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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY)
INDIANA, INC. REQUESTING THE INDIANA)
UTILITY REGULATORY COMMISSION TO)
APPROVE AN ALTERNATIVE REGULATORY)
PLAN PURSUANT TO IND. CODE § 8-1-2.5-1, *ET*)
SEQ., FOR THE IMPLEMENTATION OF AN)
ELECTRIC DISTRIBUTION SYSTEM)
"SMARTGRID" AND ADVANCED METERING)
INFRASTRUCTURE, DISTRIBUTION)
AUTOMATION INVESTMENTS, AND A)
DISTRIBUTED RENEWABLE GENERATION)
DEMONSTRATION PROJECT, FOR APPROVAL)
OF NEW DEPRECIATION RATES FOR ELECTRIC)
DISTRIBUTION PLANT, FOR A WAIVER OF THE)
PROVISIONS OF 170 I.A.C. § 4-1, *ET SEQ.*, AND)
FOR ASSOCIATED ACCOUNTING AND RATE)
RECOVERY MECHANISMS, INCLUDING A)
RATEMAKING PROPOSAL TO UPDATE)
DISTRIBUTION RATES ANNUALLY AND A)
"LOST REVENUE" RECOVERY MECHANISM, IN)
ACCORDANCE WITH IND. CODE § 8-1-2-42(a))
AND IND. CODE § 8-1-2.5-1 *ET SEQ.*, AND)
PRELIMINARY APPROVAL OF THE ESTIMATED)
COSTS AND SCHEDULED DEPLOYMENT OF)
THE COMPANY'S SMARTGRID INITIATIVE)

CAUSE NO. 43501

APPROVED: OCT 19 2011

BY THE COMMISSION:

On May 23, 2008, Duke Energy Indiana, Inc. ("Duke Energy Indiana," "Petitioner," or "Company") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") initiating this proceeding. The Kroger Co. ("Kroger"), Indiana Exchange Carrier Association, Inc. ("INECA"), Nucor Steel-Indiana ("Nucor"), Indiana Telecommunications Association ("ITA"), Duke Energy Indiana Industrial Group ("DEIIG"), Wal-Mart Stores East, LP ("Wal-Mart"), and the Citizens Action Coalition of Indiana ("CAC") sought and were granted intervention. On June 4, 2009, Duke Energy Indiana filed a settlement agreement reached with the OUCC, DEIIG, Nucor, and the CAC.

After hearing the parties' evidence, the Commission entered its Order on Settlement on November 4, 2009, which rejected the alternative regulatory plan proposed in the settlement agreement and ordered the parties to submit a proposed procedural schedule for further proceedings. The Order on Settlement details the proceedings held on the Company's original SmartGrid Initiative proposal through and including proceedings on the settlement agreement.

The prior discussion of proceedings contained in the Commission's Order on Settlement are incorporated into this Order by reference. In response to the Commission's Order on Settlement, the Company submitted a revised proposal through its Supplemental and Supplemental Rebuttal Testimony.

On December 1, 2009, the Commission held a Technical Conference, upon the request of Duke Energy Indiana, to allow the parties to discuss the Order on Settlement, to establish a new procedural schedule, and to update the Commission on the status of the Company's request for federal economic stimulus funds related to its SmartGrid deployment. Following the Technical Conference, Duke Energy Indiana submitted a revised Initial Deployment proposal to deploy SmartGrid infrastructure on a smaller scale than what the Company originally proposed. 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 second Evidentiary Hearing was held in this Cause at 9:30 a.m. on July 29, 2010, in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. Duke Energy Indiana, the OUCC, DEIIG, Kroger, Nucor, the CAC, and the ITA participated in the hearing. No members of the general public appeared or sought to participate at the hearing. On August 19, 2010, Duke Energy Indiana, CAC, and ITA filed proposed Orders in this Cause. On September 13, 2010, Duke Energy Indiana, CAC and ITA filed reply briefs and exceptions to each other's proposed Orders.

1. Notice and Jurisdiction. Due, legal, and timely notice of the hearings in this Cause were given and published by the Commission. Duke Energy Indiana is a public utility as defined by Ind. Code § 8-1-2-1, and is subject to regulation by the Commission as provided in the Public Service Commission Act, as amended. Duke Energy Indiana is also an "energy utility," as defined by Ind. Code § 8-1-2.5-2, and has elected to be subject to the provisions of Ind. Code §§ 8-1-2.5-5 and 8-1-2.5-6 for purposes of seeking approval of an alternative regulatory plan (the SmartGrid Initiative and related ratemaking and accounting relief). The Commission has jurisdiction over Duke Energy Indiana and the subject matter of this proceeding. In addition, Petitioner duly published notice of its Second Amended Petition in the counties where Petitioner serves as required by Ind. Code § 8-1-2.5-6(d) (*See* Petitioner's Exs. A-1 and A-2).

2. Petitioner's Characteristics. Duke Energy Indiana is a public utility organized and existing under the laws of the State of Indiana, with its principal office at 1000 East Main Street, Plainfield, Indiana. The Company owns, operates, manages and controls plant, property, and equipment used and useful for the production, transmission, distribution, and furnishing of electric utility service. Duke Energy Indiana directly supplies electric energy to over 780,000 customers located in 69 counties in the central, north central, and southern parts of the State of Indiana. It also serves various wholesale customers and provides steam service to an industrial customer adjacent to Duke Energy Indiana's Cayuga Generating Station.

3. Background. Former Chief Administrative Law Judge ("ALJ") Scott Storms was originally assigned as the presiding ALJ in this Cause. At some point in 2010, Mr. Storms negotiated for and accepted employment at Duke Energy Indiana. On October 14, 2010, Indiana Inspector General David Thomas filed a complaint against Mr. Storms with the Indiana Ethics Commission, alleging that Mr. Storms violated state ethics laws ("Ethics Case").

On May 12, 2011, the Indiana Ethics Commission issued its Final Report on the Ethics Case. The Final Report includes a factual finding that Mr. Storms presided over the July 29, 2010 Evidentiary Hearing in this Cause after he had accepted an offer of employment from Duke Energy Indiana in violation of state ethics laws. Mr. Storms has appealed the Final Report to the Marion County Circuit Court under Cause No. 49D03-1106-PL-22823. That case is still pending.

4. Commission Discussion and Decision. The Ethics Case discussed above, which relates directly to this Cause, has resulted in, and continues to cause, substantial delay in the Commission's ability to review and decide the merits of this case. The consequence of such delay is that the evidence and cost estimates presented in this case may have become outdated and may not adequately represent the actual costs of the Company's proposal. In addition, the Commission has concerns about rendering an opinion on the current record in light of the Indiana Ethics Commission's factual finding in its Final Report.

Therefore, the Commission has determined that it is not in the public interest to decide the merits of Duke Energy Indiana's SmartGrid deployment proposal under this Cause, and we dismiss this case without prejudice.

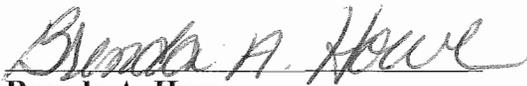
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION, that:

1. This Cause is dismissed without prejudice.
2. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR

APPROVED: OCT 19 2011

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



Brenda A. Howe
Secretary to the Commission