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**STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION**

Pre-rulemaking Workshops --	)	
Indiana Voluntary Clean Energy	)	RM #11-05
Portfolio Standard Program	)	

**WIND ON THE WIRES’ REPLY COMMENTS on the STRAWMAN PROPOSAL**

NOW COMES Wind on the Wires’ reply to the Indiana Utility Regulatory Commission (the “Commission”) solicitation<sup>1</sup> for comments and communications regarding the Indiana Voluntary Clean Energy Portfolio Standard Program (the “Program”) strawman rule prepared by the IURC. Wind on the Wires replies to comments from the Citizens Action Coalition (“CAC”), Covanta Energy Corporation (“Covanta”), Hoosier Environmental Council (“HEC”), Indiana Energy Association (“IEA”), Indiana Industrial Group (“IIG”), and the Indiana Office of Utility Consumer Counselor (“OUCC”). We provide these comments to aid the Commission staff in preparing its draft proposed rule (the “Proposed Rule”).

Attached is a redline version of the Strawman rule. (Appendix A) The edited sections of the attached Strawman rule reflect the changes discussed herein. There are numerous rules that parties recommend be revised that Wind on the Wires is not taking a position upon. Therefore, the entirety of the attached redline version of the Strawman

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<sup>1</sup> The Commission’s solicitation of comments and other communications are evidenced by the request for Reply Comments posted prior to November 4, 2011 on the Commission’s webpage dedicated to rulemakings, at <http://www.in.gov/iurc/2448.htm>.

rule does not represent Wind on the Wires position, only those section that have been edited.

## **I. Statement of Position**

In keeping with the objectives of SEA 251, the rule for the Indiana Voluntary Clean Energy Portfolio Standard Program needs to ensure diversity of the electric suppliers' portfolios and bring new development and investment into Indiana. The significant issues that remain to be addressed in the Strawman Rule are: [1] which clean energy resources should be allowed to count toward the statutory Clean Portfolio Standard Goals ("Goals"); [2] which clean energy credits ("CECs") can be used to meet the Goals; and [3] how to certify CECs.

As presently written, the Strawman Rule allows a utility to use clean energy resources an electric supplier owned prior to the effective date of SEA 251 to satisfy the Goals and thereby receive approval for periodic rate adjustments. For the Clean Energy Portfolio rule to be most effective, both the CHOICE Incentive and periodic rate adjustment mechanism should be awarded for new development and investment and not for actions the utilities have undertaken prior to the effective date of the bill. Nearly all of the parties made this point, but addressed the issue in different ways. Wind on the Wires recommends that only clean energy and CECs from new clean energy resources be used to: (1) meet the Goals, and (2) be awarded a CHOICE Incentive. In addition, clean energy procured pursuant to existing federal or state requirements, orders or statutes should not count toward the Goals or toward the CHOICE Incentive. The Indiana Electric Association proposed May 10, 2011 as a date after which clean energy

resources would qualify for the CHOICE Incentive. (IEA Letter Comment at 3) Wind on the Wires is willing to accept May 10, 2011 (which is the effective date of SEA 251) as the effective date after which clean energy resources must be in service, purchased, or contracted for in order to qualify for the goals, for periodic rate adjustment and for the CHOICE Incentive.

Unbundled clean energy credits<sup>2</sup> pose the same problem to the rule that existing clean energy resources do – there is a sufficient quantity of unbundled CECs in PJM and MISO to meet the Goals such that no new investment or development may occur in Indiana. The procurement of unbundled CECs will only reward owners of existing resources that do not have a contract. Furthermore, procurement of unbundled CECs will not support the development of new clean energy resources. Therefore, unbundled CECs should have a narrowed framework of use in the CHOICE Program. Unbundled CECs should come from a resource that was placed in service, purchased or contracted for after the Effective Date, like clean energy resources.

Finally, section 7 of Wind on the Wires' Reply Comments addresses a few changes that no other party has raised. The recommendations Wind on the Wires makes in that section are: [1] the Effective Date should be applied to CECs in the same manner it is applied to clean energy resources; [2] an electric supplier should have more flexibility to enter the CHOICE Program then just 6 months before the beginning of the Goal Period; [3] the electric supplier should not be required to justify the need for generation; [4] guidelines need to be set in the event an electric supplier either fails to

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<sup>2</sup> Clean energy credits purchased separate from the clean energy, such that energy is not delivered to Indiana ratepayers.

comply with the CHOICE Plan or decides to withdraw from the CHOICE Program; [5] clean energy credits should measure compliance with the CHOICE Program; [6] clean energy resources in 8-1-37.4(1)(17) need a correlation to energy output.

Replies to comments filed by other parties between October 7 and 14<sup>th</sup> are below. The changes described above are discussed in more detail in those replies. Wind on the Wires' recommendations are intended to: (i) increase the amount of new clean energy resources used by electric suppliers; (ii) not reward past behavior or existing facilities by procuring unbundled CECs; (iii) encourage new investment and jobs in Indiana; and (iv) improve the efficiency of the CHOICE Program.

## **1. Citizen's Action Coalition**

### **A. How to Account for Pre-Existing Resources**

The Citizen's Action Coalition expresses a few concerns regarding the use of pre-existing resources. CAC states "that preexisting resources that resulted from Commission ordered programs or projects should not be applied to the CPS targets, nor should they qualify for additional financial incentives." (CAC Secondary Comments at 2) CAC also expresses concern about how incremental investments into an existing energy resource to make it "clean energy" may qualify for the CHOICE Incentive. (Id. at 3)

REPLY: It appears that CAC would want only new clean energy resources to meet the Goals as well as apply for the CHOICE Incentive. To the extent their position is consistent with what we set forth in the Statement of Position above, then we are in agreement.

## **B. A Defined Methodology for Awarding CHOICE Incentives Would Improve Efficiency of Application Process**

The CAC states the following -- “CAC would recommend that the final rule dictates, to whatever level possible, a methodology that explains potential variation in incentive depending on the criteria.” (Id. at 3) Wind on the Wires interprets the CAC’s position to be that the final rule provides a methodology for awarding the CHOICE Incentive.

