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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA)
MICHIGAN POWER COMPANY (I&M))
FOR APPROVAL OF I&M'S 7-YEAR) CAUSE NO. 44542
PLAN FOR ELIGIBLE TRANSMISSION,)
DISTRIBUTION AND STORAGE) APPROVED:
SYSTEM IMPROVEMENTS, PURSUANT)
TO IND. CODE § 8-1-39-10(a).)

MAY 08 2015

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

David E. Veleta, Administrative Law Judge

On October 14, 2014, Indiana Michigan Power Company ("I&M") petitioned the Indiana Utility Regulatory Commission ("Commission") for approval of I&M's 7-year plan for eligible transmission, distribution and storage system improvements ("7-Year Electric Plan"), pursuant to Indiana Code § 8-1-39-10(a).

On October 14, 2014, I&M also filed its testimony and exhibits constituting its Case-In-Chief. Petitions to intervene were filed on November 10, 2014, by Citizens Action Coalition of Indiana, Inc. ("CAC"), on November 20, 2014, by Hoosier Energy Rural Electric Cooperative, Inc. ("Hoosier"), and on February 6, 2015 by the I&M Industrial Group ("Industrial Group"). Each petition to intervene was granted by the Presiding Officers.¹ On January 12, 2015, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its direct testimony and exhibits. On January 30, 2015, I&M filed its rebuttal testimony and exhibits. On February 9, 2015, the Presiding Officers issued a docket entry requesting I&M to respond prior to the Evidentiary Hearing, to which I&M responded on February 10, 2015.

A public evidentiary hearing was conducted in this Cause at 9:30 a.m. on February 11, 2015, in Room 222, 101 W. Washington Street, Indianapolis, Indiana. I&M, the OUCC, and the Industrial Group appeared at and participated in the hearing. No members of the general public attended the hearing.

On April 8, 2015, the Industrial Group filed the *Industrial Group's Notice and Submission of Supplemental Authority in Support of the Industrial Group's Exceptions to I&M's Proposed Order* ("Notice"). In the Notice, the Industrial Group noted that the Indiana Court of Appeals issued an opinion in *NIPSCO Indus. Group v. N. Ind. Pub. Serv. Co.*, 2015 Ind. App. LEXIS 292 (Ind. Ct. App. Apr. 8, 2015) ("Appellate Order"), and the opinion "is material to the Commission's consideration in whether to approve I&M's proposed 7-Year Plan in this case".

¹ Hoosier subsequently filed a Motion to Withdraw on January 16, 2015, which was granted by the Presiding Officers.

On April 16, 2015, I&M submitted *Petitioner's Notice of Revision to Proposed Order* ("Notice of Revision"). In its Notice of Revision, I&M stated that "[w]hile I&M supports its filing and finds it distinguishable from the supplemental authority, I&M believes the best course of action for it and its customers is to supplement its Reply to the Post Hearing Filings to seek approval of the proposed 7 year plan excluding the \$117 million in Future Major Projects, which are challenged in this proceeding." On April 17, 2015, the OUCC filed a reply to I&M's Notice of Revision. The OUCC argued that "[t]he Court of Appeals' order may well impact other aspects of Petitioner's 7-year plan beyond Future Major Projects." On April 20, 2015, the Industrial Group filed a reply to I&M's Notice of Revision. The Industrial Group argued that "I&M's voluntary withdrawal of the \$117 million in Future Major Projects from its proposed TDSIC plan does not relieve the Commission from determining whether the remaining portions of the plan are specific enough to allow the Commission to make the required findings, as mandated by the Indiana Court of Appeals decision in Cause No. 93A02-1403-EX-158."

Based upon the applicable law and evidence presented the Commission finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. I&M is a "public utility" under Indiana Code §§ 8-1-2-1 and 8-1-39-4. Under Indiana Code chapter 8-1-39, the Commission has jurisdiction to approve a public utility's seven year plan for eligible transmission, distribution, and storage improvements. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding in the manner and to the extent provided by Indiana law.

2. I&M's Characteristics. I&M, a wholly owned subsidiary of American Electric Power Company, Inc. ("AEP"), is a corporation organized and existing under the laws of the State of Indiana, with its principal offices at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in rendering electric service in the State of Indiana, and owns, operates, manages, and controls plant and equipment within the State of Indiana that are in service and used and useful in the generation, transmission, distribution, and furnishing of such service to the public.

