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VIA OVERNIGHT DELIVERY

August 8, 2005

RECEIVED
AUG 0 9 2005
PUBLIC SERVICE COMMISSION

Ms. Elizabeth O'Donnell
Executive Director
Kentucky Public Service Commission
211 Sower Boulevard
P.O. Box 615
Frankfort, Kentucky 40602-0615

Re: In the Matter of Application of The Union Light, Heat and Power Company for Approval of Fixed Bill Program Riders Applicable to Residential Customers
Case No. 2004-00503

Dear Ms. O'Donnell:

I have enclosed a copy of an order issued by the Indiana Utility Regulatory Commission ("IURC") on August 3, 2005 relating to PSI Energy's Inc.'s ("PSI") request for approval of a fixed bill program. In KyPSC-DR-02-010(b), the Commission Staff asked ULH&P to supply a copy of this order as soon as practicable after issuance.

The IURC approved PSI's fixed bill program for a term of three years. The PSI permitted PSI to charge a program fee up to 10% during the first year of the program, and up to 9% in subsequent years. PSI was permitted to account for the program costs and revenues below-the-line.

The IURC modified a few of the program features requested by PSI; however, the IURC's order approved the program substantially in the same form requested by PSI. Moreover, PSI's proposed fixed bill program is substantially similar to the program requested by ULH&P. The IURC's order is 25 pages long, showing that the IURC carefully considered all aspects of PSI's request.

We believe that the IURC's order is additional evidence that a fixed bill program is a cost-based program which provides important customer benefits, and that these benefits outweigh any possible concerns about the program. We continue to strongly urge the Commission to approve the pilot fixed bill program requested by ULH&P.

If you have any questions regarding either of these filings, please call me at (513) 287-3601.

Sincerely,

John J. Finnigan

John J. Finnigan, Jr.
Senior Counsel

JJF/sew

cc: Hon. Elizabeth Blackford (w/encl.)

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF PSI ENERGY, INC. REQUESTING THE INDIANA UTILITY REGULATORY COMMISSION TO DECLINE ITS JURISDICTION OVER, OR OTHERWISE APPROVE AN ALTERNATIVE REGULATORY PLAN FOR THE OFFERING OF A FIXED BILL PROGRAM RIDER APPLICABLE TO RESIDENTIAL CUSTOMERS PURSUANT TO IND. CODE 8-1-2.5-5 AND 8-1-2.5-6	)))))))))	CAUSE NO. 42721 APPROVED: AUG 0 3 2005

BY THE COMMISSION:
Abby R. Gray, Administrative Law Judge

On September 16, 2004, PSI Energy, Inc. ("PSI or Petitioner") filed its Verified Petition requesting this Commission decline its jurisdiction over, or otherwise approve, an alternative regulatory plan for the offering of a Fixed Bill Program applicable to residential electric customers.

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, a hearing was held on December 14, 2004 in this Cause at 9:30 a.m. EST in Room E306, Indiana Government Center South, Indianapolis, Indiana. At the hearing, Petitioner and the Office of Utility Consumer Counselor ("OUCC") presented evidence. No members of the rate paying public were present at the hearing.

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

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the hearing in this Cause was given and published by the Commission. Petitioner owns and operates a public utility which is subject to the jurisdiction of this Commission as provided in the Public Service Commission Act, as amended. In its Verified Petition, PSI has indicated that as a "Energy Utility," it has elected to be subject to the provisions of Ind. Code §8-12.5-5 and 8-1-2.5-6 for purposes of offering its proposed Fixed Bill Program. PSI's Verified Petition and its testimony and exhibits constitute its Alternative Regulatory Plan ("ARP") for purposes of this proceeding.

2. **Petitioner's Characteristics.** PSI is an Indiana Corporation with its principal office in the Town of Plainfield, Hendricks County, Indiana. PSI is engaged in the business of generating and supplying electric utility service to over 740,000 customers located in 69 counties in the central, north central, and southern parts of Indiana.

3. **Relief Requested.** By its September 16, 2004 Verified Petition in this Cause, PSI seeks Commission approval of a fixed electric bill program rider pursuant to the provisions of Ind. Code §8-1-2.5-1 *et seq.* The provisions hereunder authorize the Commission to approve alternative regulatory practices, procedures, and mechanisms for energy utilities. Specifically, PSI seeks Commission declination of jurisdiction or approval of an ARP for its Fixed Bill Program, to be known as *Your FixedBill. Your FixedBill* will be a competitive billing option expanding the portfolio of billing and payment options currently offered to PSI customers. The fixed bill proposal is a voluntary billing option which provides residential customers with the convenience and certainty of knowing they will pay the same amount each month for twelve (12) consecutive months regardless of the impact of weather, usage, or price fluctuations and without any end of period reconciliation or true up.

4. **PSI's Evidence.** Mr. Todd Arnold, Vice President of Customer Care, testified in support of PSI's proposal. As VP of Customer Care, Mr. Arnold oversees several areas of responsibility, including Customer Contact Services, Business Services and Service Delivery. He oversees the management of customer contact surveys and analysis of the data for process improvement. He also oversees the management of various billing programs and services and PSI's management of online services internet applications as well as the development and maintenance of website content associated with customer service. Mr. Arnold testified that customers are more satisfied when they have additional bill payment options. He indicated more customers are electing alternative payment methods and those customers electing a payment plan are more satisfied with their billing payment process and have higher satisfaction levels than those who do not use an alternative bill payment plan. Accordingly, PSI continues to look for options to provide customers with added convenience, while helping them manage their electric utility bills.

PSI's current portfolio of payment methods includes "pay stations" where the PSI bill can be paid at local retailers; e-Bill, a free program that allows customers to view and pay their bills on the internet; BillPayer 2000, where for a minimal fee payments can be automatically deducted from a customer's checking or savings account; Speedpay, whereby payment can be made by electronic check or credit/debit card; and payment in person at any customer service office; as well as the traditional method of paying by mail.

Mr. Arnold also described PSI's existing portfolio of billing options. The most popular option is PSI's Budget Billing Program. PSI offers two Budget Billing Program options. The *Annual Budget Billing Plan* charges the same monthly amount with an increased or decreased bill in the 12th month for any difference between actual usage and the total annual amount paid during the budget billing year. The second Budget Billing option is *Quarterly Budget Billing Plan* where a customer's account is reviewed every three months and the monthly budget billing amount is thereby adjusted to better reflect actual energy use. PSI also offers Adjusted Due Date where customers can extend their monthly bill due date up to ten calendar days to better align their payment date with receipt of their monthly income *(i.e.,* Social Security or pension payment arrival dates). PSI also offers extended payment plans to customers having difficulty paying their entire bill by the due date. These payment arrangements extend payment from one to six months depending on the customer's need. PSI also helps customers who are having difficulty paying their bills. PSI manages the Helping Hand Fund, an energy assistance program available to customers who meet low-income guidelines and have applied for energy assistance, or who are age 60 or over and/or disabled. Funded primarily by Cinergy/PSI shareholders, with donations from PSI employees and customers, this fund dispersed over $195,000 to more than 4,300 customers. PSI also offers a Green Power Rider whereby a customer can voluntarily contribute to funds for the development or purchase of Green Power resources. Finally, PSI offers various demand-side management programs for the residential customer allowing such customers to manage their electric bill, in addition to helping them reduce their energy consumption.

Mr. Arnold testified that the *Your FixedBill* Program is offered to enhance customer satisfaction by broadening the portfolio of available billing options. He indicated research demonstrates customers appreciate having more options. He also testified that many customers dislike budget billing because of the uncertainty of the settle up amount and the financial surprise that can occur at the end of the period. He stated customers have expressed a desire to pay a fixed amount without the worry of a settle-up bill/adjustment. In that light, PSI views the Fixed Bill Program as an additional billing option for those customers who are willing to voluntarily pay a program fee for the convenience, certainty, and peace of mind of paying the same amount each month with no settle-up or reconciliation. Mr. Arnold indicated research shows that customers are interested in having a completely Fixed Bill option for their monthly electric bills. Such Fixed Bill options are growing in popularity throughout the United States.

Mr. Michael Goldenberg, Manager of Product Management, also testified. He explained the proposed *Your FixedBill* Program. He too indicated *Your FixedBill* is a voluntary billing option intended to expand the portfolio of billing options available to customers by providing residential customers with an option which allows them to know they will pay the same amount each month for the next twelve months regardless of weather, usage, or price fluctuations. He indicated that company personnel have been considering a Fixed Bill option for several years, taking into consideration Fixed Bill programs offered by utilities such as Georgia Power, Gulf Power, Duke Energy Corporation ("Duke"), Indianapolis Power and Light ("IPL"), and Northern Indiana Public Service Company ("NIPSCO"). He testified that the Company has consulted with experts and also undertook a very small pilot program using 50 PSI employees to gauge interest and experience with such a program. Mr. Goldenberg stated PSI intends to conduct a small roll out of *Your FixedBill* in April 2005 limited to 1,000 eligible customers. In the fall of 2005, PSI would increase enrollment to 30,000 eligible customers on a first come, first serve basis, or the end of the enrollment period, whichever occurs first. In later years, PSI would have an annual enrollment period during which additional customers can enroll.

