

ORIGINAL

STATE OF INDIANA

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

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN)
POWER COMPANY (I&M) FOR APPROVAL OF)
(1) ISSUANCE TO I&M OF CERTIFICATES OF)
PUBLIC CONVENIENCE AND NECESSITY)
UNDER IND. CODE § 8-1-8.5-2 FOR THE)
ACQUISITION AND DEVELOPMENT THROUGH)
PURCHASE SALE AGREEMENTS (PSA) OF TWO)
SOLAR POWER GENERATING FACILITIES TO)
BE KNOWN AS LAKE TROUT, AND MAYAPPLE)
(CLEAN ENERGY PSA PROJECTS); (2) TO THE)
EXTENT NECESSARY, ISSUANCE OF AN)
ORDER PURSUANT TO IND. CODE § 8-1-2.5-5)
DECLINING TO EXERCISE JURISDICTION)
UNDER. IND. CODE § 8-1-8.5-5(e) (3) APPROVAL)
OF EACH PSA PROJECT AS A CLEAN ENERGY)
PROJECT UNDER IND. CODE § 8-1-8.8-11; (4))
APPROVAL OF TWO SOLAR RENEWABLE)
ENERGY PURCHASE AGREEMENTS FOR)
PROJECTS TO BE KNOWN AS ELKHART)
COUNTY AND SCULPIN (CLEAN ENERGY PPA)
PROJECTS) AS CLEAN ENERGY PROJECTS)
UNDER IND. CODE § 8-1-8.8-11; (5) ASSOCIATED)
TIMELY COST RECOVERY UNDER IND. CODE §)
8-1-8.8-11 FOR ALL PSA AND PPA PROJECTS;)
AND (6) OTHER ACCOUNTING AND)
RATEMAKING AUTHORITY.)

CAUSE NO. 45868

APPROVED: OCT 18 2023

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
Jennifer L. Schuster, Senior Administrative Law Judge

On March 28, 2023, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. Also on March 28, 2023, I&M filed its prepared testimony and exhibits constituting its case-in-chief, as well as supporting workpapers.

On April 6, 2023, Wabash Valley Power Association, Inc. d/b/a Wabash Valley Power Alliance (“Wabash Valley”) filed its Petition to Intervene, which the Presiding Officers granted by docket entry dated April 17, 2023. On April 19, 2023, Citizens Action Coalition of Indiana, Inc. (“CAC”) filed its Petition to Intervene, which the Presiding Officers granted by docket entry dated April 27, 2023.

On May 19, 2023, the Indiana Office of Utility Consumer Counselor (“OUCC”) and CAC filed testimony constituting their respective cases-in-chief. I&M filed rebuttal testimony on June 2, 2023.

On May 24 and June 20, 2023, the Commission issued docket entry questions to I&M, to which I&M responded on May 24, 2023 and June 22, 2023, respectively.

The Commission conducted an evidentiary hearing in this Cause on June 26, 2023 at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the OUCC, and intervenors appeared and participated in the hearing by counsel and the evidence and testimony of Petitioner, the OUCC, and CAC were admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. I&M is a “public utility” within the meaning of that term as used in Ind. Code §§ 8-1-2-1 and 8-1-8.5-1. I&M is also an “eligible business” as that term is defined in Ind. Code § 8-1-8.8-6. I&M is subject to the jurisdiction of the Commission in the manner and to the extent provided by Indiana law. Therefore, the Commission has jurisdiction over I&M and the subject matter of this proceeding.

2. Petitioner’s Characteristics. I&M is a wholly owned subsidiary of American Electric Power Company, Inc. (“AEP”) with its principal offices at Indiana Michigan Power Center, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in Indiana and Michigan. I&M owns and operates generation, transmission, and distribution plant and equipment within Indiana and Michigan that are in service and used and useful in the furnishing of such electric service to the public. I&M has maintained and continues to maintain its properties in a reliable state of operating condition.

I&M supplies electric service to approximately 476,000 retail customers in northern and east-central Indiana and 131,000 retail customers in southwestern Michigan, within a service area covering approximately 4,600 square miles. In Indiana, I&M provides retail electric service to customers in the following counties: Adams, Allen, Blackford, DeKalb, Delaware, Elkhart, Grant, Hamilton, Henry, Howard, Huntington, Jay, LaPorte, Madison, Marshall, Miami, Noble, Randolph, St. Joseph, Steuben, Tipton, Wabash, Wells, and Whitley. In addition, I&M serves customers at wholesale in Indiana and Michigan. I&M’s electric system is a fully integrated and interconnected entity that is operated within Indiana and Michigan as a single utility.

3. Relief Requested. I&M requests the Commission issue to I&M certificates of public convenience and necessity (“CPCN”) for development through purchase sale agreements (“PSA”) of two solar power generating facilities to be known as Lake Trout and Mayapple (“Clean Energy PSA Projects”). I&M also requests the Commission approve the Clean Energy PSAs. To the extent necessary, I&M requests issuance of an order pursuant to Ind. Code § 8-1-2.5-5 declining to exercise jurisdiction under Ind. Code § 8-1-8.5-5(e). I&M also requests approval of each PSA Project as a Clean Energy Project under Ind. Code § 8-1-8.8-11. I&M requests approval of two solar renewable energy purchase agreements (referred to herein as “PPAs”) for projects to

be known as Elkhart County and Sculpin (“Clean Energy PPA Projects”) as Clean Energy Projects under Ind. Code § 8-1-8.8-11. I&M requests the Commission authorize associated timely cost recovery as proposed by I&M under Ind. Code § 8-1-8.8-11 for all Clean Energy PSA Projects and Clean Energy PPA Projects and approve other accounting and ratemaking relief, including recovery of PPA development costs, as described in I&M’s case-in-chief. I&M also requests approval of an ongoing review process as further described in I&M’s case-in-chief.

4. Statutory Framework. Ind. Code § 8-1-8.5-5 sets forth the conditions for receiving a CPCN. Ind. Code § 8-1-8.8-2 concerns the development of “clean energy projects”, including renewable energy projects. Per Ind. Code § 8-1-8.8-10, the definition of “renewable energy resource” includes solar energy. Pursuant to Ind. Code § 8-1-8.8-11 (“Section 11”), a clean energy project that is determined to be just and reasonable is eligible for Commission-approved financial incentives, including timely recovery of costs. Ind. Code § 8-1-2-42(a) (“Section 42(a)”) also authorizes rate adjustment mechanisms for the recovery of costs incurred in the provision of retail service. Recently enacted HEA 1007, codified at Ind. Code § 8-1-2-0.6, sets forth five attributes (also referred to as “pillars”) the Commission will also consider in this matter.

5. Petitioner’s Case-in-Chief. Petitioner presented the testimony of eight witnesses in its case-in-chief: David A. Lucas, I&M Vice President – Regulatory and Finance; Timothy Gaul, Director – Regulated Infrastructure Development, American Electric Power Service Corporation (“AEPSC”); Mark Becker, Managing Director of Resource Planning, AEPSC; Dean Koujak, Principal, Charles River Associates (“CRA”); Beth Lozier, Project Director, AEPSC; Bartley Taberner, Transmission Planning Manager, AEPSC; Daniel Mueller, Director Tax Planning & Operation, AEPSC; and Andrew Williamson, Director of Regulatory Services, I&M.

A. Projects Overview. I&M is proposing two Clean Energy PSA Projects. The Lake Trout Project will be located in Indiana and is planned to have a nameplate capacity of 245 megawatts (“MW”) of solar generation. The developer for this project is EDF Renewables Development, Inc. The project is expected to be operational by the end of April 2026. The Mayapple Project will be located in Indiana and is planned to have a nameplate capacity of 224 MW of solar generation. The developer for this project is Lightsource bp. The project is expected to be operational by the end of May 2026.

I&M also proposes two Clean Energy PPA Projects, with I&M contracting for the capacity and energy from these facilities once the resources are operational. The Sculpin Project will be located in Indiana and is planned to have a nameplate capacity of 180 MW of solar generation. The developer for this project is EDF Renewables Development, Inc. The project is expected to be operational by December 31, 2025. The Elkhart County Solar Project will be located in Indiana and is planned to have a nameplate capacity of 100 MW of solar generation. The developer for this project is Savion. The project is expected to be operational by December 31, 2025.

B. IRP. Mr. Lucas testified that I&M is on the brink of a major generation transformation as Rockport Unit 1 and Unit 2 retire from service by the end of 2028. He said that these coal-fired resources represent nearly one-half of I&M’s generation fleet, and the retirement of these units provides a significant opportunity for I&M to transition to more renewable resources, further diversify I&M’s generation portfolio, and reduce its carbon emissions. He said the Petition in this proceeding is a result of I&M’s 2021 IRP, the planning tool I&M utilizes to determine how

to meet the ongoing need for reliable and economic electric demand in I&M's service area. Mr. Lucas and Mr. Becker also testified that the proposed Clean Energy Projects in this proceeding are consistent with the Preferred Portfolio that was the result of the IRP process and are an important step in replacing the capacity from the Rockport facility. Mr. Lucas said the objectives and metrics that I&M used during the IRP process to determine the Preferred Portfolio were very closely aligned with the work of the 21st Century Energy Policy Development Task Force.

C. All-Source RFP and Project Evaluation/Selection. Messrs. Lucas and Gaul explained the competitive procurement process used to select the proposed Clean Energy Projects and stated that I&M developed a 2022 All-Source Request for Proposal ("RFP") to solicit responses from the market for capacity resource needs identified in I&M's Preferred Portfolio for the 2025/2026 and 2026/2027 PJM Planning Years. They explained the RFP was designed in a way that allowed for an open, non-discriminatory competitive procurement process that considered both third-party and utility ownership, resource types or combinations of resource types, various sizes and capacities within practical limits, ancillary services, and cost reducing benefits. Mr. Lucas added that the RFP was also structured to comply with the terms of the Settlement Agreement approved by the Commission in Cause No. 45546. Messrs. Lucas and Gaul stated that the Clean Energy Projects proposed in this case are the result of a competitive procurement process and represent the optimal set of resources available in the market to fulfill the capacity need consistent with that identified through the IRP planning process.

Mr. Gaul elaborated on how I&M developed the structure and requirements of the RFP and I&M's efforts to collect and incorporate stakeholder input in the development of the RFP. Mr. Lucas and Mr. Gaul also testified that I&M utilized CRA to fulfill the role of independent monitor, to manage the stakeholder process on behalf of I&M, and to allow stakeholder feedback to be received and reasonably considered in the RFP process.

Mr. Koujak discussed the goal of the 2022 All-Source RFP, including the eligible technologies and bidder thresholds, which he said are substantially the same or similar to other RFPs he had overseen. He described the evaluation and stakeholder processes and opined that each was reasonable. He opined that (1) I&M developed the RFP documentation in a clear and transparent manner; (2) I&M performed the evaluation on a fair and consistent basis in line with the process noted in the RFP; (3) the criteria used in the evaluation is in line with typical utility practice and reasonable to achieve the goals of the RFP; (4) the shortlisting of finalists was also performed on a fair and consistent basis with the process published in the RFP; and (5) there is no evidence that the evaluation and selection process caused any unfair advantage or disadvantage to any interested respondent.

Mr. Lucas testified that I&M received responses from the RFP that were aligned with the overall capacity amounts requested in the RFP, however, the breakdown of capacity across the various technology types differed. He said that I&M received a robust response to the RFP from solar projects and other qualified supplemental capacity resources, including thermal and standalone storage resources. He said the responses for wind projects were less than the amount originally targeted in the RFP, notwithstanding I&M's efforts to reach a broader set of wind resources in neighboring states and in Midcontinent Independent System Operator, Inc. ("MISO").