3. Requested Relief. By its Verified Petition, I&M requests the following relief:

A. a finding that the capital investments and associated operation and maintenance ("O&M") expense contained in the 7-Year Electric Plan are "eligible transmission, distribution, and storage system improvements" within the meaning of Indiana Code § 8-1-39-2;

B. a finding of the best estimate of the cost of the eligible improvements included in the 7-Year Electric Plan;

C. a determination that the public convenience and necessity require or will require the eligible improvements included in the 7-Year Electric Plan;

D. a determination that the estimated costs of the eligible improvements included in the 7-Year Electric Plan are justified by incremental benefits attributable to the 7-Year Electric Plan.

E. If the Commission determines that the 7-Year Electric Plan is reasonable, I&M requests the Commission to approve the 7-Year Electric Plan and designate the eligible transmission, distribution and storage system improvements included in the 7-Year Electric Plan as eligible for Transmission, Distribution and Storage System Improvement Charge (“TDSIC”) treatment in accordance with Indiana Code chapter 8-1-39.

F. Finally, I&M requests that the Commission approve I&M’s proposed process for updating the 7-Year Electric Plan in future TDSIC annual adjustment proceedings.

4. Evidence Presented.

A. I&M’s Case-in-Chief. Paul Chodak III, I&M’s President and Chief Operating Officer provided an overview of I&M’s request for approval of the 7-Year Electric Plan, and discussed the customer benefits of the 7-Year Electric Plan which he explained is an important part of I&M’s long-term strategy to provide safe, reliable and economic service to its customers. Mr. Chodak explained that the 7-Year Electric Plan is needed to continue to provide adequate service to customers and added that the need to invest in improvement and modernization of energy delivery infrastructure is not unique to I&M. Mr. Chodak stated that system performance and resiliency will be achieved through the sustained expenditures focused on replacing infrastructure, providing appropriate clearances from facilities, modernizing I&M’s energy delivery system, and meeting the needs of customers.

Mr. Chodak explained that the 7-Year Electric Plan includes some projects that involve transmission assets but the TDSIC rider, as proposed, does not recover those transmission costs. Mr. Chodak explained that transmission investments made by IM Transco will be billed to I&M under IM Transco’s Open Access Transmission Tariff (“OATT”) and recovered through I&M’s PJM rider in accordance with the settlement agreement approved by the Commission in Cause No. 43774 PJM 4. He added that after the PJM 4 agreement expires, I&M may propose to modify the proposed TDSIC rider to allow recovery of costs I&M will incur under an OATT for projects involving IM Transco or IM transmission assets.

Mr. Chodak explained that approval of the programs will allow I&M the ability to start planning for those long-term actions performed in a series over multiple years, as well as secure the necessary resources and materials. He explained that taking a long-term approach with prior planning helps I&M take advantage of economies of scale and provides I&M with the needed flexibility to react to circumstances beyond I&M’s control.

Mr. Chodak also explained that I&M believes that it is necessary and appropriate to support economic growth in I&M’s service area. He testified that I&M seeks approval of TDSIC projects, such as the Kenmore and Oliver Plow Station Projects that have an economic development component. Mr. Chodak explained that economic development results in additional electric load from new and expanding businesses, which allows I&M’s fixed costs to be spread over a larger number of customers and supports the efficient use of I&M’s energy delivery system.

Mr. Chodak said \$53 million of the total \$787 million is O&M expenses directly associated with TDSIC capital projects. He stated that this O&M work is necessarily performed during the construction of the project. Mr. Chodak testified that the cost estimate also includes costs for engineering and procurement of long lead-time materials that will be incurred in advance to ensure the 7-Year Electric Plan can be effectively and efficiently executed. I&M employed the services of IJUS LLC and EASI Engineering to review I&M's cost estimates.

