



IMPA
INDIANA MUNICIPAL POWER AGENCY

VIA ELECTRONIC MAIL

March 23, 2012

Ms. Beth Krogel Roads
Assistant General Counsel
Indiana Utility Regulatory Commission
101 W. Washington St., Suite 1500 East
Indianapolis, IN 46204

Re: IURC RM#11-07—IMPA Comments on IRP Strawman Rule

Dear Ms. Roads:

The Indiana Municipal Power Agency (“IMPA” or “Agency”) appreciates this opportunity to provide informal written comments regarding the Indiana Utility Regulatory Commission’s (“Commission”) recent public workshops and the January 20, 2012 draft strawman rule proposed by the Commission as part of its efforts to amend 170 IAC 4-7 (“Strawman Rule”).

IMPA is a joint agency within the meaning of IC 8-1-2.2-2(e) and is a body corporate and politic and a political subdivision of the State of Indiana. IMPA was created in 1980 by a group of municipalities for the purpose of jointly financing, developing, owning, and operating electric generation and transmission facilities appropriate to the current and projected electric power needs of such municipalities. IMPA is the wholesale provider of all the electric power and energy requirements of its 54 member cities and towns. IMPA is not a “public utility” as defined in IC 8-1-2-1; however, IMPA is a “public utility” as defined in the Utility Powerplant Construction Act, IC 8-1-8.5-1(a)(2), and is therefore subject to the Commission’s Guidelines for Electric Utility Integrated Resource Plans as set forth in 170 IAC 4-7.

I. Exemption from Public Advisory Process

New Section 0.1 of the Strawman Rule sets forth the applicability of the IRP rules to various electric utilities and appropriately includes a joint agency created under IC 8-1-2.2 within the scope of the rules. Section 0.1(c) of the Strawman Rule provides an exemption from the public advisory process requirements in new Section 2.1 for “municipally owned” and “cooperatively owned” electric utilities. As proposed, Section 0.1(c) would exempt cooperatively owned wholesale providers (“Cooperative G&Ts”) from the Strawman Rule’s public advisory process requirements. The similarities between a joint agency, such as IMPA,

and Cooperative G&Ts suggest that the exemption provided by Section 0.1(c) should also apply to a joint agency created under IC 8-1-2.2. In addition, at least one other section of the Strawman Rule appears to indicate that the Commission intends for a joint agency to be exempt from the public advisory process.¹ However, Section 0.1(c) of the Strawman Rule does not expressly include a joint agency created under IC 8-1-2.2 within the scope of the exemption. Expressly including a joint agency within the exemption is appropriate because (1) IMPA's municipal members exercise broad oversight of the Agency's resource planning and development; and (2) IMPA's established IRP process involves input from its members, including advanced review, opportunity to provide feedback, and approval at meetings held open to the public. Accordingly, IMPA suggests the following revision to Section 0.1(c) of the Strawman Rule (addition in **bold underline**):

170 IAC 4-7-0.1 Applicability

Authority: IC 8-1-1-3

Affected: IC 8-1-2.2; IC 8-1-2.3-2; IC 8-1-2.4; IC 8-1-8.5; IC 8-1-8.8-10; IC 8-1.5

Sec. 0.1 (a) To assist the commission in its administration of the Utility Powerplant Construction Law, IC 8-1-8.5, this rule applies to the following electric utilities:

- (1) Public investor owned.
 - (2) Municipally owned.
 - (3) Cooperatively owned.
 - (4) A joint agency created under IC 8-1-2.2. An individual member of a joint agency is not required to submit to the commission a separate IRP.
- (b) This rule does not apply to a person who is exempt pursuant to IC 8-1-8.5-7.
- (c) The following electric utilities are exempt from the public advisory process

requirement in section 2.1 of this rule:

- (1) Municipally owned.
- (2) Cooperatively owned.
- (3) A joint agency created under IC 8-1-2.2.**

II. Guidance on IRP Requirements Inapplicable to Certain Utilities

At the IRP Rulemaking Workshop held February 10, 2012, the Commission expressed its intent that the proposed changes to 170 IAC 4-7 provide sufficient flexibility to accommodate the variation among Indiana's electric utilities. IMPA agrees wholeheartedly that such flexibility is one of the crucial aspects of a workable rule and appreciates the Commission's efforts on this point.

¹ See Section 3(b)(16) of the Strawman Rule, which provides that "[p]ublicly owned utilities shall provide a summary of the utility's . . . public advisory process[.]" "Publicly owned utility" is not defined in the Strawman Rule but presumably refers to a subset of the organizations included within the definition of "utility" set forth in Section 1(w) of the Strawman Rule. A joint agency created under 8-1-2.2 does not fit within the description of "publicly owned."

Such flexibility is especially important for IMPA because, unlike a traditional vertically-integrated utility, the Agency engages in wholesale-only power supply to a limited group of municipal customers throughout Indiana. As a wholesale-only power provider, IMPA's involvement with retail customers is extremely limited and IMPA cannot modify the terms upon which retail customers receive electric service. Further, IMPA does not have an assigned retail service area or a corresponding transmission and distribution system matching its footprint. In fact, IMPA's wholesale customers are located across five balancing areas in both the MISO and PJM RTOs, and for most purposes IMPA and its members are transmission-dependent utilities.

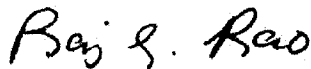
In reviewing the Strawman Rule, IMPA identified a number of requirements that generally do not apply to wholesale-only or transmission-dependent electric utilities or may be inapplicable in certain situations. Accordingly, IMPA respectfully requests that the Commission provide revisions or other guidance on compliance with IRP requirements that do not apply to wholesale-only or transmission-dependent electric utilities. IMPA believes that such guidance is especially important given the new acknowledgment process proposed in the Strawman Rule and the time, expense, and uncertainty involved in seeking a formal waiver prior to each IRP filing.

III. Conclusion

IMPA looks forward to the Commission's continued efforts to develop workable IRP rules to help assure adequate, cost-effective resources are available to serve Indiana's retail electric customers. As always, should you have any questions or need further information, please feel free to contact IMPA Vice Presidents Andrew Despain or Larry Brown at (317) 573-9955.

Sincerely,

INDIANA MUNICIPAL POWER AGENCY



Raj G. Rao
President & CEO