ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF DUKE ENERGY INDIANA, LLC FOR APPROVAL UNDER IND. CODE § 8-1-39-11 OF A TARGETED ECONOMIC DEVELOPMENT PROJECT IN CLARK COUNTY, INDIANA, KNOWN AS THE RIVER RIDGE COMMERCE CENTER PROJECT.	)	**CAUSE NO. 45647 S1** **APPROVED: MAR 02 2022**

ORDER OF THE COMMISSION

Presiding Officers:
David L. Ober, Commissioner
Carol Sparks Drake, Senior Administrative Law Judge

On November 23, 2021, in accordance with Ind. Code ch. 8-1-39, Duke Energy Indiana, LLC ("Duke Energy" or "Petitioner") filed a Verified Petition ("Petition") with the Indiana Utility Regulatory Commission ("Commission") seeking approval of Petitioner's six-year plan for eligible transmission, distribution, and storage system improvements ("TDSIC 2.0"). In ¶ 11 of the Petition, Duke Energy also asked the Commission to establish a subdocket to address approval of a targeted economic development ("TED") project known as the River Ridge Commerce Center Project. This project is located in Clark County, Indiana. Concurrently with filing the Petition, Duke Energy prefiled the testimony of Erin Schneider, Petitioner's Director of Economic Development, constituting Duke Energy's case-in-chief for purposes of the subdocket.

On December 2, 2021, a docket entry was issued establishing the above-captioned subdocket for review of Petitioner's proposed TED project. In that same docket entry, the procedural schedule Duke Energy proposed for the subdocket was approved, notwithstanding its inconsistency with General Administrative Order ("GAO") 2016-6 and applicable statutes, including Ind. Code § 8-1-39-10(c), that encourage expediency when the Commission considers TED projects.

On December 3, 2021, Duke Energy filed a motion requesting confidential treatment be approved with respect to certain confidential, proprietary, competitively sensitive, and/or trade secret information. A docket entry was issued on December 8, 2021, in which confidential treatment was approved on a preliminary basis.

Consistent with 170 IAC 1-1.1-19.5, an appearance was filed on December 9, 2021, on behalf of Nucor Steel-Indiana, a division of Nucor Corporation ("Nucor").

On January 21, 2022, the Indiana Office of Utility Consumer Counselor ("OUCC") filed a notice advising the OUCC would not be filing testimony in this matter. Nucor also filed no testimony.

The Commission scheduled this matter for an evidentiary hearing, per Duke Energy's proposed schedule, at 1:00 p.m. on February 21, 2022, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Duke Energy, the OUCC, and Nucor, by counsel, participated in the hearing, and Petitioner's testimony was admitted without objection.

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

1. <u>Notice and Jurisdiction</u>. Notice of the hearing in this Cause was given and published by the Commission as required by law. Duke Energy is a public utility as defined in Ind. Code §§ 8-1-2-1(a) and 8-1-39-4. Under Ind. Code §§ 8-1-39-10 and -11, the Commission has jurisdiction over Petitioner's six-year plan for eligible transmission, distribution, and storage improvements, including TED projects. Under Ind. Code ch. 8-1-39 and Ind. Code § 8-1-2-42, the Commission also has authority over certain changes to Duke Energy's rates and charges; therefore, the Commission has jurisdiction over Duke Energy and the subject matter of this subdocket.

2. <u>Petitioner's Characteristics</u>. Duke Energy is a public utility corporation organized under Indiana law with its principal office at 1000 East Main Street in Plainfield, Indiana. Petitioner is a wholly-owned subsidiary of Duke Energy Indiana Holdco, LLC and has corporate power and authority to supply electric utility service to the public within Indiana. Duke Energy owns, operates, manages, and controls plant, property, and equipment for the production, transmission, distribution, and furnishing of electric utility service and directly supplies electric energy to approximately 860,000 customers located in 69 Indiana counties, including Clark County. Petitioner also sells electric energy for resale to Wabash Valley Power Alliance, Indiana Municipal Power Agency, and to other public utilities that, in turn, supply electric utility service to customers in areas Petitioner does not directly serve.

3. <u>Background and Relief Requested</u>. Ind. Code ch. 8-1-39 includes provisions that are intended to promote the implementation of TED projects by Indiana electric or gas utilities. Ind. Code § 8-1-39-2(a)(3) defines an eligible transmission, distribution, and storage system improvement to include new or replacement electric transmission, distribution, or storage projects that are approved as a TED project under Ind. Code § 8-1-39-11. Consistent with Ind. Code § 8-1-39-10(c), a request for approval of a TED project may be presented in a utility's initial petition for approval of the public utility's proposed TDSIC plan under Ind. Code § 8-1-39-10(a) or in an update proceeding filed under Ind. Code § 8-1-39-9(b)(1). In this instance, Duke Energy is requesting approval of the proposed River Ridge Commerce Center Project as a TED in its Petition seeking approval of TDSIC 2.0.

