ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY FOR APPROVAL OF ELECTRIC DEMAND SIDE MANAGEMENT PROGRAMS TO BE EFFECTIVE JANUARY 1, 2015 THROUGH DECEMBER 31, 2016, AND FOR AUTHORITY TO RECOVER ASSOCIATED START-UP, IMPLEMENTATION AND ADMINISTRATIVE COSTS ALONG WITH COSTS ASSOCIATED WITH THE EVALUATION, MANAGEMENT AND VERIFICATION OF THOSE PROGRAMS ("PROGRAM COSTS"), PERFORMANCE INCENTIVES, AND LOST REVENUES, THROUGH ITS DEMAND SIDE MANAGEMENT ADJUSTMENT MECHANISM IN ACCORDANCE WITH IND. CODE §§ 8-1-2-42(a) AND 8-1-8.5-9 AND PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-6.	)	CAUSE NO. 44497 APPROVED: DEC 17 2014

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Loraine L. Seyfried, Chief Administrative Law Judge

On May 30, 2014, Indianapolis Power & Light Company ("IPL" or "Petitioner") filed with the Indiana Utility Regulatory Commission ("Commission") a Verified Petition for approval of electric demand side management ("DSM") programs and associated ratemaking and accounting treatment. IPL filed its direct testimony and exhibits constituting its case-in-chief on June 2, 2014.

On June 10, 2014, Citizens Action Coalition of Indiana ("CAC") filed a Petition to Intervene, which was granted by Docket Entry dated June 20, 2014. On August 18, 2014, the IPL Industrial Group petitioned to intervene and on August 21, 2014, the City of Lawrence ("Lawrence") filed a Petition to intervene. Both petitions to intervene were granted by Docket Entry on September 2, 2014.

On August 21, 2014, the Indiana Office of Utility Consumer Counselor ("OUCC") submitted its direct testimony and exhibits constituting its case-in-chief. On August 22, 2014, the CAC and Lawrence filed their respective direct testimony. On September 9, 2014, IPL filed its rebuttal testimony and exhibits.

An evidentiary hearing was held in this Cause on September 19, 2014 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. IPL, the OUCC, CAC, Lawrence and the IPL Industrial Group attended the Evidentiary Hearing, at which their respective prefiled testimony and exhibits were admitted into the record without objection and witnesses were subject to cross examination.

The Commission, having considered the evidence and applicable law, finds as follows:

1. Commission Jurisdiction and Notice. Proper notice of the evidentiary hearing in this Cause was given as required by law. IPL is a "public utility" as that term is defined in Ind. Code § 8-1-2-1. In accordance with Ind. Code ch. 8-1-8.5, Ind. Code § 8-1-2-42(a), and 170 IAC 4-8, the Commission has jurisdiction over IPL's DSM programs and associated cost recovery. Therefore, the Commission has jurisdiction over IPL and the subject matter of this Cause.

2. Petitioner's Organization and Business. IPL is an operating public utility, incorporated under the laws of the State of Indiana, with its principal office and place of business at One Monument Circle, Indianapolis, Indiana. IPL renders retail electric utility service to approximately 470,000 retail customers located principally in and near the City of Indianapolis, Indiana, and in portions of the following Indiana counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Owen, Putnam and Shelby Counties. IPL owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy, heat, light and power.

3. Background. Since 1993, Petitioner has been offering to its retail electric customers a portfolio of DSM programs. Between 1995 and 2004, Petitioner implemented various DSM programs for customers and recovered the costs of such programs along with lost revenues. In 2004, the Commission approved a settlement agreement allowing Petitioner to continue offering a portfolio of DSM programs for customers, but without recovery of lost revenues. *Indianapolis Power & Light Company,* Cause No. 42639, 2004 Ind. PUC LEXIS 217 (IURC July 21, 2004).

On December 9, 2009, the Commission issued its Phase II Order in Cause No. 42693, *Commission Investigation into the Effectiveness of Demand Side Management Programs* ("Phase II Order"). In this Order, the Commission established mandatory energy savings goals and other requirements applicable to jurisdictional Indiana retail electric utilities. The utilities, of which IPL is one, were required to offer certain core DSM programs ("Core Programs") to all customer classes and market segments through an Independent Third Party Administrator ("TPA"). A DSM Coordination Committee was to be formed to address DSM program oversight. The Commission also found that a single statewide evaluation protocol was necessary in order to track achievement with DSM goals. Consequently, the utilities were required to contract with an independent entity to conduct the evaluation, measurement and verification ("EM&V") with respect to the Core Programs. The Phase II Order also contemplated the implementation of non-Core utility-specific DSM programs ("Core Plus Programs"), as necessary to meet the energy savings goals established by the Commission. Associated ratemaking and cost recovery issues were to be addressed on a case by case basis in individual utility proceedings.

In 2010, the Commission approved IPL's proposed Core and Core Plus Programs, and approved ratemaking to provide cost recovery for those programs through Standard Contract

Rider No. 22 ("Rider 22") along with a performance incentive applicable to certain of the Core Plus programs, but denied IPL recovery of lost revenues. *Indianapolis Power & Light Company,* Cause No. 43623, 2010 Ind. PUC LEXIS 53 (IURC February 10, 2010); *Indianapolis Power & Light Company,* Cause No. 43911, 2010 Ind. PUC LEXIS 391 (IURC November 4, 2010) ("43911 Order").

The Commission's November 22, 2011 Order in Cause No. 43960 ("43960 Order") approved a settlement agreement (with certain modifications) and authorized IPL to implement a portfolio of DSM programs through December 31, 2013 and recover associated costs through Rider 22 along with a performance incentive. IPL transitioned delivery and administration of the Core Programs to the TPA on January 1, 2012. *Indianapolis Power & Light Company,* Cause No. 43960, 2011 Ind. PUC LEXIS 344 (IURC November 22, 2011).

On November 25, 2013, the Commission approved IPL's proposed 2014 DSM Plan, which largely continued IPL's existing DSM programs that were designed to comply with the Commission's Phase II Order. The Commission also approved IPL's request for timely recovery of costs associated with the Core and Core Plus Programs and authorized IPL to recover a performance incentive associated with certain of the Core Plus Programs. *Indianapolis Power & Light Company,* Cause No. 44328, 2013 Ind. PUC LEXIS 359 (IURC November 25, 2013) ("44328 Order").

On March 27, 2014, Senate Enrolled Act 340 ("SEA 340") became law.[1] Among other things, SEA 340 eliminated the offering of the Core Programs through the statewide TPA and the energy savings goals established by the Commission in the Phase II Order after December 31, 2014. Ind. Code § 8-1-8.5-9(k). However, a utility could continue to timely recover energy efficiency program costs related to the programs implemented under the Phase II Order as approved by the Commission. Ind. Code § 8-1-8.5-9(l). In addition, utilities were authorized to seek Commission approval for the offering of a cost-effective portfolio of energy efficiency programs to customers after December 31, 2014, and to seek recovery of the energy efficiency program costs in the same manner as which costs were recoverable under the Phase II Order. Ind. Code § 8-1-8.5-9(m). SEA 340 also provided the opportunity for certain industrial customers to opt-out of utility-sponsored energy efficiency programs. Ind. Code § 8-1-8.5-9(f).

4. Relief Requested. IPL requests the following relief in this proceeding: (a) approval of its proposed 2015-2016 DSM Plan; (b) authority to recover program costs associated with its 2015-2016 DSM Plan through its Rider 22 as well as lost revenues and performance incentives; (c) continued utilization of its existing IPL Oversight Board ("OSB") to administer the 2015-2016 DSM Plan; (d) authority to continue the same or very similar EM&V program for its 2015-2016 DSM Plan, consistent with the provisions of 170 IAC 4-8-1; and (e) approval of necessary changes to its Rider 22 tariff to effectuate approval of the 2015-2016 DSM Plan and other requested relief.

5. IPL Case-In-Chief. IPL presented the testimony of five witnesses in support of its proposals: Lester H. Allen, DSM Program and Development Manager; Zac Elliot, DSM

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[1] Codified at Ind. Code § 8-1-8.5-9.

Program Administrator; James L. Cutshaw, Revenue Requirements Manager; Kimberly Berry, Research Analyst in Regulatory Affairs; and John E. Haselden, Principal Engineer in the Regulatory Affairs Department.

A. Lester Allen. Mr. Allen summarized the current status of IPL's DSM programs, explaining that through 2013 IPL had achieved approximately 97% of the Phase II Order's cumulative energy savings goal. He explained that the passage of SEA 340, however, effectively terminated the Phase II Order energy savings goals and allows industrial customers with demand greater than one megawatt to opt-out of participating in and paying for utility sponsored energy efficiency programs.

Mr. Allen provided an overview of SEA 340 with respect to the opt-out provisions, and described IPL's procedures granting qualifying industrial customers the ability to opt-out of DSM program participation. Mr. Allen also provided information about the number of qualifying IPL customers who had provided notice to opt-out of DSM program participation.