To qualify for *Your FixedBill*, a customer must meet certain eligibility criteria. The customer must have received service at the same location for at least twelve months and have no estimated meter readings over the last twelve months. The customer must have a load profile which can be reasonably modeled in order for PSI to make a prediction of estimated usage. Customers must commit to be enrolled in *Your FixedBill* for a term of 12 months and must be current on their electric service payments at the time of enrollment. This voluntary billing option requires the calculation of individualized Fixed Bill estimates, the dissemination of communications to customers, and the associated effort and management. This investment of financial and personnel resources requires that only customers in good standing on their electric bills, and who are willing to undertake a one year contract, should be eligible for this optional program. Customers enrolled in other billing options, such as Budget Billing, may enroll in the

Your FixedBill Program.

Mr. Goldenberg explained that the *Your FixedBill* Program is not intended to save customers money. Rather, while initially set at 10%, the program can have a fee up to 12% to compensate PSI for the costs of the program as well as assumption of the risks related to weather and pricing fluctuations. He stated the Fixed Bill Program is intended for those customers who knowingly choose to pay a little extra for the certainty and convenience of paying the same amount each month without a true up payment at the end of 12 months or reconciliation. As such, he indicated that the *Your FixedBill* marketing materials will make clear to PSI customers that the program is not intended to provide the lowest annual cost of electricity possible, but rather is another billing option offering from which customers can choose.

Mr. Goldenberg next reviewed how a customer's Fixed Bill amount will be calculated. He described that expected usage for the upcoming year must be calculated on a customer specific basis, employing historic usage for the past twelve or more months, adjusted for normal weather and adjusted for expected usage changes. Various rate riders for the Residential Tariff are then projected for the upcoming twelve months. The customer's bill is calculated with the base rates from the Standard Residential Tariff combined with the estimated rider factors. A program fee of no more than 12% is then applied to cover PSI's costs and risks incurred. This is done for each month of expected usage and the twelve months are then added and divided by twelve to determine the monthly *Your FixedBill* amount. The monthly Fixed Bill is calculated based on normal temperatures and past historic usage levels. Thus, PSI runs the risk that weather fluctuations or other causes may increase the customer's usage above the estimated levels during the 12 month program period. Also, by fixing the various rate riders, which can fluctuate greatly throughout the year, PSI absorbs additional risk. To mitigate these and other risks, PSI has requested authority to charge a program fee of up to 12%. Through its requested declination of jurisdiction or approval of an ARP, PSI intends to start with a fee of 10% in the first year and thereafter, based on experience, lower the fee or increase it up to a cap of 12%.

Mr. Goldenberg testified that if the fee is set too high, customers will not sign up and the program will not be a successful billing option. Conversely, if the fee is set too low, the program will operate at a loss and not be successful. Mr. Goldenberg indicated the customers will be given their *Your FixedBill* quote along with their monthly budget bill quote and their historical highest and lowest monthly bill in the past twelve months under standard residential tariff. Additionally, customers will also have their current bill for comparison purposes. Based on a comparison of the cost of these competing billing options, the customers can decide if they want to pay the Fixed Bill amount for the ease, convenience, and certainty of the same bill each month for twelve months with no true up, or if they prefer one of the competing billing options.

Mr. Goldenberg next discussed the *Your FixedBill* terms and conditions. The service agreement will contain the customer's Fixed Bill amount, the eligibility requirements and the terms and conditions of service. The Program has a 12 month term. Customers will be sent a re-enrollment letter at least 45 days prior to the end of the twelve month period providing them the new Fixed Bill amount and a comparison showing their Budget Bill amount and the highest and lowest monthly payments under Standard Residential Tariff for the previous 12 months. PSI will recalculate a new 12 month Fixed Bill amount using past usage data including the previous year's consumption data. Customers will be informed that they will be automatically reenrolled in *Your FixedBill*, unless they request to be switched to a different billing option.

Customers can be removed from the program for cause. If a customer's actual monthly usage is 20% greater than projected for any month, after adjusting for weather variations in that month, PSI reserves the right to send the customer a warning letter. This letter will document the customer's excess usage and warn that they could be removed from the program if excessive usage occurs again. If usage is more than 20% higher than expected in a second month, the customer may be removed from the program, or choose a recalculated Fixed Bill amount which better reflects their increased usage. In a case of extreme excess usage, PSI reserves the right to remove the customer after the first month of such extreme usage.

Mr. Goldenberg explained that the ability to remove customers for excessive usage is needed to limit the opportunity to game or manipulate the program. His examples include electing to participate in the Fixed Bill Program and then one of the following occurs: switching from natural gas, propane or fuel oil heat to electric heat; removing a wood or waste fuel heating unit from use; constructing a building addition; switching from gas or propane to electric water heater; installing one or *more* additional air conditioning units; dramatically changing heating and/or air conditioning behaviors. Mr. Goldenberg indicated that most Fixed Bill Programs have provisions to protect the utility from excessive increased usage. He testified that PSI will give excessive usage customers a choice of returning to Standard Tariff, paying the difference between residential rate and their Fixed Bill amount for the time of the current contract period and pay an administrative fee of $50, or accept a newly calculated Fixed Bill amount based on their new usage information. Mr. Goldenberg stated that PSI will work with excessive usage customers in order to preserve and enhance customer satisfaction. In that regard, customer service representatives will be trained specifically to serve the *Your FixedBill* customers.

Mr. Goldenberg described another reason for removal from the program. The Fixed Bill quote is based upon customer specific usage at a specific residence. If the customer moves from that residence, PSI must remove the customer from the Fixed Bill Program because the customer's Fixed Bill amount would likely have no indication of the customer's usage level at the new residence. In such event, the customer's bill from the time of the current enrollment period to the time of removal would be recalculated at the Standard Residential Tariff Rate and compared to the Fixed Bill Amount. Any difference owed by the customer will be billed to the customer. If the customer's Standard Contract Tariff bill is less than the amount paid under *Your FixedBill*, the difference will not be credited to the customer. However, customers removed for change of residence will not be charged any administrative fees.

A customer who becomes in arrears in fixed monthly bill payments will be treated the same as any other residential customer in arrears, including the application of late payment charges, entering into payment arrangement plans, and disconnection if appropriate.

Further, as reflected in Exhibit B-1, a customer may be removed from the program if the customer has two or more estimated meter reads during the 12-month Service Agreement period where the meter reader was unable to gain access to the meter. Customers removed for this cause will be subject to the Administrative Fee of $50 and charged for any difference as compared to billing under the Standard Residential Tariff.

Mr. Goldenberg testified that there are certain costs associated with the program including soliciting participation, educating customers, processing applications, direct contact with customers, calculating the Fixed Bill Amount, program administration, and monthly usage monitoring. Thus, it is appropriate that those who are removed from the program not leave behind the costs they have incurred. It is equally important that customers keep their commitment to stay on the voluntary Fixed Bill Program for the full 12 months. Accordingly, the terms and conditions of the *Your FixedBill*, the Standard Contract Rider No. 20 provides for the assessment of removal charges. These removal charges also discourage customers from switching back and forth between competing billing options.

Mr. Goldenberg also discussed how the *Your FixedBill* Program will be marketed to customers and the disclosures that will be made. He indicated that PSI's goal is to maximize customer satisfaction by allowing customers to make the most suitable choice among the available billing and payment options. Eligible customers will receive direct mail solicitation wherein they will be quoted their *Your FixedBill* amount, their monthly Budget Billing amount, and their highest and lowest monthly Standard Tariff amounts over the past 12 months. The marketing material will provide program information as well as clear disclosure that the customer may pay more under the program, that there is an embedded program fee, and that removal charges may apply for those who withdraw or are removed from the program before the end of the twelve month term. The program's terms and conditions will be provided to customers automatically. Mr. Goldenberg attached a sample of the proposed direct mail information as Petitioner's Exhibit B-1. Mr. Goldenberg indicated that PSI is willing to provide sample marketing materials, solicitations, terms and conditions, and warning letters to the Commission's Consumer Affairs Department prior to mailing that information to customers.

Enrollment was another area described by Mr. Goldenberg. Customers can enroll by returning a direct mail response card, by calling PSI, or through PSI's internet site. All telephone enrollments will be recorded and kept for a period of 19 months. All other enrollments will be retained for a period of two years. After enrollment, the customer will automatically be mailed an order confirmation letter. Mr. Goldenberg also provided a sample copy of PSI's Fixed Bill customer's monthly bill as Petitioner's Exhibit B-2. U

Mr. Goldenberg described PSI's desire that the Commission decline jurisdiction over the Fixed Bill Program or approve the program as an ARP. Specifically, PSI requests the flexibility to determine customers' Fixed Bills within the parameters described in Standard Contract Rider No. 20, *Your FixedBill*, including a program fee. PSI requests the flexibility to set the program fee on an annual per customer basis. If set too high, customers will not join the program. Thus, PSI has an incentive to keep the program fee at a reasonable level to facilitate participation. However, PSI commits that the program fee will not go above 12%.

