

ORIGINAL

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

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE APPLICATION OF)
INDIANA MICHIGAN POWER COMPANY FOR)
APPROVAL OF A FUEL COST ADJUSTMENT FOR)
ELECTRIC SERVICE APPLICABLE FOR THE)
BILLING MONTHS OF NOVEMBER 2024 THROUGH)
APRIL 2025; FOR CONTINUED RECOVERY OF THE)
COSTS OF WIND POWER PURCHASES PURSUANT)
TO CAUSE NOS. 43328, 43750, 44034 AND 44362; FOR)
CONTINUED RECOVERY OF THE COSTS OF)
EXCESS DISTRIBUTED GENERATION PURCHASES)
PURSUANT TO CAUSE NO. 45506; FOR CONTINUED)
RECOVERY OF THE ENERGY-RELATED COSTS OF)
COGENERATION PROJECT PURCHASES AND)
DEMAND RESPONSE PROGRAMS; AND FOR)
CONTINUED RECOVERY OF NET HEDGING COSTS)

CAUSE NO. 38702 FAC 93

APPROVED: NOV 20 2024

ORDER OF THE COMMISSION

Presiding Officers:

David E. Ziegner, Commissioner

Ann S. Pagonis, Administrative Law Judge

On July 31, 2024, Indiana Michigan Power Company (“I&M” or “Applicant”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Verified Application for a Fuel Cost Adjustment for electric service to be applicable during the November 2024 through April 2025 billing months, pursuant to the provisions of Ind. Code § 8-1-2-42; for approval of I&M’s continued recovery of wind power purchase costs pursuant to Cause Nos. 43328, 43750, 44034, and 44362; for continued recovery of costs of excess distributed generation costs pursuant to Cause No. 45506; for continued recovery of the energy-related costs associated with cogeneration and demand response programs; and for continued recovery of I&M’s net hedging costs. I&M prefiled its case-in-chief on the same day.

The Indiana Office of Utility Consumer Counselor (“OUCC”) prefiled its case-in-chief on September 4, 2024. I&M prefiled rebuttal testimony on September 27, 2024.

An evidentiary hearing in this Cause was held on October 10, 2024 at 9:30 a.m. in Room 224 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Applicant and the OUCC participated in the hearing. At the hearing, the direct testimony and attachments of Applicant and the OUCC were admitted into evidence without objection.

The Commission, based upon the applicable law and the evidence of record, now finds as follows:

1. **Notice and Jurisdiction.** Proper notice of the public hearing in this Cause was published as provided by law. I&M is an Indiana corporation engaged in rendering electric utility service in the State of Indiana and is a public utility within the meaning of the Public Service Commission Act, as amended. Under Ind. Code § 8-1-2-42, the Commission has jurisdiction over changes to Applicant's fuel cost charge. Therefore, the Commission has jurisdiction over the Applicant and the subject matter of this proceeding.

2. **Applicant's Request.** In its Verified Application, Applicant seeks Commission approval to implement its proposed fuel adjustment cost during the billing months of November 2024 through April 2025 pursuant to Ind. Code § 8-1-2-42 and continued approval of I&M's ratemaking treatment of wind power purchase costs. Applicant also requests approval of ratemaking treatment for excess distributed generation costs pursuant to Cause No. 45506, approval of ratemaking treatment for energy-related costs associated with cogeneration and demand response programs, and approval of ratemaking treatment of net hedging costs. Applicant also requests the Commission find that the applicable provisions of Ind. Code § 8-1-2-42 are satisfied.

