

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED )  
 PETITION OF INDIANA MICHIGAN )  
 POWER COMPANY FOR APPROVAL OF ) CAUSE NO. 43953  
 A REVISED ECONOMIC DEVELOPMENT )  
 RIDER TO BE APPLICABLE TO CERTAIN ) APPROVED: FEB 23 2011  
 CUSTOMERS IN ITS INDUSTRIAL )  
 POWER SERVICE RATE CLASS. )

**BY THE COMMISSION:**

**James D. Atterholt, Chairman**  
**Gregory R. Ellis, Administrative Law Judge**

On September 23, 2010, Indiana Michigan Power Company (“Petitioner” or “I&M”) filed its Verified Petition and supporting testimony with the Indiana Utility Regulatory Commission (“Commission”) requesting approval of a revised Economic Development Rider (“EDR”) to be applicable to certain customers in its industrial power service rate class.

On November 15, 2010, the Indiana Office of Utility Consumer Counselor (“OUCC”) prefiled its direct testimony of utility analyst Eric M. Hand. On November 22, 2010, the OUCC and I&M filed a Joint Stipulation and Motion for Interim Order (“Joint Motion”), wherein the parties requested that the Commission issue an interim order extending the date by which customers must apply under I&M’s existing EDR. On December 6, 2010, Petitioner prefiled its rebuttal testimony of William W. Hix. The Commission issued an Interim Order on December 29, 2010 which granted the relief requested in the Joint Motion, extending the date by which customers must apply under I&M’s existing EDR from January 1, 2011 to March 1, 2011.

On December 20, 2010, pursuant to notice duly published according to law, an evidentiary hearing was convened at 1:00 p.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, I&M and the OUCC appeared and participated. No members of the general public were present or sought to testify at the hearing. The testimony and exhibits of the parties were admitted into evidence and the witnesses were made available for cross-examination.

The Commission, having examined all of the evidence of record and being duly advised in the premises, now finds as follows:

1. **Notice and Jurisdiction.** Proper notice of the public hearing in this Cause was given as provided by law. Petitioner is a public electric generating utility, organized and existing under the laws of the State of Indiana, with its principal office and

place of business at One Summit Square, Fort Wayne, Indiana. I&M is engaged in rendering electric service in the State of Indiana, and owns, operates, manages and controls, among other properties, plant and equipment within the State of Indiana that are used for the generation, transmission, delivery and furnishing of such service to the public. I&M is subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other laws of the State of Indiana. Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Relief Requested.** By its Verified Petition, I&M seeks approval of a two-year extension of the date by which application for service under its EDR must be made from January 1, 2011 to January 1, 2013; an extension of the date by which all demand adjustments under the EDR will terminate from December 31, 2010 to December 31, 2012; and approval to revise certain EDR qualifying requirements.

3. **Evidence.**

A. **I&M's Case-in-Chief.** I&M witness William Hix testified that on March 4, 2009, in Cause No. 43306, the Commission approved I&M's EDR which provides discounts for new load of qualifying new or existing customers receiving service under Tariff IP ("Industrial Power"). Mr. Hix explained that the current EDR is available to new customers having a billing demand of 1,000 kVA or more, or existing customers that are increasing their billing demand by 1,000 kVA or more over the maximum billing demand during the 12 months prior to the date of the application by the customer for service under the EDR. Mr. Hix stated that in addition, service under the EDR requires that the principal business engaged in at the customer's service location be classified by certain Standard Industrial Classification ("SIC") Major Group.<sup>1</sup> A new customer, or an expansion by an existing customer, must also result in the creation of at least 25 full-time equivalent jobs ("FTE") per 1,000 kVA demand of new load maintained over the contract term. Last, Mr. Hix testified that a customer must demonstrate to I&M's satisfaction that, absent the availability of the EDR, the qualifying new or increased demand would be located outside of I&M's service territory or would not be placed in service due to poor operating economics.

Mr. Hix testified that since I&M first offered the current EDR in March 2009, no customers have qualified and taken service under the EDR. I&M has had inquiries though about the availability of service under the EDR.

Mr. Hix next described I&M's proposed revisions to the EDR. He testified that I&M proposes to expand the SIC Major Group requirement to include certain types of non-manufacturing businesses that promote sustained investments in facilities and job creation, such as distribution centers and data processing centers. Mr. Hix indicated that these types of entities do not qualify under the current SIC Major Group requirement.