Mr. Gaul discussed the initial bid receipt and overall bidder response to the RFP and said that, in total, CRA and I&M received 32 proposals from 12 unique bidders. He said proposals included solar, wind, solar plus storage, wind/solar plus storage, thermal capacity resources, and standalone battery storage technologies. He said that several bidders submitted multiple bids for the same project (e.g., bid variations with battery energy storage systems and multiple expected commercial operation dates (“COD”)), accounting for a greater number of bids than projects. He said a total of approximately 7,500 MW of proposed projects across 32 project bids were received. Mr. Gaul added that the proposals were not offered to I&M on an exclusive basis and the bidders could withdraw their proposal at any time.

Mr. Gaul provided a detailed breakdown of the proposals received by each technology type and added that two of the three wind projects that had passed the eligibility and threshold review ultimately rescinded their bids from the RFP to pursue other agreements.

Mr. Gaul described the steps used in the proposal review and project selection process. He explained the components of the economic analysis and explained how pricing was compared across different proposal contract types, with different term lengths, and different energy product offerings. He said the first phase (Phase 1) of the Economic Analysis focused on the assessment and comparison of projects of similar generation type (wind, solar, or supplemental capacity) using either a calculated Levelized Adjusted Cost of Energy (“LACOE”) or Levelized Adjusted Cost of Capacity (“LACOC”) metric. He said that the second phase (Phase 2) then assessed and compared the projects across all technology types based on a Value to Cost (“V/C”) ratio. He said that the V/C ratio allowed for the holistic consideration of all the value streams provided by each generation type in the comparison. Across both phases, the metrics were calculated in a manner that ensured proposals could be compared on an equivalent basis across the range of technology types, contract structures (PSA or PPA), contract term lengths, and energy product offerings. He said that, ultimately, given the number of projects remaining after the E&T analysis, the Independent Monitor and I&M agreed that no project would be eliminated in the first phase and all eligible projects would proceed from Phase 1 (LACOE/LACOC) to Phase 2 (V/C) comparisons.

Mr. Gaul also discussed the ten non-price factors considered in the evaluation of each proposal and summarized the total scores for all eligible proposals and identified the projects selected for detailed contract negotiations. Mr. Gaul also described the contract negotiation activities with the developers of the Clean Energy Projects.

Mr. Gaul explained how market pressures impacted the RFP bid and review process. He said that a range of events impacted markets both immediately before and during the bid selection and negotiation process for the 2022 All-Source RFP, including: the Uyghur Forced Labor Prevention Act (“UFLPA”) and subsequent detainment of module deliveries by U.S. Customs and Border Protection, Russia’s invasion of Ukraine, the initiation of the Antidumping Duty and Countervailing Duty (“AD/CVD”) investigation by the U.S. Department of Commerce (“DOC”) the enactment of the Inflation Reduction Act (“IRA”), the release of guidance around the IRA’s Prevailing Wage and Apprenticeship requirements, PJM interconnection queue reform, and the rise in inflation and interest rates. He said ongoing supply chain risks and delays in the PJM interconnection process were the primary drivers of schedule changes during the bid review and negotiation process. He said continuing supply chain risks and commodity inflation driven by the war in Ukraine, pending solar module tariff outcomes of the AD/CVD investigation, and

competition among developers for material supply and contractor support have all added scheduling risks to projects.

Mr. Gaul said that delays and uncertainty in the PJM interconnection process have likely had the most significant impact on project development timelines. Mr. Gaul stated the overall effect of the PJM queue delays has been a reduction in the supply of projects that can support the increasing demand for renewables in a manner that meets the timing of energy and capacity needs of the system. Although FERC has approved reforms to help resolve the generation interconnection queue bottleneck, he said that the plan itself will take years to execute and new generation interconnection requests are not being accepted until more of the backlog is processed.

Mr. Gaul also discussed a range of economic factors that increased costs and caused volatility in raw materials, equipment costs, interest rates, and labor during the bid evaluation and negotiation process. He said that each of these factors impacted bid pricing and shaped contract negotiations.

Mr. Gaul explained how I&M responded to the industry challenges through contract negotiations. He noted that each agreement incorporates financial assurances that the developer will meet its contractual obligations; that the facilities will align with performance expectations; and that major equipment suppliers and contractors will honor all warranties, guarantees, and commitments to the projects. He said that, overall, I&M's best estimates are reasonably designed and allow I&M to acquire the resources needed to meet customers' need for energy and capacity resources.

Messrs. Lucas and Becker testified the blended portfolio cost of the Clean Energy Projects is consistent with the costs utilized in the development of the Preferred Portfolio.

D. Interconnection. Mr. Taberner explained the Clean Energy Projects' transmission interconnection to the PJM RTO and associated cost. With input from Messrs. Lucas and Gaul, Mr. Taberner presented I&M's response to Commission General Administrative Order ("GAO") 2022-01. Mr. Taberner discussed the interconnection approval process for the Clean Energy Projects and described the PJM New Service Queue, as well as the process PJM follows for evaluating projects. Mr. Taberner testified that, while PJM is responsible for the required analysis, they will consult with the transmission owner, such as I&M, during the process. Even though PJM will identify the improvements necessary for a successful generation interconnection, the required facilities will be designed with I&M's input and must meet I&M's technical specifications.

Mr. Taberner said that the Generation Interconnection System Impact Study Reports include a cost estimate for each project and explained that these studies and costs are subject to revision. Mr. Taberner said the estimated costs are taken into consideration in the PSA Clean Energy Project's Best Estimates sponsored by I&M witnesses Gaul and Lozier.

Mr. Taberner discussed the status of the projects in the PJM Interconnection Queue and said that the Feasibility and Generation Interconnection System Impact Study Reports have been completed and all requests are currently in the Facilities Study stage of the PJM process. He

discussed the factors that impact the delivery of a Facilities Study and explained this can make it difficult to determine the exact time a Facilities Study will be issued.

E. Best Estimates. Mr. Gaul presented the Best Estimates of each PSA Project Costs and discussed the component costs included in the Best Estimates: the PSA Price, Owner's Costs, and a Project Contingency. He said that the PSA Price reflects the cost of the negotiated purchase price between I&M and the Developer for the engineering, procurement, and construction of the Clean Energy PSA Projects, including base interconnection costs. Owner's Costs can be broken into two general categories: those associated with construction oversight, engineering/design reviews, and the physical integration of the project into I&M operations; and those incurred by I&M for the identification and acquisition of the project (*i.e.* the RFP process, due diligence, and fees associated with negotiations and regulatory process).

Ms. Lozier provided a more detailed description of what costs are included in the description of Owner's Costs. She said the estimated line items for Owner's Costs, including Resiliency & Integration, Project Management, and Acquisition and Development, were developed based on a combination of project-specific staffing plans for the Clean Energy PSA Projects and parametric estimates based on similar projects across the AEP system. She said that the estimate for overheads is based on expected capital costs over the life of the project for the PSA purchase price and Owner's Costs multiplied by a capital cost allocation from AEP's budgeting system. She said that allowance for funds used during construction costs will be accrued based on I&M's Construction Work in Progress ("CWIP") balances during the construction of the projects.

Mr. Gaul explained that the Best Estimate of the total installed capital costs also includes a Project Contingency. He said that the Project Contingency includes cost considerations for typical risks that often occur during the development and construction stages of large infrastructure projects. For projects the size and complexity of the Clean Energy PSA Projects, and for projects that will not be placed in service for several years, he opined that it is impractical to believe that no new issues or challenges will arise through the course of the project's final development, design, and construction. He stated that, to address this possibility, a contingency budget was developed using a combination of identified project-specific risks and a reasonable allocation of funds for unidentified risks based on projects of similar size, type, and complexity. He said that, for each identified risk, the cost to mitigate the risk was evaluated. He provided the contingency assessment for each Project in his workpapers. Mr. Gaul explained the iterative process used to develop the Project Contingency and discussed the types of risks considered in the Project Contingency.

Mr. Gaul concluded that the PSA costs are the result of the competitive All-Source RFP process and direct arms' length negotiation and executed transactions. He said that respondents to the RFP were motivated to reply with competitive bids in order to be considered for review and negotiation of an agreement. He said it was commercially practicable to secure the estimated costs of the PSA Projects in this manner. He opined that the inclusion of the potential cost impact of project risk and factors beyond I&M's control provides best estimates that reasonably address industry challenges, and is reasonably designed to manage the timely development of the Projects. He added this is particularly appropriate given recent and ongoing economic conditions, and said this approach better positions I&M, the Commission, and stakeholders to assess the Project costs at the time the Projects are presented for pre-approval.

F. Project Status and Management. Ms. Lozier described I&M's role in project management and the oversight of engineering, procurement, and construction of the Clean Energy PSA Projects and presented milestones for construction activities and the estimated CODs. Mr. Lucas and Ms. Lozier explained that I&M will work closely with the project management organization to provide oversight of the development, engineering, procurement, and construction of the Clean Energy Projects that are being proposed as PSAs, Lake Trout and Mayapple.

Ms. Lozier said I&M will operate and maintain the Clean Energy PSA Projects and will employ full-time renewable technicians for the Clean Energy PSA Projects. She said that the technicians will be responsible for the overall operations and maintenance of the Clean Energy PSA Projects and presented estimates for expected site staff. O&M activities will include routine inspections, equipment monitoring, preventative maintenance repairs, acknowledgement and troubleshooting of equipment alarms, and resetting of relays and devices. She said I&M employees or their representatives will also be responsible for following dispatching instructions for facility output and monitoring of equipment performance. She presented the estimated ongoing O&M costs for the Clean Energy PSA Projects.

G. Tax Benefits. Mr. Mueller addressed the income tax implications of the Clean Energy PSA Projects, including: (1) qualification for the federal Production Tax Credit ("PTC"); (2) accelerated tax depreciation; and (3) I&M's ability to utilize PTCs generated by the PSA Clean Energy Projects and the ability to transfer (or monetize) those PTCs. He said it is expected that the Clean Energy PSA Projects will be eligible for the PTC at a 100% level and that Clean Energy PSA Projects may qualify for bonus credits.

Mr. Mueller testified that, because the Clean Energy PSA Projects will primarily be comprised of property that is classified as five-year property under the Modified Accelerated Cost-Recovery System ("MACRS"), the assets will be depreciated more rapidly for tax purposes than for book purposes and said this difference in basis makes it necessary to record deferred taxes for the future income tax liability that will be recognized as the timing difference between book and tax depreciation reverses. He said that the accumulated deferred federal income taxes ("ADFIT") generated by the Clean Energy PSA Projects will be included in I&M's weighted average cost of capital in future base cases, as cost-free capital.

Mr. Mueller stated that, under the IRA, AEP has the ability to sell the PTCs generated by the Clean Energy PSA Projects rather than carry them forward or back. He described the three-step process by which PTCs will be utilized. In Step 1, the PTCs will be utilized to offset I&M's tax liability, reducing the necessary cash payment up to its parent company for the liability. He stated that, while it is anticipated to be an uncommon scenario, the utilization of credits in Step 1 could be limited in a scenario in which the credit utilization limitations under Section 38(c) for the Consolidated Return Group are less than the sum of the Step 1 utilization of credits for all companies within the group. In Step 2, the PTCs would be used to offset the tax liability of the Consolidated Return Group, explaining that the ratio of the remaining PTCs after Step 1 to the total tax credits available for the Consolidated Return Group would be used to determine the extent of the PTCs generated by the Clean Energy PSA Projects would be used to offset the tax liability in this step. He said to the extent that I&M's credits are used to offset the tax liability of the Consolidated Return Group, I&M would receive the full cash value of the PTC. In Step 3, a determination would need to be made whether any remaining PTCs should be carried forward to

offset a future tax liability or transferred to a third party. To the extent that the Consolidated Return Group is unable to utilize the PTC generated by the Clean Energy PSA Projects in the year they are generated, the facts and circumstances at the time will be considered to determine the most prudent use of those credits to determine whether they should be held to offset a future tax liability or should be sold to a third party.

