

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE )  
CITY OF PERU, INDIANA BY ITS MUNICIPAL )  
ELECTRIC UTILITY, FOR APPROVAL OF A )  
COINCIDENT PEAK REDUCTION CREDIT TO BE )  
APPLICABLE TO QUALIFYING CUSTOMERS IN )  
ITS POWER SERVICE AND GENERAL SERVICE )  
RATE CLASSES )

CAUSE NO. 43679

FINAL ORDER

APPROVED:

SEP 03 2009

*[Handwritten signatures and initials: JIA, JLG, and a large signature]*

**BY THE COMMISSION:**

**Jeffrey L. Golc, Commissioner**

**Lorraine Hitz-Bradley, Administrative Law Judge**

On April 29, 2009, Petitioner, the City of Peru, Indiana, by its municipal electric utility ("Petitioner" or "Peru"), filed a Petition with the Indiana Utility Regulatory Commission ("Commission") seeking approval of a Coincident Peak Reduction Credit ("Credit"), which would apply to certain qualifying customers served under Petitioner's Rate Schedule PS (Power Service).<sup>1</sup> Petitioner filed the direct testimony and exhibits constituting its case-in-chief on April 30, 2009.

Pursuant to notice duly published as required by law, the Commission held a Prehearing Conference at 10:00 A.M. on June 3, 2009 in Judicial Courtroom 224 at the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Indiana Office of Utility Consumer Counselor ("Public") appeared and participated in the Prehearing Conference. On June 17, 2009, the Commission issued a Prehearing Conference Order setting forth the procedural schedule for this proceeding.

On July 7, 2009, the Public filed the prepared direct testimony of Greg A. Foster. Petitioner filed a *Notice of Intent Not to Pre-file Rebuttal Testimony* on July 21, 2009. On August 13, 2009, the Presiding Officers issued a docket entry finding that Petitioner should answer certain questions on or before August 17, 2009. On August 17, 2009, Petitioner filed *Petitioner's Responses to Commission Requests for Information*.

Pursuant to notice duly published as required by law, the Commission convened an evidentiary hearing at 10:00 A.M. on August 19, 2009 in Judicial Courtroom 222 at the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Public appeared and participated in the evidentiary hearing. No members of the general public appeared. During the evidentiary hearing, Petitioner offered its prepared direct testimony and exhibits into evidence, all of which were admitted without objection. Petitioner also offered into evidence *Petitioner's Responses to Commission Requests for Clarifying Information*, which was also admitted into evidence without objection. The Public then offered its prepared direct testimony into evidence,

<sup>1</sup> Peru's original Petition requested the Credit for eligible customers in its General Rate Class, but withdrew that request prior to the evidentiary hearing upon determining that the credit would not apply to customers in that class. The recitation of evidence and findings in this Order therefore do not contain references to the General Rate Class, as Petitioner has withdrawn its request for relief related to that class of customers.

which was admitted without objection. Petitioner's witness, Scott A. Miller, C.P.A., a principal in the firm of H.J. Umbaugh & Associates, Certified Public Accountants, LLP ("Umbaugh") responded to questions from the Bench related to the proposed Credit.

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 Peru, Indiana (the "City"). Petitioner operates electric facilities for the generation, transmission and distribution of electric demand and energy, and as such is a "municipal 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 an electric utility system, which renders electric service to approximately 10,835 residential, commercial and industrial consumers located within its assigned service area in and around the City. Petitioner's electric system consists of electric generation, transmission, distribution, substation and related facilities, all of which are used and useful in providing adequate and efficient service to its customers. The City is a member of the Indiana Municipal Power Agency ("IMPA"). Petitioner purchases all of its power and energy requirements from IMPA pursuant to the terms of a Power Sales Contract.

**3. Relief Requested.** Petitioner sought approval of a proposed interruptible rate, to be known as the Coincident Peak Reduction Credit ("Credit"). Petitioner proposed that the Credit be applied to the rates and charges of customers that: (i) receive service under Petitioner's Power Service rate schedules, (ii) have a minimum load of 1,000 KW, and (iii) have the ability to adjust their operations to reduce demand and their contribution to the monthly KW peak billed to Petitioner by IMPA. Customers qualifying for the Credit would receive a signal from Petitioner identifying the hour Petitioner estimates it will reach the system daily peak. The customer then will have the option to adjust its operations in a manner that will result in a reduction in the customer's contribution to the estimated daily peak demand. The reduction in demand by the customer will result in a reduction in the demand charges on Petitioner's monthly bill from IMPA. The customer's allocated portion of the resulting reduction in demand charges from IMPA will be passed back to the customer in the form of the monthly Credit. Exhibit "A" to the Petition described how the Credit will be calculated.

