

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)	
INDIANA MICHIGAN POWER COMPANY)	
FOR ALL NECESSARY AUTHORITY IN)	CAUSE NO. 44116
CONNECTION WITH AN \$800,000,000)	
FINANCING PROGRAM INVOLVING THE)	APPROVED: MAY 02 2012
ISSUANCE OF UNSECURED PROMISSORY)	
NOTES OF ONE OR MORE NEW SERIES.)	

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge

On November 4, 2011, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Petition with the Commission initiating this Cause. In response to a December 6, 2011 Docket Entry, I&M filed, on December 20, 2011, a Motion to Establish a Procedural Schedule, and a schedule was established by the Commission’s January 6, 2012 Docket Entry.

Pursuant to proper notice of hearing, published as required by law, proof of which was incorporated into the record by reference, a public evidentiary hearing was held in this Cause on March 15, 2012, at 1:30 pm in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. I&M and the Indiana Office of Utility Counselor (“OUCC”) appeared and participated, by their respective counsel. No member of the general public appeared or participated at the hearing. On April 25, 2012, in conformance with Indiana Code § 8-1-2-79, Petitioner filed the Verification of Allen Glassburn, Vice-President of Regulatory and Finance for Petitioner.

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

1. Notice and Jurisdiction. Due legal and timely notice of the hearing was published as required by law. Petitioner is a “public utility” as defined in the Public Service Commission Act, as amended, Ind. Code ch. 8-1-2 (“Act”) and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana.

2. Petitioner’s Characteristics. Petitioner is a corporation organized and existing under the laws of the State of Indiana, having its principal executive office at 1 Riverside Plaza, Columbus, Ohio and an office at One Summit Square, P.O. Box 60, Fort Wayne, Indiana 46801. It owns and operates electric utility properties in Indiana and southwest Michigan.

3. Proposed Financing Program. Petitioner requests authorization to issue and

sell, during the period ending December 31, 2013, up to \$800,000,000 in aggregate principal amount of unsecured promissory notes (“Notes”). In support of its request, Petitioner offered the testimony of Ms. Renee V. Hawkins, Assistant Treasurer of Petitioner. As explained by Ms. Hawkins, the Notes may be issued in the form of Senior or Subordinated Notes or other types of promissory notes, including Notes sold to Petitioner’s parent American Electric Power Company, Inc. (“AEP”). The Notes will mature in not more than sixty (60) years and will be sold (i) by competitive bidding, (ii) in negotiated transactions with underwriters or agents, or (iii) by direct placement with a commercial bank or other institutional investor or issued to AEP. Ms. Hawkins testified that the Notes issued by Petitioner will be sold at the lowest interest rates reasonably obtainable. By historical standards, the yield to maturity of such Notes should not exceed by more than 6.0% the yield to maturity on United States Treasury Bonds of comparable maturity at the time of pricing. Any fluctuating rate of interest on the Notes will not exceed 8% at the time of issuance. Petitioner stated that it may agree to specific redemption provisions, including redemption premiums, at the time of pricing.

According to Ms. Hawkins, Petitioner may agree to restrictive covenants which would prohibit it from, among other things, (i) creating or permitting to exist any liens on its property, with certain stated exceptions; (ii) creating indebtedness except as specified herein, (iii) failing to maintain a specified financial condition, (iv) entering into certain mergers, consolidations and disposition of asset; and (v) permitting certain events as to occur in connection with pension plans. Also, Petitioner may permit the holder of the Notes to require Petitioner to prepay them after certain specified events, including an ownership change. Ms. Hawkins testified that Petitioner will base its decision to issue the Notes on the basis of market conditions, principally the lowest cost and best terms available, in I&M’s judgment, at the time, and consistent with maintaining a sound capital structure. According to Ms. Hawkins, it is in the public interest to afford Petitioner the necessary flexibility to adjust its financing program to developments in the markets for medium and long-term debt securities when and as they occur in order to obtain the best reasonably available price, interest rate and terms for its Notes. Therefore, Ms. Hawkins stated that I&M was requesting the Commission grant Petitioner the flexibility to decide at future dates whether there will be one or more series and on the maturity of each series of the Notes. Any specific redemption provisions will be determined at the time of the pricing of each series of Notes.

Petitioner, in order to implement interest rate management techniques, requests authority to utilize interest rate hedging transactions and anticipatory interest rate hedging transactions (collectively “Interest Rate Hedges”) and enter into related interest rate hedging agreements (“interest rate hedging agreements”), including, but not limited to, “interest rate swaps,” “caps,” “collars,” “floors,” “options,” or hedging products such as “forwards” or “futures” or similar products, the purpose of which is to manage and minimize interest costs. Petitioner explained that it expects to enter into any such agreements with counterparties that are highly-rated financial institutions.