Mr. Allen next described IPL's historical DSM offerings, explaining that IPL has offered DSM programs to its customers since 1993. He stated that, despite the provisions of SEA 340, IPL intends to continue offering cost-effective DSM programs after 2014. He explained that IPL believes that cost-effective DSM programs are in the public interest because they can defer capacity needs, reduce energy costs, and give customers more control over their energy usage and bills.

Mr. Allen testified that IPL is seeking approval to implement DSM programs during calendar years 2015 and 2016. He explained that the proposed plan is comprised of 13 programs that will be offered by IPL to its customers and, to the extent possible, IPL will continue to offer DSM programs jointly with Citizens Energy.

Mr. Allen explained that IPL seeks authority for only two years of program delivery, despite the fact that its action plan covers three years, because of the possibility of further action by the Indiana General Assembly in the next legislative session. He stated IPL believes a two-year DSM plan demonstrates a commitment to offering DSM programs in the future and provides increased regulatory efficiency, as well as more certainty and program stability for customers, vendors, and trade allies. Mr. Allen emphasized that the plan incorporates flexibility to deal with the possibility of additional DSM legislation. And if necessary, IPL will file a request with the Commission to address any program changes that could be required by new legislation. With regard to flexibility, Mr. Allen pointed out that IPL's request includes 10% spending flexibility as well as the ability to carry over funds that are not utilized in 2015 into 2016. Additionally, IPL has proposed inclusion of indirect program costs and costs associated with emerging technologies, that will provide additional resources to develop, add, and/or modify programs in future years in response to future legislative or administrative direction.

Mr. Allen summarized the ratemaking relief being sought by IPL. He stated that IPL is requesting approval of timely recovery through Rider 22 of all costs incurred, including lost revenues and performance incentives, relating to the 2015-2016 DSM Plan. He explained that the total estimated cost of the proposed 2015-2016 DSM Plan, prior to recovery of incentives or lost revenues, is $51.2 million. Included in this budget is spending flexibility up to an additional 10% of direct program costs. IPL also requests authority to increase the 2016 plan budget by any unspent funds from the 2015 plan year, which will also support plan flexibility. Mr. Allen explained that IPL proposes to recover its 2015-2016 DSM Plan costs in the same manner as in previous years, via a DSM rate adjustment mechanism, using allocations on a class basis. He stated that IPL also requests authority to continue to pay the program delivery costs related to the delivery of programs through the end of 2014 pursuant to the 44328 Order.

Regarding the OSB, Mr. Allen testified that IPL requests approval to continue to utilize its existing OSB to administer the 2015-2016 DSM Plan. As proposed, the OSB will be able to shift dollars within a program budget as needed as well as shift dollars among programs provided the programs are found to be cost-effective and the overall approved DSM plan budget is not exceeded. In addition, the OSB will have the same authority to increase funding in the aggregate, without shifting dollars from other programs, by up to 10%, and to modify programs based on a review of initial program results as reported by an independent third party evaluator.

Regarding recovery of lost revenues, Mr. Allen testified that revenues will continue to be lost through customer adoption of energy efficiency programs in the absence of a lost revenue recovery mechanism. He emphasized that circumstances have changed legislatively and at the Commission relative to prior positions regarding DSM and what a utility is statutorily allowed to recover under its DSM and energy efficiency programs. He noted that SEA 340 includes lost revenues in the definition of energy efficiency costs and eliminated the statewide targets for energy efficiency savings. He stated that despite the absence of targets, IPL continues to pursue energy efficiency savings at a significant level and impact to the utility and has absorbed lost revenues resulting from its DSM programs since 2004.

Mr. Allen explained why IPL believes it is important that timely recovery of DSM-related costs, including lost revenues, be allowed. He explained that the lack of recovery creates a financial disincentive to aggressively pursue DSM, serving as a financial penalty for a utility that does aggressively pursue DSM. Without recovery of lost revenues, he said IPL would be better off financially by not aggressively pursuing DSM. Moreover, he noted, the level of DSM proposed in the 2015-2016 DSM Plan is greater than most of IPL's preceding DSM plans prior to 2012, and lost revenues are a real and calculable cost. Mr. Allen stated IPL strongly believes that it should not be penalized for its commitment to DSM. He also noted that state and federal policy supports recovery of lost revenues. For all of these reasons, Mr. Allen concluded that IPL should be authorized to recover lost revenues beginning in 2015.

Mr. Allen testified that IPL's proposed 2015-2016 DSM Plan is consistent with the Commission's DSM rules and regulatory policy and serves the public interest. He testified that timely recovery of program costs, lost revenues, and performance incentives is critical to support robust and cost-effective DSM programs in Indiana. Referring to the Commission's DSM rules, SEA 340, the Environmental Protection Agency's National Action Plan for Energy Efficiency, and the National Energy Policy Act of 1992 as examples, he noted that the importance of incorporating all three – program cost, lost revenues, and performance incentive – into rates has been recognized by policymakers and state and federal governments. Mr. Allen testified that a lack of timely cost recovery in any of these three areas creates a financial disincentive for a utility to aggressively pursue DSM.

B. Zac Elliot. Mr. Elliot described IPL's planning approach which led to the development of the 2015-2017 Demand Side Management Plan (the "2015-2017 Action Plan"). Mr. Elliot noted that while IPL developed a three-year DSM plan for this Cause, IPL is only requesting approval for two years, 2015-2016.

Mr. Elliot testified that in 2012, IPL in collaboration with Citizens Energy and their respective OSBs retained the consulting firm EnerNOC to complete a Market Potential Study ("MPS") and Action Plan for the period 2014-2017. Because SEA 340 was enacted after the MPS was completed, IPL re-engaged EnerNOC to update its 2015-2017 Action Plan to modify the structure of the DSM program. Mr. Elliot stated the most notable change was in the measure level details, which changed primarily as a result of EM&V of IPL's Core and Core Plus DSM Programs and adoption of the Indiana Technical Resource Manual ("TRM"). Mr. Elliot stated that the 2015-2017 Action Plan reflects decreased savings projections for the Business Energy Incentive Prescriptive and Business Energy Incentive Custom programs to account for the reduction in savings potential due to opt-out. The average annual savings projections were reduced by approximately 20% compared to savings projections in IPL's 2014 DSM Plan; however, IPL will work with its OSB to redirect authorized funds if customer interest in the programs exceeds savings projections. For those measures neither included in the scope of previous IPL-specific EM&V nor contemplated in the TRM, EnerNOC employed savings values representative of the characteristics of IPL's service territory.

Mr. Elliot noted that the savings projections for the 2015-2017 Action Plan presented in Petitioner's Exhibit ZE-2 were developed utilizing a bottom-up approach with EM&V of previously delivered IPL DSM programs or the TRM. He noted that EnerNOC also utilized a bottom-up approach to forecast direct program costs, which are comprised of five cost categories: IPL labor, education and outreach, implementation, EM&V, and customer incentives. He said EnerNOC first forecasted customer incentive costs by program. Once program level customer incentive projections were established, education and outreach, EM&V, and implementation costs were calculated as a percentage of the projected customer incentive amount by program. For purposes of projecting IPL labor, EnerNOC determined the number of full time equivalent positions necessary to fulfill administrative requirements on a program-by-program basis. In addition to these direct program cost categories, Mr. Elliot stated successful administration of the 2015-2017 Action Plan will require indirect program costs including: (a) umbrella outreach and education, to make sure that customers are aware of opportunities; (b) consulting, to assist in the development of a system to track savings; (c) memberships, to help provide resources on industry practices; (d) staff development, to send staff to DSM conferences and workshops for learning best practices; (e) statewide initiatives, to continue to develop statewide resources to benefit DSM planning; and (f) indirect IPL labor, to attend and prepare for OSB meetings, other external seminars and promote the DSM portfolio.

Mr. Elliot also explained why IPL has requested approval to recover costs associated with emerging technology. He said it is important to consider cost-effective, emerging technologies that provide the potential to contribute towards IPL's future energy and demand savings achievement, and that the OSB will oversee such funds. He noted that IPL is again requesting spending flexibility, which has worked well with the current OSB to modify budgets when necessary.

Mr. Elliot stated that the program offerings are cost-effective and that IPL sought stakeholder input to develop the plan. The 2015-2017 Action Plan (and the proposed 2015-2016 DSM Plan) includes the following programs:

Residential Lighting
Residential Income Qualified Weatherization
Residential Air Conditioning Load Management
Residential Multi Family Direct Install
Residential Home Energy Assessment
Residential School Kit
Residential Online Energy Assessment
Residential Appliance Recycling
Residential Peer Comparison Reports
Business Energy Incentives - Prescriptive
Business Energy Incentives - Custom
Small Business Direct Install
Business Air Conditioning Load Management

Mr. Elliot noted that IPL's proposed 2015-2017 Action Plan includes and extends many of the same programs approved in Cause Nos. 43960 and 44328. The programs also target all customer classes in IPL's service territory, including nine programs for IPL's residential customers and four programs for IPL's business customers. Mr. Elliot stated IPL proposes to offer a new program, Small Business Direct Install, which aims to target an often difficult to reach segment of IPL's customer base. He further noted that IPL proposes to discontinue delivery of the following current programs pursuant to the cost-effectiveness analysis results: Residential New Construction, Residential Renewable Energy Incentives, Commercial & Industrial ("C&I") Renewable Energy Incentives, and the School Audit and Direct Install program. All four programs had Total Resource Cost and Ratepayer Impact Measure results of less than one.