PSI also requests that profits and/or losses from the program be treated "below the line" for regulatory purposes. In this way non-participating customers will not be affected by program results. Mr. Goldenberg stated that other Fixed Bill options which PSI has researched throughout the state and country treat profits/losses below the line for regulatory purposes, although under cross-examination, Mr. Goldenberg could cite only NIPSCO as an example of below-the-line treatment of profits and losses from such a program.

Mr. Goldenberg addressed each of the ARP criteria of Ind. Code §8-1-2.5-5. The first criterion is whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise of jurisdiction in whole or in part unnecessary or wasteful. Mr. Goldenberg pointed out that technology has progressed to the point that sophisticated modeling of a customer's usage pattern is possible on an individual basis. Additionally, if the risk of predicting such usage becomes too great or uncertain, today's marketplace provides financial risk mitigation tools. Also, Mr. Goldenberg asserted, PSI is in direct competition with other utilities and non-regulated providers of heat that may offer Fixed Bill or similar Budget Billing options. Fixed Bill will be in direct competition with existing or future billing options made available by regulated and unregulated providers of heat. Also, fixed or flat billing is a common practice in many industries today from basic telephone service to internet service. Technology, operating conditions, and competitive forces are making the provision of fixed billing practices commonplace.

In Mr. Goldenberg's opinion, the *Your FixedBill* option stands in clear competition with the fully cost regulated Standard Tariff pricing and monthly budget billing options. However, Mr. Goldenberg admitted under cross-examination that as the sole provider of electricity in its service territory, PSI is in a position to control the competitive offerings.

Mr. Goldenberg next addressed Ind. Code §8-1-2.5-5 consideration of whether the Commission's full or partial declination of jurisdiction will be beneficial for the energy utility, the energy utility's customers or the state. He pointed out that experience from other utilities with similar Fixed Bill options show that customers find value in such a voluntary Fixed Bill product. For example, re-enrollment in Georgia Power's Fixed Bill Program after the first year was 90+ percent. Mr. Goldenberg testified that PSI knows customers who have the opportunity to choose among more billing options have increased satisfaction levels, improves PSI's customer relations and the maintenance of a strong, competitive position against alternative providers of heat. Generally, Mr. Goldenberg believes that PSI customers, PSI, and the state as a whole will be served through the *Your FixedBill* Program.

Mr. Goldenberg next addressed the criterion of whether the Commission's declining to exercise in whole or in part its jurisdiction will promote energy utility efficiency. He testified that because Fixed Bill customers pay the same amount every month for 12 months with no reconciliation true up or adjustment, Fixed Bill customers should have fewer questions and issues with their electric bill then customers on other billing programs. As a result PSI's customer operations such as the Call Center and Billing Dispute resolution will see a declining amount of issues in inquiries. The lower volume in turn has a positive effect on efficiency through shortened call duration and the potential for improved service levels. Unlike other billing options, estimated billing reads do not impact the monthly Fixed Bill amount or *Your FixedBill* customer satisfaction. This results in fewer customer questions and decreases the potential need to correct customer's bills.

Mr. Goldenberg also addressed the ARP criterion of whether the exercise of jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment. He testified that even though Indiana has not deregulated retail electric service, PSI competes with both regulated and non-regulated providers of heat, *e.g.*, natural gas, propane, and fuel oil. Those vendors of heat may now and in the future offer Fixed Bill pricing mechanisms to their customers, thereby disadvantaging PSI in competing for and retaining customer heat load. Under cross-examination, Mr. Goldenberg admitted that none of these other fuels are capable of operating in electric appliance equipment, and therefore a customer would have to remove electric equipment and purchase natural gas, propane or fuel oil equipment in order for PSI's load retention to be in jeopardy from these other providers.

He also pointed out PSI competes with other utilities in annual customer satisfaction surveys. He believes customers have come to expect Fixed Bill 'offering and PSI's Fixed Bill proposal should increase the level of customer satisfaction, positively impacting the Company's J.D. Power scores.

Mr. Goldenberg also addressed the ARP criterion of whether the ARP will enhance or maintain the value of the energy utility retail energy services or property, including practices, procedures and mechanisms focusing on the price, quality, reliability, and efficiency of the service provided by the energy utility. He indicated the *Your FixedBill* Program will enhance PSI's value by providing an option customers want and will lead to increased customer satisfaction. He described the program as an innovative pricing mechanism which, while maintaining the value of PSI and enhancing customer satisfaction, will not change the level of reliability, quality or efficiency of electric service that PSI customers have come to expect.

Finally, he addressed the ARP criterion that allows for the establishment of rates and charges based on market or average prices, price caps, index based prices, and prices that use performance based rewards or penalties either related to or unrelated to the energy utility's return or property and are designed to promote efficiency in rendering retail energy services. He testified PSI's proposal to maintain profits and losses below the line for regulatory purposes is a form of performance based rewards or penalties. If PSI is able to accurately model expected usage, estimate price fluctuations and operate a program that is attractive to customers, then the program will be successful. The efficiency of PSI's retail energy services will be enhanced by the addition of another voluntary, innovative rate option that residential customers will find desirable.

Thomas L. Osterhus, Manager of Market Research, testified on behalf of PSI regarding how a customer's expected usage is calculated in the *Your FixedBill* Program. He explained the customer's past usage is used to construct a regression model, which is then used to predict the expected usage. His Exhibits C-1 through C-3 provided a detailed example of how a regression model is calculated from a customer's past usage data. He presented testimony regarding the concept of normal weather and the calculation of heating degree days and cooling degree days.

Mr. Osterhus also discussed the usage increase which is expected to occur under the *Your FixedBill* program. He indicated that just as with any program where a customer is paying a fixed amount, such as Budget Billing, on average, customers are expected to use more energy in the first year under the *Your FixedBill* Program. He described how the results of PSI's Employee Pilot Program show that some households will use more energy when they pay a fixed amount. The overall cumulative average deviation across Employee Pilot Program participants was approximately a 6% increase for the nine months of the program. Mr. Osterhus considered it important to note that some of this increased usage would have occurred in the absence of the program because some level of intrinsic load growth normally occurs regardless of whether a customer is on a Fixed Bill option. Mr. Osterhus indicated he believes that this average intrinsic increase in electric usage per household is the same average increase reflected in PSI's Long Term Electric Load Forecast of electric use per home, currently 0.8% per year. Deducting this intrinsic load growth from that experienced in the PSI Employee Pilot Program results in an average expected customer increase for the *Your FixedBill* Program of approximately 5% in the first year. This average increase in expected usage is believed to be attributable to customers dialing their thermostats in the winter and in the summer to more comfortable settings, adding appliances or end usages and fuel switching. Mr. Osterhus testified it is anticipated that the majority of this increased usage will not occur during the time of the PSI system coincidental peak. After the initial year, the customer's second year usage will reflect an actual level of increased, or possibly decreased, usage from the previous year. This individualized approach to estimating each customer's post year one usage will ensure that, over the long run, customers will not be able to increase their usage without consequence, and that customers will not be assessed for usage which did not materialize.

The *Your FixedBill* Program calculation serves to control usage increases in two ways, as described by Mr. Osterhus. Over the long term, the Fixed Bill amount will continually increase if usage continually increases, providing a financial motivation to limit long term usage growth. Second, in the short term, the Fixed Bill will limit unreasonable or dramatic increases in any single month, beyond 20%, of the projected usage after accounting for weather variations for that month, by monitoring actual usage levels compared to expected levels given the weather. Thus, while customer usage is expected to increase slightly during the first year of participation, the framework of the *Your FixedBill* Program, which monitors usage, tracks program abuse and prices the Fixed Bill in subsequent years (based on usage changes which may have occurred in the first year) will restrain customer increases beyond the initial year of participation.

Mr. Pipher, Senior Analyst, Rates, testified concerning how the various PSI rate adjustment riders would be affected by the Fixed Bill program, and PSI's proposed accounting thereof. He indicated that a customer's Fixed Bill price will include amounts attributable to PSI's various rate adjustment riders. PSI requests the ability to determine each rider charge to be contained in the Fixed Bill on an annual forecast basis, using the best current and forecast information available at the time of calculation. Mr. Pipher explained that this was necessary to make the Fixed Bill quote as accurate as possible. Mr. Pipher explained that PSI intends to hold non-participating customers harmless from the effects of fixed bill by accounting for the loss or profits from the program, as well as the incremental costs of the program, below the line for regulatory purposes. He explained that PSI would calculate what a Fixed Bill customer would have paid under standard residential tariff and the difference between that amount and the Fixed Bill amount *(i.e.,* the delta), would be accounted for below the line for regulatory purposes.