REPLY: Wind on the Wires agrees with the concept of providing more definitiveness to the awarding of CHOICE Incentives. The benefit of definitiveness is the streamlining or improved efficiency of the Program Application Proceeding.

Wind on the Wires recommends a three tier structure for awarding basis points under the CHOICE Incentive. The tiers should place greater priority on clean energy resources that produce no emissions. Wind on the Wires recommends that the Utility receive an increase in its authorized rate of return in the range of 45-50 basis points if more than 90% of the Goal is met with clean energy or CECs from renewable resources that produce zero emissions, are non-polluting and are not byproducts -- such as wind, solar, photovoltaic cells, hydropower and geothermal energy. Between 25 and 45 basis points should be awarded if between 49% and 90% of the Goal is met with clean energy or CECs from the aforementioned list of clean energy resources, and 25 or less basis points awarded if between 0% and 50% of the Goal is met with clean energy or CECs from the aforementioned list of clean energy resources.

See Redline rule: 170 IAC 17-4-4(c)

## **2. COVANTA**

### **A. IURC Should Use Independent Parties to Certify the CECs**

Covanta recommends the Commission create a CEC certification process. (Covanta Rulemaking Comments at 2) Specifically, Covanta proposes a three-step process for certifying and posting available CECs and resources.

REPLY: Wind on the Wires objects to Covanta's three step process for certifying and posting available CECs. We would recommend that the Commission use an independent, third-party tracking system to verify the production of energy. Since the statute allows the electric suppliers to procure clean energy in PJM or MISO, the Commission should use the regional transmission organizations' pre-established credit tracking systems. PJM Environmental Information System's ("EIS") Generation Attribute Tracking System ("GATS"), and the Midwest Renewable Energy Tracking System ("M-RETS") are capable of independently verifying the location of generation, resource type and month and year of generation. GATS tracks generation attributes and the ownerships of the attributes as they are traded or used to meet renewable portfolio standards ("RPS") and other programs, typically for generators whose energy is settled in the PJM market or whose facility is located in the PJM footprint. M-RETS tracks renewable energy generation and assists in verifying compliance with individual state/provincial RPS requirements or voluntary programs, for generators located in South and North Dakota, Minnesota, Wisconsin, Iowa, Illinois and Ohio.

See Redline rule: 170 IAC 17-5-1(5) and 17-5-3

**B. A Conversion factor for converting Clean Energy to Megawatts is Not Needed**

Covanta recommends the Commission establish a Conversion factor for converting Clean Energy to megawatts. (Covanta Rulemaking Comments at 4)

REPLY: If the proposal to use M-RETS or PJM-GATS is adopted, a conversion factor isn't needed. The amount of energy delivered to the electric supplier will be certified by PJM-GATS or M-RETS when the energy is sold into PJM or MISO. Moreover, it is unclear why a conversion of steam to megawatts is needed, when the industrial consumer is generating electricity.

If Covanta is proposing that it receive CECs for steam that it generates and it uses, as opposed to energy it sells, then a metering program should be established for those types of generators that is consistent with the commissions net metering rules.

The IURC should not establish a steam-to-energy conversion rate without further information about the steam turbine. For instance, the workshop has insufficient information on the type of combustion engine Covanta uses to establish a conversion for their facility.

### **3. HOOSIER ENVIRONMENTAL COUNCIL**

#### **A. Additional Clean Energy Resources That Can be Defined by the Commission should comply with an Explicit Life Cycle Criteria**

Hoosier Environmental Council recommends that an explicit environmental life cycle criteria be established for the definition of “clean energy resources” in 170 IAC 17-2-7. (HEC Comments)

REPLY: Wind on the Wires supports HEC’s proposal.

#### **B. The CHOICE Incentive Should Not be Awarded to Clean Energy Resources that are Obtained Pursuant to Order’s that Require Electric Supplier Compliance**

Hoosier Environmental Council recommends a modification to the list of factors (see 170 IAC 17-4-4(c)) used by the Commission in evaluating CHOICE Incentives. Specifically, HEC recommends that any clean energy resource an electric supplier is required to procure from due to federal or state regulation, court action, Agreed Order, Commission’s Order or Consent Decree should be weighed in awarding CHOICE Incentives. (HEC Comments)

The electric supplier should not be counting its current obligations that arise from a court or government order toward the compliance of the Goal. The Clean Energy Portfolio Standard intended for the electric supplier’s to diversify their portfolio and not be rewarded for an action they were ordered to perform.

REPLY: Wind on the Wires agrees with the concept, but proposes that the limitations apply to resources used to comply with the Goal and to comply with the CHOICE Incentive. Since the CHOICE Program is intended to incent a diversified

portfolio and change the status quo of the electric suppliers' energy portfolio, the electric supplier should not be rewarded for procuring clean energy in compliance with orders of the court or a government agency.

See Redline rule: 170 IAC 17-3-4(c) and 170 IAC 17-4-4(d)

#### **4. INDIANA ENERGY ASSOCIATION**

##### **A. Electric Supplier Should be able to Recover Commission Approved Costs it Incurs Before Rates are Found Unjust and Unreasonable**

IEA states that “if the Commission finds that a participating utility’s continued participation in the program will cause rates to be unjust and unreasonable, the program commissions approved costs incurred by the utility during the time it was participating in the program is recoverable.” (IEA Letter Comment at 4)

REPLY: Wind on the Wires supports this proposal. Since this is a voluntary program, the utility needs assurance that its costs are going to be recovered.

#### **5. INDIANA INDUSTRIAL GROUP**

##### **A. Only “New Investments in Clean Energy Resources” Should Qualify for the Tracking Mechanism**

The Indiana Industrial Group (“IIG”) recommends that the tracking mechanism (*i.e.*, periodic rate adjustment mechanism) be limited to only “new investments in clean energy resources.” (IIG Rulemaking Comments at 1-2)

REPLY: IIG appears to want to limit the clean energy resources that qualify for the periodic rate adjustment mechanism (amendments to 170 IAC 17-4-4(e)) as well as require only new clean energy resources to meet the Goals or to be part of the CHOICE Program (amendments to 170 IAC 17-3-4(c)) To the extent their position is consistent with what we set forth in the Statement of Position above, then we are in agreement.