Mr. Elliot noted that IPL intends to administer four programs that were previously labeled as Core Programs: Residential Lighting; Home Energy Assessment; Income Qualified Weatherization; and Business Prescriptive. IPL will act as administrator of the 2015-2017 Action Plan; however, it will rely on third parties to manage the implementation and fulfillment of programs.

C. John Haselden. Mr. Haselden discussed the cost-effectiveness of IPL's proposed programs and the methods and assumptions used to conduct such analysis. He explained that IPL's modeling approach included capturing the economics from various perspectives from the California Standard Practice methodology. These include the participant cost test ("PCT"), the utility cost test ("UCT"), the rate impact measure test ("RIM"), and the total resource cost test ("TRC"). Mr. Haselden further explained that IPL also used the output of the TRC test and the RIM test to calculate a hybrid benefit/cost ratio for ranking purposes.

Mr. Haselden explained IPL's approach to cost-effectiveness screening. He said that IPL begins by looking for programs that pass the RIM test, which is both a measure of efficiency and fairness. Any program passing this test benefits non-participating customers as well as participating customers. He noted the RIM test is also the most difficult test to pass. Next, IPL looks for programs that pass both the TRC and UCT tests. He said the TRC test compares the total costs and benefits of a program for the whole population of customers and the UCT test assesses the benefits and costs from the utility's perspective. Mr. Haselden explained that IPL also applied a hybrid test, which he called the customer balance test or CBT. The CBT was used to assess the degree of subsidization between participants and non-participants. The programs that were found to be cost-effective from the UCT and TRC test perspectives were further ranked by the CBT ratio. Although the CBT was not used as a pass/fail test, it did serve as an indicator as to what programs should be examined further to determine whether or not they should be included in the action plan. Mr. Haselden testified as to each proposed program's cost-effectiveness and provided the results for all four conventional tests and the CBT.

Mr. Haselden explained that based on the cost-effectiveness analysis, IPL is proposing to discontinue the Residential and the C&I Renewable Incentives programs due to a lack of cost-effectiveness. He stated there has been no evidence of market transformation as IPL had previously hoped. IPL is also proposing to discontinue the School Audit and Direct Install program for lack of cost-effectiveness. Mr. Haselden noted that while the program is being discontinued as a stand-alone program, schools can still participate in the Business Energy Incentives programs and the Small Business Direct Install program. Mr. Haselden also explained that IPL is discontinuing the Residential New Construction program because it has struggled for a number of years to attract sufficient participation. He noted the program only marginally passes the UCT and fails the other tests. In addition, the CBT is negative, which indicates that program participants are heavily subsidized by non-participants and the total costs outweigh the total benefits.

Mr. Haselden also testified in support of the shared savings incentive being proposed by IPL. He explained that IPL is proposing to modify its current performance-based incentive mechanism to a shared savings approach. He stated that shared savings incentives are contemplated by the Commission's DSM rules, noting that 170 IAC 4-8-7(a) specifically refers to an incentive mechanism based on "a percentage share of the net benefit attributable to a demand-side management program." Mr. Haselden testified that given the changes in direction of DSM in Indiana, IPL believes a different performance incentive mechanism is warranted. He said while currently IPL's performance incentive is based upon a combination of gross energy savings achieved and DSM expenditures (essentially volume), a shared savings approach focuses more on cost-effectiveness, which appears to be more consistent with SEA 340 and the termination of mandatory energy savings goals.

Mr. Haselden stated the proposed incentive mechanism is based on actual (ex-post) net savings as evaluated by an independent third party evaluator and will be applied to all programs except the Income Qualified Weatherization program. The pre-tax performance incentive will be determined by multiplying the positive net savings, as determined by the UCT associated with each program with a UCT greater than one, by 15%. The independent third party EM&V consultant will perform the calculations necessary to determine the net benefits under the UCT. Mr. Haselden stated this amount is consistent with the mechanism awarded to other utilities and properly motivates the utility to control DSM program administrative costs while maximizing the benefits of the programs.

Mr. Haselden emphasized that there will be a true-up process associated with the shared savings incentive based upon actual program performance. The performance incentive will be based on actual (ex-post) net savings and will be trued up after EM&V results are applied. Among other things, this will ensure that the impact of free riders is taken into account in the ultimate incentive calculation. Further, the shared savings will be based on net savings subject to EM&V results for the applicable period, as opposed to performance being gauged on achievement of annual gross energy savings targets.

Regarding ongoing EM&V activities, Mr. Haselden testified it is IPL's intention that the OSB will select an independent third party EM&V contractor to evaluate the 2015-2016 DSM Plan programs. He noted that although the evaluation plan has not yet been finalized, it will meet or exceed the requirements of 170 IAC 4-8-4. He said IPL expects the evaluation will be similar in scope and thoroughness to the current EM&V work. Where applicable, the scope of work will include: process evaluations, impact evaluations, verification, and calculation of the cost-effectiveness parameters.

Finally, Mr. Haselden testified that IPL proposes to continue working with other utilities and interested parties on the TRM and the Indiana evaluation framework. He testified it is IPL's intention to utilize the Indiana evaluation framework as a standard for future EM&V work.

D. James Cutshaw. Mr. Cutshaw explained the revisions to Rider 22 to reflect lost revenues resulting from the 2015-2016 DSM Plan, the calculation of lost revenues, and how the lost revenue recovery should be accounted for in the fuel adjustment clause ("FAC") earnings test.

Regarding the revisions to Rider 22, Mr. Cutshaw explained that Subparagraph A.3 was added to the proposed rider to describe the process for determining the estimate of lost revenues. He also noted that the references to "Core and Core Plus" have been removed. Each of these changes was shown on Petitioner's Exhibit JLC-2.

With regard to the calculation of lost revenues, Mr. Cutshaw testified that IPL is proposing recovery of lost revenues due to decreased kilowatt-hour ("kWh") consumption and kilowatt ("kW") demand from the program measures for the weighted average life of the program measures. In IPL's semi-annual filings, lost revenues will be forecast for the same period as the 2015-2016 DSM Plan costs based upon each program's estimated participation and reconciled to actual participation in subsequent semi-annual filings as the expenditures are reconciled.

Mr. Cutshaw testified that IPL believes recovery of lost revenues is just and reasonable for a number of reasons, including: lost revenue recovery is necessary (but not sufficient) to eliminate a financial penalty for implementing energy efficiency programs; both the Commission and the general assembly have recognized that lost revenue recovery is appropriate; and IPL has absorbed lost revenues resulting from its DSM program since 2004.

Mr. Cutshaw sponsored Petitioner's Exhibit JLC-3 showing an estimate of the calculation of lost revenues for each year of the 2015-2016 DSM Plan. The 2015 estimate for lost revenues is $1.382 million and the 2016 estimate is $3.919 million.

Mr. Cutshaw explained how the projected lost revenues by rate class were determined. He stated that estimates of the kWh consumption and kW demand reductions per participant and the number of participants for each program were determined from analysis prepared by IPL witnesses Elliott and Aliff. Estimated participants for each program were allocated between the individual rates based upon the ratio of annual historical kWh consumption within their rate class. Allocated participants by rate were then multiplied by the estimated kWh consumption and kW demand reductions by participant to determine the total kWh consumption and kW demand amounts by rate within each program and then totaled by rate. As necessary, the incremental total by rate was divided by two to reflect a pro rata implementation of the measures during the year. These amounts for each individual rate were then multiplied by the lost revenue margin rates per kWh and kW proposed by IPL in Cause No. 43911 and reflected in Petitioner's Exhibit JLC-4.

Mr. Cutshaw explained that the estimates of kWh consumption and kW demand reductions per participant utilized in the lost revenue calculation have been adjusted to reflect the net to gross ratio for each program to account for free ridership. He further testified that the lost revenue margin rates per kWh and kW utilized in determining lost revenue amounts are reasonably reflective of IPL's present operating system, noting they are the lost revenue margin rates filed by IPL in Cause No. 43911. Mr. Cutshaw also testified that he reviewed a recent calculation of six-year average variable operation and maintenance ("O&M") costs to allow for outage frequency and determined that the variable O&M costs in the lost revenue rates are still reflective of current conditions.

Mr. Cutshaw testified that lost revenues are a real and calculable cost of implementing DSM programs. He noted that the adoption of DSM programs by customers reduces kWh consumption and kW demand, which results in reduced revenue collections for utilities. He stated that because these reduced revenues are only partially offset by a reduction in base fuel and variable O&M costs, the result is a decreased operating margin (a financial penalty) that IPL experiences as a result of implementing energy efficiency programs.

Finally, Mr. Cutshaw testified that the DSM lost revenues billed, including any reconciled amount of over/under recovery, should be included in the FAC earnings test. He explained this is appropriate because the lost revenues would have been otherwise reflected if the DSM plan were not implemented.

