
516 assignment for benefit of creditors; or there is filed against Tenant in any court pursuant to any
517 statute either of the United States or any state, a petition in bankruptcy or insolvency, or for
518 reorganization, or for the appointment of a receiver or trustee of all or any portion of Tenant's
519 property, and within 90 days after the commencement of any such proceeding against Tenant, such
520 petition shall not have been dismissed.

521 13.2. Landlord's Remedies. Upon the occurrence of any Tenant Event of Default
522 and after notice thereof from Landlord to Tenant (the "Default Notice"), Landlord may, at its
523 option, and in addition to and cumulatively of any other rights Landlord may have at law or in
524 equity or under this Ground Lease, (a) cure the Tenant Event of Default on Tenant's behalf, in
525 which event Tenant shall reimburse Landlord on demand for all reasonable sums so expended by
526 Landlord or Landlord may elect to offset any such reasonable amounts against subsequent
527 installments of any sums due from Landlord to Tenant hereunder or under the SPSA, (b) in the
528 event that the SPSA has been terminated, terminate this Ground Lease and Tenant's possession of
529 the Site and Recorded Easements, (c) in the case of a Tenant Event of Default pursuant to Section
530 13.1(c), seek injunctive relief or specific performance against Tenant, (d) enforce, by all proper
531 and legal suits and other means, its rights hereunder, including the collection of sums due
532 hereunder, in which event Landlord shall have all remedies available at law or in equity, and should
533 it be necessary for Landlord to take any legal action in connection with such enforcement, the
534 Tenant shall pay Landlord all reasonable attorney's fees and expenses incurred in such legal action
535 (as determined in the discretion of the court hearing such matter), all without prejudice to any
536 remedies that might otherwise be used by Landlord for recovery or arrearages of sums due
537 hereunder, damages as herein provided, or breach of covenant. In the event of Landlord's
538 termination of this Ground Lease and Tenant's possession of the Site and Recorded Easements,
539 Tenant will hand over the Project to Landlord as if the date of termination of the Ground Lease
540 and Tenant's possession of the Site and Recorded Easements was the Term Expiration Date.

541 13.3. Landlord Events of Default. The following events shall be deemed to be
542 events of default by Landlord ("Landlord Events of Default") under this Ground Lease:

543 (a) Failure to pay any payment required to be made hereunder within
544 20 Business Days after the date the same is due which shall have remained unpaid for 20 Business
545 Days after written notice of such failure has been given to Landlord by Tenant.

546 (b) Failure to comply in any material respect with any material term,
547 provision or covenant of this Ground Lease, other than the payment of sums to be paid hereunder,
548 without curing such failure within 60 days after due written notice thereof from Tenant; or if such
549 failure cannot reasonably be cured within the said 60 days and Landlord shall not have commenced
550 to cure such failure within said period and shall not thereafter with reasonable diligence and good
551 faith proceed to cure such failure.

552 13.4. Tenant's Remedies. Upon the occurrence of any Landlord Event of Default
553 and after notice thereof from Tenant to Landlord (the "Default Notice"), Tenant may, at its option,
554 and in addition to and cumulatively of any other rights Tenant may have at law or in equity or
555 under this Ground Lease, (a) cure the Landlord Event of Default on Landlord's behalf, in which
556 event Landlord shall reimburse Tenant on demand for all reasonable sums so expended by Tenant
557 or Tenant may elect to offset any such reasonable amounts against subsequent installments of any
558 sums due from Tenant to Landlord hereunder, or (b) enforce, by all proper and legal suits and other
559 means, its rights hereunder, including the collection of sums due hereunder, in which event Tenant
560 shall have all remedies available at law or in equity, all without prejudice to any remedies that
561 might otherwise be used by Tenant for recovery or arrearages of sums due hereunder, damages as
562 herein provided, or breach of covenant. Landlord acknowledges and agrees that if there is a
563 Landlord Event of Default pursuant to Section 13.3(b) above, which is not timely cured after
564 written notice from Tenant to Landlord to the extent contemplated in Section 13.3(b), and such
565 Landlord Event of Default has a direct material adverse effect on, and results in a material
566 interference with Tenant's business or operations at the Site or the amount of Steam or electricity
567 generated by the Facility, Tenant shall have the right to injunctive relief and specific performance
568 to enjoin Landlord.

569 13.5. Resolution of Disputes. Notwithstanding anything in this Article 13 to the
570 contrary, upon the occurrence of any Tenant Event of Default or any Landlord Event of Default,
571 the defaulting party may dispute the event of default by notice (the "Dispute Notice") to the non-
572 defaulting party within five (5) business days after receipt of a Default Notice from the non-
573 defaulting party. In such event, the Parties shall attempt to resolve the Dispute in accordance
574 with Section 19.5 (2) of the SPSA before pursuing its remedies under this Ground Lease; provided,
575 however, this Section 13.5 shall not delay any applicable actions in the event of an Emergency.

576 14. Governing Law and Venue. This Ground Lease and all provisions hereof, shall be
577 governed by and interpreted in accordance with the laws of the State of Indiana, without regard to
578 its principles of conflict of laws. Landlord and Tenant hereby consent to jurisdiction and venue in
579 the Circuit or Superior Court of Marion County, Indiana, for any action or proceeding arising out
580 of or relating to this Ground Lease. Any such action or proceeding brought against the other shall
581 be brought only in such state courts. The Parties hereto hereby waive personal service of any
582 process in connection with any such action or proceeding and agree that the service thereof shall
583 be made by certified or registered mail at the address for such Party set forth in Section 24.1. A
584 final non-appealable judgment in any such action or proceeding shall be conclusive and may be
585 enforced in other jurisdictions by suit on the judgment or in any other manner provided by
586 applicable Laws.

587 15. Condemnation. If at any time the Site, the Easements, or any portion thereof is
588 condemned or transferred in lieu of condemnation, the net proceeds of such condemnation or
589 transfer shall be divided between Landlord and Tenant (or Tenant's designee) in the proportions
590 specified in the condemnation award or agreement of transfer or, if not so specified, in proportion
591 to the fair value of Landlord's and Tenant's respective interests in the Site and the Easements,
592 provided that to the extent that the net proceeds of any condemnation or transfer in lieu of
593 condemnation are attributable to the Facility or improvements constructed by or on behalf of
594 Tenant on the Site and/or the Easements, such proceeds shall be paid solely to Tenant or Tenant's
595 designee, with Landlord receiving any proceeds attributable solely to the residual value of the fee

596 estate of the Site. For the purpose of this Section 15 the net proceeds of a condemnation or transfer
597 in lieu of condemnation shall mean the total proceeds of such condemnation or transfer less the
598 costs and expenses incurred in connection therewith (including legal fees). If the entire Site is
599 condemned or transferred in lieu of condemnation, the Term shall terminate at the time title vests
600 in the condemning authority. If a portion of the Site is condemned or transferred in lieu of
601 condemnation, the Lease shall continue in full force and effect with respect to that portion of the
602 Site which has not been so condemned or transferred. Notwithstanding the foregoing, Tenant may
603 terminate this Ground Lease without penalty by giving written notice of termination to Landlord
604 if, in Tenant's reasonable discretion, the Site or the Easements are not suitable for Tenant's intended
605 use following such condemnation or transfer in lieu thereof.

606 16. Maintenance Responsibilities of Parties. No Party shall have any duty or
607 responsibility to the other Party in respect of the Site or the Recorded Easement Areas or the use,
608 maintenance or condition thereof except such obligations of such Party as are specifically set forth
609 in this Ground Lease, the SPSA, or any instrument creating the Recorded Easements.

610 17. Mortgage of Tenant's Interest.

611 17.1. Other Financing Parties. Landlord understands that any real estate interest
612 of Tenant under this Ground Lease will automatically be subject to an existing deed of
613 trust/mortgage which automatically encumbers any real estate interests acquired by Tenant under
614 this Ground Lease and the Recorded Easements (and that same shall constitute a Financing
615 Document (as defined below and shall not encumber Landlord's interest in the Property.) Further,
616 and provided Tenant is not in default of its obligations under this Ground Lease or the SPSA
617 beyond any applicable notice and cure periods, Tenant may at any time, with Landlord's prior
618 written consent, which consent shall not be unreasonably withheld, conditioned or delayed, elect
619 to finance a portion of the cost of the Facility with one or more financial institutions, leasing
620 companies, institutions or affiliates or subsidiaries thereof (each a "Financing Party," collectively,
621 the "Financing Parties") and in connection therewith Tenant would enter into various agreements
622 and execute various documents relating to such financing, which documents may, among other
623 things, assign Tenant's interests under this Ground Lease and the Easements to a Financing Party
624 or grant a first priority security interest in Tenant's interest in the Facility and/or this Ground Lease
625 and Tenant's other interests in and to the Site, including, but not limited to, any easements, rights
626 of way or similar interests (such documents, "Financing Documents"). Landlord acknowledges
627 notice of the foregoing and, subject to the provisions of this Section 17, consents to the foregoing
628 actions and Financing Documents described above, provided that in no event shall Tenant be
629 released from any liability under this Ground Lease and in no event shall Landlord's fee interest in
630 the Site or land underlying any easements, rights of way or similar interest be encumbered by such
631 Financing Documents. Upon reasonable prior notice to Landlord, Landlord agrees to execute, and
632 agrees to use good faith reasonable efforts to obtain from any and all of Landlord's lenders, such
633 subordination agreements, consents, estoppels and other acknowledgements of the foregoing as
634 Tenant or the Financing Parties may reasonably request and which are reasonably acceptable to
635 Landlord and its lenders. Landlord agrees that if requested in writing by Tenant, Landlord will
636 thereafter furnish the Financing Parties with a counterpart of each notice or other document
637 delivered by Landlord to Tenant in connection with this Ground Lease; provided that, in no way
638 shall Landlord be liable to any Financing Party for failure to send a counterpart of each notice or
639 other document delivered by Landlord to Tenant in connection with this Ground Lease.

640 17.2. Notice of Termination to Financing Party. Provided Landlord has been
641 provided with written notice by a Financing Party requesting that the Financing Party be given
642 notice of a default by Tenant under this Ground Lease, Landlord agrees that it shall not terminate
643 this Ground Lease unless it has given each such Financing Party at least 30 days' prior written
644 notice of its intent to terminate this Ground Lease, or such longer period (not to exceed ninety (90)
645 days) in the event Financing Party may need to acquire the rights of the Tenant under the Ground
646 Lease and possession of the Site in order to cure such default, and the Financing Party fails to cure
647 the condition giving rise to such right of termination within such time period, as same may be
648 extended; provided that, in no way shall Landlord be liable to any Financing Party for failure to
649 give notice as provided herein.