Mr. Chodak stated that I&M intends to continuously examine more cost-effective ways to provide the benefits envisioned by the 7-Year Electric Plan, which may provide additional opportunity to reduce the scope or cost of the 7-Year Electric Plan. He added that, while the estimates may change as more detailed engineering and design work is accomplished, I&M is committed to employing rigorous project management practices similar to those successfully employed to manage I&M's generation projects. Mr. Chodak said the estimates will be reconciled with actual costs to assure that customer rates only reflect the actual costs incurred to complete the work. In his opinion, the estimates may reasonably be relied on for ratemaking purposes as the best estimate of the 7-Year Electric Plan.

Thomas A. Kratt, I&M Vice President of Distribution Operations provided an overview of I&M's Indiana distribution system, history, and existing asset information. He explained the development of the 7-Year Electric Plan, including its overall objective, the process utilized to analyze I&M's system, the program selection process, the methodology and asset analysis used to develop the 7-Year Electric Plan, and the determination of investments that would be included in the 7-Year Electric Plan.

Mr. Kratt explained that in order to evaluate each TDSIC program and major project, I&M specifically focused on safety, reliability, modernization, and economic development. Mr. Kratt discussed the incremental and other benefits achieved by each of the TDSIC programs and major projects.

Mr. Kratt testified that I&M will file an updated 7-Year Electric Plan annually, based on the most recent information available in an effort to provide transparency with regards to the 7-Year Electric Plan progress and any requested changes. He identified the information which I&M proposed to include in the annual updates and discussed the process I&M plans to use to provide interested stakeholders a roadmap of changes and plans for the programs and major projects each year.

Mr. Isaacson explained that the 7-Year Electric Plan was developed based on the best information and data available at this time. He added that I&M's energy delivery system is dynamic, which creates a variety of reasons why the 7-Year Electric Plan deserves flexibility. He said providing flexibility for the 7-Year Electric Plan will help provide I&M with the tools necessary to allow it to best manage the benefits with the cost. Mr. Isaacson explained how I&M will implement and execute the 7-Year Electric Plan.

Mr. Isaacson elaborated on how I&M will continue to prioritize its TDSIC projects by monitoring and evaluating progress and costs. Mr. Isaacson provided cost and project details and

explained how I&M will monitor costs and track the investment and O&M expense associated with the 7-Year Electric Plan.

B. OUCC's Case-in-Chief. Edward T. Rutter, Utility Analyst in the OUCC Resource Planning and Communications Division, discussed his view of what constitutes a “best estimate” and the steps he took to analyze the 7-Year Electric Plan cost estimates. He stated that I&M’s request includes only distribution projects and that Attachment TAK-1 provides the capital cost estimates by FERC account and in terms of eligibility as a new or replacement electric distribution project, this attachment supports the inclusion of the total capital cost estimate in the 7-Year Electric Plan.

Mr. Rutter explained why he emphasized I&M’s estimates in his review of the 7-Year Electric Plan and stated that detailed cost estimates and a detailed explanation of the process used to determine the estimates are equally important. Mr. Rutter testified that I&M understands how to develop cost estimates for inclusion in the 7-Year Electric Plan and what detail would be required by an independent analyst to make a determination of the “best” estimate. Mr. Rutter testified that I&M’s cost estimates were based on recent actual experience for similar projects, and also considered possible economic development impacts for certain projects. He said I&M provided a detailed excel spreadsheet showing the development of all costs across the 7-Year Electric Plan and detailed historical cost for the completed historical projects that formed the base for the cost estimate development. Mr. Rutter testified that any 7-Year Electric Plan involves long term cost estimates that are dependent on many factors beyond the control of the estimator. He said the cost estimates were prepared by I&M employees, they are reflective of historical performance, and are based on what was known and understood at the time the cost estimates were prepared. He stated that, with the exception of the future major projects, given the transparency, the support documentation and the information provided by I&M in its case-in-chief and in meetings with I&M personnel, it would not be unreasonable to find these estimates sufficient to meet the statute’s “best” estimate criteria. Mr. Rutter recommended the Commission find the estimated costs of the 7-Year Electric Plan to be “best” estimates as required by the statute except for the proposed future major projects that begin in 2017.

Anthony A. Alvarez, Utility Analyst in the OUCC Resource Planning and Communications Division, evaluated the major projects and programs. He testified that with two exceptions the Year 1 projects appear robust, reasonable and feasible. He stated that from an engineering perspective, these proposed projects were relatively well defined, their scopes of work identified, and the benefits made apparent and attainable. Mr. Alvarez recommended approval of 7-Year Electric Plan with two exceptions. Mr. Alvarez’s two exceptions were: 1) the clearance zone widening program; and 2) future major projects.