3. **Source of Fuel and Coal Market Strategy Pricing.** As a condition of receiving its requested fuel adjustment cost, Applicant must demonstrate compliance with the statutory requirements of Ind. Code § 8-1-2-42(d)(1) by making every reasonable effort to acquire fuel and generate or purchase power, or both, so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible. Applicant's witness Kimberly K. Chilcote summarized Applicant's long-term coal supply agreements and described I&M's coal purchasing strategy. She discussed the delivery of actual tons delivered from the Powder River Basin and the Central Appalachian coal during the reconciliation period (December 2023 through May 2024) and how it affected the actual cost of coal delivered to the Rockport Plant as compared to forecasted. Ms. Chilcote explained how delivered coal prices from all sources have increased during the reconciliation period (December 2023 through May 2024). Ms. Chilcote also explained how transportation transloading costs increased during the reconciliation period. Applicant's witness Todd A. Johnston discussed the activity in the PJM regional transmission organization market during the reconciliation period, including the sustained low-price trend resulting from mild weather and abundant natural gas supply. Mr. Johnston further explained how I&M utilized commitment strategies in support of testing, managing the coal inventory, and for near-term economics. Applicant's witness Keith A. Steinmetz described the major nuclear fuel contracts and actions taken to minimize I&M's nuclear fuel costs.

OUCG witness Gregory T. Guerrettaz testified about the cost of nuclear fuel and coal. He noted that the projected cost of transloading doubled during this FAC period, but I&M had negotiated new rail rates with Union Pacific Railroad for the future, which will provide a good, stable rate for several years.

With regard to I&M's exposure to market prices, Mr. Guerrettaz explained his understanding that the level of fossil fuel generation utilization was primarily the result of projected PJM market prices versus the offer price of Rockport Unit 1. He noted that I&M's nuclear generation has been and will continue to be low-cost must-run baseload generation, and that I&M will be entering into new nuclear leases over the next six months. Mr. Guerrettaz also

recommended that Applicant continue to provide all new Nuclear Fuel Leases, bid results, and invoices related to the next fuel batches when workpapers are provided.

Mr. Guerrettaz also described pricing strategies I&M used to continue to address inventory issues. While I&M did not utilize coal decrement/increment pricing during this period, Applicant did make a coal contract reduction payment to reduce its coal purchase requirement from a Powder River Basin coal supplier, which payment was charged to a 151 coal inventory account. He concluded that I&M's costs to acquire fuel, generate electricity, and purchase power were reasonable. Mr. Guerrettaz recommended approval of the fuel cost adjustment factor, subject to the recalculated earnings test and proration between I&M's previous and current rates, and recommended that Applicant submit further documentation related to Nuclear Fuel Leases and future earnings tests at the time when workpapers are provided.

OUCG witness Michael D. Eckert testified that I&M was actively managing its coal purchases and coal inventory. He recommended that I&M update the Commission on its 2024 projected coal burn and coal purchases. Mr. Eckert recommended approval of I&M's proposed fuel cost factor as recalculated and confirmed by Mr. Guerrettaz; that the Commission require Applicant to provide the Commission information on how it proposes to address its coal inventory; and that I&M provide the calculation inputs of coal decrement or increment pricing.

Applicant's evidence demonstrates that it has made every reasonable effort to obtain available fuel or power as economically as possible. No party presented any evidence to the contrary. Based on the evidence presented, as indicated here and further below, the Commission finds that Applicant is endeavoring to acquire fuel for its internal generation, or purchase power, so as to provide electricity at the lowest fuel cost reasonably possible.

4. Other Activities Impacting the Fuel Adjustment Charge Factor. Applicant's witness Bryan S. Owens testified that the FAC factor presented in this proceeding reflected cogeneration, distributed generation, demand response, and hedging activity, as previously authorized by the Commission in Cause Nos. 38702 FAC 92 and 44696. OUCG witness Michael D. Eckert said that I&M has complied with the Settlement Agreement in Cause No. 43328 and provisions of the Wind Purchase Power Agreement. We agree and find that I&M's treatment of cogeneration, distributed generation, demand response, hedging activity, and wind power purchases should be approved as proposed.

