

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

*[Handwritten signatures and initials: JLS, and other illegible marks]*

IN THE MATTER OF THE PETITION OF )  
THE CITY OF AUBURN, INDIANA BY ITS ) CAUSE NO. 43638  
MUNICIPALLY OWNED ELECTRIC )  
UTILITY FOR APPROVAL OF A TIME OF )  
USE RATE FOR CERTAIN RATE CODE 45 ) APPROVED:  
INDUSTRIAL SERVICE CUSTOMERS )

MAY 13 2009

**BY THE COMMISSION:**

**Gregory D. Server, Commissioner**  
**Angela Rapp Weber, Administrative Law Judge**

On February 2, 2009, the City of Auburn, Indiana, by its municipal electric utility ("Petitioner" or "Auburn"), filed a Verified Petition with the Indiana Utility Regulatory Commission ("Commission") seeking approval of new Rate Schedule EHPT. Petitioner proposes to modify the demand charge for electric power and energy provided to qualifying industrial service customers at off-peak times. Along with its Verified Petition, Petitioner pre-filed the direct testimony and exhibits of Auburn's Superintendent, Stuart L. Tuttle, and David L. Bowles, Principal and Chief Executive Officer of Spectrum Engineering Corporation. Auburn filed Petitioner's Exhibits SLT-2 and SLT-3 on February 3, 2009 and March 30, 2009, respectively. Petitioner's Exhibit SLT-2 is a certified copy of the Auburn Board of Works and Public Safety Resolution No. 02-2009 recommending that the Auburn Common Council approve Rate Schedule EHPT. Petitioner's Exhibit SLT-3 is a certified copy of Ordinance No. 2009-04 by which the Common Council approved Rate Schedule EHPT and further recommended that the rate be submitted to the Commission for approval. On April 2, 2009, the Office of Utility Consumer Counselor ("OUCC" or "Public") filed the direct testimony of Utility Analyst Mitchell Van Cleave. On April 9, 2009, Petitioner filed its Notice of Intent Not to File Rebuttal Testimony.

Pursuant to notice duly published as required by law, the Commission convened an evidentiary hearing at 10:00 A.M. on April 20, 2009 in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Public appeared and participated in the evidentiary hearing by counsel. No members of the general public appeared. During the evidentiary hearing, Petitioner and the Public offered their respective pre-filed testimony and exhibits into evidence. Petitioner also offered its Response to Commission Question into evidence. Petitioner and the Public's testimony and exhibits, as well as the Petitioner's Response to Commission Question, were admitted into the record without objection.

Based upon the applicable law, the evidence presented herein and being duly advised, the Commission now finds:

**1. Commission Notice and Jurisdiction.** Due, legal and timely notice of the public hearing conducted by the Commission in this Cause was given as provided by law. Petitioner is a municipal electric utility owned by the City of Auburn, Indiana. Petitioner operates electric

facilities for the distribution of electric energy, and as such, is a municipally owned utility within the meaning of the Public Service Commission Act, as amended. Petitioner 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, therefore, has jurisdiction over the Petitioner and the subject matter of this proceeding.

**2. Petitioner's Characteristics.** Petitioner owns and operates a municipal electric utility that furnishes retail electric service to approximately 5,400 residential, commercial and industrial customers within its assigned service area boundaries in and around the City of Auburn, Indiana (the "City"). Petitioner's electric system consists of electric transmission, distribution, substation and related facilities, all of which are used and useful in providing adequate and efficient service to its customers. Petitioner purchases all of its electric power and energy requirements from American Electric Power Company ("AEP") pursuant to the terms of a Power Purchase Agreement.

**3. Relief Requested.** In order to provide incentives for existing industrial service customers to use power during off-peak hours, Petitioner sought approval of new Rate Schedule EHPT. Under proposed Rate Schedule EHPT, Petitioner's demand charge will be applied in a manner so that eligible industrial service customers will be incented to use electricity during off-peak hours. Specifically, the demand charge will be applied only to the higher of either the eligible customer's: (a) on-peak billing demand; or (b) off-peak billing demand, to the extent it exceeds 1.2 times on-peak billing demand. The demand charge will not be applied to that portion of an industrial service customer's off-peak billing demand that is between 1.0 and 1.2 times on-peak billing demand. On-peak hours are from 0700 to 1900 hours, non-holidays, Monday through Friday, local time.