Mr. Pipher also explained that there will be no affect on the quarterly FAC and other rate adjustment riders as a result of the Fixed Bill program. For purposes of calculating the FAC and other rate adjustment riders, Fixed Bill customers will be accounted for as having paid the full amount charged as if they were on standard residential tariff. All tariffed charges will be fully satisfied. The delta *(i.e.,* the profit or loss of the Fixed Bill program) will be accounted for below the line, and as such, risks of under recovering revenues fall on PSI shareholders, and does not affect non-participating customers. Mr. Pipher continued by addressing how the FAC earnings test would be affected. The earnings test will include revenues from the Fixed Bill customers consistent with the revenues that would have been received from such customers if there were no Fixed Bill program. However, the delta amount would not be reflected in the earnings test as regulated revenue or loss, since shareholders are responsible for the delta amount. Mr. Pipher explained that below the line accounting was appropriate for the following reasons: shareholders are taking the risk of fixing the bill for 12 months and should receive the profit or loss attributable to that risk; the program is a voluntary alternative billing option PSI is requesting that the Commission decline its jurisdiction over, so it is appropriate to treat the profits/losses outside of the traditional regulatory framework; below the line accounting protects non-participating customers from the affects of the Fixed Bill program; and below the line treatment has commonly been approved for other utilities offering similar fixed bill options. Finally, Mr. Pipher sponsored Petitioner's Exhibit D-1 a copy of the proposed Standard Contract Rider 20, *Your FixedBill.*

5. OUCC Testimony, PSI Rebuttal and Discussion and Findings.

The OUCC sponsored the testimony of Dr. Peter Boerger, Director of OUCC Electric Division; Mr. Robert Endris, Assistant Director of OUCC Electric Division; and Ms. Darcie Murphy, Utility Analyst in the OUCC Electric Division. Their testimony described the areas of PSI's proposed ARP with which the OUCC disagrees. Dr. Boerger stated, "The OUCC recognizes that some of PSI's customers will find this to be an attractive billing option and so supports approval of some such program." The issues raised by the OUCC concern the reasonableness of PSI's proposed fees, the sufficiency of information provided to customers, and protection to non-participating PSI customers.

A. Program Fee.

OUCC Testimony. Dr. Boerger testified that consumers in this state reasonably presume that the Commission will not allow fees charged for electricity to be higher than a reasonable cost-based level. Dr. Boerger further testified that since there are no alternative suppliers of electricity, the *Your FixedBill* Program fee is a monopoly product and the Commission should be concerned that the Company will use its pricing flexibility to price at levels that would earn it unreasonable profits and prevent service to the kind of low income individuals who might benefit most from it. Dr. Boerger introduced the OUCC's proposed 4% fee, and justified it as conservative since it does not account for the smoothing effects that this type of program has on the Company's earnings. While Dr. Boerger acknowledged that there are other Fixed Bill utility programs with fees in the neighborhood of 10%, he presented that a consensus on this relatively new type of offering is still being developed, and he identified a recent 7% fee in Wisconsin. He noted that this fee was for a gas program, which carries higher risk for the utility than an electric fixed bill program. As further support that a high fee is not needed, and without citing it as precedential, Dr. Boerger noted IPL's repeated renewal of its fixed bill program without any administrative fee. Finally, Dr. Boerger highlighted the potential for dial-up risk and its potential to work against DSM efforts. To ensure that the Company is properly motivated to discourage dial-up, Dr. Boerger recommended that PSI not be allowed to incorporate dial-up into its fixed-bill usage estimates.

OUCC witness Mr. Endris, testified as to his experience in analysis and development of a fixed bill option as an employee of Indiana Gas, and also presented testimony regarding the *Your FixedBill* Program fee. Mr. Endris provided a quantification of a reasonable program fee based on his expert view of weather risk, price risk, implementation risk, modeling risk, and abuse risk.

Weather risk was the first risk addressed by Mr. Endris. He testified that the use of normal weather means that there is a 50/50 likelihood that weather will be warmer than normal or colder than normal during a given season, and cited PSI's testimony and discovery response that the change in annual consumption due to weather is plus or minus 9% at the extremes. Mr. Endris determined that PSI is equally likely to experience a gain in revenues from the *Your FixedBill* Program resulting from weather that is milder than normal as it is to experience a loss in revenues due to harsher than normal weather.

Mr. Endris also described how the *Your FixedBill* Product will partially mitigate PSI's weather-related business risk, forming a "natural hedge" for PSI's weather-related earnings. Mr. Endris cited Cinergy earnings reports as evidence of weather-driven earnings fluctuations. He described how the fixed payments from *Your FixedBill* customers who use less electricity than they have paid for during periods of milder-than-normal weather would offset declines in sales volumes from non-participating customers during that same mild weather. Similarly, he noted that during harsher than normal weather when *Your FixedBill* customers use more electricity than they have paid for, the cost to provide that extra energy is offset by additional profits from increases in sales volumes from non-participating customers. In other words, he testified, the *Your FixedBill* program would serve to smooth out weather-related earnings fluctuations due to the negative correlation in profits from the two groups of PSI customers.

Mr. Endris further testified as to the retail rates used to calculate *Your FixedBill* fixed payments, namely, the first usage block cutoff is 300 kwh priced at $0.092945 per kwh; the second usage block from 301 kwh to 1000 kwh is priced at $0.054178 per kwh; and the final or "tail" block usage over 1,000 kwh is priced at $0.044464 per kwh. Mr. Endris cited PSI estimates of annual kwh usage per customer under normal weather at 12,829 kwh, or approximately 1,069 kwh per month on average, and concluded that weather-related usage fluctuations under standard tariff fall into second and third block rates, while the *Your FixedBill* is determined using the weighted average price. Given the equal chances of milder or harsher weather, the benefits of the "natural hedge" for weather-related earnings fluctuations, and the fact that retail rates are considerably higher than PSI's marginal costs, Mr. Endris concluded that there is no need to reflect weather risk in a reasonable program fee.

Mr. Endris next discussed abuse risk. This is the risk that program participants will use more electricity than anticipated. Mr. Endris pointed out that PSI's employee pilot program had an average increase in usage for its Fixed Bill participants of approximately 5.2%. This increased Fixed Bill customer usage is sometimes referred to as dial-up risk. Mr. Endris testified that the *YourFixedBill* Program fee has no correlation to this abuse or dial-up risk. In his opinion, the program fee for this abuse risk should also be set at zero.

Mr. Endris next addressed price risk. He testified that the components of price risk primarily involve the projections of various riders to PSI tariffs, which include fuel, pollution, control property, emission allowances, ongoing DSM expenses, MISO charges, summer reliability adjustment, and clean coal operating costs. He indicated the sum of those tariff rider chargers currently represented $2.52 or approximately 3% of the current total bill for 1,000 kWh usage. He testified that PSI is only at risk for the portion of this amount that is different from the amount included in the Fixed Bill quoted to customers. Thus, it was Mr. Endris' position that to the extent riders are calculated using actual costs or accurately projected costs, those costs should be recovered in the monthly Fixed Bill amount. Mr. Endris also used a comparison of annual bills for PSI electricity and NIPSCO natural gas to suggest that the price risk of gas is more than 13 times the risk exposure related to electricity. Mr. Endris went on to state that "with reasonable mitigation effort, PSI is exposed to no more than half of the sum of the current Rider chargers which combined represent approximately 3% of PSI's total bill for 1,000 kwh." He did not describe what would be a reasonable mitigation effort. He stated PSI may stand to gain just as often as it stands to lose with respect to price risk. Accordingly, he proposed a program fee component for price risk of no more than 1%.

Mr. Endris next expressed his concern that *Your FixedBill* administrative cost included in the proposed program fee should not be fully recovered from program participants. First, he contended that there have been insufficient details presented regarding the program costs. Second, he suggested that over a period of years it is projected that fixed and variable costs will decline. Third, he indicated that program management costs and administrative costs might be performed by personnel being paid salaries by PSI. Similarly he indicated that there is the potential existing base rate recovery of variable costs of $235,000 annually, to the extent telephone inquiries are handled through in-house customer service representatives. Fourth, it was his expectation that PSI's affiliate, The Cincinnati Gas & Electric Co. will offer a Fixed Bill Option in Ohio. Thus, he indicated it would be fair for the Commission to require the entire Cinergy retail operations to pay a share of program development costs.

PSI Rebuttal. Mr. Goldenberg's rebuttal testimony responded to Dr. Boerger's concerns. First, he noted that the *Your FixedBill* ARP fees are in line with the fees of similar programs elsewhere. For example, NIPSCO, Georgia Power, Oklahoma Gas and Electric Co., and Wisconsin Power & Light, all have program fees of up to 10%. However, under cross-examination Mr. Goldenberg admitted that he did not correlate key features of the programs in such states corresponding to their approved fees, such as whether the utilities received above-the-line treatment of profits and losses, whether the exit fees were less onerous, whether an automatic decrease accompanied the installation of higher-efficiency heating or cooling equipment, or even whether such programs were the result of settlement agreements in their respective jurisdictions.