Ms. Hawkins testified that any proceeds realized from the sale of the Notes may be used for refunding, directly or indirectly, currently outstanding debt of Petitioner, for construction of facilities and working capital. Ms. Hawkins testified that Petitioner may purchase any series of unsecured promissory notes or pollution control bonds through a tender offer, a negotiated transaction, redemption provisions or on the open market. Such repurchases will be financed

through the issuance of new debt or cash. Any redemptions will be made in accord with the terms of the securities to be redeemed. Petitioner proposed to treat any redemption premiums paid as an expense of the Notes, to be amortized over the life of the Notes. Petitioner stated that it intends to utilize deferred tax accounting for the premium expense, in order to properly match the amortization of the expense.

Ms. Hawkins said that Petitioner may provide some form of credit enhancement such as a letter of credit, surety bond or other insurance. I&M may pay a fee in connection therewith. Petitioner requests authority to enter into such credit enhancement if I&M determines that it is appropriate.

Ms. Hawkins testified that the terms and composition of I&M's financing program were in the public interest. She noted that the proposed financings are reasonably necessary in the operation and management of Petitioner's business in order that Petitioner may provide adequate service and facilities. According to Ms. Hawkins, the capital structure of petitioner after giving effect to the proposed financing will be reasonable and in the public interest. The total amount of the proposed financings, together with Petitioner's outstanding stock, notes maturing more twelve months from the date thereof, and other evidences of Petitioner's indebtedness will not be excess of the fair value of Petitioner's utility property.

4. I&M's Supplemental Testimony and OUCC's Testimony in Support of Settlement Agreement. Mr. Scott Krawec, Director of Regulatory Services, filed supplemental testimony supporting the Settlement Agreement filed with the Commission on March 2, 2012. Mr. Krawec stated that the Settlement Agreement contains the standard provisions of numerous settlement agreements previously approved by the Commission such as scope, presentation and effect and use of the Settlement Agreement. He said that the substantive provisions of the settlement between I&M and the OUCC are contained in the Settlement Term Sheet attached as Exhibit A to the Settlement Agreement.

Mr. Krawec then described the provisions of the Settlement Term Sheet. Paragraph 1 provides that I&M's 2012-2013 long term financing program is reasonable and should be approved. Once approved, I&M will have the authority to issue Notes up to an aggregate amount of \$800,000,000. I&M shall exercise its judgment in determining the terms and conditions of any issuance. Paragraph 1 also provides that the issuances under the approved financing authority shall be at market rates. Paragraph 2 authorizes I&M to utilize the proceeds of any issuance for the purposes set forth in Ms. Hawkins testimony. This paragraph also authorizes I&M to account for premiums and fees in connection with the redemption or reacquisition of the Notes, including interest. Paragraph 3 authorizes I&M to enter into interest rate hedges when, in I&M's judgment, it is necessary to obtain the most competitive pricing. Paragraph 4 authorizes I&M to offer some form of credit enhancements, if I&M believes that it is appropriate. Paragraph 5 calls for a December 31, 2013 expiration of the financing authority described in Paragraph 1. Paragraph 6 provides that within thirty days of any issuance, I&M will file a report with the Commission and the OUCC including (1) the amount of the Note, (2) a description of the terms and intended purpose, and (3) a calculation of the effective rate. Finally, Paragraph 7 reserves the OUCC's right to challenge the prudence of any transaction by I&M pursuant to the authority granted in this proceeding.

Mr. Krawec testified that the Settlement Agreement was in the public interest. Mr. Krawec stated that it provides I&M the flexibility, with the exercise of good judgment, to find the best financing terms reasonably possible. At the same time, the Settlement Agreement preserves the OUCC's right to challenge the prudence of any issuance. The Settlement Agreement provides transparency by requiring reports describing the terms and effective cost rates of any issuance. Finally, several provisions (Paragraphs 2, 3, 5 and 6) of the Settlement Term Sheet are completely consistent with the terms and conditions approved in Cause No. 43707 (Order, October 1, 2009), I&M's last financing proceeding.

Mr. Wes Blakley, Senior Utility Analyst for the OUCC, also submitted testimony in support of the Settlement Agreement. First, Mr. Blakley listed the issues that it raised with I&M: (1) the OUCC did not know the terms and the purposes of the issuances; (2) the OUCC wanted a specific expiration date for the long-term debt program; (3) the OUCC requested I&M to file written reports within 15 days of any issuance detailing the terms, the costs and intended purpose; and (4) the OUCC had questions regarding the possible issuance of a sixty year note. Mr. Blakley testified that the Settlement Agreement resolved the concerns of the OUCC. He said that the Settlement Term Sheet called for Petitioner to file a report within thirty days detailing the terms, costs and intended purpose of any issuance. He noted that the OUCC's right to challenge the prudence of any issuance was preserved and that the long-term debt program expired by its own terms on December 31, 2013. He also said that I&M stated that similar sixty year debt instruments were being issued and that such length will not materially alter the basic terms of the issuance.

