

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN)
POWER COMPANY, AN INDIANA CORPORATION,)
FOR APPROVAL PURSUANT TO IND. CODE 8-1-2-) CAUSE NO. 44034
42(a), 8-1-8.8-11 AND TO THE EXTENT NECESSARY)
8-1-2.5-6 OF A RENEWABLE ENERGY PROJECT)
POWER PURCHASE AGREEMENT WITH) APPROVED: SEP 21 2011
WILDCAT I WIND FARM, LLC, INCLUDING)
TIMELY COST RECOVERY.)

BY THE COMMISSION:

David E. Ziegner, Commissioner
Loraine L. Seyfried, Administrative Law Judge

On June 3, 2011, Indiana Michigan Power Company ("I&M" or "Petitioner") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of a Renewable Wind Energy Project Power Purchase Agreement ("Wind REPA") between Wildcat I Wind Farm, LLC ("Wildcat I Wind") and I&M, including timely recovery of the associated costs. On June 17, 2011, I&M filed its case-in-chief and its Motion for Protection and Nondisclosure of Confidential and Proprietary Information, through which protection from public disclosure was sought for certain pricing and commercial trade secrets ("Confidential Information"). On June 21, 2011, the Presiding Officers issued a docket entry determining that the Confidential Information should be held as confidential by the Commission on a preliminary basis.

On June 14, 2011, the Indiana Michigan Industrial Group ("Industrial Group"), an ad hoc group of industrial customers located in the electric service territory of I&M, filed its Petition to Intervene.¹ The Industrial Group's Petition to Intervene was granted via docket entry dated June 15, 2011. On July 7, 2011, the Commission issued a Prehearing Conference Order, which among other things, established a procedural schedule in this Cause. On July 15, 2011, Petitioner filed its submission of proofs of publication of notice in accordance with Ind. Code § 8-1-2.5-6(d). On August 12, 2011, the Indiana Office of Utility Consumer Counselor ("OUCC") prefiled its testimony. On August 23, 2011, I&M filed its rebuttal testimony.

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 public hearing in this Cause was held on August 29, 2011, in Room 224, PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Counsel for I&M, the OUCC and the Industrial Group appeared and participated at the hearing, and the prefiled testimony of the OUCC and I&M were admitted into the record without objection. No members of the general public were present at the hearing.

¹ The Petition to Intervene identified the following as members of the Industrial Group: Air Products & Chemicals, Inc.; Arcelor Mittal USA; Hartford City Paper, LLC; Marathon Petroleum Company, LLC; Praxair, Inc.; and The Linde Group.

Based upon applicable law and the evidence presented herein, the Commission now finds as follows:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Proofs of publication for legal notices made by I&M in accordance with Ind. Code § 8-1-2.5-6(d) were offered and admitted into evidence. Petitioner is a “public utility” under Ind. Code § 8-1-2-1 and an “energy utility” providing “retail energy service” as defined in Ind. Code §§ 8-1-2.5-2 and -3, and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Petitioner requests relief pursuant to Ind. Code ch. 8-1-8.8 and Ind. Code §§ 8-1-2.5-6 and 8-1-2-42(a). Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner’s Characteristics and Business.** I&M, a wholly-owned subsidiary of American Electric Power Company, Inc. (“AEP”), is a corporation organized and existing under the laws of the State of Indiana, with its principal office at One Summit Square, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the States of Indiana and Michigan. In Indiana, I&M provides retail electric service to approximately 458,000 customers in the following counties: Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Hamilton, Henry, Howard, Huntington, Jay, LaPorte, Madison, Marshall, Miami, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells and Whitley. In addition, I&M serves customers at wholesale in the States of Indiana and Michigan. I&M’s electric system is an integrated and interconnected entity that is operated within Indiana and Michigan as a single utility.

3. **The Wind REPA and Relief Requested.** I&M is seeking Commission approval of a renewable energy purchase power agreement under which I&M would purchase approximately 100 MWs of name plate rated wind power from Wildcat I Wind, a subsidiary of E. ON Climate and Renewables. The source of the energy would be from a wind farm to be located in Madison and Tipton Counties, Indiana (“Wildcat Project” or “Project”). The Project will supply the electrical output and environmental attributes, including the renewable energy certificates (“RECs”), to I&M for a period of twenty years under the proposed Wind REPA.

I&M requests the Commission approve the Wind REPA and find the Wildcat Project to be an “energy project” and a “renewable energy resource” as those terms are defined in Ind. Code §§ 8-1-8.8-2 and -10. As such, the Project would be eligible for certain incentives under the law, including, but not limited to, timely cost recovery in accordance with Ind. Code § 8-1-8.8-11.

With regard to cost recovery, I&M requests the Commission approve the Wind REPA and authorize I&M to recover the Wind REPA costs, through the full twenty-year term of the agreement, and the associated costs, including wind forecasting costs and REC registry fees, via a rate adjustment mechanism in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11. I&M proposes the timely cost recovery be administered through I&M’s fuel adjustment charge (“FAC”) proceedings (or a successor mechanism). Although I&M is proposing to have the cost recovery administered through its FAC, it proposes that such cost recovery shall not be subject to

the Section 42(d)(1) test or any FAC benchmarks. Instead, I&M requests the Commission make a definitive finding in this Cause that the Project, Wind REPA and purchased power costs incurred thereunder are reasonable and necessary so that I&M will be presently authorized to recover those costs over the full term of the Wind REPA.

