

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF DUKE ENERGY )  
INDIANA, INC. FOR APPROVAL OF A )  
CHANGE IN ITS MIDWEST )  
INDEPENDENT SYSTEM OPERATOR )  
MANAGEMENT COST AND REVENUE )  
ADJUSTMENT FACTOR UNDER ITS )  
STANDARD CONTRACT RIDER NO. 68 )

CAUSE NO. 42736 RTO 20

APPROVED: DEC 22 2009

**BY THE COMMISSION:**

**David E. Ziegner, Commissioner**  
**Scott R. Storms, Chief Administrative Law Judge**

On October 27, 2009, Duke Energy Indiana, Inc. ("Duke Energy Indiana," "Petitioner" or "Company") filed its Verified Application ("Verified Application") requesting that the Indiana Utility Regulatory Commission ("Commission") approve a change in the adjustment factor under Duke Energy Indiana's Standard Contract Rider No. 68 entitled Midwest Independent System Operator Management Cost And Revenue Adjustment ("Rider No. 68") to be used for Duke Energy Indiana's January, February and March 2010 retail electric billing cycles.

Pursuant to proper notice of hearing, published as required by law, proof of which was incorporated into the record by reference, a public Evidentiary Hearing was held in this Cause on Thursday, December 10, 2009 at 10:00 a.m., EST, in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Duke Energy Indiana and the Indiana Office of Utility Consumer Counselor ("OUCC") appeared and participated at the hearing.

At the Evidentiary Hearing, Duke Energy Indiana offered into evidence its case-in-chief testimony in support of its Verified Application, consisting of the Verified Application, and the testimony and exhibits of Ms. Maria T. Birnbaum, Duke Energy Business Services LLC's Director, Rate Services, Indiana Rate Department; and Mr. John D. Swez, Duke Energy Business Services LLC's Director, Bulk Power Marketing and Trading. The OUCC offered into evidence the testimony and exhibit of Mr. Wes R. Blakley, a Senior Utility Analyst for the OUCC. All evidence and exhibits were admitted into the record without objection. No members of the general public appeared or participated at the hearing.

Based upon the applicable law and the evidence herein, this Commission now finds:

- 1. Notice and Jurisdiction.** Due, legal and timely notice of the Evidentiary Hearing in this Cause was given as required by law. Duke Energy Indiana is a public utility within the meaning of Ind. Code § 8-1-2-1, as amended, and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana. The Commission has jurisdiction over Duke Energy Indiana and the subject matter of this Cause.

**2. Duke Energy Indiana's Characteristics.** Duke Energy Indiana is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office in the Town of Plainfield, Indiana, and is a second tier wholly-owned subsidiary of Duke Energy Corporation. Duke Energy Indiana is engaged in rendering retail electric utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public.

**3. Background and Relief Requested in this Cause.** In its most recent rate case, Cause No. 42359 (*Ind. Util. Reg. Comm'n*, May 18, 2004), Duke Energy Indiana proposed, among other matters, Rider No. 68 to track for recovery from (or credit to) its retail electric customers certain Company costs and transmission revenues related to Duke Energy Indiana's participation in the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO" or "MISO").

Under Rider No. 68, Duke Energy Indiana tracks for recovery from, or credit to, Duke Energy Indiana's retail electric customers, the following on a quarterly reconciled basis: (i) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedules 10 (ISO Cost Recovery Adder) and 10-FERC (FERC Annual Charges Recovery), or a successor provision of either, of the Midwest ISO Open Access Transmission and Energy Markets Tariff (now known as Open Access Transmission and Energy and Operating Reserve Markets Tariff and hereinafter "Midwest ISO Tariff"), or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (ii) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedule 16 (Financial Transmission Rights ("FTR") Administrative Service Cost Recovery Adder), or a successor provision, of the Midwest ISO Tariff, or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (iii) Midwest ISO management costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under Schedule 17 (Energy and Operating Reserve Markets Market Support Administrative Service Cost Recovery Adder), or a successor provision, of the Midwest ISO Tariff, or any successor tariff of the Midwest ISO, which are allocable to Duke Energy Indiana's retail electric customers; (iv) costs billed to Duke Energy Indiana (or a designee of the Company) by the Midwest ISO under the Midwest ISO Tariff, or any successor tariff of the Midwest ISO, for standard market design ("SMD") which are allocable to Duke Energy Indiana's retail electric customers (including charges under Schedule 26, as authorized by the December 19, 2007 Order and June 25, 2008 Order); (v) other government mandated transmission costs Duke Energy Indiana is required to pay on behalf of its retail electric customers; and (vi) certain Midwest ISO transmission revenues assigned to Duke Energy Indiana (or a designee of the Company), collected by the Midwest ISO under the Midwest ISO Tariff, or any successor tariff of the Midwest ISO, and which are allocable to Duke Energy Indiana's retail electric customers. (Petitioner's Exhibit A, pp. 10-11.)

