

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ober	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**PETITION OF INDIANA MICHIGAN POWER)
COMPANY FOR APPROVAL OF A TARIFF RATE)
AND ACCOMPANYING TARIFF TERMS AND)
CONDITIONS FOR THE PROCUREMENT OF)
EXCESS DISTRIBUTED GENERATION)
PURSUANT TO IND. CODE CH. 8-1-40.)**

CAUSE NO. 45506

APPROVED: JAN 26 2022

ORDER OF THE COMMISSION

Presiding Officers:

David L. Ober, Commissioner

David E. Veleta, Senior Administrative Law Judge

On March 1, 2021, Indiana Michigan Power Company (“Petitioner” or “I&M”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking approval of its proposed tariff rate (“Rider EDG”) for the procurement of excess distributed generation (“EDG”), pursuant to Ind. Code ch. 8-1-40 (the “Distributed Generation Statute” or “DG Statute”). In support of its Verified Petition, on March 12, 2021, Petitioner prefiled the direct testimony of the following witnesses: Dona R. Seger-Lawson, Director of Regulatory Services; and Kurt C. Cooper, Regulatory Consultant Principal.

Multiple petitions to intervene were filed in this Cause, including a petition to intervene filed on March 3, 2021, by Citizens Action Coalition of Indiana, Inc. (“CAC”) that was granted on March 22, 2021; a petition to intervene filed on March 22, 2021, by Indiana Distributed Energy Alliance, Inc. (“IndianaDG”), which was granted on March 30, 2021; and a petition to intervene filed on March 23, 2021 by Solar United Neighbors (“SUN”), which was granted on March 31, 2021. Because CAC’s counsel also appeared for SUN, CAC and SUN are collectively referenced as “Joint Intervenors.”

On July 13, 2021, the Indiana Office of Utility Consumer Counselor (“OUCC”) prefiled the testimony of John E. Haselden, Senior Utility Analyst. On the same date, IndianaDG prefiled the testimony and attachments of the following: Benjamin D. Inskeep, Principal Energy Policy Analyst with EQ Research LLC; and Jim Straeter, President and Owner of Ag Technologies, Inc. Additions and corrections to Mr. Inskeep’s direct testimony were filed on July 28, 2021.

On August 6, 2021, I&M prefiled the rebuttal testimony and attachments of Ms. Seger-Lawson and Mr. Cooper. Corrections to Mr. Cooper’s rebuttal testimony were filed on August 12, 2021.

On August 27, 2021, I&M filed Petitioner’s Objections to and Motion to Strike Portions of the Prefiled Testimony of Mr. Inskeep and Mr. Straeter’s prefiled testimony. On September 3, 2021, IndianaDG filed IndianaDG’s Response to I&M’s Objections and Motion to Strike.

On September 7, 2021, the OUCC filed Public's Exhibit No. 2, consisting of certain discovery responses from the Petitioner and I&M filed a Notice of Agreement to Waive Cross-Examination, Stipulation of Facts, and Withdrawal of Motion to Strike.

An evidentiary hearing was held in this matter on at 9:30 a.m. on September 8, 2021, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the prefiled testimony and exhibits of Petitioner, the OUCC, and the Joint Intervenors were offered and admitted into evidence without objection, and all parties waived cross-examination of the other parties' witness.

Based on the evidence presented and the applicable law, the Commission finds:

1. Notice and Jurisdiction. Notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. I&M is a public utility as defined in Ind. Code § 8-1-2-1 and an electricity supplier as defined in Ind. Code § 8-1-40-4(a). I&M is subject to the jurisdiction of the Commission in the manner and to the extent provided by Indiana law. Indiana Code § 8-1-40-16 ("Section 16") requires an electricity supplier to file a petition with the Commission requesting a rate for its procurement of EDG from that electricity supplier's customers. Accordingly, the Commission has jurisdiction over I&M and the subject matter of this Cause.

2. Petitioner's Characteristics. I&M is a wholly-owned subsidiary of American Electric Power Company, Inc. I&M is a corporation organized and existing under the laws of the State of Indiana with its principal offices at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M has corporate power and authority, among other things, to engage in generating, transmitting, distributing, and selling electric energy within the states of Indiana and Michigan.

3. Applicable Law. Senate Enrolled Act 309 ("SEA 309") enacted the Distributed Generation Statutes (Ind. Code § 8-1-40-1 *et seq.*) and established a new statutory paradigm under which Indiana's electricity suppliers, including Petitioner, will receive electricity their customers with qualifying DG resources supply and offset the cost of the electricity supplied to such customers. Under the Distributed Generation Statutes, "[n]ot later than March 1, 2021, an electricity supplier shall file with the commission a petition requesting a rate for the procurement of excess distributed generation by the electricity supplier." Section 16. Ind. Code § 8-1-40-10 ("Section 10") of the Distributed Generation Statutes further provides:

Before July 1, 2022, if an electricity supplier reasonably anticipates, at any point in a calendar year, that the aggregate amount of net metering facility nameplate capacity under the electricity supplier's net metering tariff will equal at least one and one-half percent (1.5%) of the most recent summer peak load of the electricity supplier, the electricity supplier shall, in accordance with section 16 [of the Distributed Generation Statutes], petition the commission for approval of a rate for the procurement of excess distributed generation.

Section 10.

Subject to Ind. Code §§ 8-1-40-13 and -14, I&M’s net metering tariff must remain available to its customers until the earlier of the following: “January 1 of the first calendar year after the calendar year in which the aggregate amount of net metering facility nameplate capacity under the electricity supplier’s net metering tariff equals at least one and one-half percent (1.5%)” of the supplier’s most recent summer peak load or July 1, 2022. Section 10.

Once an electricity supplier files a petition under Section 16 for a rate for EDG, Ind. Code § 8-1-40-17 (“Section 17”) provides:

The commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

- (1) the average marginal price of electricity¹ paid by the electricity supplier during the most recent calendar year; multiplied by
- (2) one and twenty-five hundredths (1.25).

In this proceeding, I&M seeks Commission approval of its initial EDG rate.

Following approval of Rider EDG, Section 16 requires I&M to annually submit, “not later than March 1 of each year, an updated rate for EDG in accordance with the methodology set forth in section 17 of this chapter.” Section 16. And Ind. Code § 8-1-40-18 (“Section 18”) requires that I&M compensate its customers from whom Petitioner procures EDG through a credit on the customer’s monthly bill, with any excess credit carried forward and applied against future charges to the customer for as long as the customer receives electric service from I&M at the premises.

Under Ind. Code § 8-1-40-15 (“Section 15”), amounts credited to a customer for EDG “shall be recognized in the electricity supplier’s fuel adjustment proceedings under IC 8-1-2-42.”

4. Relief Requested. Pursuant to Sections 10 and 16, I&M requests approval of its proposed rate for the procurement of EDG from qualifying DG customers, as well as approval of its proposed Rider EDG, to be effective July 1, 2022. Petitioner submitted its proposed Rider EDG as part of its evidence. Per Section 18, proposed Rider EDG will compensate customers in the form of a credit on their monthly bill, with any excess credit carried forward and applied against future charges to the Rider EDG customer for as long as that customer receives service from I&M at the premises. Petitioner proposes to determine EDG based on instantaneously measuring the net of the electricity supplied to I&M by the customer and the electricity supplied to the customer by Petitioner. I&M also requests authority to update Rider EDG annually, by March 1, via a compliance filing, in addition to all other appropriate relief.