Mr. Alvarez testified that while the OUCC understands the benefits of vegetation management, the clearance zone widening program should not be considered a TDSIC eligible project because: 1) this program is an expansion of existing vegetation management projects associated with existing lines; 2) it is not a part of I&M’s transmission, distribution or storage system; 3) I&M also proposes implementing a four-year vegetation management cycle in this program; and 4) this program expands the definition of “capital projects” and includes O&M

expenses not related to new TDSIC projects. He recommended the Commission reject this program.

Mr. Alvarez asserted that no I&M witness offered any explanation as to what the future major projects might be, where they are located or why they are necessary and said it is impossible to determine if these projects meet the statute's eligibility criteria and are required by the public convenience and necessary. He recommended the Commission reject the future major projects commencing in year 3 of the 7-Year Electric Plan.

Mr. Alvarez discussed the purpose of this program and the impact that deteriorated poles can have on system reliability. He testified that I&M provided sufficient detail demonstrating that this program will deliver incremental value to I&M's ratepayers. He testified that this program meets the criteria of a TDSIC eligible project, appears to be reasonable and added that the OUCC does not object to the program. Mr. Alvarez recommended that I&M provide annual reports with their TDSIC tracker filings that include details on the number of poles inspected over the past year; recommended for replacement; and the actual number of poles replaced.

C. I&M's Rebuttal. Mr. Chodak testified that the statute encourages utilities to undertake projects that will improve the reliability of service to customers and there is no project that will accomplish this goal more than the clearance zone widening program. Mr. Chodak added that Indiana's law is consistent with many other laws and regulations across the country that recognizes the reasonableness of tracking clearance zone costs. He explained that vegetation is a leading cause of outages for I&M's customers and when the storms come, a fully cleared zone around I&M's facilities will reduce the number and shorten the duration of outages.

Mr. Chodak also disagreed with Mr. Alvarez's contention that the clearance zone is not part of I&M's distribution system. Mr. Chodak explained that the clearance zone is an integral part of I&M's distribution system and widening the clearance zones across the system will contribute significantly to its reliability. He testified that the clearance zone around I&M's distribution facilities is as much a part of the system as the air zone above a runway is a part of an airport system. He stated that it makes no sense to replace the hardware of the system without also creating adequate physical space around the facilities. He stated that ice-laden branches and wind-blown trees will, if located in close proximity to distribution facilities, bring down new poles and wires and interrupt service. He added that they will also cause equipment to cycle more frequently and thus deteriorate more rapidly. He stated that it is difficult to propose a plan to spend the capital on replacing the hardware of the system without recognizing the commensurate value of investing in a program that can widen the physical space in which the distribution facilities function to provide greater reliability.

Mr. Isaacson noted that Mr. Rutter concluded that I&M's cost estimate for the clearance zone widening program meets the "best estimate" requirement of the TDSIC statute. He explained the difference between clearance zone widening and other vegetation management activities. He clarified what is included in I&M's proposed TDSIC program and what is not. Mr. Isaacson testified that this program, just like all of the programs and projects included in 7-Year Electric Plan, is part of I&M's system. He stated that clearance zone widening expands the clearance zone around primary distribution facilities. He explained that approval of this program

will allow I&M to strategically and effectively widen the 3,600 miles of primary distribution line clearance zones that I&M has identified as narrow, have not been previously widened, and cause the greatest need for reactive vegetation management activity due to weather-related events and hot-spotting. He testified that this provides significant benefits to I&M's customers and the distribution system.

Mr. Isaacson testified that the only vegetation management costs included in the 7-Year Electric Plan, as part of the clearance zone widening program, are those related to specific clearance zone widening activities in the 7-Year Electric Plan associated with the 3,600 miles of primary distribution system.