#### **4. Evidence Presented.**

**A. Petitioner's Evidence.** Petitioner's General Manager Roger Merriman testified that the proposed Credit is designed to encourage industrial customers with above-average electric loads to reduce their electrical usage during times of peak electrical demand on Peru's system. Mr. Merriman stated that Petitioner will signal the customer identifying the hour it estimates it will reach the system daily peak. The customer then could adjust its operations in order to reduce the customer's contribution to the estimated peak daily demand. Mr. Merriman testified that this reduction in the system daily peak will result in a reduction in Peru's monthly wholesale purchased electricity bill. The customer's allocated portion of this reduction will be passed back to the

customer in the form of a credit appearing on the customer's monthly bill.

Mr. Merriman explained, in general, the manner in which a qualifying customer's monthly Credit would be calculated. First, the City's estimated peak savings from the customer's actions would be determined by subtracting the customer's actual contribution to Petitioner's billed monthly peak in kilowatts from the customer's average peak during the three hours prior to the time Peru signaled the customer to reduce their electrical load. Second, the amount of the Credit to be applied to the customer's monthly electric billing would be determined by multiplying Peru's estimated peak savings due to the customer's actions times IMPA's demand rate and any applicable adjustments or charges per kilowatt.

Mr. Merriman believes the proposed Credit will complement the economic development rider the Commission approved in Cause No. 43529 and be similarly useful to the City's efforts to retain and encourage business growth in and around the City. Mr. Merriman testified that, in his opinion, economic development is important to the City and Miami County as a whole. The retention and attraction of businesses and jobs provides citizens of the City (and Peru's customers) with employment opportunities and provides the City increased tax revenues. Mr. Merriman indicated that the proposed Credit would provide favorable rates to some of the City's larger customers, and the City and Petitioner are hopeful that favorable rates will assist in retaining and attracting new businesses to the community. According to Mr. Merriman, the accessibility of competitively-priced, reliable electric utility service is an important factor in securing new businesses and the jobs such businesses create. He stated that such service is most critical to those industries with high energy demands, such as manufacturing businesses, and those requiring increased levels of reliability, such as technology companies.

Mr. Merriman also stated that the reduction of usage during peak periods has broader societal benefits, including electric cost savings from avoided generation and plant construction needed by IMPA to meet its members' aggregated peak loads, and the reduced risk of system outages and consequent disruptions. He testified that the proposed Credit will improve Peru's overall system load factor to the extent customers are able to shift their usage to off-peak periods. In Mr. Merriman's opinion, the proposed Credit is "nondiscriminatory, reasonable, and just" and will be a valuable tool in promoting economic development within the City.

Petitioner's witness, Scott A. Miller, C.P.A., a principal in the firm of H.J. Umbaugh & Associates, Certified Public Accountants, LLP ("Umbaugh"), testified regarding the Accounting Report Umbaugh prepared to determine the method of calculating the proposed Credit. Pet. Ex. SAM at 3. The Accounting Report, dated April 30, 2009, was admitted into evidence as Petitioner's Exhibit SAM-1.

Mr. Miller briefly summarized the applicability of the proposed Credit, and noted that qualifying customers include those customers on rate schedules PS (Power Service) that have: (i) a minimum load of at least 1,000 KW, (ii) the ability to adjust their operations to reduce the customer's impact on the monthly total system peak, and (iii) the ability to enter into an agreement with the Petitioner detailing the procedures and requirements associated with the changes to the customer's operations that will result in the peak reduction.

Mr. Miller then described the manner in which the proposed Credit would operate for an eligible customer. Petitioner would communicate with IMPA to identify the days and hours that

Petitioner is forecasted to reach its peak demand. Petitioner then would notify an eligible customer of these times. Mr. Miller stated that the customer would then adjust its operations to reduce the amount of demand during those peak times. By reducing its demand during peak hours, the customer reduces the Petitioner's total demand, which then results in a lower monthly demand charge to Petitioner from IMPA. In return for reducing its demand charges from IMPA, Petitioner would provide a Credit to the customer on its monthly bill.

Mr. Miller then described how the proposed Credit would be calculated if approved by the Commission. Petitioner would identify the amount of the customer's demand for the three hours prior to the hour that Petitioner signaled to the customer that the peak demand hour was approaching and calculate customer's average demand for these three hours. The customer's demand meter would be used to determine the customer's demand at the time of Petitioner's peak demand. Mr. Miller stated that the difference between the customer's calculated three-hour average demand and the customer's actual demand at the time of Petitioner's peak "produces the amount of demand for which the Customer will receive a credit." That amount is multiplied by IMPA's wholesale demand rates and charges in order to calculate the Credit.

Mr. Miller testified that the quarterly electric tracking factor calculation (the "Tracker") would need to be adjusted to provide an incentive to customers eligible for the Credit to reduce demand during peak hours and to ensure the proposed Credit is given directly to the customer who took the action to reduce demand during peak demand hours. Pages 15 and 16 of Mr. Miller's report present how the Tracker calculation would need to be adjusted. Mr. Miller testified that, in his opinion, the proposed Credit was fair, just, non-discriminatory, and reasonable.