The Commission's June 30, 2009 Order in Cause No. 43426 ("ASM Final Order"), authorized Petitioner to recover through retail electric rates the jurisdictional costs incurred by Duke Energy Indiana in connection with its participation in the Midwest ISO ASM. The ASM

Final Order authorized rate treatment for various ASM credits and charges (or modified charge types) pursuant to either Duke Energy Indiana's fuel adjustment proceedings or Rider No. 68 proceedings. This authorization is in addition to recovery of Midwest ISO costs previously authorized by the Commission. As a result of the ASM Final Order, Duke Energy Indiana is required to include Day Ahead Revenue Sufficiency Guarantee ("RSG") Distribution Amounts and Real Time RSG First Pass Distribution Amounts in future fuel cost recovery proceedings rather than under Rider No. 68. (Petitioner's Exhibit A, pp. 7-8.)

Proposed Rider No. 68 adjustment factors are presented to this Commission on a quarterly basis. The current proposed Rider No. 68 adjustment factors would apply to Duke Energy Indiana's January, February and March 2010 retail electric billing cycles. (Petitioner's Exhibit A, p. 2.)

**4. Testimony Presented Regarding Proposed Rider No. 68 Adjustment Factors.**

Duke Energy Indiana presented the following information relative to adjustments for Duke Energy Indiana's January, February and March 2010 Retail Electric Billing Cycles:

**Duke Energy Indiana's Proposed Rider No. 68  
Adjustment Factor Formula Inputs**

Charge Category	Amount
a) MISO Management Cost Adder – Schedules 10 & 10-FERC	\$1,041,386
b) MISO Management Cost, FTR – Schedule 16	\$148,493
c) MISO Management Cost Energy and Operating Reserve Markets - Schedule 17	\$1,662,320
d) MISO SMD or other Govt. mandated transmission costs	\$3,433,306
e) MISO Transmission Revenue	\$902,503
f) Individual retail rate group's allocated share of retail peak demand	Petitioner's Exhibit A-1, page 3 of 4 (Rate group specific)
g) Individual retail rate group's kWh sales	Petitioner's Exhibit A-2 (Rate group specific)
h) Revenue Conversion Factor	1.02131

Ms. Birnbaum sponsored Petitioner's Exhibit A-1, which is Duke Energy Indiana's proposed revised Standard Contract Rider No. 68. Page 3 of this exhibit shows the Percent Share of Retail Peak developed for cost of service purposes in Cause No. 42359 based on the twelve-month period ended September 30, 2002, which is used to allocate cost to each retail group. (Petitioner's Exhibit A, p. 14.)

Ms. Birnbaum testified that Petitioner's Exhibit A-2 shows the individual retail rate group's billing cycle kilowatt-hour ("kWh") amount used to develop the respective proposed Rider No. 68 adjustment factors for Duke Energy Indiana's January, February and March 2010 retail electric billing cycles. The kWh amounts are based on the Company's actual sales to each retail rate group for the months of January, February and March 2009. (Petitioner's Exhibit A, p. 14.)