650 17.3. Notice of Default to Financing Party. If the default by Tenant under this
651 Ground Lease is of such a nature that it cannot be practicably cured without first taking possession
652 of the Facility and the Site or if such default is of a nature that is not susceptible of being cured by
653 a Financing Party and provided Landlord has been provided with written notice by a Financing
654 Party requesting that the Financing Party be given notice of a default by Tenant under this Ground
655 Lease, then Landlord shall not be entitled to terminate this Ground Lease by reason of such default
656 if and so long as the Financing Party proceeds diligently to obtain possession of the Facility and
657 the Site pursuant to the rights of the Financing Party under the Financing Documents (but in no
658 event more than 30 days after Landlord delivers notice of a default by Tenant under this Ground
659 Lease to the Financing Party) and upon obtaining such possession, the Financing Parties shall
660 proceed diligently to cure such default.

661 17.4. Financing Party May Assume Lease. A Financing Party shall not be
662 required to continue to proceed to obtain possession, or to continue in possession of the Site,
663 pursuant to Section 17.3 if and when such default is cured so long as the Facility and the Site are
664 operated by a Qualified Operator. If the Financing Party, or a purchaser through foreclosure under
665 the Financing Documents or otherwise, shall (a) acquire title to the Facility and the Tenant's
666 leasehold estate created by this Ground Lease, (b) cure all defaults (including without limitation,
667 the payment of all monetary obligations of Tenant due under the Lease), (c) assume all the
668 obligations of Tenant hereunder, and (d) provide Landlord with adequate assurances, as
669 determined in Landlord's reasonable discretion, that the obligations of the Tenant to provide
670 Landlord services under the SPSA shall continue uninterrupted by a Qualified Operator,
671 notwithstanding the acquisition of the Facility and the Tenant's leasehold estate, then Landlord
672 shall recognize the Financing Parties or such purchaser, as the case may be, as if such party had
673 been the Tenant under this Ground Lease; provided, however, that Landlord's recognition of the
674 Financing Party or its purchaser pursuant to this Section 17.4 shall not constitute a waiver of such
675 default and Landlord's rights as a result thereof as against Tenant or the ownership, management
676 and operation of the Facility and the Site by a Qualified Operator.

677 18. Landlord's Representations and Covenants.

678 18.1. Condition of Title; Authority; Enforceability. Landlord represents as of the
679 Effective Date that to Landlord's Knowledge, Landlord owns fee title to the Site and the Easement
680 Areas free and clear of any lien, interest or encumbrance, none of which, to Landlord's Knowledge,
681 would adversely impair Tenant's performance under the terms of this Ground Lease or under the
682 SPSA. At any time on or after the Effective Date Tenant may obtain for itself and/or any Financing

683 Party, at Tenant's expense, an ALTA Extended Coverage policy of title insurance in a form and
684 with exceptions acceptable to Tenant in its sole discretion (the "Title Policy"). Landlord agrees to
685 cooperate fully and promptly with Tenant in its efforts to obtain the Title Policy, and Landlord
686 shall take such actions as Tenant may reasonably request in connection therewith at no cost to
687 Landlord. Landlord represents that as of the Effective Date, to Landlord's Knowledge: (a) there
688 are no pending or threatened claims, actions or suits affecting the Site or Landlord's interest in the
689 Site or the Easement Areas; (b) the execution and performance of this Ground Lease by Landlord
690 does not violate any contract, agreement or instrument to which Landlord is a party; (c) the
691 execution, delivery and performance by Landlord under this Ground Lease have been duly
692 authorized by all necessary action by Landlord, and do not violate any provision of any current
693 Laws applicable to Landlord, the Site or the Easement Areas or any order, judgment or decree of
694 any court or other agency presently binding on Landlord or conflict with or result in a breach of
695 or constitute a default under any contractual obligation of Landlord; and (d) this Ground Lease is
696 the legally valid and binding obligation of Landlord enforceable against it in accordance with its
697 terms except as enforcement may be limited by bankruptcy, insolvency, or reorganization,
698 moratorium or similar laws or equitable principles relating or limiting creditors rights generally.

699 18.2. Environmental. Prior to the Effective Date, Landlord, at its sole cost and
700 expense, shall have undertaken a current Phase I Environmental Site Assessment (the scope and
701 performance of which meets or exceeds the requirements set forth in 40 CFR Part 312) of the Site
702 and the Easement Areas prepared by a qualified company selected by the Landlord and reasonably
703 acceptable to the Tenant. If the Phase I Environmental Site Assessment recommends or otherwise
704 indicates that further site investigation be performed, such as a Phase II Environmental
705 Assessment, Landlord shall undertake, at its sole cost and expense, such further site investigation
706 prepared by a qualified company selected by Landlord and reasonably acceptable to Tenant. If a
707 Phase II Environmental Assessment undertaken by Landlord reveals any existing Environmental
708 Condition(s) that is/are reasonably acceptable to Tenant, then Tenant will not seek any further
709 Landlord investigation or remediation. However, if either such further investigation, or Tenant's
710 subsequent pre-construction or construction activities reveal any Existing Environmental
711 Conditions which are not reasonably acceptable to Tenant, then Landlord shall obtain a firm
712 estimate for further investigations (i.e., supplemental Phase II) and/or remediation needed to render
713 the Site and Easement Areas usable for the Facility. The Parties shall then have the following
714 options: (1) Landlord may, in its sole discretion, decide whether or not to undertake such further
715 investigations and remediation as needed to render the Site and the Easement Areas usable for the
716 Facility, at its sole cost and expense ("Option 1"); (2) if Landlord, in its sole discretion, decides
717 not to further investigate and remediate the Site and Easement Areas to render them usable for the
718 Facility, Tenant may at its sole cost and expense undertake such further investigations and
719 remediation) "Option 2"; (3) Landlord and Tenant may mutually agree to a sharing of the costs
720 and expenses) ("Option 3"); or (4) if Landlord, in its sole discretion, decides not to further
721 investigate and remediate the Site and Easement Areas to render them usable for the Facility, and
722 Tenant, in its sole discretion, decides not to further investigate and remediate the Site and Easement
723 Areas to render them usable for the Facility, then either Landlord or Tenant may terminate this
724 Ground Lease and the Steam Purchase and Sale Agreement with no liability or termination fees or
725 expenses owing from Landlord to Tenant or from Tenant to Landlord) "Option 4". In the case of
726 Option 4, Tenant shall promptly commence to clear the Site and remove all of the improvements
727 and all other property of Tenant located on the Site and the applicable Recorded Easement Areas,

728 returning same to their condition as of the Effective Date to the extent reasonably practical, and
729 shall fully complete such clearing and removal within 90 days.

730 18.3. Subordination Agreements. Landlord shall, at its expense, promptly
731 remove, or cause to be subordinated to the Ground Lease all monetary obligations and any related
732 monetary liens that are described as exceptions in the Title Policy. Any such subordination
733 agreement shall be in a form as may be reasonably acceptable to Landlord and Tenant, which
734 provides, among other things, that Tenant's occupancy or use of the Site in accordance with the
735 terms of this Ground Lease will not be disturbed so long as Tenant is not in default under the terms
736 of this Ground Lease or the SPSA beyond any applicable notice and cure period. Under no
737 circumstances shall Landlord be required to subordinate its right, title and interest in the Site and
738 Recorded Easement Areas or its rights under this Ground Lease to the liens and security interests
739 Tenant may grant a Financing Party during the Term.

740 19. Tenant's Representations, Warranties, and Covenants.

741 19.1. Authority; Enforceability. Tenant represents and warrants that (a) the
742 execution and performance of this Ground Lease by Tenant does not violate any contract,
743 agreement or instrument to which Tenant is a party; (b) the execution, delivery and performance
744 by it under this Ground Lease have been duly authorized by all necessary action by Tenant, and
745 do not violate any provision of any current Laws applicable to Tenant, the Site or the Recorded
746 Easement Areas or any order, judgment or decree of any court or other agency presently binding
747 on Tenant or conflict with or result in a breach of or constitute a default under any contractual
748 obligation of Tenant; and (c) this Ground Lease is the legally valid and binding obligation of
749 Tenant enforceable against it in accordance with its terms except as enforcement may be limited
750 by bankruptcy, insolvency, or reorganization, moratorium or similar laws or equitable principles
751 relating or limiting creditors rights generally.

752 19.2. Compliance With Laws. Tenant shall, at its sole expense (regardless of the
753 cost thereof), (i) use and maintain the Project and conduct its business thereon in a safe, clean,
754 careful, reputable and lawful manner in accordance with all Comparable Industry Standards; and
755 (ii) comply with all applicable Laws, now or hereafter in force and all judicial and administrative
756 decisions pertaining thereto, pertaining to either or both of the Project and Tenant's development,
757 construction, ownership, operation and maintenance of the Project during the Term. If any license
758 or permit is required for the development, construction, ownership, operation and maintenance of
759 the Project and the conduct of Tenant's business thereon, Tenant, at its expense, shall procure such
760 licenses and permits prior to the Commercial Operation Start Date or earlier during the
761 Development Period as required by applicable Laws, and shall maintain such licenses and permits
762 in good standing throughout the Term.

763 19.3. Environmental. Tenant hereby covenants that Tenant and its agents,
764 employees and contractors will not generate, store, use, treat or dispose of any Hazardous Materials
765 in, on or at the Site or any part of the Facility, except for Hazardous Materials as are commonly
766 legally used or stored (and in such amounts as are commonly legally used or stored) as a
767 consequence of using the Facility for the permitted use hereunder, but only so long as the quantities
768 thereof do not pose a threat to public health or to the environment or would necessitate a "response
769 action", as that term is defined in CERCLA, and so long as Tenant strictly complies or causes

770 compliance with all applicable Environmental Laws concerning the use or storage of such
771 Hazardous Materials. Tenant further covenants that neither the Site nor any part of the Facility
772 shall ever be used by Tenant or its agents, contractors or employees as a dump site or (except as
773 provided hereinabove) storage site (whether permanent or temporary) for any Hazardous Materials
774 during the Term.

775 Tenant shall promptly (a) notify Landlord of (i) any violation by Tenant or any Tenant
776 Parties of any Environmental Laws on, under or about the Project, which Tenant is provided
777 written notice from a Governmental Authority, or (ii) the presence or suspected presence of any
778 Hazardous Materials on, under or about the Site and Recorded Easement Areas, and (b) deliver to
779 Landlord any notice received by Tenant relating to (a)(i) and (a)(ii) above from any source. Tenant
780 shall execute affidavits, representations and the like within five (5) business days of Landlord's
781 request therefor concerning Tenant's actual knowledge and belief (without independent
782 investigation) regarding the presence of any Hazardous Substances on, under or about the Project.
783 Tenant shall indemnify, defend and hold harmless Landlord and Landlord's managing agent from
784 and against any and all claims, losses, liabilities, costs, expenses, penalties and damages, including
785 attorneys' fees, costs of testing and remediation costs, reasonably incurred by Landlord or
786 Landlord's Parties in connection with any breach by Tenant of Tenant's obligations under this
787 Section 19.3. The covenants and obligations under this Section 19.3 shall survive the expiration
788 or earlier termination of this Ground Lease.

