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VIA OVERNIGHT DELIVERY

January 11, 2016

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

JAN 12 2016

PUBLIC SERVICE
COMMISSION

Re: *Case No. 2015-00347*
In the Matter of the Application of Duke Energy Kentucky, Inc., for
Approval of Its Premier Power Tariff and Standard Contract

Dear Mr. Derouen:

Enclosed please find an original and ten copies of the *Responses of Duke Energy Kentucky, Inc. to Commission Staff's Second Request for Information*, for filing in the above referenced matter.

Please date-stamp the two copies of the letter and filing and return to me in the enclosed envelope.

Sincerely,

Rocco D'Ascenzo
Associate General Counsel
rocco.d'ascenzo@duke-energy.com

cc: Hon. Jennifer Hans

VERIFICATION

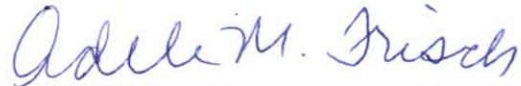
STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned, Keith L. Dale, Strategy Development & Market Efficiency Manager, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.


Keith L. Dale, Affiant

Subscribed and sworn to before me by Keith L. Dale on this 7th day of JANUARY 2016.

ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019


NOTARY PUBLIC

My Commission Expires: 1/5/2019

VERIFICATION

STATE OF OHIO)
) SS:
COUNTY OF HAMILTON)

The undersigned, James Ziolkowski, Director of Rates & Regulatory Planning, being duly sworn, deposes and says that he has personal knowledge of the matters set forth in the foregoing data requests, and that the answers contained therein are true and correct to the best of his knowledge, information and belief.

James E. Ziolkowski
James Ziolkowski, Affiant

Subscribed and sworn to before me by James Ziolkowski on this 11TH day of January, 2016.

ADELE M. FRISCH
Notary Public, State of Ohio
My Commission Expires 01-05-2019

Adele M. Frisch
NOTARY PUBLIC

My Commission Expires: 1/5/2019

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**Duke Energy Kentucky
Case No. 2015-00347
Staff Second Set Data Requests
Date Received: December 29, 2015**

STAFF-DR-02-001

REQUEST:

Refer to the Application, page 3, numbered paragraph 5. Confirm that the last sentence in the paragraph intended to refer to Duke Kentucky's monthly fuel adjustment charge rather than to a quarterly fuel adjustment charge.

RESPONSE:

The last sentence in the paragraph referenced above is intended to refer to Duke Energy Kentucky's monthly fuel adjustment charge.

PERSON RESPONSIBLE: Keith Dale P.E.

Duke Energy Kentucky
Case No. 2015-00347
Staff Second Set Data Requests
Date Received: December 29, 2015

STAFF-DR-02-002

REQUEST:

Refer to Duke Kentucky's response to Commission Staff's Initial Request for Information ("Staff's First Request"), Item 1.a., which states, "[a]t sized below 50 kW this product becomes less cost effective for customers and more of a commodity product." Explain what is meant by this statement.

RESPONSE:

The statement was intended to indicate that, based upon experience, a project below 50 kW would be more expensive on a cost per kW basis for the customer factoring in the ongoing maintenance portion of the tariffed service versus the customer simply purchasing a new 50kW generator. There may be more economical opportunities for a customer with a 3rd party vendor for installations smaller than 50 kW than what Duke Energy can economically provide. Thus the statement that such an investment is more of a commodity. It is not the desire of Duke Energy to compete in these situations and experience has shown that Duke Energy cannot deliver a competitively priced project to the customer for these small generator sizes.

PERSON RESPONSIBLE: Keith Dale P.E.

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 2.

- a. Refer to the response to Item 2.a.
 - 1) Explain whether the response indicates that Duke Kentucky believes that it cannot engage in a non-regulated activity without having a tariff approved by the Commission for the activity.
 - 2) Provide a listing of Duke Kentucky's non-regulated activities for which a tariff has been approved by the Commission.
 - 3) Provide a listing of Duke Kentucky's non-regulated activities for which a tariff has not been approved by the Commission.
- b. Refer to the response to Item 2.b.
 - 1) Confirm that Acct. 0107000 is construction Work in Progress ("CWIP").
 - a) If this cannot be confirmed, identify the name of the account.
 - b) If this can be confirmed, state to what account(s) the amounts in CWIP will be transferred upon completion of construction.
 - 2) Confirm that Acct. 0910100 is Miscellaneous Customer Service and Informational Expenses.

- a) If this cannot be confirmed, identify the name of the account.
- b) If this can be confirmed, confirm that this is an “above the line” account and not a “below the line” account.

RESPONSE:

a.

- 1) The response does not indicate that Duke Energy Kentucky believes that it cannot engage in a non-regulated activity without having a tariff approved by the Commission for the activity. It was intended to indicate that presently we do not offer such a product, and that KRS 278.2213 places restrictions and conditions on the Company’s ability to market and offer non-regulated products and services such as access to information, recommending competitors, etc. By offering customers a tariffed program, Duke Energy Kentucky is better able to serve its customers through standard terms and conditions that are approved by the Commission.
- 2) Duke Energy Kentucky does not provide non-regulated activities for which a tariff has been approved by the Commission.
- 3) Duke Energy Kentucky provides limited non-regulated (non-tariffed) activities that are incidental to its tariffed and regulated services. These non-regulated services include the following: 1) gas curb to meter replacement/repair; 2) joint trench; 3) pilot lighting; 4) pole setting; 5) property leasing; 6) underground electric repair and protection; and 7) misc., work on customer premises.

b.