Ms. Birnbaum testified that as a result of the ASM Final Order in Cause No. 43426, charges for Day Ahead RSG Distribution Amounts and Real Time RSG First Pass Distribution Amounts are to be recovered in future fuel cost proceedings rather than under Rider 68. The Company implemented the reclassification of these charge types beginning with the March 2009 delivery period, the first period that is in common to both Rider 68 and the fuel cost recovery proceeding subsequent to receipt of the Final ASM Order. Specifically, amounts for the aforementioned charge types were not included in Rider 68 for the June through August delivery periods applicable to this proceeding. However, amounts for the aforementioned charge types that pertain to periods prior to March 2009, but which were processed by the Company during the months of June through August remain in this proceeding. Also, as a result of the ASM Final Order, the Company tracks credits associated with the Contingency Reserve Deployment Failure Uplift Amount ("CRDFUA"), in fuel costs recovery proceedings. ASM charges the Company seeks to recover in this proceeding are the Day Ahead RSG Distribution Amount (for delivery periods prior to March 2009), the Real Time RSG First Pass Distribution Amount (for delivery periods prior to March 2009), the Real Time Revenue Neutrality Uplift Amount, exclusive of credits associated with the CRDFUA, the Day Ahead Market Administration Amount, and the Real Time Market Administration Amount. (Petitioner's Exhibit A, p. 8-9.)

Ms. Birnbaum testified that there was no single adjustment in excess of \$3 million in this filing. Ms. Birnbaum testified that the Company received refunds of \$4.2 million via resettlements processed by the Midwest ISO which were included as credits in the Company's prior Rider 68 proceeding, as a result of the FERC Orders issued on November 7 and November 10, 2008 relating to RSG charges. Ms. Birnbaum further explained that the FERC issued a subsequent Order on May 6, 2009, which ceased the resettlements. She testified that in June of 2009, the Midwest ISO began reversing the resettlements that had previously been completed. By September 2009 the Midwest ISO fully completed these revised RSG resettlements. Ms. Birnbaum testified that the resulting net charge to the Company of \$1.9 million is included in this proceeding. Ms. Birnbaum also testified that the revised RSG resettlements that were processed during September of 2009 are also included in the August 2009 reporting period in order to fully reflect the RSG revisions in one filing. (Petitioner's Exhibit A, pp. 16-17.)

Ms. Birnbaum testified that Petitioner's Exhibit A-3 shows the actual booked costs and transmission revenues covered by Rider No. 68 for the months of June, July and August 2009. Ms. Birnbaum explained that Petitioner's Exhibit A-3 also compares the actual net amount of the "a", "b", "c", "d" and "e" factors of the Rider No. 68 formula for the quarter (*i.e.*, a charge amount of \$5,383,002) to the quarterly level built into Duke Energy Indiana's base retail electric rates (*i.e.*, a credit amount of \$1,337,000) as calculated on page 1 of Petitioner's Exhibit A-1. Ms. Birnbaum further explained that the difference in these amounts (*i.e.*, a charge amount of \$6,720,002) is then increased by the applicable revenue conversion factor (*i.e.*, 1.02131) and allocated to the respective retail rate groups by the percentage allocators shown on page 3 of Petitioner's Exhibit A-1. Ms. Birnbaum concluded that the result is a total retail current charge amount of \$6,863,205, to be collected from Duke Energy Indiana's retail electric customers through the Rider No. 68 adjustment factors for its January, February and March 2010 billing cycles. (Petitioner's Exhibit A, pp. 17-18.)

Ms. Birnbaum indicated that Petitioner's Exhibit A-4 shows the calculation of the proposed Rider No. 68 adjustment factors by retail rate group, including the June, July and August 2009 reconciliation total under-collection of \$369,017, as developed on Petitioner's Exhibit A-5. Therefore, the total amount to be recovered through the Rider No. 68 adjustment factors for the January, February and March 2010 billing cycles is \$7,232,222. Ms. Birnbaum testified that Petitioner's Exhibit A-6 compares the bill of a typical residential customer using 1000 kWhs per month based upon the proposed Rider No. 68 adjustment factor to the bill of a typical residential customer using 1000 kWhs per month based upon the approved factor from the most recent quarter. Ms. Birnbaum stated that under the proposed Rider No. 68 adjustment a typical residential customer will experience an increase of \$0.76 on his or her base electric bill when compared to the previous quarter's base bill (excluding the effect of various "tracking mechanisms" as noted on Petitioner's Exhibit A-6). (Petitioner's Exhibit A, pp. 19-20.)