Mr. Isaacson clarified that the clearance zone widening program included in the 7-Year Electric Plan does not include the cost of a four-year trim cycle. He explained how this program has a set and defined task and will end upon completion of that task. He said the eventual implementation of a four-year trim cycle is an added benefit performed outside the confines of the 7-Year Electric Plan, once the clearance zone widening program is completed after Plan Year 4. He stated that the Commission should approve the 7-Year Electric Plan, including the clearance zone widening program, as filed. He testified that this will provide I&M the most significant increase to customer reliability and also allow I&M to gain the most benefit out of the other components of the 7-Year Electric Plan. He noted that I&M's clearance zone widening program cost estimates have met the best estimate requirement of the 7-Year Electric Plan as demonstrated by OUCC witness Rutter. He concluded that this program is a series of projects that improve I&M's distribution system by way of new critical investment, providing long-term assets and benefits to I&M and its customers.

Mr. Isaacson responded to Mr. Alvarez's contentions regarding the future major projects and explained why the future major projects meet the eligibility requirements of Indiana Code chapter 8-1-39 and are required by the public convenience and necessity. He explained that the future major projects are based on the same criteria underlying the Year 1 and Year 2 station projects. He testified that the difference is that the precise location of the future major projects was not specifically listed because of the need to maintain flexibility. Mr. Isaacson reiterated that the major projects component of the 7-Year Electric Plan includes a range of station projects aimed at retiring obsolete equipment, improving reliability and power quality, and increasing capacity in support of economic development. He added that this work includes expansion projects that will add a transformer and breakers, partial upgrades that will replace/upgrade an existing transformer, rebuilds that include replacing equipment in-kind, full upgrades where equipment will be resized and/or rebuilt, installation of new stations, and retiring stations.

Mr. Isaacson explained that I&M specified the station projects for the first two years of the 7-Year Electric Plan and provided a blueprint for the work and station issues it would address that are similar to the first two years for the remaining years based on its knowledge of the system and expected needs. He explained that while I&M has a plan for the later years, it is premature to finalize exact locations and lock in the final projects. He testified that doing so fails to recognize best management practices. Mr. Isaacson explained that the estimated costs of these planned projects are based on representative work that I&M projects will be needed at that time. He testified that prematurely locking in projects would not reasonably position I&M to address

the needs of the system as the future unfolds. He added that providing the level of detail sought by the OUCC now could unreasonably raise an expectation at the local city or township level because the 7-Year Electric Plan may be amended as the future unfolds.

Mr. Isaacson explained that I&M used the same basis and methodology for estimating all major projects included in the 7-Year Electric Plan. Mr. Isaacson discussed the methodology used to develop the cost estimates and need for the future major projects and explained the stakeholder process I&M plans to use to review plan updates.

Mr. Isaacson explained that I&M is amenable to providing a report similar to what Mr. Alvarez outlined in his testimony and agrees to work with the OUCC to develop a pole inspection and replacement program report for submission on an annual basis.

Mr. Williamson explained that Mr. Alvarez confuses the ongoing maintenance associated with maintaining clearances with the 7-Year Electric Plan request to widen its clearance zones beyond the zone that has been previously cleared. He testified that widening clearance zones is an initial clearing and does qualify as creating an asset for regulatory accounting purposes. He said the FERC Uniform System of Accounts (“USofA”) requires capitalization of initial clearing, or “initial tree trimming,” costs, which creates an asset no different than property rights, for example, that are recorded as an asset. Mr. Williamson stated that I&M’s clearance zone widening program will result in capital projects recorded to FERC account 365 overhead conductors and devices. He stated that like other capital projects included in a TDSIC plan, a level of associated O&M costs will also be required for this program, which will be recorded to FERC account 593 maintenance of overhead lines. Mr. Williamson added that the tree trimming/clearing cost related to the emerald ash borer mitigation work included with this program will be treated as outlined above, meaning that I&M will follow the FERC USofA guidance requiring capitalization of any initial clearing cost and expense recognition for maintaining clearances.

Mr. Williamson concluded that the FERC USofA provides clear guidance on what constitutes a part of I&M’s distribution system and this establishes that the clearance zone widening program is an eligible improvement project under Indiana Code chapter 8-1-39.

