

ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED)
PETITION OF INDIANA MICHIGAN POWER)
COMPANY FOR APPROVAL OF: (1))
DEMAND SIDE MANAGEMENT (DSM))
PLAN, INCLUDING ENERGY EFFICIENCY)
(EE) PROGRAMS, DEMAND RESPONSE) CAUSE NO. 45701
PROGRAMS, AND ENHANCED)
CONSERVATION VOLTAGE; AND (2))
ASSOCIATED ACCOUNTING AND) APPROVED: JAN 04 2023
RATEMAKING TREATMENT, INCLUDING)
TIMELY RECOVERY THROUGH I&M'S)
DSM/EE PROGRAM COST RIDER OF)
ASSOCIATED COSTS, INCLUDING)
PROGRAM OPERATING COSTS, NET LOST)
REVENUE, AND FINANCIAL INCENTIVES)

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Greg S. Loyd, Administrative Law Judge

On March 31, 2022, Indiana Michigan Power Company ("I&M") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") initiating this Cause. On March 31, 2022 and April 2, 2022, I&M filed its case-in-chief, including the direct testimony, attachments, and workpapers of the following witnesses:

- Jon C. Walter, I&M Consumer & EE Programs Manager
- Nicholas M. Elkins, Director of Customer Services and Business Development
- Gregory Soller, Resource Planning Manager for American Electric Power Service Corporation ("AEPSC")
- Chad M. Burnett, AEPSC Managing Director of Economic and Supply Forecasting
- Jeffrey R. Huber, Principal with GDS Associates, Inc.
- Michael R. Whitmore, I&M Regulatory Consultant Staff
- Jennifer C. Duncan, AEPSC Regulatory Consultant Staff

Citizens Action Coalition of Indiana, Inc. ("CAC") filed its Motion to Intervene in this Cause on April 6, 2022, which was granted on April 18, 2022.

On July 20, 2022, I&M, CAC, and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively, the "Settling Parties") filed a Notice of Settlement and Joint Motion to Modify Procedural Schedule, which was granted by Docket Entry dated July 26, 2022.

The Settling Parties filed their Settlement Agreement on August 3, 2022. That same day, I&M filed Mr. Walter's testimony and workpapers in support of the Settlement Agreement. Also on August 3, 2022, the CAC submitted testimony of Ben Inskeep, Program Director at CAC, and the OUCC submitted testimony of April M. Paronish, Assistant Director in the OUCC's Electric Division, in support of the Settlement Agreement.

On September 9, 2022, the Presiding Officers issued a docket entry requesting additional information from I&M, to which I&M responded on September 9, 2022.

The Commission held an evidentiary hearing in this Cause on September 12, 2022, at 9:30 a.m. in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, I&M, OUCC, and CAC appeared by counsel. The Settling Parties' evidence was admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published as required by law. I&M is a "public utility" under Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1, and an "electricity supplier" pursuant to Ind. Code ch. 8-1-8.5. Under Ind. Code §§ 8-1-2-4, -42, -68, -69, Ind. Code ch. 8-1-8.5, and 170 IAC 4-8, the Commission has jurisdiction over I&M's demand side management program offerings and associated cost recovery. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

2. I&M's Characteristics. I&M, a wholly-owned subsidiary of American Electric Power Company, Inc., is a corporation organized and existing under the laws of the State of Indiana, with its principal office located at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M renders electric utility service in the State of Indiana and owns and operates plant and equipment within the state that are used for the generation, transmission, delivery, and furnishing of electric utility service to the public.

3. Relief Requested. In its Petition, I&M requests Commission approval of its 2023–2025 Demand Side Management Plan ("DSM Plan") and associated accounting and ratemaking treatment. I&M's DSM Plan consists of three components, an Energy Efficiency ("EE") Plan, a Demand Response ("DR") Plan, and an Enhanced Conservation Voltage Reduction ("CVR") Plan. The EE Plan includes: (1) EE goals; (2) a portfolio of EE programs designed to achieve energy and demand savings goals; (3) program budgets and costs; and (4) independent evaluation, measurement, and verification ("EM&V") procedures. The DR Plan contains: (1) DR programs; (2) program budgets and costs, independent EM&V procedures; and (3) demand savings goals based on the DR Realistic Achievable Potential from the I&M 2021 Market Potential Study ("MPS"). The CVR Plan contains: (1) plans for future cost-effective CVR deployment; (2) program budgets and costs; and (3) independent EM&V procedures. As discussed below, the DSM Plan goals and supporting programs as originally proposed in I&M's case-in-chief were modified by the Settlement Agreement.

I&M also requests DSM Plan cost recovery through accounting and ratemaking procedures to recover costs through I&M's DSM/EE Program Cost Rider ("DSM Rider"), including the direct costs and indirect costs of the EE and DSM programs, EM&V costs, net lost revenue, and shared savings for the EE Plan, and a Demand Response Financial Incentive. I&M also requests authority to roll forward into the next program year any unused and approved budget funds that remain unspent at the end of a plan year.

4. Evidence Presented.

A. I&M's Case-in-Chief. Mr. Walter presented I&M's proposed DSM Plan, consisting of the EE Plan, DR Plan, and CVR Plan. He described the programs, goals, and costs, including lost revenue and proposed financial incentives. Mr. Walter provided an overview of each program in the EE Plan, DR Plan, and CVR Plan.

Mr. Walter explained that the EE Plan includes EE goals, EE programs to achieve the EE goals, program budgets and program costs, and EM&V procedures. Mr. Walter noted that the EE Plan included programs for residential, commercial, and industrial users. He added that the EE Plan was designed to achieve 0.8% of I&M Indiana retail sales, on average, for the three years of the plan. He further discussed the manner in which I&M selected its EE Programs for the DSM Plan.

He explained that the DR Plan is a portfolio of DR programs that are based on I&M's existing and advanced metering infrastructure ("AMI") DR programs that were approved in *Ind. Mich. Power Co.*, Cause No. 45576, 2022 WL 596575 (IURC Feb. 23, 2022) ("Cause No. 45576") and new programs identified in the MPS. He said I&M worked jointly with the AMI business case vendor, Accenture, to develop DR programs based on AMI-based DR offerings known in the utility industry. I&M also identified these proposed DR programs to GDS Associates, Inc. ("GDS") for their use in development of a DR potential study. GDS subsequently developed their independent analysis for DR Plan program potential based on this information and developed other cost-effective DR program options as well. GDS performed the benefit cost modelling for all I&M MPS developed DR program options and then developed DR inputs using MPS DR potential data for integrated resource modelling.

Mr. Walter also described I&M's CVR Plan. In Cause No. 45576, the Commission approved a settlement agreement that, among other things, approved inclusion of the capital costs of the CVR Plan in rate base. He testified that the CVR Plan reflects the continuation and enhancement of I&M's ongoing program to manage voltage levels on the distribution system, which results in lower power consumption.

He said CVR uses software control algorithm and measures to manage voltage levels on distribution substation busses and the associated distribution circuits in which CVR is deployed. CVR uses AMI meter voltage readings to inform or enhance CVR operation and the resulting energy and demand savings from end-use load response to lower system voltage levels. Petitioner Exhibit 8, Attachment JCW-16 sets forth I&M's overall CVR Plan, which forecasts energy and demand savings, incremental cost, and the number of new cost-effective circuits to be deployed through 2027. Attachment JCW-16 also provides the forecast energy and demand savings and

incremental operation and maintenance (“O&M”) for the existing set of circuits that already operate under CVR but with an upgrade to CVR operation. I&M plans CVR deployment to an additional 343 distribution circuits in the I&M Indiana service territory, which result in a total incremental energy savings of 196,814,829 kWh by 2027, the final year of additional deployment installation.

Mr. Walter provided the cost-benefit scores of the EE Plan, DR Plan, and CVR Plan as proposed in I&M’s case-in-chief. He stated only CVR programs that scored at least a 1.0 on the Utility Cost Test (“UCT”) were included in the CVR Plan, which resulted in an overall CVR cost-effectiveness score of 1.5.

Mr. Huber noted that the programs included in the DSM Plan were selected based upon extensive analysis and assessments through I&M’s MPS and Integrated Resource Plan (“IRP”). He stated I&M’s MPS provided estimates of energy and peak demand savings for a 20-year time horizon (2022–2041), associated costs, and recommended EE and DR programs needed to realize these savings. He explained that the MPS analysis included primary market research and a comprehensive review of I&M’s current programs, historical savings, and projected energy savings opportunities to develop estimates of technical, economic, achievable, and program potential. He explained the manner in which stakeholders were involved in the MPS process. He stated that the IRP inputs are directly based on the results of the I&M Indiana MPS. Mr. Huber sponsored a copy of I&M’s MPS as Attachments JRH-1 and JRH-2 to Petitioner Exhibit 7.