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<sup>1</sup> It should be noted that the Standard Industrial Classification (SIC) System was last updated in 1987 and the North American Industry Classification System (NAICS) was created in 1997. Although certain government agencies and industries still use SIC codes, the SIC is being replaced by NAICS.

Mr. Hix further stated that I&M would maintain the list of SIC Major Group businesses that will not qualify for service under the EDR, which primarily include agriculture, retail and hotel businesses.

Mr. Hix further testified that I&M is proposing to eliminate the job creation requirement. He explained that manufacturing operations are becoming more automated and thereby produce more product with less labor, and that a substantial machinery investment and/or building expansion does not necessarily result in significant job creation, although it may help to promote job preservation. Mr. Hix provided as an example the fact that the Fort Wayne-Allen County Economic Development Alliance recently reported seven expansions for the period of July 19, 2010 through September 1, 2010, which resulted in roughly 100 jobs. He stated that the EDR under its current terms and conditions does not serve as a significant means to encourage today's industrial growth and that the job creation requirement is inconsistent with the expansion activity in I&M's service area.

Mr. Hix next described the proposed revisions to the Urban Redevelopment Customers and Brownfield Redevelopment Customers qualifications. He stated that the proposed language revisions better clarify these customers and reduce the vacant building requirement from two years to one year.

Mr. Hix testified that the proposed revisions to the EDR will not change any rates applicable under the EDR. Rather, the revised EDR will further encourage economic development in Indiana by incentivizing businesses to locate new or expanded industry in I&M's service area. He stated that all stakeholders will benefit from attracting new or expanded business to the I&M service territory, thereby creating plant and facilities investment and job creation or preservation opportunities. Mr. Hix stated that upon Commission approval, the revised EDR will be available to the public and accessible by those doing independent research on site location via I&M's website.

Mr. Hix testified that the Commission should approve I&M's request to extend the availability of the EDR by two years and to incorporate revisions that will enhance the EDR by reducing requirements that have prevented some customers from obtaining service under the EDR. He stated that the incentives offered by the EDR will be made available to additional businesses that promote sustained investments in facilities that would not otherwise qualify under the EDR's current terms and conditions. Mr. Hix testified that if I&M's request is approved the EDR will continue to be a valuable asset in both I&M's and Indiana's efforts to attract and retain quality economic development job creation and preservation opportunities.

**B. OUCC's Case-in-Chief.** OUCC Witness Eric Hand testified regarding the proposed revisions to I&M's EDR and its extension to January 1, 2013. He stated that the OUCC supports the requested EDR time extension, as well as the change in eligible SIC codes to allow potential increased customer participation. He also testified that it may be advisable to consider reducing, rather than eliminating, the job creation requirement. According to Mr. Hand, eliminating this requirement is counter to the

concept of offering incentives to promote economic development. He proposed that the job requirement be reduced to something more reasonably attainable, such as 10 jobs instead of 25. Mr. Hand also testified that the types of entities represented in the additional SIC groups may not have the same level of “multiplier effect” as manufacturing, resulting in a lower effective return on economic development investment. He further testified that Petitioner’s example of a data processing center would have minimal economic development in the form of jobs compared to other types of customers.

**C. I&M’s Rebuttal Testimony.** In rebuttal, Mr. Hix responded to Mr. Hand’s testimony. He testified that the non-manufacturing businesses discussed by Mr. Hand can be significant economic development contributors, and cited two recent examples of sizeable non-manufacturing investments in Grant County. Mr. Hix also stated that the City of South Bend (and the South Bend area in general) is specifically targeting data centers for economic development and that the majority of the employees these data centers attract are skilled in higher technology, well educated and generally higher paid.

Mr. Hix also disputed Mr. Hand’s claim that removing the job creation requirement is at odds with other efforts being made to promote economic development. He noted that after losing several significant sized data centers to other states, the Indiana Legislature passed Senate Bill 448, which specifically targets data centers by allowing for personal property tax exemptions. He also referenced efforts being made by Project Future, the South Bend economic development group, to attract data centers and concluded that removing the job creation requirement from the EDR will enhance opportunities for meaningful economic development within I&M’s service territory.