¹ Ind. Code § 8-1-40-6 (“Section 6”) of the Distributed Generation Statutes defines “marginal price of electricity” as “the hourly market price for electricity as determined by a regional transmission organization of which the electricity supplier serving a customer is a member.”

5. Petitioner's Case-in-Chief.

A. Dona R. Seger-Lawson. Ms. Seger-Lawson testified that I&M's filing was made in accordance with Ind. Code § 8-1-40-16, which requires an electric utility to file a petition requesting a rate for the procurement of excess distributed generation by March 1, 2021, and to provide an updated rate each year. Ms. Seger-Lawson testified that I&M has proposed an EDG tariff as part of its filing, which under Ind. Code § 8-1-40-10, must be in place by July 1, 2022. Ms. Seger-Lawson testified that I&M calculated the EDG credit in accordance with Sections 17 and 18, which require an electric utility to compensate a customer that provides excess distributed generation through a credit on the customer's monthly bill equal to the average marginal price of electricity paid by the utility during the most recent calendar year, multiplied by 1.25. Ms. Seger-Lawson stated that the "marginal price of electricity" is defined as the hourly market price for electricity as determined by the utility's regional transmission organization. Consistent with the statute, Ms. Seger-Lawson testified that I&M calculated the average Real-Time Locational Marginal Price ("LMP") for its load zone within PJM Interconnection ("PJM"), and multiplied that by 1.25 in order to calculate its EDG credit. Ms. Seger-Lawson testified that the Average LMP for the I&M load zone in 2020 was \$20.65/MWh or \$0.02065/kWh; and therefore, the EDG credit I&M has proposed in its initial tariff is \$0.02581/kWh.

Ms. Seger-Lawson testified that I&M proposes to base the EDG credit on the Real-Time LMP because the Day-Ahead LMP is based upon generation that is forecasted to be needed, while the Real-Time LMP is based upon generation that is utilized but was not forecasted in the Day-Ahead process. She testified that excess distributed generation that I&M will purchase from customers is not forecasted, which makes the Real-Time LMP the most logical basis for the calculation of the EDG credit. Ms. Seger-Lawson testified that I&M plans to make an annual 30-day filing by March 1 each year to update the EDG credit based on the most recent calendar year Real-Time LMP prices for I&M's load zone.

Ms. Seger-Lawson testified that I&M will administer its Net Metering Tariff in accordance with the two grandfathering provisions in the DG Statute: Ind Code §§ 8-1-40-13 and -14. Ms. Seger-Lawson testified that customers who meet the grandfathering criteria specified in those sections of the DG Statute will be permitted to remain on I&M's Net Metering Tariff until the earlier of the date the customer removes or replaces their net metering facility or the dates specified in Ind Code §§ 8-1-40-13 and -14.

Ms. Seger-Lawson testified that I&M plans to reflect the cost of purchasing EDG in its Fuel Adjustment Clause ("FAC") so that any amount paid for customer generated electricity will be purchased at the EDG amount and used as a source of supply for customers throughout I&M's service territory.

Ms. Seger-Lawson testified to how I&M plans to calculate excess distributed generation under Ind. Code § 8-1-40-5, explaining that I&M will use a two-channel metering system to measure all energy consumed by the customer (delivered by the utility) and energy produced (received by the utility) onto the grid by a customer-owned generator in Indiana. She testified that I&M will measure excess distributed generation by recording each instance where the amount of energy produced by the customer-owned generation exceeds the amount of energy that is being

consumed at that point in time. Ms. Seger-Lawson testified that I&M is not proposing a time period over which energy received by the utility will be netted against energy delivered by the utility.

Ms. Seger-Lawson testified that I&M will charge a qualifying DG customer standard tariff rates for all energy the customer consumes (delivered by I&M), and the customer will be credited the EDG rate for all energy produced (received by I&M). Ms. Seger-Lawson explained that the proposal is based on the fact that the DG Statute replaces net metering with a procurement requirement that approximates utility purchases from the wholesale market, and “netting” energy delivered against energy received over a long period of time (i.e., a monthly basis) would effectively keep net metering in place.

Ms. Seger-Lawson testified that the net metering provisions in 170 IAC 4-4.2 are based on monthly billing. She testified that under net metering, a customer is billed on the net energy delivered versus received over a monthly billing period, meaning all energy consumed (delivered) less all excess energy generated (received) is measured over the billing period, which for I&M, is normally 25-40 days. Ms. Seger-Lawson stated that if the net amount shows that more energy was consumed by the customer during the billing period, then the customer receives a charge for that usage, but if the net amount results in more energy being delivered onto the grid, then the customer gets a credit for that amount.

Ms. Seger-Lawson testified that the DG Statute makes net metering no longer available to new customers on or after July 1, 2022.

B. Kurt C. Cooper. Mr. Cooper testified that Rider EDG is consistent with the requirements of the Indiana DG Statute. Mr. Cooper testified that one difference from I&M’s net metering tariff is the payment methodology -- instead of a system of netting the customer’s monthly usage against their monthly output to the utility, the customer will be paid a market-based rate (plus a premium) under Rider EDG. Mr. Cooper testified that costs allocated to all customers will be less under this new market pricing construct.

Mr. Cooper testified that there is no cap under Rider EDG as there is under the Rider NMS. Mr. Cooper also stated that Rider EDG is not as limited as Rider NMS on the type of generation allowed, although the generator cannot be one that is only used for emergency purposes. Mr. Cooper testified that Rider EDG will be available to customers receiving retail electric service from I&M with a generator on their premises that is owned by the customer and is sized at not more than a nameplate capacity of 1 MW or the customer’s average annual consumption of electricity on the premises. Mr. Cooper noted that many underlying technical terms of the net metering program are being used as the basis for Rider EDG, for example, those relating to interconnection requirements.

Mr. Cooper testified that I&M will provide and maintain metering for Rider EDG customers, and when possible, I&M will install a single watt-hour, dual register meter that can measure both the kWh “delivered” to and “received” from the customer. Mr. Cooper testified that when a single watt-hour dual register is not practical, the service will need to be set to handle two meters -- one to record “delivered” and one to record “received.” Mr. Cooper testified that when customer generation is less than customers’ consumption, this is a “delivered” scenario, and all

delivered kWh are recorded on that register. He testified that when customer generation exceeds their consumption (excess generation), this is a “received” scenario, and all kWh to be procured by I&M is recorded on that register. Mr. Cooper explained that under these “delivered” and “received” scenarios, the customer will be billed their standard retail tariff rate for all kWh recorded on the delivered register and will be credited at the approved EDG rate for all kWh recorded on the received register.

Mr. Cooper testified that as of July 1, 2022, or earlier if I&M were to reach the cap, I&M will not accept new applications for Rider NMS, and any new customers interested in net metering will be directed to the new Rider EDG. Mr. Cooper testified that customers currently participating in Rider NMS will be grandfathered in for a period of time, consistent with the DG Statute. Mr. Cooper testified that once the grandfathering period has expired, customers can transition into the EDG program. Mr. Cooper testified that I&M plans to communicate the fact that the terms and conditions of a net metering tariff will expire and become unenforceable after June 30, 2022. Mr. Cooper also testified about how new customers can enroll in the Rider EDG program.