789 20. Utilities. As set forth in the SPSA, Landlord shall ensure that the Utilities are
790 available for use by Tenant at the boundaries of the Site and the Recorded Easement Areas.
791 However, Landlord shall not be responsible for the quantities or adequacy of such Utilities, or the
792 outage of such Utilities, for the development, construction, ownership, operation and maintenance
793 of the Facility during the Term. To Landlord's Knowledge, Landlord has disclosed to Tenant the
794 location of all utilities currently buried on the Site. Landlord and Tenant shall share the cost and
795 expense of relocating (as necessary) the natural gas line that crosses the Site, but Landlord shall
796 not be responsible for the cost and expense for locating or relocating any other currently buried
797 utilities on the Site. Tenant shall pay for all Utilities consumed by Tenant at the Site during the
798 Term.

799 21. Taxes.

800 21.1. Covenant to Pay Taxes and Assessments. Tenant shall be responsible for
801 and shall pay the Taxes and Assessments, if any, as hereinafter defined, which are imposed on the
802 Site, the Facility and Tenant's operations at the Site. "Taxes and Assessments" shall mean all
803 taxes, assessments or other impositions, general or special, ordinary or extraordinary, of every kind
804 or nature, which may be levied, assessed or imposed upon or with respect to the Site, the Facility
805 and Tenant's operations at the Site or any improvements, fixtures, equipment or personal property
806 of Tenant at any time situated thereon, including, but not limited to, any ad valorem and inventory
807 taxes. Landlord shall pay any transfer or conveyance tax arising out of this Ground Lease.
808 Landlord shall also timely pay all taxes, assessments or other impositions which may be levied,
809 assessed or imposed upon or with respect to the Recorded Easement Area(s) (and with respect to
810 the Recorded Easement Areas regarding the Electrical Interconnection Easement, any buildings,
811 improvements, fixtures, equipment or personal property situated thereon belonging to anyone other
812 than Tenant), if any. Tenant shall not be responsible for the payment of any income or similar tax

813 due and payable on Landlord's receipt of the rental payment under this Ground Lease. If the real
814 property comprising the Site is a part of a larger tax parcel, Tenant's share of taxes regarding the
815 Site shall be proportional to the acreage of the Site as compared to the acreage of such larger parcel.

816 21.2. Tenant's Right to Contest Taxes. Tenant shall have the right to contest any
817 Taxes or Assessments payable by Tenant, provided, Tenant shall, in good faith and with due
818 diligence, contest the same or the validity thereof by appropriate legal proceedings which shall
819 have the effect of preventing the collection of the tax or assessment and the sale or foreclosure of
820 any lien for such tax or assessment. Tenant shall have the right, at its sole expense, to institute and
821 prosecute any suit or action to contest any Taxes or Assessments payable by Tenant or to recover
822 the amount of any such Taxes or Assessments payable by Tenant but, in such event, Tenant hereby
823 covenants and agrees to indemnify and save Landlord harmless from any and all reasonable and
824 documented costs and expenses, including attorneys' fees, in connection with any such suit or
825 action. Any funds recovered by Tenant as a result of any such suit or action shall belong to Tenant
826 except to the extent any such recovery relates to a period of time that is not part of the Term. Any
827 part of such recovery relating to a period not part of the Term shall be paid to Landlord. The terms
828 and provisions of this Section shall survive the termination or earlier expiration of this Ground
829 Lease.

830 22. Assignment.

831 22.1. Assignment by Landlord. Landlord may sell, assign or transfer all (but not
832 less than all) of its interest in the Site or this Ground Lease at any time to a successor in interest
833 (who must expressly assume the obligations of Landlord hereunder), and Landlord shall thereafter
834 be released or discharged from all of its covenants and obligations hereunder, except such
835 obligations as shall have accrued prior to any such sale, assignment or transfer, and Tenant agrees
836 to look solely to such successor in interest of Landlord for performance of such obligations arising
837 after such sale, transfer or assignment. In the event of such sale, assignment or transfer of its
838 interest, Landlord shall promptly notify Tenant of same. Landlord shall also have the right to place
839 a mortgage or deed of trust upon the Site, in which event this Ground Lease shall be subordinate
840 to the lien of any deed of trust or mortgage, provided that the beneficiary of such deed of trust or
841 mortgage shall agree in writing, that so long as Tenant is not in default under the terms of this
842 Ground Lease beyond any applicable notice and cure period as set forth herein, such beneficiary
843 shall not disturb Tenant's rights under this Ground Lease and shall otherwise comply with the
844 terms and provisions of this Ground Lease applicable to Landlord.

845 22.2. Assignment by Tenant. Tenant may not sell, assign, sublease, mortgage,
846 pledge, or otherwise transfer its interest in the Project, this Ground Lease and its rights and
847 obligations under the SPSA, without the prior written consent of Landlord, which consent shall
848 not be unreasonably withheld, conditioned or delayed so long as (i) the assignee expressly assumes
849 in writing Tenant's payment and performance obligations under this Ground Lease and the SPSA,
850 and (ii) Tenant delivers evidence satisfactory to the Landlord of the proposed assignee's technical
851 and financial capability to fulfill Tenant's obligations hereunder and under the SPSA.
852 Notwithstanding the immediately preceding sentence, Tenant may, without the consent of
853 Landlord, assign this Ground Lease as part of a Permitted Transaction (as defined in the SPSA.

854 23. Ownership of Electricity and Environmental Attributes And Incentives. Pursuant
855 to Section 4.4 of the SPSA, Landlord and Tenant will each individually have the right to claim,
856 bank, trade, sell, retire or retain one half (1/2) of the Environmental Attributes (as defined in the
857 SPSA) and Electric Power Attributes (as defined in the SPSA) directly related to and arising from
858 the production of Steam or electric energy at the Facility; provided, however, that Landlord will
859 retain all rights to Environmental Attributes and Electric Power Attributes related to the ownership
860 and operation of the Landlord's Property or any other Landlord facilities or the generation or use
861 of Steam or electric energy at the Landlord's Property or any other Landlord facilities.

862 24. Miscellaneous.

863 24.1. Notices. Any notice, consent or other formal communication required or
864 permitted to be given by a Party pursuant to the terms of this Ground Lease shall be in writing and
865 shall be deemed delivered (a) when delivered personally or by email, unless such delivery is made
866 (i) on a day that is not a business day in the place of receipt or (ii) after 5:00 p.m. local time on a
867 business day in the place of receipt, in either of which cases such delivery will be deemed to be
868 made on the next succeeding business day, (b) on the next business day after timely delivery to a
869 reputable overnight courier and (c) on the business day actually received if deposited in the U.S.
870 mail (certified or registered mail, return receipt requested, postage prepaid), addressed as follows
871 (or to such other address or having such other contact information as either Party may hereafter
872 specify for such purpose by like notice to the other Party from time to time):

873 *if to Tenant, addressed to:*

874 Duke Energy Indiana, LLC

875 _____

876 _____

877 _____

878 Attention: _____

879 Phone: (____) ____ - _____

880 Email: _____@duke-energy.com

881 With a copy to:

882 Duke Energy _____, LLC

883 _____

884 _____

885 _____

886 Attention: John B. Scheidler

887 Phone: (317) 838-1839

888 Email: John.Scheidler@duke-energy.com

889 *if to Landlord, addressed to:*

890 Purdue University

891 _____

892 _____

893 _____

894 Attention: _____

895 with a copy to:

896 _____

897 _____

898 _____

899 Attention: _____

900 or to such other address as either Party shall from time to time designate in writing to the other
901 Party.

902 24.2. Counterparts; Signatures. This Ground Lease may be executed in
903 counterparts. All executed counterparts shall constitute one agreement, and each counterpart shall
904 be deemed an original. The parties hereby acknowledge and agree that facsimile signatures or
905 signatures transmitted by electronic mail in so-called "pdf" format shall be legal and binding and
906 shall have the same full force and effect as if an original of this Ground Lease had been delivered.
907 Landlord and Tenant (i) intend to be bound by the signatures on any document sent by facsimile
908 or electronic mail, (ii) are aware that the other party will rely on such signatures, and (iii) hereby
909 waive any defenses to the enforcement of the terms of this Ground Lease based on the foregoing
910 forms of signature.

911 24.3. Amendments. Neither this Ground Lease nor any of the terms hereof may
912 be terminated, amended, supplemented, waived or modified orally, but only by an instrument in
913 writing signed by the Party against which the enforcement of the termination, amendment,
914 supplement, waiver or modification shall be sought.

915 24.4. Headings, etc. The headings of the various Sections of this Ground Lease
916 are for convenience of reference only and shall not modify, define, expand or limit any of the terms
917 or provisions hereof.

918 24.5. Successors and Assigns. The terms of this Ground Lease shall be binding
919 upon, and inure to the benefit of, the Parties hereto and their respective successors and permitted
920 assigns.

921 24.6. Confidentiality. Landlord and Tenant each agree that all of Section 18 of
922 the SPSA captioned CONFIDENTIALITY, including without limitation, Section 18.1 thereof
923 containing the definition of "Confidential Information" is hereby incorporated and made a part of
924 this Section 24.6 as if fully set forth herein, except all references to "this Agreement" found in all

925 of Section 18 of the SPSA, as hereby incorporated into this Ground Lease, shall be replaced so as
926 to read "this Ground Lease" in lieu of all references therein to "this Agreement."

927 24.7. Interpretation. The Parties acknowledge that this Ground Lease, as
928 executed, is the product of negotiations between Landlord and Tenant and that it shall be construed
929 fairly, in accordance with its terms, and shall not be construed for or against either Party. No
930 inferences as to the intention of the Parties shall arise from the deletion of any language or
931 provisions of this Ground Lease.

932 24.8. Memorandum of Ground Lease. At such time as Tenant has commissioned
933 and delivered an ALTA/ACSM Land Title Survey of the Site reasonably satisfactory to Landlord
934 and provided this Ground Lease has not been terminated during the Development Period, Landlord
935 and Tenant shall execute, acknowledge before a notary public, and deliver a short form
936 memorandum of ground lease in recordable form (the "Memorandum"), which shall be recorded
937 by Tenant in the Official Records at Tenant's sole cost and expense and a copy of the recorded
938 Memorandum will promptly be delivered to Landlord upon receipt of the recorded original from
939 the Official Records. The Memorandum shall identify the location of the Site. Upon termination
940 of this Ground Lease, the Parties agree to execute and deliver a memorandum of termination of
941 this Ground Lease and the Recorded Easements, each in recordable form.

942 24.9. Severability. If any term or provision of this Ground Lease is, to any extent,
943 determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of
944 this Ground Lease shall not be affected thereby, and each remaining term and provision of this
945 Ground Lease shall be valid and enforceable to the fullest extent permitted by law.

946 24.10. Time is of the Essence. Time is of the essence of this Ground Lease and
947 each and every provision of this Ground Lease.