I&M is seeking approval from the Commission on an expedited basis, no later than October 1, 2011, in order for Wildcat I Wind to be able to take full advantage of the financial incentives available under the law. Federal subsidies, which serve to buy down the cost of energy for I&M customers, are currently expected to expire at the end of 2012. Consequently, I&M requests expeditious approval to allow Wildcat I Wind to take advantage of the federal subsidies, prior to their expiration, by completing the Project and beginning deliveries to I&M prior to December 31, 2012.

4. Statutory Framework. Ind. Code § 8-1-8.8-2 concerns, among other things, the development of alternative energy sources, including a renewable “energy project.” Ind. Code § 8-1-8.8-10 defines “renewable energy resource” to include energy from wind. Pursuant to Ind. Code § 8-1-8.8-11, an energy project is eligible for timely recovery of costs. This framework thus provides the basis for the requested Commission assurance of purchased power cost recovery through the full twenty-year term of the Wind REPA. Ind. Code § 8-1-2-42(a) also authorizes recovery of purchased electricity. Finally, Ind. Code § 8-1-2.5-6, which authorizes alternative regulatory plans, provides a further basis for the approval of the Wind REPA and full recovery of the costs of the wind purchased power, and reasonable and necessary associated costs, through the full twenty-year term.

This is not a case of first impression. Our orders in Cause Nos. 43328 and 43750 granted relief to I&M comparable to what I&M seeks here. In those cases, we found a Benton County development to be a renewable energy resource project. We approved those purchase agreements and timely cost recovery through a rate adjustment mechanism to be administered with I&M’s FAC proceedings.

5. I&M’s Direct Evidence. The evidence in support of I&M’s Verified Petition includes the testimony of: Marc E. Lewis, I&M Vice President External Relations; Peggy I. Simmons, Manager Renewable Energy for American Electric Power Service Corporation (“AEPSC”); Jon R. MacLean, Manager of Production Resource Modeling for AEPSC; and David M. Roush, Director - Regulatory Pricing and Analysis for AEPSC.

Mr. Lewis stated that I&M is seeking approval and cost recovery of a renewable energy purchase power agreement for wind between I&M and Wildcat I Wind. The source of the energy would be a wind farm to be located in Madison and Tipton Counties, Indiana.

Mr. Lewis stated that I&M’s request in this case is similar to the request made in Cause No. 43328 and Cause No. 43750. He explained that in those cases, I&M requested Commission approval of wind purchased power agreements for twenty year periods. He said the Commission found those wind purchase power agreements with Fowler Ridge Wind Farm to be renewable energy projects. In addition, the Commission authorized I&M to recover the cost incurred under those agreements over the full twenty-year terms, to be administered within I&M’s FAC proceedings (or a successor mechanism).

Mr. Lewis testified the characteristics of wind generation and the proposed Wind REPA fit well within I&M's renewable energy portfolio and I&M's Integrated Resource Planning ("IRP") process. He also stated that the Wind REPA would allow I&M to meet Michigan's renewable energy mandates without having those requirements effectively apply in Indiana.

Mr. Lewis described I&M's interest in adding additional wind energy to its generation portfolio. He said I&M supports the use of wind energy as a means for creating a diverse portfolio of generating resources for several reasons. First, while wind is an intermittent resource, it is also a non-emitting source of electricity. Second, I&M's customers are increasingly interested in the use of more renewables to meet their needs. He said adding wind energy to the portfolio allows I&M to meet that demand with a relatively small impact on customers' overall electricity bills. Third, the purchase of significant, but relatively modest, amounts of wind power encourages the further development of wind technology. Increasing the demand for wind power allows manufacturers of wind equipment to grow and achieve more economic production levels. Fourth, as the environmental regulations of greenhouse gases ("GHG") continue to increase, it is important to develop an emission strategy that will comply with reasonably anticipated regulations through the use of emission free generation. Fifth, if Indiana passes a legislatively mandated Renewable Portfolio Standard ("RPS") in the future, I&M and other utilities would be mandated to invest in significantly increased renewables. Sixth, I&M and its customers will benefit from the capacity and energy value received from the Wind REPA through the current AEP System Interconnection Agreement ("AEP Pool") and the PJM Interconnection, L.L.C. ("PJM") markets. Last, Indiana also benefits from the approval of the Wind REPA by supporting the development of the economy by creating construction and operation jobs and supplementing the income of Indiana's rural communities.

Mr. Lewis testified the addition of wind energy to I&M's portfolio is consistent with Indiana's policy toward wind energy. He explained that Indiana has taken a progressive stance toward the development of renewable energy, including wind and biomass. He noted the General Assembly has clearly expressed a public policy of supporting a reasonable and achievable growth of renewable energy through incentives and goals.