Mr. Goldenberg stated that in most cases, the program fee of other utilities does not fund program costs directly, so PSI's request, given that the fee cap includes program costs, is significantly less than 10% when compared to other utility programs on a directly comparable basis. Mr. Goldenberg further committed that PSI would maintain a program fee cap of 10% for all years of the program, rather than the 12% originally requested. Second, if PSI were attempting to price the *Your FixedBill* competitive option as a profit maximizing monopolist, it would not propose a fee cap of 10%. In fact, if this were a monopoly billing product, a profit maximizing monopolist could propose a fee cap of 30% or no fee cap at all. Mr. Goldenberg explained that if PSI priced the *Your FixedBill* option at monopoly pricing levels, no customers would purchase the product because they have other, less expensive, competitive options. He stated the *Your FixedBill* optional billing product must be priced so that it is price competitive with monthly budget billing, standard tariff billing, and alternative sources of heat. As Mr. Goldenberg described, PSI is incented to price the program at an optimal level so that customers will participate, PSI's fixed costs are covered, and customer satisfaction is maintained or improved. He explained that PSI expected to be able to lower its program fee in later years, and committed that the average program fee for the second year would be no higher than 9%.

Mr. Osterhus responded to Mr. Endris' testimony. He testified that Mr. Endris' contention that there is a 50/50 chance weather will be milder than normal and thus PSI is equally likely to experience a profit from the *Your FixedBill* Program is far too simplistic, ignores the vagaries and unpredictability of weather as well as the asymmetry in potentially larger financial losses during abnormally severe weather compared to financial gains caused by mild weather. Mr. Osterhus pointed out that in discovery Mr. Endris indicated his 50/50 analogy is comparable to a coin toss. Yet Mr. Endris has personally experienced instances where a coin toss has come up heads three times in a row. Likewise, Mr. Osterhus indicated, PSI may experience abnormally hot summers or abnormally cold winters, or both, two or three years in a row and absorb the financial losses that those weather conditions inflict upon the *Your FixedBill* Program. He indicated two years of extreme weather in a row might be enough to warrant program termination forever, depending on the extent of the losses. The effects of two years of mild weather in a row do not carry a similar permanency. As he described it, losses loom larger than gains. Mr. Osterhus pointed out that the short term financial consequences due to severe weather can be huge, and those consequences can be exacerbated if coupled with forced outages, transmission constraints, escalating market prices, or other factors. He explained the covariance of price and load causes higher financial losses during times of high load, thereby exacerbating the asymmetrical financial losses in a manner not experienced during mild weather conditions. Left unhedged, he indicated, an annual program loss in the range of $2 million to $5 million or more is possible. He stated there is no way of knowing what losses might be, or what confluence of events might transpire in the future to impose a large weather related financial risk on the *Your FixedBill* Program. Mr. Osterhus testified that for Mr. Endris to suggest that no part of the program fee is required to compensate PSI for weather risks, ignores the risks, operations, and reality of today's electricity markets.

In response to the OUCC testimony regarding abuse risk, Mr. Goldenberg testified that it is not reasonable for Mr. Endris to assume zero risk in the program fee for increased usage. He testified that increased usage above the expected average changes in usage is a direct risk absorbed by the *Your FixedBill* Program provider. This is particularly true for heavy usage abusers. Such heavy abusers are more likely to cause peak related abuses, by adding appliances, thereby exacerbating the pricing and volume risk related to the program, more so than the normal program participant. Thus, Mr. Goldenberg testified that abuse risk must be accommodated in the program fee.

Mr. Osterhus responded to Mr. Endris' price risk testimony. Mr. Osterhus stated that Mr. Endris' use of annual bill comparisons is not an appropriate measure of risk. In fact, he testified that electricity price risk may be greater than natural price risk in his opinion. First, price risk is measured in terms of volatility or expected change in price over time. Historically, in the period for which both gas and electricity have been openly traded, electricity price volatility has been significantly greater than gas price volatility. He indicated electric volatility can reach 200% to

300% during peak times whereas natural gas price volatility rarely exceeds 100% and more typically is below 50% during peak times. One key reason for this is the fact that gas can be inventoried and electricity cannot. Second, there is more risk inherent with electric fuel switching than with gas fuel switching because more electrical appliances and electrical end uses are available than is the case for gas. Third, it is easier to predict natural gas loads than it is to predict electric loads. Hence, electric usage risk is greater than the comparable gas usage risk. Mr. Osterhus indicated that whereas electric usage models typically yield average R squared values of approximately 60%, gas usage models yield R squared values of 70% or better, indicating that abuse beyond the expected usage level can be more clearly identified and managed with natural gas customers than with electric customers. Some of this risk difference can be attributed to the fact that gas usage volatility typically occurs during the heating months whereas electric usage volatility occurs year-round, in both the cooling months and the heating months. Fourth, Mr. Osterhus testified that using annual bill comparisons to measure price risk, or any risk, is short sighted and misleading. He stated if PSI conducted operations and risk management using an average level of planning capacity or based construction on average consumption, PSI would suffer inadequate supplies at least half the time.

Mr. Goldenberg responded to Mr. Endris' administrative cost position. Mr. Goldenberg pointed out that Mr. Endris is attempting to treat PSI's ARP as a regulated cost of service offering by calculating the amount of program fee PSI needs to cover these costs. Mr. Goldenberg disagreed with Mr. Endris' premise that PSI is required to delineate with certainty the need for each percent of the program fee. Mr. Goldenberg stated that there is risk PSI is absorbing, much of it non-quantifiable. PSI is willing to absorb the many risks, including the risk of covering the fixed program administrative cost, for a 10% capped program fee. He stated that if the fee PSI charges is too high, customers will not choose this voluntary option, the program will not be successful, and there is a real risk of not even recovering the fixed cost of the program in a reasonable time.

He also testified that the *Your FixedBill* Program is the only program he is aware of wherein the incremental administrative costs of the program are accounted for below the line. This holds non-participating customers harmless from the effects of the program because the incremental costs of the program are not includable as operating expense in regulated rates charged to non-participating customers. He describes Mr. Endris' contention that the incremental Fixed Bill Program administrative costs are already recovered in PSI's base rates as "simply speculating, and incorrect at that." PSI is including the costs associated with the Fixed Bill Program below the line. For example, Mr. Endris' concern of potential existing base rate recovery of variable costs of $235,000 annually for service representatives handling telephone calls is incorrect. PSI is planning to use an out-sourced call center to take the Fixed Bill related questions due to insufficient internal resources to handle the increased traffic during the annual enrollment periods. Such costs of the Fixed Bill Program are not included in base rates today. Mr. Goldenberg also responded to Mr. Endris' assertion that Fixed Bill costs should automatically be apportioned to Cinergy or its non-Indiana affiliates. Mr. Goldenberg's testimony demonstrated that a Fixed Bill Program has not been approved for any other Cinergy affiliate. However, in the event that approval is not sought nor received elsewhere, the Fixed Bill Program costs will be absorbed by the *Your FixedBill* ARP. This is an additional risk that the program fee must cover.

Mr. Osterhus responded to Mr. Endris' suggestion that PSI did not conduct sufficient risk assessment or probability scenarios in its assessment of weather risk. He testified that PSI conducted risk assessments, probability analyses, and weather risk estimates which were provided to the OUCC. First, a detailed description of the usage modeling estimation simulation process was made available which shows how PSI quantifies the uncertainty and risks of usage for each customer's load through simulation of those loads through 35 years of weather scenarios. Second, PSI provided 40 spreadsheets detailing estimates of hedging costs related to weather risks. These utilized weather risk, usage risk, and price risks jointly in their valuations of the risks attributable to the weather. The hedging cost estimates varied significantly, depending on the extent to which weather risk is hedged. Third, PSI conducted and provided an analysis detailing possible outcomes for the program across normal and harsh weather years, which included affects related to usage changes, program cost risks and weather hedging costs.

Discussion and Findings. The monthly price of the *Your FixedBill* optional billing product will be marketed to customers in a side by side comparison with the cost regulated monthly bills under standard tariff pricing and budget billing. *Your FixedBill* will be in competition with those two regulated pricing mechanisms.

In response to Dr. Boerger's concern that those on fixed income might not participate in the benefits of *Your FixedBill*, Mr. Goldenberg testified that *Your FixedBill* will be priced the same for all income levels of customers. He testified that those on fixed income who voluntarily choose the fixed bill option will still have access to LIHEAP and other sources of financial assistance just as any other PSI customer. He stated customer service representatives work closely with all customers who are unable to timely pay their bills and PSI will do so under the *Your FixedBill* ARP and will absorb the resulting additional risk.