E. Kimberly (Berry) Aliff. Ms. Aliff described the impact of the 2015-2016 DSM Plan on the approved cost recovery mechanism utilized in IPL's semi-annual filings (Cause No. 43623-DSM-X), including the allocation of cost recovery among the customer classes. She noted that IPL is seeking a cost recovery mechanism similar to what has been previously authorized by the Commission in Cause Nos. 43623, 43960 and 44328. IPL proposes to continue to prepare semi-annual filings under Rider 22 to recover the forecasted costs (including shared savings incentives and lost revenues as discussed below) of the 2015-2016 DSM Plan over six-month periods that match the billing periods of the tracker. The semi-annual periods of January to June and July to December will continue to be used and plan expenditures will continue to be forecasted semi-annually and reconciled to actual expenditures in a subsequent semi-annual filing. In addition, IPL will continue to reconcile the amounts actually recovered from customers with the amounts intended for recovery from customers for such period reflecting differences in estimated and actual kWh consumption. She testified that these reconciliation processes ensure a dollar-for-dollar recovery of the costs approved for recovery, no more and no less.

Ms. Aliff also discussed how the performance incentives should be accounted for in the FAC earnings test. She noted that IPL proposes to use a shared savings incentive approach where the incentives would be calculated based on forecasted net benefits and trued-up after completion of EM&V. The proposed estimated shared savings incentive is calculated as 15% of the net present value of the UCT net benefits. The net benefits of the UCT equates to the difference between the costs avoided by DSM programs and the costs incurred by the utility to deliver the programs. She stated IPL is not requesting carrying charges on the costs incurred for the 2015-2016 DSM Plan.

Ms. Aliff sponsored Petitioner's Exhibit KB-2, which presented the cost allocation basis to the customer classes for each component of the 2015-2016 DSM Plan. Ms. Aliff noted that IPL is allowed to recover fixed and trailing costs from a "Qualifying Customer" who has opted out of participation in IPL's DSM programs. She said that trailing costs include direct program costs incurred prior to the opt-out date, "fixed" administrative costs associated with current third party implementers and EM&V contracts, and the true-up of estimated shareholder/performance incentives relating to program results achieved prior to the opt-out date. They also include recovery of any variances arising from the over/under recovery of program costs accrued or incurred prior to the opt-out date. Ms. Aliff stated that compared to the factor approved in Cause No. 43623 DSM 8, an average residential customer using 1,000 kWh per month will experience an increase of $0.81 or 1.2% of such monthly bills in 2015.

6. <u>OUCC Case-In-Chief</u>. Edward T. Rutter, a Utility Analyst in the OUCC's Resource Planning and Communications Division, supported many aspects of IPL's proposed 2015-2016 DSM Plan. He stated the OUCC supported the proposed programs, continuation of the OSB, the EM&V plan proposal, and the proposed tariff modifications that would be reflected in Rider 22. But, the OUCC took exception with the term of IPL's proposed plan, the proposed shareholder incentives, and lost revenue recovery.

Regarding the term of the plan, Mr. Rutter testified the OUCC recommends that IPL limit its request to a one-year plan given recent legislative changes and additional changes anticipated in the 2015 legislative session. However, Mr. Rutter stated that if the Commission decides to approve a two-year program, it should include a condition that IPL amend its programs and cost-recovery mechanisms in 2016 to comply with any interim changes in Indiana law.

As to shareholder incentives, Mr. Rutter testified that incentives are no longer necessary and the issue should be reviewed either generically or in individual utilities' 2016 DSM cases. He explained that the OUCC supported shareholder incentives when there were limited DSM program offerings in Indiana. Because there was so much room for improvement in 2009, at the time of the Commission's Phase II Order, it was reasonable to use incentives to encourage utilities to offer cost-effective DSM programs. Mr. Rutter stated that given the increase in Indiana electric utilities' DSM efforts since then and IPL's ability to select and design its own DSM program portfolio and budget and to set its own energy-saving goals, shareholder incentives are not warranted for IPL's proposed voluntary DSM offering.

Mr. Rutter also pointed out that the shared savings mechanism proposed by IPL in this case differed from the performance incentive previously approved for IPL. He testified that IPL proposes to move away from its current tiered performance incentive to a shared savings mechanism wherein IPL would receive, before taxes, 15% of shared savings. He stated that IPL's pending proposal would remove ratepayer protections built into the current tiered reward system, which includes a performance floor, an upper limit on the permitted percentage recovery, and a negative incentive for certain levels of under-performance. In addition, he noted that SEA 340 has effectively eliminated the Core and Core Plus Program designations established in the Phase II Order, thus allowing Core Programs not previously eligible for performance incentives to earn such incentives in the future. As a result, Mr. Rutter concluded that the proposed changes increase IPL's opportunity to earn a greater incentive.

Mr. Rutter further testified that the OUCC opposes two key elements of IPL's shared incentive calculation. First, because an incentive floor and cap are necessary to properly balance the interests of the utility, its customers, and overall public, its removal destroys that balance. Second, because IPL has set its own DSM goals (as opposed to DSM goals that are mandated), it is reasonable to expect the ability to achieve those goals is greatly enhanced. Consequently, Mr. Rutter recommended that if the Commission determines a shareholder incentive is appropriate for 2015, the OUCC suggests that no shareholder incentive be allowed unless IPL achieves 100% of its target, no additional incentive be permitted for achieving more than 100% of the target, and annual shareholder incentives be capped at 10% of total annual program costs.

Regarding IPL's request to recover lost revenues resulting from the proposed DSM programs, Mr. Rutter cited to the 43911 Order. He stated that because IPL has still not filed a base rate case or an up-to-date cost-of-service study, IPL's renewed request to recover lost revenues remains both premature and unreasonable. Mr. Rutter further testified that the OUCC is concerned about the ongoing level of lost revenues in all of the investor-owned electric utilities' proposed 2015 DSM Plans. He testified that lost revenue recovery raises the cost to customers and can mask the rate impact of the DSM programs on customers. He stated that while the proposed portfolio passes both the TRC and UCT cost-benefit tests, these tests exclude lost revenues and shareholder incentives paid by customers. The proposed portfolio however fails the RIM test, which includes lost revenues, meaning that total cost to customers exceeds the benefits they are receiving. In connection with this concern, Mr. Rutter noted that, with its hybrid-benefit cost test, IPL is at least attempting to recognize the overall effect on customers as impacted by lost revenues and performance incentives. He noted that more research and analysis is required to determine if the CBT test should have a role in future cost-benefit assessments of proposed DSM programs.

Mr. Rutter recommended the Commission continue to deny lost revenue recovery for IPL until a final order is issued in a base rate case, where all revenue requirement and cost-of-service allocation issues can be properly addressed. He also recommended that the issue of lost revenue recovery and shareholder incentives be re-examined in the near future and addressed generically or in individual utilities' 2016 DSM filings.

7. CAC Case-In-Chief. Kerwin L. Olson, the Executive Director of the CAC, testified concerning lost revenue recovery, the new cost-benefit test, IPL's OSB, and the proposed Income Qualified Weatherization ("IQW") program.

Regarding lost revenues, Mr. Olson noted that IPL's last rate case, Cause No. 39938, was approved in 1995, and since that time IPL's rate and charges have increased through rate adjustment mechanisms. He stated that based on 2010-2011 Annual Reports, over 25% of IPL's monthly bills comes from trackers. Mr. Olson stated the CAC opposed IPL's recovery of lost revenues, noting that IPL still has not filed a rate case since the 43911 Order, wherein the Commission addressed the absence of a recent base rate case and declined to authorize recovery of lost revenues. Mr. Olson also testified that IPL failed to provide evidence that the proposed DSM programs will result in IPL failing to receive sufficient revenues to cover its authorized costs. He argued that if a utility's sales, after the effect of DSM is included, are still sufficient to allow it to recover its authorized costs, there is no reason to ask ratepayers to compensate the utility for "lost revenues" when those revenues would have been excess revenues above authorized levels. In addition, he stated, both SEA 340 and 170 IAC 4-8-6 use "may" instead of "shall" – so, while IPL is eligible for lost revenue recovery, it is not entitled to it.

Mr. Oslon stated that CAC requests the Commission open a generic investigation to examine lost revenue calculations for DSM to ensure that ratepayers participating in investor-owned utilities' electric DSM programs are not being overcharged and to evaluate the reasonableness of awarding lost revenues for the life of the measure. He said the award of lost revenues for the entire life of the measure is excessive and should be limited to the first two years of the measure life, unless the measure life is only a year and then it should be limited to that year.

Mr. Olson also responded to IPL's proposed use of the CBT. He stated there is no supporting analysis or study showing the CBT is a good cost-benefit test to use. He recommended the Commission reject the use of any new and unfamiliar cost-benefit tests at this time and instead rely on tests that have been studied, supported, and tested by the industry.

Mr. Olson expressed appreciation that IPL is planning to maintain its current OSB. However, he noted that CAC is a non-voting member. He requested IPL consider, or the

Commission require, making CAC a voting member of IPL's OSB to better ensure proper governance of the DSM programs.