948 24.11. Consent and Approvals. Any consent or approval that a Party is obligated
949 to give to the other Party shall not be unreasonably withheld or delayed, subject to any specific
950 provision to the contrary contained in this Ground Lease. Wherever in this Ground Lease
951 Landlord's consent or approval is required, if Landlord refuses to grant such consent or approval,
952 whether or not Landlord expressly agreed that such consent or approval would not be unreasonably
953 withheld, Tenant shall not make, and Tenant hereby waives, any claim for money damages
954 (including any claim by way of set-off, counterclaim or defense) based upon Tenant's claim or
955 assertion that Landlord unreasonably withheld or delayed its consent or approval. Tenant's sole
956 remedy shall be an action or proceeding to enforce such provision, by specific performance,
957 injunction or declaratory judgment. In no event shall Landlord be liable for, and Tenant, on behalf
958 of itself and all other Tenant Parties, hereby waives any claim for, any indirect, consequential or
959 punitive damages, including loss of profits or business opportunity, arising under or in connection
960 with this Ground Lease.

961 24.12. Entire Agreement. This Ground Lease and the SPSA, including any
962 exhibits and attachments hereto and thereto, constitute the entire agreement between Landlord and
963 Tenant relative to the matters and transactions contemplated herein. Landlord and Tenant agree
964 hereby that all prior or contemporaneous oral or written agreements, or letters of intent, between

965 and among themselves or their agents including any leasing agents and representative, relative to
966 such matters and transactions are merged in or revoked by this Ground Lease and the SPSA.

967 24.13. Broker's Commission. Tenant represents and warrants that it has not dealt
968 with any broker or agent in connection with this Ground Lease and Tenant agrees to indemnify
969 and save Landlord harmless from any claims made by any brokers or agents claiming to have dealt
970 with Tenant. Landlord represents and warrants that it has not dealt with any brokers or agents in
971 connection with this Ground Lease, and Landlord agrees to indemnify and save Tenant harmless
972 from any claims made by any brokers or agents claiming to have dealt with Landlord. The terms
973 and provisions of this Section shall survive the termination or earlier expiration of this Ground
974 Lease.

975 24.14. EXCULPATION. TENANT AGREES THAT TENANT SHALL LOOK
976 SOLELY TO LANDLORD'S INTEREST IN THE SITE AND INSURANCE,
977 CONDEMNATION AND SALES PROCEEDS THEREFROM FOR THE SATISFACTION OF
978 ANY CLAIM, JUDGMENT OR DECREE REQUIRING THE PAYMENT OF MONEY BY
979 LANDLORD BASED UPON ANY UNCURED DEFAULT BY LANDLORD HEREUNDER,
980 AND NO OTHER PROPERTY OR ASSETS OF LANDLORD, ITS SUCCESSORS OR
981 ASSIGNS, SHALL BE SUBJECT TO LEVY, EXECUTION OR OTHER ENFORCEMENT
982 PROCEDURE FOR THE SATISFACTION OF ANY SUCH CLAIM, JUDGMENT,
983 INJUNCTION OR DECREE.

984 25. Handover Upon Landlord's Purchase of Facility. If Landlord purchases the Facility
985 from Tenant pursuant to Article 16 of the SPSA, Tenant will handover the Project to Landlord in
986 accordance with the terms and provisions set forth such Article 16 of the SPSA. Upon Landlord's
987 purchase of the Facility, the Ground Lease and Recorded Easements shall be terminated and of no
988 further force and effect, except for the provisions herein that expressly survive expiration or
989 termination of this Ground Lease or any of the Recorded Easements.

990

991 IN WITNESS WHEREOF, the Parties hereto have caused this Ground Lease to be duly
992 executed by their respective officers thereto duly authorized as of the day and year first above
993 written.

994

LANDLORD:

995

The Trustees of Purdue University

996

997

998

By: _____

999

Name: _____

1000

Title: _____

1001

1002

1003

TENANT:

1004

Duke Energy Indiana, LLC

1005

By: _____

1006

Name: _____

1007

Title: _____

1008

EXHIBIT B

to Ground Lease

Definitions

"Access Drive" has the meaning set forth in Section 9.4 hereof.

"Affiliate" has the meaning set forth in the SPSA.

"ALTA" means the American Land Title Association or any successor organization.

"ALTA/ACSM Land Title Survey" means a survey prepared to prevailing ALTA and ACSM standards of the Site and/or Easement Areas, prepared at Tenant's expense by a registered surveyor approved by Landlord and certified to Landlord and Tenant.

"ACSM" means the American Congress of Surveying and Mapping or any successor organization.

"Business Day" means any day except a Saturday, Sunday or a legal holiday recognized by Landlord. A Business Day will open at 8:00 a.m. and close at 5:00 p.m., at the location of the Facility.

"Casualty" means any loss or destruction of or damages to the Facility or the Site resulting from any act of God, fire, explosion, earthquake, accident or the elements, whether or not covered by insurance and whether or not caused by the fault or negligence of either Party, or such Party's employees, agents, contractors, or visitors.

"Change of Control" has the meaning set forth in the SPSA.

"CHP" means combined heat and power.

"Commercial Operation Date" has the meaning set forth in the SPSA.

"Commercial Operation Start Date" means the date upon which Tenant notifies Landlord that the Facility is commercially operational, and that is no later than 36 months after the Construction Commencement Start Date, subject to extension for a Force Majeure Event or by mutual agreement between the Parties.

"Comparable Industry Standards" means all applicable architectural, engineering and construction design and specifications for the construction of applicable CHP facilities during the development and construction of the Facility during the Development Period, and once completed and operational, means Prudent Operating Practices and with generally acceptable industry standards.

"Condensate Interconnection Facilities" has the meaning set forth in the SPSA.

"Confidential Information" has the meaning set forth in Section 24.6.

"Construction Commencement Start Date" means a date that is no later than one hundred eighty (180) days following the date on which both (i) the Indiana Utility Regulatory Commission approves Tenant's construction of the CHP Facility, and (ii) all other permits necessary to begin construction have been obtained, and which must be communicated to Landlord by Tenant not less than thirty (30) days prior to such Construction Commencement Start Date, subject to extension for a Force Majeure Event or by mutual agreement of Landlord and Tenant.

"DEC" has the meaning set forth in Section 10.5.

"Decommissioning Activities" has the meaning set forth in Section 6.

"Development Period" means the period of approximately 48 months commencing on the Effective Date and continuing until the Commercial Operation Start Date, during which period Tenant shall perform development activities, including but not limited to, obtaining permits, securing its position to interconnect into the grid and constructing the Facility.

"Easements" or "Easement" each has the meaning set forth in Section 5.

"Easement Areas" has the meaning set forth in Section 5.

"Effective Date" has the meaning set forth in the Preamble.

"Electrical Interconnection Easement" has the meaning set forth in Section 5.

"Emergency" means any occurrence that requires immediate action in order to prevent or mitigate serious actual or potential hazard to the safety of Persons or property, or material interference with the safe operation of the Facility or the Host, or violation of any applicable Environmental Laws or other Laws or Permit or any directive by a Governmental Authority.

"Energy Output" has the meaning set forth in Section 23.

"Environmental Incentives" has the meaning set forth in Section 23.

"Environmental Laws" has the meaning set forth in the SPSA.

"Environmental Liability" means any action, lawsuit, claim or proceeding arising under or related in any way to the Environmental Laws or which seeks to impose liability for (a) noise; (b) pollution or contamination of the air, surface water, ground water or land or the clean-up of such pollution or contamination; (c) solid, gaseous or liquid waste generation, handling, treatment, storage, disposal or transportation; (d) exposure to or contamination by Hazardous Materials; (e) the safety or health of employees or (f) the manufacture, processing, distribution in commerce or use of Hazardous Materials. An "Environmental Liability" includes a common law action, whether direct or indirect, as well as a proceeding to issue, modify or terminate an Environmental Permit, or to adopt or amend a regulation to the extent that such a proceeding attempts to redress violations of an applicable permit, license, or regulation as alleged by any governmental authority.

"Environmental Permit" means any permit, license, approval or other authorization under any applicable Environmental Laws.

"Existing Environmental Conditions" means any environmental conditions, circumstances or other matters of fact pertaining to, relating to or otherwise affecting the environment and in existence prior to the Effective Date, including any environmental pollution, contamination, degradation, damage or injury caused by, related to, or arising from or in connection with (i) the presence, use, handling, storage, treatment, recycling, generation, transportation, release, spilling, leaking, pumping, pouring, emptying, discharging, injecting, escaping, leaching, disposal (including the abandonment or discarding of barrels, containers and other closed receptacles containing any Hazardous Materials), dumping or threatened release of Hazardous Materials in connection with the ownership, possession, construction, improvement, use or operation of the Site prior to the Effective Date, (ii) the offsite transport prior to the Effective Date of Hazardous Materials from the Site, or the treatment, storage or disposal of Hazardous Materials transported from the Site to another site prior to the Effective Date and (iii) the release prior to the Effective Date of Hazardous Materials from the Site into the atmosphere or any water course or body of water not included in the Site.

"Facility" means a combined heat and power facility or facilities and related utilities, improvements, equipment, facilities, appurtenances and other improvements to be developed and constructed by Tenant during the Development Period and owned, operated and maintained by Tenant on the Site and any applicable Recorded Easement Area(s) during the Operational Term, including but not limited to all structures, machinery, equipment, meters, fixtures, interconnections, ancillary equipment and materials, and all additions, alterations and modifications thereto as may be permitted under this Ground Lease and located on the Site and the Recorded Easement Areas.

"Final Decommissioning Date" has the meaning set forth in Section 6.

"Financing Parties" or "Financing Party" each has the meaning set forth in Section 17.

"Financing Documents" has the meaning set forth in Section 17.

"Force Majeure Event" has the meaning set forth in the SPSA.

"Governmental Approvals" has the meaning set forth in Section 9.2(c).

"Governmental Authority" means any national, state, provincial, local, tribal or municipal government, any political subdivision thereof or any other governmental, regulatory, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, or entity with authority to bind a Party at law; *provided, however*, that "Governmental Authority" will not in any event include any Party.

"Ground Lease" has the meaning set forth in the Preamble.

"Hazardous Materials" has the meaning set forth in the SPSA.

"Host" has the meaning set forth in the SPSA

"Landlord" has the meaning set forth in the Preamble.

"Landlord's Construction Representative" has the meaning set forth in Exhibit C.

"Landlord Easements" has the meaning set forth in Section 5.

"Landlord Events of Default" has the meaning set forth in Section 13.3.

"Landlord's Knowledge" means the actual (and not the imputed) knowledge of Landlord's Construction Representative.

"Landlord's Property" means all premises other than the Site and the Recorded Easement Areas that are owned or leased by Landlord or its Affiliates and at which the Steam will be used or through which the Steam will be delivered.

"Landlord's Parties" means Landlord, its officers, directors, partners, members, affiliates, lenders, employees, shareholders, attorneys, lessees (other than Tenant), sublessees, licensees, invitees, contractors, subcontractors, consultants, agents, trustees and any of their respective successors and assigns.

"Landlord Utilities" has the meaning set forth in Section 5.

"Laws" means all common law, laws, statutes, treaties, rules, orders, codes, ordinances, standards, regulations, restrictions, official guidelines, policies, directives, interpretations, permits or like action having the effect of law of any Governmental Authority.