5. Operating Expenses. Ind. Code § 8-1-2-42(d)(2) requires the Commission to find that increases in a utility's fuel cost have been offset by decreases in other operating expenses. Applicant's operating expenses excluding fuel costs for the 12-month period ended May 31, 2024, in the amount of \$1,137,822,000, as reflected on Applicant's Exhibit 1, Schedule 1, Column 9, Line 37, of Attachment 1-F, are more than the corresponding amount determined in Applicant's last base rate order (Cause No. 45933) of \$1,044,127,000 by an amount of \$93,695,000. Applicant's filing demonstrates that I&M's increase in fuel costs has not been offset by decreases in other operating expenses. We find that I&M is in compliance with the statutory requirements of Ind. Code § 8-1-2-42(d)(2).

6. Return Earned. Applicant's witness Dona R. Seger-Lawson explained that pursuant to the Commission's May 8, 2024 Order in Cause No. 45933 (the "45933 Order"), I&M is authorized to earn an electric operating income of \$330,990,350. That amount (when adjusted for Cause Nos. 45245 and 45933) results in an authorized level for the 12 months ended May 31, 2024 of \$332,211,000. According to Applicant's Exhibit 1, Attachment 1-F, Schedule 1, for the 12 months ended May 31, 2024, I&M earned an actual jurisdictional net operating income of \$326,198,000. Ms. Seger-Lawson testified that, as a result, I&M's actual return was less than its authorized return for the most recent 12-month period and the sum of the differentials for the relevant period is also less than zero. She said this means that the Commission should find that Ind. Code § 8-1-2-42(d)(3) ("Section 42(d)(3)") is satisfied.

OUCC witness Gregory T. Guerrettaz's testimony reviewed I&M's compliance with the operating expense and earnings tests. In this case, the OUCC made two recommendations with respect to the Section 42(d)(3) earnings test. First, Mr. Guerrettaz recommended that the earnings test be calculated by prorating the two base rate orders that were in effect for the 12-month period ending May 2024; and second, he recommended that the earnings test also be calculated to include the earnings of a new, sizeable retail customer. He also recommended that Applicant re-submit the earnings test for FAC 93 results and provide the update in the FAC 94 earnings test results. As support for his recommendations, Mr. Guerrettaz testified that in other FAC cases, utilities had prorated their earnings test calculations, and the Commission had approved proration.

I&M witness Seger-Lawson disagreed with these recommendations based on the plain language of Section 42(d)(3) and the Commission's order in Cause No. 37712, a generic FAC Order dated June 18, 1986 (the "37712 Order"). She noted that the plain language of Section 42(d)(3) states that the authorized return to be used for earnings test purposes is "the return authorized by the Commission in the last proceeding in which basic rates and charges of the electric utility were approved." She argued that the statute does not mention proration or using returns prior to the return authorized in the last proceeding. She stated that the I&M's earnings test calculations in this FAC 93 comport with this statutory directive; for earnings test purposes, Applicant used the return authorized in the last proceeding in which basic rates and charges of the electric utility were approved, i.e., the 45933 Order.

Ms. Seger-Lawson further stated that the Commission addressed this issue in the 37712 Order. She said that in the 37712 Order the Commission concluded that proration for earnings test purposes is not appropriate considering how the Section 42(d)(3) earnings test should be implemented. She said that in the 37712 Order the Commission concluded that the most recent order should be used to determine earnings allowed in an FAC application, and further said that utilities may use the most recent order in effect for the 12-month analysis period used in their FAC application. She testified that Applicant's earnings test calculations in this FAC 93 follow the requirements of the 37712 Order.

Considering I&M's arguments regarding whether Ind. Code § 8-1-2-42 addresses proration and the 37712 Order, we note that the 37712 Order that I&M relies on was issued by the Commission on June 18, 1986, which was before Ind. Code § 8-1-2-42 was amended in 1995. Because the 37712 Order contemplates a version of Ind. Code § 8-1-2-42 that has since been updated, we do not find the 37712 Order to be instructive or applicable in the present Cause.

Further, the 1995 amendment included the addition of the earnings bank in Ind. Code § 8-1-2-42.3, which establishes a “relevant period” over which the cumulative over and under earnings are compared. The earnings bank was added to provide a more balanced or symmetrical approach to evaluating a utility’s earnings by moving from a snapshot test (the last 12 months only) that was potentially more punitive to the utility to a “banking” approach that uses a summary of snapshots test (five years of results) that is less punitive as it incorporates cumulative results over an extended time horizon.

