

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMMISSION'S)
 INVESTIGATION INTO ANY AND ALL)
 MATTERS RELATED TO COMMISSION) CAUSE NO. 43566 MISO 5
 APPROVAL OF PARTICIPATION BY)
 INDIANA END-USE OF CUSTOMERS IN)
 DEMAND RESPONSE PROGRAMS) APPROVED: JAN 09 2013
 OFFERED BY THE MIDWEST ISO AND)
 PJM INTERCONNECTION)

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ORDER OF THE COMMISSION

Presiding Officers:

Kari A. E. Bennett, Commissioner

Gregory R. Ellis, Administrative Law Judge

On June 28, 2012, the Cities of Crawfordsville, Frankfort, Lebanon and Tipton, Indiana and the Towns of Kingsford Heights and Knightstown, Indiana, by their respective municipally owned electric utilities, Crawfordsville Electric Light & Power, Frankfort City Light & Power, Kingsford Heights Municipal Electric Utility, Knightstown Electric Utility, Lebanon Utilities and Tipton Municipal Electric Utility (collectively, "Petitioners") filed with the Indiana Utility Regulatory Commission ("Commission") their initial tariff compliance filing and request for approval of their Respective Riders for Interruptible Rate MISO Demand Response Service Emergency ("IS-MISO-DRS Emergency") Tariffs, in compliance with the Commission's Order in Cause No. 43566, dated July 28, 2010 ("Generic DR Order"). Petitioners' initial tariff compliance filing included respective Rider IS-MISO-DRS Emergency ("D.R.S. 1 Riders"). Petitioners also filed the Verified Direct Testimony of Larry Brown on June 28, 2012. On July 17, 2012, Petitioners filed a Notice of Filing Complete Copy of Exhibit "A". The Indiana Office of Utility Consumer Counselor ("OUCC") filed the direct testimony of Ronald L. Keen on September 6, 2012.

Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing was held on October 10, 2012, at 9:30 a.m., in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioners and the OUCC were present and participated. The testimony and exhibits of both Petitioners and the OUCC were admitted into the record without objection. No members of the general public appeared or sought to testify at the hearing.

Based on the law and the evidence of record, the 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. Petitioners own, operate, manage, and control,

among other properties, plant and equipment within the State of Indiana, that are used for the delivery and furnishing of electric service to the public. Petitioners are subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of the State of Indiana, including Ind. Code ch. 8-1.5-3 and certain provisions of the Public Service Act, as amended. Petitioners are members of the Indiana Municipal Power Agency (“IMPA”) and purchase all of their electric power and energy requirements from the IMPA pursuant to the terms of separate Power Sales Contracts. Petitioners are not members of the Midwest Independent Transmission System Operator, Inc. (“MISO”) which is a regional transmission organization (“RTO”). However, IMPA is a member of MISO. IMPA is subject to the jurisdiction of the Commission in the manner and to the extent provided for in Ind. Code ch. 8-1-2.2. The Commission has jurisdiction over Petitioners and the subject matter of this Cause.

2. **Background.** On July 28, 2010, in the Generic DR Order, the Commission ordered that “Indiana end-use customers shall not be enrolled or otherwise participate in RTO demand response programs directly or through curtailment service providers or other aggregators.” Generic DR Order, 2010 Ind. PUC LEXIS 255, at *149. The Commission further ordered Indiana jurisdictional electric utilities (collectively the “Respondent Utilities”) to file with the Commission for approval tariffs or riders authorizing the participation of their respective retail customers in RTO demand response programs through the Respondent Utilities. *Id.* The Commission initiated two subdockets, one for MISO utilities and one for PJM Interconnection, L.L.C. (“PJM”) utilities, to consider development of these tariffs. *Id.* To assist in establishing an appropriate framework for the development and filing of Respondent Utilities’ tariff(s) or rider(s), these matters were further discussed with the Commission and its staff and the parties at a Technical Conference on September 7, 2010. The Respondent Utilities and interested parties participated in the Technical Conference.

3. **Relief Requested.** Petitioners seek approval of their respective D.R.S. 1 Riders which provide for end-use customer participation through Petitioners in the MISO Emergency Demand Response Program.