"Losses" has the meaning set forth in Section 12.1(a).

"Memorandum" has the meaning set forth in Section 24.8.

"New Recorded Easements" has the meaning set forth in Section 9.2(b)(ix).

"Official Records" means the Official Records maintained by the office of the Register of Deeds of Tippecanoe County, Indiana.

"Operational Easements" has the meaning set forth in Section 5.

"Operational Term" means the period during which the Facility is generating and delivering Steam as such term(s) are defined in the SPSA, commencing upon the Commercial Operation Date for the Facility and terminating upon Term Expiration Date or earlier termination as provided herein in Section 2.1.2.

"Operational Term" means the period during which the Facility is generating and delivering Steam and electricity and if it occurs, shall commence on the Commercial Operation Start Date for the Facility or such earlier date as designated by Tenant in writing, and continue to the date that is thirty-five (35) years following the Commercial Operation Start Date or such earlier termination date in the event of a termination of the SPSA.

"Option 1", "Option 2" , "Option 3" and "Option 4" each have the meaning set forth in Section 18.2.

"Party" or "Parties" means Landlord and/or Tenant, as applicable.

"Permit" has the meaning set forth in the SPSA.

"Permitted Exceptions" means the lien, if any, of all real estate taxes, all general and special assessments and all other governmental dues, charges and impositions not delinquent; all applicable zoning, building and land use and other governmental restrictions, laws, ordinances, rules and regulations; all matters that would be discovered or disclosed by an accurate inspection and a current, accurate ALTA/ACSM Land Title Survey of the Site and the Recorded Easement Areas; all other easements, restrictions, agreements, covenants and other matters of record created or first arising prior to the Effective Date; and any other matters disclosed in the Title Policy.

"Permitted Transaction" has the meaning set forth in the SPSA.

"Person" means any individual, corporation, partnership, limited liability company, joint venture, association, joint stock company, trust, estate, unincorporated organization or other business entity, or any governmental authority.

"Plan Changes" has the meaning set forth in Exhibit C.

"Project" means the Site, the Facility and any improvements made by Tenant during the Term in or to the Recorded Easements Areas.

"Prudent Operating Practices" has the meaning set forth in the SPSA.

"Recorded Easements" has the meaning set forth in Section 5.

"Recorded Easement Areas" has the meaning set forth in Section 5.

"Release" means any release, pumping, pouring, emptying, injecting, escaping, leaching, dumping, seepage, spill, leak, flow, discharge, disposal or emission of a Hazardous Material whether on, under or migrating to or from the property of any Party.

"Site" means that certain land located in Tippecanoe County, Indiana, as more particularly shown and described on Exhibit A attached hereto.

"SPSA" means that certain Steam Purchase and Sale Agreement dated as of the Effective Date, between Tenant, as "Seller", and Landlord, as "Buyer", as amended, modified, restated or supplemented between the Parties from time to time during the Term.

"State" has the meaning set forth in Section 10.1(b).

"Steam" has the meaning set forth in the SPSA.

"Substantial Completion Certificate" has the meaning set forth in Exhibit C.

"Taxes and Assessments" has the meaning set forth in Section 21.1.

"Tenant" has the meaning set forth in the Preamble.

"Tenant Events of Default" has the meaning set forth in Section 13.1.

"Tenant's Construction Representative" has the meaning set forth in Exhibit C.

"Tenant's Knowledge" means the actual (and not the imputed knowledge) of Tenant.

"Tenant's Parties" means Tenant, its officers, directors, partners, members, affiliates, lenders, employees, shareholders, attorneys, lessees, sublessees, licensees, invitees, contractors, subcontractors, consultants, agents and any of their respective successors and assigns.

"Term" has the meaning set forth in Section 2.1.

"Termination Event" means (i) the termination of the SPSA, (ii) Tenant's failure to timely observe or perform Section 19.3 of this Ground Lease, or (iii) a termination of this Ground Lease pursuant to either Section 15 or Section 18.2 hereof, with the proviso that the Parties hereto acknowledge and agree that if this Ground Lease is terminated pursuant to either Section 15, Section 18.2 or Section 19.3 hereof, the SPSA shall also be terminated.

"Term Expiration Date" has the meaning set forth in Section 2.1.

"Title Policy" has the meaning set forth in Section 18.1.

"Utilities" means the services and related improvements, equipment and facilities necessary for the operation of the Facility, including, but not limited to, natural gas, electrical power, water, storm and waste water, sanitary sewer, roads, telephone and telecommunication services, improvements, equipment and facilities.

EXHIBIT "C"

CONSTRUCTION

SECTION 1.1 Construction Representatives.

(a) Landlord shall designate a construction representative ("Landlord's Construction Representative") to serve as its liaison with Tenant with respect to issues related to the construction of the Facility. Landlord's initial Construction Representative is the Director of Engineering & Utilities or his/her designee. Landlord shall designate a successor Construction Representative by written notice to Tenant in the event the person named above is unable to perform such function or is replaced by Landlord. For purposes of this Exhibit C: (i) submission of any information or request required to be submitted to Landlord shall be submitted to Landlord's Construction Representative and (ii) where any approval or request of Landlord is required to be given or made in writing, such approval or request executed by Landlord's Construction Representative shall be deemed the approval or request of Landlord.

(b) Tenant shall designate a construction representative ("Tenant's Construction Representative") to serve as its liaison with Landlord with respect to issues related to the construction and equipping of the Facility. Tenant's initial Construction Representative is Duke Energy Project Director. Tenant shall designate a successor Construction Representative by written notice to Landlord in the event the person named above is unable to perform such function or is replaced by Tenant. For purposes of this Exhibit C: (i) submission of any information or request required to be submitted to Tenant shall be submitted to Tenant's Construction Representative, and (ii) where any approval or request of Tenant is required to be given or made in writing, such approval or request shall be executed by Tenant's Construction Representative.

(c) Landlord's Construction Representative and Tenant's Construction Representative shall meet at regular agreed-upon intervals for the purpose of reviewing and discussing the status of the construction of the Facility (the "Work"). In addition, upon reasonable prior notice to Tenant, Landlord and employees, agents, consultants, and/or contractors designated by Landlord shall have the right, but not the obligation, to inspect the progress of the Work; provided, however, that such inspections shall not materially interfere with or disrupt Tenant's construction activities and shall be made only when accompanied by a representative of Tenant. Any such inspection by Landlord shall not relieve Tenant of its obligations hereunder or be deemed to create any liability on the part of Landlord to Tenant or to any third parties.

SECTION 1.2 Plans and Specifications. Generally, Plans and Specifications relating to the Facility shall not be subject to design and engineering requirements or prior approval by the Landlord, except as set forth herein.

(a) Exterior Facility Design and Appearance: The exterior design and appearance of Site and Facility, including façades, are to be generally consistent with those of the Utility Plant Service Building, including the use of similar materials and colors for siding and facades. Prior to construction, Tenant shall provide Landlord with five copies and samples of exterior siding specifications and color samples for review and approval by Landlord.

(b) ASME Standards: All pipe, fittings, valve and auxiliaries for steam and condensate that connect with Landlord systems shall meet appropriate ASME requirements for temperatures and pressures, as referenced in Exhibit A of the Steam Purchase and Sale Agreement. Some data points readings from instrumentation will be shared between Tenant and Landlord and those points will be determined and mutually agreed to during construction.

(c) Approval Process: Tenant shall accommodate all reasonable objections of Landlord to such Plans and Specifications requiring Landlord approval, as specified herein. If Landlord has made no objections to the applicable Work within ten (10) business days of receipt of such from Tenant, such Work shall be deemed approved. In the event Tenant determines that it is necessary or appropriate to deviate from, to make revisions to or to supplement the approved Work ("Plan Changes") in a manner-affecting (i) the exterior design or appearance of the Facility (including changes to exterior Facility materials),-or (ii) the functional operation of the Facility as a CHP materially affecting compliance with the approved Work, Tenant shall submit such Plan Changes to Landlord for Landlord's review, and Landlord shall have the right to object as provided above. All other Plan Changes may be made without the requirement of any review and right to object of Landlord.

In the event of any Plan Change for which Landlord's review and right to object is required, Tenant shall submit to Landlord drawings and/or written descriptions depicting and/or describing in reasonable detail the proposed Plan Change. Landlord shall notify Tenant in writing of any objection to the proposed Plan Change within five (5) business days after receipt of such drawings and/or descriptions from Tenant. If Landlord objects to the Plan Change, its written notice of objection shall set forth in reasonable detail Landlord's objections to the proposed Plan Change. Landlord and Tenant shall cooperate in good faith to resolve Landlord's objection to the proposed Plan Change.

Landlord's review of any proposed Work or any Plan Change shall not constitute an assumption of liability on the part of Landlord for the conformity of such plans with the applicable legal requirements, but shall be for its sole purpose and shall neither constitute an assumption of liability on the part of Landlord for the conformity of such plans with the applicable legal requirements nor imply Landlord reviewed and approved the same for quality, design, code compliance or other like matters and Landlord shall not have any liability whatsoever in connection therewith and shall not be responsible for any omissions or errors contained in the proposed Work or any Plan Change.

Tenant shall ensure through the design of the Facility that no asbestos or asbestos-containing materials or lead based paint will be contained therein.

SECTION 1.3 Compliance. The Work shall at all times be carried on with diligence and continuity as expeditiously as possible to such an extent that such construction will begin no later than one hundred eighty (180) days after receiving the necessary approvals from State Agencies. The Project shall be completed, if practicable, on or before the Commercial Operation Start Date, free and clear of liens or claims for liens for materials supplied, and for labor or services performed in connection with the construction.

SECTION 1.4 Adjustments. Landlord will assist and cooperate with Tenant in connection with reasonable requests by Tenant for lot line adjustments, tentative or final parcel, tract or subdivision approval, variances of development standards and any other permit, license or other approval from any governmental authority which may be reasonable necessary for or which will facilitate the development, operation and use of the Facility pursuant to this Ground Lease.

SECTION 1.5 Signage. The Work shall also include plans and specifications for all exterior signage. All exterior signage to be installed by Tenant on or about the Facility or the Site shall be consistent in appearance (including letter style and size) with any signage program adopted for Landlord's Property and shall include Landlord's logo or other similar marks, if requested by Landlord. Any changes to the signage requested by Landlord after the initial approval of such signage shall be at the sole cost and expense of Landlord.

SECTION 1.6 As Built Plans. Tenant shall furnish to Landlord an equipment layout upon completion.

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State Budget Committee Meeting Minutes
Monday, June 24th, 2019
Indiana Statehouse
Senate Appropriations Room 431
Indianapolis, Indiana 46204

Members:

Senator Ryan Mishler, Chairman
Representative Tim Brown
Senator Karen Tallian
Representative Gregory Porter
Zachary Jackson, State Budget Director

Alternate Members:

Senator Liz Brown
Senator Greg Taylor
Representative Bob Cherry
Representative Carey Hamilton

Chairman Ryan Mishler called the meeting to order at 10:04 AM. Chairman Mishler introduced the minutes of the April 17th, May 6th, and May 14th 2019 meetings. Senator Karen Tallian made a motion to approve the minutes of the previous meetings and Representative Tim Brown seconded the motion. The minutes were adopted by consent of the committee.