Finally, Mr. Olson offered CAC's recommendations for the IQW program to address health and safety issues identified by the 2012 and 2013 EM&V Reports as major obstacles in providing low income ratepayers with the benefits of this program. He cited to portions of the reports indicating that 91% of IQW auditors reported some health or safety issue on the job, which included exposure to rodents, insects, mold, sewage, structural issues, and lack of heat, electricity, and/or running water in a customer's home and 73% of auditors reported finding the need for replacement or repair of gas appliances while conducting combustion safety tests in homes with gas. The reports also provided that 50% of the time auditors deferred visits for these and other health and safety reasons. Mr. Olson stated the CAC recommends that IPL include in its IQW program budget an average of at least $500 per home to allow for remediation of health and safety issues.

8. <u>Lawrence Case-In-Chief</u>. Patrick Holdsworth, Director of Operations for the water and wastewater systems of the Lawrence Utilities, testified that Lawrence's water and wastewater system serves approximately 14,500 customers. He stated energy costs are a large part of Lawrence's operating budget, so he is always looking at energy usage and ways to reduce energy consumption and demand.

Mr. Holdsworth stated Lawrence's principle concern with IPL's 2015-2016 DSM Plan is that it does not appear to provide support for the DSM and energy efficiency opportunities that exist in Lawrence's water and wastewater utilities. He explained that Lawrence was in the process of a large capital improvement program and making decisions about equipment and processes that will have an impact on the energy requirements for these utilities far into the future. He stated cities often have to forego opportunities to make their utility systems more energy efficient because of a lack of funding and that is why it is important IPL's DSM program provide financial incentives to support Lawrence's capital projects.

Mr. Holdsworth expressed concern that neither IPL's Business Prescriptive Program nor its Business Custom Program would provide financial support for Lawrence's planned DSM and energy efficiency projects. He recommended the Commission require clarification to ensure that Lawrence's planned projects qualify for financial support under IPL's proposed DSM programs. He stated that Lawrence was not seeking a preference over other customers, but was only seeking to ensure that proper consideration be given to significant DSM and energy efficiency undertakings. He said consideration should be based on the merits of a project and its ability to achieve cost-effective reductions in energy consumption and demand. He also believes that projects of this size should be brought before the Commission for approval.

9. <u>IPL Rebuttal Testimony</u>. IPL witnesses Allen, Haselden, and Elliot responded to issues raised by the OUCC, CAC and Lawrence.

A. Lester Allen. Mr. Allen addressed issues raised by the OUCC and CAC concerning the term of the plan, lost revenue recovery, and the composition of the OSB.

Regarding the OUCC's recommendation that the plan be limited to one year, Mr. Allen reiterated that IPL believes it makes sense to develop a longer-term plan and provide some assurance to evaluators, customers, and any third party vendors that IPL intends to implement the plan beyond one year. He said IPL expects cost-effective energy efficiency to remain a part of the resource mix and by seeking approval of a two-year plan IPL is striving for continuity, mitigation of marketplace confusion, and improved customer satisfaction. Agreeing that any DSM program needs to comply with the law, Mr. Allen stated if new legislation is enacted that requires a modification to the 2015-2016 DSM plan, then IPL will work with the OSB to reflect such changes in the plan. If required changes cannot be accomplished through the OSB, Petitioner will seek Commission approval or direction.

With regard to lost revenue recovery, Mr. Allen testified that the Commission's rejection of IPL's last proposal for lost revenue recovery was based on four reasons: a decrease in rate base since its last rate case; the lack of an updated cost-of-service study; the fact that IPL appeared to be earning a reasonable return at that time; and the fact that IPL's projections showed no supply-side resource additions through 2013. Mr. Allen testified that circumstances have changed since the 43911 Order. He noted that, despite the elimination of the Commission targets, IPL has voluntarily proposed to continue to deliver a significant level of DSM for the benefit of its customers. Moreover, Mr. Allen noted that IPL's FAC filings (specifically, the "earnings test" calculations) showed that IPL is consistently under-earning compared to its authorized net operating income and incremental lost revenues will continue to add to this under-earning situation. Mr. Allen also emphasized that the Commission's DSM rules recognize that lost revenues are a real cost of implementing DSM programs and SEA 340 includes lost revenues as a cost of energy efficiency.

Mr. Allen presented an alternative proposal for recovery of lost revenues to meet any continuing concerns. He stated IPL alternatively requests the Commission grant IPL authority to defer, for subsequent recovery, lost revenues with carrying charges resulting from the delivery of DSM programs in 2015 and beyond and allow IPL to begin to recover such deferred lost revenue amounts through its Rider 22 upon approval of new rates and charges by the Commission.

Mr. Allen rebutted CAC's contention that lost revenues are excess revenues, pointing out that IPL is currently not earning its authorized return on investment and has been consistently under-earning for several years. He further pointed out that IPL, like all investor-owned utilities, is subject to the FAC earnings test, which requires utilities credit customers with any "over-earnings." He noted that IPL has not been required to do so.

Mr. Allen also disagreed with CAC's recommendation that any lost revenue be limited to two years, rather than the life of the DSM measure. Mr. Allen stated that lost revenues are a real cost of implementing DSM programs, and lost revenues do not cease after a two-year period, but continue to accrue over the useful life of the installed measure. He stated that is it illogical to arbitrarily limit lost revenue recovery to two years, and doing so would provide a disincentive for utilities to pursue DSM.

Mr. Allen also addressed CAC's request that the Commission initiate an investigation into lost revenue recovery. He stated that IPL does not believe such an investigation is warranted. SEA 340, Commission rules, and prior precedents support the position that lost revenues are a real cost to utilities of implementing DSM programs. He noted that this reality is recognized by many experts from utility regulators, to utility associations, to credit rating agencies and energy efficiency advocates. He said there is nothing to investigate because lost revenue recovery is a question of law and regulatory policy as determined by the General Assembly and the Commission.

Mr. Allen concluded his discussion of lost revenue recovery by emphasizing that good regulatory policy in the context of DSM is a three-legged stool, consisting of (1) recovery of prudently incurred DSM program and plan costs; (2) authority to earn an incentive; and (3) recovery of lost revenues. The basic premise is to put investment in demand-side programs on a level playing field with traditional supply-side resources. He said utilities earn a return on supply-side hard asset resources but have little financial incentive to invest in demand-side resources unless there exists a similar financial return in the form of an incentive. He noted that if the Commission were to adopt the OUCC's and CAC's positions, there would be a one-legged stool, which would not provide a reasonable basis for going forward with DSM. And even if the Commission grants IPL a shareholder incentive but rejects lost revenue recovery, there would be a two-legged stool – again, he said, not a sound basis for moving forward. Mr. Allen stated that Indiana electric utilities, including IPL, should be provided with an opportunity to recover prudent DSM program costs, lost revenues resulting from the implementation of those DSM programs, and a reasonable shareholder incentive.

Regarding IPL's OSB, Mr. Allen testified that IPL does not believe it is necessary to make CAC a voting member, noting that this could actually lead to delays in programs and funding. He noted the CAC is currently a non-voting member of the OSB and has the opportunity to provide meaningful feedback and information. He further noted that both the CAC and OUCC have acknowledged the OSB works well. Mr. Allen pointed out that the OUCC represents the interests of all ratepayers, is a voting member on the OSB, and thus it would be unnecessary and somewhat duplicative to include CAC as a voting member. Additionally, Mr. Allen argued, changing the composition of the OSB such that IPL is potentially a minority member is inconsistent with the fact that IPL is the utility in charge of and responsible for these DSM programs. Therefore, IPL recommends maintaining the current composition of the OSB.

B. Zac Elliot. Mr. Elliot addressed Lawrence's concern that IPL's 2015-2016 DSM Plan will not adequately support energy efficiency opportunities that exist within Lawrence's water and wastewater facilities. He said IPL's intention is to offer a broad range of energy efficiency options that address all major end uses and processes. The 2015-2016 DSM Plan includes both Business Prescriptive and Business Custom Programs that are designed to allow maximum flexibility in project size and scope. Mr. Elliot noted that Lawrence did not reach out to IPL regarding any project, nor had any Lawrence representative discussed project eligibility for rebates. Mr. Elliot said that IPL has since reached out to Lawrence to discuss project details. He said IPL will consider Lawrence's projects based on the ability of a project to achieve cost-effective reductions in energy consumption and demand. With regard to Commission approval for large projects, Mr. Elliot disagreed with Lawrence, arguing such a requirement is not an administratively efficient use of stakeholder's time and resources. In addition, IPL and its OSB will work with the future program implementation vendor to establish program terms and conditions that specify customer and project eligibility requirements.

Mr. Elliot also addressed the CAC's concern regarding increasing the IQW budget to address health and safety concerns. First, Mr. Elliot noted that while the auditor's report did acknowledge the concerns regarding health and safety, the independent contractor did not recommend that utilities or their customers pay to remediate health and safety issues. He also noted that a new gas policy had been implemented leading to fewer deferred audits. Mr. Elliot stated that the addition of $500 per home to address health and safety issues would increase the program budget by $1.25 million, thus increasing the first-year cost of conserved energy to approximately $1.22 per kWh. He said while there has been no historical mandate to deliver cost-effective IQW programs, IPL believes it has a responsibility to deliver as cost-effective a portfolio as practical to balance the interests of both participating and non-participating customers. Mr. Elliot noted that IPL will continue to work with the OSB to look for new ways to avoid deferrals of IQW participants, and to look for other appropriate sources of funding to address health and safety concerns.