5. Commission Discussion and Findings.

Indiana Code § 8-1-39-10(a) states that “[a] public utility shall petition the commission for approval of the public utility’s seven (7) year plan for eligible transmission, distribution, and storage improvements.” A plan submitted under Indiana Code § 8-1-39-10, may include “a targeted economic development project described in [Indiana Code § 8-1-39-11]” *Id.* In order to approve a seven-year plan, the Commission must first make the following specific findings:

- (1) A finding of the best estimate of the cost of the eligible improvements included in the plan.
- (2) A determination whether public convenience and necessity require or will require the eligible improvements included in the plan.

- (3) A determination whether the estimated costs of the eligible improvements included in the plan are justified by the incremental benefits attributable to the plan.

Indiana Code § 8-1-39-10(b).

A. Eligible Transmission, Distribution, and Storage System Improvements. Indiana Code § 8-1-39-2 defines “eligible transmission, distribution, and storage system improvements” as new or replacement electric or gas transmission, distribution, or storage utility projects that:

- (1) a public utility undertakes for the purposes of safety, reliability, system modernization, or economic development, including the extension of gas service to rural areas;
- (2) were not included in the public utility’s rate base in its most recent general rate case; and
- (3) either were:
 - (A) designated in the public utility’s seven (7) year plan and approved by the [C]ommission under [Indiana Code § 8-1-39-10] as eligible for TDSIC treatment; or
 - (B) approved as a targeted economic development project under [Indiana Code § 8-1-39-11].

In construing a statute, our primary goal is to determine and give effect to the intent of the Legislature. *Ind. Civil Rights Comm’n v. Alder*, 714 N.E.2d 632, 637 (Ind. 1999). When the statute is clear and unambiguous, we need not apply any rules of construction other than to require that words and phrases be given their plain, ordinary, and usual meanings. *City of Carmel v. Steele*, 865 N.E.2d 612, 618 (Ind. 2007).

Black’s Law Dictionary defines an improvement as an “addition to real property, whether permanent or not; esp., one that increases its value or utility” 773 (8th Ed. 2004). This definition is consistent with the use of the term improvement throughout Indiana Code chapter 8-1-39. For example, Indiana Code § 8-1-39-7, in defining TDSIC costs, refers to costs incurred both while the improvements are under construction and post in service. Indiana Code § 8-1-39-9(a) and (b) allow a utility to recover capital expenditures and TDSIC costs. Our definition excludes other types of expenses such as operations and maintenance expenses or labor expenses that are not associated with the construction of an improvement. This definition raises a threshold question of what is the real property to which eligible improvements may be made.

Indiana Code § 8-1-39-2 requires eligible projects to be improvements to I&M’s transmission, distribution, or storage “system.” Indiana Code chapter 8-1-39, which addresses TDSIC recovery, is similar to Indiana Code chapter 8-1-31, which addresses recovery of distribution system improvement charges by a water utility (“DSIC”) and predates Indiana Code chapter 8-1-39. 170 IAC 6-1.1-1(c) defines a distribution system for purposes of a DSIC proceeding as distribution mains, valves, hydrants, service lines, meters, meter installation, and

other appurtenances “necessary to transport treated water from . . . the treatment facility to . . . the customer.” In *Ind.-American Water Co.*, we distinguished a water utility’s distribution system from other parts of its utility infrastructure, such as its source of supply, treatment plant, and storage facilities. 2003 Ind. Cause No. 42351 DSIC 1, 2003 Ind. PUC LEXIS 362, at *46-47 (IURC Feb. 27, 2003).

Similarly, within the context of electric utility service, the plain meaning of a transmission and distribution system is the infrastructure necessary to transmit electricity from the generation facility to the customer. This includes at a minimum, power lines and poles, substations, transformers, and meters.² It does not include projects that are not necessary to transmit electricity to the customer or projects that, though they may be tangentially related to the transmission and distribution of electricity, are not part of the transmission and distribution system.

