IN VCEPS Stakeholder Meeting with
HOOSIER ENVIRONMENTAL COUNCIL (HEC) – August 2, 2011

Motivations regarding rulemaking to establish the Indiana Voluntary Clean Energy Portfolio Standard program:

- Does the IURC rule lead to improvement in the Indiana economy and in Indiana environmental quality?
- Will the rule meet the intent of the statute?

Legislative intent = promotion of new generation that is lower carbon emitting and less polluting.

Under Section 4, the Hoosier Environmental Council (HEC) is concerned about equal incentives for a wide range of resources that have differing levels of environmental benefits. Has the IURC had discussion about different incentives for different resources?

IURC: We've received input making similar request. IURC staff have discussed, but no decision made until after comments are received, having a list of factors for determining incentives including the pollution level of the resource choices.

IURC Question: Where in the statute is discretion given to IURC to make resource choices?

Section 13(a)(2)

IURC Answer: 50% of the resources are to be in state. Other than that, there is no clear statutory authorization for IURC to delineate between resource types. Please provide in comments whether you think this is permissible or discretionary and the statutory authority.

IURC Question: Please provide comments regarding what resources count and what doesn't count, particularly relating to existing resources vs. new resources. If HEC wants the IURC to take a particular position, statutory analysis is helpful.

One way to distinguish between resources is the resources' carbon footprint per Mwh. Another is the resources' other environmental impacts.

IURC: If HEC wants the IURC to take such information into account, then provide evidence in support of how HEC would like the resources weighted.

What type of evidence?

IURC: Avoid rewriting the legislation. Give legislative intent. The clear plain language of the statute is what is relied on first. If your position is that the statute is ambiguous or that IURC appears to have discretion in a certain area, please give the basis for that position.

Would input from the legislators help?

IURC: The legislators are free to provide comments and to participate or not, just like any other interested person. The IURC recognizes the role that the legislature played in establishing the statutory bounds of this program.

IURC: Of #1-16 in Section 4, would the HEC like to see some differentiation and factors?

Yes.

IURC: Do you think the IURC has discretion to differentiate resources regarding the CPS goals and the incentives or just regarding the incentives?

Just regarding the incentives.

Regarding #17 of Section 4, how would IURC take into account other statutes relating to clean coal?

IURC: That is still under discussion, but there is probably a presumption that if a resource is already getting cost recovery and/or incentives under another statute, then it would not get cost recovery and/or additional incentives under the IN VCEPS program. No double counting or double dipping. Please include in your comments HEC's viewpoint on this issue.

Regarding #20 of Section 4, HEC is worried about this resource eating a large percentage of the 30% that can come from #17-21, because a large investment has already been made in this resource in Indiana.

Regarding #21 of Section 4, regarding a natural gas retrofit, if the retrofit is already required under settlement with the EPA or other group, then this resource type should receive no incentives as it is already mandated.

Regarding what resources should count toward the CPS goals or should receive any incentive, the start date of the rule – January 1, 2012 – should be used.

IURC Question: What about those resources with dates earlier than January 1, 2012? Setting that date could give them more of an incentive?

IURC Question: Is the HEC open to counting resources differently for the CPS goals than for receiving incentives?

No. The intent of the statute is to promote new generation. Nothing should be given for past decisions.

IURC Question: Does that penalize early adoptors or make it less likely that early adoptors will participate in the program?

The utilities made their decisions based on the information and logic available at the time of the decision. The utilities have made their business case decisions and have already accrued the benefits of those decisions at the time of the investment.

IURC Question: Is there a cut-off date for a utility to apply to the program? Should the IURC let a utility come into the program late? If so, how should that be handled?

Isn't the prospect of an additional ROE inducement to participate?

IURC Answer: It is. However, the IURC may want to establish a rule that makes it easier to participate, but harder to get the incentive.

HEC has concerns regarding the Clean Energy Credits (CECs).

How will the IURC perform the methods for measuring and evaluating clean energy resources and compliance with the rule?

IURC Answer: The compliance and reporting process will need to verify the programs and that the utilities are on target. PJM and MISO have existing tracking services for energy credits that can be customized to the IN VCEPS specifications. The utility will need to provide documentation of compliance and attainment of goal, probably similar to the information provided by the tracking services.

IURC Questions: CPS goals refer to average (e.g. 4% over 6 year period). Where does a utility need to be in any given year during the period? When should incentives be granted? When should incentives be awarded? At the beginning, end, or middle of CPS goal period?

Section 11(c)(3) – how will this work?

IURC Question: Application processes – are these docketed proceedings? Does this change any other IURC processes, such as CPCN? Is there an interrelationship? If a utility submits a plan in 2013, changes are likely between then and 2025 – how should that be taken into account?

IURC Question: IRP process has been mentioned. When calculating costs, should the IURC look at other factors? As existing generation retires, should that be replaced with cleaner energy? Also need to consider consumer cost – not all clean energy for the sake of clean energy.

Section 12 – Can the utility reach these goals through its own generation, PPAs, or CECs?

HEC is concerned about compliance with goals solely through CECs vs. new generation.

IURC: Statutory language exists regarding meeting goals, but IURC has discretion regarding incentives. Should level of emissions be a factor in considering whether or how much of an incentive to award? Should CECs receive a different type of incentive treatment than that for other generation?

Section 12(d)

IURC: Just and reasonable is circumstance specific. In real time, a specific determination of whether a project is in the plan makes sense. What should happen to incentive if utility is no longer meeting goals?

Section 13(c)(s) – Is there a bias between making an investment vs. purchasing a PPA?

IURC: Actually, this program should lessen any bias. This statute and rulemaking do not eliminate CPCN process, in which a utility must look at other options, such as RFP and PPAs. Statute allows a utility to still get a return on clean energy that it does not build itself.

Periodic Rate Adjustment Mechanism (PRAM) – similar to other processes. IURC has discretion regarding incentives, but the awarded of PRAM is required if utility is approved for the program.

IURC: Please comment on 6 or 12 month updates --- actual costs vs. expected – reporting and true-up.

Does Section 14 (a)(2)(A)(iii) and (iv) refer to biomass?

IURC: Yes, any resource where there is a difference between electricity generated and clean energy generated.

Section 14(a)(3)(D) – regarding goal compliance, HEC is concerned that there may be a rush of cheap CECs that a utility will buy to comply with the goals for 2 periods.

The HEC is planning on submitting written comments by the August 15th initial deadline for comments relating to rule development.