



Indiana Office of Utility Consumer Counselor

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The State Agency Representing
Hoosier Utility Ratepayers

May 18, 2023

Beth Heline
General Counsel
Indiana Utility Regulatory Commission
101 W. Washington St. Suite 1500E
Indianapolis IN 46204

Re: RM 22-05, Second round of comments on Small Modular Reactors (SMR)

Dear Ms. Heline,

The Indiana Office of Utility Consumer Counselor (“OUCC”) hereby submits its recommendations on the April 5, 2023 version of the proposed small modular nuclear reactor (“SMR”) rule, as well as its responses to the comments submitted by other parties.

A. Added language.

The OUCC has added proposed language to 170 Ind. Admin. Code 4-11-6 to specify that NRC reports should be filed under the Cause No. in which the Commission considered a certificate of public convenience and necessity for the SMR. The OUCC also added a (D) to 170 I.A.C. 4-11-5(b)(3) to specify that the required evidence for CPCNs include the applicant’s plan to apply for permits for “(D) the locality in which the proposed SMR is planned.”

B. Comments submitted by other parties.

1. Citizens Action Coalition (“CAC”). The OUCC shares CAC’s concerns regarding the proposed rule’s lack of explicit consumer protections, specifically those pertaining to affordability. Utilities proposing to site SMRs should be required to explain their risk mitigation efforts, provide the best cost estimate for each proposal, and include all relevant information regarding the costs of environmental impact, decommissioning, and depreciation.

2. Duke Energy Indiana, LLC (“DEI”). The OUCC disagrees with DEI’S request to remove the reporting requirement in proposed 170 I.A.C. 4-11-6. DEI itself states that it “constantly receives and sends numerous notices and reports to the NRC,” and interacts with the NRC on a daily basis. DEI Comments,

January 12, 2023. As such, should DEI be granted approval to operate an SMR in its Indiana service territory, it will be a matter of copying the Commission at the same time DEI responds to or files something with the NRC. The reporting requirement is consistent with the statute and the OUCC supports its inclusion in the proposed rule.

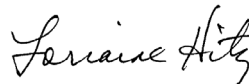
3. Indiana Michigan Power (“I&M”). The OUCC agrees with I&M’s suggestion that confidentiality be granted in the original CPCN filing, and that the initial confidential grant be allowed to cover the submission of subsequent reports requiring confidential treatment. This streamlines the process of filing the Commission’s requested reports under 170 I.A.C. 4-11-6.

The OUCC also agrees with I&M’s request to add language to address its nuclear facility in Bridgman, MI (D.C. Cook), and the Commission’s addition of that language to 170 I.A.C. 4-11-1(2).

However, the OUCC disagrees with I&M’s statement that the rule should include a 100 basis-point adder or other financial incentive to encourage SMR investment. This request ignores the ongoing upward rate and affordability pressures facing customers of all Indiana electric IOUs. It also ignores the fact that the inclusion of a resulting nuclear asset in a utility’s rate base will provide the utility the opportunity to earn a return on that ample investment, which will impact customers’ rates. The addition of 100 basis points to an already-large number is unnecessary to incent a utility and is a disservice to customers who will bear the costs. Further, it is not appropriate to make this determination up front in a rulemaking rather than in a specific filing.

C. Closing. The OUCC thanks the Commission for the opportunity to comment and looks forward to the completion of this rule.

Sincerely,



Lorraine Hitz
Deputy Consumer Counselor