B. Clearance Zone Widening Program. Our analysis of Indiana Code § 8-1-39-2 and our definitions of transmission and distribution system improvements call into question whether I&M’s proposed Clearance Zone Widening Program (“CZW Program”) is an eligible transmission, distribution, and storage system improvement. In this proceeding, the OUCC challenged the inclusion of the CZW Program in I&M’s 7-Year Electric Plan. The OUCC argued that the CZW Program is an expansion of existing vegetation management projects associated with existing lines and that the program is not part of I&M’s transmission, distribution, or storage system. Thus, the OUCC argued that the CZW Program does not qualify as a TDSIC eligible program. On rebuttal, Mr. Chodak noted that “[t]he statute encourages utilities to undertake projects that will improve the reliability of service to customers and there is no project that will accomplish this goal more than the [CZWP].” Further, Mr. Williamson argues that the Federal Energy Regulatory Commission (“FERC”) Uniform System of Accounts (“USofA”) treat the CZW Program as a capital project, and not O&M, and thus eligible for inclusion in I&M’s 7-Year Electric Plan.

The OUCC argued that the CZW Program is an expansion of I&M’s existing vegetation management program. We agree. I&M’s own witness Mr. Isaacson noted in his rebuttal testimony that “[v]egetation management is generally comprised of four activities. 1. Cycle or maintenance trimming, 2. Weather-related trimming, 3. Hot-spotting, and 4. Clearance zone widening.” Mr. Isaacson explained why the first three activities he listed above are O&M and the last item is a capital cost. We do not see the difference between I&M’s ongoing vegetation management efforts and its proposed CZW Program.

The CZW Program does not fall within the meaning of Indiana Code § 8-1-39-2. It does not replace existing transmission or distribution system infrastructure and is not a new transmission or distribution project. Further, Section 7(b) of the statute explicitly lists O&M expenses as a type of recoverable “TDSIC cost,” but only those O&M expenses that are associated with “eligible transmission, distribution, and storage system improvements,” which Section 2 defines as “new or replacement electric or gas transmission, distribution, or storage utility projects.” Contrary to the Sections 2 and 7 requirements, the evidence of record

² I&M did not include any storage system projects in its seven-year plan. Therefore, we need not address the definition of a storage system improvement.

demonstrates the CZW Program targets I&M's existing lines and plant, not new TDSIC-eligible investments. Finally, we are not persuaded by I&M's argument that the FERC USofA requires the CZW Program to be treated as a capital asset. Therefore, we find the CZW Program is not an "eligible transmission, distribution, and storage system improvement" as defined by Indiana Code § 8-1-39-2.

C. 7-Year Electric Plan. The Commission first considered Indiana Code chapter 8-1-39 and what may constitute a 7-Year Plan in Cause No. 44370. *N. Ind. Pub. Serv. Co.*, Cause No. 44370, 2014 Ind. PUC LEXIS 38 (Ind. PUC 2014). In Cause No. 44370, the Commission approved the Northern Indiana Public Service Company's ("NIPSCO") 7-Year Electric Plan. The Commission found there was sufficient evidence to approve NIPSCO's Year 1 projects as eligible for TDSIC treatment. However, we were concerned that the project specific detail of Years 2 through 7 did not rise to the same level of confidence. Thus, in the context of our 7-Year Plan approval we presumed the categories of spending identified in NIPSCO's 7-Year Electric Plan for Years 2 through 7 were eligible for TDSIC treatment. Furthermore, we expected these eligible project categories would become better defined in terms of specificity as their respective investment year comes of age. In its Appellate Order, the Court of Appeals stated the following regarding NIPSCO's 7-Year Electric Plan:

[w]e believe that the legislature anticipated the necessity of flexibility when it enacted the updated process of Indiana Code Section 8-1-39-9. The updating process does not, however, relieve the utility of providing an initial seven year-plan that meets the statutory requirements. Allowing for flexibility in a plan is not the same as not having a plan at all. We conclude that the Commission erred by approving NIPSCO's seven-year plan given its lack of detail regarding projects for years two through seven.

I&M's witnesses explained that the 7-Year Electric Plan provides a structured means of investing approximately \$734 million of capital and an additional \$53 million of associated O&M expense over the seven-year period 2015 through 2021. I&M's 7-Year Electric Plan includes both Programs and Major Projects. However, in its Notice of Revision, I&M withdrew its request for approval of the Future Major Projects portion of its 7-Year Electric Plan. We must now consider whether to approve the remaining portions of I&M's 7-Year Electric Plan.

