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## **Edwardsport agreement puts permanent cap on project costs and provides numerous additional customer benefits**

The Indiana Office of Utility Consumer Counselor (OUCC), the Duke Energy Industrial Group (which consists of six of the utility's large industrial customers), Nucor Steel and Duke Energy have reached a settlement agreement resolving pending issues regarding Duke Energy's new generating station at Edwardsport, Ind. The parties have filed the agreement with the Indiana Utility Regulatory Commission (IURC), which must approve it for it to take effect.

Construction of Duke Energy's integrated gasification combined cycle (IGCC) plant at Edwardsport is nearly complete. When the plant goes online later this year, it will provide up to 618 megawatts (MW) of new electric generation and will be the first new baseload electric power plant launched in Indiana in more than two decades.

If the agreement is approved, construction costs paid by Duke Energy customers will increase by \$94 million over the amount the IURC approved in 2009. This is approximately \$660 million less than Duke Energy's new construction cost estimates. In regard to the financing costs, Indiana law allows Duke Energy to increase customer rates incrementally to recover such costs for the Edwardsport project. The financing costs capped under the agreement are a portion of the financing costs that have continued to accrue since the 2009 order and would have been otherwise recoverable by Duke in due course under the project as allowed by Indiana law.

"This agreement is the result of countless hours of hard-nosed negotiations with Duke Energy and other consumer parties," said Indiana Utility Consumer Counselor David Stippler. "While this is an extremely complex case and has been very difficult to resolve, the agreement will require Duke Energy and its shareholders to pay for an appropriate share of the Edwardsport project, while putting an end to the cost overruns and making sure the project goes online for the benefit of Duke's customers."

In addition to more than \$700 million in immediate ratepayer savings (including construction and financing cost savings), the agreement includes numerous and substantial consumer benefits:

- Duke Energy will have a two-year moratorium on any Indiana base rate increases. Specifically, the utility will be barred from initiating any new base rate case with the IURC before March 2013, and not allowed to implement any increase from such a case before April 2014. Without this provision, Duke would be allowed under state law to seek a base rate increase at any time.

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- Under the agreement, Duke Energy will provide Indiana customers with a minimum of \$35 million in annual rate credits through reduced depreciation rates. These credits will be in effect for a minimum of 3 years, remaining in effect after Duke Energy's next base rate case and not ending until the conclusion of an additional, following rate case in the future.
- \$32 million in additional annual depreciation expense reductions, which will take effect at the conclusion of Duke's next base rate case.
- \$22 million in annual customer savings due to deferred tax incentives.
- The Edwardsport plant's assets will be valued at the capped costs for the life of the project, saving ratepayers substantial dollars for years to come.
- Duke shareholders will contribute \$3.5 million to the Indiana Low-Income Home Energy Assistance Program (LIHEAP) fund over a five-year period, for the benefit of customers in Duke Energy's Indiana service territory.
- Duke and its shareholders will pay \$2 million to the Indiana Utility Ratepayer Trust.
- The OUCC and Duke Energy will collaboratively develop a new clean energy initiative. An independent, third party will administer the program, to be funded with \$1 million in Duke shareholder money.
- The utility's shareholders will pay for all expert witness costs incurred by the OUCC in recent litigation.
- Duke shareholder funds will pay the legal fees for other consumer parties that are part of the agreement.
- Duke shareholders will bear all costs for the company's lawsuits against GE, Bechtel or other project vendors or contractors. At the same time, the settling parties agree not to oppose or undermine Duke's legal actions.

Average customer rates have increased approximately 5 percent to date for the project. The remaining increases would be implemented in two steps under the agreement. An average customer will see increases of 3.2 percent when the Commission issues an order and 6.4 percent in mid-2013.

If approved by the IURC, the agreement will resolve more than 5 years of ongoing litigation among the settling parties, including 27 days of evidentiary hearings that started in October 2011 and continued through February 2012.

Stippler emphasized that the OUCC has supported construction of the Edwardsport project since 2007 and still supports the plant's completion. The agency's disagreements with Duke have focused on cost overruns and inaccurate cost estimates in its testimony in various phases throughout the case, and whether ratepayers or shareholders should bear those costs.

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“Approximately 88 percent of the construction costs above the amount the IURC approved in 2009 will be borne by Duke’s shareholders,” said Timothy Stewart, counsel for the Duke Energy Indiana Industrial Group. “This is a significant benefit to all ratepayers.”

“Indiana needs new power supplies for any number of reasons, including future economic growth and the looming retirement of other coal-fired plants due to their age and mounting federal environmental regulations. This project allows Indiana to use a local resource in the cleanest way possible to address our state’s future energy needs in a realistic manner,” said Stippler. “This agreement will ensure the Edwardsport plant’s completion with proper consumer protections.”

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The Indiana Office of Utility Consumer Counselor (OUCC) represents Indiana consumer interests before state and federal bodies that regulate utilities. As a state agency, the OUCC’s mission is to represent all Indiana consumers to ensure quality, reliable utility services at the most reasonable prices possible through dedicated advocacy, consumer education, and creative problem solving.

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