Mr. Soller stated that I&M submitted its most recent IRP to the Commission on January 31, 2021, a copy of which was admitted as Attachment GJS-1 to Petitioner Exhibit 6. He said the IRP explains how I&M plans to meet the projected capacity (i.e., peak demand) and energy requirements of its customers using both supply-side and demand-side resources. Mr. Soller stated the IRP process provided a forum for I&M’s stakeholders to learn about and provide input to I&M’s long-term resource planning, and it informs the DSM/EE planners of EE programs selected to provide insight into the development of I&M’s proposed DSM Plan.

Mr. Soller explained that as part of the IRP development, I&M Company followed a 5-Step process facilitated by a third-party to identify an optimized portfolio of programs (“Preferred Portfolio”). Within this process, a set of optimized candidate portfolios were developed for resources under a set of inputs informed by different conditions. These candidate portfolios were then analyzed to determine respective cost and performance metrics through a probabilistic analysis, after which the candidate portfolios were compared to inform the Company in its selection of a Preferred Portfolio. Mr. Walter stated in his settlement testimony that the Preferred Portfolio only eliminated certain higher-cost program bundles from the MPS recommendations, rather than any individual program. Mr. Soller explained that the Preferred Portfolio included over 98% of the system level potential savings identified in the MPS in the years 2023 – 2025.

Mr. Elkins testified regarding I&M’s implementation and execution of the DSM Plan. He explained the DSM Plan provides I&M’s customers with a diverse portfolio of programs and measures that customers can choose from based on their own individual circumstances. He also discussed I&M’s strategies for engaging customers and improving delivery of EE and DR programs.

Mr. Burnett described the development of the load forecast used in the MPS and IRP and explained how EE was accounted for in the load forecast. He testified I&M's load forecast methodology is useful for planning purposes, including DSM/EE resource planning analyses.

Mr. Whitmore discussed cost recovery, ratemaking, and accounting treatment for the DSM Plan, as well as I&M's proposed changes to its rider tariffs. He further provided the annual revenue requirement amounts used in the DSM Rider rate design for each plan year.

Ms. Duncan discussed I&M's calculation of the updated DSM Rider factors and provided resulting impacts on both opt-out and non-opt-out customers.

B. Walter Settlement Evidence. Mr. Walter testified the Settlement Agreement resolved all contested issues in this Cause. He stated the Settlement Agreement adopted the DR Plan and the CVR Plan as proposed in I&M's case-in-chief, as well as the EM&V for the EE Plan, DR Plan, and CVR Plan. He also detailed the changes the parties made to I&M's EE Plan proposed in its case-in-chief. He said the DSM Plan includes CVR and the following EE and DR programs:

EE Programs

- Home Energy Engagement
- Home Energy Products
- HVAC Midstream
- Residential New Construction
- Residential Online Energy Checkup
- Residential Income-Qualified Weatherproofing
- Work Custom
- Work Midstream
- Work Prescriptive
- Work Strategic Energy Management
- Work Direct Install

DR Programs

- Commercial Thermostat Direct Load Control
- Commercial Real Time Pricing
- Commercial Critical Peak Pricing
- Commercial Time-of-Use
- Commercial Interruptible
- Commercial Water Heat Direct Load Control
- Residential Critical Peak Pricing
- Residential Time-of-Use
- Residential Thermostat Direct Load Control
- Residential Customer Engagement Demand Response
- Residential Air Conditioner Direct Load Control

C. **OUC Settlement Evidence.** Ms. Paronish testified that the Settlement Agreement was reached due to collaboration and good faith negotiations between the Settling Parties. She said I&M proposed programs in its case-in-chief that were not cost effective and the utility asked for EE and DR financial incentives that the OUC viewed as too generous. She described the changes that the Settling Parties made to the originally proposed DSM Plan. She stated that the modified Settlement Agreement is in the public interest in that it provides greater customer value when compared to the original DSM Plan.

D. **CAC's Settlement Evidence.** Mr. Inskeep also testified in support of the Settlement Agreement. He stated that the parties reached the unanimous Settlement Agreement through months of extensive discussions as a part of difficult arms-length negotiations that addressed the principal concerns of the parties. He reviewed the changes the Settling Parties made to I&M's DSM Plan proposed in its case-in-chief, he commented on the DSM Plan's cost effectiveness and spending flexibility. In sum, he stated that the DSM Plan provides I&M customers enormous benefits.

5. **Discussion and Commission Findings.** The Settling Parties seek Commission approval of the Settlement Agreement agreed upon by each of the parties and admitted into the record as Joint Exhibit 1. Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coal. of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coal.*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coal. of Ind., Inc. v. Pub. Serv. Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such agreement serves the public interest.

The Settling Parties request approval of the unanimous Settlement Agreement, including approval of I&M's 2023–2025 DSM Plan and authority for I&M to recover program costs, lost revenues, and financial incentives associated with the DSM Plan as outlined in the Settlement Agreement and in accordance with Ind. Code § 8-1-8.5-10 (“Section 10”) and 170 IAC 4-8 (“DSM Rules”).

The Commission has developed a regulatory framework that allows an electric utility to meet long-term resource needs with both supply-side and demand-side resource options in a least-cost manner. As part of its integrated resource plan, an electric utility must consider alternative methods of meeting future demand for electric service, including a comprehensive array of

demand-side measures that provide an opportunity for all ratepayers to participate in DSM, including low-income residential ratepayers. The DSM Rules were specifically designed to assist the Commission in its administration of the Utility Powerplant Construction Act, Ind. Code ch. 8-1-8.5, and to facilitate increased use of DSM as part of the utility resource mix. This regulatory framework acknowledges the possibility of financial bias against DSM, recognizes the need to evaluate the extent of any bias, and provides ways for the Commission to eliminate any bias through adoption of a package of cost recovery and incentive mechanisms designed to facilitate the use of DSM to meet the long-term resource needs of customers.

Section 10(h) requires electricity suppliers, such as I&M, to file, at least once every three years, a petition for approval of a plan that includes:

- (1) energy efficiency goals;
- (2) energy efficiency programs to achieve the energy efficiency goals;
- (3) program budgets and program costs; and
- (4) evaluation, measurement, and verification procedures that must include independent evaluation, measurement, and verification.

If the Commission finds the plan to be reasonable in its entirety, the Commission shall: (1) approve the plan in its entirety, (2) allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism, (3) allocate and assign costs associated with a program to the class or classes of customers that are eligible to participate in the program, and (4) allow recovery of reasonable financial incentives and lost revenues. Section 10(k) and Section 10(o). If the Commission finds the plan is not reasonable because costs associated with one or more programs included in the plan exceed the projected benefits of the program(s), the Commission may exclude the program(s) and approve the remainder. Section 10(l). If the Commission finds the plan is not reasonable in its entirety, then the Commission's order shall set forth the reasons for its determination and the electricity supplier shall submit a modified plan within a reasonable time. Section 10(m).

It is against the backdrop of the Commission's DSM Rules and Section 10 that we consider I&M's Plan of EE programs, ratemaking proposals, and accounting treatment as agreed upon by the Settling Parties.

A. Presentation of a Plan (Ind. Code 8-1-8.5-10). The evidence establishes that I&M is an electricity supplier as defined by Ind. Code § 8-1-8.5-10(a) and that it made a submission under Ind. Code § 8-1-8.5-10(h) seeking approval of a proposed plan prior to the end of calendar year 2022. We therefore begin our substantive analysis in considering Section 10(h)'s first factor, EE goals.

1. EE Goals. Ind. Code § 8-1-8.5-10(c) defines "energy efficiency goals" as:

[A]ll energy efficiency produced by cost effective plans that are:

- (1) reasonably achievable;
- (2) consistent with an electricity supplier's integrated resource plan; and

- (3) designed to achieve an optimal balance of energy resources in an electricity supplier's service territory.

a. **Reasonably Achievable.** I&M's proposed EE savings goal for 2023–2025 represents approximately 0.78% of its total retail sales. Mr. Soller testified that the overall level of EE savings in I&M's IRP Preferred Portfolio is reasonable based on the process I&M utilized to develop the MPS and the associated IRP EE bundle inputs. He said the IRP allowed these proxy incremental EE resources to compete against other supply-side alternatives in the IRP model that incorporated the I&M's load forecast, commodity forecasts, and EE resources to identify an optimized mix of resources to meet I&M's obligations. The optimized levels of EE resources in the 2021 IRP of EE resources are consistent with the MPS and reflect a reasonable and cost-effective level of EE savings to pursue through the DSM Plan.