Mr. Lewis summarized the Wind REPA. He stated I&M executed the Wind REPA for the purchase of approximately 100 MWs of wind power at a competitive price. He explained the structure of the Wind REPA recognizes the renewable mandates that I&M is subject to in its Michigan jurisdiction, including the requirement to serve 10% of its Michigan retail and wholesale jurisdictional load by 2015 with renewable energy that is sourced from either the state of Michigan or I&M's Indiana service area. The Wind REPA is expected to begin initial delivery of power on or before December 31, 2012, and will continue for a period of twenty years. In addition, the Wind REPA provides that I&M will receive its share of the RECs associated with the Project.

Mr. Lewis explained the benefits associated with receiving the RECs. He stated, should I&M become subject to an RPS or GHG regulation in Indiana in the future, the Indiana jurisdictional share of the RECs will be maintained and counted toward I&M's compliance with those regulations. In the interim, I&M proposes to transfer the RECs to Michigan and to compensate Indiana customers for the value of the transferred RECs.

Mr. Lewis described the transmission of the wind energy from the wind farm to I&M's customers. He explained the facility interconnects with I&M's transmission system at I&M Deer Creek – Fisher Body – Mullin 138 kV bus.

Mr. Lewis explained the costs under the Wind REPA are very competitive with the costs typically found for this kind of renewable resource in this region. He also stated that adding the Wind REPA may increase I&M's ability to make system sales to other utilities, which would benefit customers under the system sales rate adjustment mechanism approved in I&M's last rate case (Cause No. 43306) and provide additional capacity credits to I&M under the AEP Pool, and to PJM markets, which also benefits I&M's Indiana customers. Mr. Lewis explained that I&M requests the Commission approve in this Cause all of the costs associated with the Wind REPA during its twenty-year term and authority to recover the Indiana retail jurisdictional portion of those costs on an accrual basis as part of I&M's FAC proceedings.

Mr. Lewis explained the reasons for using the proposed REC transfer procedure. He stated that the competitively-priced wind energy provided to I&M under the Wind REPA is a good deal for I&M's customers in both Indiana and Michigan. He said that following the jurisdictional allocation procedures of the FAC without applying the REC transfer procedure would leave Michigan far short of its compliance requirement and would effectively apply Michigan's renewable requirement to Indiana. To achieve compliance in Michigan without using the REC transfer procedure, I&M would have had to procure 400 MWs of renewable energy, not 100 MWs, and the Indiana retail jurisdiction would have been responsible for 260 MWs, not 24 MWs. Consequently, he testified, the Wind REPA and the use of the REC transfer procedure accomplish the policy goals of both Indiana and Michigan.

Mr. Lewis opined that the Wind REPA is reasonable and in the public interest because it produces real benefits for I&M, its customers, and the State of Indiana. He stated the Wind REPA also further diversifies I&M's generation portfolio, supports a "home grown" renewable resource, encourages economic development, and meets the increasing interest of customers in the use of more renewable resources.

Ms. Simmons is responsible for managing AEP's and its subsidiaries' portfolio of renewable energy purchase agreements ("REPAs"). She testified that I&M and AEP have experience entering into long-term renewable energy purchase agreements and explained that I&M utilizes AEPSC to operate on behalf of I&M to secure long-term renewable energy purchase agreements. She also stated that AEP has experience in owning and operating renewable facilities. She said that in addition to twenty long-term renewable energy purchase agreements, the various AEP Operating Companies own and operate seventeen hydro facilities located in Indiana, Michigan, Virginia and West Virginia totaling 845.5 MW.

Ms. Simmons testified the Request for Proposal ("RFP") issued in this case sought proposals that could result in I&M obtaining approximately 100 MW of nameplate wind energy resources for I&M and its customers. The intent of the RFP was that the selected Qualified Bidder would (i) transfer to I&M a 50% ownership interest (i.e., 50 MW) in the proposed Wind Project through an undivided interest structure on or about the date of commercial operation of the Wind Project; and (ii) I&M and the selected Qualified Bidder would enter into a twenty year,

long-term power purchase agreement for the output (Energy, Capacity, RECs and all beneficial environmental attributes) from the other 50% of the proposed 100 MW Wind Project.

Ms. Simmons explained that to qualify to participate in this RFP, a bidder had to have a wind project that met the following: (1) located within I&M jurisdictional retail service territory; (2) interconnected to I&M transmission facilities; (3) received PJM System Impact Study; (4) capable of being operational on or about December 31, 2012; (5) meets any and all requirements as set forth in Michigan Public Act 295 of 2008 and Ind. Code ch. 8-1-8.8; and (6) name plate rated capacity of approximately 100 MW (+/- 1.5%).

Ms. Simmons generally described the RFP and the process once a bidder was determined to be a qualified bidder. She explained the RFP required bidders to document their financial and technical capabilities to ensure the successful construction of the project, and to demonstrate that they had successfully completed the development, financing, and commissioning of at least one utility scale renewable energy project in the United States with characteristics similar to the project defined in the RFP. She further explained that proposals were to include detailed data on the proposed project location and construction schedule, including site plans, interconnection status and requirements, permitting requirements, documentation of secured land rights, financing plans, and other documentation demonstrating that the bidder has the ability and legal right to construct, interconnect, and operate the project as proposed.