Approval of a TED project renders 80% of the associated capital expenditures eligible for recovery through the utility's transmission, distribution, and storage system improvement charge ("TDSIC") tracker proceeding and the remaining 20% of expenditures eligible for deferral. Additionally, Ind. Code § 8-1-39-11(b) requires approval by the Indiana Economic Development Corporation ("IEDC") to treat costs associated with a TED project as TDSIC costs.

In this proceeding, Duke Energy seeks approval of its proposed River Ridge Commerce Center Project in Clark County, Indiana, as a TED project and authority to recover the costs of the River Ridge Commerce Center Project as TDSIC costs. Upon filing the Petition, Duke Energy applied to the IEDC for approval to treat the costs associated with this project as TDSIC costs.

4. Duke Energy's Case-in-Chief. Ms. Schneider testified the River Ridge Commerce Center ("River Ridge") is a business and manufacturing park located along the Ohio River in Clark County, Indiana, and includes over 6,000 prime acres under development. The area affords access to four transportation options—rail, river, runways, and roads—facilitating quick and inexpensive movement of people, products, materials, and services. Ms. Schneider stated River Ridge is a key site in Indiana and is of high interest to prospective customers and existing Indiana businesses looking to grow and increase capacity. Electricity service at River Ridge is provided exclusively by Duke Energy. She explained that while Duke Energy currently has available transmission MW capacity, several large potential businesses are looking at locating in River Ridge; consequently, to allow for sufficient transmission capacity and continued business investment at River Ridge, Duke Energy is proposing additional infrastructure investment. Ms. Schneider testified that proactively building the transmission infrastructure needed to increase the capacity at River Ridge will decrease the time to meet customers' schedules and, thus, provide additional capacity for growth. Additionally, she stated the infrastructure Petitioner proposes will attract new jobs and new capital investment in Indiana.

Per Ms. Schneider, Duke Energy is currently working with more than ten industrial and commercial customers seeking sites at River Ridge for new facilities, with the estimated load totaling more than 500 MW. She stated one of these project commitments would leave Duke Energy with limited capacity, thwarting its ability to compete for additional economic development projects that could bring growth to the surrounding communities and Indiana's job market and benefits to Petitioner's customers; therefore, Duke Energy proposes to invest further in River Ridge to support its economic development. According to Ms. Schneider, Duke Energy estimates its proposed River Ridge Commerce Center Project could create more than 8,000 jobs and attract $3 billion in capital investment. She stated the associated jobs and capital investment will positively impact the region, the tax base, and the overall economy within the region and Indiana.

Ms. Schneider explained that under Duke Energy's existing economic development tariff (Rider 58), the customer must enter into a service agreement with Petitioner that specifies, among other things, the voltage at which the customer will be served, the amount and nature of the new load, and the basis on which the customer requests qualification for Rider 58. The customer must agree to a minimum term of ten years, with corresponding financial reductions afforded under Rider 58 for a maximum of five years immediately following the effective date of the service agreement. The customer must also affirm that the availability of Rider 58 was a factor in the customer's decision to locate the new load in Duke Energy's service area. She stated that if a customer ceases the operations for which Rider 58 was originally approved, Duke Energy will require the customer to repay the Rider 58 reductions that have been received according to the following schedule: years one to five 100%; year six 80%; year seven 60%; year eight 40%; year nine 20%; and year ten 10%. Also, the minimum load threshold will be 500 kW demand, and the customer must receive economic assistance from state or local government or from another public agency. Additionally, the customer will be required to add a minimum of ten full time equivalent employees or make a capital investment of at least $1 million. Ms. Schneider stated any potential investment at River Ridge will likely come in under Rider 58 or a special contract with similar conditions.

Ms. Schneider testified River Ridge's economic development efforts align directly with the IEDC's mission to: (1) attract and support new business investment; (2) create new jobs for Hoosiers; and (3) further Indiana's legacy as one of the top states for business. Duke Energy's proposed River Ridge Commerce Center Project will also allow Petitioner to work with community partners to achieve their economic development goals. These partners include One Southern Indiana whose President and Chief Executive Officer provided a letter of support for the TED project. One Southern Indiana is a Local Economic Development Organization and the Chamber of Commerce for Clark and Floyd Counties. Ms. Schneider characterized Petitioner's River Ridge Commerce Center Project as an ideal TED project that the local community supports.