5. **Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Furthermore, any Commission decision, ruling, or order including the approval of a settlement must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, a copy of which is attached to this Order and incorporated by reference, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2, and that such agreement serves the public interest. In addition, the Commission must find that Petitioner's proposed financing program is in the public interest.

As to the Settlement Agreement, the Commission finds that the substantive provisions contained in the Settlement Terms are just and reasonable and in the public

interest. The Settlement Agreement provides I&M the flexibility to find the best financing terms reasonably possible. Also, the OUCC retains the right to challenge the prudence of any issuance. The required reports provide transparency by having Petitioner detail the terms and the conditions and the costs of any issuance. Also, the definite expiration date of the long-term financing plan provides the Commission the opportunity to exercise a continuing review of I&M's financing plans. Finally, the provisions of the Settlement Term Sheet are consistent with provisions previously approved by the Commission. Accordingly, the Settlement Agreement is in the public interest.

As to I&M's financing program, the Commission finds that, with due consideration being given to the statutory requirements under Ind. Code §§ 8-1-2-76 through -80, the nature of Petitioner's business, credit, future prospects and earnings and the effect which the proposed financing may have on the management and efficient operation of Petitioner, the proposed financing authority is reasonable and should be granted. The Commission finds that Petitioner's proposed method of accounting for premiums and fees paid in connection with the refinancing of outstanding bonds is reasonable and should be approved and that Petitioner should account for premiums and fees paid for any interest rate hedge in accordance with generally accepted accounting principles.

As shown in Exhibit A to the Petition, on September 30, 2011, Petitioner had outstanding long-term debt of \$1,830,426,000 and common equity capital of \$1,763,238,000. As of September 30, 2011, Petitioner had \$4,378,610,000 invested in utility plant, net of depreciation and exclusive of nuclear fuel, and \$1,512,704,000 invested in nuclear decommissioning and spent nuclear fuel disposal trust funds. Recognizing inflation and its impact on utility property, the Commission finds, solely for purposes of this Cause, that the fair value of Petitioner's utility plant is in excess of the book value of its pro forma stock, bonds, notes, maturing more than 12 months from the date thereof and other evidence of indebtedness, including the securities approved by this Order.

The settling parties agreed that the Settlement Agreement shall not constitute an admission or a waiver of any position that any of the settling parties may take with respect to any or all of the items and issues resolved therein in any future regulatory or other proceedings, except to the extent necessary to enforce its terms. However, with regard to future citation of the Settlement Agreement, we find the Settlement Agreement and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC 3/19/97).

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

1. The Settlement Agreement is approved in its entirety.
2. Pursuant to Ind. Code § 8-1-2-80, Petitioner is hereby granted a Certificate of Authority through December 31, 2013, to issue and sell unsecured Notes or other property actually received or to be received therefore up to an aggregate principal amount of \$800,000,000. Said securities may be issued in one or more series, have such interest and dividend rates, terms and other conditions as may be determined by Petitioner in the manner

herein proposed, at the best prices reasonably obtainable.

3. Petitioner is hereby authorized to enter into Interest Rate Hedges in connection with the securities authorized herein.

4. Petitioner is hereby authorized to provide some form of credit enhancement such as a letter of credit, surety bond, or other insurance.

5. Petitioner is hereby authorized to use the proceeds of the securities herein authorized for the purposes set forth in its Verified Petition, as described in Finding Paragraph 3, as well as to account for premiums and fees paid in connection with the redemption or reacquisition of the securities and any interest rate hedges as described herein.

6. Within thirty (30) days of the completion of each of the financings authorized herein, Petitioner shall file under this Cause a report including the interest rate and the amount for each Note, the underlying calculations that were used and the purpose of the issuance.

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

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

APPROVED: **MAY 02 2012**

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



Brenda A. Howe
Secretary to the Commission

STATE OF INDIANA

Before the

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION

of

INDIANA MICHIGAN POWER COMPANY

Cause No. 44116

for all necessary authority in connection with a \$800,000,000 financing program involving the issuance of unsecured promissory notes of one or more new series.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 1st day of March, 2012, by and between Indiana Michigan Power Company ("I&M") and the Indiana Office of the Utility Consumer Counselor (the "OUCC") (together "the Parties").

NOW, THEREFORE, the Parties agree as follows:

1. Scope of Agreement. This Agreement, comprehensively resolves all issues between the Parties associated with I&M's request for authorization to issue unsecured notes ("Notes") as filed in Cause No. 44116. Attached hereto as Exhibit A is a Term Sheet setting forth specific provisions of the settlement ("Settlement Terms") that is intended by the Parties to resolve all pending issues relating to Cause No. 44116. The terms of the Agreement are effective upon approval by the Indiana Utility Regulatory Commission ("Commission").