1) Acct. 0107000 is Construction Work in Progress (“CWIP”).

a) N/A

b) When the asset is placed in service, the dollars are transferred to Account 106 – Completed Construction Not Classified.

2) Acct. 0910100 is Miscellaneous Customer Service and Informational Expenses.

a) N/A

b) This is an “above the line” account. In future base rate cases, the capital and O&M associated with PPS will be excluded from the Company’s revenue requirement calculation, thus preventing subsidization by non-participants.

PERSON RESPONSIBLE: Keith L. Dale, P.E.
James E. Ziolkowski (part b)

STAFF-DR-02-004

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 3.b., and the Application, Direct Testimony of Keith L. Dale ("Dale Testimony"). The response to Item 3.b. describes a contingency allowance as "[p]ossible customer requirements that are known and will be required or are discovered during the term of the contract but are not known or required at the beginning of the project. Costs are adjusted from that period going forward in the contract." State whether that response conflicts with the Dale Testimony, page 7, lines 9-10, which state that "[t]he monthly charge will remain the same through the term of the contract...."

RESPONSE:

If the initial design criteria of the customer remains unchanged during the term and no change requests are made by the customer the monthly charge will remain the same through the term of the contract. This statement attempted to answer a previous question to cover a situation where the customer may expand their operation and require additional generation or make some type of a change request in the method of service delivery. In that case costs are adjusted to reflect that addition or change going forward in the contract. Any such change in costs under the contract will be discussed and approved by the customer.

PERSON RESPONSIBLE: Keith Dale P.E.

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 5.

- a. Refer to the Attachment (a)(1), page 1 of 2, which is a Premier Power Service ("PPS") tariff of Duke Energy Indiana, Inc. ("Duke Indiana"). The second paragraph from the bottom of the page sets forth how expenses are calculated and includes the term "fuel". The PPS tariff proposed by Duke Kentucky in this proceeding uses the term "fuel inventory" for determining the estimated expenses. Explain the meaning of these two terms as used in the tariffs of Duke Indiana and Duke Kentucky, respectively, and the reason for the difference, if any, in these terms between the two tariffs.
- b. Refer to Attachment (b)(1), page 1 of 6. Provide a copy of the Settlement Agreement referred to on this page.
- c. Refer to Attachment (b)(2). This attachment does not appear to be a final order approving a tariff for Duke Power. Provide a copy of the final order approving a PPS tariff for Duke Power by the North Carolina Utilities Commission.

RESPONSE:

- a. The two terms are the same and refer to fuel contained in the generators attached fuel tank. This includes the initial fuel tank fill, the fuel used for testing and

commissioning the generator and the fuel used to conduct monthly testing and run time for outage response of the generator.

- b. See Attachment STAFF-DR-02-005(b).
- c. See Attachment Staff-DR-02-005(c).

PERSON RESPONSIBLE: Keith Dale P.E.

ORIGINAL

[Handwritten initials: SO, APB, CU, ARW]

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY)
INDIANA, INC. FOR APPROVAL OF A PREMIER)
POWER SERVICE RIDER NO. 25 AND APPROVAL) CAUSE NO. 44452
OF ALTERNATIVE REGULATORY PLAN ("ARP"))
AND DECLINATION OF JURISDICTION TO THE) APPROVED: MAY 07 2014
EXTENT REQUIRED PURSUANT TO IND. CODE §)
8-1-2.5-1, *ET SEQ.*)

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On January 30, 2014, Duke Energy Indiana, Inc. ("Duke Energy Indiana" or "Petitioner") filed its Verified Petition requesting Indiana Utility Regulatory Commission ("Commission") approval of a large commercial and industrial ("C&I") customer-specific backup generator program ("Premier Power Service"), Rider No. 25, as an Alternative Regulatory Plan ("ARP") with declination of Commission jurisdiction to the fullest extent appropriate under applicable Indiana laws. On January 30, 2014, Petitioner filed its case-in-chief in this Cause, consisting of the direct testimony and exhibits of Keith L. Dale, manager of project management in the energy services group for Duke Business Services, LLC.

On March 28, 2014, Petitioner submitted a settlement agreement ("Settlement Agreement") between Petitioner and the Indiana Office of Utility Consumer Counselor ("OUCC"), accompanied by the supporting testimony of Keith L. Dale. On March 31, 2014, the OUCC submitted the testimony of Eric M. Hand, Utility Analyst in the OUCC's Electric Division, in support of the Settlement Agreement.

Pursuant to notice, as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing was held in this Cause on April 9, 2014 at 9:30 a.m. in Room 224, PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated at the hearing, and the parties' pre-filed evidence was offered and admitted in evidence without objection. No other parties or members of the general public appeared.