6. OUCC’s Direct Testimony.

A. John E. Haselden. Mr. Haselden testified that the OUCC disagrees with I&M’s definition and application of the term “excess distributed generation” in its proposed Rider EDG tariff. He testified that the OUCC recommends denying I&M’s request for approval of its proposed Rider EDG tariff because the Rider EDG tariff does not comply with the definition of EDG in Ind. Code § 8-1-40-5. Mr. Haselden testified that under Ind. Code § 8-1-40-5, two components must be present to determine EDG: (1) the electricity that is supplied by an electricity supplier; and (2) the electricity that is supplied back to the electricity supplier. According to Mr. Haselden, to determine EDG, the utility or electricity supplier must first take the difference between the electricity supplied to the DG customer and the electricity supplied back by the DG customer. Mr. Haselden testified that the OUCC opposes I&M’s proposed metering and billing methodologies for its EDG customers because they do not satisfy or conform to the DG Statute’s requirements.

Mr. Haselden testified that I&M’s proposal of crediting the customer for the power cumulatively registered on the meter channel received by the Company from the customer is not consistent with the DG Statute, noting that the proposed tariff reads, “The meter register will record instances when the eligible onsite generation is producing more than what is being consumed at the premises (excess distributed generation) and the customer will be credited for the total of this excess generation on the customer’s current bill for the billing period.” He testified that this is not the “difference” between electricity supplied by the electricity supplier to a customer that produces distributed generation and the electricity that is supplied back to the electricity supplier by the customer, as specified by the DG Statute. Mr. Haselden testified that I&M’s methodology incorrectly calculates EDG by determining the difference between onsite generation and consumption, as measured in the “received” register, which is not included in the statutory definition. Mr. Haselden testified that this methodology also ignores the statutory component of “electricity that is supplied by an electricity supplier to a customer that produces distributed generation.”

Mr. Haselden testified that I&M's proposal differs from Vectren South's recently approved order in Cause No. 45378, in that I&M's proposal specifically references these non-statutory factors as the basis for the EDG methodology. Mr. Haselden further noted that the OUCC respectfully disagrees with the Commission's decision in Cause No. 45378 and has appealed the final order.

7. IndianaDG's Direct Testimony.

A. Benjamin D. Inskeep. Mr. Inskeep took issue with both the calculation of the EDG rate and I&M's proposed "no netting" approach. He recommended that the Commission calculate the EDG rate using only daylight hours and reject the "no netting" proposal while continuing the net metering practice of monthly netting -- or, in the alternative, consider alternative netting methodologies such as daily netting.

Mr. Inskeep agreed with the math of I&M's calculations of its EDG rate. But he testified that the calculation is unreasonable because I&M has averaged the wholesale electricity price for all hours of the year, which does not align with the hours in which a DG system actually generates electricity, and therefore, does not accurately reflect the marginal price of electricity during the hours in which a DG system is providing EDG to I&M. Mr. Inskeep testified that I&M's customers' highest summer demands typically occur during the afternoons when solar is typically generating electricity, and during these hours customers' EDG exports can help reduce the need for market purchases. Mr. Inskeep testified that it is not rational for I&M to calculate the value of customers' EDG based on hours of darkness when customers' solar facilities are not generating electricity. Mr. Inskeep testified that I&M should instead calculate "the average marginal price of electricity paid by the electricity supplier during the most recent calendar year" by using the average marginal price for when DG generation is being exported. Mr. Inskeep testified that his approach results in a 2020 average LMP of \$23.72/MWh, or \$0.02372/kWh, which produces an EDG credit rate of \$0.02965/kWh, 14.9% higher than I&M's proposed EDG credit rate.

With regard to the issue of netting, Mr. Inskeep asserted there is no language in the DG Statute that says monthly netting should stop or that prescribes a new method for measuring EDG. According to Mr. Inskeep, per the legislative history of Senate Bill 309 ("SB 309") from the 2017 Session of the Indiana General Assembly, SB 309 originally would have changed the netting methodology by expressly removing all netting. He noted that SB 309 was subsequently amended four times before becoming Senate Enrolled Act 309 ("SEA 309"). According to Mr. Inskeep, none of the subsequent versions retained the buy-all, sell-all framework or stated a new netting or no netting methodology should be used. Mr. Inskeep also provided lengthy testimony about additional legislative history regarding SEA 309.

Mr. Inskeep testified that the DG Statute expressly provides that the measurement of EDG requires a calculation of the "difference between" (1) electricity supplied by the utility ("imports" of electricity from the DG customer's perspective) and (2) the electricity supplied by the DG customer to the utility ("exports" of electricity from the DG customer's perspective). Mr. Inskeep testified that under I&M's methodology, I&M is not actually taking the "difference between" electricity supplied by I&M and by the customer to I&M, respectively. He said that applying this methodology instead of the "difference between" prescribed by the DG Statute results in DG

customers being compensated for all exported electricity at an extremely low compensation credit relative to the per-kWh credit to which they should have their excess generation netted against, with no “difference between” offset to their imported energy consumption. Mr. Inskeep argued a utility cannot calculate EDG as defined by the DG Statute without measuring imported and exported electricity from a DG customer over a period of time. He said that period of time should be the monthly billing period. Mr. Inskeep testified that there is no indication in the DG Statute’s language that the DG facility should be designed to limit EDG exports on an instantaneous basis. He stated that normal metering practice is monthly netting.

Mr. Inskeep testified that I&M’s proposal is a departure from the current DG policy in Indiana and the best practices established in other states, that it is not based on sound ratemaking or cost-of-service principles, and that it is difficult to overstate the effects the proposal will have on Indiana’s solar market and industry. He argued that I&M’s proposal would result in a major policy change to how rooftop solar and other DG technologies will be compensated in the future compared to the monthly netting policy that has been in place for roughly the past 16 years in Indiana. Mr. Inskeep argued I&M did not include any information on how its proposal will impact future DG growth, solar installation businesses, their employment levels, or related economic impacts in its service territory. Mr. Inskeep testified that I&M has not made any showing demonstrating its proposed policy would not recover more than I&M’s cost-to-serve DG customers. Mr. Inskeep said the Rider EDG rate itself is calculated through an arbitrary, albeit legislative, 25% adjustment to the average wholesale market locational marginal price. Mr. Inskeep testified that the EDG rate changing every year will deprive an EDG customer of certainty regarding the financial metrics of purchasing a DG system. He said I&M’s proposal will also harm non-DG customers by both limiting their ability to later adopt DG and by reducing the benefits non-DG customers can realize from having more clean, local, distributed generation on the grid

Mr. Inskeep testified that the “no netting” component of the Rider EDG would encourage DG customers to increase their consumption during I&M’s highest-cost summer on-peak periods. He said this policy gives the DG customer a strong financial incentive to export as little electricity as possible. Mr. Inskeep also testified that I&M’s Cogeneration and Small Power Production tariff (“COGN/SPP”) provides a higher compensation rate to DG customer’s than I&M’s Rider EDG. He testified that if I&M’s Rider EDG is adopted it seems reasonable to assume it would be seldom used by customers with DG facilities that would be eligible under Tariff COGN/SPP, given I&M’s COGEN/SPP tariff would likely provide a far better economic value proposition for DG customers. Mr. Inskeep made recommendations regarding how I&M make Tariff COGEN/SPP available to customers.

Mr. Inskeep testified that monthly netting continues to be one of the most widespread and important components of DG compensation policies across the U.S. and that states that have moved away from it have a higher rate than the one proposed by I&M. Mr. Inskeep testified regarding the existence of monthly netting policies and how they have been widely adopted various jurisdictions in the U.S. He said there is considerable variation across these studies in the methodology used, the categories of costs and benefits or values included, and the entity performing the study, which can all significantly impact the conclusions reached. He stated it is important that the specific context of a utility or state be fully evaluated in a rigorous and

transparent way by an independent or neutral entity to determine what the impacts of net metering are in a specific jurisdiction.