Chairman Mishler introduced the June 2019 agenda.

During review of the Medicaid State Plan Amendment – Healthy Indiana Plan (HIP) Waiver for the Workforce Bridge Account, Senator Ryan Mishler asked if the implementation would be contingent on receiving the enhanced federal matching percentage. Alison Taylor, Medicaid Director, responded that the agency would continue the conversation if the Centers for Medicare and Medicaid Services does not approve the enhanced matching percentage for the HIP Bridge expenditures.

After each agenda item was presented and discussed, Representative Brown moved to adopt the June 2019 agenda and Senator Tallian seconded the motion. The Committee adopted the agenda by a roll call vote of 5-0.

Chairman Mishler thanked Mr. David Reynolds, the outgoing Senate Majority Fiscal Analyst, for all his years of service to the State.

Budget Director Zachary Jackson made a motion to elect Representative Brown as the Chairman of the State Budget Committee effective upon adjournment of the meeting and Representative Gregory Porter seconded the motion. Representative Brown was elected Chairman of the Committee by consent.

Chairman Mishler thanked the entire Budget Committee for its support and patience during his tenure as Chairman of the Committee.

The meeting was adjourned at 1:54 P.M (EDT)

The June 2019 agenda is as follows:

I. Minutes

1. April 17, 2019
2. May 6, 2019 - Review item independently considered by members of the State Budget Committee.
3. May 14, 2019 - Review item independently considered by members of the State Budget Committee.

II. Agency Projects

1. Department of Revenue (90) \$ 20,300,000
Integrated Tax System (ITS)

The Indiana Department of Revenue (DOR) requests funding to continue modernization of its revenue business processes and technology enhancements through the implementation of an Integrated Tax System (ITS). This project will eventually replace the current Revenue Processing System (RPS) that was implemented back in 1992 and is comprised of 40+ disparate systems which are 25+ years old. The new ITS will allow DOR to improve and automate all major state tax revenue functions including Compliance, Operations, Finance/Internal Audit, Information Technology and Customer Service. The General Assembly appropriated \$16.1M in FY2018, \$16.9M in FY2019, \$20.3M in FY2020, and \$21.4M in FY2021 for the system upgrade work.

Funding: HEA 1001: 2019 General Fund
(General Government Line Items 19721-2020)

2. Auditor of State (50) \$ 20,000,000
Payroll/Human Resources Modernization

The Auditor of State (AOS) requests funding to conduct a combined Human Capital Management (HCM) and Payroll system modernization project. The existing payroll system has been in use since 1992 and will no longer be supported beyond 2023. The proposed solution is to expand the State's use of the PeopleSoft system by upgrading the existing PeopleSoft HCM and integrating the PeopleSoft Payroll module to support the AOS' payroll functions. A request for proposals for implementation services will be conducted through the summer and fall of 2019 with actual implementation to begin in 2020.

Funding: HEA 1001: 2019 Personal Services/Fringe Benefits Contingency Fund
(Personal Services/Fringe Benefits Contingency Fund 59720-2020)

3. Indiana State Fair (878) \$ 2,500,000
Architecture and Engineering Fee for Swine Barn/Fall Creek Pavilion Renovation

The Indiana State Fair Commission requests funding for architectural and engineering work, to include schematic design, design development, and construction documents, for the Swine Barn/Fall Creek Pavilion project at the Indiana State Fairgrounds. The project includes construction of a new multi-use exhibit building, with a focus on preservation of historic elements of the original structure, demolition of the Public Safety Building, relocation of maintenance and public safety departments, and renovation of the Communications Building.

Originally constructed in 1923, the open-air Swine Barn was built to exhibit swine. Single-use structures are not viable at a modern event facility, and the aging structure can no longer fulfill its intended purpose of showing livestock at the State Fair. The building is failing structurally, is not ADA accessible, and is impractical to load/unload livestock due to a significant elevation change and the proximity of the Public Safety Building. To continue the heritage of hosting world-class swine shows and continue growing as a first-class event facility, the Indiana State Fairgrounds needs a modern, multi-use facility that can host a variety of events throughout the year.

Funding HEA 1001: 2019 General Fund
 (General Government Line Items 19721-2020)

4. Department of Administration (061) \$ 9,848,268
 Reserve & Replacement (R&R) Payments to IFA

The Department of Administration (IDOA) requests the annual appropriation for the Reserve & Replacement (R&R) payments for several facilities that are managed by the Indiana Finance Authority (IFA). The R&R was previously included in the bond payment as one lump sum; however, the bonds have been defeased for these facilities under IFA. IDOA requests the R&R annual amount so that they may continue to disburse funds on a monthly basis to the IFA.

Funding: HEA 1001: 2019 General Fund
 (General Government R&R 19722-2020)

Indiana Government Center North	\$1,546,536
Indiana Government Center South	\$1,306,536
Government Center Parking Garages	\$1,546,536
Forensic Lab	\$1,546,536
Indiana State Museum	\$1,666,536
Rockville Correctional Facility	\$1,126,536
Pendleton Juvenile Correctional Facility	\$1,109,052

5. Family and Social Services Administration/Division of Mental Health and Addiction (410)
 Ligature Risk Mitigation \$ 2,300,000

The Division of Mental Health and Addiction (DMHA) requests funding to address ligature risks within the State Psychiatric Hospital (SPH) system. To ensure patient safety and compliance with accrediting standards for healthcare facilities, DMHA will utilize funds to plan and implement risk mitigation improvements in the physical environment across the system.

Funding: HEA 1001: 2019 State Construction Fund \$ 1,000,000
 (Health and Human Services Construction 59915-2020)

HEA 1001: 2017 Postwar Construction Fund \$ 1,288,000
(Health and Human Services Construction 70509-2019)
HEA 1001: 2013 'Change of Use' Postwar Construction Fund \$ 12,000
(Richmond State Hospital Construction 70531)

6. Department of Correction (680) \$ 575,800
Westville Correctional Facility Maximum Control Complex Door Replacement

The Indiana Department of Correction (DOC) requests funding to replace 54 doors in the high security restrictive housing unit located on the grounds of the Westville Correctional Facility. The housing unit was built in 1990 and houses 220 of Indiana's most dangerous long-term segregation offenders. Hundreds of thousands of cycles on the doors, locks, and hardware have caused extreme wear and repair parts are no longer available from any source as the system is obsolete. Salvageable components from the doors that are being replaced will be retained by the DOC to repair the remaining original doors as necessary until they are replaced. The replacement of these doors will ensure the safety of both staff and offenders alike.

Funding: HEA 1001: 2015 'Change of Use' Postwar Construction Fund
(WCF Postwar Construction Fund 70568)

7. Department of Correction (690) \$ 900,000
Plainfield Correctional Facility West and Central Dorm Door Replacement

The Indiana Department of Correction (IDOC) requests funding to replace 172 doors in the Plainfield Correctional Facility's West and Central dormitories. The facility is medium security and houses 1,800 adult males in both, single cell and open dormitory environments. The West and Central dormitories were constructed in 1964, and the cell and building entry doors are from the original construction. Hundreds of thousands of cycles on the doors, locks, and hardware have caused extreme wear, and the replacement of these doors are critical to providing security for this unit. This project includes all materials and labor necessary to replace and install all new entry, compartmentalization, and cell doors and locks.

Funding: HEA 1001: 2017 Postwar Construction Fund
(Public Safety R&R 70508-2018 & 2019)

8. Department of Correction (650) \$ 750,000
Putnamville Correctional Facility Segregation Unit and Recreation Building Roof Replacement

The Indiana Department of Correction (IDOC) requests funding to replace the roofs on the segregation unit and the recreation building at the Putnamville Correctional Facility. This facility was constructed in 1915 and occupies a fenced 95-acre campus in Putnam County. The facility is medium security and houses 2,510 adult males in open dormitories with a few disciplinary cells in an onsite secure housing unit. The maximum security segregation unit was constructed in 1988 and has a 13,530 square foot roof, and the recreation building was constructed in 1998 and has a 27,683 square foot roof. The roofs on both buildings are from their original construction. They have been well maintained and repaired on several occasions over the years; however, they have come to the end of their service lives and need to be replaced.

Funding: HEA 1001: 2017 Postwar Construction Fund
(Public Safety R&R 70508-2019)

9. Department of Correction (690) \$ 1,169,000
Correctional Industrial Facility HVAC Replacement

The Indiana Department of Correction (IDOC) requests funding to replace the HVAC components and associated infrastructure at the Correctional Industrial Facility (CIF). The medium security facility was constructed in 1987 as an industry-based facility and houses 1,400 security level 2 and 3 offenders. The HVAC units and associated infrastructure are of original construction. The system has been well maintained and repaired on several occasions over the years; however, the system is at the end of its service life and needs to be replaced. This project includes all labor, programming, controllers, panels, and electric installation for the new controls.

Funding: HEA 1001: 2017 Postwar Construction Fund
(Public Safety R&R 70508-2019)

10. School for the Deaf (560) \$ 314,499
Visual Communication System

The Indiana School for the Deaf requests additional funding to proceed with the Visual Communications System project on the School's campus. The project was originally approved by the State Budget Agency in July of 2018 for a total of \$230,173.64. During that time, the scope of work consisted of the replacement and addition of indoor signage as well as the addition of 15 outdoor signs.

However, during the procurement process the scope of work was altered to include backup batteries, two more outdoor signs, and an upgraded network/software package totaling an additional \$84,325.36. Currently, the School has no communication method for students and staff not physically in a campus building. Existing marquees and servers are not all-encompassing on the campus and are not always sufficient to notify people in case of emergencies

Funding: HEA 1001: 2017 'Previously Approved' Postwar Construction Fund \$ 230,173.64
(Deaf & Blind Construction 70511-2018)
HEA 1001: 2017 Postwar Construction Fund \$ 84,325.36
(Deaf and Blind Construction 70511-2018)

11. Indiana Department of Transportation (800) \$ 1,704,650
Roof Repair and Replacement – Various Locations

The Indiana Department of Transportation (INDOT) requests funding to repair and replace several roof defects to address structural, environmental, and operational needs at various INDOT locations. The 24 locations include both salt dome and ethylene propylene diene terpolymer (EPDM) roofs. While INDOT has patched many of these roofs to extend the life cycle, annual roof assessments have identified defects beyond the routine preventive maintenance and necessitate additional repair and replacement.

Funding: HEA 1001: 2019 State Highway Fund

(State Highway Fund R&R 30506-2020)

III. University Projects

1. Purdue University West Lafayette \$ 2,900,000
University Church Purchase
Project No. B-1-19-3-12

The Trustees of Purdue University request authorization to proceed with the purchase of a 31,964 SF multi-story building, formerly known as University Church, and the 0.86 acres of land on which it sits. The building is located at 320 North Street in West Lafayette, IN and the property is an important, strategic location in alignment with the 2018 Purdue University Giant Leaps Campus Master Plan. The location is identified as a long-term "potential new building." In the short-term, it provides potential space for future academic and administrative projects. The estimated cost of the purchase is \$2,900,000 to be funded by Operating Funds Reserves.