Based upon applicable law and evidence presented herein, the Commission now finds as follows:

I. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. Duke Energy Indiana owns and operates a "Public Utility" as defined in Indiana Code § 8-1-2-1, which is subject to the jurisdiction of this

Commission as provided in the Public Service Commission Act, as amended. In its Verified Petition, Duke Energy Indiana indicates that as an "Energy Utility," it has elected to be subject to the provisions of Indiana Code §§ 8-1-2.5-5 and 8-1-2.5-6 for purposes of declination of Commission jurisdiction, in whole or in part, over Premier Power Service rates and backup generation units. Thus, Duke Energy Indiana's Verified Petition, testimony, and Premier Power Service Rider No. 25 submitted in this proceeding constitute Duke Energy Indiana's proposed ARP for purposes of this proceeding.

2. **Petitioner's Characteristics.** Duke Energy Indiana is an Indiana Corporation with its principal office in the Town of Plainfield, Hendricks County, Indiana. Duke Energy Indiana is engaged in the business of generating and supplying electric utility service to approximately 780,000 customers located in 69 counties in the central, north central, and southern parts of Indiana.

3. **Relief Requested.** Duke Energy Indiana requested approval of an ARP which includes the Commission declining jurisdiction over Petitioner's C&I customer specific special contract Premier Power Service backup power offering Rider No. 25, including the installation and ownership of on-site generation units and rates.

4. **Petitioner's Case-in-Chief.** Mr. Dale testified that some large C&I operations find it financially advantageous to have on-site a backup power supply to allow continuation of their operations during the periodic power outages that occur on all electric systems due to wind, ice, snow, flood, accidents, disturbances on the transmission grid, and other occurrences. For some large manufacturing customers and technology intensive customers, down time associated with loss of power equates to large revenue losses or loss of digital information. Premier Power Service will offer such large C&I customers the opportunity to have a higher level of electricity reliability through the installation at their business site of a backup generator. The Premier Power backup generators will have a minimum name plate rating of 300 kilowatt ("kW"), thus sized for large C&I customers. Maintenance and fueling of on-site generators will be performed by Duke Energy Indiana. Mr. Dale testified that Duke Energy has successfully offered large C&I customers Premier Power backup generator programs in other jurisdictions for twelve years.

Mr. Dale testified the backup generators will be sized, detailed, and located to exclusively fit the backup generation needs of each single, participating C&I entity. The backup generators will only provide, and will only be capable of providing, power to the single participating customer. The backup generators will only supply electricity to the single customer when the normal distribution system power to that customer is out. The backup generator's Automatic Throw Over Switch ("ATO") prevents electricity from going into Petitioner's distribution system during power outages and only allows the backup generation electricity to flow one way, to the participating customer. The backup generators will not be dispatched into the Midcontinent Independent System Operator, Inc. ("MISO") or otherwise into the Duke Energy distribution system. The backup generators will only run during periodic unit testing and to supply the customer with electricity during power outages. As such, the backup generators will not be included in the Petitioner's Integrated Resource Plan ("IRP") analysis.

Mr. Dale testified the Premier Power Service Rider No. 25 Standard Contract rates will be calculated based on each individual customer's backup generation needs. Mr. Dale sponsored the Premier Power Service agreement. Each prospective Premier Power customer will be told their proposed monthly charge before committing to the service agreement and a monthly payment schedule. He explained Premier Power will be a self-sustaining program, accounted for below the line, with no subsidization by non-participating customers. The investment in and operating costs of each backup generator will not be included in Duke Energy Indiana's base retail electric rates but rather will be fully covered in each participating customer's all inclusive, fixed monthly Premier Power Service charge based on the investment in and costs related to each individual participating customer's specific backup generator. Through their individualized fixed monthly charge, each participating customer will pay their own fuel costs and no Premier Power Service fuel cost will be include in Duke Energy Indiana's quarterly fuel adjustment charge process.

Mr. Dale detailed the material Premier Power Service customer benefits. Through the convenience and certainty of a fixed monthly cost reflected on their electric bill each qualifying C&I customer will have an on-site backup generator tailored to meet its individual operating needs, thus avoiding the loss of production and revenue that occurs during power outages. Participating customers will also avoid the substantial capital investment and operating costs related to purchasing or leasing backup generators and having to maintain and fuel them.

Mr. Dale described the participation process. To qualify, customers will have to pass an initial credit evaluation and have a minimum credit rating of BBB+. The financial integrity and reliability of the customer is a necessary requirement for Duke Energy Indiana to consider, bearing the purchase and installation costs of a large backup generator, and the ongoing risk of this stand-alone, below-the-line program. The customer will then be required to sign a letter of initial intent and pay a nominal amount to cover the cost of a site evaluation. Duke Energy Indiana will evaluate the site and the cost for each site and generation need identified. Duke Energy Indiana will determine the monthly service charge. The Premier Power Service pricing and service agreement will be presented to the customer. The customer will evaluate the proposed contract and is free to perform its own due diligence and cost benefit analysis. With agreement to price and terms, the installation will proceed; without agreement the process is ended.

Mr. Dale testified as to why ARP status is appropriate. These generators are for the exclusive use of the customer to which they are assigned, during power outages, and will not be dispatched to provide electricity to the grid. They will not be included in IRP analysis. Their cost and operating expense will not be included in base retail electric rates. Thus, each generating unit's purchase, installation, transfer, subsequent relocation to another customer or latter sale should not be subject to Commission jurisdiction. There also is a competitive, free, and open public market for the sale or lease of backup generators of the size and type to be used in Premier Power Service. Thus, if Premier Power Service pricing is found to be unreasonable or above market by the qualifying sophisticated large C&I entities that may desire backup generation, they are free to obtain backup generation from some other vendor. Similarly, just as vendors of backup generators are able to adjust their price and ancillary costs such as maintenance, so too Premier Power Service must have the ability to price its offerings based on

customer individualized needs and the market price of backup generators and ancillary costs such as maintenance and fuel cost. This pricing flexibility will be exercised at the time each individual customer's monthly charge is determined, prior to contract delivery and execution.