2. Integration. Approval of this Agreement constitutes approval of the Settlement Terms attached hereto as Exhibit A.

3. Presentation of the Agreement.

a. The Parties will jointly move the Commission for approval of this Agreement. The Agreement, including the Settlement Terms in Exhibit A, is not severable and shall be accepted or rejected by the Commission in its entirety without modification or further condition that may be unacceptable to any Party.

b. The Parties agree to support or not oppose the approval in its entirety of the Agreement. I&M shall submit its Direct Testimony and Exhibits. I&M and the OUCC shall file testimony in support of this Agreement on March 1, 2012.

c. If the Order of the Commission in this proceeding modifies or conditions approval of this Agreement, only the parties to this Agreement may decide to accept or reject such modification or condition.

4. Effect and Use of Stipulation and Agreement.

a. The terms of this Agreement, including the Settlement Terms in Exhibit A, represent a fair, just and reasonable resolution by negotiation and compromise. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434 at page 10, as a term of this Agreement, the Commission must assure the Parties that it is not the Commission's intent to allow this Agreement, or the Order approving it, to be cited as precedent by any person or deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues. This Agreement, including the Settlement Terms in Exhibit A, is solely the result of compromise in the settlement process. Nothing contained herein is to be construed or deemed an admission, liability or wrongdoing on the part of I&M. The Parties have entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience and expenses.

b. The evidence presented by the Parties in this Cause, or that will be presented, constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Agreement, as filed.

c. The issuance of a final Order by the Commission approving this Agreement, including the Settlement Terms in Exhibit A, without modification shall terminate all proceedings with regard to this Agreement.

d. The undersigned represent and agree that they are fully authorized to execute this Agreement on behalf of their designated clients who will be bound thereby.

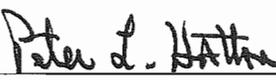
e. The Parties shall not appeal the agreed final Order or any subsequent Commission order to the extent such order is specifically implementing, without modification, the provisions of this Agreement, including the Settlement Terms in Exhibit A, and the Parties shall not support any appeal of any such order by a person not a party to this Agreement.

f. The provisions of this Agreement, including the Settlement Terms in Exhibit A, shall be enforceable by any party at the Commission or any court of competent jurisdiction, whichever is applicable.

g. The communications and discussions during the negotiations and conferences which produced this Agreement, including the Settlement Terms in Exhibit A, have been conducted on the explicit understanding that they are or relate to offers of settlement and shall therefore be privileged.

ACCEPTED AND AGREED this 1st day of March, 2012.

By: 
Jeffrey M. Reed
Indiana Office of the Utility Consumer Counselor

By: 
Peter L. Hatton
Attorney for Indiana Michigan Power Company

Settlement Term Sheet
IURC Cause No. 44116

1. **Long Term Financing Program:**

I&M's 2012-2013 long term financing program is reasonable and should be approved. I&M shall have the authority through December 31, 2013, to issue and sell unsecured Notes for cash or other property actually received or to be received therefore up to an aggregate principal amount of \$800,000,000. The long term securities may be issued in one or more series, have such interest and dividend rates, terms and other conditions as may be determined by I&M, at the best prices reasonably obtainable, in the judgment of I&M. I&M agrees that issuances pursuant to the authority granted in this proceeding will be consistent with market rates.

2. **Use of Proceeds:**

I&M should be authorized to use the proceeds of the Notes for the purposes set forth in I&M's testimony and exhibits as well as to account for premiums and fees paid in connection with the redemption or the reacquisition of the Notes and any interest rate hedges.

3. **Interest Rate Hedges:**

I&M shall be authorized to enter into interest rate hedges when the opportunity arises to obtain, in I&M's judgment, the most competitive pricing. I&M will account for premiums and fees paid for any interest rate hedge in accordance with generally accepted accounting principles.

4. **Credit Enhancements:**

I&M shall be authorized, if it determines that it is appropriate, to provide some form of credit enhancement such as a letter of credit, surety bond or other insurance.

5. **Expiration of Authorization:**

The authorization for the issuance of Notes agreed to herein shall expire December 31, 2013.

6. **Periodic Reports:**

Within thirty (30) days of each issuance of the Notes authorized herein, I&M shall file with the Commission and serve upon the OUCC a filing that includes: (1) the amount of the Note, (2) a description of the terms and intended purpose, and (3) a calculation of the effective cost rate.

7. **Reservation:**

The OUCC reserves the right to challenge the prudence of any particular transaction made by I&M pursuant to the authority granted in this proceeding.