Mr. Inskeep testified that I&M did not provide evidence regarding the cost-to-serve a DG customer and said that this must be accomplished as part of a cost-of-service study. While he acknowledged that SEA 309's sponsor said he did not want complicated, lengthy ratemaking proceedings, Mr. Inskeep testified that the sponsor implied a ratemaking proceeding is necessary in this instance, because I&M is proposing additional "major policy changes" beyond those contemplated in the statute. He also testified that the Commission should consider other relevant Indiana statutes and ratemaking principles that govern utility ratemaking. He argued that I&M's proposal is not consistent with these ratemaking principles and provided a list of other utilities where regulators rejected proposed changes to net metering.

Mr. Inskeep testified that I&M's proposal would significantly harm Indiana's residential and commercial sector solar industry, leading to job losses and reduced economic development benefits for local communities. He said that retaining monthly netting would not harm I&M or non-DG customers. He cited studies regarding the value of solar in other states. He opined that the costs of DG are very modest on I&M and non-DG customers and provided calculations regarding the impacts of the EDG tariff.

Mr. Inskeep reiterated his point that I&M's proposal would have an adverse impact on the adoption rate of DG technologies like solar by preventing most customers from being able to install such a DG system based on the economics. He testified that batteries are expensive for individual customers to install and should not be de facto mandatory for participation. He argued that monthly netting does not require the utility to serve as the EDG customer's battery and that monthly netting is merely a compensation framework that provides fair compensation measurement to a DG customer for excess generation they provide to the utility and to the benefit of other customers.

Mr. Inskeep also testified about EDG credits and I&M's disconnect switch requirement. He testified that the language in the DG Statute does not expressly specify how unused credits should be treated when a customer no longer receives retail electric service from the utility. He said it is common for states to allow net metering customers to cash out unused net metering credits, such as on an annual basis for any credits that accrued over the year, or at the end of service. He, therefore, recommended that earned EDG credits be refundable to customers upon service termination or, if the DG customer moves but remains a I&M customer, be carried forward to their subsequent I&M bill.

He testified that, while I&M requires all EDG customers to install a disconnection device at their expense, it is his understanding that external disconnect switches are not necessary for isolating a small, inverter-based DG facility. He noted Vectren's approved EDG tariff does not require Level 1 interconnections to install an external disconnect switch and also cited to New York's Standardized Interconnection Requirements, which do not require a disconnect switch for inverter-based DG system sized 25 kW or less. He claimed this provision in I&M's Rider EDG is unnecessary, unfair, and unjustified and recommended the Commission direct I&M to clarify in its Rider EDG that disconnect switches are not required for Level 1 interconnections.

B. Jim Straeter. Mr. Straeter testified that without a reasonable investment payback period, there would be very little demand for solar energy systems. He testified that the current residential customer solar investment payback period is typically estimated to be 7-10 years, but he said I&M's proposals would increase the customer payback period to over 20 years. Mr. Straeter testified that the resulting lengthening of customer investment payback period would make I&M customers extremely reluctant or unwilling to make the investment in solar, which will be devastating to Indiana's solar industry, resulting in job losses and market contraction. Mr. Straeter said I&M's proposals could force his company to lay off workers and possibly no longer install solar energy systems in I&M's service area. He testified that other Indiana solar installation companies will suffer the same financial harm from EDG proposals like I&M's and will logically shift their solar business focus, employment opportunities, and financial stimulus to neighboring states that treat solar customers reasonably.

Mr. Straeter then testified regarding the benefits of distributed generation. He said these benefits include improvement to the environment; reduction of load on the transmission system; reduced demand for electricity in daylight hours; reduced transmission line loss; and avoided carbon-based fuel use and costs. He said customer-owned solar brings jobs and economic stimulus. Finally, Mr. Straeter expressed concerns regarding I&M's proposal because, in his view, it prevents customers from installing solar generation, and it is unjust and unreasonable.

8. Petitioner's Rebuttal Evidence.

A. Dona Seger-Lawson. On rebuttal, Ms. Seger-Lawson responded to policy issues raised by IndianaDG witnesses Inskip and Straeter regarding their claims that the proposed EDG rate will adversely impact solar companies and solar customers. She stated that the Indiana General Assembly made the policy decision to end net metering in Indiana and as such, policy issues are irrelevant in this cause. Nevertheless, Ms. Seger-Lawson pointed out that there are a number of countervailing policy considerations that support ending net metering. Ms. Seger-Lawson reiterated that I&M's proposal follows the DG Statute and is made in compliance with the law.

Ms. Seger-Lawson responded to Mr. Inskip's claim that I&M does not possess "the most basic data on its DG customers." She testified that, although I&M did not have all the information in the form that IndianaDG requested, I&M possesses detailed information concerning proposed and in-service DG facilities.

In response to Mr. Inskip's discussion about I&M's COGEN tariff rate being higher than the EDG rate, Ms. Seger-Lawson argued that the two rates are the result of two different government-prescribed calculations—the COGEN rate is calculated based on a Commission rule, while the EDG rate calculation is prescribed by the DG Statute. Ms. Seger-Lawson stated that if a customer meets the eligibility requirements for both tariffs, then that customer may choose which tariff it wants to participate in.

Regarding Mr. Inskip's statements that Indiana should use monthly netting because other states use monthly netting, Ms. Seger-Lawson stated again that I&M's proposal follows the DG Statute. Ms. Seger-Lawson responded to Mr. Inskip's argument that the DG Statute calls for

monthly netting, testifying that the statute references the monthly bill as to “where” the credit is provided to EDG customers, not “how” the credit is calculated. She testified that it is logical that the DG Statute requires the utility to provide the EDG credit on the monthly bill because that is how customers are normally billed.

Ms. Seger-Lawson argued that the “no regrets” proposal that IndianaDG supports would effectively maintain net metering beyond the required end date of July 1, 2022. She further testified that the DG Statute exemplifies gradualism through its grandfathering periods, and the EDG rate calculation is simple and easy to understand and provides a level playing field with other wholesale power options. She testified that the statutory EDG rate calculation is fair, avoids undue discrimination, and represents a considered policy choice made by the legislature.

In response to Mr. Inskeep’s criticism that I&M’s proposed EDG rate is not supported by a cost-of-service study, Ms. Seger-Lawson testified that the results of a cost-of-service study of the costs imposed on the system by DG customers as a class is not needed to comply with the DG Statute. She testified that the EDG rate is analogous to market-based wholesale rate, which is not developed through a cost-of-service study.

B. Kurt C. Cooper. In his rebuttal, Mr. Cooper reiterated that I&M’s proposal meets the statutory definition of “excess distributed generation.” He testified that Ind. Code ch. 8-1-40 requires the utility to compensate a DG customer for electricity produced by the customer and delivered to the grid, over and above any electricity produced by the customer and used for the customer’s own electricity requirements at a certain rate. He stated that under I&M’s proposal, I&M will compensate the customer for that “excess” electricity at the statutorily required rate.

Mr. Cooper testified that the “difference” required by the DG Statute is calculated at the meter during the instantaneous measure that the meter performs. He testified that the metering will separately track energy supplied by the utility that is used by the customer, and energy sent back to I&M’s distribution infrastructure that is produced by the customer in excess of what they can use. The monthly billing statement will include charges for utility-provided energy consumed by the customer and credits for all the excess energy produced by the customer and sent back to the grid. Mr. Cooper testified that nothing in the DG Statute implies the use of monthly netting.