C. John Haselden. Mr. Haselden responded to the OUCC's and CAC's issues concerning shareholder incentives and lost revenues. Regarding the OUCC's position that shareholder incentives are not necessary now that programs are voluntary rather than mandated, Mr. Haselden noted the OUCC has previously supported shareholder incentives as a way to promote DSM and recently agreed to shareholder incentive mechanisms with two different utilities for 2015. He said incentives are more important now that there is no regulatory requirement to achieve efficiency goals. He stated that utilities have obligations to both customers and shareholders and that incentives help put investments in demand-side programs on a level playing field with traditional supply-side resources.

Regarding the OUCC's concern with the proposed incentive design, Mr. Haselden testified that a shared savings incentive mechanism by its design ensures that customers are protected. He said IPL will only earn an incentive if and to the extent it achieves cost-effective energy savings. If IPL achieves fewer benefits than anticipated, its incentive will be smaller; while if it achieves greater benefits, its incentive will be larger. Further, the shared savings approach encourages the utility to pursue the most cost-efficient program delivery for the mutual benefit of customers and the utility.

Mr. Haselden also addressed the OUCC's recommendations that any incentive granted only apply to the extent that IPL achieves 100% of its target and that no additional incentives be allowed for achieving more than 100% of its target. Mr. Haselden emphasized that IPL's goal is no longer to achieve 2% per year kWh savings by 2019. Rather the goal is to achieve cost-effective energy savings from its DSM programs within the context of the approved budget. He testified IPL has not set targets, but instead has estimated impacts and set budgets based on a market potential study. Moreover, Mr. Haselden testified that a shared savings incentive is by definition a self-correcting mechanism, in that it provides fewer incentive dollars if fewer savings result, and provides more incentive dollars for more savings. At the same time, having an approved budget ensures that costs will be managed accordingly.

Mr. Haselden characterized the OUCC's 100% target recommendation, coupled with the recommendation for no lost revenue recovery, as an untenable position. He noted that even achieving 99% of the target would result in no shareholder incentive and loss of margin on every kWh saved. He stated the OUCC's proposal creates an economic disincentive to IPL to pursue DSM. In contrast, a shared savings mechanism automatically adjusts to reward good program delivery and optimal results, within the approved annual budgets.

Regarding the OUCC's comments about the RIM test, Mr. Haselden noted that if the RIM test is the only one used to determine cost-effectiveness, few programs would be implemented because only a few pass that test. He testified the reason that IPL uses and submits various tests is to balance the interests of customers and shareholders. Further, with respect to the CBT test, he noted that lost revenues do and will result from DSM programs and the CBT test recognizes this reality – which will occur with or without a rate case reallocation of costs. For this reason, IPL uses the CBT test as a ranking mechanism when evaluating DSM programs. In response to CAC's recommendation that the Commission not recognize the CBT test, Mr. Haselden noted that IPL submitted several test results in an attempt to lend another point of view to the balance between the interests of participating customers, non-participating customers, and shareholders that the conventional cost-benefit tests do not show.

Finally, Mr. Haselden asserted that the CAC's recommendation to limit lost revenue recovery to a maximum of the first two years of a measure's life is an inappropriate backdoor mechanism to penalize utilities for going longer than two years without a general rate case. He stated CAC's recommendation has nothing to do with the life of a DSM measure and should be ignored.

10. <u>Commission Discussion and Findings</u>.

A. IPL's 2015-2016 DSM Plan. IPL requests approval of its 2015-2016 DSM Plan. The Plan is for a two-year term commencing on January 1, 2015 and continuing through December 31, 2016. IPL proposed budgets associated with each component of its proposed Plan, including 10% spending flexibility and flexibility to carry-over unused funds from previous years. The 2015-2016 DSM Plan contains thirteen programs and offers programs for each customer class. In addition, IPL's 2015-2016 DSM Plan is projected to be cost-effective based on benefit-cost analyses. Mr. Haselden testified that aside from the IQW and Business Air Conditioning Load Management programs, all of the residential and C&I programs had UCT and TRC test scores greater than one. Further, IPL proposes to discontinue delivery of four current programs based on the cost-effectiveness analysis results: Residential New Construction, Residential Renewable Energy Incentives, C&I Renewable Energy Incentives, and the School Audit and Direct Install programs. Pursuant to the benefit-cost analysis results, all four programs had TRC and RIM results that were less than one. IPL also proposes to offer a new program, Small Business Direct Install, which aims to target an often difficult to reach segment of IPL's customer base.

The OUCC and the CAC appeared generally supportive of IPL's proposed DSM programs. However, the CAC recommended that IPL include in its IQW program budget an average of at least $500 per home to allow for remediation of health and safety issues and also took issue with IPL's use of the CBT in evaluating a program's cost-effectiveness. In addition, Lawrence proposed that the Commission require IPL to clarify that its 2015-2016 DSM Plan would be applicable to future water and wastewater capital projects undertaken by Lawrence, and also suggested that IPL bring significant customer incentive projects to the Commission for its review and approval.

Regarding the CAC's recommendation for the IQW program, we find that IPL's program currently strikes an appropriate balance between cost-effectiveness and assistance for low-income customers. Although we share the CAC's concerns with the high deferral rate, we will not at this time require IPL to fund health and safety measures in connection with its IQW program because we have not been presented with sufficient evidence justifying a requirement that ratepayers subsidize these improvements for other ratepayers. However, we strongly encourage IPL and its OSB to continue exploration of alternative sources of funding to address health and safety issues, as well as continued coordination with Citizens Energy when IPL encounters natural gas-related issues, in an effort to reduce its deferral rate.

As to IPL's creation and use of the CBT, the evidence demonstrates that IPL did not rely on this test in determining which programs were cost-effective. Instead, IPL provided the results of the four traditional tests and used the CBT for ranking programs and as an indicator of what programs should be more closely examined before including in its DSM plan. Because we find that IPL's proposed programs are sufficiently supported by the results of the four traditional cost-effectiveness tests, we need not approve or reject IPL's use of the CBT.

Finally, regarding Lawrence's recommendations, we believe the appropriate determination of eligibility for energy efficiency incentives to be received for specific water and wastewater projects is best left with IPL and its OSB. Both Lawrence and IPL expressed a willingness to work with each other and explore ways in which Lawrence may utilize IPL's DSM programs to achieve energy efficiency savings. In the event that Lawrence submits a proposed project for consideration to the OSB that is either rejected or upon which agreement cannot be reached by the OSB, then Lawrence may file a complaint with the Commission's Consumer Affairs Division pursuant to 170 IAC 16-1 or possibly seek relief from the Commission through the filing of a complaint in a separately docketed proceeding.

Based on the evidence presented, we find that IPL's proposed portfolio of DSM programs is cost-effective, reasonable and should be approved.

B. Term of Approval. IPL requests approval of a DSM plan lasting two years, from January 1, 2015 to December 31, 2016. IPL witnesses noted that IPL had developed a three-year action plan, but is currently seeking approval for only two years of the 2015-2017 Action Plan. IPL witnesses suggested that two years provides for greater certainty for customers and for third party vendors. While the CAC, the IPL Industrial Group and Lawrence did not object to IPL's proposed two-year term, the OUCC expressed concern over the duration of the program in the event that new legislation would be adopted to address energy efficiency in the coming year. IPL noted in testimony and at the evidentiary hearing that if new legislation were to affect IPL's DSM Plan, IPL would petition the Commission for a remedy to address those concerns and propose modification of such programs as necessary.

Based on this evidence, we approve a two-year term for IPL's proposed DSM Plan, from January 1, 2015 to December 31, 2016. IPL explained that a two-year term will assist with continuity of programs, mitigation of marketplace confusion, and improved customer satisfaction, which should lead to better participation. Given our experiences with the offering of DSM programs required by the Phase II Order, we are well aware of the time and effort required for program start-up and the possible benefits that may be achieved with a longer plan duration and therefore find IPL's request for a two-year term reasonable. However, consistent with the OUCC's concerns regarding anticipated future DSM legislation, we direct IPL to petition the Commission and seek approval or modification of its 2015-2016 DSM Plan if new legislation necessitating a change in the plan becomes effective prior to the end of this two-year term.[2]

C. IPL's OSB. IPL requests approval to continue to utilize its existing OSB to assist in the administration of the 2015-2016 DSM Plan. We have previously and routinely approved OSBs to oversee and monitor energy efficiency programs for utilities. *See, e.g., Indiana Michigan Power Co.,* Cause No. 43959, 2011 Ind. PUC LEXIS 117, (IURC Apr. 27, 2011); *Southern Indiana Gas and Elec. Co.,* Cause No. 43427, 2009 Ind. PUC LEXIS 495, (IURC Dec. 16, 2009). No party to this proceeding opposed continuation of the current OSB to administer the 2015-2016 DSM Plan. However, the CAC requested that the Commission require IPL to include CAC as a voting member on IPL's OSB. IPL expressed concern, noting that IPL does not want to be a minority vote on its own board given its ultimate responsibility for the successful delivery of the programs.