5. **Settlement Agreement and Supporting Testimony.** Mr. Dale testified the Settlement Agreement is the result of arm's length negotiations and reaches a fair result and supported its approval. He highlighted that it provides opportunity for Premier Power Service four-year term of approval to be extended and for collaboration, and opportunity for approval of agreed upon changes. He described that the OUCC requested and Petitioner agreed that certain information be provided in an annual report to be filed with the Commission. He also testified that the OUCC requested that certain language in the service agreement be changed, Petitioner agreed to that change and Mr. Dale sponsored an exhibit showing the change.

Mr. Hand testified in support of the Settlement Agreement. He testified that Premier Power Service will be a self-sustaining program, accounted for below-the-line, with no subsidization by non-participating customers. Further, Premier Power Service facilities and assets will not be included in rate base when calculating Duke Energy Indiana's base retail electric rates. All investment and other costs associated with Premier Power Service will be recovered through each participating customer's all inclusive, monthly service charge, based on each participating customer's unique back-up power facilities and their associated costs. Participating customers' own fuel costs will be recovered through a fixed monthly charge, and shall not be included in Duke's quarterly fuel adjustment charge filings. Premier Power Service will not be used to dispatch electricity into distribution or transmission systems. Premier Power Service facilities will only run during power outages and during periodic unit function testing. Participating customers will not be able to inadvertently energize the distribution system. Premier Power Service equipment will only be available for the exclusive use of individual Premier Power Service customers. All Premier Power Service revenue and expenditures will be booked below-the-line for regulatory accounting purposes. Confirmation that Petitioner's jurisdictional rate base or revenue requirements will be met through regulated service offerings. Premier Power Service will not be included in or considered part of Duke Energy Indiana's integrated resource planning.

6. **Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order - including the approval of a settlement - must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330,331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can

approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2, and that such agreement serves the public interest.

The proposed Settlement Agreement requests Commission approval of Premier Power Service Standard Rider Contract No. 25 and Petitioner's ARP, pursuant to Indiana Code ch. 8-1-2.5. Petitioner is an "Energy Utility" under the Alternative Utility Regulatory Act ("AUR Act"), Indiana Code ch. 8-1-2.5. Under Section 6(a)(1) of the AUR Act, the Commission may adopt alternative regulatory practices, procedures, and mechanisms and establish just and reasonable rates and charges that (a) are in the public interest as determined by consideration of the factors listed in Indiana Code § 8-1-2.5-5; and (b) enhance or maintain the value of a utility's energy services or properties. ARPs authorized by the statute include practices, procedures and mechanisms focused on the price, quality, reliability, and efficiency of the service of the utility. Pursuant to Indiana Code § 8-1-2.5-5(b), the Commission, in determining whether the public interest will be served must consider:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render traditional regulation unnecessary or wasteful,
- (2) Whether the commission's approval of an alternative regulatory plan will be beneficial for the utility, its customers, or the state,
- (3) Whether the commission's declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency, and
- (4) Whether the exercise of commission jurisdiction inhibits a utility from competing with other providers of functionally similar services or equipment.

Having reviewed all the evidence of record in this Cause, including, the Settlement Agreement and supporting testimony, the Commission finds that the Settlement Agreement is reasonable and represents a fair and lawful resolution of the issues in this Cause. It is uncontroverted that there is an open and competitive market for the purchase or leasing of on-site generation units from which Petitioner's customers may obtain backup generation service if they so choose. It is uncontroverted that Premier Power Service will offer qualified C&I customers a potentially desirable cost-effective means of maintaining their operations during the power outages that periodically occur on electric utility systems. Qualifying large C&I customers will see the Premier Power Service Agreement terms and pricing before committing to a contract term, giving them additional opportunity to do their own cost benefit analysis of the possible savings from continued operations during outages and the costs and investment requirement for other competing sources of backup generation. Premier Power Service may present qualifying C&I customers with a convenient fixed monthly cost alternative to the risk of down time during power outages and a desirable alternative to other competing sources of on-site generation. The proposed Premier Power Service program insulates non-participants from bearing the capital investment costs and operating costs of this completely below-the-line ARP program, preventing

cross-subsidization. We find the proposed ARP satisfies the requirements of Indiana Code ch. 8-1-2.5. The agreed-upon reporting requirements in the Settlement Agreement will allow the OUCC and this Commission to remain informed of the growth and performance of this ARP. We find that approval of the Settlement Agreement will promote the public interest and should be approved in its entirety. Accordingly, the Commission finds Petitioner's request for the approval of the Premier Power Service ARP should be approved with the requested declination of Commission jurisdiction and subject to the modifying terms of the Settlement Agreement.