In an effort to support the statutory revision’s more symmetrical or balanced approach in the FAC earnings test application, it has become Commission practice to require utilities to prorate their authorized net operating income in FAC proceedings. *See e.g. N. Ind. Pub. Serv. Co.*, Cause No. 38706 FAC 127, at 12-13 (IURC July 22, 2020) (prorating the authorized earnings between the utility’s most recent rate case in Cause No. 45159 and its prior rate case in Cause No. 44688) and *Indianapolis Power & Light Co.*, Cause No. 38703 FAC 123, at 8 (prorating the authorized earnings between the utility’s most recent rate case in Cause No. 45029 and its prior rate case in Cause No. 44576). I&M itself has been subject to that requirement. In Cause No. 38702 FAC 85, we ordered I&M to report the authorized earnings level applicable to the earning period in that Cause (June 1, 2019 through May 31, 2020) on a pro-rated basis to account for the implementation of I&M’s new rates and charges in Cause No. 45235 during that period. *Ind. Mich. Power Co.*, Cause No. 38702 FAC 85, at 4 (IURC Sep. 23, 2020).

Prorating a utility’s authorized net operating income supports the concept of symmetry by allowing an aligned comparison of the utility’s actual and authorized earnings. Under I&M’s proposal, the rates from the 45933 Order would apply to the entire 12-month period of review despite the rates approved in the 45933 Order having been in effect for only four of the 365 days. We do not find a comparison of I&M’s actual revenue over a 12-month period to a rate that was in effect for only four days to be aligned or reasonable.

Therefore, we find that I&M shall prorate the application of the new rates from the 45933 Order, recalculate its earnings test subject to such proration, and recalculate the resulting fuel factor. I&M shall submit the recalculated factor within 7 days from the date of this Order. The OUCC will then have 7 days to review the revised calculations and file any objections. The FAC factor in effect on the date of this Order shall continue until the Commission’s Energy Division has reviewed and approved I&M’s updated calculations.

7. Estimating Techniques. I&M’s overall weighted average fuel cost estimating error during the months of the reconciliation period of December 2023 through May 2024 was an overestimation of approximately six percent. I&M’s witness Owens noted that the primary driver of the higher than forecasted costs during the reconciliation period were lower than forecasted Inter-System Sales credits. I&M projected its fuel costs for the billing months of November 2024 through April 2025. I&M’s filing demonstrates that the estimates of I&M’s prospective average fuel costs for the projected period are reasonable after taking into consideration the difference between I&M’s projected and actual fuel cost for the reconciliation period of December 2023 through May 2024. No party presented any evidence to the contrary. Based on the evidence, we find that Applicant’s estimating techniques are reasonable and its estimate of fuel costs for November 2024 through April 2025 should be accepted.

8. Wind Power Purchases. Applicant's witness Shelli A. Sloan testified in support of I&M's request for approval of ratemaking treatment for costs related to I&M's wind power purchases. Ms. Sloan testified that I&M is projected to receive energy from the Fowler Ridge phase one and phase two wind farms, the Wildcat wind farm, and the Headwaters wind farm. OUCC witness Eckert testified that he reviewed the settlement agreement and subsequent Order in Cause No. 43328 and that I&M has forecasted the costs of wind power that it will be incurring in the future by using the cost per MWh from the Wind Power Purchase Agreements and has identified the wind power MWhs and costs on separate line items. Public's Exhibit 2 at 2. I&M's wind purchases are shown consistent with the Commission's Order in Cause No. 38702 FAC 63, and inclusion of these costs conforms to the Commission's November 28, 2007 Order in Cause No. 43328, the January 6, 2010 Order in Cause No. 43750, the September 21, 2011 Order in Cause No. 44034, and the November 25, 2013 Order in Cause No. 44362. Accordingly, the record supports, and the Commission so finds, that the wind power purchase costs reflected in I&M's filing are reasonable and the Commission therefore approves the ratemaking treatment of such costs.