Finally, Mr. Hix responded to Mr. Hand’s suggestion that the job creation requirement be set at 10, rather than 25, FTE jobs per 1,000 kVA demand of new load. He noted that I&M first introduced an EDR in 1987 and since that time, I&M has had several different EDRs in effect. He stated that none of these EDRs, prior to the current EDR, contained any job creation requirement.<sup>2</sup> Mr. Hix further stated that the goal of I&M’s EDR, namely economic development, can and does go far beyond just job creation to include job retention, investments in local and state tax bases and support and expansion of related businesses. He therefore recommended that the Commission approve I&M’s proposed revisions to the EDR in their entirety.

**4. Commission Findings.** The Commission has long recognized the importance of economic development programs and has supported efforts by Indiana utilities to attract additional investments within their service territories through economic development rates. As the Commission has previously stated:

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<sup>2</sup> On December 28, 2010, Petitioner filed a correction to Mr. Hix’s rebuttal testimony clarifying that at one point I&M’s EDR did have a jobs requirement, although it was not tied to a specific level of demand as with the current EDR.

[t]his Commission fully recognizes the importance of electric economic development rates in aiding the attraction and retention of job intensive industrial and large commercial enterprises. As such, we have done our best to accommodate the specific needs of each and every electric utility in the state in the design and approval of economic development rates. It is our intent to foster quality economic development whenever possible.

*In re Indiana Michigan Power Co.*, Cause No. 41366 at 7 (IURC 10/13/99). Given the current economic conditions Indiana faces, economic development efforts have taken on new importance. Accordingly, we find that I&M's EDR should be extended through January 1, 2013.

The only disagreement between the parties centered upon the EDR's job creation requirement. I&M's witness Hix testified that I&M has not had any participation under the current EDR, although it has had participation under prior EDRs which did not include as strict a job requirement. Mr. Hix also confirmed that the City of South Bend and Project Future, the local economic development group, appear to support I&M's proposed revisions to its EDR. The OUCC's witness, Mr. Hand, agreed during the hearing that the low participation rate under the current EDR may suggest that the current job requirement is too high. While I&M's current EDR includes a job requirement, we note that it was first proposed in 2007 and was approved in 2009. It is clear that Indiana's economic conditions have changed dramatically since the current EDR was proposed. Accordingly, it is appropriate to revisit and adjust the job creation requirement.

We find that economic development encompasses more than creation of jobs, and includes retention of jobs and investment in local property. We agree with Petitioner that there are valuable ancillary benefits to economic development including increases in property tax revenues, creation of spin-off or subsidiary businesses and revitalization of vacant or underused buildings. We note that the OUCC likewise agreed during the evidentiary hearing that new capital investments bring these ancillary benefits. However, we also find, based upon the record presented in this proceeding, that some level of job creation should be required before a customer may receive the benefits of service under the EDR. Accordingly, we find that I&M's proposed EDR should be approved, with one exception. While the previous EDR required that a new or existing customer create twenty-five (25) jobs per 1,000 kVA of demand, we find that a customer's eligibility for Petitioner's proposed EDR should be contingent upon the new or expanded load creating ten (10) full-time equivalent jobs maintained over the EDR contract term at the service location.<sup>3</sup> This does not modify the pre-existing load requirement of the EDR that the new or increased load be 1,000 kVA or more to qualify for the EDR at the outset. Instead, this modification removes the nexus between the number of jobs created per kVA of demand. We find this modified job creation requirement addresses the OUCC's concerns

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<sup>3</sup> On December 29, 2010, Petitioner submitted a proposed final order that it had discussed with the OUCC that contained a jobs creation requirement of ten (10) to be eligible for the EDR. There were no objections to the proposed final order from the OUCC.

regarding accountability while also creating enhanced opportunities for economic development in I&M's service territory.

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

1. Petitioner's Verified Petition for approval of changes in its EDR shall be, and is, hereby granted as modified above.

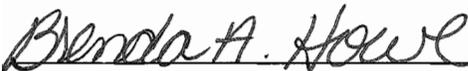
2. Petitioner shall file a revised EDR, consistent with the above findings, with the Commission's Electricity Division. The EDR shall include both SIC codes and equivalent NAICS codes when defining business classifications. Upon approval by the Electricity Division, the EDR shall be effective and shall cancel any prior EDR.

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

**ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR; BENNETT NOT PARTICIPATING:**

**APPROVED: FEB 23 2011**

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

  
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**Brenda A. Howe**  
**Secretary of the Commission**