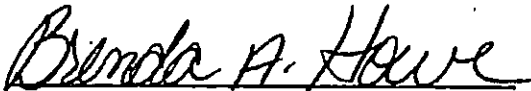
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. Duke Energy Indiana's requested relief for a Premier Power Service ARP with declination of Commission jurisdiction, as modified by the attached Settlement Agreement is hereby approved.
2. The Settlement Agreement attached hereto shall be and hereby is approved and is incorporated into this Order.
3. The Premier Power Service ARP Standard Contract Rider No. 25 shall be effective upon filing with and approval by the Commission's Electricity Division.
4. This Order shall be effective on and after the date of its approval.

ATTERHOLT, MAYS, STEPHAN, AND WEBER CONCUR; ZIEGNER ABSENT:

APPROVED: MAY 07 2014

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



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

Petitioner's Exhibit B-1

SETTLEMENT AGREEMENT

This Settlement Agreement, dated as of the 28th day of March 2014, is made and entered into by and between the duly authorized representatives of Duke Energy Indiana, Inc. ("Duke Energy Indiana") and the Indiana Office of the Utility Consumer Counselor ("OUCC")(individually referred to as "Party" and collectively referred to as "Parties" or "Settling Parties").

WITNESSETH:

WHEREAS Duke Energy Indiana has filed a Verified Petition in Cause No. 44452 with the Indiana Utility Regulatory Commission ("IURC") seeking permanent approval of Premier Power Service Standard Rider Contract No. 25 and its Alternative regulatory Plan ("PPS"); and

WHEREAS the Parties to this Cause have engaged in good faith negotiations and exchange of information in an effort to amicably resolve this case; and

WHEREAS subject to the conditions set forth in this Settlement Agreement, including the approval and acceptance by the IURC of this Settlement Agreement, in its entirety, without any change or condition that is unacceptable to any Party to this Settlement Agreement, and with the understanding that each and every term of this Settlement Agreement is in consideration and support of each and every other term, the Parties hereto agree and stipulate as follows:

I. GENERAL CONDITIONS

This Settlement Agreement is expressly conditioned upon and subject to the following general conditions:

- A. This Settlement Agreement is the result of compromise by the Parties within the settlement process. Neither the making of this Settlement Agreement nor any of the individual provisions or stipulations herein shall constitute an admission or waiver by any Party in any other proceeding; nor shall they constitute an admission or waiver in this proceeding if the Settlement Agreement is not accepted by the Commission. The Parties hereto shall not use this Settlement Agreement or the resulting Commission Order as precedent and shall not offer the same as an admission in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. In the event this Settlement Agreement or the resulting Commission Order is offered for any purpose prohibited by this Agreement, the Parties agree that objections by the non-offering party are proper.

IURC
PETITIONER'S
EXHIBIT NO. B-1
4-10-14 CL
DATE RECEIVED

- B. The communications and discussions had and the materials produced and exchanged during the negotiation of this Settlement Agreement all relate to offers of settlement and compromise and, as such, are privileged and confidential and shall not be used for any other purpose in this or any other proceeding without the agreement of all Settling Parties.
- C. This Settlement Agreement is conditioned upon and subject to IURC acceptance and approval in its entirety, without any change or condition that is unacceptable to any Party to this Settlement Agreement.
- D. If this Settlement Agreement is not accepted and approved by the IURC in accordance with its terms, then it will be withdrawn and not made a part of the evidentiary record or used for any other purpose.

II. SUBSTANTIVE TERMS

Duke Energy Indiana's requested relief in this Cause No. 44452 should be approved in its entirety, except as specifically modified by conditions 1-6 in this Section II.

1. **Term of PPS.** This approval of PPS is limited to a 4-year trial period, and will automatically terminate at the end of 4 years. The parties agree to meet approximately 12 months before the end of the 4-year program to discuss a further extension and/or changes to Duke Energy Indiana's initial PPS offering. However, the initial 4-year trial period will be extended during the pendency of Duke Energy Indiana's PPS re-approval case. Each PPS contract executed during the 4-year trial period and during the pendency of Duke Energy Indiana's PPS re-approval case will remain in effect for the stated contract term and remain subject to each contract's previously approved terms and conditions, regardless of whether Duke Energy Indiana is authorized to provide PPS after the initial 4-year trial period.
2. **Collaborative Exchange.** The parties will meet approximately 90 days after Duke Energy Indiana files its second annual report, with a subsequent opportunity for interested entities to seek Commission approval of agreed to proposed changes to the PPS program. At that point the Commission would be free, after notice and hearing, to modify the PPS program for agreed to changes for the remainder of the trial period.
3. **Annual PPS Report.** Duke Energy Indiana will file annual PPS reports (with confidential information redacted from the filed copy, but provided to the OUCC under a standard Non-Disclosure Agreement used to facilitate the exchange of information between the Parties). The annual PPS reports will include the following information on existing PPS:
 - a. Total number of PPS customers served in Duke Energy Indiana's service territory;
 - b. The number of new PPS customers added during the last twelve months;