H. Accounting and Ratemaking. Mr. Williamson addressed the proposed accounting and ratemaking treatment associated with the Clean Energy Projects. He said I&M is requesting timely cost recovery through I&M's existing Solar Power Rider ("SPR") (or successor mechanism) for the projects I&M will acquire through PSAs and through I&M's Fuel Cost Adjustment ("FAC") for the costs incurred under the PPAs throughout the entire 30-year term of each agreement. He said I&M also seeks confirmation that the PPA costs thereof are recoverable through the FAC proceedings (or successor mechanism) without regard to the Ind. Code § 8-1-42(d)(1) test or any other FAC benchmarks. He said I&M will begin including the costs associated with the PPAs in I&M's monthly over-/under-accounting when I&M begins incurring such costs.

Mr. Williamson supported the accounting and ratemaking proposals related to the Clean Energy Projects, including the request to defer costs incurred prior to recovery in I&M's rates, the request for approval of a new depreciation rate, the request to extend PTC benefits over 20 years, I&M's plan to monetize PTCs, and recovery of development costs associated with PPAs. He said that I&M proposes to depreciate the PSA projects, once they are placed in service, over a 35-year period, including estimated net salvage. Mr. Williamson explained how the salvage value estimates were developed for each project, presented the estimated depreciation rates, and explained how the final rates will be determined.

Mr. Williamson explained I&M's proposal to recover asset retirement obligation ("ARO") depreciation and accretion expense and discussed I&M's proposal to amortize the PTCs over 20 years and utilize deferral accounting to recognize the difference between this period and the period in which PTC benefits are realized. Mr. Williamson said the proposal benefits customers in multiple ways. First, it spreads the federal tax incentives over the 20-year period as opposed to a ten-year period and reduces the relative rate volatility and variability customers would otherwise experience over the life of the project, particularly in year 11 when the enhanced federal tax incentives expire. The proposal also provides greater rate equity among customers over the life of the resource and customers receive the full value of federal tax incentives I&M realizes from the projects. Finally, spreading the provision of federal tax incentives over the 20-year period will increase I&M's cash flows and reduce risk that I&M's credit metrics will decline and result in higher costs of debt and increase I&M's cost of service.

Mr. Williamson explained I&M's plan to monetize PTCs if doing so is determined to be beneficial for customers. He also stated that I&M proposes to defer and record as a regulatory asset eligible Clean Energy PSA Project costs until such time as these costs are reflected in I&M's rates. He said I&M seeks Commission approval to add the approved return related to the Clean Energy PSA Projects to its authorized net operating income for purposes of the FAC (d)(3) test. He said this is consistent with the treatment previously approved by the Commission related to past and existing capital riders. He said that I&M will utilize, via the SPR, traditional over-/under-recovery accounting for the periodic true-up of actual rider revenues to actual costs consistent with I&M's

past SPR proceedings; and would allocate Clean Energy Project costs consistent with the allocation of similar costs for setting current rates.

Mr. Williamson explained that I&M plans to utilize the renewable energy certificates (“RECs”) from the Clean Energy Projects to benefit customers and said that the Clean Energy Projects will significantly increase the number of RECs I&M has available to sell into the market and support customer renewable programs. He opined that the associated net revenues I&M realizes will benefit all of I&M’s customers through reduced cost of service and said that the net proceeds from market sales will continue to be credited in ongoing FAC proceedings and the net proceeds from customer programs will be credited according to the provisions approved for such program(s). Noting customer interest in new renewable resources, Mr. Williamson said I&M expects to make a later filing to expand its customer renewable programs to provide access to the expanded opportunities made available to I&M’s customers as a result of the new resources approved in this proceeding.

Mr. Williamson testified that I&M incurred reasonable and necessary costs for the development of the Clean Energy PPA Projects that are not otherwise captured by the ratemaking process. He explained that, because these costs were necessarily incurred for the development of the Clean Energy PPA Projects, Commission authority to recover these costs is consistent with the legislative policy that the Commission encourage the development of these projects through financial incentives. Mr. Williamson said I&M requests Commission approval to establish a regulatory asset and authority to recover the Clean Energy PPA Project development costs in the SPR over a period of two years, including a pre-tax return on the unamortized balance. The Clean Energy PPA development costs incurred as of February 28, 2022, are approximately \$188,000, and additional costs will continue to be incurred until all conditions precedent and other applicable contract terms are met and final. He said that, following the Commission’s approval of I&M’s request, I&M will reflect the final PPA development cost balance in the SPR. He also proposed modifications to the SPR tariff language should be adopted to clarify the ongoing purpose of the SPR.

Mr. Williamson also provided an estimate of the overall incremental rate impact of the PSAs and PPAs to I&M’s customers. I&M estimates the average year-one annual rate impact on an Indiana jurisdictional basis for all rate classes to be 1.7%, including the estimated value of the market energy revenues, expected PTC benefits extended over 20 years as described above, and REC revenues associated with the Clean Energy Projects. Mr. Williamson also said that the overall estimated year-one rate impact inclusive of the Clean Energy Projects, the Montpelier Capacity Purchase Agreement (“CPA”), and the recent cost reductions associated with Rockport Unit 2 results in a cost of service decrease of more than 7%.¹

Regarding ongoing review, Mr. Williamson said I&M proposes to submit one consolidated report for the two Clean Energy PSA Projects as a compliance filing in this docket (unless instructed otherwise by the Commission) and said the first report will be filed no later than 180 days following a Commission order approving the project(s) and at least semi-annually thereafter until the Clean Energy PSA Projects reach their COD, the latter of which is expected by May 2026. He added that I&M may also file supplemental reports if necessary and said the final report will

¹ I&M’s petition for approval of the Montpelier CPA was filed March 30, 2023 and docketed as Cause No. 45869.

include the actual total cost of construction, the total MW output for the solar project, and the actual COD. Mr. Williamson said that I&M proposes to present the progress reports to the Commission for review and approval as part of I&M's existing SPR filings, but may seek review of any ongoing review report outside of the annual SPR filings should circumstances warrant doing so.

Ms. Lozier discussed the difference between the design life and useful life of a solar facility. She said that I&M expects the Clean Energy PSA Projects will have a useful life of 35 years. I&M contracted DNV Energy USA, Inc. ("DNV") to do a decommissioning cost analysis report that provides general, non-site specific, estimates based on project size and technology used. She opined that the assumptions and cost estimates in the DNV analysis are reasonable.

I. Benefits and Public Convenience and Necessity. Mr. Lucas opined that the Projects would benefit I&M's customers, including, but not limited to, economic development benefits, environmental benefits, diversity of generation resources, renewable energy certificate benefits, tax benefits, and local economic benefits. Mr. Lucas also stated that the proposed Clean Energy Projects are consistent with I&M's customer expectations and provide long-term financial benefits to I&M's customers. He opined that each of the Clean Energy Projects proposed in this case stands on its own merit and each one is reasonable, necessary, and the public interest, convenience, and necessity will be served by I&M developing these Projects.

6. OUC's Evidence. The OUC presented the testimony of three Utility Analysts in the OUC's Electric Division, John W. Hanks, Brian R. Latham, and Gregory L. Krieger and the testimony of Wes R. Blakley, a Senior Utility Analyst in its Electric Division.

Mr. Hanks evaluated I&M's request for approval of the Lake Trout and Mayapple PSA Projects and the Elkhart County and Sculpin PPA Projects and associated cost recovery for the Projects. He testified that affordability and reliability are critical factors the Commission should consider in new generation projects such as these, not only with regard to specific projects but also in light of the cumulative impact of all projects in a utility's generation fleet.

Regarding affordability, Mr. Hanks testified that the Clean Energy Projects will lead to a 2027 annualized net revenue requirement increase of approximately \$29.11 million, and approximately \$13.76 million of the revenue requirement will be allocated to residential customers. He noted that I&M estimates a revenue requirement increase of 2.04%, but said that I&M did not provide a residential customer bill impact for 1,000 kWh per month usage. He testified that, while the total average ratepayer impact of these projects may not be large in isolation, the overall cumulative effect of constant upward pressure on rates should always be considered. He said the concern is especially profound considering Indiana's focus on emerging energy policy, reliability, and the current state of the economy.

Mr. Hanks provided information regarding each project's local approval process and status and addressed I&M's request for the Commission to decline to exercise its jurisdiction under Ind. Code § 8-1-8.5-5(e). He recommended the Commission deny I&M's alternative request for declination of jurisdiction to exercise this statutory provision.

Mr. Hanks discussed the OUCC's concerns related to capacity accreditation for renewable generation in PJM. He testified about effective load carrying capability ("ELCC") and raised a concern that the accredited capacity provided by the Clean Energy Projects would decrease approximately 33% from their first year of operation to when Rockport Unit 1 retires.

Mr. Hanks stated that, based on its IRP, I&M is moving from only 35 MW of solar generation to more than 1,500 MW of solar generation in a short time frame of five years due to the retirement of Rockport Units 1 and 2. He said that solar generation is most effective in the summer, meaning a portfolio with a large amount of solar runs the risk of not meeting winter peaks, forcing the utility to rely on market purchases. He also noted potential challenges in acquiring the amount of wind generation targeted in the IRP.

Mr. Hanks discussed uncertainty about how PJM will change its capacity accreditation standards, stating that if PJM moves closer to a seasonal capacity construct, solar projects will have less accredited capacity during winter. He said this raises the risk that I&M will not meet its capacity reserve requirements for winter and will be forced to rely on spot purchases.

Mr. Hanks discussed the items identified in I&M's IRP Short-Term Action Plan. He said the Projects presented in this proceeding are the result of the 2022 RFP process and noted that, on March 31, 2023, I&M released another All-Source RFP for 2023 for additional capacity resource needs through 2028. He testified that the Projects proposed in this case are 250 MW more solar generation than the MW identified in the Short-Term Action Plan for the 2022 RFP. He said that the increase in the amount of solar generation requested is due to no wind capacity making it to the shortlist within the RFP process and added that renewable capacity resources are not interchangeable when planning for resource adequacy, as solar is most effective in summer and wind in winter.

Mr. Hanks testified that I&M's proposal in this case is not consistent with the Short-Term Action Plan because the Short-Term Action Plan identified the issuance of the 2022 RFP seeking 800 MW of wind and 500 MW of solar generation and the proposal in this proceeding includes approximately 750 MW of solar and no wind. He said that the IRP estimates the price of solar resources to be approximately \$80/MWh. He compared the levelized cost of energy ("LCOE") of the Clean Energy Projects in MWh to the estimated price.

Ultimately, Mr. Hanks recommended the Commission approve I&M's request for both PPAs and the request for the Mayapple PSA Project, but recommended denial of the Lake Trout PSA Project due to its inconsistency with the IRP and other project issues, including those Mr. Krieger highlighted in his testimony.

Mr. Krieger presented his analysis of I&M's process of developing its costs of the proposed PSAs and discussed interconnection costs, ratepayer responsibility for certain costs associated with the PSAs, and overall project portfolio affordability. Mr. Krieger said he did not address the impact of federal, state, and local subsidies, tax credits, or incentives granted. He testified that the primary obligation of an electric generating utility is to provide cost-efficient, used, and useful generating assets in Project approval requests and added that tax incentives are earned after an estimate is completed.

Mr. Krieger asserted that simply explaining the cost estimating process and I&M's approach to cost review are insufficient to reflect reasonable cost justification. He said that I&M needs to explain why significant cost differences are necessary, justifiable, and beneficial to their proposed power generation asset portfolio and opined that the numbers presented in Mr. Gaul's testimony lack this support. Mr. Krieger stated that I&M provided a better explanation of the PSA Projects' cost differences in discovery, but that these explanations raised additional concerns about specifications and contingencies.