Mr. Cooper testified that the DG Statute unequivocally ends net metering and that there is nothing in the statute that indicates parts of the old net metering paradigm should remain in place, with the exception of the grandfathering provisions. Mr. Cooper disagreed with Mr. Inskeep’s interpretation of SB 309’s legislative history, testifying that there is no indication that the legislature intended to keep a part of net metering in place. Further, Mr. Cooper testified that I&M’s proposal is not a buy-all, sell-all proposal because under the EDG Statute, the customer is able to serve itself first and then be charged the standard tariff rates only for its incremental usage above the amount of electricity the customer produces. Mr. Cooper testified that this is a net billing structure, not a buy-all, sell-all structure.

Mr. Cooper responded to Mr. Inskeep’s argument that I&M should calculate the EDG rate by using only daylight hours to calculate the average wholesale rate, testifying that the DG Statute requires the EDG rate to be calculated using a historical average annual wholesale power price and

says nothing about limiting the calculation to daylight hours. Mr. Cooper testified that Mr. Inskeep ignored the fact that the DG Statute includes a 25% adder to the average annual wholesale price and that the statute reasonably considers all eligible generation types, including non-solar generation.

Mr. Cooper testified that there is nothing in the DG Statute which directs retention or use of monthly netting, and I&M disagrees with Mr. Inskeep's proposed daily or weekly netting alternatives, with the added reason that the majority of the metering in place today at I&M or I&M's billing system would not support an hourly, daily, or weekly netting methodology.

Mr. Cooper testified that I&M's proposed EDG tariff contains the following language: "If the credit for energy procured from the customer exceeds the current charges in the billing period, any excess credit shall be carried forward and applied against future charges to the customer as long as the customer receives retail electric service from I&M at this meter location on the customer premises. Any unused credit shall revert to the Company." He testified that I&M is agreeable to modifying this provision to state: "If the credit for energy procured from the customer exceeds the current charges in the billing period, any excess credit shall be carried forward and applied against future charges to the customer as long as the customer receives retail electric service from I&M at this meter location on the customer premises. Any unused credit shall be credited back to all customers through the FAC."

Regarding Mr. Inskeep's recommendation that the Commission reject the provision in the proposed tariff that the customer install a disconnect switch, Mr. Cooper testified why the requirement is prudent, in the public interest, and permitted under Indiana law.

Mr. Cooper concluded his rebuttal testimony by stating that I&M's proposed EDG tariff rate language closely aligns with Vectren South's in that they both have a straightforward marginal DG price calculation that follows the statute, treat inflow and outflow of energy the same, and do not utilize any system of netting the customer generation with utility supplied generation.

9. Commission's Discussion and Findings. In this proceeding under the Distributed Generation Statute, the Commission is being asked to approve an EDG Rider. In the Vectren Order, we directly addressed several of the contested issues that are likewise contested in this proceeding. These issues include but are not limited to: (1) whether instantaneous netting complies with Section 5; (2) whether instantaneous netting results in rates that are just and reasonable; (3) the appropriate Rider EDG rate under Section 17; and (4) recovery of EDG customers' credits upon discontinuance or termination of service under Section 15.

A. Implementation and Calculation of Rider EDG under the Distributed Generation Statues.

1. Timeliness of Petitioner's Filing for an EDG Rate. Section 10 requires a utility to make its net metering tariff available until the earlier of July 1, 2022, or "January 1 of the first calendar year after the calendar year in which [Petitioner's] aggregate amount of net metering facility nameplate capacity . . . equals at least one and one-half percent (1.5%) of [Petitioner's] most recent summer peak load." Section 10 further requires a utility to

petition the Commission for approval of a rate for the procurement of EDG if, before July 1, 2022, the utility reasonably anticipates, at any point in a calendar year, that the aggregate amount of its net metering facility nameplate capacity will equal at least 1.5% of its most recent summer peak load. Otherwise, an electricity supplier must file a petition seeking approval of a rate for the procurement of EDG by March 1, 2021.

Petitioner initiated this proceeding on March 1, 2021. Petitioner's witness Seger-Lawson testified that I&M is requesting approval of a rate for the procurement of excess distributed generation in accordance with this statutory requirement.

The propriety of the timing of I&M's filing for approval of a rate for EDG under Section 10 was not disputed. Based on Petitioner's evidence, the Commission finds that I&M's petition seeking approval of a rate for the procurement of EDG was timely filed.

2. Rider EDG Rate. Once a utility timely files a request for an EDG rate in accordance with Section 10, Section 17 of the DG Statute requires the following:

The commission shall review a petition filed under section 16 of this chapter by an electricity supplier and, after notice and a public hearing, shall approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation if the commission finds that the rate requested by the electricity supplier was accurately calculated and equals the product of:

(1) the average marginal price of electricity paid by the electricity supplier during the most recent calendar year; multiplied by

(2) one and twenty-five hundredths (1.25).

Thus, under Section 17, the Commission is charged with approving a rate to be credited.

Ms. Seger-Lawson explained and supported I&M's calculation of the Rider EDG rate, which we also refer to as the Marginal DG Price. She stated that, consistent with Sections 17 and 18, I&M calculated the average Real-Time LMP for its load zone within PJM Interconnection and multiplied that by 1.25. Ms. Seger-Lawson testified that the average LMP for the I&M load zone in 2020 was \$20.65/MWh, or \$0.02065/kWh, which results in I&M's proposed EDG credit in its initial tariff as \$0.02581/kWh. Ms. Seger-Lawson also testified that this would be updated annually.

No party took issue with Ms. Seger-Lawson's calculation. Mr. Inskeep, however, challenged Ms. Seger-Lawson's testimony, not on the basis that I&M's formula was not compliant with the DG Statute, but on the basis that alternative methods for calculating the rate would be more reasonable. Specifically, Mr. Inskeep urged the Commission to consider only daylight hours when calculating the Marginal DG Price. This we decline to do. The Commission is a creature of statute. *See* Ind. Code § 8-1-1-2. As an administrative agency, the Commission "derives its power and authority solely from statute, and unless a grant of power and authority can be found in the statute it must be concluded that there is none." *Indiana Bell Tel. Co. v. Indiana Util. Regulatory Comm'n*, 715 N.E.2d 351, 360 n.3 (Ind. 1999) (citations omitted). The authority of a state agency is limited to the express authority conferred by statutory enactment. *Board of Comm'rs of Morgan*

County. v. Wagoner, 699 N.E.2d 1196, 1199 (Ind. Ct. App. 1998); *Indiana. Dept. of Natural Res. v. Town of Syracuse*, 686 N.E.2d 410, 411 (Ind. Ct. App. 1997).

We find that in Section 17, the legislature directed how the “rate to be credited to participating customers by the electricity supplier for excess distributed generation” shall be calculated. Section 17 does not state that a certain “subset” of hours be used, nor does it state that specific hours are to be given greater weight than others. It plainly states that “the average marginal price of electricity paid by the electricity supplier during the most recent calendar year” is to be used. In addition, we note that omitting certain hours from the rate calculation benefits DG customers with solar resources at the expense of DG customers utilizing other technologies (i.e., wind or battery storage). I&M has averaged each hour of the most recent calendar year in calculating the Marginal DG Price. This is admitted by Mr. Inskeep, when he correctly notes that “I&M has averaged the wholesale electricity price for all hours of the year.” Petitioner’s calculation satisfies the statutory requirements of Section 17 and treats all DG resources equally.