- c. For each PPS customer, the number of times PPS back-up generation has operated during a service outage during the last 12 months;
 - d. Duration of each power outage at each PPS customer service location;
 - e. The number and size(s) (i.e., nameplate rating) of any new generators supplied to each PPS customer during the last 12 months;
 - f. The type of back-up power equipment supplied to each PPS customer (e.g., on-site generator, fly-wheel, or non-interruptible power supply systems) during the last 12 months;
 - g. The effective date and term (i.e., number of years) of each PPS Agreement signed during the last 12 months;
 - h. For each PPS customer added during the last 12 months, identify the Duke Energy Indiana tariff or other type of electric utility service arrangement (e.g., LLF, HLF, or Special Contract) under which the PPS customer receives electric utility service from DEI;
 - i. Confirmation that all PPS related revenues and expenses are being accurately tracked for below-the-line regulatory treatment;
 - j. The number and nature of any PPS customer complaints reported during the last 12 months and a brief description of how each complaint was resolved;
 - k. Any legal actions initiated against Duke Energy Indiana during the last 12 months as a result of its offering PPS in Indiana;
 - l. Any positive customer feedback Duke Energy Indiana received from PPS customers during the last 12 months that it would like to share with the Commission, the OUCC and other Indiana stakeholders.
 - m. A detailed description of any and all damage that occurred to Duke Energy Indiana's distribution equipment as a result of the provision of PPS in Indiana during the last 12 months (including descriptions of the damaged property, the cost to repair or replace the damaged property, and whether any customers receiving Duke Energy Indiana's regulated utility service experienced any outages as a result of that property damage).
4. Remove language concerning Commission authority from page 5, para. 14 of the PPS Agreement.
 5. Duke Energy Indiana's agrees that electricity provided through its PPS back-up power source shall not be counted toward the utility's compliance with service reliability regulatory requirements.
 6. Duke Energy Indiana's agrees to comply with all applicable state and federal environmental regulations concerning the use of fuel used to power its PPS back-up generators.

III. PROCEDURAL TERMS

- A. The Parties agree to jointly request IURC acceptance and approval of this Settlement Agreement in its entirety, without any change or condition that is unacceptable to either Party to this Settlement Agreement.
- B. Duke Energy Indiana and the OUCC may introduce into evidence in this Cause testimony and exhibits in support of the terms of this Settlement Agreement, after providing each other a reasonable opportunity to review and comment on each other's draft settlement testimony and exhibits.
- C. OUCC and Duke Energy Indiana agree to waive cross-examination of each others' witnesses in presenting this Settlement Agreement for approval in this proceeding.
- D. Duke Energy Indiana and the OUCC shall work together to finalize and file an agreed upon proposed order with the IURC as soon as possible, consistent with the terms of this Settlement Agreement. The Parties will support an agreed proposed order and will request that the IURC issue an order promptly accepting and approving the same in accordance with its terms.
- E. The Parties will either support or will not oppose on rehearing, reconsideration and/or appeal an IURC Order accepting and approving this Settlement Agreement in accordance with its terms, including the submission of any applicable briefs and pleadings. The Parties will also either support or not oppose the relief outlined in this Settlement Agreement if challenged in any other forum or tribunal.
- F. Duke Energy Indiana and the OUCC agree to refrain from issuing any news releases concerning this Settlement Agreement until each has consulted with the other, provided that Duke Energy Indiana shall be able to issue such releases as necessary to comply with disclosure requirements.

Agreed and accepted this 25 day of March, 2014:

Duke Energy Indiana, Inc.

By: Robert M. Glennon
Robert M. Glennon, Attorney No. 8321-49

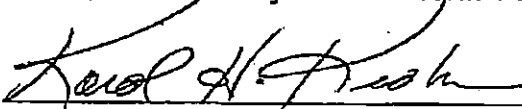
Robert M. Glennon, Attorney No. 8321-49
Robert Glennon & Assoc., P.C.

3697 N. County Road 500 E.
Danville, IN 46122
Telephone: (317) 852-2723
Fax: (317) 852-0115
glenmon@iquest.net

Agreed and accepted this 28th day of March, 2014:

Indiana Office of the Utility Consumer Counselor

By:



Karol H. Krohn (Ind. Atty. No. 5566-82)
Deputy Consumer Counselor
Indiana Office of Utility Consumer Counselor
115 W. Washington Street, Suite 1500 South
Indianapolis, IN 46204
Telephone: 317-232-2494
Facsimile: 317-232-5923
infomgt@oucc.in.gov

[This is a signature page to a Settlement Agreement between Duke Energy Indiana, Inc. and the Indiana Office of the Utility Consumer Counselor in Cause No. 44452. The remainder of this page has intentionally been left blank.]

Petitioner's Exhibit B-2

14. ~~**Amendments.** Services rendered under this Agreement are subject to the authority of the Commission and any changes or other modifications lawfully made thereto. This agreement is subject to changes or substitutions, either in whole or in part, made from time to time by a legally effective filing of Duke with, or by order of, the regulatory authority having jurisdiction. Except as expressly provided herein, the terms of this Agreement may not be modified except by written agreement duly executed by both Parties. No amendments to this agreement may be accomplished verbally or through the exchange of letters. Unless specified otherwise, any such changes or substitutions shall become effective immediately and shall nullify all prior provisions in conflict therewith. Except as expressly provided herein, the terms of this Agreement may not be modified except by written agreement duly executed by both Parties. No amendments to this agreement may be accomplished verbally or through the exchange of letters.~~

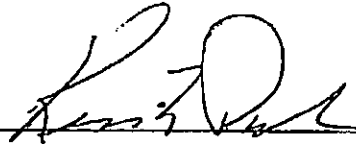
14. **Amendments.** Except as expressly provided herein, the terms of this Agreement may not be modified except by written agreement duly executed by both Parties. No amendments to this agreement may be accomplished verbally or through the exchange of letters. Unless specified otherwise, any such changes or substitutions shall become effective immediately and shall nullify all prior provisions in conflict therewith.