See Redline rule: 170 IAC 17-2-10 and 170 IAC 17-3-4(c)

## **6. INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR**

### **A. Clean Energy Obtained Prior to SEA 251 Should not Count Toward the Goals**

The Indiana Office of Utility Consumer Counselor (“OUCC”) argues that the rule should be amended to encourage the development of additional clean energy resources. (OUCC Pre-Rulemaking Comments at 2, 4) OUCC identifies a concern that Wind on the Wires shares, that the utilities can meet the Goals for the first period with clean energy already within their energy portfolio. OUCC points out that electric supplier’s would have no Goal to meet until CPS Goal Period II. (Id. at 2) Thus, OUCC recommends that clean energy resources that are in service, purchased or contracted for prior to the effective date of January 1, 2012 not apply to the Goals. (See OUCC Pre-Rulemaking Redline, 170 IAC 17-3-4(c))

REPLY: Wind on the Wires review of existing resources yielded results similar to what the OUCC found. In Appendix A of Wind on the Wires’ Written Comments (of 8/15/2011) we showed that the electric suppliers had sufficient clean energy to meet the

4% goal. Wind on the Wires supports OUCCs position on this to the extent it is consistent with the position we set forth in the Statement of Position<sup>3</sup>, above.

See Redline rule: 170 IAC 17-2-10, 170 IAC 17-3-4(c) and 170 IAC 17-4-4(d)

## **7. OTHER COMMENTS**

### **A. Only Clean Energy Credits that Comply with the Effective Date Should be Used to Comply with the Goals**

The Strawman states that all clean energy resources can be used to comply with the Goals, however, the Strawman is silent regarding the applicability of clean energy credits. As discussed above, Wind on the Wires supports the use of new clean energy resources. Consistent with that position, Wind on the Wires recommends that clean energy credits used to comply with the goals and the CHOICE Incentive be in service, purchased or contracted for after the Effective Date. This requirement will increase the development of new clean energy resources.

See Redline rule: 170 IAC 17-3-4(c), 170 IAC 17-4-4(d) and 170 IAC 17-5-3

### **B. Electric Supplier's Application to the CHOICE Program**

The Strawman rule should be modified so that an electric supplier can join the CHOICE Program up to the middle of the Goal Period. Currently, (170 IAC 17-4-1(2)) directs an electric supplier to submit an application six months prior to the "first CPS Goal Period in which the electricity supplier wishes to participate." Wind on the Wires

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<sup>3</sup> One difference between OUCC and Wind on the Wires is that we are open to using the effective date of SEA 251, which is May 10, 2011, as the effective date in the rule.

recommends that electricity suppliers be allowed to enter the CHOICE Program after a Goal period starts. Since this is a voluntary program, the rule should provide flexibility in admission so as to encourage participation. The application would still have to justify how the electric supplier intends to comply with the Goal period requirements. It is possible for an electric supplier to meet the goals in the middle of the Goal Period.

See Redline rule: 170 IAC 17-4-1

### **C. The Statute Doesn't Require the Electric Supplier to Justify the Need for Generation**

The Strawman rule requires the electric supplier to justify the need for new generation through integrated resource planning modeling. (See 170 IAC 17-4-2(3)(G)) This requirement is inconsistent with the Clean Energy Portfolio Standard. The Clean Energy Portfolio Standard doesn't require the electric supplier to justify the need for generation. The Clean Energy Portfolio Standard simply states that the applicant demonstrate that the application is to have some analysis comparing an increase in retail rates from the clean energy resources that is above what would have been reasonably expected. (IC 8-1-37.11(c)(3))

See Redline rule: 170 IAC 17-4-3(G)

### **D. Failure to Comply with the Plan**

The Strawman rule is silent on the process to follow if an electric supplier falls out of compliance with the CHOICE Plan approved by the Commission, or if it decides to withdraw from the Program. The Strawman rule should include guidelines on how the

electric supplier withdraws from the Program and what will happen if it fails to meet the Goal.

If an electric supplier wants to withdraw from the Program it should be required to file a Petition for withdrawal from the Program with the Commission. The Commission should require that any such petition include a justification as to why the electric supplier is unable to comply with the CPS Plan. These petitions are necessary to uphold the Commission's mandate in Indiana Code 8-1-37-10(b)(1) to measure and evaluate a participating electricity supplier's compliance with the CPS goals. If a participant can freely opt-out of the program without explanation or justification, the Commission will be unable to determine impediments towards diversifying Indiana's energy supply and encouraging the development of new clean energy resources. The Commission would then decide whether a docket is needed to resolve any outstanding issues.

If an electric supplier fails to meet a Goal or to comply with its' approved CHOICE Plan a process needs to be established for either removing them from the program or having them identify their intent to remain in the program. This can be handled in a number of different ways. Wind on the Wires recommends that the Commission initiate a docket in which the electric supplier is to respond with either a request for either a variance, modification, or termination of its' CHOICE Plan.

See Redline rule: 170 IAC 17-5-2(d) and 170 IAC 170-5-2(e)

## **E. Clean Energy Credits should Measure Compliance with the CHOICE Program**

The Strawman rule does not include a provision noting how an electric supplier is deemed compliant with the Goal. SEA 251 notes that clean energy (IC 8-1-37.12) and clean energy credits can be used to meet the Goals (IC 8-1-37.12(e)). However, what is unclear is how the electricity supplier is to measure and certify compliance. Renewable energy has credits that certify that energy that was procured came from a renewable energy resource. SEA 251 is unclear on this point, but it should be interpreted such that clean energy should also have CECs attributed to it. Therefore, you have CECs that are “bundled” with clean energy and you also have CECs that are without clean energy, or what is commonly referred to as “unbundled.” Wind on the Wires proposes that the CECs – unbundled or bundled with energy – shall be used to measure compliance with the Goals.