Further, as Mr. Walter explained in his settlement testimony, the likelihood of the EE Plan goals being achieved is good. The Settlement Agreement calls upon I&M to use best efforts to achieve the agreed upon energy savings goals using the mix of programs and measures contained within the DSM Plan. In the event the forecast energy savings from the measures cannot be cost effectively realized, then I&M is to collaborate with the Oversight Board ("OSB") to identify other available cost-effective measures to pursue achievement of the agreed upon energy savings goals.

We note also that the Settlement Agreement provides I&M financial incentives, discussed below, that will further encourage the utility to achieve the DSM Plan savings goals.

Based on this evidence, we find the proposed DSM Plan EE goals to be reasonably achievable.

b. **Consistent with I&M's Most Recent Integrated Resource Plan.** In considering whether I&M's proposed EE savings goals are consistent with its IRP, we note that the Commission previously stated that "Section 10 requires the DSM Plan to be consistent with, not the same as, the [integrated resource plan]." *Ind. Mich. Power Co.*, Cause No. 44841, 2017 WL 4232048, at *24 (IURC Sept. 20, 2017). The integrated resource plan portfolios are not intended to be prescriptive; rather they reflect the mix of resources likely to be used. *Indianapolis Power & Light Co.*, Cause No. 44945, 2018 WL 853593 *37 (IURC Feb. 7, 2018).

As set forth below, I&M's EE goals in the proposed DSM Plan are consistent with its most recent IRP as a percent of retail sales and in terms of energy savings, each from an annual and a DSM Plan duration perspective, as set forth below:

Comparison of EE Savings in IRP and Plan (% of Retail Sales)		
	IRP	EE Plan
2023	0.81%	0.79%
2024	0.81%	0.79%
2025	0.77%	0.75%
Average	0.80%	0.78%

Comparison of EE Savings in IRP and Plan (kWh)		
	IRP	EE Plan
2023	118,003,665	115,429,026
2024	117,619,150	114,761,941
2025	110,738,122	108,021,627
Total	346,360,937	338,212,594

Further, the EE programs included in the DSM Plan are consistent with I&M's MPS and IRP. Mr. Walter stated in his settlement testimony that the Preferred Portfolio only eliminated certain higher-cost program bundles from the MPS recommendations, rather than any individual program. Mr. Soller noted that the IRP included 98% of the system level potential savings identified in the MPS from the available EE resources that were included in the proposed DSM Plan. The IRP optimization selected 10 of the 13 available bundles, as shown in Table GJS-7 of Petitioner Exhibit 6.

Based on the mere 0.02% difference when comparing EE savings in the IRP and the DSM Plan, the narrow difference between the IRP and DSM Plan in terms of kWh, and the consistency in program offerings, EE savings goals, and the DSM Plan as a whole are consistent with I&M's most recent IRP and its supporting MPS.

c. Designed to Achieve an Optimal Balance of Energy

Resources. An integrated resource evaluation is undertaken to determine the optimal means to meet the future need for electricity, which includes an assessment of least-cost planning. *See* Ind. Code ch. 8-1-8.5. The Commission has previously defined “least-cost planning” as a “planning approach which will find the set of options most likely to provide utility services at the lowest cost once appropriate service and reliability levels are determined.” *PSI Energy, Inc.*, Cause No. 42145, 2002 WL 32089933 (IURC Dec. 19, 2002) (internal citation omitted). The Commission has “emphasized that [Ind. Code ch. 8-1-8.5] does not require the utility to automatically select the least cost alternative. Nor does the statute require the utility to ignore its obligation to provide reliable service or to disregard its exercise of reasonable judgment as to how best to meet its obligation to serve.” *Id.* As the Commission has previously ruled: “[i]f an Indiana utility reasonably considers and evaluates the statutorily required options for providing reliable, efficient, and economic service, then the utility should, in recognition that it bears the service obligations of Ind. Code § 8-1-2-4, be given some discretion to exercise its reasonable judgment in selecting the option or options to implement which minimize the cost of providing such service.” *PSI Energy, Inc.*, Cause No. 39175, at 14, 1992 WL 207191, 134 P.U.R.4th 251 (IURC May 13, 1992).

As noted above, I&M selected the EE programs based upon the extensive analysis conducted as part of the MPS and IRP development processes. This included, in part, assessments in the MPS of each measure's technical potential (all improvements that are possible, regardless of cost), economic potential (measures that are cost-effective based on screening with the utility cost test), achievable potential (assessment of the amount of cost-effective energy that can realistically be saved given various market barriers), and program potential (what is possible to be accomplished with utility sponsored programs versus EE savings that happen through alternative means). For the IRP analysis, measures were removed for not being cost-effective when delivery

costs were considered. Thus, the IRP model optimization included the full costs of delivering EE programs. These different assessments and the overall MPS and IRP methodologies described above indicate that the EE plan was designed to achieve an optimal balance of energy resources.

The submitted IRP and the underlying resource assessments provided for a diverse set of resources required to meet the resource requirements in the Preferred Plan which included both DR and CVR resources. The underlying resource assessments demonstrated the cost-effectiveness of the DR and CVR resources. Both the DR Plan and the CVR Plan were inputs to the IRP.

Based upon the above evidence, we find the proposed DSM Plan and each of its three component plans are designed to achieve an optimal balance of energy resources.

2. EE Programs to Achieve the Energy Efficiency Goals. I&M's proposed DSM Plan, as agreed upon by the Settling Parties, contains residential and commercial and industrial ("C&I") programs designed to achieve specified EE goals. I&M may, in collaboration with the OSB, make reasonable changes to the overall portfolio mix of these programs and measures to achieve energy savings goals. Ms. Paronish said this flexibility will allow I&M's OSB to react quickly when programs are underperforming, allowing it to shift money to programs that are performing well and are in risk of running out of funds. Further, Ms. Paronish and Mr. Walter noted in their respective testimony in support of the Settlement Agreement that I&M is required under the Settlement Agreement to have discussions with the OSB regarding any mid-plan changes to EE program incentives falling below or exceeding 15% of current levels.

Based on I&M's IRP modeling and the flexibility provided to the OSB to monitor, reevaluate, and modify programs and measures to meet energy savings goals, we find the EE programs and the OSB process are designed to achieve I&M's EE goals.

3. Program Budgets and Costs. Mr. Walter identified the annual EE Plan budget and the costs associated with each EE program. The total direct and indirect program costs for the EE Plan is \$52,456,857 (including EM&V costs). Attachment JCW-5S to Petitioner Exhibit 9 indicates that the EM&V projected costs for the EE Plan is \$2,258,085, which is 4.3% of the proposed EE budget.

In addition to these costs, the Settlement Agreement authorizes I&M, with approval of its OSB to pursue additional reasonably achievable cost-effective energy savings above the energy saving targets set forth in the Settlement Agreement (as market conditions warrant) by using spending flexibility of up to 12.5% of direct program operating costs. This provision allows the OSB and I&M to work collaboratively and in good faith to use best efforts to identify and achieve through the use of the spending flexibility additional cost-effective energy savings of approximately 0.30% of eligible retail sales for the total three-year period of 2023–2025, or an additional 130,640,058 kWh over the three-year plan (the Stretch Goal energy savings are shown on Attachment JCW-2S to Petitioner Exhibit 8). If the additional 130,640,058 kWh in savings are achieved, the level of energy savings reduction would be approximately 1.08% before opt-out and 1.34% after opt-out.

CAC witness Mr. Inskeep stated that these goals will put I&M closer in line with Indiana's four other investor-owned electric utilities, and the process has been maintained for the OSB to work with and support I&M in its efforts to procure additional, cost-effective savings available for its customers.

Ms. Paronish stated that this additional flexible spending will provide the OSB with greater ability to add programs to the DSM Plan portfolio or to increase existing programs budgets when they are performing better than anticipated to help achieve the Stretch Goal. She added that the increased spending flexibility also benefits I&M's customers because I&M will not be forced to stop a program before it is scheduled to end due to a lack of funding. If additional funding is necessary, she said the OSB will vote to determine if an additional request for funding should be made to the Commission. The Settling Parties recognize that increased energy savings will likely require additional dollars and note the need to still balance cost effectiveness.