9. Fuel Cost Adjustment Charges. Attachment 1-C to Petitioner's Exhibit 1, sets forth I&M's actual incurred fuel costs for the reconciliation period. I&M's fuel costs for the reconciliation period were over-recovered, in the amount of \$1,579,859, based upon projected fuel costs for those months previously approved by the Commission.

Applicant's total estimated cost of fuel for the billing months November 2024 through April 2025 is \$152,923,852 and its total estimated sales are 10,353,560 MWhs. I&M's estimated cost of fuel, as indicated on Applicant's Exhibit 1, Attachment 1-B, Schedule 1, line 26, is therefore 14.770 mills per kWh. Combining the variance factor with the estimated per kWh cost of fuel, the per kWh increase amount resulting from Ind. Code § 8-1-2-42(d)(3) and subtracting the base cost of fuel in the 45933 Order, results in a proposed total fuel factor of 1.584 mills per kWh.

In accordance with the base cost of fuel approved by the Commission in the 45933 Order and the evidence on the cost of fuel presented in this proceeding, we find Applicant is authorized to apply a fuel cost adjustment of 1.584 mills per kWh to Applicant's Indiana retail tariffs for the billing months following approval through April 2025 subject to modification by any recalculation submitted in compliance with Section 6 above. Pending review and approval of any required modification related solely to the directive of Section 6, the typical residential bill for a customer using 1,000 kWh per month would increase by \$3.69 or 2.30% compared to the factor approved in Cause No. 38702 FAC 92 (excluding taxes).

10. Required Reporting. I&M's FAC filing continues to utilize the semi-annual filing practice and such practice was unopposed; accordingly, the Commission approves a fuel cost factor for a six-month period. However, as required by Ind. Code § 8-1-2-42(c), the OUCC should perform a quarterly review of I&M's books and records pertaining to the cost of fuel and report to the Commission by approximately November 30, 2024. Applicant has agreed to cooperate and provide reasonable support in the OUCC's fulfillment of this requirement.

In addition, consistent with the OUCC's recommendations, Applicant should provide any communications regarding events going forward impacting coal inventory, and Applicant should continue to provide all new Nuclear Fuel Leases, bid results, and invoices related to the next fuel batches at the time when workpapers are provided.

11. Confidential Information. On July 31, 2024, I&M filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information in this Cause, which was supported by affidavit showing that certain information to be submitted to the Commission was trade secret information as defined in Ind. Code § 24-2-3-2 and should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. In a Docket Entry dated August 28, 2024, the Presiding Officers found the information should be held confidential on a preliminary basis. After review of the information and consideration of the affidavit, we find the information is trade secret information as defined in Ind. Code § 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, and shall be held as confidential and protected from public access and disclosure by the Commission.

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

1. I&M shall prorate the application of the new rates from Cause No. 45933 for the FAC period in this Cause, recalculate its earnings test subject to such proration, and recalculate the resulting fuel factor within 7 days of the date of this Order. The OUCC will then have 7 days to review the revised calculations and file any objections. The FAC factor in effect on the date of this Order shall continue until the Commission's Energy Division has reviewed and approved I&M's updated calculations.

2. I&M's ratemaking treatment for the cost of wind power purchases pursuant to the Commission's Orders in Cause Nos. 43328, 43750, 44034, and 44362 is approved.

3. I&M's ratemaking treatment for cogeneration, distributed generation, demand response, and hedging activity pursuant to the Commission's Orders in 44696, 45506, and 38702 FAC 92 is approved.

4. The information filed by Applicant in this Cause pursuant to the Motion for Protection and Nondisclosure of Confidential and Proprietary Information is deemed confidential pursuant to Ind. Code § 5-14-3-4, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

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

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

APPROVED: NOV 20 2024

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

**Dana Kosco
Secretary of the Commission**