Dr. Boerger also pointed to the IPL Sure Bill Option as evidence that proposed PSI's program fee was too high. In response, Mr. Goldenberg pointed out that the IPL Sure Bill was the result of a settlement agreement

This Commission does not find it reasonable to compare the IPL proposal and PSI's proposal herein. IPL's Elect Plan settlement was a result of negotiations.

Mr. Endris testified that given the equal chances of milder or harsher weather, the benefits of the "natural hedge" for weather-related earnings fluctuations, and the fact that retail rates are considerably higher than PSI's marginal costs, there is no need to reflect weather risk in a reasonable program fee. Mr. Osterhus testified that to suggest that no part of the program fee is required to compensate PSI for weather risks, ignores the risks, operations, and reality of today's electricity markets.

Mr. Goldenberg explained that PSI has approximately 740,000 customers of which 652,000 are residential customers, whereas the Fixed Bill product will be limited to approximately 65,000 of those customers. Thus, *Your FixedBill* could not provide a material hedge to the remaining non-Fixed Bill load.

Severe weather is one of the risks which the *Your FixedBill* alternative billing program faces. Severe weather may drive a customer's electricity consumption above the level anticipated and may also increase the cost of the electricity provided to the customer beyond the anticipated level. No showing was made that such a hedge would be material. While it is difficult to quantify exactly what portion of the competitive ARP program fee should be earmarked for weather risk, we do not agree that no portion of the program fee is needed to compensate for weather related risk as proposed by Mr. Endris.

Mr. Endris also testified that the *YourFixedBill* Program fee has no correlation to the abuse or dial-up risk. In his opinion, the program fee for this abuse risk should also be set at zero. Mr. Goldenberg testified that it is not reasonable to assume zero risk in the program fee for increased usage. He testified that increased usage above the expected average changes in usage is a direct risk absorbed by the *Your FixedBill* Program provider and is particularly true for heavy usage abusers. We find that usage above the anticipated 5% dial-up usage increase is a risk that falls upon the provider of the *Your FixedBill* Program. As such, we disagree that no abuse risk should be reflected in the program fee.

Regarding price risk, simply comparing average customer bill comparisons for PSI electricity against NIPSCO gas does not suggest that gas price risk is substantially higher than electricity price risk. The vagaries of weather, supply, and demand can all come into play and it is this type of volatility that adds to the risk of the Fixed Bill Program. It is also this type of volatility which makes the Fixed Bill competitive voluntary option potentially beneficial. This Commission has employed tracking mechanisms, such as the quarterly fuel adjustment charge ("FAC") for many years, specifically to account for these same market risks. Despite a utility's best efforts to accurately project the volumes of sales, the amount of fuel consumed, and the price of fuel and purchased power, their quarterly tracker projections are often imprecise. Thus we do not agree that the allocation of the program fee to price risk of 1% is appropriate.

Mr. Endris testified that a reasonable program fee should have 0% for weather risk, 1% for price risk, and 3% for PSI's fair share of out-of-pocket expenses for developing and administering the program for a total program fee of 4%. He stated that the NIPSCO Fixed Bill offering includes a 4% fee to a third party provider of services and an embedded program fee of 6% and reiterated his position that natural gas is subject to price volatility many times greater than PSI electricity.

Mr. Osterhus provided a detailed listing of the risks incurred. They include five broad categories of risks: (1) weather; (2) price; (3) implementation; (4) modeling; and (5) abuse. Under these five categories are various subcategories of risk. For instance the weather risks include four different components: the market price risk, the load or volume risk; the covariance risk, and operational risks. The second category is related to tariff price risks, rider changes, and the risks that a customer will not renew in subsequent years. The implementation risks include the risk that the program will not be within the budget proposed, and a risk of not properly executing the program. The modeling risks include data quality risks, the risk that PSI will not be able read the meter or to accurately monitor abuse, and a forecasting risk with the models themselves which use an enormous amount of data. Finally, Mr. Osterhus described the abuse risks, where PSI is at risk for any amount of increased usage between the 5% estimated amount and the 20% abuse level established in the terms and conditions, above which a customer can be removed from the program. Mr. Osterhus indicated that only direct program experience will reveal the appropriate costs required to mitigate or manage all of these risks that PSI faces in offering the competitive *Your FixedBill* option.

Mr. Osterhus testified that he could not recommend implementation of the *Your FixedBill* ARP with the OUCC's proposed 4% program fee. He testified that as modified by the OUCC, he believes the *Your FixedBill* ARP would operate at a loss.

Based upon all the evidence submitted, we find that a 10% program fee is not unreasonable. As PSI has demonstrated, it is comparable to the fee charged in the optional, fixed bill competitive product offerings of other companies. The program is a convenience offering the customer the ease and knowledge of paying the same monthly bill regardless of the impact of weather or reasonable fluctuations in usage. The evidence showed that it would be difficult to quantify the risks incurred for such a Fixed Bill offering and the appropriate return to be authorized for incurrence of those risks. Traditional, economic hypothetical means of estimating a reasonable authorized return such as discounted cash flow, capital assets pricing modeling, fair return estimations do not lend themselves to and would not be appropriate to use in estimating a reasonable fee for a voluntary, alternative regulatory program Fixed Bill Product. Moreover, such exercise would be unnecessary. A proposed Fixed Bill offering is an example of the type of alternative regulatory process for which the ARP statute provides, so as to avoid regulatory efforts which would be unnecessary or wasteful. Hypothetical calculations of what part of a 10% program fee are intended to cover costs, what part is intended to cover risks, and what part can be predicted to result in profits are not key considerations to a competitive product. What is important is that the customers are fully aware of the product being offered, not misled as to purpose of the product and are provided with a clear description of the product's price. In the case at hand, that description of the *Your FixedBill* product price must be and will be presented in a meaningful side by side comparison to the competing regulated monthly prices of Standard Tariff billing and Budget Billing. Finally, if customers believe the program fee is too high and therefore do not participate, the program will not be successful.

Accordingly, we find that PSI's proposed fee cap of 10% is reasonable for this voluntary ARP Fixed Bill product. We also find that PSI's request to adjust that fee downward from 10% for subsequent offering to customers whose consumption behavior demonstrates less risk and warrants a program fee lower than 10% is appropriate. Further, we find that based upon PSI's commitment, the program fee should be no higher than 9% starting in year two of the program.

B. Usage Adder.

OUCC Testimony. Another concern raised by the OUCC relates to the 5% usage increase reflected in the Fixed Bill calculation process. Dr. Boerger argued that no increased usage or "dial-up" adjustment should be made in the calculation of the monthly Fixed Bill amount. He testified that while he does not wish this issue to stand in the way of a billing offering that customers would value, a Fixed Bill program encourages dial-up, and stands in conflict with demand-reducing programs.

Mr. Endris expressed concern that the increased usage adjustment is an inappropriate form of hidden program fees unfairly charged to customers. He argued that PSI solicitation materials do not explain the 5% anticipated increase in customer usage. He also stated that it may be premature and excessive to include the 5% usage increase in the initial year of the program. He also testified that the 5% usage increase may encourage anti-conservation behavior by customers. Finally, he stated that it is "likely" that the risk of 5% increase usage in the initial year is more than offset by increased profits from the growth "in non-peak sales over a lengthy future."

<u>PSI Rebuttal.</u> Mr. Goldenberg responded to this Dr. Boerger's conservation concern. He pointed out PSI has for years been a leader in demand side management ("DSM"). He stated that pursuit of DSM should not preclude the establishment of other utility programs that bring valuable benefits to customers. For example, new industrial and commercial enterprises brought to Indiana may be contrary to DSM but bring the counterbalancing benefit of economic development. Similarly, the proliferation of new homes, home appliances, and computers has brought great advancement to the comfort, quality, and culture of our lives but uses more electricity. Moreover, he pointed out that Commission required Budget Billing programs may have the same anti-conservation effect, yet are very beneficial to consumers and very popular among them.

To address Dr. Boerger's concern with DSM, Mr. Goldenberg committed that PSI would provide program participants with energy efficiency tips upon enrollment. Furthermore, PSI will continue to provide customers with opportunities for energy conservation such as information about various available DSM programs. Mr. Goldenberg stated that contrary to Dr. Boerger's concern, PSI has financial incentive to discourage dial-up. He stated PSI is incented to discourage dial-up because increased usage is one of the chief risks faced by the *Your FixedBill* product. Additionally, PSI's DSM efforts and particularly those focused on Fixed Bill participants should help mitigate Dr. Boerger's concerns.