The Commission has recognized that the OSB should generally have the flexibility to increase the budget. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 45370, 2020 WL 7863002 *8 (Dec. 29, 2020) (internal citation omitted); *Duke Energy Indiana*, Cause No. 43955 DSM 8, 2020 WL 7863000 *35 (Dec. 29, 2020) (approving 20% spending flexibility) ("Cause No. 43955"). Among other advantages, spending flexibility allows the OSB to react in a timely manner to changing circumstances during the implementation of the Commission-approved DSM Plan and further allows the OSB and I&M to work collaboratively to use best efforts to identify and achieve additional cost-effective energy savings. Moreover, any use of spending flexibility to pursue cost-effective energy savings must be agreed to by all OSB members. In response to the Commission's August 9, 2022 Docket Entry, I&M indicated that the use of the 12.5% spending flexibility each year of the DSM Plan would add approximately \$5.50 per year to a residential customer bill using 1,000 kWh.

I&M's proposed incremental budgets for the DR Plan and CVR Plan are as follows:

	2023	2024	2025	Total
DR Plan	\$0	\$765,829	\$2,752,240	\$3,518,069
CVR Plan	\$851,459	\$982,244	\$1,164,068	\$2,997,771

I&M also requests authority to roll forward into the next program year any unused and approved budget funds that remain unspent at the end of a plan year. Mr. Walter explained in his direct testimony that such authority will afford I&M the ability to either continue program spending or expand it from the annual budgets according to need. The Settlement Agreement includes language incorporating I&M's request.

Based on the evidence presented, we find the above EE Plan, DR Plan and CVR Plan budgets reasonably reflect the amount necessary to achieve the agreed energy savings goals. We further find the EM&V estimated costs and I&M's request to roll forward unused approved budget funds to be reasonable. As such, we approve the budgets; however, such flex funding has typically been limited to 10% of the plan budget. *See e.g., Cause No. 43955; Ind. Mich. Power Co.*, Cause No. 45285, 2021 WL 513943 at *13 (IURC Feb. 3, 2021) ("Cause No. 45285"). Therefore, to monitor the increased spending flexibility more closely, we find that should the OSB approve any

spending flexibility, then I&M shall file within ten days of the approval, a compliance filing under this Cause that contains the OSB minutes approving the spending flexibility and the corresponding justification for the spending flexibility approved.

4. Independent EM&V and Reporting. The Settling Parties agreed that independent EM&V would be conducted as proposed by I&M in its case-in-chief. Mr. Walter stated in his direct testimony that the independent evaluator will perform a process evaluation and an impact evaluation for each year of the DSM Plan. Further, the independent evaluator will perform the annual, actual benefit cost calculations using the same avoided cost and system input data with which the EE Plan was analyzed but will use the actual evaluated energy and demand savings results from the program year. Mr. Walter stated I&M proposes to submit scorecards consistent with the scorecard requirements set forth in the Commission’s order in Cause No. 44841.

Accordingly, we find the proposed EM&V procedures to independently verify the results of the DSM programs and I&M’s proposed scorecard reporting are reasonable and are approved. The quarterly scorecards and annual EM&V report shall be filed under this Cause.

5. Conclusion. Based upon the above analysis, we find that the DSM Plan satisfies the requirements of Section 10(h). We next analyze the overall reasonableness of the DSM Plan through the ten factors set forth in Section 10(j).

B. Reasonableness of the 2023–2025 DSM Plan. Section 10(j) identifies ten factors that the Commission must consider in determining whether a plan submitted under Ind. Section 10(h) is reasonable. Although Section 10(j) only references EE programs, we will analyze the EE Plan, DR Plan, and the CVR Plan for reasonableness under this section because Section 10(j) factors are similar to the factors the Commission has historically considered in determining whether to approve DSM programs and associated cost recovery under Section 10 and the DSM Rules.

1. Projected Changes in Customer Consumption (Ind. Code § 8-1-8.5-10(i)(1)). Mr. Walter provided the annual projected energy and demand savings resulting from the implementation of the DSM Plan, as modified by the Settlement Agreement, as follows:

	2023 Energy Savings (kWh)	2023 Peak Demand Savings (kW)	2024 Energy Savings (kWh)	2024 Peak Demand Savings (kW)	2025 Energy Savings (kWh)	2025 Peak Demand Savings (kW)
EE Plan	115,429,026	18,745	114,761,941	18,929	108,021,627	17,831
DR Plan	0	5,794	0	8,562	0	12,536
CVR Plan	103,009,845	28,348	132,915,841	37,036	168,830,394	47,971
Total DSM Plan	218,438,871	52,887	247,677,782	64,527	276,852,021	78,338

% of Retail Energy Sales	1.50% --	1.71% --	1.92% --
Percent of Peak Demand	-- 1.36%	-- 1.66%	-- 2.03%

Pet. Ex. 9, Attachment JCW-2S, Page 1. As shown in this table, the proposed DSM Plan is designed to achieve gross energy savings of 742,968,674 kWh and gross demand savings of 195,752 kW over the three-year DSM Plan term. These projections indicate how customer consumption is expected to change because of I&M's implementation of the DSM Plan agreed to in the Settlement Agreement. I&M's proposed programs are designed to result in a three-year average energy savings of 1.71% of eligible retail sales with CVR (0.96% without CVR). In addition, the Settlement Agreement permits a Stretch Goal of 0.30% of retail sales for the total three-year period, or an additional 130,640.058 kWh. If the Stretch Goal savings are achieved, the three-year average level of energy savings reduction (excluding CVR) would be approximately 1.34% of eligible retail sales. Accordingly, we find that it is reasonable to expect a corresponding decrease in customer consumption of electricity compared to what it would be without the programs.

2. Cost-Benefit Analysis (Ind. Code § 8-1-8.5-10(j)(2)). Ind. Code § 8-1-8.5-10(j)(2) requires a cost-benefit analysis of the proposed DSM Plan, including the likelihood of achieving the goals of the energy efficiency programs included in the plan. To this end, 170 IAC 4-8-2 requires the use of, at a minimum, four tests—the total resource cost test (“TRC”), the participant cost test (“PCT”), the UCT, and the ratepayer impact measure test (“RIM”).

Each of these tests is designed to compare various costs and benefits from a different perspective. The TRC test helps determine whether EE is cost effective overall, whereas the PCT, UCT, and RIM help to determine whether the program design and efficiency measures provided by the program are balanced from the perspective of the participant, utility, and non-participants, respectively. The purpose of applying several different tests is to provide a more comprehensive analysis of the cost effectiveness than that which can be accomplished with just one of the tests. Hence, consideration of multiple cost-effectiveness tests allows us to better evaluate the reasonableness of individual programs and the overall DSM portfolio as a whole. A minimum score of 1.0 under each test indicates the program is cost-effective under that particular test.

Mr. Walter explained that the UCT score for the EE Plan did not include impacts from the Income-Qualified Weatherproofing Program. Similarly, he added that the Settlement Agreement states that the Income-Qualified Direct Load Control programs in the DR Plan will not be subject to a cost effectiveness determination for program continuation. We find these exclusions reasonable because these programs focus on benefits to income-qualified customers and advance public policy goals. We further note Section 10(h) authorizes income-qualified assistance programs regardless of whether the program is cost effective.

The EE Plan, DR Plan, and CVR Plan all pass the benefit cost analysis under the UCT, as these programs scored 2.26, 2.1, and 1.5, respectively. The UCT indicates the utility revenue requirement over a period of time will be lower than otherwise would be the case because of the utility programs.

We also note that the EE Plan is cost effective under the PCT with a cost-effective score of 2.05. The PCT reflects the impact on customers that choose to participate in the utility programs.

However, as Mr. Walter acknowledged, the DSM Plan was not found to be cost-effective under the TRC or RIM tests, scoring a 0.9 and 0.33, respectively. We note that the TRC score is nominally under (0.1) a passing score of 1.0. The RIM test is designed to indicate the impact of EE programs on customers that choose not to participate in the utility programs. Mr. Walter explained that, as a result, the EE Plan is designed to proactively engage as many customers as practicable through EE measure diversity and broader market engagement. Mr. Walter stated that this exemplifies I&M's efforts to maintain EE program offerings for all its customers and to encourage and entice their participation in the programs. He said programs such as those offered in the proposed DSM Plan help address the short term and long-term impact on rates for non-participating customers because those that become participants are taking action to reduce consumption for the long term. He said all I&M customers realize the annual net benefits from the implementation of programs that seek to educate, encourage, and entice customers to the extent practicable and reasonable.

In placing the TRC and RIM score results in context of the UCT and PCT scores and the DSM Plan as a whole, we find the proposed DSM Plan satisfies the cost benefit analysis of Section 10(j)(2).

3. Consistent with State Energy Analysis and Utility's Most Recent Long-Range Integrated Resource Plan (Ind. Code § 8-1-8.5-10(j)(3)). In evaluating the overall reasonableness of I&M's plan, Ind. Code § 8-1-8.5-10(j)(3) requires the Commission to consider whether the plan is consistent with "(A) The state energy analysis developed by the commission under [Ind. Code § 8-1-8.5-3] [and] (B) The electricity supplier's most recent long range integrated resource plan submitted to the commission."