4. **Evidence Presented.**

a. **Petitioners’ Case-in-Chief.** Petitioners’ witness Larry Brown, IMPA Vice President, Resource Planning, presented testimony in support of Petitioners’ respective D.R.S. 1 Riders. He noted that each of the Petitioners purchases all of its electric power and energy requirements from IMPA, and that the Petitioners are not members of MISO. However, he noted that IMPA is a voting member of and market participant in MISO, and that the assigned service areas of all of the Petitioners are located within the MISO footprint and interconnected to MISO transmission facilities. Although Mr. Brown testified that the Generic DR Order, read literally, does not specifically apply to Petitioners, he explained that IMPA has assisted its member utilities subject to Commission jurisdiction with respect to the approvals required under Ind. Code § 8-1.5-3-8 in developing Retail Demand Response Riders. He testified further that IMPA prepared separate forms of Retail Demand Response Riders that could be adopted by members, depending on whether they were located in the MISO or PJM footprints.

According to Mr. Brown, following issuance of the Generic DR Order, IMPA reviewed

PJM and MISO demand response programs to determine how its members' retail customers could effectively participate in the programs. He noted that IMPA and its members determined that it was best to adopt a demand response rider specifically designed to reflect the emergency demand response programs in PJM and MISO. Mr. Brown testified that the IMPA Board of Commissioners ultimately approved wholesale demand response rates as follows: "Interruptible Rate Schedule - PJM-DRS-Emergency" and "Interruptible Rate Schedule - MISO-DRS-Emergency." Mr. Brown explained that IMPA filed the wholesale demand response rates with the Commission for informational purposes on December 20, 2010, in Cause Nos. 43566 MISO and 43566 PJM, and this informational filing, attached to his testimony as an exhibit, indicates that any retail tariff or rider developed by Petitioners must be approved by their respective boards and municipal legislative bodies. The exhibits attached to Petitioners' Initial Filing and Notice of Filing Complete Copy of Exhibit "A" further indicate that the necessary approvals of Petitioners' municipal legislative bodies have been obtained.

Mr. Brown indicated that, under the terms of the respective D.R.S. 1 Riders, Curtailment Service Providers ("CSPs") will not be allowed to contract directly with Petitioners' retail customers and MISO. He noted that the D.R.S. 1 Riders include a provision that addresses CSPs, but that the involvement of CSPs is limited to situations in which IMPA has elected to hire a third-party CSP as contractor to administer its demand response programs or in which IMPA, as the load serving entity ("LSE"), has contracted directly with a CSP to permit aggregation of retail customers. In either of these situations, explained Mr. Brown, all of the demand response capacity would be utilized by IMPA for planning purposes and to meet its RTO capacity obligations, and the Petitioners would remain directly involved with their customers' participation in demand response programs, with the CSP merely acting as IMPA's contractor to provide greater efficiency or a means of reaching a greater number and variety of potential demand response customers. Mr. Brown further testified that Petitioners' respective D.R.S. 1 Riders are reasonable and just rates and charges for service under Ind. Code § 8-1.5-3-8.

Mr. Brown additionally discussed the role of IMPA in these proceedings. He testified that it is crucial for IMPA to be involved in the demand response process. He explained that demand response participation managed by IMPA will reduce IMPA's capacity requirements and benefit all of IMPA's membership. He further noted that allowing individual retail customer participation in demand response programs (either directly with an RTO or through IMPA members on a stand-alone basis) without IMPA's direct involvement could lead to inaccuracy, confusion and inefficiencies in IMPA's long term planning efforts. Mr. Brown's testimony also included a discussion of the necessity for potential participating customers to contract with IMPA as well as the member municipal electric utility.

Mr. Brown addressed compliance with the reporting provisions of the Generic DR Order. He noted that, because IMPA members are not responsible for procuring their capacity, individual member reporting of demand response results is not very meaningful. He noted that IMPA proposes to report the demand response information in its biennial Integrated Resource Plan. Mr. Brown indicated that since the majority of IMPA members are not under the Commission's jurisdiction for the approval of rates, the demand response amounts reported will be split into jurisdictional and nonjurisdictional member totals.

b. **OUCC's Case-in-Chief.** OUCC witness Ronald L. Keen, Senior Analyst within the Resource Planning and Communications Division, presented testimony in which he noted that the OUCC generally supports the proposed demand response tariff filings made by Petitioners. He noted that the Commission's Order in Cause No. 44080 recognized that smaller utilities such as Petitioners need not be treated exactly like larger, vertically integrated utilities for purposes of the Generic DR Order. He testified that he has reviewed Petitioners' D.R.S. 1 Riders and that, considering Petitioners' small size and limited ability to participate in the MISO markets on their own, Petitioners' proposed offerings are generally reasonable and would not harm other customers. Mr. Keen also testified regarding the OUCC's recommendations with respect to how the use of CSPs is handled. He testified that demand response programs offered by CSPs have the potential to provide opportunities for both energy generators and the end-use customer. Mr. Keen indicated that CSP offerings streamline participation in energy management programs to optimize financial positions through energy generation and reduction efforts.