The Commission finds the rate for crediting of EDG and the calculation thereof presented by Petitioner are derived from, and consistent with, the process directed in the DG Statute, Sections 6 and 17. We decline to diverge from the DG Statute and calculate this rate differently as suggested by IndianaDG’s witness. Accordingly, the Commission finds Petitioner’s proposed rate and the calculation thereof were shown to be reasonable and in compliance with Sections 6 and 17; therefore, the Commission approves Petitioner’s proposed calculation of the EDG rate.

3. Carryover EDG Credits. Petitioner seeks approval of a retail rate crediting mechanism that affords a EDG customer a credit on the customer’s monthly bill, with any excess credit to be carried forward and applied by Petitioner against future charges to that EDG customer for as long as such customer receives electric service at the premises from Petitioner. Petitioner’s proposal to carry credits forward consistent with Section 18 was not opposed; however, Mr. Inskeep took issue with Petitioner’s proposal that, upon discontinuance of service, any EDG credit balance remaining will be credited to customers through I&M’s FAC rather than cashing out any balance. Mr. Inskeep recommended any remaining credits be refundable to Rider EDG customers upon discontinuation or termination of service.

In evaluating these alternatives, the Commission looks first to the requirements of the DG Statute. Section 18 provides:

An electricity supplier shall compensate a customer from whom the electricity supplier procures excess distributed generation (at the rate approved by the commission under section 17 of this chapter) through a credit on the customer’s monthly bill. Any excess credit shall be carried forward and applied against future charges to the customer for as long as the customer receives retail electric service from the electricity supplier at the premises.

There is no language in the DG Statute directing or supportive of a cash payment to Rider EDG customers. In this regard, the Commission finds it important to recognize what the statute says as well as what it does not say. *See Van Orman v. State*, 416 N.E.2d 1301, 1305 (Ind. Ct. App. 1981). Section 18 calls for a credit to be applied against future charges for electric service which is consistent with the premise that EDG is a retail rate crediting mechanism. Similar to Section 18,

Sections 15 and 17 also provide for the approved rate to EDG customers to be credited, with Section 17 providing that the Commission shall “approve a rate to be credited to participating customers by the electricity supplier for excess distributed generation.” Section 17. We also note that under Ind. Code § 8-1-40-3(a)(3), to be properly sized, a DG customer’s system is to be sized to meet the customer’s load, limiting the likelihood of a credit positive position over the course of time.

Based on the Distributed Generation Statute, the Commission approves I&M’s proposal to adopt a retail rate crediting mechanism that affords Rider EDG customers a credit, with any credit balance remaining when the participating customer is no longer a customer at the premises credited to all retail customers through the FAC.

4. Compliance Filing Updates. Section 16 provides that after approval of the initial rate, a utility shall “submit on an annual basis, not later than March 1 of each year, an updated rate for excess distributed generation in accordance with the methodology set forth in section 17 of this chapter.” Section 16. Accordingly, Petitioner has proposed updating its Rider EDG annually, by March 1, via a compliance filing under this Cause. Having reviewed and approved Petitioner’s method of calculating the EDG rate under Section 17 and after reviewing the evidence presented upon I&M’s methodology for annually updating Rider EDG, the Commission finds I&M’s proposal for annually updating its EDG rate is consistent with, and meets the requirements of, Section 16.

5. Recovery of Amounts Credited to EDG Customers through the FAC. Section 15 provides, “Amounts credited to a customer by an electricity supplier for excess distributed generation shall be recognized in the electricity supplier’s fuel adjustment proceedings under IC 8-1-2-42.” Ms. Seger-Lawson testified that I&M plans to recover the cost of purchasing excess distributed generation in its FAC in accordance with Section 15 of the DG Statute. No party took issue with I&M’s proposal. The Commission authorizes Petitioner, consistent with the DG Statute, to recover amounts credited to EDG customers through its FAC.

B. EDG Tariff Determination. In addition to seeking approval of its rate for EDG, I&M asks the Commission to approve its proposed EDG tariff, i.e., Rider EDG, so Petitioner can apply the rate. As proposed, Rider EDG is based upon instantaneous netting, i.e., instantaneously measuring the difference between the amount of electricity a customer receives from the utility and the amount of electricity the customer supplies to the utility. Under Rider EDG, the net electricity a customer supplies I&M (“received”) is instantaneously measured. The OUCC and IndianaDG challenged Petitioner’s calculation of this difference, arguing whether instantaneous netting (as opposed to calculating the difference received and supplied on a monthly basis) is permitted under Section 5, and if so, whether instantaneous netting results in unreasonable rates. We address both issues below.

1. Section 5. The OUCC and IndianaDG both claim Petitioner’s proposal to use instantaneous netting does not comply with the Distributed Generation Statute. Specifically, they contend I&M is not determining EDG in accordance with Section 5. The Commission, therefore, looks first at this section of the statute, which states:

As used in this chapter, ‘excess distributed generation’ means the difference between:

- (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation; and
- (2) the electricity that is supplied back to the electricity supplier by the customer.

Petitioner’s evidence shows that its EDG tariff defines EDG consistent with Section 5, and mechanically, Petitioner’s evidence shows that in measuring electricity “received” from a DG customer, both electricity “delivered” and “received” in any instant are effectively netted at the meter to arrive at EDG. The EDG that the meter measures is the “difference between” these components, not merely one component. As Mr. Cooper explained in his rebuttal testimony:

Let’s assume that a DG customer, at noon on a sunny day, is generating 100 Watts of electricity from solar panels on the customer’s home, while they consume only 60 Watts of their own generation. At that point in time, I&M is supplying 0 Watts to the customer and the customer is sending their excess generation of 40 Watts to the grid via I&M’s electrical infrastructure. The difference between the amount of energy I&M is supplying to the customer, and the quantity the customer is supplying back to the I&M electrical infrastructure is 40 Watts.

Pet. Ex. No. 5, at pp. 3-4.

The OUCC offered testimony that the proposed Rate EDG tariff does not comply with the definition of Section 5 because what I&M’s tariff describes is not the difference between the electricity supplied by an electricity supplier to a customer that produces distributed generation and electricity supplied back to the electricity supplier by that customer: “[I&M’s] methodology in the tariff incorrectly calculates EDG by determining the difference between onsite generation and consumption, as measured in the “received” register, which is not included in the statutory definition of EDG and therefore cannot be used to calculate EDG.

The Commission finds the OUCC’s position arrives at the difference between Section 5(1) and 5(2) at the wrong time, effectively deducting electricity “delivered” a second time and not recognizing the difference is measured at the meter on an instantaneous basis, to arrive at EDG.² See Vectren Order, at 35. The Commission finds the instantaneous calculation the meter performs of the difference between the electricity I&M is delivering and the electricity the customer is supplying (received by I&M) properly measures EDG under Section 5. Our finding is supported by the substantial evidence I&M presented explaining that electricity received by I&M is calculated in accordance with Section 5 and accounts for both the electricity supplied by the

² While Mr. Inskeep refers to I&M’s proposal as “no netting” throughout his testimony, it is actually more accurate to refer to the monthly netting proposal proffered by IndianaDG as “double netting,” as it would net the electricity received by I&M and electricity delivered by I&M on a monthly basis, when netting has already occurred instantaneously. For this reason, we do not use the term “no netting” in our Discussion and Findings and, instead, utilize the term “instantaneous netting.”

customer to Petitioner (received by I&M) and the electricity I&M delivered to the DG customer in every instant.

Consistent with I&M's testimony, the proposed Rider EDG tariff defines EDG in accordance with Section 5 as the difference between: (1) the electricity that is supplied by an electricity supplier to a customer that produces distributed generation and (2) the electricity that is supplied back to the electricity supplier by the customer. An example we used in the Vectren Order is also helpful here.