The Commission has previously acknowledged that a state energy analysis that meets all the statutory criteria set forth in Ind. Code § 8-1-8.5-3 does not currently exist. *See e.g., Northern Indiana Public Service Co. LLC*, Cause No. 45456, 2021 WL 4052610 *15 (IURC Sept. 1, 2021). However, as stated above, the DSM Plan is consistent with I&M's most recent IRP. As such, we find that I&M satisfies this subsection.

4. EM&V (Ind. Code § 8-1-8.5-10(j)(4)). Mr. Walter said the proposed DR Plan EM&V is performed in the same manner as the EE Plan EM&V, but for a specific focus on peak coincident demand reduction and energy usage shifting from peak periods to off peak periods using available AMI usage data. The DR Plan EM&V is therefore approved for the same reasons as those set forth regarding the EE Plan EM&V.

As for the CVR Plan EM&V, Mr. Walter explained that I&M proposes to continue reporting energy and demand savings resulting from CVR operation as part of the energy and demand savings reported for the EE Plan. We note that the Commission has previously authorized this type of EM&V reporting. Based on the evidence presented, we continue to find this to be appropriate and reasonable, particularly as the CVR Program is expected to be cost effective on a standalone basis.

Mr. Walter stated that a third-party evaluator will conduct this analysis and provide monthly and annual EM&V impact estimates, energy savings, and peak demand savings. He stated that a third-party evaluator will perform this analysis using industry specific EM&V methodology and protocols. We find this approach to be reasonable.

5. Undue or Unreasonable Preference to Customer Classes (Ind. Code § 8-1-8.5-10(j)(5)). Mr. Walter described the steps I&M undertook to prevent any undue or unreasonable preference to any customer class result or potential result from the implementation of the EE programs or from the overall design of the EE Plan. He explained that beginning with the MPS, I&M designed the EE Plan to build opportunities for proactive customer engagement in the programs while balancing program costs. I&M has included programs to help income qualified customers and governmental entities, including wastewater treatment facilities. He added that the DSM Plan includes both DR and EE programs intended to help balance the distinct aspects of customer loads in I&M's supply side resources. Mr. Elkins echoed these points in explaining that the DSM Plan provides I&M's customers a diverse portfolio of programs and measures that customers can choose from based on their own individual circumstances.

Mr. Walter testified that I&M agreed to prepare and seek approval of revised opt-in tariff language similar to such language approved for Northern Indiana Public Service Company in 30-Day Filing No. 50499 within 60 days following execution of the Settlement Agreement. Mr. Inskeep explained that this opt-in tariff language will allow C&I optout customers the ability to opt back into programs effective the next billing cycle following the customer's notice to I&M, rather than waiting until the next program year. He said this revised language will help optout customers avoid a substantial delay in implementing beneficial EE solutions, which could discourage them from opting back in. Given that resource acquisition from large users is typically less expensive compared to programs and approaches that depend on higher transactional volume, he said the CAC is pleased that I&M agreed to this change and it is hopeful the change will allow for customers to better opt in when C&I opt out customers identify cost-effective opportunities within I&M's DSM programs.

Lastly, no party contended that the programs provide undue or unreasonable preference to any customer class resulting, or potentially resulting, from the implementation of a proposed program or from the overall design of the DSM Plan. Thus, based on the evidence, our analysis of this issue weighs in favor of the DSM Plan's reasonableness.

6. Stakeholder Comments (Ind. Code § 8-1-8.5-10(j)(6)). Section 10(j)(6) requires the Commission to consider comments provided by customers, customer representatives, the OUCC, or other stakeholders regarding the DSM Plan adequacy and

reasonableness. Both the OUCC and CAC commented on the DSM Plan through their respective testimony, which the Commission considered in making its determinations in this Order.

7. Effect or Potential Effect of the Plan on Electric Rates and Customer Bills of Participants and Non-Participants (Ind. Code § 8-1-8.5-10(j)(7)). I&M provided evidence of the short-term bill impacts on customers. Specifically, Mr. Walter testified that upon implementation of the DSM Plan a residential customer using 1,000 kWh of electricity per month will see a monthly rate increase of \$2.00 or 1.3% (based upon I&M's rates in effect at the time his testimony was filed). I&M also provided the above cost-effectiveness tests which demonstrate that over the planning horizon the utility's revenue requirement is lower than it would be without the DSM Plan. We therefore find that effects or potential effects of the DSM Plan on electric rates and customer bills of participants and non-participants to be reasonable.

8. Lost Revenues and Financial Incentives (Ind. Code § 8-1-8.5-10(j)(8)). In assessing the overall reasonableness of the DSM Plan and the Settlement Agreement, we are required to consider the "lost revenues and financial incentives associated with the plan and sought to be recovered or received by the electricity supplier." Ind. Code § 8-1-8.5-10(j)(8).

a. Lost Revenues. "Lost revenues" means the difference, if any, between: (1) revenues lost; and (2) the variable O&M costs saved by an electricity supplier as a result of implementing EE or other DSM programs. Section 10(e). I&M seeks to recover lost revenues associated with its 2023–2025 DSM Plan in the same manner that it has been authorized to recover lost revenues associated with its DSM programs previously, specifically, for (a) three years, (b) the life of the measure, or (c) until new rates are implemented pursuant to a final order in I&M's next base rate case, whichever occurs earlier. Mr. Walter testified this lost revenue framework worked well in I&M's prior DSM Plan.

Mr. Walter stated I&M forecasts that the lost revenues associated with the DSM Plan in 2023, 2024, and 2025 will be \$18,276,970, \$30,741,661, and \$45,720,058, respectively. He testified that these forecasts are consistent with the settlement terms, comport with I&M's standard net lost revenue procedures for energy efficiency measure savings identification and tracking, and are consistent with accounting methods previously authorized by the Commission.

Based on the evidence, we find the recovery of lost revenues as provided in the Settlement Agreement is reasonable and is approved.

b. Financial Incentives. Mr. Walter explained that I&M foregoes the opportunity to earn its regulated rate of return on future supply resources because the need for these resources is mitigated by the EE and DR programs. Both Section 10(o)(1) and the DSM Rules authorize the Commission to approve reasonable financial incentives ("Shared Savings") to encourage the implementation of DSM programs and address the regulatory or financial bias against such programs. The Settling Parties agreed that the EE Plan Shared Savings incentive mechanism, subject to the removal of the impacts from the carbon tax applied in I&M's avoided energy cost forecast, is as follows:

Shared Savings Incentive Mechanism

Energy Savings Achievement Level	Incentive (based on UCT net benefits)*	Incentive (based on program spending)*
<60%	0.0%	0.0%
60-69.99%	5.0%	7.0%
70-79.99%	7.0%	10.5%
80-89.99%	8.0%	12.0%
90-99.99%	9.5%	13.5%
100-104.99%	12.0%	15.0%
105-114.99%	15.0%	16.5%
≥115%	18.0%	18.0%

* Actual incentive is the lesser of the incentives based on dollar amount derived from applying these incentives at the sector level. The percentages shown represent total final earnings when Shared Savings Component 1 performance is adjusted by Component 2 performance.

Pet. Ex. 9 at 12, Figure 1S; Settlement § I.E.4.

Mr. Walter and Mr. Inskeep testified about the changes the Settling Parties made to the Shared Savings incentive mechanism. Mr. Walter stated in his settlement testimony that the Shared Savings forecast earnings, assuming I&M achieved 100% of its energy savings goal, for 2023, 2024, and 2025 are \$1,615,549, \$1,589,873, and \$1,636,228, respectively.

Mr. Inskeep discussed the advantages of the Shared Savings incentive in the modified DSM Plan. First, the Shared Savings incentive goes to 0% below a minimum performance threshold of 60%. Second, the agreed upon Shared Savings structure increases gradually and linearly between achievement levels. Third, I&M will receive a modest increase to the Shared Savings incentive for high achievement, above and beyond 100% achievement. He said the CAC believe this will better motivate I&M to pursue cost-effective EE savings opportunities more vigorously.

Mr. Walter stated that under the Shared Savings mechanism, earnings are based on annual program cost effectiveness performance that is aligned with the IRP resource selection process; DSM goals are determined from the optimal supply side and demand side resource selection from the most recent IRP, not independently by I&M; I&M's opportunity to earn a return is based on how well customer benefits are provisioned; and I&M's share of the Shared Savings is treated as above-the-line for ratemaking purposes and included in the earnings test under the fuel adjustment clause.