Some clean energy resources are going to be recognized as renewable energy resources by M-RETS and PJM-GATS. The clean energy that is also renewable energy will have a renewable energy credit attached to it. That REC will transfer to the electricity supplier when it buys the renewable energy resource. The REC has value because it can be unbundled from its renewable energy and sold into other markets. Therefore, the RECs from PJM-GATS and M-RETS should be considered CECs for purpose of compliance with the Goals. Those RECs need to be retired when used to meet the Goal, otherwise, the electricity supplier can sell them in other markets and be paid twice for the REC/CEC.

The CECs that are retired shall be identified in the annual report the electricity supplier files with the IURC by identifying either the M-RETS or PJM-GATS certification numbers.

See Redline rule: 170 IAC 17-5-1(5) and 170 IAC 17-5-3

#### **F. Improvements to Coal Plants, Nuclear Plants and Transmission Lines**

The Strawman rule (I.C. 8-1-37(4)(17)) allows the following items to be included as clean energy resources – improvements to coal plants, building transmission facilities, and improvements to nuclear facilities. These are improvements to existing facilities and do not have a direct correlation to energy output. Given the unique nature of these resources, the IURC should setup a workshop to define how they should be counted.

## II. Conclusion

WHEREFORE, Wind on the Wires recommends that the draft proposed rule reflect the recommendations contained herein.

Respectfully submitted,

\_\_\_\_\_/s\_\_\_\_\_  
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DATED: November 4, 2011

**TITLE 170 INDIANA UTILITY REGULATORY COMMISSION**

**Proposed Rule  
LSA Document #11-xxx**

**DIGEST**

Adds 170 IAC 17 to establish the Indiana voluntary clean energy portfolio standard program. Effective 30 days after filing with the Publisher.

**170 IAC 17**

**SECTION 1. 170 IAC 17 IS ADDED TO READ AS FOLLOWS:**

**ARTICLE 17. Indiana Voluntary Clean Energy Portfolio Standard Program**

**Rule 1. Applicability**

**170 IAC 17-1-1 Applicability under IC 8-1-37**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 1. This article is applicable to all Indiana electricity suppliers as defined in IC 8-1-37-6.**  
*(Indiana Utility Regulatory Commission; 170 IAC 17-1-1)*

**170 IAC 17-1-2 No change in public utility status**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-2; IC 8-1-37

**Sec. 2. This article does not change the:**

- (1) owner;**
- (2) operator; or**
- (3) manager;**

**of a clean energy resource as defined in IC 8-1-37-4 into a public utility under the jurisdiction of the Indiana utility regulatory commission, if the entity is not a public utility under IC 8-1-2-1.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-1-2)*

**170 IAC 17-1-3 No change to other commission processes**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 3. This article does not replace other commission processes, including, but not limited to:**

- (1) a proceeding requesting a certificate of public convenience and necessity; and**
- (2) the commission's rules regarding integrated resource planning.**

**Rule 2. Definitions**

**170 IAC 17-2-1 Applicability of definitions in rule**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 1. The definitions in this rule apply throughout this article.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-1)*

**170 IAC 17-2-2 Applicability of definitions in statute**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 2. The definitions in IC 8-1-37 apply throughout this article.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-2)*

**170 IAC 17-2-3 “Allowance for funds used during construction” or “AFUDC” defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 3. “Allowance for funds used during construction” or “AFUDC” means the cost for the period of construction of borrowed funds used for the construction of a clean energy project and a reasonable rate on other funds when so used. AFUDC for clean energy projects shall be recorded in separate subaccounts or their subdivisions in accordance with the FERC or NARUC uniform system of accounts.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-3)*

**170 IAC 17-2-4 “Application completion date” defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 4. “Application completion date” means the date the commission through its presiding officers notifies the parties of a proceeding under this article that the application submitted by the electricity supplier is complete.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-4)*

**170 IAC 17-2-5 “CHOICE” defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 5. “CHOICE” means the “Comprehensive Hoosier Option to Incentivize Cleaner Energy.”**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-5)*

**170 IAC 17-2-6 “CHOICE incentive” defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 6. “CHOICE incentive” means the adder to an electricity supplier’s return on equity of up to fifty (50) basis points pursuant to IC 8-1-37-13.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-6)*

**170 IAC 17-2-7 “Clean energy resource” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 7. “Clean energy resource” means, in addition to the definition as given in IC 8-1-37-4(a), the generation of electricity using methane recovered from landfills. For the purposes of determining the percentage of clean energy resources that qualify for the goal under IC 8-1-37-12(g), this definition shall be considered part of the statutory list as IC 8-1-37-4(a)(15)(A).**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-7)*

**170 IAC 17-2-8 “Commission” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 8. “Commission” means the Indiana utility regulatory commission.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-8)*

**170 IAC 17-2-9 “CPS Goal Period” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 9. “CPS Goal Period” is the period of time outlined in IC 8-1-37-12(a) in which an electricity supplier must meet a particular goal under this article.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-9)*

**170 IAC 17-2-10 “Effective date” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 10. “Effective date” of the Indiana voluntary clean energy portfolio standard program is May~~January~~ 10, 20112.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-10)*

**170 IAC 17-2-11 “Incentive application date” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 11. “Incentive application date” means the date on which a participating electricity supplier files its incentive application and work papers with the commission.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-11)*

**170 IAC 17-2-12 “Integrated Resource Plan”, “integrated resource planning” or “IRP” defined**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

**Sec. 12. “Integrated Resource Plan”, “integrated resource planning”, or “IRP” means a utility’s assessment of a variety of demand-side and supply-side resources to cost effectively meet customer electricity service needs.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-12)*

**170 IAC 17-2-13 "OUCC" defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 13. "OUCC" means the Indiana office of utility consumer counselor.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-13)*

**170 IAC 17-2-14 "Program application date" defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 14. "Program application date" means the date on which the electricity supplier files its program application and working papers with the commission.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-14)*

**170 IAC 17-2-15 "Regional transmission organization" defined**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 15. In addition to the definition in IC 8-1-37-9, as applicable to electricity suppliers in the state of Indiana, "regional transmission organization" means:**

