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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA,)
INC. FOR APPROVAL OF AN ELECTRIC) CAUSE NO. 43550
SUPPLY AGREEMENT WITH PURDUE)
UNIVERSITY AND FOR ESTABLISHMENT) APPROVED: NOV 25 2008
OF CONFIDENTIAL PROCEDURES)

BY THE COMMISSION:

Jeffrey L. Golc, Commissioner
Loraine L. Seyfried, Administrative Law Judge

On August 7, 2008, Duke Energy Indiana, Inc. ("Duke Energy Indiana" or "Petitioner") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of an Electric Supply Agreement ("Agreement") between Duke Energy Indiana and Purdue University ("Purdue"). The Agreement would supersede the current Electric Supply Agreement between Duke Energy Indiana and Purdue dated July 7, 2000 that was approved by the Commission on September 27, 2000. Petitioner also requested confidential treatment of the pricing provisions of the Electric Supply Agreement ("Confidential Information"). On August 18, 2008, the Commission issued a docket entry which found that the Confidential Information should be held as confidential by the Commission on a preliminary basis.

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 public evidentiary hearing in this Cause was held on November 6, 2008, at 9:30 a.m. in Room 224, National City Center, 101 West Washington Street, Indianapolis, Indiana. At the evidentiary hearing, Duke Energy Indiana presented its evidence as did the Indiana Office of the Utility Consumer Counselor ("OUCC"). No members of the public at large 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 evidentiary hearing in this Cause was given and published by the Commission as required by law. Petitioner is a public utility within the meaning of the Public Service Commission Act, as amended, Ind. Code § 8-1-2 *et seq.*, Accordingly, the Commission has jurisdiction over the Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics and Business.** Duke Energy Indiana is a public utility organized and existing under the laws of the State of Indiana, and has its principal office at 1000 E. Main Street, Plainfield, Indiana 46168. Duke Energy Indiana is engaged in rendering electric utility service in the State of Indiana and owns, operates, manages, and controls, among other things, plants and equipment within the State of Indiana used and useful for the production, transmission, delivery, and furnishing of electric service to the public. Duke Energy Indiana directly supplies electric energy to customers located in 69 counties in the central, north central,

and southern parts of Indiana.

3. **Relief Requested.** On September 27, 2000, the Commission approved an Electric Supply Agreement for the provision of electric service to Purdue in West Lafayette, Indiana by Duke Energy Indiana ("2000 Agreement"). The 2000 Agreement had an 18 month term with succeeding one year extensions. Petitioner indicates that it has negotiated with Purdue in good faith regarding a subsequent agreement. As a result of those negotiations, Duke Energy Indiana seeks approval of a replacement Electric Supply Agreement for electric utility service to Purdue. In addition, pursuant to Ind. Code § 5-14-3-4(a)(4), Petitioner requests the Commission find that certain provisions of the Agreement submitted in this proceeding contain "trade secrets" as that term is defined in Ind. Code § 24-2-3-2 and are thereby excepted from the access to public record provisions contained in Ind. Code §§ 5-14-3-3 and -3.5.

4. **Supporting Evidence.** Mr. Jeffery R. Bailey, Director, Pricing and Analysis, Duke Energy Business Services, LLC testified on behalf of Duke Energy Indiana. He sponsored Petitioner's Exhibit A, his prefiled Verified Testimony, Petitioner's Exhibit A-1, the Verified Petition in this Cause, Petitioner's Exhibit A-2, the current Electric Supply Agreement dated July 7, 2000, Petitioner's Confidential Exhibit A-3, the non-redacted copy of the Agreement, and Petitioner's Exhibit A-4, an illustration of Purdue's monthly capacity and energy nominations for electric service during the first contract year of the proposed Agreement.

Mr. Bailey testified that the Agreement is the result of good faith, arms-length negotiations conducted between Duke Energy Indiana and Purdue to enable Purdue to continue to obtain the capacity and energy needed to supplement its own generating capacity at its West Lafayette campus and to more efficiently operate its own generating capacity. He explained Purdue desires to receive and pay for an amount of base supplemental capacity and energy which it will schedule by the hour with limited opportunity to modify the amount of base supplemental capacity and energy for any month to be received by giving requisite advanced written notice. During peak periods, Petitioner may request Purdue to lower its purchase of base supplemental capacity and energy and Purdue, at its discretion, may elect to quote Petitioner a price for such capacity and energy, or decline to reduce its base supplemental capacity and energy requirements. Real Time energy and capacity in excess of the base supplemental capacity and energy requirements will be predominantly supplied at an hourly rate, subject to certain of Duke Energy Indiana's Standard Contract Riders. Mr. Bailey also explained the Agreement provides for maintenance/back-up capacity and energy to replace Purdue's capacity and energy that temporarily becomes unavailable during maintenance of its generating facilities.