Ms. Simmons explained that AEP was able to leverage its experience as a renewable generation developer, owner, operator, and seller, along with its experience conducting RFPs and negotiating long-term renewable energy agreements, to effectively balance the interests of the developer, I&M and its customers. She stated AEPSC first reviewed each proposal to determine if all of the required information was provided, and then ranked all of the conforming proposals based on pricing structure. Ms. Simmons testified that I&M received bids from five projects that met all of the requirements contained in the RFP. From the five projects, three were short listed for further review and due diligence.

Ms. Simmons described how the shortlist evaluation resulted in a 100 MW REPA and no ownership interest. She stated that bids evaluated in the RFP demonstrated the developers would be able build and sell the wind power to Petitioner at a significantly lower cost as compared to I&M having an ownership stake in the project with the proposed asset transfer bid price. Consequently, the developers on the short list were asked to submit new pricing with I&M purchasing 100% of the output via a REPA. She stated that on May 20, 2011, I&M executed a 100 MW nameplate capacity REPA with Wildcat I Wind from a planned 191.16 MW wind facility being developed by E. ON Climate & Renewables, which is to be constructed in Madison and Tipton Counties, Indiana.

Ms. Simmons described E. ON Climate & Renewables' experience as a global renewable energy developer that has constructed and operated wind projects in places as diverse as the hills of west Texas to 27 miles offshore in the North Sea. She stated that in the US and Europe, E. ON Climate & Renewables operates onshore wind farms totaling approximately 3,000 MW of nameplate capacity.

Ms. Simmons testified the Wind REPA has an around-the-clock contract price that will escalate beginning in 2014 at 2.25% per year for the term of the contract. Ms. Simmons supplied a summary of the terms and conditions of the Wind REPA as an exhibit to her testimony. She explained that there are two contract rates because the Project may be subject to certain operating restrictions imposed by the US Fish & Wildlife Service. She said the two-tiered pricing structure was implemented to shield I&M (and ultimately its customers) from paying for a risk (increased bid price based upon potential operating restrictions) that was yet to be determined.

Ms. Simmons discussed the benefits of executing a twenty-year Wind REPA, which include allowing I&M to secure the lowest-available prices for reliable renewable resources and ensuring this energy will be economically accessible to its native load customers in the coming years. She added that the twenty-year Wind REPA also provides a direct benefit to the consumer. She said the twenty-year agreement allows the renewable energy resource provider to procure long-term financing, thereby amortizing the cost of the project over a longer period.

Ms. Simmons explained I&M's request to include associated costs incurred during operation of the Wind REPA, including wind forecasting costs and REC registry fees, in the rate adjustment mechanism. She stated that capacity resources, including contractual wind resources, must be offered into PJM's Day-ahead energy market. As such, these energy offers are based off of resource-specific wind energy forecasts. She explained that part of offering energy into the PJM market involves providing a day-ahead hourly energy forecast for the Wind REPA, and thus the cost of wind forecasting is a cost of doing business in PJM.

Ms. Simmons described the RECs that I&M will obtain in conjunction with the Wind REPA. She testified the Wind REPA stipulates that I&M will receive all current and future environmental attributes, including the associated RECs. She said these RECs are legal proof that one megawatt-hour of electricity has been generated by a renewable fuel or environmentally friendly source. She explained the RECs are expected to be tracked through either the PJM Environmental Information Systems' Generation Attribute Tracking System or the Michigan Renewable Energy Certification System. She stated the RECs associated with the Wildcat Project demonstrate that I&M has obtained all attributes associated with the renewable energy produced by the Project.

Ms. Simmons concluded that the Wind REPA represents a valuable and reasonably priced renewable energy generation resource for I&M.

Mr. MacLean testified regarding the estimated cost impact on I&M's customers of the Wind REPA. He explained that the cost impact analysis considered the cost of the wind energy (based on the contract rate with operating restrictions as noted in Exhibit C of PIS-3 attached to Petitioner's Exhibit 2), net of the relative changes in I&M's fuel and other variable costs (including net pool energy credit/cost), and primary capacity settlements under the AEP Pool.

He stated the net cost of a full year's energy purchase is estimated to range between (\$3.3) million and \$4.0 million during the period from 2013 through 2021. He added that on a cost per kWh basis, the estimated incremental net cost through 2021 to I&M's customers for an annual supply of renewable wind energy is projected to be less than 0.015 cents per kWh, with the average cost over the period of only 0.003 cents per kWh. He stated the net cost impacts

have the potential to be lower than this if the Wind REPA price is based on no operating restrictions, as discussed by Ms. Simmons.

Mr. Roush testified regarding the proposed REC transfer procedure between I&M's Indiana and Michigan jurisdictions. He testified that the cost of fuel and purchased power is allocated to each I&M jurisdiction based upon each jurisdiction's actual energy usage, including losses. He explained the costs of I&M's REPAs are recognized for ratemaking purposes through a rate adjustment mechanism administered with the FAC filings in Indiana. He added that these costs are also recognized for ratemaking purposes via the power supply cost recovery clause filings in Michigan and the contractual fuel adjustment clause in I&M's wholesale agreements. He stated the rates for each of these jurisdictions are calculated using total I&M costs and net energy requirement, and the applicable jurisdiction's definitional framework for the costs to be included in the mechanism.