Based on the evidence presented, we do not believe it is necessary at this time to require IPL to include the CAC as a voting member on the OSB. An OSB is not a regulatory requirement for approval of DSM plans, but the existence of an OSB does weigh on our consideration of the ongoing management inherent in the proposed offerings and the flexibility afforded to the utility. Both the OUCC and the CAC indicated that the OSB has worked well in the past. The evidence also indicates that IPL is willing to share information, collaborate, and ask for input from the CAC. We also note that the OUCC, the statutory representative of all ratepayers, is a voting member of the OSB. Given the cooperative manner in which IPL has worked with the CAC in the past and the lack of evidence to the contrary, we fully expect IPL to continue its collaborative relationship with the CAC on DSM issues that may arise during implementation of the 2015-2016 DSM Plan. Although we are approving the continuation of IPL's current OSB at this time, we encourage IPL to consider alternative OSB structures in the future that may allow for additional voting members, such as the CAC.

D. EM&V. IPL requests approval to continue the same or similar EM&V for its 2015-2016 DSM Plan, consistent with the provisions of 170 IAC 4-8 as authorized in the 43960 Order and 44328 Order. IPL witnesses testified that IPL, with agreement of the OSB, will engage an independent EM&V vendor, and that the EM&V protocols for its 2015-2016 DSM Plan will meet or exceed the requirements of 170 IAC 4-8. No party to this proceeding opposed the continuation of IPL's currently approved EM&V program for its 2015-2016 DSM Plan. Accordingly, we approve IPL's proposal to continue use of the same or similar EM&V plans.

[2] We also note that the OUCC may file a complaint with the Commission at any time if it believes the 2015-2016 DSM Plan is unreasonable or requires changes necessary to comply with Indiana law.

Further, in accordance with 170 IAC 4-8-4 and to ensure that we receive timely and sufficient information, we find that IPL shall file annually by July 1 under this Cause its independent EM&V report concerning its 2015-2016 DSM programs. The EM&V report must include the completed cost/benefit analysis that identifies the total costs, total benefits, and associated benefit cost ratios for the utility cost test, total resource cost test, ratepayer impact measure test, and the participant cost test. It shall also identify the discount rate used in the cost/benefit calculations.

E. Ratemaking and Accounting Treatment. In this Cause, IPL seeks approval for timely recovery of program costs associated with its 2015-2016 DSM Plan along with lost revenues and performance incentives in accordance with the Commission's DSM rules at 170 IAC 4-8. These rules provide "a regulatory framework that allows a utility an incentive to meet long term resource needs with both supply-side and demand-side resource options in a least-cost manner and ensures that the financial incentive offered to a DSM program participant is fair and economically justified." 170 IAC 4-8-3(a). This regulatory framework "attempts to eliminate or offset regulatory or financial bias against DSM, or in favor of a supply-side resource, a utility might encounter in procuring least-cost resources." *Id.* We will, where appropriate, "review and evaluate, as a package, the proposed DSM programs, DSM cost recovery, lost revenue, and shareholder DSM incentive mechanisms." 170 IAC 4-8-3(c). These provisions acknowledge the possibility of financial bias against DSM, recognize the need to evaluate the extent of any bias, and provide ways for the Commission to eliminate any bias through adoption of a package of cost recovery and incentive mechanisms designed to facilitate the use of DSM to meet the long-term resource needs of customers.

In SEA 340, the Indiana General Assembly also recognized that the Commission may approve the recovery of DSM-related program costs, lost revenues, and incentives. Ind. Code § 8-1-8.5-9(m) provides that a utility, such as IPL, may recover energy efficiency program costs (i.e., program costs, lost revenues, and Commission approved incentives) in the same manner as such costs were recoverable under the Phase II Order, which deferred to the Commission's DSM rules for determining cost recovery. *See also* Phase II Order at 49.

It is against this background that we consider IPL's proposed cost recovery for its 2015-2016 DSM Plan.

1. Program Costs / Budget / Spending Flexibility. IPL proposes a projected budget of $44,173,000 for direct program costs; $2,150,000 for indirect program costs; $500,000 for emerging technology, and $4,417,000 for spending flexibility (representing 10% of direct program costs). IPL proposes to recover its DSM costs on a projected/reconciled basis, via its Rider 22. Should actual costs deviate from IPL's projections, IPL will utilize its semi-annual DSM rider mechanism to reconcile any differences. Having reviewed the evidence of record, we find that the proposed program budgets and the proposed recovery methodology are reasonable, consistent with the requirements of 170 IAC 4-8-5, and should be approved. Accordingly, IPL is authorized to recover program costs associated with the programs in its approved 2015-2016 DSM Plan for the period of January 1, 2015 through December 31, 2016, up to the approved budget amounts and spending flexibility, and with the ability to carry-over any unused amounts from the 2015 program year to the 2016 program year.

2. Lost Revenue Recovery. IPL proposes lost revenue recovery via its Rider 22. Alternatively, IPL proposes that the Commission grant it authority to defer its lost revenues, for subsequent recovery upon the effective date of Petitioner's next base rate case order, using updated cost-of-service study allocations. The OUCC and CAC opposed IPL's recovery of lost revenues, arguing that IPL should not be authorized to recover lost revenues in the absence of a base rate case and an updated cost-of-service study.

We addressed this issue previously in Cause No. 43911, wherein we concluded that IPL should not be authorized to recover lost revenues because:

> . . . allowing for the recovery of lost revenue for demand-side resources in the absence of a base rate case to ensure that class specific investment and investment recovery is properly aligned would exceed reasonable actions in effectuating the intent of the regulatory framework established in the Commission's DSM rules to offset the financial bias against DSM.

43911 Order at 12. In connection with this conclusion, we noted, among other things, the lack of supply-side resources in IPL's projected plans, an up-to-date cost-of-service study, and IPL's ability to earn its authorized return. *Id.* at 11.

IPL argues that several circumstances have changed since the 43911 Order. Specifically, IPL asserts that it is now constructing a significant supply-side resource; it is consistently earning below its authorized level as demonstrated by its FAC earnings test results; and SEA 340 was enacted, which explicitly recognizes lost revenues as a cost of energy efficiency and modified Indiana's DSM framework from a mandated energy savings goal framework to a voluntary framework. IPL emphasizes that lost revenues are real, calculable, and a financial disincentive to utility DSM efforts. It also asserts that its proposed lost revenue recovery comports with the requirements of 170 IAC 4-8-6 because its methodology accounts for free riders and incorporates independent EM&V results into its calculations.

Regardless of the changes discussed by IPL, the unaddressed problem is that the reasonableness of lost revenue amounts resulting from avoided sales is dependent on the appropriate fixed costs being included in the calculation. The extensive length of time since IPL's last approved cost-of-service study creates uncertainty regarding how accurately the fixed costs included in the variable component of base rates represents the actual fixed costs of providing service today. Therefore, we decline to authorize IPL current recovery of its lost revenues. However, we find value in IPL's alternative to defer lost revenues because it provides a reasonable mechanism to foster the principals of our DSM rules and addresses the stagnant cost-of-service problem. Under the deferral alternative we find reasonable herein, IPL would be authorized to defer its lost revenues for subsequent recovery beginning after its next base rate case, with such recovery to be based on an updated and approved cost-of-service study.[3] Further,

[3] Any deferred lost revenue amounts which are in excess of the lost revenue amounts based on the approved cost-of-service study in IPL's next rate case should be excluded from recovery at that time.

we do not find that accrual of carrying charges on the deferred amount to be reasonable because the conditions which give rise to denial of current recovery of the amounts being deferred result from IPL's decisions, namely the time passed since an approved cost-of-service study. Accordingly, we approve IPL's deferral alternative for lost revenue recovery, and authorize IPL to defer such lost revenues without carrying costs, for subsequent recovery after its next retail base rate case, consistent with an updated cost-of-service study approved in such base rate case.

Finally, we decline to accept the CAC's recommendation to limit lost revenue recovery to a maximum of the first two years of a measure's life. Lost revenues continue to accrue over the useful life of the measure and CAC failed to offer evidence demonstrating why such a limit is reasonable or justified.

3. Performance Incentives. IPL proposes a shared savings mechanism, in lieu of its current approved tiered performance incentive mechanism. The shared savings incentive is based on the actual net savings as determined by an independent third party EM&V vendor and will be applied to all programs except the IQW program. The proposed performance incentive is 15% of the net savings calculated using the UCT net benefits.