Mr. Goldenberg also responded to Mr. Endris' testimony. He first cited the solicitation materials which advise prospective participants that the *Your FixedBill* monthly amount is calculated in a manner that includes "anticipated increases in your usage." He stated PSI's marketing materials are modeled after the materials used by Duke Power and Georgia Power, both utilities that include a usage adder. He described how the design of *Your FixedBill* places the cost of "expected" average usage changes on Fixed Bill participants. Importantly, if the provider does not employ dial-up in the early offers, the risk of abuse is even greater. He explained how abuse may not be captured in the renewal year. If the Fixed Bill abuser renews, there will be higher revenue in the renewal year to cover that renewal year's greater use. However, the prior year's unexpected usage abuse would be lost and the provider also runs the risk that the abuser will not renew. He explained that without a usage adjustment in the first year's quote, many customers who would normally not sign up for a premium product like *Your FixedBill* might sign up. Then when their renewal offer arrived, which would inherently reflect their first year dial-up usage, the customer could become dissatisfied with the program, and lead to significant second-year defections from the *Your FixedBill* program. He indicated these negative impacts are avoided by including the expected dial-up in the initial year offer. In that way, prospective Fixed Bill customers know what they are getting into, renewal offers are likely to be similar to initial year offers; and there will not be large numbers of dissatisfied customers migrating off the Fixed Bill Program.

<u>Discussion and Findings.</u> This Commission finds that providing program participants with energy efficient tips upon enrollment is a satisfactory response to Dr. Boerger's concern.

Providing voluntary billing options that may be popular with PSI customers is a reasonable undertaking. We find that the evidence demonstrates that an approximate 5% dial-up can be expected from Fixed Bill customers. To not reflect that amount of dial up in the initial year offering could mislead customers into believing that their bill is lower than the amount caused by expected consumption. We find that the approximate 5% increased usage adjustment proposed by PSI to be embedded within the Fixed Bill calculation is reasonable.

C. Affect on Non-Participants.

OUCC Testimony. Another concern raised by Mr. Endris is the treatment of past period reconciliation variances in the FAC. He indicated Fixed Bill customers will have contributed fully to prior period reconciliation variances. He stated that, "As PSI projects recovery of that variance in the future FAC quarter, it will use estimated weather-normalized consumption. However, actual consumption seldom equals the projection, leading to a further over- or under-recovery of the past reconciliation variance that was assigned to the future period."

PSI Rebuttal. Mr. Pipher responded to this concern. He testified that non-participating customers will not be impacted by the Fixed Bill Program through the FAC or other rate adjustment riders. He explained that PSI will account for Fixed Bill customers as if they paid the full amount charged on Standard Tariff for above the line regulatory purposes. Any difference from what a customer actually pays under the Fixed Bill, compared to Standard Tariff, will be accounted for below the line. Mr. Pipher explained that Mr. Endris' concern regarding past period reconciliation variances is not valid. As he demonstrated with Schedule 7 from the August 2004 billing cycle, the prior variance from the preceding FAC is prioritized, satisfied, and closed in attaining the results for the new fuel factor. He further explained that PSI's use of actual consumption for all customers is the method that most simply isolates the effect of the Fixed Bill Program from non-participating customers.

Findings. The Commission finds that the FAC and other rider processes described by Mr. Pipher adequately eliminate the effects to non-participating customers from the Fixed Bill Program.

D. Customer Solicitation Materials.

OUCC Testimony. The content of Customer solicitation material was another area of concern expressed by the OUCC. Ms. Murphy testified that PSI's proposed billing option comparisons provided to prospective program participants should consist of a three-column comparison in the initial year and a five-column, comparison in subsequent years.

Ms. Murphy testified that PSI's Exhibit B-1, its proposed solicitation, includes a billing comparison of the Program monthly price being offered, the customer's highest and lowest bill amounts during the previous 12 months, and an 11 month Budget Billing amount. Ms. Murphy stated that "this information does not give the customer an accurate look of the coming year, nor does it provide an apples-to-apples comparison between Your Fixed Bill and Budget Billing." She argued a 12 month depiction of past bills would demonstrate how many months were high and how many months were low. She contended that PSI's depiction of the monthly Budget Billing amount, based on dividing 12 months of historic usage by 11, is not an apples-to-apples comparison to the Fixed Bill quote. She proposed that the Budget Billing amount on the Fixed Bill quote be based on the annual amount divided by 12.

The provision of additional information was another concern expressed by Ms. Murphy. She suggested that the *Your FixedBill* price quote should include a breakdown of the dollar value of the subcomponents for the service charge, energy charge, program fee, sales tax, and the total amount. She argued that the statement of the Program Fee may be a deciding factor for enrollment in the program.

Ms. Murphy also proposed that PSI add an explanation of the 20% usage increase condition to marketing materials. She stated that while the OUCC is willing to accept removal from the program for actual usage exceeding projected usage by 20% or more, she feels the provision should be clearly described to customers prior to enrollment. Ms. Murphy also recommended what she calls "fair treatment" of customers that are removed from the program. She testified that if a customer is removed and if that customer has paid more under the *Your FixedBill* Program than would have been paid under the Standard Tariff Rate, then the difference should be credited to the customer.

Ms. Murphy also proposed that PSI marketing materials be approved by the Commission's Consumer Affairs Division. She also recommended that a written signature from the customer prior to enrollment be required. Ms. Murphy also testified that enrollment only be renewed automatically if the subsequent monthly price is lower than or equal to the price for the previous year. Ms. Murphy also proposed that PSI provide customers the reason why the *Your FixedBill* monthly quote may have increased in the second year of the program.

<u>PSI Rebuttal.</u> Mr. Goldenberg responded to Ms. Murphy's concerns. He stated that her proposal to "depict monthly Budget Billing by dividing by 12 rather than the way PSI actually calculates it, dividing by 11, would confuse and mislead customers. The monthly amount PSI charges to Budget Bill customers is 12 months of historic usage divided by 11. To depict the monthly Budget Billing amount to prospective *Your FixedBill* participants in any other fashion is simply to misstate the alternative monthly Budget Billing amount.

Mr. Goldenberg pointed out that the OUCC proposal to include a breakdown of the dollar value into subcomponents was another instance of the OUCC attempting to quantify the program like a regulated cost of service proposal, which it is not. Rather, it is a voluntary, competitive ARP product which provides the peace of mind, convenience, and insurance that for 12 months, monthly electric bills will not fluctuate. He stated PSI has already agreed to inform customers that the program is not intended to save money and that there is a program fee of up to 10% that reflects the cost of this bill insurance and customer convenience. The additional breakdown as proposed by Ms. Murphy is not necessary and will result in confusion.

Mr. Goldenberg responded to the OUCC proposal that the 20% usage increase should be added to the marketing materials by pointing out that the terms and conditions of the program are contained in the customer solicitation and that they clearly and completely explain the reasons why a customer can be remove from the program, including the 20% increase above expected usage condition, and the associated termination charges.

Mr. Goldenberg responded to the OUCC "fair treatment" of customers proposal by stating that removal charges are a necessary deterrent to a customer who may attempt to game the Fixed Bill Program, and an encouragement to customers to maintain their contractual 12 month commitment. Ms. Murphy's proposal that a customer departing the program early should be credited for any amount paid greater than what would have been paid under Standard Tariff is unreasonable because it would allow a customer to leave the program whenever the customer finds himself in a situation of having paid more than Standard Tariff. Customers could sign up for *Your FixedBill*, review their status halfway through, and if paying more than Standard Tariff, voluntarily withdraw from the program and be credited with the difference. Additionally, Mr. Goldenberg pointed out that customers that leave the program early not only avoid their 12 month commitment but they also abandon their responsibility to help pay for program administrative costs.

Mr. Goldenberg also pointed out that all programs researched to date require a 12 month commitment and many have termination provisions similar to those proposed by PSI. For example, Georgia Power, Alabama Power, and Gulf Power all require that customers withdrawing from the program early pay any difference between what they were billed and what would have been billed under residential tariff. He indicated NIPSCO has similar provisions. He also stated that exit fees amongst the various programs are in line with PSI's proposal, ranging from $30 to $50.

Mr. Goldenberg responded to the OUCC's recommendation that PSI marketing materials be approved by the Commission's Consumer Affairs Division by pointing out that PSI had already made the commitment to provide this information to the Commission for review.

Mr. Goldenberg disagreed with the OUCC's recommendation that a written signature from the customer prior to enrollment be required pointing out that this is an age of people relying on the convenience of electronic communication. PSI intends to offer enrollment via a mail in card, Internet enrollment, and telephone enrollment. The mail in card will have a signature line; the Internet enrollment data will be maintained for two full years, and recording of telephone enrollment will be maintained for 19 months.

In response to the OUCC's recommendation that enrollment only be renewed automatically if the subsequent monthly price is lower than or equal to the price for the previous year, Mr. Goldenberg testified that most programs PSI is aware of provide for automatic reenrollment with an opt-out provision. He stated this is the most logical and efficient way to reenroll customers. Customers in his opinion generally expect to maintain the status quo unless they take action to change it. To switch customers back to Standard Tariff automatically and require affirmative action on a customer's part to reenroll in *Your FixedBill* could cause unnecessary customer complaints and dissatisfaction. Mr. Goldenberg proposed that to the extent the Commission or the OUCC is concerned customers will unknowingly reenroll in the program, PSI commits that within the first 60 days of the new Fixed Bill period, any customer wanting to switch back to Standard Tariff will be accommodated with no program termination charges.