Mr. Roush testified I&M intends to assign 60% of the RECs associated with the Wind REPA to its Michigan customers in order to meet the renewable mandate in Michigan. He said I&M is proposing to accomplish this using a REC transfer procedure that compensates the Indiana jurisdiction for the value of the RECs. I&M proposes to account for the transfer of RECs in the FAC as follows: (1) all calculations are performed consistent with the currently approved FAC methodology; (2) I&M computes a residual REC cost associated with the Wind REPA based upon the positive difference between the bundled price of the Wind REPA and the market value of the purchased power; and; (3) I&M credits the Indiana FAC calculation based upon the residual REC cost for the RECs transferred to Michigan. Mr. Roush provided an exhibit that illustrated how the credit would be calculated.

Mr. Roush concluded that the REC transfer procedure is reasonable and consistent with the currently approved FAC methodology, with jurisdictional ratemaking for Indiana and Michigan and with the purpose of the agreement reached by the parties in Cause No. 43328 regarding the sale of RECs by I&M.

6. OUC's Direct Evidence. The OUC presented the testimony of Ronald L. Keen, a Senior Analyst in the Resource Planning and Communications Division; Duane P. Jasheway, a Utility Analyst in the Electric Division; and Brendon J. Baatz, a Utility Analyst in the Resource Planning and Communications Division.

Mr. Keen provided a brief description of Petitioner and the Wildcat Project, addressed I&M's request for approval of the Wind REPA, and discussed RPS, RECs and legislative initiatives at the state and federal levels. Among other things, Mr. Keen explained that twenty-nine states have mandatory RPS, while eight states, including Indiana, have voluntary Renewable or Alternative Energy Goals. He said only thirteen states have not yet adopted a renewable or alternative energy portfolio or standard at this time. Mr. Keen also described the Locational Marginal Pricing mechanism, which tends to signal congestive grid conditions, and its relation to purchase power agreements. Mr. Keen stated the OUC recommended the Commission approve the Wind REPA. He further stated the OUC recommended I&M be required to submit specific reports to the Commission and the OUC, which include quarterly updates on any remaining, new or future studies by the Midwest Independent Transmission System Operator, Inc. that discuss or impact the Wildcat Project, including but not limited to

studies pertaining to a type of facility required for congestion relief, interconnection, and other network functions, and any timetables associated with required upgrades or construction of facilities. Finally, he stated, the OUCC also recommends I&M submit to the Commission and the OUCC an annual report showing the actual wind energy delivered on an hourly basis and any other information requested by the Commission.

Mr. Jasheway provided the OUCC's analysis of I&M's request for approval of the Wind REPA, specifically to support the choice of wind power as a reasonable component of a diversified energy generation portfolio. Mr. Jasheway explained that a portfolio is a reasonable mix or collection and that by owning several types of generating assets, certain types of risk can be reduced. In his view, portfolio management, if used prudently, is a valuable tool to reduce risk. He testified that while Indiana does not currently have a mandatory RPS, there is a risk that today's voluntary standards could be replaced by mandatory requirements in the future. Mr. Jasheway noted the Commission has previously recognized that a wind PPA represents a reasonable addition to, and diversification of, capacity and energy portfolios, which may serve to mitigate the volatility of prices from other energy sources because renewable energy opportunities are available independent of fuel price volatility and without increased environmental emissions, constraints and costs. Mr. Jasheway concluded that I&M's petition for approval of the Wind REPA is a reasonable step toward diversification of its generation portfolio and recommended Commission approval of the Wind REPA and associated cost recovery.

Mr. Baatz discussed the details of the REC transfer between I&M state jurisdictions and outlined a reporting process to allow for review of this transfer. He explained that the jurisdictional allocation of the electricity produced at Wildcat will be 65% to Indiana customers and 15% to Michigan customers, with the remaining generation to be sold on the wholesale market. He noted that in 2008, Michigan passed Public Act 295, which established a mandated RPS requiring Michigan utilities to generate 15% of electricity from renewable sources by 2015. To comply with this standard, I&M has proposed transferring a fixed percentage of RECs to Michigan from Indiana through a process outlined by Mr. Roush. Mr. Baatz stated that this allocation is meant to ensure that I&M is able to meet Michigan's mandatory RPS.

According to Mr. Baatz, it is unknown if the calculation for the residual REC value outlined by Petitioner produces a reasonable residual value. While he agreed the REC transfer procedure was reasonable and similar to the procedures established in Cause Nos. 43328 and 43750, he noted that it has not yet been used to transfer RECs. He said that both the day-ahead spot market energy value and final zonal capacity value components of the REC transfer calculation significantly impact the final residual REC value, and that both of these variables have displayed volatility historically and are expected to fluctuate in the future. He went on to describe how variability in the day-ahead spot market energy value and final zonal capacity price could affect the residual value of RECs.