The OUCC opposes any incentives, but recommends that if an incentive is determined to be appropriate: (i) no incentive should be earned for achieving less than 100% of IPL's target; (ii) no additional incentive should be awarded for achieving more than 100% of the target; and (iii) the incentive should be capped at 10% of annual program costs. Reasons for the OUCC's position include: incentives are no longer necessary given the increase in DSM efforts since 2009, IPL's programs are voluntary rather than mandatory offerings, DSM is part of "IPL's job," and any incentive should have a floor and a ceiling. The OUCC also appears to argue that we should reject IPL's proposed shared savings incentive because it may provide Petitioner with the opportunity to earn a greater incentive than its existing incentive mechanism.

As we noted above, SEA 340 eliminated the offering of Core Programs and the energy savings goals established in the Phase II Order. However, as we recently noted in *Indiana Michigan Power Company,* Cause No. 44486 (IURC December 3, 2014), consideration and implementation of cost-effective DSM as an alternative to other supply side resources is embedded in Indiana's regulatory framework. Ind. Code ch. 8-1-8.5 was enacted to ensure that electric utility services would be provided to Indiana citizens at the lowest reasonable cost consistent with reliable service. This law requires utilities to demonstrate the construction, purchase, or lease of any electric generation facility to serve its customers is in the public interest. To assist in the law's implementation, the Commission adopted 170 IAC 4-7, Guidelines for Integrated Resource Planning by an Electric Utility (the "IRP Rule"), which establishes a regulatory framework for utilities to meet long-term resource needs with both supply-side and demand-side resource options in a least cost manner. The IRP Rule requires electric utilities to consider an array of demand-side measures that provide an opportunity for all ratepayers to participate in DSM. 170 IAC 4-7-6(b).

Likewise, although the OUCC argues that IPL should not be allowed incentives for DSM because offering DSM is part of "IPL's job," Indiana recognizes that the offering of incentives is an acceptable and appropriate means of encouraging cost-effective DSM and offsetting the financial bias for supply-side resources. Both SEA 340 and our DSM rules allow for investment or shareholder incentives.[4] Moreover, without mandated energy savings goals, we agree that incentives have become more important to support the aggressive pursuit and implementation of cost-effective DSM programs. For these reasons, we reject the OUCC's recommendation that we deny IPL any shareholder incentive.

As for the structure of incentive that should be approved in this case, we note that our DSM rules specifically allow for shared savings incentives. 170 IAC 4-8-7(a)(1) refers to "[g]rant[ing] a utility a percentage share of the net benefit attributable to a demand-side management program" – the very definition of a shared savings mechanism. Further, 170 IAC 4-8-7(f) specifically requires that "[a] shareholder incentive mechanism must reflect the value to the utility's customers of the supply-side resource cost avoided or deferred by the utility's DSM program minus incurred utility DSM program cost." This requirement is directly met by a shared savings mechanism.

Further, we believe that a focus on cost-effectiveness, rather than expenditures, is a better fit with the DSM framework we have in Indiana today. Rather than setting goals or targets, IPL has set budgets that are designed to achieve cost-effective DSM. We believe customers will benefit by a shareholder incentive mechanism that focuses on cost-effectiveness, as opposed to one which focuses on expenditures to meet a target level of energy savings.

Regarding the OUCC's recommendation to establish a floor and ceiling on incentives, we believe that a shared savings mechanism, coupled with approved DSM budgets in which a utility must operate, provides both a floor and a ceiling. The floor is zero, which is what the utility will earn if it fails to achieve cost-effective savings. The ceiling will be the product of the approved budget, combined with the cost-effectiveness the utility ultimately achieves.

Nor do we find persuasive the OUCC's argument that we should reject the proposed shared savings incentive because it may provide IPL an opportunity to earn a greater incentive than it does under the current tiered incentive. The current tiered incentive is based on gross energy savings and the level of expenditures, while the proposed shared savings incentive is based on ex post net savings as measured by a third party evaluator. Ultimately, the incentive IPL earns under its shared savings incentive will be based upon how cost-effectively it achieves savings from its DSM programs.

We also note that any cost recovery, performance incentive, and lost revenue mechanisms proposed by a utility needs to be evaluated as a package. Program approval and associated cost recovery in this proceeding is limited to a two-year period and will provide an opportunity to evaluate the ongoing reasonableness of the package as a whole, including the structure of the shared savings mechanism.

For all the foregoing reasons, we find that IPL's proposed shared savings mechanism is reasonable and should be approved as proposed.

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[4] SEA 340 provides for recovery of energy efficiency program costs in the same manner as allowed by the Phase II Order. As noted earlier, the Phase II Order defers to the Commission's DSM rules for determining cost recovery issues associated with DSM programs.

4. **Tariff Changes.** IPL requested approval of necessary tariff changes to effectuate approval of the 2015-2016 DSM Plan. No party to this proceeding opposed IPL's proposal to update the formula and definitions used in Rider 22 to effectuate these changes. Accordingly, IPL's proposed changes to its tariff are approved with the exception of the addition of lost revenue recovery to the tariff.

5. **Request for Investigation.** The OUCC and the CAC both requested the Commission commence a generic investigation into investor-owned utilities' lost revenues and performance incentives. We have recently considered and denied this request in other utilities' DSM proceedings. *See e.g., Southern Indiana Gas & Electric Company*, Cause No. 44495 (IURC Oct. 15, 2014) and *Northern Indiana Public Service Company*, Cause No. 44496 (IURC Nov. 12, 2014). As we indicated in those cases, recovery of lost revenues and performance incentives are discretionary tools that the Commission has to assist in removing the disincentives a utility may have in promoting DSM. Neither the OUCC nor the CAC presented any evidence demonstrating a need to further evaluate these issues on a general basis. Therefore, we decline to open such an investigation.

F. **Small Business Impact.** The Commission must consider in accordance with 170 IAC 4-8-8 the impact that IPL's 2015-2016 DSM Plan may have on small businesses and whether it would give an unfair competitive advantage to IPL in the provision of energy efficiency programs. The Commission accepts Mr. Elliot's testimony, which noted that IPL and its energy service providers will work with a number of trade allies and small businesses to support outreach and delivery of the proposed programs. Accordingly, we find that IPL's 2015-2016 Plan will not provide an unfair competitive advantage over small business as contemplated in 170 IAC 4-8-8.

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

1. Petitioner's proposed 2015-2016 DSM Plan is approved as set forth herein.

2. Petitioner is granted authority to recover program and plan costs associated with the 2015-2016 DSM Plan through Rider 22.

3. Petitioner is granted authority to recover performance incentives associated with its 2015-2016 DSM Plan, as calculated by the its proposed shared savings incentive, through its Rider 22.

4. Petitioner is granted authority to defer, as modified above, for subsequent recovery following its next retail electric base rate case the lost revenues resulting from implementation of the 2015-2016 DSM Plan; recovery of such deferred lost revenues shall be made consistent with an updated cost-of-service study approved in Petitioner's next base rate case.

PETITION OF INDIANAPOLIS POWER & LIGHT COMPANY FOR APPROVAL OF ELECTRIC DEMAND SIDE MANAGEMENT PROGRAMS TO BE EFFECTIVE JANUARY 1, 2015 THROUGH DECEMBER 31, 2016, AND FOR AUTHORITY TO RECOVER ASSOCIATED START-UP, IMPLEMENTATION AND ADMINISTRATIVE COSTS ALONG WITH COSTS ASSOCIATED WITH THE EVALUATION, MANAGEMENT AND VERIFICATION OF THOSE PROGRAMS ("PROGRAM COSTS"), PERFORMANCE INCENTIVES, AND LOST REVENUES, THROUGH ITS DEMAND SIDE MANAGEMENT ADJUSTMENT MECHANISM IN ACCORDANCE WITH IND. CODE 8-1-2-42(a) AND 8-1-8.5-9 AND PURSUANT TO 170 IAC 4-8-5 AND 170 IAC 4-8-6.	)	**CAUSE NO. 44497**

PARTIAL DISSENTING OF THE OPINION OF
VICE-CHAIR CAROLENE MAYS-MEDLEY

Vice-Chair, Carolene Mays-Medley disagrees with the denial of the request by the OUCC and the CAC for the Commission to commence a generic investigation into investor owned utilities' lost revenues and performance incentives. Vice Chair Mays-Medley agrees with the request that the IURC open a generic investigation to examine lost revenue for DSM so that ratepayers participating in electric DSM programs are not being overcharged and to evaluate the reasonableness of awarding lost revenues for the life of the measure.

For these reasons, I respectfully dissent from the majority opinion.

5. Petitioner is approved to continue to utilize the OSB in its current composition to administer the 2015-2016 DSM Plan.

6. Petitioner is granted authority to utilize the proposed EM&V program as described in its testimony and exhibits for its 2015-2016 DSM Plan.

7. Petitioner shall file its annual EM&V report in this Cause on or before July 1 in accordance with Finding Paragraph 10.D. above.

8. Petitioner is approved to make necessary tariff changes to effectuate approval of the 2015-2016 DSM Plan and associated ratemaking treatment as set forth herein.

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

STEPHAN, HUSTON, AND ZIEGNER CONCUR; MAYS-MEDLEY DISSENTS IN PART WITH SEPARATE OPINION; WEBER NOT PARTICIPATING:

APPROVED: DEC 17 2014

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

Brenda A. Howe

Brenda A. Howe
Secretary to the Commission