Mr. Krieger said I&M is requesting to include in its Best Estimates costs to address losses below the indemnification threshold for acts, errors, and omissions that are the direct responsibility of the developer to perform. He opined that because the developer is well compensated for those responsibilities upon project completion, I&M should not be authorized to shift the risk associated with these responsibilities to ratepayers. He added that I&M has requested \$7.7 million in funds to oversee the Projects' proper completion in Project Management and Overheads funds and opined that ratepayers shouldn't be penalized if I&M and the developers fail to diligently complete their responsibilities. He recommended the Project Best Estimate be modified due to this concern.

Mr. Hanks and Mr. Krieger recommended the Commission deny any project costs in PSAs or PPAs related to UFLPA and Section 307 of the Tariff Act of 1930. Mr. Krieger said a U.S. DOC investigation is currently pending on whether certain solar panels circumvented tariffs on Chinese-made imports. He said that I&M disclosed, in response to the OUCC's discovery, that the expected supplier for the Lake Trout Project is Canadian Solar, which is involved in the DOC investigation. He added that, if there are additional costs as a result of the investigation of Canadian Solar, these costs should not be recovered from ratepayers. He also opined that, because the final decision for purchasing panels has not been made for the Mayapple Project, ratepayer recovery of any additional costs due to federal investigation for this Project should be denied, as well.

Mr. Krieger said that interconnection costs are a concern for the PSA Projects, as the interconnection costs for the PSA projects are much higher than the interconnection costs for the PPA projects. He said I&M's Feasibility and Generation Interconnection System Impact Studies performed by PJM showed interconnection costs of the PSA Projects to be 233% higher than the PPAs.

Mr. Krieger testified that interconnection costs are very difficult to estimate both at the IRP and RFP stages because several projects are proposed and not completed, and costs are highly dependent on other connected generators and any associated congestion. He said interconnection costs should be thoroughly analyzed in the IRP process and competitively bid; otherwise, the promise of low-cost renewables will be further compromised, and affordability will decline. Mr. Krieger said that eliminating the Lake Trout Project will reduce the average cost of interconnection of the Clean Energy Projects, moderate increases to rate base, and help to protect consumer affordability while allowing I&M to add reasonably priced solar generation to its portfolio. Mr. Krieger also recommended the Commission require competitive bidding and separate justifications for costs added to generation projects after selection through an RFP process.

Mr. Latham discussed I&M's proposed tax treatment for its two PSA projects and recommended the PTC be credited to ratepayers over 11 years instead of the 20-year period proposed by I&M. Mr. Hanks said Year 11 would be the final reconciling year that would

materially make both Petitioner and ratepayers whole. Mr. Lathan said that a 12th year could be added if a true-up is necessary.

Mr. Latham and Mr. Hanks recommended that both I&M and AEP's taxable income be considered when valuing PTC amounts, eliminating the possibility that Indiana ratepayers do not receive full credit because operations outside Indiana are not profitable for AEP. Mr. Hanks and Mr. Latham said the estimated PTC should be returned to ratepayers each year with any over- or under-recovery netted against the following year's estimated recovery. Mr. Latham said this proposed treatment encourages Petitioner to monetize any PTCs that are not used to offset I&M's or AEP's taxes in the twelve months following year end. Year 11 would be the final reconciling year to ensure that ratepayers recover the full amount of the PTC benefit. He added that, if year ten PTC was monetized due to a sale in year 11, a 12th year could be added if the reconciliation is material.

Mr. Blakley recommended that, if I&M's solar projects are approved, the SPR tracker should only track the return "on" plant investment of I&M's solar power projects and no other rate base elements such as materials and supplies and working capital. He said the calculation of return "on" and return "of" should be on the actual incurred costs of the solar power project investments and not the average costs of the investment. He stated that pre-tax gross-ups should not be included in carrying charges that are applied to deferred regulatory assets because there is no income tax on the deferred costs until those costs are included in rates. He also proposed that I&M not include any forecasted or estimated non-cash expensed ARO costs that reside on its balance sheet in its SPR tracker. He said the proper ratemaking treatment for ARO decommissioning cost estimates is to be included in I&M depreciation rates and net salvage calculations along with all the other existing asset decommissioning costs. He said that, at the time of retirement of the assets, the actual removal costs incurred should be charged accumulated depreciation.

7. **Intervenor's Evidence.** The CAC presented the testimony of Benjamin Inskeep, CAC Program Director, who discussed affordability of service and environmental sustainability, rate increases since 2004, and disconnection notices. He said the trend of rising electricity costs and the large number of disconnection notices and disconnections demonstrates that customers need bill relief now and added that, in the context of this proceeding, it reaffirms I&M's decision to move away from expensive coal-fired generation at its Rockport power plant and pursue a more cost-effective portfolio of replacement resources. He opined that I&M should pursue opportunities for near-term bill relief, such as by returning all PTC benefits to ratepayers as soon as possible. He suggested that I&M pursue lower-cost renewable PPAs that pass through costs to ratepayers instead of more expensive PSAs that significantly increase the cost of those resources as a result of I&M substantially increasing the revenue requirement to account for an annual rate of return. Mr. Inskeep said that I&M's plan to retire the Rockport plant and to procure a substantial amount of renewable energy this decade to replace a portion of this capacity, as identified in the Preferred Portfolio of its most recent IRP, is consistent with Indiana's electricity policy of environment sustainability.

Mr. Inskeep recommended the Commission consider the affordability of electricity bills paid by I&M residential customers, especially low-income customers, and consider environmental sustainability, consistent with HEA 1007.

Mr. Inskeep testified that there are significant differences in cost to ratepayers between I&M's Solar PSA Projects and Solar PPA Projects. He stated that, while there can be legitimate reasons that explain the differences between LCOE across solar projects, a major reason appears to be a result of I&M's proposed ratemaking differences between the PSA and PPA projects. He opined that this calls into question I&M's overall proposal in this proceeding that is more heavily weighted toward PSA projects than PPA projects. He said that this concern about the Solar PSA Projects is amplified for residential customers in particular because of the different cost allocation mechanisms that would be used for cost recovery in this proceeding. He opined that the LCOEs of the Projects call into question the fairness of the current, much smaller, and extraordinarily volatile compensation rates provided to distributed solar and small power production facilities under I&M's current tariffs.

Mr. Inskeep recommended the Commission deny the Solar PSA Projects and approve the Solar PPA Projects. In lieu of the Solar PSA Projects, he suggested that I&M pursue more cost-effective solar PPA projects and/or wind PPA projects and create one or more tariff options for distributed solar and third-party community solar.

Mr. Inskeep testified that I&M's proposal to spread the PTC benefits over a longer time period would result in a higher immediate bill impact to I&M ratepayers. He opined that affordability concerns of I&M's ratepayers today and in the near future outweigh the more speculative benefits associated with I&M's proposal ten to 20 years into the future. He stated that I&M should pass along all PTC benefits earned by the Solar PSA Projects to ratepayers as quickly as possible.

Mr. Inskeep recommended that, if the Commission approves the Solar PSA Projects, then it should direct I&M to return all PTC benefits to ratepayers over a ten-year period instead of I&M's proposed 20-year period. He also recommended that any increase in federal tax benefits not included in I&M's cost estimates, such as any bonus adders that might ultimately be realized but not fully reflected in I&M's estimates, be fully passed on to ratepayers as quickly as possible.

Mr. Inskeep noted that, though the CAC's comments on the IRP pointed out some flaws and disagreements, the CAC does not dispute that it is reasonable and prudent for I&M to close the Rockport power plant on the schedule identified and procure at least 2,100 MW of solar and wind generation and 60 MW of battery storage by 2028. However, Mr. Inskeep was concerned about high demand and low supply of wind projects in Indiana, and he urged I&M to continue efforts to procure cost-effective wind PPAs that can benefit customers and complement its solar resources.

Mr. Inskeep noted the CAC's concerns that I&M applied unduly restrictive geographic criteria in its RFP that limited potential bidders and also identified concerns regarding the RFP's requirement that projects have completed Phase 3 of MISO Definitive Planning Phase ("DPP") and have the Final DPP SIS and Network Upgrade Facilities Study and have secured Firm Transmission into PJM. He suggested that a more nuanced and flexible approach would be to allow for projects earlier in the interconnection process to still be eligible to respond to RFPs, but to score them lower in this category when evaluating these projects relative to projects that are further along the interconnection process. Mr. Inskeep recommended that I&M utilize existing

interconnection rights at its Rockport power plant for renewable energy and/or battery storage projects.

8. Petitioner's Rebuttal.

A. Mr. Lucas. Mr. Lucas testified that, in order for I&M to meet its capacity obligation in 2028, it does not have the ability to wait until all governmental policies are in place, PJM reforms are finalized, or the market changes. He explained that moving forward with I&M's plans allows I&M and the Commission the flexibility to adapt to changes in policies and in the market, while also ensuring that capacity is available to serve customers.

Mr. Lucas stated that both RFP requirements questioned by the CAC were not arbitrary and were based on an assessment of the PJM market at the time the RFP was issued. He said that, from I&M's perspective, the ability for new projects to get through the PJM interconnection process remains one of the most significant risks for not only I&M, but the region, in successfully meeting timelines for generation transition. He opined that the requirements in both the 2022 and 2023 All-Source RFP are reasonable, necessary, and prudent. Mr. Lucas explained that I&M included the Rockport interconnect as an option in the 2023 All-Source RFP because the targeted in-service date for those resources (2027) is much better aligned with the retirement of the Rockport facility.

Mr. Lucas said the OUCC's analysis comparing the Lake Trout Project to the Mayapple Project as the basis for denial of the Lake Trout Project is misguided. He said that, to the extent the Lake Trout Project should be compared to another project, it should be the next highest scoring project not selected, or the next best alternative to the Lake Trout Project, not a project that was selected from the RFP.

Mr. Lucas also disagreed with the OUCC's position that the Clean Energy Projects are not consistent with I&M's IRP Short-Term Action Plan regarding the issuance of an RFP seeking 800 MW of wind and 500 MW of solar. He said that the Short-Term Action Plan made no assumptions or commitments with respect to the RFP's outcome because that is outside the control of I&M. He noted that the Short-Term Action Plan expressly recognized this by including a step to adjust the action plan and future IRPs to reflect changing circumstances, as necessary. Mr. Lucas further explained that, in accordance with the terms of the Settlement Agreement approved by Commission in Cause No. 45546, I&M is committed to conducting All-Source RFPs to replace the Rockport capacity. While I&M can administer the All-Source RFPs, the selection of resources is dependent on the responses I&M receives from the market. He also opined that, because the price assumptions in the IRP present averages, it is reasonable to expect some resources to cost more than the average and others to cost less. He said that, if the capacity need exceeds the amount of lower cost resources available, then the demand is reasonably met by the higher cost resources.

In response to Mr. Inskeep's recommendation to deny the Solar PSA Projects, Mr. Lucas explained that, when taking into consideration all the projects selected from the 2022 All-Source RFP, the split between PSAs and PPAs results in a percentage of PPAs greater than 50 percent. He opined that there are benefits of owned or PSA projects that Mr. Inskeep fails to consider and that both I&M and the Commission have recognized the value of a portfolio that includes both PSAs and PPAs. Mr. Lucas testified that, in both the 2022 All-Source RFP (from which the Clean

Energy Projects were selected) and the 2023 All-Source RFP, I&M has requested both PSA and PPA proposals. He noted that I&M has 450 MW of wind PPAs in its portfolio today that represent approximately 90% of its clean energy resources, which were not considered by Mr. Inskeep's analysis of I&M's renewable portfolio mix of PSAs and PPAs.