Mr. Baatz recommended the OUCC be given an opportunity to review the REC transfers and accompanying compensation as part of I&M's future FAC filings. He also recommended the OUCC be given an opportunity to dispute the level of compensation to Indiana ratepayers if the calculated REC residual value is unreasonably lower than actual REC values in other compliance markets. Mr. Baatz stated the OUCC would determine whether a REC value is unreasonably low by reviewing wind REC prices in similar compliance markets to determine

whether Indiana ratepayers are being fairly compensated for RECs associated with renewable energy produced in Indiana. He said market prices for RECs tend to vary significantly in different regions over time, and as such, the review would make use of available relevant data. He stated that for purposes of the FAC filings, the OUCC would need to review the same information shown in Exhibit DMR-1 attached to Petitioner's Exhibit 4, using actual, rather than illustrative, values from a previous calendar quarter. He said including that information in each FAC filing would make the REC transfer review process transparent and simple to audit. Mr. Baatz concluded the Commission should approve the proposed REC transfer procedure, subject to the conditions that the OUCC be permitted to fully and fairly review compensation for any RECs transferred from Indiana to Michigan and that the OUCC have a full and fair opportunity to challenge the reasonableness and adequacy of the level of compensation I&M receives for REC transfers.

7. **I&M's Rebuttal Evidence.** Mr. Lewis addressed the reporting requirements recommended by Mr. Keen and the recommendations of Mr. Baatz regarding the REC transfer process. He said that after reviewing the OUCC's prefiled testimony, he initiated discussions with the OUCC. He said that both parties worked to develop a mutual understanding of the other party's concerns and to reach agreement on a path forward that will permit the timely approval of I&M's Petition subject to a compromise regarding the annual report.

Mr. Lewis summarized Mr. Keen's two recommended reporting requirements and stated that, based on discussions with the OUCC, I&M recommends a modified version of the first reporting requirement that better reflects Mr. Keen's intention that the information sought be limited to I&M's activities and not duplicate information available from other sources. He stated it was his understanding that the modified version is acceptable to the OUCC. With respect to Mr. Keen's second reporting requirement, Mr. Lewis testified that this requirement is consistent with current reporting requirements and, as clarified in his testimony, is acceptable to I&M. Mr. Lewis stated I&M will submit annually to the Commission and the OUCC: (a) a report regarding any facilities which I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Wildcat Project; and (b) a confidential report showing the actual wind energy delivered on an hourly basis by the Wildcat Project for a period of five (5) years from the commencement of the Wind REPA.

Mr. Lewis stated the modified version of the first reporting requirement is reasonable and appropriate because the information requested in the OUCC's original version of the first reporting requirement is better sourced directly from PJM and/or Wildcat I Wind. He indicated his belief that an annual report is sufficient. He explained I&M's modified reporting requirement recognizes that the processing of the request for an interconnection with PJM is completed and the executed Interconnection Service and Construction Service Agreements have been filed with the Federal Energy Regulatory Commission. He noted that any infrastructure costs resulting from additional interconnection studies will not be borne by I&M because Wildcat I Wind is responsible for constructing, operating and maintaining all interconnection facilities under the terms of the Wind REPA. Mr. Lewis provided a link to PJM's website, which provides access to the executed interconnection agreement associated with the Wildcat Project. Moreover, he stated, AEPSC manages the wind agreements, including the Wind REPA, on behalf of I&M and is not privy to non-public interconnection or transmission network studies that may impact the Wildcat Project. Finally, Mr. Lewis noted that much of the information the

OUCC has proposed I&M submit would already be provided by Wildcat I Wind if Wildcat I Wind's proposed reporting requirements are adopted by the Commission in Cause No. 44044.² Mr. Lewis stated that the modified reporting requirement eliminates the duplication of reporting and recognizes that broader information is better sourced through either, or both, PJM and Wildcat I Wind.

Regarding the second reporting requirement recommended by Mr. Keen, Mr. Lewis noted that I&M is already subject to reporting this information relevant to the agreement between I&M and Fowler Ridge Wind Farm approved in Cause Nos. 43750 and 43328. He said that in these prior cases, the Commission has also recognized the confidential nature of the information being reported. He stated that this type of information continues to be confidential. Thus, I&M will agree to submit annually, to the Commission and the OUCC, a confidential report showing the actual wind energy delivered on an hourly basis by the Wildcat Project for a period of five (5) years from the commencement of the Wind REPA.

Mr. Lewis described the confidential nature of the information that would be included in this part of the annual report. He explained that I&M is required by the terms of the Wind REPA to protect such information from public disclosure. He stated that such information is not readily ascertainable on a non-confidential basis by third parties by proper means, and described the efforts taken by I&M to protect the information from public disclosure, consistent with its contractual obligations. He explained that it is his understanding that the Commission has consistently found that such reports should be submitted on a confidential basis in other proceedings.

Next, Mr. Lewis discussed I&M's proposed REC transfer procedure. He stated that I&M's proposed method is transparent, auditable and straightforward in its implementation, and allows I&M to meet the Michigan mandate and compensate I&M's Indiana retail customers fairly for the RECs being transferred to the Michigan jurisdiction. He noted that Mr. Baatz recommended the approval of the proposed REC transfer procedure, subject to two conditions. With regard to the first condition, Mr. Lewis agreed that the OUCC should have routine access to review the information which supports the computation of any and all REC transfers included in I&M's semi-annual FAC filings, consistent with the current FAC process for confidential information. With regard to the second condition, Mr. Lewis disagreed that the reasonableness and level of compensation associated with I&M's REC transfers should be open to challenge by the OUCC or other parties involved in future FAC proceedings.