Ms. Birnbaum testified that Petitioner's Exhibit A-7 provides information relating to Company-owned RECB projects and provides an estimate of Schedule 26 costs to be allocated to the Company. (Petitioner's Exhibit A, p. 21.)

Ms. Birnbaum testified that the same allocation methods used in Cause Nos. 42736-RTO 3 and 42736-RTO 5 have been used in this filing to distribute the same types of costs between Duke Energy Indiana and Duke Energy Ohio, Inc. (Petitioner's Exhibit A, p. 21.)

Mr. Swez provided an overview of the Midwest ISO's energy markets and the Company's participation in those markets. Mr. Swez also testified as to the types of energy markets costs billed by the Midwest ISO to the Company pursuant to the Midwest ISO's Tariff. Mr. Swez testified that in his opinion the Company's incurrence of the enumerated administrative charges and other Midwest ISO Tariff charges and credits included in this filing with the Commission are reasonable.

Mr. Swez updated the Commission on the status of RSG resettlements, explaining that the FERC issued an order on May 6, 2009 granting rehearing on certain aspects of its November 7 and November 10, 2008 Orders. Consistent with the FERC's May 6, 2009 Order, the Midwest ISO ceased the ongoing refunds and resettlements as well as modified the effective date of the Interim Rate for RSG to November 10, 2008. Mr. Swez testified that RSG resettlement charges originally refunded to Duke Energy Indiana's customers have been charged back and included in this proceeding. (Petitioner's Exhibit B, pp. 10-11.)

Mr. Swez also updated the Commission on the status of the Midwest ISO ASM, testifying that since the Midwest ISO launched the ASM on January 6, 2009, the ASM has generally functioned without any major issues. He explained that Duke Energy Indiana's generators have been able to follow real-time signals from the Midwest ISO with minimal issues. He further stated that day-ahead and real-time Market Clearing Prices for Regulating, Spinning, and Supplemental Reserves appear to be at reasonable price levels consistent with market conditions. Mr. Swez further testified that Duke Energy Indiana's generating units appear to be appropriately receiving day-ahead and real-time awards for Regulating, Spinning, and Supplemental Reserves and have had no issues following the resulting cleared reserves. (Petitioner's Exhibit B, pp. 11-12.)

The testimony of OUCG witness Wes R. Blakley confirmed Duke Energy Indiana's calculation of the amount to be recovered under the proposed Rider No. 68 adjustment factors for Duke Energy Indiana's January, February and March 2010 retail electric billing cycles. (Public's Exhibit No. 1)

**5. Commission Findings.** Based on the evidence presented in this Cause we find that Duke Energy Indiana has adequately explained the proposed Rider No. 68 adjustment factors for its January, February and March 2010 retail electric billing cycles. Accordingly, we hereby approve such adjustment factors and direct Duke Energy Indiana to include such adjustment factors in the Rider No. 68 filed with this Commission in compliance with this Order.

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

1. Duke Energy Indiana's Rider No. 68 adjustment factors for its January, February and March 2010 retail electric billing cycles, as described herein, are hereby approved, including charges and credits under ASM in accordance with the Commission's September 24, 2008 Order in Cause No. 42736 RTO 15 and the Commission's June 30, 2009 Order in Cause No. 43426.

2. Prior to placing in effect the Rider No. 68 adjustment factors approved herein, Duke Energy Indiana shall file with the Electricity Division of this Commission a separate amendment to its rate schedules, with clear reference therein that such Rider No. 68 adjustment factors are applicable to the rate schedules reflected on the amendment.

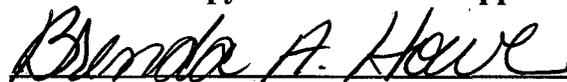
3. This Order shall be effective on and after the date of its approval.

**HARDY, GOLC, LANDIS AND ZIEGNER CONCUR; ATTERHOLT ABSENT:**

**APPROVED:**

DEC 22 2009

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



**Brenda A. Howe**

**Secretary to the Commission**