**B. OUCC's Evidence.** Public's witness, Greg A. Foster, testified that the Public was generally supportive of peak load management and recommended that the Commission approve Petitioner's proposed Credit. He testified that Petitioner's overall system load factor will improve to the extent that customers are able to shift their usage to off-peak periods, which would result in lower demand charges from IMPA and reduce the amounts billed to Petitioner's customers qualifying for the Credit. Mr. Foster, however, suggested that Petitioner reevaluate the calculations used to support the Credit when actual data is available "to measure the effectiveness of Petitioner's retail billing credit in lowering peak usage and reducing IMPA's wholesale demand charges." Mr. Foster recommended that Petitioner report the results of that analysis to the Commission no later than four years from the date of the final Order in this proceeding.

**5. Discussion and Findings.** A review of the evidence presented shows that the proposed Credit will encourage customers with above-average electric loads to reduce their electrical usage during times of peak electrical demand on Peru's electrical system. This decrease in the daily peak demand will result in a reduction in Petitioner's monthly wholesale purchased electricity bill from IMPA, which in turn, will be passed back to qualifying customers in the form of a credit appearing on the customers' monthly bill.

We note Mr. Merriman's testimony that the accessibility of competitively-priced, reliable electric utility service is an important factor in securing new businesses and the jobs such businesses create. We find that the reduction of usage during peak periods has broader societal benefits, including electric cost savings from avoided generation and plant construction needed by IMPA to meet its members' aggregated peak loads, and the reduced risk of system outages and consequent disruptions.

We note that the Public's witness was supportive of peak load management and recommended that the Commission approve Petitioner's proposed Credit. We are persuaded by both Petitioner's and Mr. Foster's testimony that Peru's overall system load factor will improve to the extent that customers are able to shift their usage to off-peak periods, which would result in lower demand charges from IMPA and reduce the amounts billed to Petitioner's customers qualifying for the Credit.

Indiana Code § 8-1.5-3-8(b) states 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." The testimony presented largely meets these three requirements, with one weakness. In Petitioner's responses to the Commission's questions, Petitioner states the following:

While this particular example shows that the customer would receive a credit in excess of the reduction in system demand, it is also assumed that there will be instances in which the credit given will be less than actual system demand reduction....It is assumed that over the course of time the over or under application of the [Credit] will balance out and not have an adverse impact on the Petitioner's other customers.

Petitioner's Ex. RM-2, at 2.

When questioned at the evidentiary hearing, Mr. Miller testified that Mr. Merriman had already committed to monitor the balancing of Credits. When asked whether Petitioner had made plans for any form of true-up in the event of an imbalance, Mr. Miller stated that no protocol had been established and that Petitioner would likely need to ask for Commission assistance in that instance. Mr. Miller proffered that one form of adjustment to the Credit could take the form of increasing the number of hours used in the credit calculation, which would impact the resulting credit. When asked by the Presiding Officers, Mr. Miller indicated that Peru would be agreeable to filing a report with the Commission on an annual basis showing the balance or imbalance of credits.

In order to insure that the interruptible rate established under Petitioner's proposed Credit is "nondiscriminatory, reasonable, and just", we find that Petitioner shall file an annual report on January 31 showing the balance or imbalance of Credits given in the prior year, with the first report due January 31, 2010. As Peru is only now installing the types of meters that will be able to measure usage for purposes of determining a credit, no historical data is currently available. However, at the time of the first filing, Petitioner shall provide all data acquired to date for the subject customers. On a going forward basis, information regarding balances or imbalances should be provided based on a calendar year. To the extent that there is an imbalance present in such a report, Petitioner shall also offer a plan to remedy such imbalance. This report should also reevaluate the calculations used to support the Credit and measure the effectiveness of the Credit in lowering peak usage and reducing IMPA's wholesale demand charges. Subject to these strictures, we find that Petitioner's request should be approved based on the applicable law and the evidence of record.

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

1. Petitioner's Verified Petition for approval of a Coincident Peak Reduction Credit shall be and hereby is approved.

2. Petitioner is hereby authorized to file a tariff sheet for the Coincident Peak Reduction Credit consistent with that set forth in Ordinance No. 5, 2009, which was attached as Exhibit "A" to its Verified Petition. The Coincident Peak Reduction Credit shall become effective upon filing with the Commission's Electricity Division.

3. Petitioner shall file a report in this Cause annually on January 31 which reevaluates the calculations it used to support the Credit; provides historical credit usage data up to December 31 of the preceding year for customers using the credit; provides information regarding the balance or imbalance of credits and a remedy plan in the event of imbalance; and measures the effectiveness of the Credit in lowering peak usage and reducing IMPA's wholesale demand charges.

4. In accordance with I.C. 8-1-2-70, Petitioner shall pay the following itemized charges within twenty days from the date of the Order to the Secretary of this Commission, as well as any additional costs which were or may be incurred in connection with this Cause:

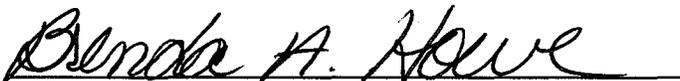
Commission Charges:	\$814.49
OUCG Charges:	\$953.66
Legal Advertising Charges:	\$ <u>43.62</u>
Total:	\$1811.77

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

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

**APPROVED: SEP 03 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**