[I]t is useful to conceptualize the difference at each instant of time, where the electricity supplied by the supplier and the customer's distributed generation meet at the meter as opposing forces, with the stronger force determining the direction of the flow. If the customer needs less electricity than its distributed generation is supplying, the statute terms the excess or difference between what is being supplied at that instant by [Ppetitioner] and what is flowing from behind the customer's meter as EDG.

Vectren Order, at p. 36.

Notwithstanding the foregoing, including our findings in the Vectren Order,³ the OUCC still claims outflow, as registered in I&M's meter, is not actually the difference between electricity supplied to the customer by the electricity supplier and electricity supplied to the electricity supplier by the customer because electricity only flows one way. We find that "because it can only flow one way, to become outflow [electricity received by the electricity supplier], both components of Section 5 are netted at the meter to arrive at EDG." Vectren Order, at p. 36.

Having reviewed the evidence, as discussed above, the Commission finds that the electricity that flows through the meter and registers as electricity received by I&M is the EDG produced by a DG customer for purposes of Section 5. This excess electricity registered as "received" on the meter is the electricity I&M must accept from the DG customer, regardless of whether that excess electricity is then needed or not to meet I&M's overall system needs. The amount of electricity I&M must accept from the customer is the amount of electricity that is supplied to Petitioner by the customer in excess of the amount I&M supplied to the customer at the same moment, i.e., the difference between the two components of Section 5 occurring at that instant and time.

In contrast, under the OUCC's interpretation of Section 5 and under IndianaDG's proposal to require I&M to utilize monthly netting, Section 5 would require a utility to permit DG customers to net the amount of the EDG they deliver to Petitioner at various times during the month against the amount of electricity supplied by the utility to them over the course of the same month. As discussed below, the DG Statute does not require the monthly or billing period netting which Mr. Inskip proposes. In fact, the monthly netting proposal would effectively keep net metering in place, contrary to the intent of the DG Statute. Accordingly, if the OUCC and IndianaDG's view

³ The OUCC acknowledges that it "respectfully disagrees with the Commission's decision in Cause No. 45378 and has appealed the final order." Pub. Ex. No. 1, at p. 4.

were adopted, the Commission finds it would result in over-valuing EDG beyond what the Statute directs. The result would, essentially, be a continuation of net metering under which Rider EDG customers could continue to bank their EDG on the utility's system at no charge until needed at some time later in the month, thereby also continuing to provide Rider EDG customers the retail rate allowed under net metering for "banked" excess generation throughout the month. Only at the end of the monthly netting period would excess energy "received" by the electricity supplier's grid be valued at the EDG rate. We do not believe the General Assembly enacted the Distributed Generation Statute to sunset net metering and replace it with a construct that achieves a similar outcome. Our conclusion is buttressed by the legislature having capped the amount of net metering capacity on electricity suppliers' systems but placing no comparable cap on EDG.

Based on the substantial evidence of record, the Commission finds that, at any given moment in time, I&M's meters will register the difference between: (1) the electricity that is delivered by an electricity supplier to a customer that produces DG; and (2) the electricity that is received by electricity supplier from the DG customer, and that instantaneous netting is permissible under Section 5.

2. Reasonableness of Rates and Charges. Mr. Inskeep argues that I&M's instantaneous netting proposal "is inconsistent with the principles underlying just and reasonable rates" and testifies extensively as to why he believes I&M's proposal is "inconsistent with longstanding ratemaking principles." Mr. Inskeep again advocates for a monthly netting period.

As discussed below, and consistent with our findings in the Vectren Order, at p. 37, the Commission finds the instantaneous measurement of EDG, i.e., instantaneous netting as that term is used herein, using the components the General Assembly set forth in Section 5 and calculating the rate per Section 17, yields rates that are just and reasonable. In so finding, we believe the Distributed Generation Statute is intended to be a transition away from the net metering construct for new DG customers, with the primary value of DG creation in the retail rate context being its offsetting of demand behind the meter, a value overlooked or unreasonably discounted by IndianaDG's focus upon prospective payback and bill differences. Nevertheless, the EDG rate must be reasonable.

There is no dispute that under I&M's proposed Rider EDG, DG customers continue to be able to use the output of their DG systems to offset their need to procure energy from I&M at the full retail rate. We have already found that instantaneous netting reasonably determines any excess DG the customer provides to I&M, net of their own usage, and that I&M has properly calculated a rate to compensate its customers for their EDG. As a result, while we address many of the specific arguments raised by Mr. Inskeep, it is clear that I&M's proposed EDG tariff is reasonable.

The evidence reflects that netting the two elements set forth in Section 5 on a monthly rather than an instantaneous basis, has the effect of substantially reducing the DG customer's bill for energy Petitioner provides, but this reduction is shifted to the I&M customers that do not have a behind-the-meter generation resource. IndianaDG witness Inskeep presented a comparison of monthly netting, hourly netting, and instantaneous netting, which shows the amounts DG customers will pay for electricity they consume are lower under a monthly netting paradigm.

Although IndianaDG raised some cost-of-service concerns, a large portion of Mr. Inskeep's testimony is spent in support of monthly netting and focused on the payback period for customers that install a DG system. IndianaDG witness Straeter similarly offers testimony on this topic. For instance, Mr. Inskeep testified a customer's payback period will go from 12.4 years under monthly netting to 25.8 years under instantaneous netting. Mr. Inskeep may believe that this longer payback period is evidence that the instantaneous netting proposal is not just and reasonable. But the Commission is concerned with the reasonableness and implications for DG customers and non-DG customers.

It is important to consider that the DG Statute's rate for EDG is based on wholesale power prices. This has two significant implications. First, because the prescribed EDG rate is a market-based rate, not a cost-based rate, the DG Statute has obviated the need for a cost-of-service study to justify the EDG rate. Second, by basing the EDG rate on wholesale power prices, the DG Statute works to ensure that non-DG customers will not be paying significantly more for power provided by DG customers than they would pay for other power options available on the wholesale market.

Consistent with our findings in the Vectren Order, we find the evidence in this proceeding demonstrates that, "ultimately, DG customers' faster payback periods translate to the utility's [non-DG] customers paying costs associated with the excess electricity DG customers put on [Petitioner's] system – whether needed or not – including through the FAC." Vectren Order at p. 38 (internal citations omitted). Under a monthly netting paradigm, I&M's non-DG customers would also pay for the electricity consumed by the DG customers when they take electricity from Petitioner at no cost, at a different time later in the month. EDG is not, literally, stored for the DG customer's future use. Accordingly, we cannot conclude it is just and reasonable for Petitioner's other customers to subsidize the payback periods of DG customers by the continuation of monthly netting, as opposed to instantaneous netting. Monthly netting is prescribed for net metering customers. However, the legislature created a specific EDG rate that differs from the net metering retail rate. Furthermore, "the statute is silent regarding the frequency with which a utility must calculate EDG, leaving it to the Commission to exercise its expertise and discretion in determining the reasonableness of a utility's proposed netting period for EDG."

Without acknowledging the legislative intent to limit the amount of DG that utilities must accept, Mr. Inskeep asserts that I&M's instantaneous netting proposal is not "reflective of the value of the benefits DG customers provide." Similarly, Mr. Straeter offers testimony about the purported "benefits that distributed customer owned solar generation bring to I&M and all I&M customers." The Commission finds, however, that the record does not support finding any such benefit justifies subsidization by non-DG customers of DG customers' payback periods.