**(1) the Midwest Independent Transmission System Operator, Inc., or**

**(2) the PJM Interconnection, L.L.C.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-2-15)*

**Rule 3. Establishment of the Indiana Voluntary Clean Energy Portfolio Standard Program.**

**170 IAC 17-3-1 Indiana voluntary clean energy portfolio standard program**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 1. The Indiana voluntary clean energy portfolio standard program is hereby established by this article.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-3-1)*

**170 IAC 17-3-2 "Comprehensive Hoosier Option to Incentivize Cleaner Energy Program"**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-27

**Sec. 2. The Indiana voluntary clean energy portfolio standard program shall also be known as the "Comprehensive Hoosier Option to Incentivize Cleaner Energy Program" or "CHOICE Program."**

*(Indiana Utility Regulatory Commission; 170 IAC 17-3-2)*

**170 IAC 17-3-3 Goals under the CHOICE Program**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 3. The goals under the CHOICE Program are as follows:**

**(1) CPS Goal Period I: For the six (6) calendar years beginning January 1, 2013, and ending December 31, 2018, an average of at least four percent (4%) of the total**

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electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(2) CPS Goal Period II: For the six (6) calendar years beginning January 1, 2019, and ending December 31, 2024, an average of at least seven percent (7%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

(3) CPS Goal Period III: In the calendar year ending December 31, 2025, at least ten percent (10%) of the total electricity obtained by the participating electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

*(Indiana Utility Regulatory Commission; 170 IAC 17-3-3)*

**170 IAC 17-3-4 Requirements necessary to meet a CHOICE Program goal**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: 8-1-37

Sec. 4. (a) In order to meet any of the goals set forth in Section 3 of this rule, a participating electricity supplier must:

(1) obtain during the goal period, through:

A) clean energy resources as defined in IC 8-1-37-4; or

B) clean energy credits as defined in IC 8-1-37-3 that are generated by a facility located in a control area that is part of a regional transmission organization;

an amount of megawatt hours at least equal to the percentage amount set forth in the goal;

(2) use clean energy resources located in Indiana for at least fifty percent (50%) of the clean energy obtained to meet the goal; and

(3) not satisfy more than thirty percent (30%) of the goal using any combination of clean energy resources described in IC 8-1-37-4(a)(17) through IC 8-1-37-4(a)(21).

(b) A participating electricity supplier may apply the amount of:

(1) megawatt hours of clean energy; or

(2) clean energy credits;

that exceed the requirements of a particular goal period to the immediately succeeding goal period.

(c) Except as provided for in IC 8-1-37-4(a)(16) and (21), clean energy resources and clean energy credits that:

(1) have been:

(1i) in service;

(2ii) purchased; or

(3iii) contracted for;

before the effective date of the CHOICE Program; or may apply to the goals.

(2) the electricity supplier is obligated to obtain pursuant to a federal or state regulation, court action, agreed order, commissions order, consent decree, or other lawful order or obligation;

shall not apply to the goals.

*(Indiana Utility Regulatory Commission; 170 IAC 17-3-4)*

**170 IAC 17-3-5 Confidential or privileged information**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 5-14-3; IC 8-1-2-29; IC 8-1-37

Sec. 5. (a) If an electricity supplier believes that any information covered by this article is confidential in accordance with IC 8-1-2-29 and IC 5-14-3, the electricity supplier may request confidential treatment under the provisions of 170 IAC 1-1.1-4.

(b) To the extent a confidentiality agreement that would cover documents provided as part of a proceeding under this article is not already in place:

(1) the electricity supplier shall:

(A) proffer to; or

(B) request from;

the OUCC a proposed confidentiality agreement; and

(2) parties to a proceeding under this rule shall work together with reasonable speed to negotiate an acceptable confidentiality agreement in order to avoid delay in producing documents on which a claim of confidentiality is made.

(c) An acceptable confidentiality agreement under subsection (b) shall include procedures for the following:

(1) Requesting a determination from the commission that a document shall be considered confidential.

(2) Maintaining the confidentiality of the documents before a determination regarding confidentiality has been made by the commission.

*(Indiana Utility Regulatory Commission; 170 IAC 17-3-5)*

**Rule 4. Application Process to Participate in the CHOICE Program**

**170 IAC 17-4-1 Program application required**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

Sec. 1. In order to participate in the CHOICE Program, an electricity supplier must file a program application with the commission:

(1) pursuant to the commission's procedural rules; **and**

(2) pursuant to this article; **and**

~~(2)(3)~~

no later than **six (6) months prior to two years after**, the beginning of **the first** CPS Goal Period **I or II in which the electricity supplier wishes to participate**.

*(Indiana Utility Regulatory Commission; 170 IAC 17-4-1)*

**170 IAC 17-4-2 Program application contents**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

Sec. 2. In order to be deemed complete by the commission, the program application submitted by the electricity supplier must contain at least the following:

(1) Contact information of the electricity supplier.

(2) Total electricity obtained by the electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.

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- (3) A CHOICE plan to obtain clean energy in an amount equal to at least ten (10) percent of the total electricity supplied to its Indiana retail electric customers during the calendar year ending December 31, 2025, including at a minimum the following:
- (A) A detailed business plan with annual milestones to ensure a participating electricity supplier will meet the CPS goals.
  - (B) Identification of the:
    - (i) owner;
    - (ii) operator; or
    - (iii) managerof the clean energy resources to be utilized by the electricity supplier.
  - (C) The type of the clean energy resources to be utilized by the electricity supplier.
  - (D) Affirmation by the electricity supplier that its CHOICE plan contains no more than thirty percent (30%) of any combination of the clean energy resources listed in IC 8-1-37-4(a)(17) – 4(a)(21).
  - (E) The amount of clean energy anticipated to be produced by kilowatthours per resource type, including the clean energy credits that will be submitted as part of the plan.
  - (F) A description of any projects to be built under the CHOICE plan, including, to the extent known, the:
    - (i) scope;
    - (ii) cost; and
    - (iii) location.of the project.
  - (G) ~~Justification of the need for the generation through IRP modeling. An integrated resource plan that includes the clean energy resources expected to be used in the CHOICE Plan.~~
  - (H) If the electricity supplier chooses to use its last IRP model runs, it must demonstrate that there have been no changes in its load forecast or supply mix since the time of the IRP model run.
  - (I) Other clean energy resources generation options that were considered and evaluated as alternatives to the final clean energy resources listed in the CHOICE plan.
  - (~~H~~)(J) Justification that the resources listed in the CHOICE plan are the optimal, economic choices. This justification may be in the form of a cost-benefit study and IRP modeling, and may include the following information:
    - (i) Estimate of anticipated level of emission reduction by year.
    - (ii) Project estimated costs, including:
      - AA. pre-construction costs;
      - BB. depreciation;
      - CC. commodity costs;
      - DD. administration costs;
      - EE. operation and maintenance;
      - FF. fuel;

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- GG. taxes;
- HH. labor;
- II. contingency; and
- JJ. AFUDC.