Mr. Walter stated I&M also requests Commission approval of DR financial incentives based on annual DR Plan demand target attainment and the amount of annual DR program cost incurred to achieve the target. The Settlement Agreement indicates that the Settling Parties agreed upon the following DR financial incentive:

Demand Response Financial Incentive Mechanism

Percent of MW Target of Incremental DR	DR Earnings Percent of Incremental O&M
<60%	0%
60-79.99%	2%
80-89.99%	4%
90-99.99%	6%
100-109.99%	8%
≥110%	10%

Pet. Ex. 9 at 12-13, Figure 2S; Settlement § I.E.5.

Mr. Walter testified that the DR financial incentive forecast earnings for 2023, 2024, and 2025 are \$131,008, \$116,380, and \$158,913, respectively, assuming a 100% performance goal achievement level.

The record shows the settlement terms related to Shared Savings and the DR financial incentive are a compromise on the financial incentive between the OUCC, CAC, and I&M and are reasonable as part of the negotiated settlement package as a whole. More specifically, the settlement terms reflect accommodations that are fair and reasonable in that they promote target attainment and encourage I&M to pursue additional cost-effective savings for both EE Plan energy savings and DR Plan demand savings. Since both energy savings and demand reduction savings are important resources for I&M, the tiered incentive levels reflect an opportunity for I&M to realize commensurate, and reasonable, earnings on its performance in these areas. Such a dual approach should help ensure that I&M spends its program budgets with an eye toward cost-effectiveness and prudent program implementation, not simply with an eye toward producing energy savings.

In sum, we conclude the Settlement Agreement encourages I&M to achieve its savings goals by reducing the incentive for achievement below a base threshold. Similarly, it encourages pursuit of cost-effective savings by increasing the available incentive for exceeding specific targets. We find therefore that the Settling Parties' agreement concerning the financial incentives for I&M's DSM Plan are reasonable.

9. Utility's Current Integrated Resource Plan and the Underlying Resource Assessment (Ind. Code § 8-1-8.5-10(j)(9)). The DSM Plan's consistency with I&M's most recent IRP and the underlying resource assessment is discussed and addressed above.

10. Other Considerations (Ind. Code § 8-1-8.5-10(j)(10)). Section 10(j)(10) permits the Commission to consider any other information that the Commission considers necessary. We note that Indiana law strongly favors settlement as a means of resolving contested proceedings. *Mendenhall v. Skinner & Broadben*, 728 N.E.2d 140, 145 (Ind. 2000) ("The policy of the law generally is to discourage litigation and encourage negotiation and settlement of

disputes.”). This is particularly true in the current case due to the negotiations that the parties underwent and their respective compromises. Mr. Inskeep testified that the parties reached the unanimous Settlement Agreement through months of extensive discussions as a part of difficult arms-length negotiations that addressed the principal concerns of the parties. Mr. Walter said the Settlement Agreement incorporates several provisions that are of particular interest and importance to CAC and that overall, the CAC is satisfied with the Settlement Agreement. Additionally, Mr. Inskeep of the CAC stressed the importance of the changes that were incorporated into the Settlement Agreement regarding I&M’s financial incentives. Ms. Paronish testified that it was important to the OUCC that the Residential New Construction Program was removed from the DSM Plan because the OUCC didn’t view the program as cost effective.

The Commission also credits the collaboration between the members of the I&M OSB in the development of the MPS, which was a critical input to the IRP process and the development of the DSM Plan.

Accordingly, we find that each of these additional considerations weigh in favor of approving the DSM Plan as agreed upon by the Settling Parties in the Settlement Agreement.

11. Conclusion Regarding the DSM Plan. Based on the evidence presented and our consideration of the factors enumerated in Ind. Code § 8-1-8.5-10(j), we find that I&M’s DSM Plan, as modified by the Settlement Agreement, is reasonable, in the public interest, and is approved.

C. Program Cost Recovery. I&M requests that it be authorized to recover program costs through its approved DSM Rider. Ms. Duncan and Mr. Whitmore described the manner in which the DSM Rider factors are calculated and the factors’ components. Further, all parties agreed in the Settlement Agreement to program cost recovery.

I&M requests that it be authorized to recover program costs through its approved DSM Rider. Ind. Code § 8-1-8.5-10(k)(2) provides that once an electricity supplier’s EE plan is approved, the Commission shall allow the electricity supplier to recover all associated program costs on a timely basis through a periodic rate adjustment mechanism. The Commission’s DSM Rules also provide authorization for the recovery of such program costs. 170 IAC 4-8-5. Having found I&M’s DSM Plan to be reasonable in its entirety, we therefore find that I&M shall be authorized to recover its associated program costs, including direct and indirect costs of operating the programs, net lost revenue, Shared Savings and DR financial incentives, and EM&V costs, in conformity with the Settlement Agreement.

D. Lost Revenues and Financial Incentives. If the Commission finds that an electricity supplier’s EE plan is reasonable, Section 10(o) requires us to allow an electricity supplier to recover:

- (1) Reasonable financial incentives that:
 - (A) Encourage implementation of cost effective energy efficiency programs; or
 - (B) Eliminate or offset regulatory or financial bias:
 - (i) Against energy efficiency programs; or

- (ii) In favor of supply side resources.
- (2) Reasonable lost revenues.

For the reasons set forth in Section 5.B.8. above, we find I&M is entitled to recover the agreed upon financial incentives and lost revenues.

E. Oversight. I&M requested approval to continue to utilize its OSB to assist in the administration of its 2022–2025 DSM Plan. The Commission has previously approved OSBs to oversee and monitor energy efficiency programs provided by utilities. *See, e.g., Ind. Mich. Power Co.*, Cause No. 45285 (IURC Feb. 3, 2021). Based on our review of the record, we find that I&M’s proposed ongoing use of the OSB is reasonable.

F. Approval of Settlement Agreement. Based upon the above discussion and findings, the Commission finds that the Settlement Agreement is reasonable, is in the public interest, and is consistent with the governing regulatory framework. The resolution of this Cause as set forth in the Settlement Agreement is within the scope of and supported by the evidence presented by the parties. We find the Settlement Agreement will allow I&M to offer cost-effective EE, DR, and CVR programs to customers, and, based on the evidence of record, the Commission finds the Settlement Agreement is reasonable, in the public interest, and approved.

The Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, regarding future citation of this Order, our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at *7-8 (IURC March 19, 1997).

G. DSM Rider and Factors. Mr. Walter presented Attachments JCW-19S and JCW-20S to Petitioner Exhibit 9 incorporating the changes resulting from the Settlement Agreement which updated the DSM Rider rates. The record shows that upon implementation a residential customer using 1,000 kWh of electricity per month will see a monthly rate increase of \$2.00 or 1.3%, based upon I&M’s current rates in effect at the time I&M’s settlement testimony was filed. Accordingly, the Commission finds I&M’s total revenue requirement of \$160,413,454, inclusive of legacy lost revenue and a gross revenue conversion factor, is reasonable and should be approved. We further find I&M’s DSM Rider factors are supported by substantial evidence and should be approved. Therefore, we authorize I&M to apply its requested DSM Rider adjustment to its Indiana retail tariffs as shown in Attachment JCW-20S to Petitioner Exhibit 9. I&M is further granted continued authority to defer the over and under recovery of DSM program costs through the DSM Rider pending reconciliation in subsequent rider periods, along with any additional accounting and ratemaking authority necessary to implement the Settlement Agreement.

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

1. The Settlement Agreement, a copy of which is attached, is approved.
2. I&M's proposed 2023–2025 DSM Plan, as modified by the Settlement Agreement, including the proposed budgets, is approved.
3. I&M's request for timely recovery of costs associated with its 2023–2025 DSM Plan, including direct (including EM&V costs) and indirect costs of operating the programs, net lost revenue, and Shared Savings and DR financial incentives as provided in the Settlement Agreement is approved.
4. In accordance with the Settlement Agreement, I&M's requested accounting and ratemaking treatment, including the authority to defer the over/under recoveries of projected DSM program costs through the DSM Rider pending reconciliation in subsequent rider periods, is approved.
5. The accounting procedures necessary to implement the recovery of lost revenues, Shared Savings, and DR financial incentives as provided in the Settlement Agreement are approved.
6. I&M is authorized to implement its requested DSM Rider factors as described in Finding Paragraph 5.G above. Before implementing the DSM Rider factors, I&M shall file a revised DSM Rider tariff sheet, including the DSM Rider factors, under this Cause for approval by the Commission's Energy Division.
7. In accordance with 170 IAC 4-8-4, I&M shall file quarterly scorecards and its EM&V reports under this Cause, with the first scorecard associated with the DSM Plan to be filed by April 30, 2023. Petitioner shall also file annually a final EM&V report for each program year with the Commission on or before April 30 under this Cause and post to its website, annually, a document containing information, data, and results from its EM&V activities.
8. The existing governance structure of I&M's OSB shall continue for the 2023–2025 DSM Plan period.
9. Consistent with the Settlement Agreement, I&M, with OSB approval, may increase any individual program funding by up to 12.5% of the total program budget, even if this exceeds the overall 2023–2025 DSM Plan budget approved herein. Additionally, I&M may roll over unspent budget amounts from one program year to the next within the 2023–2025 DSM Plan, with a corresponding increase to the savings goal. And, to the extent I&M has unspent budget amounts available at the conclusion of the 2022 program year, I&M may use those unspent budget amounts in the 2023 program year for the purpose of paying program expenses related to the 2022 program year. The savings goal for the 2023 program year will be increased accordingly. In addition, when the OSB approves any spending flexibility, I&M shall file within ten days a compliance filing

under this Cause that contains the OSB minutes approving the spending flexibility and the corresponding justification for the spending flexibility approved.