Mr. Lucas addressed the affordability concerns raised by the OUCC and CAC, stating that I&M acknowledges the importance of affordability. He opined that, when taking into consideration the IRP modeling, the current PJM market for renewables, and the responses I&M received to the All-Source RFP, the Clean Energy Projects in totality represent an optimal portfolio of projects that balance reliability and resource adequacy with the lowest reasonable cost option for I&M's customers.

In response to Mr. Hanks's concerns, Mr. Lucas explained that the overall cumulative effect of I&M's resource planning decisions is assessed through the IRP process. He said the purpose of I&M's IRP is to develop a set of supply- and demand-side resources that guides how I&M generates and supplies electricity in a way that balances affordability, sustainability, and reliability. The competitive procurement process then identifies resources available in the market to satisfy the needs identified by the IRP.

Mr. Lucas stated that I&M has a clear capacity need in 2028 and opined that the proposals by the OUCC and CAC to eliminate projects from I&M's recommendations add significant risk to I&M's ability to have the capacity needed to serve its customers. He said that rejecting the Lake Trout PSA, as urged by the OUCC, or both PSAs, as urged by the CAC, will provide I&M with less flexibility and fewer options to meet I&M's need affordably and reliably for capacity.

B. Mr. Becker. Mr. Becker responded to Mr. Hanks's concern about ELCC, or accredited capacity, of solar decreasing through time, explaining that I&M accounted for the decline in solar accredited capacity in its 2021 IRP that selected solar as one of the economic resource alternatives to replace Rockport. Mr. Becker explained that the ELCC forecast assumed by I&M in the 2021 IRP used estimated ELCC values for solar resources that were lower compared to the January 2023 PJM report referenced by OUCC witness Hanks.

Also in response to Mr. Hanks, Mr. Becker testified that PJM's current capacity requirements are based on its summer peak, not winter. He stated that, from an IRP planning perspective, it was necessary that I&M ensure its Preferred Portfolio selected resources will allow I&M to meet its summer capacity requirements. He opined that Mr. Hanks's testimony fails to consider other factors that would be relevant if a winter capacity requirement were imposed by PJM, including I&M's winter load requirements, which are lower than summer, and the winter capacity value of its other resources, which may be higher.

Mr. Becker stated that, at the time the IRP was conducted, the selection of the wind resources was driven primarily by its energy economics due to the impact of the PTC. He said wind's contribution to meeting the summer reliability requirement in the 2021 IRP was limited due to its low ELCC value of approximately 15%. He said that PJM currently only has a summer peak reserve margin requirement, which was the basis for the selection of the solar resources in the 2021 IRP. He testified that, if PJM moves to a different capacity accreditation standard, the

solar resources of which I&M is requesting approval will help meet summer peak load requirements, as well as any other requirement.

Mr. Becker disagreed with Mr. Hanks's request that the Commission deny the Lake Trout Solar Project based on a comparison of the PSA's LCOE to the solar costs modeled in the IRP. He testified that all four Clean Energy Projects are needed to replace Rockport's capacity by 2028 and, if the PSA portion of the Clean Energy Projects is not approved, approximately half of the 1,000 MW total standalone solar identified in the Short-Term Action Plan to replace Rockport by 2028 would not be acquired. He stated that a Commission decision to reject one or both PSAs would limit I&M's options to obtain the resources it needs within the identified timeframe and to otherwise adapt to changing market conditions and PJM standards.

C. **Mr. Gaul.** Mr. Gaul testified that selecting projects based on price alone fails to recognize the significant development challenges that each of these projects faces in light of current supply chain, regulatory, generator interconnection queue, and local permitting challenges impacting the industry. He said the non-price factors were specifically designed to promote the selection of projects that would most reliably reach commercial operation by rewarding projects that were, for example, more mature in their development process with fewer environmental risks; those with established relationships with local communities and officials; and those with limited network upgrade risks. Mr. Gaul said the Lake Trout PSA Project scored the highest of all projects in the non-price analysis due to a variety of factors, including its positive relationship with the local community and its existing economic development agreement with Blackford County. He said the PJM interconnection process is a major schedule and cost risk for new projects given the uncertainty around the ongoing queue reform process. He testified that I&M considered projects with known or potential network upgrades near or above PJM's \$5 million threshold for "fast lane" treatment as a significant risk to project schedule. He said that any project like Lake Trout with limited known network upgrade costs was considered favorably in the scoring process by I&M's transmission interconnection subject matter experts.

Mr. Gaul discussed the tariff exposure of Canadian Solar and said that it is atypical for a developer to enter into module agreements at such an early stage in the project development process. He noted that Canadian Solar is one of the eight solar panel manufacturers operating in one of the four Southeast Asian countries of Cambodia, Malaysia, Thailand, and Vietnam that was selected to provide further information in the U.S. DOC investigation. He stated that these four Southeast Asian countries represented approximately 78% of the 28.7 gigawatts ("GW") of U.S. module imports in 2022—thus, a significant majority of United States module imports are potentially impacted by the investigation. He stated that projects that require a lengthy regulatory approval process carry additional time lag to notice to proceed ("NTP") and, thus, are less likely to execute equipment contracts at execution of the PPA or PSA. He said that most developers would not obtain lender financing to make financial deposits on equipment until conditions precedent to NTP are met, which includes regulatory approval.

Mr. Gaul noted that the DOC investigation is not intended to outlaw certain module manufacturers, and assessment of AD/CVD duties does not mean that I&M and its developers must avoid modules produced by Canadian Solar or any other producer reviewed by the DOC. Rather, he said that the outcome of the investigation and current law will determine the level of duties that must be paid to import products from certain producers, and compliance will require

paying the associated duties. He also noted that PPAs are exposed to the same risk of compliance with AD/CVD laws and disagreed with Mr. Inskeep's claim that PPAs can be a much less risky proposition for utility customers than PSAs.

In response to Mr. Krieger's concerns about indemnification, Mr. Gaul explained that relevant provisions in the PSA identify the responsible party for addressing direct or third-party claims for losses and that it is common for a large complex infrastructure project to have direct or third-party claims for losses after the project has been completed. He said that I&M includes an array of terms in the template PSA that limit I&M's exposure to these claims by explicitly identifying the developer as the party responsible for the confidential claims for a similar large-scale construction project.

Mr. Gaul responded to Mr. Krieger's contention that the Commission deny the Project Management and Overheads Contingency for both the Mayapple and Lake Trout PSA Projects. He disputed Mr. Krieger's position that the contingency proposed for these categories represents a failure of I&M to diligently complete its responsibilities, stating that this does not recognize that I&M's best estimate approximates the anticipated costs that will be incurred in the future based on I&M's knowledge and information at the time of the estimate.

In response to Mr. Krieger, Mr. Gaul explained that I&M is not seeking recovery of penalties related to violations of the UFLPA and agreed that the Commission should not approve projects in violation of these acts.

Mr. Gaul opined that the OUCC's suggestion that the Commission require competitive bidding and separate justifications for costs added to the generation project after selection would be impractical. He noted that markets change as time passes, and it can take up to a year to complete the process from bid submittal to contract execution and additional time beyond that to obtain regulatory approval.

Mr. Gaul discussed, in confidential testimony, how the LCOE values that Mr. Inskeep compares across PSA and PPA Projects are not directly comparable. He also addressed other key differences that he said meaningfully skew the comparison of LCOEs for PSAs and PPAs, which he stated are important for the Commission to consider in assessing the difference in price between the two. Mr. Gaul also responded to Mr. Inskeep's contention that PPAs can provide the same energy, capacity, and environmental attribute benefits to customers at a lower cost, stating that PSAs provide value to customers well beyond the aforementioned energy, capacity, and environmental attribute benefits included in PPAs. As an example, he cited the LCOEs for the Clean Energy PPA Projects as representing a price for the energy, capacity, and RECs over a 30-year period, which is five years shorter than the estimated useful life of the PSA projects. Under PPAs, developers retain the benefits of terminal (or end-of-life) value of these facilities, which allows the developer to lower the PPA LCOE because that value does not go to I&M or its customers. He said that, under the PSAs, I&M and its customers retain these benefits, which are not recognized in the PSA LCOE. Mr. Gaul also testified that the existing infrastructure at the sites adds considerable incremental value by providing I&M the opportunity to operate the asset for much longer than 35 years by repowering or refurbishing the facility. He said these are all important considerations that lower the LCOE for PPAs relative to the LCOE for PSAs and therefore do not allow for a one-for-one comparison.

Also in response to Mr. Inskeep, Mr. Gaul discussed the RFP requirements, which he said were intended to ensure that any projects that were fully reviewed and considered by the selection team can practically meet the design requirements, operational standards, and timing of I&M's capacity obligations and energy needs while also supporting local economic development goals of I&M where reasonable and practical.

D. Mr. Taberner. Mr. Taberner addressed the OUCC's positions that the interconnection costs for PSAs are higher in comparison to the PPAs and that interconnection costs related to PPAs and PSAs should be competitively bid. He explained that the differences in interconnection costs for the facilities in this Cause are primarily due to the different connection voltages of the Clean Energy Project PSAs and PPAs: the Lake Trout and Mayapple Clean Energy PSA Projects both connect at 345 kilovolts ("kV"), while the Sculpin and Elkhart Clean Energy PPA Projects connect at 138 kV. He presented Table BT-1R showing that the projects connecting at the same voltage level have comparable costs although each project is unique and cost estimates are specific to the nature and location of each connection request. He added that the Mayapple and Lake Trout Projects are not only connecting at a higher voltage, but also have greater generating capacity than the Elkhart County and Sculpin Projects. These factors lead to higher interconnection costs for the two PSA Projects over the two PPA Projects.

In response to Mr. Krieger, Mr. Taberner described the current process used to estimate the PJM interconnection costs and explained that I&M currently uses a competitive bidding process for interconnection projects. He said that, as projects move into the engineering and execution phases, a competitive bidding process is used to vet contractors that will perform transmission construction and in the procurement of the necessary equipment and materials. This process involves soliciting bids from a pre-qualified contractor, based on a bid package developed by AEPSC that includes the specifications, terms, and conditions for the contract. After receipt, bids are evaluated based on the contractor's safety record, price, capability, and availability. He added that AEPSC utilizes the competitive process to ensure materials and equipment for a project will be sourced from the lowest cost vendor that can meet AEPSC's expectations for quality, deliverability, and safety. Mr. Taberner said that these processes allow AEPSC to leverage its economies of scale in contracting construction work, thus assuring that projects will be built by qualified contractors at the lowest achievable cost. He said AEPSC is the final approver of all contractor invoices and change orders after review by the Project Management organization.

E. Mr. Mueller. Mr. Mueller responded to Mr. Latham's recommendation about the method by which the value of a PTC is measured and the resulting benefit provided to customers. He stated that the proposal that I&M and AEP's taxable income should be considered when valuing PTCs to be passed to customers is not based on the actual value of the PTC that I&M is able to use to offset a tax liability. Instead, Mr. Mueller said that Mr. Latham only considers the taxable income of I&M's affiliate companies when doing so produces what he believes to be a higher value for the PTC and ignores the taxable income of I&M's affiliate companies when it does not. He explained that I&M will realize the value of a PTC generated by the Clean Energy PSA Projects either by the PTC being used to offset a tax liability in AEP's consolidated federal income tax return or by the sale of a PTC to an unrelated taxpayer. He explained that, if the PTC is used to offset a tax liability in AEP's consolidated federal income tax return, I&M would realize the full value of the PTC as a reduction of the tax payment to AEP for I&M's tax liability and/or as a payment from AEP for tax credits used in the AEP consolidated tax return that exceed I&M's

tax liability. He added that if the PTC is sold to an unrelated taxpayer, I&M would realize the net proceeds of that sale.