IURC
PETITIONER'S
EXHIBIT NO. B-2
4-10-14 CR
DATE RE DATES

VERIFICATION

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

Signed:



Dated:

4/8/14

Keith L. Dale, P.E.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Submission was served electronically, hand delivered, or mailed, postage prepaid, in the United States Mail, this 28th day of March 2014 to:

Karol H. Krohn
Office of Utility Consumer Counselor
PNC Center
115 West Washington Street, Suite 1500 South
Indianapolis, Indiana 46204

/s/ Robert M. Glennon
Robert M. Glennon

Kelley A. Karn, Attorney No. 22417-29
Duke Energy Business Services, LLC
1000 East Main Street
Plainfield, IN 46168
(317) 838-6877 (telephone)
(317) 838-1842 (facsimile)
kelley.karn@duke-energy.com

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(317) 852-0115 (facsimile)
glennon@iquest.net

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 692

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of		
Application by Duke Energy Carolina, LLC for a Blanket Certificate of Public Convenience and Necessity and Request for Waiver of Commission Rule R8-61)))))	ORDER GRANTING BLANKET CERTIFICATE OF PUBLIC CONVENIENCE & NECESSITY & PERMANENTLY APPROVING PROGRAM

BY THE COMMISSION: On July 25, 2001, the Commission issued a blanket Certificate of Public Convenience and Necessity (CPCN or Certificate) granting a request by Duke Energy Carolinas, LLC (Duke) to implement an experimental pilot program, known as the On Site Generation Service (OSG) Program to provide stand-by diesel generators to non-residential customers. These generators could be used in the event normal electric service was interrupted to the customer or if Duke needed the energy on an emergency basis. Duke would own all generation and interconnection equipment and would operate the equipment at Duke's sole discretion. The program was designed to provide up to 250 megawatts (MW) of stand-by diesel generation capacity for a period of five years. The generators were required to have a capacity of 300 to 3,500 kilowatts per installation.

On November 25, 2008, Duke filed a request seeking approval to extend and revise the blanket CPCN for the OSG Program. The Certificate for the OSG Program had expired August 1, 2006. Duke proposed to make this program a permanent program offering and expand the fuel type used for this generation to include other fuel sources such as natural gas. Duke did not propose to change its rate formula that was based on the specific equipment installed to meet the unique needs of the customer. Duke stated that it had approximately 20 MW of capacity currently in this program, well below the 250 MW cap originally established for the OSG Program. Duke also requested waiver of Commission Rule R8-61 with respect to the CPCN.

The Public Staff presented this matter at the Commission's Regular Staff Conference on March 9, 2009. The Public Staff stated that it had reviewed Duke's application and did not believe Duke's request was sufficiently different from the current program such that Duke should be required to comply with the provisions of Commission Rule R8-61. The Public Staff therefore did not object to Duke's request for waiver of the provisions of Commission Rule R8-61; however, the Public Staff did believe that notice should be given as required by G.S. 62-82(a) to allow the general public to be made aware of the program and file any complaints concerning the program. On March 10, 2009, the Commission issued an order granting the waiver of

Commission Rule R8-61 and requiring customer notice. Duke has provided the customer notice and filed Affidavits of Publication as required by the Commission's order. No customer inquiries have been received as a result of the notice.

The Commission has also received notice from the NC State Clearinghouse, filed April 15, 2009, indicating no further environmental review action was required by Duke for extension of its OSG Program.

On May 11, 2009, the Public Staff presented this matter at the Commission's Staff Conference. The Public Staff stated that it had reviewed Duke's application, the information from the State Clearinghouse and the customer notice and recommended approval of Duke's application as filed.

Based on the foregoing and other matters of record in this docket, the Commission concludes that Duke's request for a blanket CPCN and to make the OSG Program permanent should be granted.

IT IS, THEREFORE, ORDERED as follows:

1. That the blanket Certificate of Public Convenience and Necessity (attached as Appendix A) for the Onsite Generation Program is hereby approved for up to 250 MW of emergency generation, for the construction and operation of emergency generators between 300 and 3,500 kilowatts at the premises of the customers in Duke Energy Carolinas, LLC franchised service territory who elect to take this service.
2. That the Onsite Generation Program is hereby approved on a permanent basis.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of May, 2009.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk

APPENDIX A

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. E-7, SUB 692

DUKE ENERGY CAROLINAS, LLC
526 South Church Street
Charlotte, NC 28202

Is Issued this

**CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
PURSUANT TO G.S. 62-110.1**

Authorizing construction and operation of up
To 250 MWs of emergency generation between 300
And 3,500 kilowatts per installation

Located at

Various customer premises in the Duke Energy Carolinas, LLC,
Assigned franchise territory.

This Certificate of Public Convenience and Necessity is subject to the reporting
requirements
Of G.S. 62-110.1(f), and all other orders, rules, regulations, and conditions
Now or hereafter lawfully made by the
North Carolina Utilities Commission.

ISSUED BY ORDER OF THE COMMISSION.

This the 12th day of May, 2009.