Funding: Operating Funds – Reserves
CHE Review: March 14th, 2019

2. Purdue University West Lafayette \$ 35,000,000
Purdue Memorial Union Club Hotel Renovation
Project No. B-1-19-2-13

The Trustees of Purdue University request authorization to proceed with the renovation of the Purdue Memorial Union Club Hotel, which was built in phases from 1929 to 1953 and has had no significant upgrades in recent years. The renovation will include 89,600 GSF of hotel guest rooms and lobby space, and a renovation of 8,500 GSF to create a new restaurant and bar. Additionally, the existing ballrooms and adjacent bathrooms will receive finish upgrades. The estimated cost of this project is \$35,000,000 to be funded by Gift Funds.

Funding: Gift Funds
CHE Review: March 14th, 2019

3. Purdue University Fort Wayne \$ 3,850,000
Park 3000 Building and Land Purchase
Project No. B-3-19-3-10

The Trustees of Purdue University request authorization to proceed with the purchase of the Park 3000 building located at 3000 Coliseum Boulevard East, Fort Wayne, Indiana. The building will provide approximately 76,700 GSF for a larger, more visible space for the Doermer School of Business. It will also address the expansion and relocation of a number of other departments and student support services including the career services center, small business development center, division of continuing studies, and the student and employee health clinic. The estimated cost of the purchase is \$3,850,000 to be funded by Gift Funds.

Funding: Gift Funds
CHE Review: March 14th, 2019

4. Purdue University West Lafayette \$ 6,500,000
Wade Utility Plant Connection
Project No. B-1-19-1-15

The Trustees of Purdue University request authorization to proceed with the construction of the infrastructure needed to connect the existing Wade Utility Plant to the new Duke Energy CHP Plant. This project is one portion of a larger project in which Duke Energy Indiana, LLC and Purdue University are partnering. Duke Energy will build, own, and operate a new, 16 MW combined heat and power (CHP) plant that will produce both steam and electricity. There will be a lease between Purdue and Duke Energy, which is detailed in a separate project submission.

Purdue University presented \$54,500,000 worth of coal boiler related projects to the State Budget Committee in December 2006 and December 2007. Purdue University sold fee replaced bonds (Series X) to cover this project in April 2009. Since that time, the University has allocated \$5,400,000 of the bond proceeds for the coal boiler project. In April 2011, the Budget Committee reviewed Purdue's Health and Human Sciences Research Facility project that utilized \$16,000,000 of Series X bond proceeds. In June 2012, the Budget Committee reviewed Purdue's Wade Power Plant Production and Distribution Improvement project that utilized \$33,100,000 of Series X bond proceeds; however, due to changes in the scope of work and cost efficiencies realized by the University, this project utilized roughly \$22,000,000 of the authorized \$33,100,000. Currently, Purdue University reports to have \$11,000,000 of Series X proceeds remaining and requests authorization to use \$6,500,000 of the balance for the Wade Utility Plant Connection project.

Funding: HEA 1001: 2007 Fee Replacement Bonding Authority
CHE Review: May 6th, 2019

5. Purdue University West Lafayette \$ 100
Ground Lease to Duke Energy Indiana LLC
Project No. B-1-19-5-14

The Trustees of Purdue University request authorization to lease approximately one acre of land, located immediately west of the Wade Utility Plant on the West Lafayette Campus, to Duke Energy Indiana, LLC for a term of 35 years. This project is the other portion of a larger project in which Duke Energy Indiana, LLC and Purdue University are partnering, and is in conjunction with the aforementioned Wade Utility Plant Connection project. Duke Energy will use the leased land to build, own, and operate the new, 16 MW Duke Energy CHP Plant. Purdue will purchase the steam produced by the new Duke Energy CHP during the 35-year term agreement. The estimated total rent for the entire term is \$100 to be paid to Purdue University by Duke Energy Indiana, LLC.

CHE Review: May 6th, 2019

6. Purdue University West Lafayette \$ 6,701,344
State Farm Building Purchase
Project No. B-1-19-3-16

The Trustees of Purdue University request authorization to proceed with the purchase of the State Farm Building located at 2550 Northwestern Ave, West Lafayette, Indiana. The purchase includes 22 acres of land and an over 255,000 GSF facility. This purchase provides near-campus space for the data center currently located in the Mathematical Sciences Building, the transportation fleet currently housed at the Purdue Airport, swing space for departments that need to be temporarily relocated due to capital construction projects, administrative office space, storage space, and high bay space conditioned appropriate for academic and industrial laboratories. By moving all of these groups into a single facility, over 50,000 square feet of space on campus will be made available and over \$2,000,000 per year in rent for off-campus space will be eliminated. The estimated cost of this project is \$6,701,344 to be funded by Operating Funds Reserves.

Funding: Operating Funds – Reserves
CHE Review: May 6th, 2019

7. Purdue University West Lafayette \$ 2,689,791
Aspire at Discovery Park Lease
Project No. B-1-19-5-17

The Purdue University Board of Trustees requests authorization to proceed to lease a portion of *Aspire at Discovery Park*, an apartment complex located in the Discovery Park District, from Balfour Beatty-Walsh, Housing LLC and from the Purdue Research Foundation (PRF) for nine months. For one academic year, the University will lease 86 apartments from the landlords that include 336 beds for student housing and 4 beds for residential assistants in Aspire. The lease will provide additional housing capacity to help address the increase in student enrollment on the West Lafayette campus. The estimated cost of the lease is \$2,689,791 to be funded with Auxiliary Funds – Housing.

Funding: Auxiliary Funds – Housing
CHE Review: May 6th, 2019

8. Ball State University \$ 4,000,000
New Multicultural Center
Project No. D-1-19-1-02

The Ball State University Board of Trustees requests authorization to proceed with the construction of a new Multicultural Center. The University's Multicultural Center engages around different identities and backgrounds such as gender, race, and ethnicity. The Center is currently in a former residential structure on the southeast edge of campus. At approximately 4,000 square feet, the Center is too small to serve the needs of a culturally diverse student population. The proposed 10,500 square foot new facility would be constructed in the heart of campus giving the Center the space and prominence that it deserves. The Center will also include a small coffee shop or café. The estimated cost of this project is \$4,000,000 to be funded by Operating Funds Reserves and Auxiliary Funds – Dining.

Funding: Operating Funds – Reserves \$ 3,000,000
Auxiliary Funds – Dining \$ 1,000,000
CHE Review: February 14th, 2019

Cost Summary

2013 'Change of Use' Postwar Construction Fund	12,000
2015 'Change of Use' Postwar Construction Fund	575,800
2017 'Previously Approved' Postwar Construction Fund	230,174
2019 General Fund	32,648,268
2017 Postwar Construction Fund	4,191,325
2019 State Construction Fund	1,000,000
2019 State Highway Fund	1,704,650
2019 Personal Services/Fringe Benefits Contingency Fund	20,000,000
Gift Funds	38,850,000
Operating Funds - Reserves	12,601,344
Fee-Replaced Debt	6,500,000
Auxiliary Funds - Housing/Dining	3,689,791
Total	122,003,352

IV. Review Items

1. FY 2019 Airport Development Grant Fund Excise Tax Distribution – Indiana Department of Transportation
2. Medicaid State Plan Amendments and Waivers – Family and Social Services Administration
3. South Shore Projects and Funding – Indiana Finance Authority

V. Discussion Items

1. School Corporation Fiscal Indicators Update – Distressed Unit Appeal Board
2. Tuition and Mandatory Fees for Indiana's Public Postsecondary Institutions for 2019-20 and 2020-21

VI. Election of Chairman

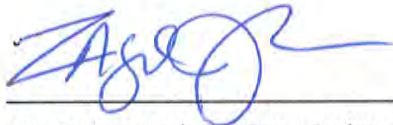
VII. Report Received

1. Non-binding Tuition and Mandatory Fee Targets for Indiana's Public Postsecondary Institutions for 2019-20 and 2020-21 – Commission for Higher Education (6.12.19)

Budget Committee
June 2019



Representative Tim Brown, Chairman



Mr. Zachary Jackson, State Budget Director



Mr. Eric Holcomb, Governor, State of Indiana



Office of the President

July 30, 2019

Mr. Stan Pinegar
President, Duke Energy Indiana
1000 East Main Street
Plainfield, IN 46168

Dear Stan,

Our team at Purdue is excited about beginning the next phase of our collaboration with Duke Energy Indiana on the proposed CHP project. Please consider this letter an expression of our support for your upcoming CPCN application with the Indiana Utility Regulatory Commission. Purdue recently received approvals from the State Budget Agency and Governor Holcomb, and we look forward to a similar outcome at the IURC.

As you know, Purdue has a rich, 100-year history of generating energy efficiently through combined heat and power (CHP) generation on the West Lafayette campus. For example, our Wade Utility Plant, a CHP facility that produces steam for heating and cooling, uses that same steam to produce electricity to serve a significant portion of our power needs.

Duke Energy Indiana's proposal to construct, own, and operate a 16-megawatt CHP facility on the southern edge of our main campus will build on Purdue's longstanding experience with this technology while delivering the benefits of a new, clean natural gas power plant to Duke Energy's Indiana customers.

By purchasing steam generated at this new facility, Purdue will gain increased flexibility in running the Wade plant and planning for its upkeep, resulting in cost savings and extended lifecycles for our capital investments. Moreover, in the event of a regional grid disruption that prevents Duke Energy from sending electricity to some of its customers (such as a disruption due to an extreme weather event), the new CHP facility will be able to deliver electricity directly to our campus, thereby providing us with an additional layer of back-up emergency power. Finally, should more steam capacity be needed in the future to meet the needs of our growing campus, the new CHP facility would afford the University an available mechanism to help address that need.

On behalf of all of us at Purdue, I appreciate your dedication to this highly efficient technology and innovative project, and I'm confident the IURC will recognize its many benefits for our campus, our students, and our other stakeholders.

Sincerely,

A handwritten signature in blue ink that reads "Mitchell E. Daniels, Jr." in a cursive script.