Proposed Rate Schedule EHPT is a test rate that will apply to all industrial service customers where the customer has: (a) monthly on-peak billing demands in excess of 5,000 KVA, but not more than 20,000 KVA and (b) furnished a complete substation and is able to take three phase service at 69,000 volts. Petitioner's existing Purchase Power Agreement with AEP expires in November 2009, and Petitioner will be subject to different wholesale rates and charges thereafter. Therefore, Petitioner proposes to make Rate Schedule EHPT applicable through October 31, 2009.

**4. Petitioner's Evidence.** Petitioner's Superintendent, Stuart L. Tuttle described the circumstances that caused Petitioner to develop Rate Schedule EHPT. Mr. Tuttle stated that Auburn developed Rate Schedule EHPT at the request of the Board of Works and Public Safety on behalf of the utility's largest customer, Metal Technologies Auburn, LLC ("MTA"). MTA operates a grey iron foundry in the City, employs approximately 150 full-time workers and has a 20,000 kW demand. In 2006, MTA approached Auburn and indicated it was considering expanding its operations in the City. However, MTA wanted to do so at the lowest cost of electricity. Mr. Tuttle testified that over 62% of MTA's monthly electric bill is attributable to the demand charge. Therefore, Auburn and Spectrum Engineering Corporation developed a hypothetical time-of-use rate schedule that could be used to reduce MTA's demand charge.

According to Mr. Tuttle, in June 2008, MTA modified its operations for a one-month period in order to determine whether it could benefit from the application of the hypothetical time-of-use rate schedule. Mr. Tuttle stated that based on that trial, MTA requested that Auburn and Spectrum Engineering finalize a time-of-use rate that could actually be applied to MTA's electric usage over a longer trial period. Mr. Tuttle testified that if the Commission approves Rate Schedule EHPT, MTA initially will be the sole customer served under it. But, Auburn is hopeful that other large industrial customers become interested in receiving service under the rate, to the extent it is effectively used by MTA. Petitioner, the City and DeKalb County also are hopeful that other large industrial customers will locate in the area in the upcoming years and be able to take advantage of Rate Schedule EHPT. Mr. Tuttle stated that the development of a time-of-use rate schedule is part of the City's ongoing effort to encourage existing businesses to expand their operations.

Mr. Tuttle also testified that offering the difference between on-peak and off-peak demands at no charge to MTA or any other Rate Schedule EHPT customers will not increase Auburn's purchased power cost. In addition, it will not impact the rates of Auburn's other customers. Moreover, Mr. Tuttle stated that if customers are able to shift usage to off-peak times, Auburn's overall system load factor will improve. Thus, Auburn's wholesale power costs could potentially be reduced.

David L. Bowles, Principal and Chief Executive Officer of Spectrum Engineering Corporation, also testified in support of proposed Rate Schedule EHPT. Mr. Bowles stated that Spectrum Engineering was engaged to investigate the development, design and implementation of a time-of-use rate for use by qualifying industrial service customers. According to Mr. Bowles, the goal of a time-of-use rate is to reward participating customers for purchasing energy during off-peak periods, which then improves customer and system load factors and lowers costs for both the customer and the utility. In order to develop proposed Rate Schedule EHPT, Spectrum Engineering evaluated MTA's demand and energy contributions to Auburn's three highest peak days of 2007.

Mr. Bowles stated that Rate Schedule EHPT makes it possible for an eligible customer to pay a reduced rate by shifting usage from on-peak hours to off-peak hours because the demand charge is applied to the customer's: (a) on-peak billing demand; or (b) off-peak billing demand, to the extent it exceeds 1.2 times on-peak billing demand. The demand charge will not be applied to that portion of an industrial service customer's off-peak billing demand that is between 1.0 and 1.2 times on-peak billing demand. Mr. Bowles explained that if an eligible customer is able to shift its demand to off-peak hours, the customer would not be charged for off-peak demand, which is up to 20% greater than its on-peak demand.

Mr. Bowles stated that Auburn's proposed time-of-use incentive is based solely on customer demand because AEP does not offer a time-of-use rate to Auburn, and a demand-based incentive is a simple means of encouraging off-peak usage. Mr. Bowles also testified that use of the demand charge as the basis for the potential bill reduction ensures that costs are not shifted to Auburn's other customers. Mr. Bowles explained that, based on a study and analysis conducted over the last year, Spectrum Engineering determined that the average difference between Auburn's on-peak and off-peak demand is nearly 5,200 kW. It is unlikely that MTA will

establish an on-peak demand in excess of 20,000 kW and an off-peak demand in excess of 24,000 kW—a difference of 4,000 kW, which does not exceed the average difference between Auburn's on-peak and off-peak demand.