(iii) Additional factors in justification:

- AA. Estimates of avoided capital costs.
- BB. Regulatory risk.
- CC. Fuel cost risk.
- DD. Contribution to peak power production or peak power shaving.
- EE. Incentives already being received by the electricity supplier.
- FF. Risk of higher future costs.
- GG. Environmental impact and costs of the various clean energy resources.
- HH. The establishment of voluntary feed-in tariffs (VFITs)

~~(J)~~(K) Analysis of ratepayer **impact**, including the following types of information:

- (i) An explanation on how the electricity supplier determined the impact on rates of the program application plan.
  - (ii) Documentation on the impact on rates if the application is approved.
- (4) An explanation as to how this portfolio addition fits into the applicant's long-term generation plan.
- (5) Identification of CHOICE incentive being requested for each CPS Goal Period if the electricity supplier meets the CPS Goal for that period.
- ~~(6) Explanation of the basis for the amount of the CHOICE incentive being requested for each CPS Goal Period.~~
- ~~(7)~~(6) Identification of incentives currently being received for any of the projects listed in the program application plan, including, but not limited to:
- (A) Federal, state and local tax incentives;
  - (B) Federal, state and local grants; and
  - (C) Shareholder incentives, lost margins, etc., received by the supplier.
- ~~(8)~~(7) If the electricity supplier requests a periodic rate adjustment mechanism for the recovery of costs associated with the CHOICE Program, a detailed explanation and supporting documentation of how the periodic rate adjustment mechanism would work.
- ~~(9)~~(8) Work papers detailing all considerations and calculations in the program application and the program application plan. Each working paper must be:
- (A) legible;
  - (B) paginated; and
  - (C) specifically identified.
- (109) Any supporting written testimony, affidavits, and other evidence the electricity supplier wishes to submit in support of its application.

*(Indiana Utility Regulatory Commission; 170 IAC 17-4-2)*

170 IAC 17-4-3 Expedited program application proceeding

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**Authority: IC 8-1-1-3; IC 8-1-37**

**Affected: IC 8-1-37**

**Sec. 3. (a) The scope of the program application proceeding shall be limited to:**

**(1) approval of the electricity supplier's participation in the CHOICE Program pursuant to IC 8-1-37-11-(c); and**

**(2) a determination of:**

**(A) whether; and**

**(B) what amount of;**

**CHOICE incentives are approved to be granted upon the electricity supplier's attainment of a CPS goal.**

**(b) Within twenty (20) calendar days of the program application date, any party to the proceeding may file with the commission a notice of lack of completeness that the application and work papers do not comply with this article, identifying:**

**(1) the alleged defect or defects; and**

**(2) the requirements necessary to cure the alleged defect or defects.**

**The notice shall be served upon the electricity supplier and all other parties to the proceeding.**

**(c) All filings by the electricity supplier to the commission under this rule shall also be served on the following:**

**(1) The OUCC on the same day as filed.**

**(2) Any other party to the proceeding that has filed a written request for the information:**

**(A) on the same day as filed; or**

**(B) within five (5) business days of the filing of the written request.**

**(d) The commission may request additional information it considers necessary:**

**(1) for the program application to be complete; and**

**(2) to aid in its review.**

**(e) The pre-hearing conference shall:**

**(1) if a notice of lack of completeness has been filed:**

**(A) Resolve any issues regarding the completeness of the electricity supplier's application and working papers; and**

**(B) Set a date upon which the electricity supplier shall cure any defects in its application and working papers;**

**(2) set a procedural schedule with the following dates:**

**(A) The filing of written testimony by the OUCC and any other intervening party.**

**(B) The filing of reply testimony by the electricity supplier.**

**(C) The evidentiary hearing;**

**(f) The commission through its presiding officers shall notify the parties when the application is complete.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-4-3)*

**170 IAC 17-4-4 Commission approval**

**Authority: IC 8-1-1-3; IC 8-1-37**

**Affected: IC 8-1-37**

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Sec. 54. (a) The commission shall approve an electricity supplier's participation in the CHOICE Program if the commission finds that:

- (1) the electricity supplier's program application is:
  - (A) complete; and
  - (B) reasonably complies with:
    - (i) this article and
    - (ii) IC 8-1-37;
- (2) the electricity supplier submitting the application has demonstrated that the electricity supplier has a reasonable expectation of meeting the goal for CPS Goal Period III, as provided in Rule 3, Section 3 of this article; and
- (3) approving the application will not result in an increase to the retail rates and charges of the electricity supplier above what could reasonably be expected if the application were not approved.

(b) If the electricity supplier has requested CHOICE incentives for meeting one or more CPS goals, the commission shall also determine, pursuant to IC 8-1-37-13(b):

- (1) whether the CHOICE incentives should be approved; and
- (2) if so, in what amount.