Mitchell E. Daniels, Jr.
President

FILED
AUGUST 08, 2019
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**VERIFIED PETITION OF DUKE ENERGY INDIANA,)
LLC FOR ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY UNDER INDIANA)
CODE 8-1-8.5 FOR THE CONSTRUCTION OF A)
COMBINED HEAT AND POWER FACILITY TO BE)
LOCATED ON THE PURDUE UNIVERSITY CAMPUS)
("PURDUE CHP FACILITY"); APPROVAL TO DEFER)
COSTS ASSOCIATED WITH THE PURDUE CHP)
FACILITY UNTIL SUCH COSTS ARE REFLECTED IN)
DUKE ENERGY INDIANA, LLC'S RATES AND)
CHARGES; APPROVAL OF A NEW DEPRECIATION)
RATE SPECIFIC TO THE PROPOSED PURDUE CHP)
FACILITY; AND APPROVAL OF A STEAM)
PURCHASE AND SALE AGREEMENT WITH PURDUE)
UNIVERSITY UNDER INDIANA CODE §§ 8-1-2-24)
AND 25.)**

CAUSE NO. 45276

VERIFIED PETITION

TO THE INDIANA UTILITY REGULATORY COMMISSION:

Duke Energy Indiana, LLC ("Duke Energy Indiana" or the "Company"), respectfully petitions the Indiana Utility Regulatory Commission ("Commission") for: (1) issuance of a Certificate of Public Convenience and Necessity ("CPCN") under Indiana Code 8-1-8.5 for a 16 MW combined heat and power facility (the "Purdue CHP Facility") to be located on land leased to Duke Energy Indiana by Purdue University ("Purdue"); (2) authorization to defer costs associated with the Purdue CHP Facility, including post-in-service continuation of allowance for funds used during construction ("AFUDC"), O&M, and depreciation, until such costs are reflected in Duke Energy Indiana's retail electric base rates and charges; (3) approval of a new depreciation rate specific to the proposed Purdue CHP Facility; and (4) approval of the Steam Purchase and Sale Agreement ("Steam Agreement"), between Purdue and Duke Energy Indiana,

under Indiana Code §§ 8-1-2-24 and 25. In support of this Petition, Duke Energy Indiana provides the following information:

1. **Petitioner's Corporate and Regulated Status.** Petitioner is an Indiana limited liability company with its principal office in the Town of Plainfield, Hendricks County, Indiana. Its address is 1000 East Main Street, Plainfield, Indiana 46168. It has the corporate power and authority, among others, to engage, and it is engaged, in the business of supplying electric utility service to the public in the State of Indiana. Accordingly, Petitioner is a "public utility" within the meaning of that term as used in the Indiana Public Service Commission Act, as amended, 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. Petitioner is a second tier wholly-owned subsidiary of Duke Energy Corporation.

2. **Petitioner's Electric Utility Service.** Petitioner owns, operates, manages and controls plants, properties and equipment used and useful for the production, transmission, distribution and furnishing of electric utility service to the public in the State of Indiana. Duke Energy Indiana directly supplies electric energy to approximately 840,000 customers located in 69 counties in the central, north central and southern parts of the State of Indiana. Petitioner also sells electric energy for resale to municipal utilities, Wabash Valley Power Alliance, Inc., Indiana Municipal Power Agency, Hoosier Energy, and to other electric utilities that in turn supply electric utility service to numerous customers in areas not served directly by Petitioner.

3. **The Purdue CHP Facility.** The proposed Purdue CHP Facility will be approximately 16 MW of generation and will be located on land leased to Duke Energy Indiana from Purdue in West Lafayette, Indiana. The Purdue CHP Facility will serve as a base load steam supply resource for Purdue and base load grid-tied power supply for Duke Energy Indiana

customers. It will consist of a single industrial-sized natural gas fired gas turbine generator with a single heat recovery steam generator and a duct burner, capable of providing addition steam at Purdue's discretion. The Purdue CHP Facility will be designed to provide (1) steam to Purdue (to complement the University's existing Wade Utility Plant, which currently provides for the campus' entire thermal energy requirements) and (2) backup electric service, if a system outage occurs. Duke Energy Indiana and Purdue will execute a 35-year Steam Agreement for the thermal energy provided by the Purdue CHP Facility. Purdue will pay for the steam per volume delivered as provided in the Steam Agreement. Revenues from the steam sale will initially flow back to Duke Energy Indiana customers through the fuel clause until they are included as a revenue credit in a future retail base rate case. Purdue will pay for the equipment required to provide backup power via Standard Contract Rider No. 53 "Excess Facilities". Natural gas for the Purdue CHP Facility will be supplied by Vectren Energy Delivery of Indiana via a dedicated lateral to a new metering station on the Purdue campus installed within close proximity of the Purdue CHP Facility. The Purdue CHP Facility will interconnect to Duke Energy Indiana's existing distribution level substation adjacent to the Wade Utility plant. Duke Energy Indiana will own, operate, and maintain the proposed Purdue CHP Facility.

4. Public Convenience and Necessity. The proposed Purdue CHP Facility is compatible with Duke Energy Indiana's provision of reliable electric utility service and is consistent with Duke Energy Indiana's 2018 Integrated Resource Plan, submitted to the Commission on July 1, 2019. It is a reasonable step toward the diversification of Duke Energy Indiana's electric generating portfolio with cleaner-burning electricity produced from natural gas, particularly considering the strong potential for a carbon-constrained future. Distributed assets such as the Purdue CHP can be deployed quickly and in smaller increments as cleaner and

reliable electricity is needed for Duke Energy Indiana customers. In addition, by owning and maintaining the proposed facility, the Company will gain valuable insight and experience on reliably and safely operating resources of this type and size in conjunction with our large customers. Duke Energy Indiana will sell Purdue the steam produced by the Purdue CHP Facility produces, and revenues from the steam sale will directly benefit Duke Energy Indiana customers. The Purdue CHP Facility will also improve the stability and reliability of the electrical grid serving the Lafayette/West Lafayette area by having another, closer source of electric generation. Thus, the public convenience and necessity would be served by the issuance of a CPCN approving the construction of the Purdue CHP Facility. In addition, Duke Energy Indiana seeks Commission ongoing review of the construction of the Purdue CHP Facility under Indiana Code § 8-1-8.5-6.

5. **Ratemaking and Accounting.** In accordance with Indiana Code § 8-1-8.5-6.5, Duke Energy Indiana requests the Commission approve the Purdue CHP Facility as reasonable and necessary, and authorize deferral of the depreciation and O&M costs associated with the Purdue CHP Facility, including post-in-service AFUDC continuation, until such costs are reflected in Duke Energy Indiana's retail electric base rates and charges. Duke Energy Indiana proposes to provide semi-annual construction and operational updates regarding the Purdue CHP Facility through the Company's semi-annual Environmental Cost Recovery filings.

Duke Energy Indiana also requests the Commission authorize the Company to defer any costs associated with the Purdue CHP Facility incurred prior to the time that the Commission issues an order providing for recovery of such costs. Duke Energy Indiana submits that such ratemaking and accounting treatment should be authorized for any costs associated with this Petition and continue until such costs are timely recovered by Duke Energy Indiana through its

base rates and charges. Lastly, the Company requests approval of a depreciation rate specific to the Purdue CHP Facility.

6. Steam Agreement. Petitioner's steam service to Purdue in accordance with the provisions of the proposed Steam Agreement will not adversely affect the adequacy or reliability of service to any of Petitioner's other customers. The Steam Agreement has been subject to arms-length negotiations.

Approval of the proposed Steam Agreement will not alter any of Petitioner's other existing rates or contracts. Therefore, Commission approval of the Steam Agreement is reasonable, consistent with the public interest, practical and advantageous to the parties, and not inconsistent with the purposes of the Public Service Commission Act.

7. Request for Confidential Treatment. Petitioner respectfully requests that the Commission make a determination that the detailed pricing and other proprietary terms of the cost estimate, the Steam Agreement, and other contractual arrangements for the Purdue CHP Facility constitute confidential trade secrets and be excepted from public disclosure. Concurrently with the filing of its case-in-chief testimony, Petitioner will be filing a Motion for Protection for Confidential Material and supporting Affidavit.

8. Applicable Statutes and Regulations. Duke Energy Indiana requests that the Commission issue a CPCN to construct the Purdue CHP facility under Indiana Code 8-1-8.5 and approve the Steam Agreement under Indiana Code §§ 8-1-2-24 and 25. Petitioner considers that Indiana Code 8-1-8.5 and Indiana Code §§ 8-1-2-19 through 8-1-2-25, among others, are or may be applicable to the subject matter of this proceeding.

9. **Petitioner's Counsel.** Elizabeth A. Herriman and Andrew J. Wells at 1000 East Main Street, Plainfield, Indiana 46168 are counsel for Petitioner in this matter and are duly authorized to accept service of papers in this Cause on behalf of Petitioner.

10. **Request for Prehearing Conference and Preliminary Hearing.** In accordance with 170 Ind. Admin. Code. § 1-1.1-15(b) of the Commission's Rules of Practice and Procedure, Petitioner requests that the Commission schedule a prehearing conference and preliminary hearing for the purpose of fixing a procedural schedule in this proceeding and considering other procedural matters.

11. **Relief Requested and Timing Considerations.** Petitioner respectfully requests that the Commission promptly make such investigation and hold such hearings as it may deem necessary and advisable in this Cause, and thereafter make and enter an order granting Duke Energy Indiana a CPCN for the construction of the Purdue CHP Facility, approving the depreciation rate requested for the Purdue CHP Facility, approving the proposed deferral of costs associated with the Purdue CHP Facility, including O&M and post-in-service AFUDC continuation, until such costs are reflected in Duke Energy Indiana's base rates and charges, approving the Steam Agreement, and for other just and reasonable relief. In addition, Duke Energy Indiana respectfully requests that the Commission complete its review and consideration of this request and issue an order granting the Company a CPCN by March 31, 2020 to help facilitate a planned in-service date for the Purdue CHP Facility of April 30, 2022. Duke Energy Indiana commits to working with the OUCC and any other interested parties to help expedite the Commission's review of this proposal to ensure that Duke Energy Indiana is able to meet contractual obligations associated with the construction of this project.

Respectfully submitted,

DUKE ENERGY INDIANA, LLC

By:



Counsel for Duke Energy Indiana, LLC

Elizabeth A. Herriman, Attorney No. 24942-49
Andrew J. Wells, Attorney No. 29545-59
Duke Energy Business Services, LLC
1000 East Main Street
Plainfield, Indiana 46168
Telephone: (317) 838-1254
Fax: (317) 838-1842
beth.herriman@duke-energy.com
andrew.wells@duke-energy.com

VERIFICATION

I, Stan Pinegar, President of Duke Energy Indiana, LLC affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

Dated: August 7, 2019



Stan Pinegar

CERTIFICATE OF SERVICE

The undersigned hereby certifies that copies of the foregoing Verified Petition was delivered electronically this 8th day of August, 2019, to the following:

Randy Helmen
Indiana Office of the Utility Consumer Counselor
National City Center
115 W. Washington Street
Suite 1500 South
Indianapolis, IN 46204
rhelmen@oucc.in.gov
infomgt@oucc.in.gov

By: 
Counsel for Duke Energy Indiana, LLC

Elizabeth A. Herriman, Attorney No. 24942-49
Andrew J. Wells, Attorney No. 29545-59
Duke Energy Business Services, LLC
1000 East Main Street
Plainfield, Indiana 46168
Telephone: (317) 838-1254
Fax: (317) 838-1842
beth.herriman@duke-energy.com
andrew.wells@duke-energy.com

VERIFICATION

I hereby verify under the penalties of perjury that the foregoing representations are true to the best of my knowledge, information and belief.

Signed: 
Adam J. Nygaard

Dated: 8-9-19