Mr. Bowles further explained that Auburn's customers will not be harmed if MTA establishes an off-peak demand in excess of 24,000 kW. Mr. Bowles stated that the maximum ratio between off-peak to on-peak demand set forth in Rate Schedule EHPT (*i.e.*, 1.2 times on-peak demand) is intended to protect Auburn and its other customers from extra cost should the time-of-use customer set a system demand peak during off-peak periods. According to Mr. Bowles, if MTA were to establish an on-peak demand of 20,000 kW and an off-peak demand of 25,000 kW, the demand charge would be applied to 21,000 kW, the on-peak demand plus all off-peak demand in excess of 1.2 times the on-peak demand.

Mr. Bowles recommended that the Commission approve Rate Schedule EHPT for use by Auburn's eligible industrial customers. Mr. Bowles explained that the potential rate reduction provided under Rate Schedule EHPT will not result in the shift of costs to Auburn's other customers. Moreover, proposed Rate Schedule EHPT encourages an eligible customer to shift load to off-peak periods. This improves the load factor of both the customer and Auburn which, in turn, reduces costs for both.

During informal communications, the Commission noted that proposed Rate Schedule EHPT expires on October 31, 2009 as a result of the November 23, 2009 expiration of Petitioner's wholesale power supply agreement with Indiana Michigan Power Company. The Commission inquired as to when Auburn intended to petition the Commission for approval of the new rate implemented as a result of the October 31, 2009 expiration date for the proposed Rate Schedule EHPT. The Commission also asked if there would be an interval between the time the proposed rate expires and a new agreement is executed.

On April 20, 2009, Petitioner provided a written response. Petitioner explained that it is in the process of selecting a wholesale power supplier to provide service upon the expiration of its existing agreement, which may or may not be AEP. Because Petitioner expects to enter into a new wholesale power agreement by approximately July 15, 2009, Petitioner does not anticipate that there would be any gap between the expiration of proposed Rate Schedule EHPT and the execution of a new wholesale power supply agreement.

In order to avoid discontinuing Rate Schedule EHPT on October 31, 2009 and to minimize cost to Petitioner and its customers, Petitioner proposed to file a Verified Status Report in Cause No. 43638 once it has entered into a new agreement with a wholesale power supplier. Petitioner would indicate in the Verified Status Report whether Rate Schedule EHPT could continue, with limited changes, under the new wholesale power agreement. If Petitioner believes it is able to continue the rate, with limited changes, Petitioner would explain those changes in the Verified Status Report and provide any necessary supporting documentation (including the new wholesale power agreement and necessary cost support).

Since the Petitioner agreed to work diligently with the OUCC to provide access to Petitioner's witnesses and any needed information, the OUCC indicated to Petitioner that it

would review the proposed revisions to the Rate Schedule, the Verified Status Report and supporting documentation within three weeks of the Petitioner's filing. If the proposed revisions to Rate Schedule EHPT are not objectionable, the OUCC will file a notice with the Commission indicating that the OUCC reviewed the revised Rate Schedule EHPT and that the changes are acceptable. If the OUCC has any issues with Petitioner's proposed revisions to Rate Schedule EHPT, it may require that Petitioner seek approval of those revisions in another proceeding. After reviewing the parties' filings, the Commission then could issue a docket entry either: (a) authorizing Auburn to file the revised Rate Schedule EHPT with the Commission's Electricity Division (if the OUCC has not filed an objection); or (b) requiring that Auburn initiate another proceeding seeking Commission approval of the revised rate.

The Response indicated that the OUCC reviewed the above mechanism for continuing the time of use rate beyond October 31, 2009 and supports the proposal in the interest of keeping regulatory costs to a minimum for a municipal utility.

**5. Evidence Presented by OUCC.** The Prefiled Testimony of OUCC Utility Analyst Mitchell Van Cleave provided an overview of the OUCC's position on time-of-use rates or riders. Mr. Van Cleave testified that since EHPT customers will pay the same energy charge as in the existing EHP rate, together with applicable trackers, the margins created will enable EHPT customer to contribute to fixed cost recovery. Mr. Van Cleave testified that Petitioner's testimony and exhibits and Mr. Van Cleave's further discussions with Mr. Tuttle provided assurance that the demand and energy charges contained in EHPT will cover all variable costs and contribute to the utility's fixed cost recovery.