NORTH CAROLINA UTILITIES COMMISSION

Gail L. Mount

Gail L. Mount, Deputy Clerk

Duke Energy Kentucky
Case No. 2015-00347
Staff Second Set Data Requests
Date Received: December 29, 2015

STAFF-DR-02-006

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 7. The response states that "[e]nergy will be billed under standard tariffed rates." Refer also to the Dale Testimony, page 7, lines 3-4, which state that "[t]he monthly charge will be all inclusive including the cost of fuel..." Given that Duke Kentucky's energy rates include base fuel costs of \$.029117, explain how a PPS customer would not be paying double fuel costs when paying for energy at the standard tariff rate and for fuel as part of the fixed monthly charge under the PPS tariff.

RESPONSE:

Duke Energy Kentucky will factor the embedded cost of fuel in base rates as a credit to the monthly fee based upon an assumption for the estimated annual run time of the generator. The Company anticipates that this would be a nominal amount (less than \$1,200 per year). Tracking the actual difference in the cost of fuel on a monthly basis would require different and separate metering and would likely cost more in terms of time and equipment than the difference in the incremental fuel costs. It has been the experience that the customer is accepting of this fact and realizes the minimal expense this results in. In most cases the customer is much more concerned about the much higher expense resulting from potential loss of produce or manufacturing time as the result of an extended outage.

PERSON RESPONSIBLE: Keith Dale P.E.

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 8. The response states that "Duke Energy reserves the right to charge for fuel usage, at the then current commercial rate, for extended generator run time greater than 40 hours per year."

- a. Explain how the threshold of 40 hours was determined.
- b. Reconcile this statement with the Dale Testimony, page 7, lines 3-4 that "[t]he monthly charge will be all inclusive including the cost of fuel...."
- c. Provide a sample calculation of the monthly service payment to be assessed under the PPS tariff. Include in the response a breakdown and description of the estimated levelized capital costs and estimated expenses used to calculate the monthly service payment.

RESPONSE:

- a. The 40 hours threshold represents the typical amount of time required for monthly testing of the unit on an annual basis and typical annual average emergency response time based on experience.
- b. The monthly fee does contain fuel to run for the typical number of hours required by both testing and emergency response as stated in response (a.). For a situation's where the customer may experience an extended outage from events such as an ice storm or cases where the customer asks Duke Energy Kentucky to run the unit

for an extended period of time, Duke Energy Kentucky feels it is better to ask the customer to pay for that incremental expense when and if it occurs rather than to try to predict unusual events and the fuel required to address those events in the monthly fee. To accomplish this and to keep the monthly fee affordable, a set number of hours must be determined for calculating the monthly fee. This is explained to the customer during the initial phases of the project and before a contract is signed with the customer.

- c. The Monthly Service Payment is calculated by considering the Estimated Capital Costs needed to install the generation system and the estimated annual expenses needed to properly maintain the system over the length of the contract. The proposed PPS Tariff defines this Monthly Service Fee as the Estimated Levelized Capital Costs plus the Estimated Expenses.

The Estimated Levelized Capital costs are for all expenses leading up to the installation, testing and commission of the generator system for the customer. This includes items such as site evaluation and preparation needed for the installation of the generator system. Items that are included are the generator, switchgear, metering and monitoring equipment and contractor labor for the installation of this equipment

The Estimated Expenses include items that are needed at startup and during the contract period with the customer. This can include direct labor for administrative contract management, routine maintenance, periodic maintenance, consumables such as fuel, replacement reserves for repairs needed during the contract term, environmental support, depreciation and monitoring expenses.

Example Calculation

Several assumptions will be made in this example but numbers are typical of an installation using a generator in the range of 1000 kW to 1500 kW.

Capital Spend \$1.00 MM for all equipment and installation labor.

Operation and Maintenance Expenses are estimated at approximately \$1.39 MM over the ten year term of the contract. This includes periodic maintenance, project administration expense, a risk premium, depreciation, taxes and other necessary operating expenses. There is also an estimated escalation of pricing over the ten years of approximately 2%.

Other Assumptions

- Contract Term of Ten Years (120 payments)
- Book Depreciation of 15 years
- Total combined tax rate of 36.78%
- After Tax IRR of 7%

Monthly Service Payment from customer of \$16,375 required for this example given above assumptions.

PERSON RESPONSIBLE: Keith Dale P.E.

STAFF-DR-02-008

REQUEST:

Refer to Duke Kentucky's response to Staff's First Request, Item 9, regarding a fee to be charged to PPS customers to cover the cost of a site evaluation. The response states that "[t]he fee will be added to the total project costs if the customer chooses [sic] to proceed with a contract." State whether the response indicates that a nominal fee will not be charged to a customer who chooses not to proceed with a contract under the PPS tariff.

- a. If this cannot be confirmed, explain what is meant by the statement.
- b. If this can be confirmed, explain how Duke Kentucky will recover the costs of the site evaluation.

RESPONSE:

This statement can be confirmed in that Duke Energy Kentucky will recover the costs of a site evaluation if the customer chooses not to proceed with the project. The cost is presented to the customer and the recovery method if needed is communicated to and agreed upon by the customer using an ESA, Engineering Service Agreement prior to any site work beginning or contract signature.

PERSON RESPONSIBLE: Keith Dale, P.E.