F. Mr. Williamson. Mr. Williamson responded to Messrs. Hanks and Inskeep's position that I&M did not provide an average customer bill impact per 1,000 kWh. Mr. Williamson estimated the bill impact for a residential customer with 1,000 kWh of usage to be an increase of approximately \$3.00 based on the cost of the Clean Energy Projects and a decrease of approximately \$11.00 based on the net bill impact presented in Attachment AJW-5C, which includes the recent cost reductions associated with Rockport Unit 2.

Mr. Williamson addressed the recommendation from both the OUCC and CAC that I&M shorten the period over which PTCs should be reflected in I&M's rates to more closely match the ten-year period in which they are earned. He responded that the 20-year period proposed by I&M is not arbitrary. He posited that, under the OUCC's and CAC's proposal, the initial cost of service may be lower, but I&M's cost of service for the PSAs will increase dramatically when the PTC benefits end. He explained the Commission should consider the cost-of-service implications cash flow has on I&M's customers and opined that I&M's proposal to extend PTC benefits is within the control of the Commission.

Mr. Williamson responded to Mr. Blakely's testimony expressing that the term "average monthly rate base" is confusing, noting that the pre-tax carrying costs would be calculated based on the average monthly rate base, including net plant in-service and any deferred tax assets and liabilities related to PTCs. He opined that the deferral of pre-tax carrying costs on rate base prior to inclusion in rates is consistent with the previous ratemaking treatment approved by the Commission.

Mr. Williamson explained why he disagreed with Mr. Blakely's recommendations related to ARO expense, noting that I&M is only requesting recovery of the ARO expenses that I&M incurs related to the Clean Energy PSA Projects. He said that the sum of ARO depreciation and accretion expenses represent I&M's annual cost of service impact. For accounting purposes, the initial non-cash ARO asset and liability are equal to one another, and, over the life of the asset, the non-cash ARO asset is depreciated to zero and the ARO liability is accreted to its future or final value. He said recognizing both the non-cash ARO asset depreciation expense and the ARO liability accretion expense in cost of service over the life of an asset allows this cost to be reflected in rates while the asset is used and useful in the provision of service to customers. He said this is consistent with the ratemaking for AROs associated with current assets and current base rates approved by the Commission in Cause No. 45576.

Mr. Williamson also addressed Mr. Inskeep's testimony related to distributed generation and community solar and his recommendation that the Commission direct I&M to create new tariffs. Mr. Williamson disagreed with Mr. Inskeep's suggestion that the statutory methodology for setting compensation for Excess Distributed Generation tariffs is unfair. Mr. Williamson said that I&M's current Excess Distributed Generation Rider compensates customers at a rate of approximately \$85/MWh and rejected Mr. Inskeep's contention that the Clean Energy PSA projects are too costly. Mr. Williamson also testified that these matters, including the creation of new tariffs related to distributed generation and community solar, are outside the scope of this proceeding.

9. Commission Discussion and Findings.

A. CPCN. Ind. Code §§ 8-1-8.5-4 and 8-1-8.4-5 set forth the criteria for approval of a utility-specific generation proposal. The Commission must consider the items set forth in Ind. Code § 8-1-8.5-4 and, pursuant to Ind. Code § 8-1-8.5-5, must make a finding as to the best estimate of cost of the project based on the evidence of record, a finding whether the proposal is consistent with the statewide analysis or a utility-specific proposal, and a finding whether the public convenience and necessity requires a proposed project. We address each of these provisions below.

i. Best Cost Estimate. I&M witness Gaul presented I&M's best estimate for each of the proposed Clean Energy PSA Projects. The OUCC raised select issues regarding the best estimates, discussed above, which were addressed on rebuttal by I&M.

Substantial record evidence shows the PSA costs result from a competitive All-Source RFP process, direct arms' length negotiation, and executed transactions. The best estimates reasonably reflect change of law, supply chain disruptions, and other economic conditions, and are consistent with industry practice. Respondents to the RFP were motivated to reply with competitive bids in order to be considered for review and negotiation of an agreement. The interconnection cost component of the best estimate is reasonably based on the PJM cost estimate. The Project costs reasonably reflect industry trends and the potential cost impact of project risk and factors beyond I&M's control. The agreement terms are reasonably designed to manage industry and economic challenges while facilitating the capacity and energy resources required by I&M to meet its customers' ongoing need for electricity. The inclusion of the potential cost impact of project risk and factors beyond I&M's control in the best estimates is particularly appropriate given recent and ongoing economic conditions, as it better positions I&M, the Commission, and stakeholders to assess the PSA Projects' costs at the time the Projects are presented for pre-approval. Thus, based upon the evidence, the Commission finds that I&M has provided the best cost estimates of the PSA Projects and approves the best estimates.

ii. Ind. Code § 8-1-8.5-5(e). Ind. Code § 8-1-8.5-5(e) provides that, for a project with generating capacity of more than 80 MW, the Commission must find the estimated costs of the proposed facility are, to the extent commercially practicable, the result of competitively bid engineering, procurement, or construction contracts, as applicable. The purpose behind this statutory provision is to confirm the reasonableness and reliability of the cost estimates that form the basis for the Commission's best estimate finding and to assure that the actual costs that are incurred are, to the extent commercially practicable, based on competitive procurement.

OUCC witness Hanks recommended denial of Petitioner's request for declination of jurisdiction under Ind. Code § 8-1-8.5-5(e) and correctly noted that Petitioner did not support, or even mention, this request in its case-in-chief. Mr. Lucas responded on rebuttal that the Commission should find I&M has satisfied the statutory requirement of Ind. Code § 8-1-8.5-5(e) given the evidence provided regarding Petitioner's RFP.

Petitioner's evidence demonstrates the Clean Energy PSAs are the result of a thorough and competitive RFP process and reflect current market conditions. I&M evaluated multiple options for meeting its capacity needs and relied on an independent, qualified third party to evaluate RFP

responses and recommend projects for commercial negotiation. Thus, we deny Petitioner's alternative request for the Commission to decline jurisdiction under Ind. Code § 8-1-8.5-5(e) as unnecessary.

iii. Consistency with the Statewide Analysis or I&M's Utility-Specific Proposal. Ind. Code § 8-1-8.5-5(b)(2) requires the proposed construction, purchase, or lease of a facility for the generation of electricity be consistent with either the Commission's analysis for expansion of electric generating capacity or with a utility-specific proposal that we approve (*i.e.* the utility's IRP).

I&M's 2021 IRP projected I&M to have a clear and significant need for new capacity resulting from the retirement of Rockport Unit 1 and Unit 2 by 2028. The approximate 750 MW (ICAP) of Clean Energy Projects requested for approval in this proceeding is consistent with the renewable capacity resources identified in the IRP in 2025 through 2027, a period in which the Preferred Portfolio contains 2,100 MW (ICAP) of solar and wind resources combined. As discussed above, the OUCC and CAC both raised concerns about the proposal's consistency with its 2021 IRP.

Based on the evidence of record, we find that I&M's actions are consistent with the Short-Term Action Plan and that I&M has shown a need for the requested PSA Projects. Rejecting the Lake Trout PSA as urged by the OUCC, or both PSAs as urged by the CAC, will provide I&M less flexibility and fewer options to meet the need for capacity to replace Rockport by 2028. Approval of the PSA Projects will enable I&M to develop environmentally sustainable resources and make progress towards meeting resource adequacy requirements while providing optionality and a transition to a more diversified generation portfolio. As such, we find that each PSA Project is consistent with I&M's 2021 IRP. We further find that the record demonstrates I&M's IRP aligns with the Indiana 21st Century Task Force Report and the State Utility Forecasting Group's projections for solar additions.

iv. Ind. Code § 8-1-8.5-4. We turn now to consideration of alternative resource options as required by statute. All parties seem to generally agree that I&M has a need for significant capacity additions in a relatively short period of time with the retirement of the Rockport facility now only five years away. I&M's 2021 IRP and the testimony of Mr. Becker demonstrate that I&M has reasonably considered each of the items set forth in Ind. Code § 8-1-8.5-4. The results of I&M's 2022 All-Source RFP demonstrate the lack of wind resources that are reasonably available as a PJM capacity resource for I&M. I&M's IRP already selected 1,060 MW of natural gas combustion turbines ("CTs") and battery storage. Thus, we find I&M's Preferred Portfolio represents a balanced resource plan that aligns with Indiana's energy policy objectives and I&M's 2021 IRP objectives.

Adoption of the OUCC's recommendation would limit I&M's solar resources to 504 MW when the IRP Short-Term Action Plan calls for 2,100 MW of solar and wind. During I&M's 2021 IRP process, the majority of I&M's stakeholders expressed strong interest for a transition away from fossil-fueled resources to increased renewable resources.

The Commission has indicated in previous CPCN cases that "'least-cost planning' is an essential component of our [CPCN] law." *Indianapolis Power & Light Co.*, Cause No. 44339, at

20 (May 14, 2014) (citation omitted). We have also 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.” *Id.* (citation omitted). The Commission has emphasized that the CPCN statute “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.* (citation omitted). We have also previously stated that, “[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.” *Id.* (citations omitted).

The OUCC recommends the Commission deny the Lake Trout PSA based on a comparison to the Mayapple Project. The Lake Trout PSA is one of the projects with the highest total scores in the RFP bid evaluation process, and I&M has a clear need for this capacity. The record shows that the Lake Trout Project is a better option than the rest of the responses to the RFP. In an open, non-discriminatory RFP, it is unrealistic to posit that every bid response is going to be similarly priced, meaning that there will always be a project that is the highest cost of the selected projects. As Mr. Lucas stated, a project may be reasonably compared to the next best alternative, but it should not be denied based on its relative ranking to the other selected projects.

The isolated LCOE differential of concern to Mr. Hanks does not outweigh the risks and other potential adverse consequences of his recommendation, particularly given the alignment of the Clean Energy Project Portfolio with the IRP. The Commission finds that moving forward with Lake Trout and the other three Clean Energy Projects now maintains flexibility and optionality. The Commission further finds this path also addresses reliability by allowing I&M to move forward with the development of resources to meet the uncontested capacity need within the needed timeframe.

We further find that it is reasonable to consider the pros and cons of both PSAs and PPAs. For example, the LCOEs for the Clean Energy PPA Projects represent a price for the energy, capacity, and RECs over a 30-year period, which is five years shorter than the estimated useful life of the PSA projects. In other words, the PSAs will provide I&M’s customers with five additional years (or approximately 17% more length) of energy, capacity, and RECs. In addition, PPA developers retain the benefits of terminal (or end-of-life) value of these facilities, allowing the developer to lower PPA LCOE because that value does not go to I&M or its customers. Under PSAs, I&M and its customer retain these benefits, which are not recognized in the PSA LCOE. Existing infrastructure at the sites adds considerable incremental value by providing I&M the opportunity to operate the asset for much longer by repowering or refurbishing the facility. PSAs provide I&M the opportunity to explore future technological advancements at the solar site that would allow for optimization of performance of the facility. These are all important considerations that result in lower LCOEs for PPAs relative to LCOEs for PSAs and therefore do not allow for a one-for-one comparison. In addition, PPAs, like PSAs, also have risks relative to interconnection, supply chain, government regulations, siting, and construction.

As Mr. Lucas explained, when the utility owns the resource, it is responsible for all operating and maintenance decisions and controls important decisions regarding capital expenditures to provide for continued safe and reliable operation of the facility. The Commission has a direct and extensive regulatory relationship with I&M, but often declines to exercise jurisdiction over third parties that own assets underlying a PPA.