However, Mr. Van Cleave noted that, according to a discussion he had with Mr. Tuttle, the Auburn plans to offer a time-of-use rate for MTA and other qualifying customers beyond the expiration of Auburn's present wholesale power purchase agreement. Mr. Van Cleave also noted that the Auburn issued a Request for Proposal for replacement wholesale power purchase and that Petitioner currently is reviewing proposals it received. Once a decision is made, Mr. Van Cleave stated work can begin on structuring rates for all of the customer classes, including the rate 45 EHP and EHPT customers.

Ultimately, Mr. Van Cleave testified that as a result of his examination Petitioner's filings and discussions with Mr. Tuttle, the OUCC supports Commission approval of Petitioner's proposed Rate Schedule EHPT.

**6. Discussion and Findings.** Petitioner demonstrated that Rate Schedule EHPT will not result in costs being shifted to its other customers. As described by Petitioner's witness Bowles, use of the demand charge as the basis for the potential bill reduction, combined with the maximum ratio of off-peak to on-peak demand (*i.e.*, 1.2 times on-peak demand) set forth in Rate Schedule EHPT, ensures that costs are not shifted to Auburn's other customers. In fact, rewarding large industrial customers for purchasing energy during off-peak periods may improve customer and system load factors and thereby lower costs for both the customer and the utility. Consequently, the evidence produced by Petitioner establishes that Rate Schedule EHPT is reasonable and Petitioner's other retail electric customers will not be harmed by the availability of the economic incentive adjustment.

Moreover, Rate Schedule EHPT is expected to be a valuable tool in promoting economic development within the City. The Commission finds compelling Mr. Tuttle's testimony that the cost of utility service at a proposed site is an important factor considered by businesses in deciding whether to locate within the State. OUCC witness Van Cleave agreed that Rate Schedule EHPT offers potential economic development benefits that could be beneficial to Petitioner's other ratepayers. The attraction of businesses and creation of jobs provides citizens of the City and the State with new or improved employment opportunities. The addition of customers through economic development efforts also is beneficial in helping Petitioner spread its fixed cost recovery over a larger number of customers or units sold.

The Commission notes that no party opposed proposed Rate Schedule EHPT. The Public filed testimony indicating that it supports Commission approval of rate EHPT, as proposed by the Petitioner. OUCC witness Van Cleave concluded that participating Rate Schedule EHPT customers will benefit from its approval. In addition, no other customer group will be harmed by Petitioner providing time-of-use rates via the proposed Rate Schedule EHPT to qualifying customers.

Based upon the applicable law and evidence presented herein, the Commission finds Petitioner's proposed Rate Schedule EHPT should be approved. Indiana Code § 8-1.5-3-8(b) provides that the "rates and charges made by a municipality for a service rendered or to be rendered, either directly or in connection therewith, must be nondiscriminatory, reasonable, and just." Based on the uncontroverted evidence of record, we find that the rates established under Petitioner's Rate Schedule EHPT and the incorporated economic incentive will be nondiscriminatory, reasonable and just.

The Commission further finds the process agreed upon by Petitioner and the Public relating to the continuation of Rate Schedule EHPT beyond October 31, 2009, which is described in paragraph four above, is reasonable and should be approved. The process promotes efficiency by potentially allowing Petitioner to avoid filing a new docketed proceeding in order to continue Rate Schedule EHPT beyond October 31, 2009. In addition, the process includes an opportunity for the Public and the Commission to review any revisions to Rate Schedule EHPT and require that Petitioner file a new docketed proceeding, to the extent either believe a more thorough review of the needed changes is necessary.

Accordingly, the Commission finds that the relief Petitioner has requested in this proceeding should be granted.

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

1. Petitioner's Verified Petition for approval of a new Rate Schedule EHPT shall be and hereby is approved.
2. Petitioner is hereby authorized to file a tariff sheet for Rate Schedule EHPT consistent with that set forth in Ordinance 2009-04, which was filed as Petitioner's Exhibit

SLT-3. Rate Schedule EHPT shall become effective upon filing with and approval by the Commission's Electricity Division.

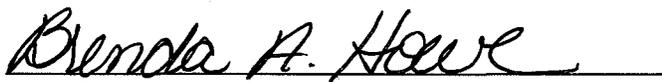
3. The process agreed upon by Petitioner and the Public relating to the continuation of Rate Schedule EHPT beyond October 31, 2009, which is described in paragraph four above, is hereby approved.

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

**HARDY, GOLC, LANDIS, SERVER AND ZIEGNER CONCUR:**

**APPROVED: MAY 13 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**