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

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

APPROVED: JAN 04 2023

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

**Dana Kosco
Secretary of the Commission**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED) PETITION OF INDIANA MICHIGAN POWER) COMPANY FOR APPROVAL OF: (1)) DEMAND SIDE MANAGEMENT (DSM)) PLAN, INCLUDING ENERGY EFFICIENCY) EE) PROGRAMS, DEMAND RESPONSE) PROGRAMS, AND ENHANCED) CONSERVATION VOLTAGE; AND (2)) ASSOCIATED ACCOUNTING AND) RATEMAKING TREATMENT, INCLUDING) TIMELY RECOVERY THROUGH I&M'S) DSM/EE PROGRAM COST RIDER OF) ASSOCIATED COSTS, INCLUDING) PROGRAM OPERATING COSTS, NET LOST) REVENUE, AND FINANCIAL INCENTIVES.)	CAUSE NO. 45701
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STIPULATION AND SETTLEMENT AGREEMENT

Indiana Michigan Power Company (I&M), the Indiana Office of Utility Consumer Counselor (OUCC), and the Citizens Action Coalition (CAC) (collectively, the “Settling Parties” and individually “Settling Party”) solely for purposes of compromise and settlement and having been duly advised by their respective staff, experts, and counsel, stipulate and agree that I&M’s DSM Plan shall be approved as modified below and the terms and conditions set forth below represent a fair, just and reasonable resolution of all matters pending before the Indiana Utility Regulatory Commission (“Commission”) in this Cause, subject to their incorporation by the Commission into a Final Order¹ without modification or further condition that may be unacceptable to any Settling Party. If the Commission does not approve this Stipulation and Settlement Agreement (“Settlement

¹ “Final Order” as used herein means an order issued by the Commission as to which no person has filed a Notice of Appeal within the thirty-day period after the date of the Commission order.

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Stipulation and Settlement Agreement

Agreement”) in its entirety, the entire Settlement Agreement shall be null and void and deemed withdrawn, unless otherwise agreed to in writing by the Settling Parties.

I. TERMS AND CONDITIONS.

As a settlement of this proceeding only and without serving as a precedent for future proceedings, the Settling Parties agree to approval of I&M’s requested relief in Cause No. 45701 (as set forth in I&M’s petition, case-in-chief, and settlement testimony) subject to the following modifications.

A. EE Plan.

1. Modifications to EE Plan.

- a. I&M’s EE Plan goals for the 2023-2025 plan period will be as set forth in Figure JCW-2 in I&M witness Jon Walter’s direct testimony, subject to: 1) the following modifications made together by the Settling Parties, which are further outlined in the spreadsheet labeled “DSM Plan Settlement Exhibits”, and 2) any additional savings needed to achieve the Revised Energy Savings Goal identified in Section I.A.2. below.
 - i. The removal of the associated energy and demand savings and costs from all residential and commercial and industrial (C&I) General Service Lighting (GSL) screw base measures, due to recently finalized and published rulemakings by the U.S. Department of Energy (DOE), which were not addressed in the I&M Market Potential Study and I&M direct case. C&I 1–3-watt GSLs will not be removed, since this measure is excluded from the DOE rulemaking.
 - ii. Shift all commercial and industrial (C&I) Variable Frequency Drive (VFD) measures from the Work Prescriptive Program to the Work Midstream Program to provide additional funding and measure diversity for the new midstream delivery channel.
 - iii. The increase of the associated energy and demand savings and costs to I&M Market Potential Study Realistic Achievable Potential levels for the residential non-IQ program air sealing measures that are individually cost-effective with program cost loadings applied.
 - iv. The increase of the associated energy and demand savings and costs to I&M Market Potential Study Realistic Achievable Potential levels for the residential non-IQ program duct sealing measures.

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- v. The removal of the associated energy and demand savings and costs from the following Home Energy Products Program measures: 1) Energy Star & smart electric dryers; and 2) Smart & Consortium for Energy Efficiency (CEE) Tier 3 Refrigerators.
 - vi. A reduction in volume, as indicated for each measure, and associated reduction in energy and demand savings and cost, for the following Home Energy Products Program measures: 1) Tier 2 Advanced Power Strips reduction by 40%; and 2) Energy Star Televisions reduction by 40%.
 - vii. The designation of Emerging Technology to the following residential measures. Additional technologies and measures may be identified and designated as Emerging Technology with a unanimous vote from the OSB members.
 - 1. Smart Room Air Conditioners
 - 2. Smart Clothes Dryers
 - 3. Heat Pump Water Heaters
 - 4. Heat Pump Dryers
 - 5. Smart Water Heater – Tank Controls and Sensors
- b. I&M, in collaboration with the OSB, may make reasonable changes to the overall portfolio mix of programs and measures to provide sufficient flexibility to achieve the Revised Energy Savings goal.
- c. For measures that are impacted by federal standard baseline changes during the 3-year term of the DSM Plan, the Settling Parties further agree and stipulate implementation flexibility for I&M to modify impacted DSM Plan measures according to such evolving federal standards changes so long as such changes are timely communicated to the OSB by I&M and agreed upon by the OSB.
2. Energy Savings Goal.
- a. Revised Energy Savings Goal. The forecasted DSM Plan three-year energy savings target is 338,212,594 kWh, which results in a three-year average savings of 0.78% of I&M retail sales. I&M will use best efforts to achieve the Revised Energy Savings target as forecasted using the mix of programs and measures contained within the DSM Plan, as adjusted in Section 1.A. above. In the event the forecast energy savings from the measures in Section 1.A. subparts (iii) and (iv) cannot be cost effectively realized, then I&M will collaborate with the OSB to identify other available DSM Plan cost effective measures to pursue achievement of the Revised Energy Savings Goal.

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- b. **Stretch Goal.** The I&M Oversight Board (OSB) agrees to work collaboratively and in good faith to use best efforts to identify and achieve through the use of the spending flexibility additional cost-effective energy savings of approximately 0.30% of eligible retail sales for the total three-year period of 2023-2025, or an additional 130,640,058 kWh over the three-year plan. In total, the additional three-year, cost-effective total energy savings of approximately 0.30% of eligible retail sales reflects a projection of the MWh that may be achievable through the exercise of this spending flexibility over the three-year term of the Plan. The Settling Parties through the OSB will use best efforts to increase the scale of programs and/or identify emerging technologies to produce reasonably achievable, cost-effective (based on pro forma estimates) incremental energy savings. In exercising this spending flexibility, the Settling Parties, through the OSB, agree that a unanimous vote from the OSB members will be required (and that approval of the exercise of spending flexibility authority will not be unreasonably withheld if cost-effective). Incremental spending approved pursuant to this provision will not be subject to prudence review upon reconciliation of actual incremental costs and energy savings, provided that I&M acts in good faith to execute the authorized spending flexibility consistent with any implementation parameters agreed to by the OSB.
3. I&M agrees to include provisional funding in the Plan for a revised Residential New Construction program. I&M agrees to present a revised cost-effective program no later than December 31, 2022, to the OSB. Approval of the revised Residential New Construction program is contingent upon a unanimous vote of approval by the OSB. Estimates of gross kWh savings generated by the revised Residential New Construction program will not be included in the portfolio Plan until approved by the OSB. To the extent the Residential New Construction program is not found to be cost-effective, I&M shall increase the amount of cost-effective savings from new or existing programs as needed to achieve the Revised Energy Savings Goal, and the Stretch Goal would thereby be reduced by the amount of savings allocated to the Residential New Construction program.
4. The sector spending flexibility includes the ability to spend up to and including an additional 12.50% of direct program operating costs. To the extent additional funding is needed to achieve additional cost-effective saving opportunities that requires funding over and above the amount allotted by sector spending flexibility, the Settling Parties, through the OSB by unanimous vote, shall vote on whether to request additional funding through a request to the Commission (and OSB approval of this will not be unreasonably withheld if the opportunity is cost-effective meaning it passes the UCT).