Ms. Schneider also described the facilities Petitioner needs to install to expand its available electric service at River Ridge. She testified Duke Energy plans to install a 138kV 6-position, 4-breaker ring bus that will allow Petitioner to isolate the substation in the future to provide outage free maintenance. Petitioner also proposes to loop the in/out existing 138kV line to increase reliability. She stated Duke Energy will be constructing on the transmission side of the substation only, maintaining close proximity to the existing 138kV line. In addition, Petitioner will construct an initial yard for the substation sized to accommodate a variety of customer-specific scenarios on the distribution side. Ms. Schneider opined that Petitioner's infrastructure investments to serve River Ridge qualify for TED treatment, with the estimated cost of Petitioner's River Ridge Commerce Center Project being $44 million. She stated that treating this Project as a TED project will allow Duke Energy to make the necessary investment to extend services required by its existing customers while also providing 200 MW of capacity that will be required to serve additional customers. Per Ms. Schneider, Petitioner's estimated costs associated with the River Ridge Commerce Center Project are justified by the incremental benefits as this could create more than 8,000 jobs and bring about $3 billion in capital investment while costing $44 million. Ms. Schneider also provided insight concerning additional prospective TED projects for which Duke Energy may seek approval during the six-year TDSIC 2.0 timeframe.

5. **<u>Commission Discussion and Findings</u>.** Duke Energy requests approval of Petitioner's River Ridge Commerce Center Project and recovery of the associated costs as part of its six-year TDSIC Plan.

Based upon the undisputed evidence, the proposed River Ridge Commerce Center Project meets the requirements of Ind. Code ch. 8-1-39. Duke Energy is the exclusive provider of electric utility services at River Ridge and demonstrated its proposed infrastructure investment will facilitate continued economic development at this site and benefit the area's economy and welfare, providing support that the public convenience and necessity require the improvements to be included in Petitioner's six-year TDSIC Plan. No party objected to designation of the River

Ridge Commerce Center Project, as described by Ms. Schneider, as a TED project or questioned the reasonableness of Petitioner's estimated costs; therefore, the Commission finds Petitioner demonstrated its River Ridge Commerce Center Project is a TED project, that the estimated costs associated with this Project are reasonable and should be approved for inclusion in Petitioner's TDSIC 2.0 Plan, and the associated costs merit TDSIC treatment and recovery through Duke Energy's TDSIC tracker pursuant to Ind. Code §§ 8-1-39-11 and -12. Petitioner's proposed investment is estimated to create several thousand area jobs and was shown to be beneficial in facilitating economic development in this region and in Indiana generally. The Commission is persuaded that this is the type of investment Ind. Code ch. 8-1-39 is intended to encourage.

If the IEDC approves for purposes of serving economic development in Indiana the costs of the River Ridge Commerce Center Project approved in this Order and Duke Energy desires to proceed with this Project, Petitioner shall file a copy of the IEDC approval letter under this Cause in accordance with GAO 2016-6, notwithstanding this GAO by its terms is applicable to gas, as opposed to electric utilities.

6. Confidential Information. On December 3, 2021, Petitioner filed a motion for protection and nondisclosure of confidential and proprietary information, supported by an Affidavit showing certain information Duke Energy intended to submit in this subdocket and in Cause No. 45647 contains confidential, proprietary, competitively sensitive, and /or trade secret information. The information in this subdocket for which confidential information is requested includes detailed cost estimates for Duke Energy's prospective TED transmission project and the timing of this transmission project. In a docket entry issued on December 8, 2021, the information was found to be preliminarily confidential, after which the information was submitted under seal. Based on our review, the Commission finds the information is proprietary, competitively sensitive, and/or trade secret information as defined by Ind. Code § 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, and shall continue to be held as confidential and protected from public access and disclosure by the Commission.

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

1. The River Ridge Commerce Center Project, as proposed, is approved as a targeted economic development project for inclusion in Duke Energy's TDSIC 2.0 Plan.

2. Upon approval of Petitioner's TDSIC 2.0 Plan, Duke Energy is authorized to recover 80% of the costs incurred in connection with the River Ridge Commerce Center Project through the TDSIC Rider and to defer 20% of the costs incurred, including ongoing carrying charges on all deferred costs, for recovery in Petitioner's next general rate case.

3. The confidential information filed in this Cause is proprietary, competitively sensitive, and/or trade secrets as defined by Ind. Code § 24-2-3-2 and exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29.

4. If the IEDC approves for purposes of serving economic development in Indiana the TED project costs approved in this Order and Petitioner wishes to proceed with the River Ridge Commerce Center Project, Duke Energy shall promptly file a copy of the IEDC approval letter in this subdocket and in Cause No. 45647.

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

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

APPROVED: MAR 02 2022

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

Dana Kosco Digitally signed by Dana Kosco
Date: 2022.03.02
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Dana Kosco
Secretary of the Commission