We also agree with I&M that the CAC's concerns related to distributed generation and community solar and recommendation that the Commission direct I&M to create new tariffs are not properly before the Commission in this Cause. We agree with I&M that new tariffs related to distributed generation and community solar would not meaningfully change the need for new capacity to replace Rockport. Accordingly, the Commission finds that the CAC's concerns regarding these matters do not justify the rejection of the Mayapple and Lake Trout Clean Energy PSA Projects.

v. **Public Convenience and Necessity.** Ind. Code § 8-1-8.5-5(b) requires the Commission find the public convenience and necessity requires or will require the proposed PSA Projects. The OUCC has recommended the Commission approve the Mayapple PSA Project, the Sculpin PPA Project, and the Elkhart County PPA Project and deny the approval of the Lake Trout PSA Project. CAC recommends the Commission deny both PSA Projects and direct I&M to pursue PPAs.

I&M has a clear need for capacity upon Rockport's retirement in 2028. I&M's Preferred Portfolio requires a total of 2,100 MW of replacement solar and wind capacity, 60 MW of battery storage, and 1,000 MW of natural gas peaking by 2028 due to the retirement of the Rockport plant. CAC does not dispute that it is reasonable and prudent for I&M to close the Rockport power plant on the schedule identified and procure at least 2,100 MW of solar and wind generation and 60 MW of battery storage by 2028. OUCC witness Hanks also acknowledges that I&M has a capacity need in 2028 given the retirement of Rockport.

The four Clean Energy Projects presented in this case for approval account for approximately 35% of the 2,100 MW renewable capacity need. The OUCC's proposal that the Commission reject the Lake Trout PSA would reduce this percentage to approximately 24% of the 2,100 MW capacity need. The CAC proposal that the Commission reject both the Lake Trout PSA and the Mayapple PSA proposals would reduce this percentage to approximately 13% of the 2,100 MW capacity need. Each of the four proposed Projects has development and construction risk.

The OUCC does not challenge the competitive procurement process or the selection process of the Clean Energy Projects from I&M's 2022 All-Source RFP. The CAC raises concerns regarding geographic limitations, interconnect status eligibility, and threshold requirements of the RFP. On rebuttal, Messrs. Lucas and Gaul established that both RFP requirements questioned by the CAC were not arbitrary and were based on an assessment of the PJM market at the time the RFP was issued.

As we have previously noted, "[a] key consideration in long-term resource planning is the need to retain maximum flexibility in utility resource decisions to minimize risks." *S. Ind. Gas & Elec. Co.*, Cause No. 45052, at 24 (Apr. 24, 2019) (citation omitted). We find I&M's proposal in this Cause preserves optionality and flexibility.

Delaying the construction of new resources, as recommended by the OUCC and CAC, would reduce future optionality, put I&M on a more compressed timeline to acquire the resources necessary to fulfill its capacity obligation, and increase risk of reliance on a limited short-term wholesale market to fill capacity and energy needs. There is no indication that the pending RFP or future RFPs will produce better or lower cost projects, and neither the OUCC nor CAC provided any evidence that there are better projects available to I&M.

Delaying implementation of projects would push an increased amount of resource development into the 2027-2028 timeframe and potentially put I&M at an increased risk of needing to rely on a limited short-term market for capacity, which would be inconsistent with Indiana's goals regarding reliability and resource adequacy.

Therefore, based on the evidence of record, the Commission finds that each of the Clean Energy PSA Projects is a reasonable and necessary addition to I&M's portfolio of generating resources necessary to meet the need for electricity within I&M's service area, while also mitigating risk through the diversification and use of an economic mix of capacity resources that preserves flexibility. We find that public convenience and necessity requires each of the proposed Projects.

vi. Conclusion. Based upon the evidence presented, the Commission finds I&M has met the requirements of Ind. Code § 8-1-8.5-5. CPCNs for I&M's development and acquisition of the Lake Trout PSA Project and for the Mayapple PSA Project through the PSA Agreements described in I&M's testimony are approved.

vii. Ongoing Review. I&M requests the Commission maintain ongoing review of the construction of the Clean Energy PSA Projects as they proceed. Neither the OUCC nor CAC witnesses opposed I&M's request.

I&M proposes to submit one consolidated report for the two Clean Energy PSA Projects subject to the protection of confidential information. The progress reports will include an update on the overall status of each project, any changes in the Project Best Estimate, and any change to a project's expected COD. These reports will be filed as a compliance filing in this docket. The first report will be filed no later than 180 days following the date of this order and at least semi-annually thereafter until the Clean Energy PSA Projects reach their CODs. I&M may also file supplemental reports if necessary. The final report will include the actual total cost of construction, the total megawatt output for the solar project, and the actual COD.

I&M proposes to present the progress reports to the Commission for review and approval as part of I&M's existing SPR filings. I&M reserves the ability to seek review of any ongoing review report outside of the annual SPR filings should circumstances warrant doing so. This flexibility allows any unexpected material developments that, in I&M's judgment, may otherwise impact I&M's ability to move forward with a project to be addressed by the Commission. As discussed by Mr. Gaul, the industry continues to be affected by supply chain disruptions and other factors. I&M has a significant near-term capacity need due to the retirement of Rockport in 2028.

The Commission finds the proposed ongoing review is reasonable and is therefore approved. The request for ongoing review will provide customers, the Commission, and other

stakeholders with a timely update on the progress of the project development and construction and ensure the costs of the Clean Energy PSAs remain reasonable. Petitioner shall initiate a subdocket in this Cause to the extent it is seeking approval of an increase to the cost of the Clean Energy PSA Projects above the best estimates approved herein.

B. Clean Energy Project and Financial Incentives. Ind. Code § 8-1-8.8-11 provides that “[t]he commission shall encourage clean energy projects by creating . . . financial incentives for clean energy projects, if the projects are found to be just and reasonable[.]” An “eligible business” is an energy utility that “undertakes a project to develop alternative energy sources, including renewable energy projects[.]” Ind. Code § 8-1-8.8-6(3). As stated above, I&M is an “energy utility.” A “clean energy project” includes “[p]rojects to develop alternative energy sources, including renewable energy projects[.]” Ind. Code § 8-1-8.8-2(2). “Solar energy” is specifically listed as one of the clean energy resources in Ind. Code § 8-1-37-4(a), thus making it a “renewable energy resource” under Ind. Code § 8-1-8.8-10. I&M is undertaking the four proposed projects to develop solar energy resources and so is eligible for the relief provided in Ind. Code § 8-1-8.8-11.

According to Ind. Code § 8-1-8.8-11, the Commission shall encourage clean energy projects by creating financial incentives for such projects, if found to be just and reasonable. While Ind. Code ch. 8-1-8.8 does not set forth specific factors the Commission should consider in determining whether a clean energy project is just and reasonable, the Commission has considered some of the factors outlined in Ind. Code chs. 8-1-8.5 and 8-1-8.7 in other cases. We have found it appropriate to consider: (1) the cost of the project; (2) the consistency of the project with Petitioner’s IRP; (3) the need for the project; and (4) competitive solicitation of the project.

We concluded above that both PSA projects are just and reasonable and reach the same conclusion regarding the PPAs, which all parties recommended the Commission approve. The evidence demonstrates I&M has a clear and uncontested need for this capacity. The proposed Clean Energy Projects are consistent with I&M’s 2021 IRP Preferred Resource Portfolio and Short-Term Action Plan. The best estimate of the cost of each PPA stems from a competitive RFP and negotiation process. The PPA costs were not challenged, and the record shows these costs are consistent with the IRP. We find the PPA cost estimates are reasonable, and each estimate is approved.

CAC witness Inskeep discussed cost allocation differences between the FAC and SPR and recommended the Commission deny the Clean Energy PSA Projects on the basis of how the costs are allocated. The direct and rebuttal testimony of Mr. Gaul explained the competitive procurement process that I&M undertook to acquire these resources and the differences amongst the resources that contribute to the differences in price. I&M’s proposal in this case is to continue the cost allocation methodologies or practices that have been approved by the Commission for current owned (e.g., PSA) and PPA resources. This results in the costs of solar PSA resources being allocated based on demand and the costs of solar PPA resources being allocated based on energy. This structure is reasonable and does not warrant the rejection of the proposed PSA Projects.

Therefore, the Commission finds that all four of I&M’s Clean Energy Projects are just and reasonable to continue to meet the long-term capacity and energy needs of I&M’s customers. Therefore, all of the proposed projects are approved as Clean Energy Projects.

i. **Accounting and Ratemaking.** We now turn to I&M's request for timely cost recovery through the SPR and FAC, along with deferral of costs incurred prior to inclusion in rates. We find these requests should be approved.

I&M requests timely cost recovery through I&M's existing SPR (or successor mechanism) for the projects I&M will acquire through PSAs. I&M requests Commission approval to add the approved return related to the Clean Energy PSA Projects to its authorized net operating income for purposes of the FAC (d)(3) test. I&M also requests timely cost recovery be administered through I&M's FAC for the costs incurred under the PPAs and approval of a new depreciation rate for the PSA Projects. I&M proposes to depreciate the PSA Projects, once they are placed in service, over a 35-year period, including estimated net salvage. I&M also proposes to extend ratemaking for PTC benefits over 20 years and requests approval of I&M's plan to monetize PTCs. I&M also requests Commission approval to establish a regulatory asset and authority to recover the Clean Energy PPA Project development costs in the SPR over a period of two years, including a pre-tax return on the unamortized balance. Finally, I&M plans to utilize the RECs from the Clean Energy Projects to benefit customers. The net proceeds from market sales will continue to be credited in ongoing FAC proceedings and the net proceeds from customer programs will be credited according to the provisions approved for such program(s).

The OUCC and CAC raised certain concerns regarding I&M's proposed accounting and ratemaking. As discussed below, we find that these concerns do not warrant the rejection of the relief sought by I&M.

ii. **PTC.** I&M has proposed a 20-year period to reflect PTCs in the ratemaking process for greater stability in cost of service for customers over the life of the PSA projects and long-term customer affordability. Under the OUCC's and CAC's proposals, while I&M's initial cost of service may be lower, I&M's cost of service for the PSAs will increase dramatically when the PTC benefits end. As demonstrated by Figure AJW-3 of Mr. Williamson's direct testimony, this is projected to cause the annual revenue requirement associated with the Clean Energy PSA Projects to increase from approximately \$63 million to approximately \$102 million in year 11. This could be significantly mitigated by adoption of I&M's proposal to reflect PTCs in its cost of service over a 20-year period. I&M's proposal supports long-term affordability and stability of I&M's cost of serving customers while increasing cash flow and reducing the risk that I&M's credit metrics will decline and result in higher cost of debt and therefore cost of service for I&M's customers. The Commission finds that I&M's proposal related to PTCs more reasonably balances benefits to customers by optimizing the value of PTCs, reasonably reduces the volatility and variability of I&M's rates, and supports lower debt costs. Therefore, I&M's proposal is approved.

The direct and rebuttal testimony of Mr. Mueller demonstrated that I&M's proposal to utilize PTCs generated by the Clean Energy PSA Projects or monetize PTCs is reasonable. He noted that Mr. Latham's recommendation that both I&M's and AEP's taxable income be considered when valuing PTCs to be passed to I&M customers is not based on the actual value of the PTC that I&M is able to use to offset a tax liability. I&M will realize the value of a PTC generated by the Clean Energy PSA Projects either by the PTC being used to offset a tax liability in AEP's consolidated federal income tax return or by the sale of a PTC to an unrelated taxpayer. If the PTC is used to offset a tax liability in AEP's consolidated federal income tax return, I&M

would realize the full value of the PTC. This value would be realized as a reduction of the tax payment to AEP for I&M's tax liability and/or as a payment from AEP for tax credits used in the AEP consolidated tax return that exceed I&M's tax liability. If the PTC is sold to an unrelated taxpayer, I&M would realize the net proceeds of that sale. As noted by Mr. Williamson, I&M's proposal is that, to the extent that a PTC has been generated and I&M has not used or sold that PTC, a deferred tax asset should be reflected in rate base. I&M's proposal is consistent and allows for I&M to provide to customers the full value it receives from the PTCs utilized in the consolidated tax return or sold to an unrelated taxpayer. For these reasons, I&M's proposal for handling the PTC is approved.

iii. Timely Cost Recovery. As summarized above, Mr. Blakley recommended that, if the Projects are approved, 1) the SPR tracker should only track the return "on" plant investment of I&M's solar power projects and no other rate base elements such as materials and supplies and working capital; 2) the calculation of return "on" and return "of" should be on the actual incurred costs of the solar power project investments and not the average costs of the investment; 3) pre-tax gross-ups should not be included in carrying charges that are applied to deferred regulatory assets because there is no income tax on the deferred costs until those costs are included in rates; and 4) I&M should not include any forecasted or estimated non-cash expensed ARO costs that reside on its balance sheet in its SPR tracker.