Based on our review of the evidence, we find that I&M has not presented a 7-Year Plan as required by Section 10(a). I&M submitted schedules with general categories of Programs and Major Projects and the associated costs for the Programs and Major Projects for years 2015 through 2016 with an appropriate level of specificity. However, for years 2017 through 2021, I&M only provided schedules with general categories of Programs and Major Projects and the expected investment for future years. We understand I&M has chosen this approach in order to maintain flexibility in later years. However, based on a closer examination of the statutory requirements and with the guidance from the Court of Appeals, we find that a utility's 7-Year Plan should be sufficiently definite for the Commission to reasonably identify what projects will be completed and when. I&M has presented this level of detail for the Programs and Major Projects in years 2015 through 2016. The remainder of I&M's evidence consists of Programs

and Major Projects that may or may not be done in a particular year with a rough estimate of what the total program cost may be without any specific cost estimate supporting certain identifiable projects. The lack of specificity in years 2017 through 2021 of I&M's 7-Year Electric Plan prevents the Commission from making the necessary statutory findings under Indiana Code chapter 8-1-39. Indiana Code chapter 8-1-39 provides certain benefits to utilities in the form of more timely cost recovery. However, in order to receive these benefits, the utility must file a 7-Year Plan that is sufficiently detailed. In the future it will be necessary for utilities to provide a clearer list of the projects included in a 7-Year Plan.³ Based on the evidence presented in this proceeding, I&M should have provided for Years 2017 through 2021, a level of detail comparable to that provided for the first two years of its 7-Year Electric Plan. Therefore, we find that I&M has not presented a 7-Year Plan as contemplated by Section 10(a).

D. Best Estimate of the Cost of the Eligible Improvements. Indiana Code § 8-1-39-10(b)(1) requires the Commission to make a finding of the best estimate of the cost of the eligible improvements included in a 7-Year Plan. The term "best estimate" is not defined in Indiana Code ch. 8-1-39. But we have addressed a best estimate finding in the context of new construction. Indiana Code § 8-1-8.5-5(b)(1) requires the Commission to make a best estimate of costs finding in the context of granting a certificate of public convenience and necessity for the construction of a new powerplant. In *Indianapolis Power & Light Co.*, we found that IPL had provided a best estimate of the costs of constructing a new generation facility. Cause No. 44339, 2014 Ind. PUC LEXIS 132, at *70 (IURC May 14, 2014). We noted that IPL had taken "substantial steps to firm up the cost estimate presented in this case," including detailed engineering analysis and discussions with turbine manufacturers and contractors. *Id.*, at *67. IPL's cost estimate was based on a "detailed 600+ line item cost build-up." *Id.*, at *65. We recognize that the circumstances of a project dictate the appropriate range of accuracy, and the estimate of a project that is six or seven years in the future will not have the same accuracy as a first-year project. However, utilities must estimate their costs with a sufficient level of accuracy and supply evidence to allow the other parties and the Commission to conduct their own independent analysis of the estimated costs.

6. Confidentiality. I&M filed a Motion for Protective Order on October 14, 2014 which was supported by affidavit showing documents to be submitted to the Commission were trade secret information within the scope of Indiana Code §§ 5-14-3-4(a)(4) and (9) and Indiana Code § 24-2-3-2. The Presiding Officers issued a Docket Entry on October 27, 2014 finding such information to be preliminarily confidential, after which such information was submitted under seal. We find all such information is confidential pursuant to Indiana Code § 5-14-3-4 and Indiana Code § 24-2-3-2, is exempt from public access and disclosure by Indiana law and shall be held confidential and protected from public access and disclosure by the Commission.

³ Utilities should consider providing a sortable list of each asset evaluated and whether or not each asset has been selected for replacement and the proposed installation year which would also go a long way towards reaching a reasonable level of detail required for the Commission's review. However, in order for this information to have any value it would need to be provided with a utility's 7-Year Plan filing.

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

1. I&M's 7-Year Electric Plan is hereby denied.
2. The information filed by I&M in this Cause pursuant to its Motion for Protective Order is deemed confidential pursuant to Indiana Code § 5-14-3-4 and Indiana Code § 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.
3. This Order shall be effective on and after the date of its approval.

MAYS-MEDLEY, HUSTON, WEBER, AND ZIEGNER CONCUR; STEPHAN ABSENT:

APPROVED: MAY 08 2015

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



Brenda A. Howe
Secretary to the Commission