(c) In making the determinations in subdivision (b), the commission has the discretion to may award an increase to the overall rate of return of equity over the authorized rate of return within the following ranges; so consider the following factors:

- (1) between 44 and 50 basis points if the electric supplier meets 90% to 100% of its Goal with clean energy from 8-1-37.4(a)(1) through (a)(3), (a)(6) and (a)(11); Estimates of avoided capital costs.
- (2) between 25 and 46 basis points if the electric supplier meets 50% to 89% of its Goal with clean energy from 8-1-37.4(a)(1) through (a)(3), (a)(6) and (a)(11); Regulatory risk.
- (3) between 0 and 26 basis points if the electric supplier meets 0% to 49% of its Goal with clean energy from 8-1-37.4(a)(1) through (a)(3), (a)(6) and (a)(11); Fuel cost risk.
- ~~(4) Contribution to peak power production or peak power shaving.~~
- ~~(5) Incentives already being received by the electricity supplier.~~
- ~~(6) Risk of higher future costs.~~
- ~~(7) Environmental impact and costs of the various clean energy resources.~~
- ~~(8) The establishment of voluntary feed-in tariffs (VFITs)~~

(d) In making the determination in subsection (b), no CHOICE incentives shall be approved for clean energy resources or clean energy credits:

- (1) that were:
  - (A) in service;
  - (B) purchased; or
  - (C) contracted for;

prior to the effective date of the CHOICE program; or

- ~~(2)~~ (3) that the electric supplier is obligated to obtaining pursuant to a federal or state regulation, court action, agreed order, commissions order, or consent decree or other lawful order or obligation.

- (e) Upon approval of the electricity supplier's participation in the CHOICE program:
- (1) if the electricity supplier has requested a periodic rate adjustment mechanism to recover the costs of participating in the CHOICE program, the commission shall approve recovery of costs through a periodic rate adjustment mechanism, the details of which shall be outlined in the commission's approval order and which mechanism shall start upon the date of the commission's approval order; and
  - (2) if the electricity supplier has requested a CHOICE incentive, the commission shall include in its approval order a determination regarding whether the commission is approving the CHOICE incentive and the amount of CHOICE incentive, which the participating electricity supplier shall receive upon:
    - (A) meeting a CPS goal; and
    - (B) approval of an incentive application with the commission that:
      - (i) is complete; and
      - (ii) contains sufficient supporting documentation.

*(Indiana Utility Regulatory Commission; 170 IAC 17-4-4)*

#### **Rule 5. Status Following Approval of Participation in the CHOICE Program**

##### **170 IAC 17-5-1 Annual report to commission required**

**Authority: IC 8-1-1-3; IC 8-1-37**

**Affected: IC 8-1-37**

**Sec. 1. Beginning in 2014, a participating electricity supplier shall report to the commission not later than March 1 of each year on the following:**

- (1) The participating electricity supplier's efforts, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year.
- (2) The total amount of renewable energy supplied to the participating electricity supplier's Indiana retail electric customers during the most recently ended calendar year, including a breakdown of the following:
  - (A) The amount of clean energy generated by facilities owned or operated by the participating electricity supplier. The participating electricity supplier shall identify each facility by:
    - (i) name and location;
    - (ii) total generating capacity;
    - (iii) total amount of electricity generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers; and
    - (iv) total amount of clean energy generated at the facility during the most recently ended calendar year, including the percentage of this amount that was supplied to the participating electricity supplier's Indiana retail electric customers.
  - (A) The amount of clean energy purchased from other suppliers of clean energy. The participating electricity supplier shall identify:
    - (i) each supplier from whom clean energy was purchased;

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- (ii) the amount of clean energy purchased from each supplier;
  - (iii) the price paid by the participating electricity supplier for the clean energy purchased from each supplier; and
  - (iv) to the extent known, the name and location of each facility at which the clean energy purchased from each supplier was generated.
- (3) The number of CECs purchased by the participating electricity supplier during the most recently ended calendar year. The participating electricity supplier shall identify:
- (A) each person from whom one (1) or more CECs was purchased;
  - (B) the price paid to each person identified in clause (A) for the CECs purchased;
  - (C) the number of CECs applied, if any, during the most recently ended calendar year to meet the CPS goal applicable to the most recently ended calendar year; and
  - (D) the number of CECs, if any, that the participating electricity supplier plans to carry over to the next succeeding CPS goal period, as permitted by section 12(f) of this chapter.
- (4) The participating electricity supplier's plans for meeting the CPS goal applicable to the calendar year in which the report is submitted.
- (5) The clean energy credits used to comply with the CPS goal applicable to the calendar year in which the report is submitted. The clean energy credit shall be identified with the certification numbers provided by PJM Environmental Information System's Generation Attribute Tracking System ("PJM-GATS"), or the Midwest Renewable Energy Tracking System ("M-RETS") or another independent, third-party tracking system selected and approved by the commission.
- (6) Advances in clean energy technology that affect activities described in subdivisions (1) and (4).
- (7) Any other information that the commission prescribes in rules adopted under IC 4-22-2.

For purposes of this section, amounts of clean energy and electricity shall be reported in megawatt hours. A participating electricity supplier's duty to submit a report under this subsection terminates after the participating electricity supplier has submitted the report that applies to the calendar year ending December 31, 2025.

*(Indiana Utility Regulatory Commission; 170 IAC 17-5-1)*

**170 IAC 17-5-2 Status following approval of participation in CHOICE Program**

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

Sec. 2. (a) After approval of its participation in the CHOICE Program, the participating electricity supplier is required to follow its CHOICE plan in working toward meeting the CPS Goals.

(b) If a participating electricity supplier decides to change part of its CHOICE plan in a manner that:

- (1) does not impact whether the electricity supplier will meet the CPS Goals; and

(2) does not increase the ratepayer impact of its CHOICE plan; the electricity supply shall file the changes with the commission through the commission's thirty-day administrative filing procedures and guidelines in 170 IAC 1-6.

(c) If circumstances change to the point that a participating electricity supplier believes the rates and charges resulting from its participation in the CHOICE Program will no longer be just and reasonable, the participating electricity supplier shall file a petition with the commission requesting a commission determination that the cost of clean energy resources available to the electricity supplier would result in an increase in the rates and charges of the electricity supplier that would not be just and reasonable. The electricity supplier's petition shall include:

- (1) a detailed listing of the participating electricity supplier's attempts to comply with its CHOICE plan;
- (2) a detailed explanation of the change in circumstances giving rise to the electricity supplier's petition;
- (3) a listing of the costs of the clean energy resources available to the electricity supplier; and
- (4) the electricity supplier's calculation supporting the conclusion that the increase in rates and charges would not be just and reasonable.