Mr. Bailey testified Petitioner will not have to provide any additional facilities to provide service under the proposed Agreement. The term of the new Agreement will be the same as the 2000 Agreement: initially for a term of 18 months and thereafter continuing for succeeding one year terms, unless and until terminated by either Party. Mr. Bailey testified that there are no changes in the pricing terms for base supplemental capacity and energy from those previously approved in Petitioner's last rate case, Cause No. 43259. He indicated these prices are the result of a fully embedded cost allocation to Purdue based on its service requirements. He stated that the real-time pricing supplemental energy and capacity ("real-time pricing" or "RTP") portion of the Agreement, provides for the recovery of all out-of-pocket generating costs and a contribution to the recovery of Petitioner's fixed costs. He indicated by this pricing structure, Purdue has the

opportunity to make the most efficient use of its own internal generating capacity by operating at its most efficient heat rates. Mr. Bailey explained the Agreement provides that the rates and charges to Purdue are subject to revisions by the Commission and subject to adjustments of the applicable Standard Contract Riders. Mr. Bailey indicated Purdue will benefit under the Agreement by obtaining energy and capacity needed to supplement its internal generation on a reliable basis and at competitive rates, helping Purdue operate efficiently and reducing its revenue needs. He further testified the State of Indiana as a whole will benefit by having one of its premier universities obtain capacity and energy needed to function reliably and at reasonable prices to help minimize its operating expenses. At the same time, Mr. Bailey explained the Agreement will not alter any of Petitioner's other existing rates or charges and will not adversely impact the provision of service to any of its other customers. Moreover, Petitioner can reliably serve Purdue's incremental electric load. Mr. Bailey concluded that the Agreement is, in his opinion, reasonable, just, practical, and advantageous to the Parties, in the public interest and consistent with the purposes of the Public Service Commission Act, as amended.

Mr. Erick Van Meter, Purdue's Interim Senior Director for Physical Facilities Utilities and Construction also testified in support of the Agreement. He testified that during the fall and spring "shoulder months," the Agreement will be more advantageous than the current agreement, allowing Purdue to purchase energy and take its largest generator off line. He described this as a conservation measure that allows the most efficient combination of Petitioner's and Purdue's equipment to work at their best capacities. He explained the RTP aspects of the Agreement will allow Purdue to choose to generate, or not to generate, based on market costs of power in relation to its internal cost of generation. He explained this provides a more flexible maintenance window on Purdue equipment, reduces equipment operating cycle wear and tear, conserves fuel, and lessens the impact on the environment through lower levels of emissions.

Mr. Mitchell Van Cleave testified on behalf of the OUCC. He testified the OUCC recognizes there are instances when special contracts between a utility and a customer may provide a better result for all stakeholders than standard tariffs. He testified the OUCC does not oppose the proposed new Agreement. He indicated the Agreement appears to be more advantageous to both Petitioner and Purdue than the existing Agreement, because both Purdue and Petitioner can more efficiently use their individual resources, yielding economic benefits for all parties, including Petitioner's other customers.

5. Commission Discussion and Findings. All of the evidence in this Cause supports approval of the proposed Agreement between Duke Energy Indiana and Purdue. The record demonstrates that the proposed Agreement allows recovery of Petitioner's variable costs and provides a contribution to fixed costs without adversely affecting the cost or reliability of service to other customers. The record also demonstrates that this new Agreement creates efficiencies for both Purdue University and Petitioner. Accordingly, the Commission finds that the Agreement should be approved.

6. Confidential Treatment. The Verified Statements in Petitioner's Exhibit A-1 substantiates that the pricing provisions of the Agreement are trade secrets and should be found to be confidential and provided protection from public disclosure by the Commission. The Agreement reflects pricing provisions that were negotiated between Petitioner and Purdue which, if they became generally known or ascertainable to other entities with which Petitioner is

negotiating, such knowledge would provide considerable economic value to those entities to the detriment of Petitioner and its retail electric customers. Similarly, knowledge of the pricing provisions by potential power supply competitors could enable them to gain unfair advantage in future competitive situations.

All evidence supports, and this Commission finds that pursuant to Ind. Code § 5-14-3-4(a)(4), the pricing information of the Agreement contain "trade secrets," as that term is defined in Ind. Code § 24-2-3-2 and are thereby exempted from public disclosure.

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

1. The proposed Electric Supply Agreement between Duke Energy Indiana, Inc. and Purdue University is hereby approved.
2. The pricing provisions of the Electric Supply Agreement as reflected in Petitioner's Confidential Exhibit A-3 are hereby declared to constitute trade secrets, as defined by Ind. Code § 24-2-3-2, and exempt from the public disclosure and access to public record requirements contained in Ind. Code § 5-14-3.
3. This Order shall be effective on and after the date of its approval.

HARDY, GOLC, LANDIS, SERVER, ZIEGNER CONCUR:

APPROVED:

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

Brenda A. Howe
Secretary to the Commission

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

GOLC, LANDIS, SERVER, ZIEGNER CONCUR; HARDY ABSENT:

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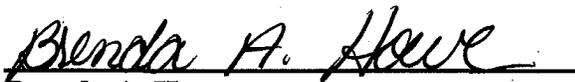
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1. The proposed Electric Supply Agreement between Duke Energy Indiana, Inc. and Purdue University is hereby approved.
2. The pricing provisions of the Electric Supply Agreement as reflected in Petitioner's Confidential Exhibit A-3 are hereby declared to constitute trade secrets, as defined by Ind. Code § 24-2-3-2, and exempt from the public disclosure and access to public record requirements contained in Ind. Code § 5-14-3.
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