Mr. Keen testified the OUCC believes IMPA can accomplish the same level of planning and maintaining Petitioners' involvement with customer participation by allowing any qualified CSP to aggregate customers on IMPA's behalf. The limitation of a single third-party CSP inhibits competitive market forces from working and may prohibit potential customers from gaining the best advantage from the programs while preserving IMPA's ability to utilize the demand response capacity for effective planning purposes. Mr. Keen indicated that the OUCC supports Commission approval of Petitioners' proposed tariffs but requests that the Commission require Petitioners to investigate further options with IMPA with respect to CSPs.

5. **Commission Discussion and Findings.** In the Generic DR Order, we required the Respondent Utilities to file tariffs or riders authorizing the participation of retail customers in MISO demand response programs through the Respondent Utilities. We also recognized that each utility is different with unique load characteristics, cost structures, and tariffs. We believe that allowing differences in the tariffs also permits experimentation with the methodologies that can lead to adoption of best practices when the tariffs are revisited. The Commission finds that Petitioners' proposed D.R.S. 1 Riders attempt to balance the interests of customers, CSPs, and Petitioners. Moreover, the evidence before the Commission shows that CSPs will not be allowed to contract directly with Petitioners' retail customers and MISO, and that the involvement of CSPs is limited to situations in which IMPA has elected to hire a third-party CSP as contractor to administer its demand response programs or in which IMPA, as the LSE, has contracted directly with a CSP to permit aggregation of retail customers. Therefore, we find that Petitioners' proposed D.R.S. 1 Riders are supported by the evidence of record, comply with the language set forth in the Commission's Generic DR Order, reasonably set forth the terms and conditions applicable to a retail end-use customer, and should be approved.

The Commission also notes the OUCC's position regarding participation not being limited to a single CSP operating on behalf of IMPA. Consistent with the Generic DR Order, the Commission encourages IMPA and the Petitioners to explore the benefits that may be obtained by greater use of CSPs so long as they work with and through IMPA.

Finally, the Commission acknowledges Mr. Brown's recommendation that Petitioners' compliance with the reporting provisions of the Generic DR Order should be accomplished

through IMPA's reporting of demand response information. The Commission accepts this recommendation. In order to provide the Commission additional data concerning the distinctions among the demand response tariffs offered by the various Indiana regulated utilities, IMPA, on behalf of Petitioners, should include in its next Integrated Resource Plan filed with the Commission a section describing Petitioners' experience with the respective Riders and outlining the costs and expenses associated with the Riders and the administrative charges collected.

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

1. Petitioners' proposed D.R.S. 1 Riders are hereby approved.
2. Petitioners shall file their respective D.R.S. 1 Riders as approved herein with the Commission's Electricity Division prior to placing them into effect.
3. Petitioners may satisfy the reporting requirements of the Generic DR Order through IMPA including demand response information in its biennial Integrated Resource Plan.
4. In accordance with Indiana Code § 8-1-2-70, each Petitioner shall, within twenty (20) days from the date of this Order, pay into the Treasury of the State of Indiana, through the Secretary of this Commission, the following itemized charges, as well as any additional charges which were or may be incurred in connection with this Cause:

Commission Charges:	\$ 468.10
OUCG Charges:	\$ 270.54
Legal Advertising Charges:	\$ <u>542.53</u>

Total:	\$1,281.17
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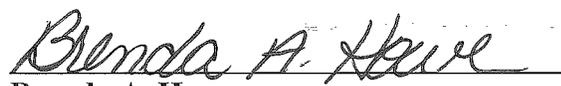
Therefore, each Petitioner shall pay :	\$ 213.53
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5. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JAN 09 2013

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


Brenda A. Howe
Secretary to the Commission