Mr. Goldenberg responded to the OUCC proposal that PSI provide customers the reason why the *Your FixedBill* monthly quote may have increased in the second year of the program by saying that PSI has no way of knowing what the specific source, or cause, of increased usage might be. Without detailed information relating to household appliances, customer behaviors and usage patterns both before and after program participation, any conclusion regarding the source of an increase would be speculation.

Discussion and Findings. While the Commission does not disagree with Petitioner on the calculation of the Budget Billing quote, it does not matter herein given our finding that a total annual amount is the appropriate figure to be included in the marketing materials.

Mr. Goldenberg also stated that Ms. Murphy's proposed five-column comparison with 12 months of data would prove confusing to customers. He pointed out that just because a customer "won" when comparing the Fixed Bill amount to 12 months of Standard Tariff amount does not mean that the customer will "win" again this year. He indicated that it is misleading to look backward at such information in the solicitation materials.

Mr. Goldenberg indicated his willingness to provide additional information in solicitation materials provided that the information is accurate and not confusing. Accordingly he proposed to provide the customer with the following information: The Fixed Bill price, the highest and lowest monthly Standard Tariff Bill for the preceding 12 months, the average monthly amount under Standard Tariff in the preceding 12 months, and the Budget Bill quote for the next 11 months with the clear representation that there is also a true-up in the last month. He pointed out that in addition, customers also have available their most recent monthly bill and any prior billing records, check journal entries, cancelled checks or other bill payment records they retain.

As previously indicated in this Order, the side by side comparison of Standard Tariff Billing, Monthly Budget Billing, and *Your FixedBill* in a clear, concise, non-confusing manner is of paramount importance for customers to determine which choice best suits their individual needs for convenience, financial stability, and cost. Inaccurate information or a massive amount of historical data may lead to confusion and calculation of historical costs that may not necessarily reoccur in the future.

Certainly we agree that sufficient information needs to be given the consumer. However, care should be taken in determining what information is necessary to facilitate a customer's understanding. The Commission finds that PSI's marketing material should indicate that the *Your FixedBill* program is not intended to save the customer money and reveals that there is a 10% (or less) program fee. For instance, the customer solicitation letter provides: "*Your FixedBill* is not intended to provide the lowest annual price of electricity"; and"... *Your FixedBill* price will not be more than 10% above your expected usage adjusted for normal weather." In addition, we find that the initial marketing materials should contain a comparison of what the customer paid (the amount should be the same for standard tariff or budget billing) and what they would have paid under a fixed bill.

With regard to the 20% threshold for removal from the program, the Commission is concerned that allowing usage up to the 20% threshold is too high, especially given the anticipated 5% dial-up usage increase approved herein. The Commission has consistently encouraged efficiencies and conservation, and while approving this ARP, we will continue these efforts. Therefore, in order to encourage conservation and to not encourage excessive usage because a customer has enrolled in the fixed bill program, the Commission finds that the threshold for review should be 15% rather than 20%. This information should be depicted in PSI's proposed solicitation materials.

PSI is to work with the Commission's consumer affairs division in the development of its solicitation materials in order to best inform customers about the program. In addition to the above requirements, the materials should address the issue of the importance of remaining on the program for a full 12 months. The marketing materials are subject to the approval by the director of consumer affairs.

With regard to the OUCC's proposal that if customers leaving the program early paid more under the *Your FixedBill* Program than would have been paid under the Standard Tariff Rate, then the difference should be credited to the customer, PSI's proposal provides a reasonable incentive for customers to keep their commitment to remain on the program for 12 months and it eliminates the clear opportunity to game and abuse the program by those who would leave early when financially advantageous to do so. We find PSI's proposal reasonable.

Ms. Murphy also recommended that a written signature from the customer prior to enrollment be required. The Commission finds that PSI's proposal provides adequate protection to all participants and reasonable recordation of a customer's acceptance and responsibility.

Ms. Murphy also recommended that enrollment only be renewed automatically if the subsequent monthly price is lower than or equal to the price for the previous year. In response Mr. Goldenberg testified that to the extent the Commission or the OUCC is concerned customers will unknowingly reenroll in the program, PSI commits that within the first 60 days of the new Fixed Bill period, any customer wanting to switch back to Standard Tariff will be accommodated with no program termination charges.

It is critical that customers are fully aware of the program and that it is not a money-saving endeavor. To this end, the Commission finds automatic renewal should not be allowed for the first renewal year. Customer contact should be made for that renewal. Customers should be sent a statement including a comparison of what they would have paid under the standard tariff for the same 12 month period they were enrolled in the fixed bill option. The customer must then authorize renewal in the program. After a customer has completed two successive years in the program, we find automatic renewal based on customer experience to be reasonable, provided that automatic renewal is appropriately disclosed.

Ms. Murphy also proposed that PSI provide customers the reason why the *Your FixedBill* monthly quote may have increased in the second year of the program. Mr. Goldenberg responded by saying that PSI has no way of knowing what the specific source, or cause, of increased usage might be. The monthly bill of each customer, regardless of what bill option they may choose, shows the kWh consumed for each month. That is the information the customers need to maintain or modify their consumption habits. As discussed earlier in this order regarding the provision of detailed information on bills, it is unnecessary to try to explain to customers that their subsequent *Your FixedBill* quotes increased because matters such as the cost of fuel, emission allowances and purchased power increased. The customers have no control over such occurrences or cost trends and providing detailed information of such ratemaking concepts may lead to customer confusion. Given the other requirements we have approved, we find this specific proposal unnecessary.

E. Customer Disputes/Reporting Requirements/Term of Program.

OUCC Testimony. Ms. Murphy proposed that the Commission retain jurisdiction over customer disputes. Mr. Goldenberg pointed out that PSI had never proposed that the Commission decline its jurisdiction to hear or adjudicate *Your FixedBill* disputes. The Commission will retain jurisdiction and hear and resolve *Your FixedBill* disputes.

Ms. Murphy proposed that PSI file with the Commission within two months of the close of a program year a report detailing revenues, number of customers enrolled, number of customers who voluntarily exited the program, number of customers who involuntarily exited the program (their reason for departure), and exit fees assessed, number of customers who reenrolled and the number of customers who declined to enroll. Lastly, Ms. Murphy recommended a three year expiration term for the *Your FixedBill* Program.

PSI Rebuttal. Mr. Goldenberg responded that PSI has never challenged the Commission's jurisdiction to require annual reporting on the *Your FixedBill* Program. He pointed out that confidential treatment of most if not all of the information contained in such a report may be necessary and attached a motion and affidavit in support of confidential treatment to his testimony.

With regard to the three year term, Mr. Goldenberg responded by explaining PSI does not understand the need to arbitrarily limit the time period in which PSI can offer the program.

Discussion and Findings. The Commission finds the report described above is reasonable, should be approved, and should be treated as confidential information. As long as PSI provides the annual report, the Commission will have adequate information concerning the program and the ability to raise concerns that may be identified. The Commission could formally or informally require PSI to prove the necessity and reasonableness for continuing the program. PSI stated that if the Commission desires some sort of fixed initial period followed by a formal review, that period should be at least five years in length. The provision of annual reports will allow monitoring of the *Your FixedBill* Program. However, we agree with the OUCC that an initial implementation period of three years is reasonable.

6. ARP Approval/Partial Declination of Jurisdiction. As noted above, in its Petition and initial testimony, PSI requested and supported this Commission's partial declination of jurisdiction and/or approval of the *Your FixedBill* Program as an ARP. There was sufficient testimony presented regarding the statutory criteria for approval of an ARP and how they are satisfied by *Your FixedBill*. No evidence was presented indicating that ARP approval or partial declination of jurisdiction would be inappropriate. As noted herein, this type of voluntary, competitive Fixed Bill offering wherein the sponsoring entity assumes the risk of financial loss resulting from the provision of a fixed monthly utility bill is an example of the type of alternative regulatory proposal contemplated by the ARP statute. As such, PSI's request for ARP treatment and partial declination of jurisdiction is approved, as provided for in section 5 above.

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

1. PSI's request for declination of jurisdiction and approval of an alternative regulatory plan for its offer of the *Your FixedBill* program is hereby approved as provided for in Finding 5 above.

2. PSI's request to treat the profits and/or losses of the fixed bill program below the line for regulatory purposes is hereby approved.

3. PSI is directed to file an annual fixed bill report as detailed in Finding 5.
4. PSI is directed to submit its fixed bill customer solicitation materials to the Commission's Consumer Affairs Division for review prior to dissemination to customers.

5. PSI shall submit its Standard Contract Rider 20, *Your FixedBill* to the Commission's Electricity Division, including any changes required by Finding 5 above. The Rider shall go into effect immediately upon such filing.

6. This Order shall be effective on and after the date of its approval.

MCCARTY, HADLEY, LANDIS AND ZIEGNER CONCUR:

APPROVED: AUG 03 2005

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

Nancy E. Manley

Nancy E. Manley
Secretary to the Commission