Mr. Lewis testified that after discussions with the OUCC, I&M recommends the following with respect to the REC transfer procedure:

1. The REC transfer procedure outlined in Exhibit DMR-1 of Petitioner's Exhibit 4 and supporting testimony will be approved, provided however, that REC (Residual) Value \$/MWh as shown on Page 2 of 2 of Exhibit DMR-1 shall be revised from "but not less than 0" to "but not less than the greater of \$1.00 or the REC purchase price approved by the Michigan Public Service Commission."

² We note the Commission issued its Order in Cause No. 44044 on September 14, 2011 approving Wildcat I Wind's proposed reporting requirements.

Except as provided below: (a) the REC transfer procedure will be subject to review solely for purposes of I&M's compliance therewith; and (b) I&M's decisions to make or not make REC transfers will not be subject to review.

2. Within sixty (60) days following the third anniversary of the commencement of the Wind REPA (and every three year anniversary thereafter for the remaining term of the Wind REPA), I&M, the OUCC and/or Intervenor I&M Industrial Group may request a meeting to discuss the REC transfer procedure set forth above. Should the parties reach an agreement that the REC transfer procedure should be modified such agreement will be filed with and subject to Commission approval. Following the meeting, should one or more of the parties desire a change in the REC transfer procedure and the parties are unable to reach agreement, any party may petition the Commission for review of the REC transfer procedure. Any such petition must be filed no later than one hundred twenty (120) days after the first three year anniversary and all subsequent three year anniversaries. The party proposing the modification of the REC transfer procedure shall have the burden of proof. If approved by the Commission, any modified procedure will apply on a prospective basis only.

Mr. Lewis stated this approach is a reasonable compromise because it increases the floor price, thus benefitting I&M's Indiana customers by assuring them of being compensated for RECs that may be transferred to Michigan. He said the floor uses a "greater than" approach because it is possible that I&M will seek approval of a specific REC purchase price under the regulations in place in Michigan. Mr. Lewis stated the recommended approach set forth above recognizes the need for certainty relevant to the implementation of the REC transfer procedure, but limits that certainty to limited periods of time by establishing windows of opportunity for the parties to discuss the continued reasonableness of the procedure and, if necessary or appropriate, to seek further relief from the Commission.

Mr. Lewis testified it was his understanding that the OUCC agreed I&M's Petition should be approved, subject to the above annual reporting requirements and REC transfer procedure, including the revised floor. At the evidentiary hearing, counsel for the OUCC stipulated to the above agreed points of compromise.

8. Commission Discussion and Findings. Substantial evidence in the record of this proceeding supports a finding that the relief requested herein should be approved. The evidence indicates the Wind REPA will produce benefits for I&M, its customers and the State of Indiana. The Wind REPA is also expected to improve Petitioner's capacity settlement position in the AEP Pool and increase the potential for off-system sales. In addition, the Wind REPA will diversify I&M's generation portfolio, support a "home grown" renewable resource, and encourage economic development. The evidence also indicates that the terms of the Wind REPA are reasonable and the requested cost recovery should be permitted through the full term of the contract, including reasonable wind forecasting costs and REC registry fees. The evidence further reflects that I&M and the OUCC have worked in a cooperative fashion to reach an agreement on reporting requirements and the REC transfer procedure. As set forth further below, the Commission finds that the approval we grant herein is in the public interest.

A. Reasonableness of the Wind REPA Terms. The record establishes that the Wind REPA resulted from arms-length negotiations. I&M will only pay for the energy it receives under a two-tiered fixed pricing structure with fixed annual adjustments. I&M will own all of the environmental credits, including RECs, associated with its capacity share of the project. Wildcat I Wind retains the responsibility for construction, ownership, operation, and maintenance of the facilities. Like the other REPAs approved by the Commission, the Wildcat Project represents a reasonable addition and diversification of I&M's capacity portfolio. This renewable energy opportunity will be available independent of fuel price volatility or increased environmental emissions, restraints, and costs. The evidence of record demonstrates that I&M's cost per MW of energy under the Wind REPA is lower than other proposals received in response to the RFP. The Commission finds that the pricing and other terms of the Wind REPA are reasonable and in the public interest.

B. Wind REPA Cost Recovery. A review of Ind. Code ch. 8-1-8.8 demonstrates, and we find, that the Wind REPA satisfies the statutory definition of an "energy project" defined in Ind. Code § 8-1-8.8-2 in that the project will develop alternative energy sources, including renewable energy. We further find the project also qualifies as a "renewable energy resource" as defined by Ind. Code § 8-1-8.8-10. Ind. Code § 8-1-8.8-11 provides that renewable energy projects, such as I&M's Wind REPA with Wildcat I Wind, are eligible for incentives, including timely recovery of costs and financial incentives.