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5. I&M will continue to discuss with the OSB any mid-plan changes to EE Program incentive levels that exceed +/- 15%.
6. I&M will implement the Income Qualified Weatherproofing Program consistent with the 2023-2025 EE Plan program design and will collaborate with the OSB on exploring ways to improve program reach and participation, including addressing barriers with Community Action Partnership (CAP) agencies.
7. I&M will continue to discuss with the OSB further opportunities for customer outreach and awareness of EE program availability, including marketing efforts.
8. I&M agrees to collaborate with the OSB on the selection of the consultant to conduct, and the development of, the next Market Potential Study.
9. I&M's residential and C&I EE Programs will otherwise be implemented as proposed in I&M's case-in-chief.

B. DSM/EE Opt-Out.

1. Subject to resolving any internal administrative/accounting issues, I&M agrees to prepare and seek approval of revised opt-in tariff language similar to that approved for NIPSCO in 30-Day Filing No. 50499 within 60 days following execution of the Settlement.
2. If upon effectuation of the revised opt-in tariff language, any customer(s) exercises a mid-program year opt-in during the 2023-2025 DSM Plan period. I&M will engage the OSB to determine the applicability and reasonableness for the use of the spending flexibility identified in Section I.A.4 above for such opt-in customer(s). Such use of spending flexibility may include, subject to unanimous OSB vote, consideration of program incentive increases for mid-year opt-in customers.

C. Demand Response (DR) Plan.

1. I&M's DR Plan shall be approved as proposed by I&M in its case-in-chief.
2. The DR Plan savings goals shall be as shown in Attachment JCW-2 to I&M witness Jon Walter's direct testimony.
3. The Income-Qualified (IQ) HVAC Direct Load Control (DLC) Program and IQ Water Heat DLC Program will not be subject to cost effectiveness determination for program continuation.

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D. Enhanced Conservation Voltage Reduction (CVR) Plan.

1. I&M's CVR Plan shall be approved consistent with the Order in Cause No. 45576 and as proposed by I&M in its case-in-chief.

E. Accounting Matters.

1. Timely cost recovery through the DSM/EE Rider shall be approved as proposed by I&M in its case-in-chief except as modified herein.
2. Continued authority to defer the over and under recovery of DSM/EE program costs through the DSM Rider pending reconciliation in subsequent rider periods will be approved as proposed by I&M.
3. Lost Revenues. The Settling Parties agree to maintain the existing lost revenue cap as approved in Cause No. 45285, such that lost revenue for all measures installed in 2023-2025 will be limited to (a) three years, (b) the life of the measure, or (c) until new rates are implemented pursuant to a final order in I&M's next base rate case, whichever occurs earlier.
4. Energy Efficiency Financial Incentive. The Settling Parties agree to the following modified structure of the energy efficiency shared savings incentive mechanism subject also to the removal of the impacts from the Carbon Tax applied in I&M's avoided energy cost forecast:

Energy Savings Achievement Level	Incentive (based on UCT net benefits)*	Incentive (based on program spending)*
<60%	0.0%	0.0%
60-69.99%	5.0%	7.0%
70-79.99%	7.0%	10.5%
80-89.99%	8.0%	12.0%
90-99.99%	9.5%	13.5%
100-104.99%	12.0%	15.0%
105-114.99%	15.0%	16.5%
≥115%	18.0%	18.0%

*Actual incentive is the lesser of the incentives based on dollar amount derived from applying these incentives at the sector level. The percentages shown represent total final earnings when Shared Savings Component 1 performance is adjusted by Component 2 performance.

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5. Demand Response (DR) Financial Incentive. The Settling Parties agree to the following modifications to I&M's proposed DR Financial Incentive:

Percent of MW Target of Incremental DR	DR Earnings Percent of Incremental O&M
<60%	0%
60-79.99%	2%
80-89.99%	4%
90-99.99%	6%
100-109.99%	8%
≥110%	10%

F. Other Matters.

1. Independent evaluation, verification, and measurement (EM&V) will be conducted as proposed by I&M.
2. Any matters not addressed by this Settlement Agreement will be adopted as proposed by I&M in its direct case.
3. The Settling Parties agree to work collaboratively to seek Commission approval of this Settlement Agreement so that I&M may implement the DSM Plan no later than January 1, 2023.

II. PRESENTATION OF THE SETTLEMENT AGREEMENT TO THE COMMISSION

1. The Settling Parties shall support this Settlement Agreement before the Commission and request that the Commission expeditiously accept and approve the Settlement Agreement. The concurrence of the Settling Parties with the terms of the Settlement Agreement is expressly predicated upon the Commission's approval of the Settlement Agreement in its entirety without any modification or any condition that may be unacceptable by any Settling Party.

2. The Settling Parties shall jointly move for the Commission for leave to file the Settlement Agreement and supporting evidence. The Settling Parties will file testimony specifically supporting the Settlement Agreement. The Settling Parties agree

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to provide each other with an opportunity to review drafts of testimony supporting the Settlement Agreement and to consider the input of the other Settling Parties. Such evidence, together with the evidence previously prefiled by the Settling Parties, will be offered into evidence without objection from the Settling Parties, and the Settling Parties hereby waive cross-examination of each other's witnesses. The Settling Parties will submit this Settlement Agreement and evidence conditionally, and that, if the Commission fails to approve this Settlement Agreement in its entirety without any change or with condition(s) unacceptable to any Settling Party, the Settlement Agreement and supporting evidence may be withdrawn and the Commission will continue to hear Cause No. 45701 with the proceedings resuming at the point they were suspended by the filing of this Settlement Agreement.

3. The Settling Parties shall jointly agree on the form, wording and timing of public/media announcement (if any) of this Settlement Agreement and the terms thereof. The Settling Parties may respond individually without prior approval of the other Settling Parties to questions from the public or media, provided that such responses are consistent with such announcement and do not disparage any of the Settling Parties. Nothing in this Settlement Agreement shall limit or restrict the Commission's ability to publicly comment regarding this Settlement Agreement or any Order affecting this Settlement Agreement.

III. EFFECT AND USE OF SETTLEMENT AGREEMENT

1. It is understood that the Settlement Agreement is reflective of a negotiated settlement and neither the making of this Settlement Agreement nor any of its provisions shall constitute an admission by any Settling Party in this or any other litigation or proceeding except to the extent necessary to implement and enforce its terms. It is also understood that each and every term of the Settlement Agreement is in consideration and support of each and every other term.

2. The Settlement Agreement shall not constitute and shall not be used as precedent by any person or entity in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce the terms of this Settlement Agreement.

3. The Settlement Agreement is solely the result of compromise and except as provided herein, is without prejudice to and shall not constitute a waiver of any position that any Settling Party may take with respect to any or all of the items resolved here and in any future regulatory or other proceedings.

4. The Settling Parties agree that the additional evidence offered in support of the Settlement Agreement and the previously prefiled evidence constitute substantial evidence sufficient to support this Settlement Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of the Settlement Agreement, as filed. The Settling Parties shall prepare and file an agreed proposed order with the Commission as soon as reasonably possible after the filing of this Settlement Agreement and the final evidentiary hearing.

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5. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning the Settlement Agreement all relate to offers of settlement and shall be privileged and confidential, without prejudice to the position of any Settling Party, and are not to be used in any manner in connection with any other proceeding or otherwise.

6. The undersigned Settling Parties have represented and agreed that they are fully authorized to execute the Settlement Agreement on behalf of their respective clients, and their successors and assigns, which will be bound thereby.

7. The Settling Parties shall not appeal or seek rehearing, reconsideration, or a stay of the Commission Order approving the Settlement Agreement in its entirety and without change or condition(s) unacceptable to any Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement Agreement). The Settling Parties shall support or not oppose the Settlement Agreement in the event of any appeal or a request for a stay by a person not a party to this Settlement Agreement or if this Settlement Agreement is the subject matter of any other state or federal proceeding. The provisions of the Settlement Agreement shall be enforceable by any Settling Party before the Commission and thereafter in any state court of competent jurisdiction as necessary.

8. This Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

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ACCEPTED and AGREED as of the 3rd day of August, 2022.

INDIANA MICHIGAN POWER COMPANY



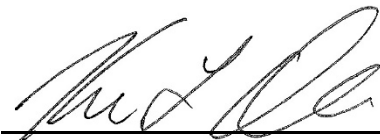
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