The record supports a finding that I&M's requested process to calculate depreciation rates, including expected useful life and net salvage estimates, and estimated ARO expenses for PSAs are reasonable and necessary to support timely recovery of the Clean Energy PSA Project costs over their expected useful life. As Mr. Williamson stated, I&M does not request authority to recover a return on the ARO non-cash asset *balances*. Rather, I&M requests recovery of the ARO *expenses* that I&M incurs related to the Clean Energy PSA Projects. ARO expense is comprised of depreciation of the non-cash ARO asset and accretion of the ARO liability, and the sum of ARO depreciation and accretion expenses represent I&M's annual cost of service impact. For accounting purposes, the initial non-cash ARO asset and liability are equal to one another. Over the life of the asset, the non-cash ARO asset is depreciated to zero and the ARO liability is accreted to its future or final value. Recognizing both the non-cash ARO asset depreciation expense and the ARO liability accretion expense in cost of service over the life of an asset allows this cost to be reflected in rates while the asset is used and useful in the provision of service to customers. This is consistent with the ratemaking for AROs associated with I&M's current base rates approved by the Commission in Cause No. 45576.

I&M did not include ARO costs in its proposed depreciation rates for the Clean Energy PSA Projects. I&M's proposed depreciation rates only include the estimated salvage value of the facilities. Mr. Blakley's concern appears to confuse the treatment of "decommissioning" costs for renewable generation assets and fossil generation assets. As Mr. Williamson testified, each Clean Energy PSA Project is constructed on land that is leased. I&M, as owner of the asset, has an obligation to remove the associated equipment and return the land to certain conditions after each project is retired. The estimated cost of this "decommissioning" is accounted for as an ARO expense, according to generally accepted accounting principles, and it is necessary to recognize this cost in I&M's ratemaking. As explained by Mr. Williamson, the sum of ARO depreciation and accretion expenses represents I&M's annual cost of service impact. I&M proposes that, as it makes future SPR filings, I&M will include the forecasted ARO expenses (ARO accretion expense

and ARO depreciation expense) in its SPR revenue requirement and reconcile to actual ARO expenses for past periods. I&M proposes to utilize the initial estimates presented in this case for ratemaking until such time as ARO estimates are updated in the future. We find that I&M's proposal reasonably recognizes the *expense* related to these balances in I&M's cost of service over the life of the associated assets. Without this proposal, the AROs (which can be significant) would be reflected in customer rates after the related asset is retired and no longer used and useful in the provision of service to customers. This ratemaking treatment is no different than the non-ARO closure costs and salvage credits that are not incurred or realized until after an asset is retired but are recognized in depreciation rates and cost of service over the life of the associated asset.

For these reasons, the Commission finds I&M's proposed accounting and ratemaking are reasonable and are therefore approved. The Commission further finds I&M's proposed modifications to the SPR tariff language should be adopted to clarify the ongoing purpose of the SPR.

iv. **PPA Project Development Costs**. PPA project development costs are reasonable and necessary to execute the long-term PPA contracts and should be fully recoverable as proposed by I&M. These costs are necessarily incurred to develop the Clean Energy PPAs. The deferral and subsequent recovery of these costs is consistent with the legislative direction in Ind. Code § 8-1-8.8-11 that utilities should be encouraged to develop Clean Energy Projects through timely cost recovery. For these reasons, I&M's proposal is approved.

C. **Ind. Code §§ 8-1-2-0.5 and -0.6**. Through Ind. Code § 8-1-2-0.5, the Indiana General Assembly established the state's policy recognizing utility service affordability for present and future generations. This legislative policy states affordability should be protected when utilities invest in infrastructure necessary for system operation and maintenance.

In HEA 1007 (codified at Ind. Code § 8-1-2-0.6), effective July 1, 2023, the Indiana General Assembly declared it is the continuing policy of the state that decisions concerning Indiana's electric generation resource mix, energy infrastructure, and electric service ratemaking constructs must consider each of five pillars of electric utility service (originally outlined in the 21st Century Development Task Force ("Task Force") report): reliability, affordability, resiliency, stability, and environmental sustainability.

As discussed by Mr. Lucas, the objectives and metrics I&M used during the IRP process to determine its Preferred Portfolio were very closely aligned with the work of the Task Force, with the primary objectives being affordability, sustainability, reliability, and resource diversification. I&M's Preferred Portfolio additions, when combined with I&M's current generation resources, directly align with Task Force findings by providing a diverse resource mix that leverages the strengths of and mitigates the weaknesses inherent in each type of generation resource.

We discussed above the importance of the four proposed Clean Energy Projects to reliability. As also discussed above, we are now only five years away from Rockport's retirement. Rejection of one or both PSA Projects would jeopardize reliability and likely lead to higher costs. Allowing I&M to move forward with its plans provides it and the Commission the flexibility to

adapt to changes in policies and in the market and better positions I&M to timely develop the capacity needed to serve customers.

Regarding affordability, I&M witness Williamson showed that the estimated rate impact specific to the Clean Energy Projects alone is reasonable and is a substantial net reduction in costs for customers. OUCC witness Hanks also recognized the bill impact of the proposed projects is not large. On rebuttal, Mr. Williamson also presented the estimated rate impact considering a holistic view of I&M's generation transformation, including the cost of the Clean Energy Projects and the recent cost reductions associated with Rockport Unit 2. This analysis shows the impact is a substantial net reduction in costs for customers. In other words, the steps I&M has taken to transition its generation fleet, including the cost of the Clean Energy Resources, has resulted in a net cost savings for I&M and its customers.

As also explained by Mr. Williamson, I&M proposes to maximize tax credit benefits by electing PTCs and to flow the benefit of these credits through rates for the benefit of current and future customers. I&M also plans to utilize RECs from the Clean Energy Projects to benefit customers through reduced cost of service.

Mr. Inskeep testified that I&M's rates for service have increased since 2004. However, as noted by Mr. Williamson, over this period, I&M has made significant investments that improve the value of service provided to customers, including: investments in lower environmental impacts of I&M's generation resources; investments necessary to support an initial 20-year extension of the Cook Nuclear Plant operating licenses, providing customers a significant amount of reliable capacity and stable, low-cost, and emission-free energy through 2034 and 2037; improved reliability and resiliency of I&M's distribution system through investments in aging infrastructure and grid modernization; and improved reliability, resiliency, and capacity of the transmission system serving I&M's customers, which also supports economic development.

The overall cumulative effect of I&M's resource planning decisions may be assessed through the IRP process, the purpose of which is to develop a set of supply- and demand-side resources that guides how I&M generates and supplies electricity in a way that balances affordability, sustainability, and reliability. The competitive procurement process then identifies resources available in the market to satisfy the needs identified by the IRP. When taking into consideration the resources identified in the IRP, the current PJM market for renewables, and the responses I&M received to the All-Source RFP, I&M's proposed Clean Energy Projects in totality represent the optimal portfolio of projects to meet I&M's capacity obligations.

The Clean Energy Projects and I&M's corresponding accounting and ratemaking proposals support affordability for I&M's customers while allowing I&M to transition its generation fleet in a way that supports environmental sustainability, reliability, resource diversity, and resource adequacy for I&M's customers. I&M's proposal to extend PTC benefits supports long-term customer affordability.

The resiliency pillar recognizes that Indiana's electric infrastructure should be appropriately invested in and provide the necessary resources for the system to adapt to changing conditions and to withstand and rapidly recover from disruptions or off-nominal events. Similarly,

the stability pillar considers the ability of the system to maintain a state of equilibrium during normal and abnormal conditions or disturbances and to deliver a stable source of electricity. Allowing I&M to move forward with the four proposed Clean Energy Projects better positions I&M to provide a resilient system and deliver a stable source of electricity, which is important to Indiana's economy.

The environmental stability pillar considers the impact of environmental regulations on the cost of providing electric utility service and demand from consumers for environmentally sustainable sources of electric generation. I&M's IRP considered both of these matters.

The Commission has considered the five pillars enumerated in Ind. Code § 8-1-2-0.6 in reaching our decision in this proceeding. The Commission finds I&M's proposals are consistent with the legislative directives.

D. Conclusion. I&M has clearly established a need for capacity. The Clean Energy PSAs and PPAs proposed in this proceeding are the result of a robust IRP and competitive procurement process and represent a reasonable, least-cost portfolio for I&M to utilize in meeting its ongoing obligation to provide adequate and reliable service and facilities consistent with Indiana energy policy, as articulated in Ind. Code §§ 8-1-2-0.5 and -0.6, Ind. Code ch. 8-1-8.5, and Ind. Code § 8-1-8.8-11. We find that the evidence presented in this proceeding supports approval of the two PSAs and the two PPAs and cost recovery proposed by I&M. The Projects will provide needed capacity, diversify I&M's supply portfolio, support reliability, provide environmental benefits, and safeguard against fuel cost volatility, while also reasonably balancing affordability of service. We find that CPCNs should be issued for the development and acquisition of the Lake Trout and Mayapple PSA Projects. We further approve each of the four Projects (Lake Trout, Mayapple, Elkhart County, and Sculpin) as a clean energy project. Finally, I&M's proposed accounting and ratemaking treatment for the Clean Energy PSAs and Clean Energy PPAs is also approved.

10. Confidential Information. On March 28, 2023, I&M filed a motion seeking a determination that designated confidential information involved in this proceeding be exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. The request was supported by an affidavit showing the designated documents comprised trade secret information within the scope of Ind. Code § 5-14-3-4(a)(4) and Ind. Code § 24-2-3-2. On April 11, 2023, the Presiding Officers issued a docket entry finding such information confidential on a preliminary basis. The parties subsequently submitted designated confidential information in accordance with this finding.

After reviewing the designated confidential information, the Commission finds all such information qualifies as confidential trade secret information pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. I&M takes reasonable steps to maintain the secrecy of the information and disclosure of such information would cause harm to I&M. Therefore, we affirm the preliminary ruling and find this information should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29, and held confidential and protected from public disclosure by this Commission.

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

1. I&M is issued certificates of public convenience and necessity for the development of the Lake Trout Project and for the Mayapple Project. This Order constitutes the certificates.
2. The Lake Trout PSA and the Mayapple PSA are each approved.
3. The Elkhart County PPA and the Sculpin PPA are each approved.
4. The Lake Trout, Mayapple, Elkhart County, and Sculpin Projects are each approved as a Clean Energy Project.
5. The Best Estimate for each of the PSA and PPAs is approved.
6. I&M's proposed accounting and ratemaking for all four Projects is approved. I&M's proposed modifications to the SPR tariff language are approved.
7. I&M's request for ongoing review of the Clean Energy PSA Projects is approved. To the extent Petitioner is seeking approval of an increase to the cost of the Clean Energy PSA Projects above the best estimates approved herein, Petitioner shall initiate a subdocket under this Cause.
8. The Confidential Information filed under seal in this Cause shall continue to be treated by the Commission as confidential and not subject to public disclosure.
9. This Order shall be effective on and after the date of its approval.

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

APPROVED: OCT 18 2023

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

**Dana Kosco
Secretary of the Commission**