(d) If the electricity supplier fails to meet a Goal or to comply with its' approved CHOICE Plan the commission will initiate a docket in which the electric supplier is to respond with a request for either a variance, modification, or termination of its' CHOICE Plan. If a variance or modification is requested then the commission will review the revised CHOICE Plan for compliance with the Rule 4, Section 4, of this Article. If termination is requested then the commission will issue an order resolving any outstanding matters.

(e) if the electricity supplier wants to withdraw from the CHOICE Program, the electric supplier should submit a petition requesting approval to withdraw from the CHOICE Program. The petition should include a justification of its inability to comply with the CHOICE Plan. The commission has the discretion to open an investigation to resolve any outstanding matters.

*(Indiana Utility Regulatory Commission; 170 IAC 17-5-2)*

170 IAC 17-5-3 Tracking and measuring compliance with the CHOICE Program Goals

Authority: IC 8-1-1-3; IC 8-1-37

Affected: IC 8-1-37

Sec. 3. (a) Compliance with the goals in Rule 3, Section 3 of this Article shall be measured with the clean energy credits that are retired by the electricity supplier.

(b) For purposes of this subsection, "clean energy credits" shall be:

(1) certified by either PJM Environmental Information System's Generation Attribute Tracking System ("PJM-GATS"), or the Midwest Renewable Energy Tracking System ("M-RETS") or another independent, third-party tracking system selected and approved by the commission; and

(2) created, purchased, or contracted for after the effective date of the CHOICE program.

(c) All clean energy credits used by an electricity supplier to comply with the goals shall be retired immediately after use.

*(Indiana Utility Regulatory Commission; 170 IAC 17-5-3)*

**Rule 6. CHOICE Incentive Application Process**

**170 IAC 17-6-1 Incentive application required**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 1. In order to receive a CHOICE incentive under the CHOICE Program, a participating electricity supplier must file an incentive application with the commission:**

- (1) pursuant to the commission's procedural rules; and**
- (2) pursuant to this article;**

**no later than six (6) months after the end of the CPS Goal Period for which the incentive is being sought.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-6-1)*

**170 IAC 17-6-2 Incentive application contents**

**Authority:** IC 8-1-1-3; IC 8-1-37

**Affected:** IC 8-1-37

**Sec. 2. In order to be deemed complete, the incentive application of a participating electricity supplier must contain at least the following:**

- (1) Contact information of the electricity supplier.**
- (2) Total electricity measured in megawatt hours that was obtained by the electricity supplier to meet the energy requirements of its Indiana retail electric customers during the base year.**
- (3) Number of megawatt hours obtained each year of the CPS Goal Period for which the CHOICE incentive was granted from:**

**(A) clean energy resources:**

- (i) listed in IC 8-1-37-4(a);**
- (ii) as defined in this article; and**
- (iii) as may be adopted by rule by the commission;**

**(B) clean energy credits;**

**(C) Indiana clean energy sources; and**

**(D) clean energy resources listed in IC 8-1-37-4(a)(16) through IC 8-1-37-4(a)(21).**

**(4) A copy of the commission order:**

**(A) approving the electricity suppliers' participating in the CHOICE program; and**

**(B) determining what CHOICE incentive (if any) the electricity supplier should receive upon attaining each goal.**

**(5) Detailed explanation and supporting documentation on how the participating electricity supplier met the goal at issue. Supporting documentation may include reports from a third party tracking and trading system.**

**(6) Detailed explanation and supporting documentation for any variances from the electricity supplier's application plan to complete the goal.**

**(7) Work papers detailing all considerations and calculations in the incentive application. Each working paper must be:**

- (A) legible;**
- (B) paginated; and**
- (C) specifically identified.**

*(Indiana Utility Regulatory Commission; 170 IAC 17-6-2)*

**170 IAC 17-6-3 Expedited incentive application proceeding**

**Authority: IC 8-1-1-3; IC 8-1-37**

**Affected: IC 8-1-37**

**Sec. 3. (a) The scope of the incentive application proceeding shall be limited to whether the electricity supplier has met the CPS goal.**

**(b) The timeframe for the incentive application procedures shall be one hundred twenty (120) days from the application completion date, but may be extended upon:**

- (1) petition for good cause by the:**
  - (A) electricity supplier;**
  - (B) OUCC; or**
  - (C) other intervening party; or**

**(2) notification by the commission.**

**(c) Within twenty (20) calendar days of the incentive application date, any party to the proceeding may file with the commission a notice of lack of completeness that the incentive application and work papers do not comply with this article, identifying:**

- (1) the alleged defect or defects; and**
- (2) the requirements necessary to cure the alleged defect or defects.**

**The notice shall be served upon the participating electricity supplier and all other parties to the proceeding.**

**(d) All filings by the electricity supplier to the commission under this rule shall also be served on the following:**

- (1) The OUCC on the same day as filed.**
- (2) Any other party to the proceeding that has filed a written request for the information:**
  - (A) on the same day as filed; or**
  - (B) within five (5) business days of the filing of the written request.**

**(e) The commission may request additional information it considers necessary:**

- (1) for the program application to be complete; and**
- (2) to aid in its review.**

**(f) The pre-hearing conference shall:**

- (1) if a notice of lack of completeness has been filed or the commission has requested additional information:**
  - (A) Resolve any issues regarding the completeness of the electricity supplier's incentive application and working papers; and**
  - (B) Set a date by which the electricity supplier shall cure any defects in its application and working papers;**
- (2) require that any objection (other than lack of completeness) to the incentive application and work papers be filed no later than forty-five (45) days after the application completion date; and**
- (3) set an evidentiary hearing date approximately sixty (60) days after the application completion date.**

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**(g) If the incentive application is not complete by the prehearing conference, the commission through the presiding officers shall notify the parties when the incentive application is complete and make any necessary adjustments to the procedural schedule.**  
*(Indiana Utility Regulatory Commission; 170 IAC 17-6-3)*

DRAFT