The Commission finds that Petitioner shall be authorized to recover all of the purchased power costs and other reasonable and necessary costs associated with the Wind REPA over its full twenty-year term as proposed by Petitioner. The prudence of the Wind REPA and associated purchased power costs shall not be subject to any further review. While other associated costs incurred during the operation of the Wind REPA, including wind forecasting costs and REC registry fees, may be included in the rate adjustment mechanism, such costs will be subject to review and challenge as described below. As explained by I&M's witness, Ms. Simmons, wind forecasting costs are a cost of doing business in the PJM RTO and are a necessary input to PJM's day-ahead generation forecast.

We find that I&M should be authorized to recover via a rate adjustment mechanism, the retail portion of the costs of the Wind REPA on an accrual basis in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11 contemporaneously with the processing of I&M's FAC proceedings (or a successor mechanism). While the cost recovery of the Wind REPA should be administered through I&M's FAC proceedings (or a successor mechanism), recovery of purchased power costs detailed in the Wind REPA shall not be subject to the Section 42(d)(1) test or any FAC or purchased power benchmarks, economic dispatch requirements, or least cost requirements during the twenty-year term of the Wind REPA. This relief is consistent with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11. As noted above, any "associated costs" I&M seeks to recover during the twenty-year term of the Wind REPA will remain subject to review and challenge through the rate adjustment mechanism contemporaneously with the processing of I&M's FAC proceedings. Accordingly, the Commission finds that Petitioner's cost recovery proposal should be approved as outlined above.

C. Reporting Requirements. The OUCC recommended two separate reporting requirements in connection with the Wildcat Project. As explained in Mr. Lewis' rebuttal

testimony, I&M and the OUCC have discussed these proposed reporting requirements and have reached agreement on a modified version of the first reporting requirement recommended by the OUCC. We find that the compromise proposal set forth in Mr. Lewis' rebuttal testimony is reasonable and should be adopted. More specifically, we find I&M should submit an annual report to the Commission and the OUCC regarding any facilities that I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Wildcat Project. We further find I&M should file an annual confidential report showing the actual wind energy delivered on an hourly basis by the Wildcat Project to I&M for a period of five (5) years from the date of commercial operation of the Wildcat Project.

D. REC Transfer Procedure. In its direct testimony, I&M proposed a REC transfer procedure that would allow I&M to transfer RECs from its Indiana jurisdiction to its Michigan jurisdiction in order to permit I&M to meet its Michigan RPS mandate. However, I&M also indicated that should I&M become subject to an RPS or GHG in the future, then the Indiana jurisdictional share of the RECs will be maintained and counted toward I&M's compliance with those regulations. As explained in I&M's rebuttal testimony, I&M and the OUCC discussed the REC transfer procedure and reached a compromise that would address the concerns raised by the OUCC. Based on the evidence presented, we find the REC transfer procedure proposed by I&M, as modified in its rebuttal testimony, is reasonable and should be approved.

9. Confidential Information. On June 21, 2011, the Presiding Officers made a preliminary finding that certain designated information marked "Confidential Information" as requested in Petitioner's Motion for Protection and Nondisclosure of Confidential and Proprietary Information should be treated as confidential in accordance with Ind. Code § 5-14-3-4. Upon review of the Confidential Information submitted pursuant to the Presiding Officers' preliminary determination, the Commission confirms this prior preliminary finding. The information for which Petitioner sought confidential treatment contains confidential, proprietary, competitively sensitive trade secret information that has economic value to Petitioner and to Wildcat I Wind from neither being known to, nor ascertainable by, its competitors and other persons who could obtain economic value from the knowledge and the use of such information; that the public disclosure of such information would have a substantial detrimental effect on Petitioner and Wildcat I Wind; and that the information is subject to efforts of Petitioner that are reasonable under the circumstances to maintain its secrecy. Accordingly, the Confidential Information shall continue to be exempt from the public access requirements of Ind. Code §§ 5-14-3-3 and 8-1-2-29 and held as confidential by the Commission.

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

1. I&M's Wind REPA with the Wildcat I Wind, or its assigns or successors, shall be and is hereby authorized as a Renewable Energy Project.

2. I&M shall be and is hereby authorized to recover the purchased power costs incurred under the Wind REPA, as well as other reasonable and necessary associated costs, such as wind forecasting and REC registry costs, over its full twenty-year term pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, to be administered within I&M's FAC proceedings (or a

successor mechanism). The recovery of the purchased power costs shall not be subject to any FAC benchmark review or tests.

3. I&M's proposed REC transfer procedure, as modified in its rebuttal, shall be and is hereby approved.

4. For a period of five (5) years from the date of commercial operation of the Wildcat Project, I&M shall annually submit to the OUCC and the Commission a confidential report showing the actual wind energy delivered on an hourly basis by the Wildcat Project to I&M. I&M shall also annually submit to the OUCC and the Commission a report regarding any facilities that I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Wildcat Project.

5. I&M's Confidential Information shall continue to be held as confidential and excepted from public disclosure.

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

ATTERHOLT, BENNETT, MAYS AND ZIEGNER CONCUR; LANDIS ABSENT:
APPROVED:

SEP 21 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**