If a DG customer wants to continue the monthly netting paradigm and use the electricity they produce over the course of a month to offset their consumption later in the month, they have the option to do so by installing additional behind the meter equipment such as a battery. Mr. Inskeep may complain that "I&M offers no proposal to mitigate the upfront cost of customer investments in battery energy storage systems, or innovative proposals. . . that would help customers and the grid benefit from batteries' capacity located on the customer's premises," but this is no justification for rejecting I&M's Rider EDG. It is also not surprising that I&M's Rider

EDG, which I&M repeatedly noted is intended simply to comply with the DG Statute, would not include proposals to subsidize battery energy storage or other “innovative proposals.” This does not change the fact that batteries for home solar systems are available in today’s market and can be purchased by DG customers if they so choose. Mr. Inskeep testified that battery energy storage systems are typically too expensive for individual customers to install, which would presumably lengthen the financial payback time for a solar energy investment.

The Commission is not persuaded the evidence offered by IndianaDG, including but not limited to a lengthened payback period, requires I&M to continue allowing customers that own DG resources to, effectively, use its electric system essentially as their battery by using EDG credited during prior periods to offset inflows occurring any time during the month. We also note that Section 19 provides support that legislative intent was otherwise, by providing a means to eliminate any subsidy if the EDG tariff does not do so. We find instantaneous netting reasonably limits using the grid as DG customer storage.

Based on the evidence, the Commission finds instantaneous netting will reasonably result in new Rider EDG customers paying for the energy they are supplied by I&M, no more and no less. Likewise, instantaneous netting compensates the DG customer for the energy they produce in excess of the amount I&M supplied at that time at the prescribed EDG rate. Accordingly, the Commission finds Petitioner’s proposed instantaneous netting mechanism yields rates that are just and reasonable for I&M DG and non-DG customers, consistent with the DG Statute. The fact that DG customers are generating behind the meter and, consequently, buying less, will generate value and return on their private investment.

Additionally, Mr. Inskeep notes that I&M’s COGEN/SPP tariff represents I&M’s avoided cost rate under the Public Utility Regulatory Policies Act of 1978 (“PURPA”), and as such, reflects I&M’s incremental cost. He argues that “[i]t would be an absurd result and illogical to assume the General Assembly intended for DG customers to be compensated at a rate far below I&M’s avoided cost rate while also experiencing less certainty in pricing from year-to-year.” Above, we have found that I&M’s EDG rate is both compliant with the Distributed Generation Statute and just and reasonable. This argument by Mr. Inskeep does nothing to change our determination on this issue.

C. Technology, Tariff, and Other Concerns.

1. Disconnect Devices. Mr. Inskeep also raised concerns regarding a provision in I&M’s proposed Rider EDG related to disconnecting devices. This provision states: “A disconnecting device must be located at the point of common coupling for all interconnections. For three-phase interconnections, the disconnecting device must be gang operated. The disconnecting device must be accessible to Company personnel at all times and be suitable for use by the Company as a protective tagging location. The disconnecting device shall have a visible open gap when in the open position and be capable of being locked in the open position. The cost and ownership of the main disconnect switch shall reside with the customer.” Mr. Inskeep testified that, based on his understanding, external disconnect switches are not necessary for isolating a small, inverter-based DG facility, such as Level 1 interconnection. On this basis, he requested that

the Commission direct I&M to clarify in its Rider EDG that disconnect switches are not required for Level 1 interconnections.

On rebuttal, I&M witness Cooper stated that this requirement is about the safety of I&M customers and employees, as well as first responders who may be required to access DG equipment in the event of an emergency. Further, he testified to changes in the 2020 National Electric Code, which include a requirement of an exterior, readily accessible emergency disconnect switch for first responders.

Notably, under Section 22 of the Distributed Generation Statute:

A customer that produces distributed generation shall comply with applicable safety, performance, and reliability standards established by the following:

- (1) The commission.
- (2) An electricity supplier, subject to approval by the commission.
- (3) The National Electric Code.
- (4) The National Electrical Safety Code.
- (5) The Institute of Electrical and Electronics Engineers.
- (6) Underwriters Laboratories.
- (7) The Federal Energy Regulatory Commission.
- (8) Local regulatory authorities.

In the Vectren Order (at Section 9.C.3) we discussed language in Vectren's Rider EDG related to disconnecting devices and Vectren witness Abshier testified that Vectren does not require disconnects for Level 1 interconnections and certain Level 2 interconnections. However, we did not evaluate the merits of this issue, nor did we issue a finding that requiring a disconnect switch for Level 1 interconnections was inappropriate.

Upon review of the evidence and tariff language, the Commission finds it is acceptable for I&M to require disconnect switches for all DG facilities, no matter their size. While we approved Vectren's DG tariff, which did not require disconnect switches for Level 1 interconnections (Vectren Order, at 41-42), I&M has presented evidence that disconnect switches on all DG equipment will further ensure safety of I&M personnel, I&M customers, and emergency personnel. If Level 1 interconnections for DG facilities were excepted from this requirement, this would lead to inconsistency between all other Level 1 interconnections and Level 1 DG interconnections, which could lead to confusion for I&M employees who service equipment, especially in an emergency. On the other hand, by allowing disconnect switches to be required on Level 1 interconnections for DG facilities, personnel servicing any customer-owned generation facility (whether DG or otherwise) will know that such equipment is required for all levels of interconnection. I&M's disconnect requirement is also consistent with Section 22 of the DG Statute. On this basis, the Commission will not require I&M to revise its Rider EDG to remove this disconnect switch requirement for Level 1 interconnections.

2. Other Issues. Mr. Inskeep recommended that, if we approve I&M's Rider EDG, we "direct I&M to provide additional consumer information and education regarding its Tariff COGEN/SPP to ensure all eligible DG customers have access to and are fully informed of this rate option."

Petitioner's Rider EDG is before the Commission to comply with the General Assembly's statutory directives, including the rate calculation, set forth in the DG Statute. And I&M's electric tariff is available on its public website at all times. The Commission, therefore, declines to require Petitioner, as part of this proceeding, to take additional steps to market or otherwise inform potential customers about Tariff COGEN/SPP. This proceeding is mandated under Section 10, which does not encompass other potential offerings for DG customers. Should IndianaDG desire to provide information about such offerings, it can do so through its own efforts.

In Petitioner's Ex. No. 5, on page 10, I&M proposed changes to its proposed EDG tariff relating to unused credits – specifically, proposing that such unused credits flow back to I&M customers through the FAC rather than expiring. We find these changes are reasonable and consistent with the Vectren Order and, therefore, approve them.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. I&M's calculation of its proposed rate for the procurement of EDG is approved. I&M is directed to file in this Cause, no later than March 1, 2022, an update to its EDG rate, calculated in the same manner.

2. I&M's Rider EDG is approved, including the use of instantaneous netting and the requirement for disconnect switches, effective July 1, 2022, subject to annual updates to the EDG rate as required by the DG Statute and Ordering Paragraph 1.

3. I&M is authorized to recover credits provided to Rider EDG customers through its FAC proceedings.

4. Any unused EDG credits shall be flowed back to customers through I&M's FAC proceedings.

5. Until otherwise ordered, I&M shall annually update its approved EDG rate by March 1 via a compliance filing under this Cause based on updated LMP data for the prior calendar year.

6. Prior to implementing its Rider EDG, I&M shall file such documents under this Cause for approval by the Commission's Energy Division.

7. This Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:

APPROVED: JAN 26 2022

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

**Dana Kosco
Secretary of the Commission**