

**ORIGINAL**

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

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**VERIFIED PETITION OF INDIANA )**  
**MICHIGAN POWER COMPANY (I&M) FOR (1) )**  
**APPROVAL OF AMENDMENTS TO THE )**  
**SOLAR RENEWABLE ENERGY PURCHASE )**  
**AGREEMENT (PPA) CONCERNING THE )**  
**ELKHART COUNTY SOLAR PROJECT ) CAUSE NO. 46085**  
**APPROVED IN CAUSE NO. 45868; AND (2) )**  
**RECOVERY OF THE AMENDED PPA COSTS, ) APPROVED: OCT 09 2024**  
**INCLUDING PROJECT DEVELOPMENT )**  
**COSTS, PURSUANT TO THE ACCOUNTING )**  
**AND RATEMAKING AUTHORIZED IN CAUSE )**  
**NO. 45868. )**

**ORDER OF THE COMMISSION**

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

On June 7, 2024, Indiana Michigan Power Company (“I&M” or “Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) initiating this Cause. Also on June 7, 2024, I&M filed its prepared testimony and exhibits constituting its case-in-chief, as well as supporting workpapers.

On August 2, 2024, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed testimony constituting its case-in-chief. I&M filed its notice of intent not to file rebuttal testimony on August 14, 2024.

The Commission conducted an evidentiary hearing in this Cause on August 28, 2024, at 10:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the OUCC appeared and participated in the hearing by counsel and the evidence and testimony of Petitioner and the OUCC 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. I&M is also an “eligible business” as that term is defined in Ind. Code § 8-1-8.8-6. Further, the Commission may establish financial incentives to encourage clean energy projects pursuant to Ind. Code ch. 8-1-8.8, approve certain fuel costs pursuant to Ind. Code § 8-1-2-42, and amend its prior orders pursuant to Ind. Code § 8-1-2-72. I&M is subject to the jurisdiction of the Commission in the manner and to the extent provided by the Public Service

Commission Act, as amended, and other pertinent Indiana laws. 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 in Indiana and Michigan that are in service and used and useful in the furnishing of such electric service to the public.

I&M supplies electric service to approximately 482,000 retail customers in northern and east-central Indiana and 133,000 retail customers in southwestern Michigan. I&M’s Indiana service area covers approximately 3,200 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.

**3. Cause No. 45868.** In Cause No. 45868, I&M presented to the Commission for approval of four projects, including the solar renewable energy purchase agreement (“PPA”) between I&M and Savion, LLC (“Savion”) concerning the Elkhart County Solar Project. In the final order in Cause No. 45868 (the “45868 Order”), the Commission found that entering into the Elkhart County Solar Project PPA was consistent with I&M’s 2021 Integrated Resource Plan (the “2021 IRP”) and the 2021 IRP’s Short-Term Action Plan, which calls for 2,100 megawatts (“MW”) of solar and wind as part of the Preferred Portfolio to meet capacity and energy requirements.

The Commission also found that the Elkhart County Solar Project was an eligible “clean energy project” for the purposes of Ind. Code ch. 8-1-8.8 and authorized full recovery of the purchase power costs through the Fuel Cost Adjustment Rider (“FAC”), or successor mechanism, over the entire 30-year term pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, without regard to the Ind. Code § 8-1-2-42(d)(1) test or other FAC benchmarks. The Commission further authorized project development costs associated with entering into the Elkhart County Solar Project PPA to be deferred in a regulatory asset for recovery through the solar power rider (“SPR”).

**4. Relief Requested.** I&M requests the Commission approve: (1) amendments to the PPA between I&M and Savion concerning the Elkhart County Solar Project approved in Cause No. 45868 (the “Amended Elkhart PPA”); and (2) recovery of the Amended Elkhart PPA costs, including incremental project development costs, pursuant to the same accounting and ratemaking authorized in Cause No. 45868.

**5. Statutory Framework.** 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 reasonable and necessary is eligible for Commission-approved financial incentives, including timely recovery of costs. Ind. Code § 8-

I-2-42(a) (“Section 42(a)”) also authorizes rate adjustment mechanisms for the recovery of costs incurred in the provision of retail service.

**6. Evidence Presented.**

**A. Petitioner’s Case-in-Chief.**

**i. Andrew J. Williamson.** Mr. Williamson, I&M’s Director of Regulatory Services, explained the status of the projects approved in Cause No. 45868 and provided an overview of the Amended Elkhart PPA. He testified that the Elkhart County Solar Project is a clean energy project that will be located in Indiana and will produce 100 MW of solar generation. I&M will purchase the capacity, energy, and renewable energy certificates (“RECs”) once the Elkhart County Solar Project is operational. The Amended Elkhart PPA modifies the price I&M will pay per MW-hour for the energy produced from the Elkhart County Solar Project and revises the commercial operation date (“COD”). Mr. Williamson testified that the contract price increase is consistent with similar bids received from the 2023 all-source request for proposals (“RFP”). The COD has been revised from December 31, 2025 to May 31, 2026.

He testified that the Amended Elkhart PPA will provide needed capacity and energy that is consistent with the Preferred Portfolio in I&M’s 2021 IRP and is an important step in replacing the Rockport facility by the end of 2028. He said that I&M’s vision for the future remains consistent with the Five Pillars of reliability, affordability, resiliency, stability, and environmental sustainability codified in Ind. Code § 8-1-2-0.6. Mr. Williamson explained how the objectives and metrics that I&M used during the 2021 IRP process to determine the Preferred Portfolio were very closely aligned with the Five Pillars. He opined that the Amended Elkhart PPA remains a critical element in implementing the Preferred Portfolio and that the project is in the public interest.

Mr. Williamson testified that I&M has clearly established a need for capacity as recognized by the Commission in its original approval of the Elkhart County Solar Project PPA and as supported by I&M’s 2021 IRP. He stated that the Amended Elkhart PPA is competitive and continues to represent a reasonable, least-cost option for I&M to utilize in meeting its ongoing obligation to provide adequate and reliable service and facilities.

**ii. Timothy B. Gaul.** Mr. Gaul, Director of Regulated Infrastructure Development for American Electric Power Service Corporation (“AEPSC”), supported I&M’s request for approval of the Amended Elkhart PPA. He testified that the price and terms for the amended PPA remain competitive compared to alternatives in the market, and the project has achieved a level of maturity that provides greater assurance that it will reach its COD and ultimately provide value to I&M’s customers. Mr. Gaul sponsored the public and confidential versions of the Amended Elkhart PPA as Attachment TBG-1 and TBG-1C, respectively.

Mr. Gaul explained that the Amended Elkhart PPA reinitiates I&M’s condition precedent requiring regulatory approval for the amendment and shifts the COD from December 31, 2025 to May 31, 2026. He further described the confidential changes, including the \$/MWh contract rate, in the Amended Elkhart PPA when compared to the Elkhart County Solar Project PPA.

Mr. Gaul testified that the Amended Elkhart PPA price is consistent with current market pricing for similar facilities in PJM based on a review of current bids in the 2023 All-Source RFP and commonly used industry benchmarking resources. He also stated that the Amended Elkhart PPA price compares favorably to other industry sources AEP commonly uses for commercial price benchmarking, including the most recent LevelTen Energy Q1 2024 North American PPA Price Index.

He opined that the estimated costs of the Amended Elkhart PPA are reasonable and competitive. He also stated that the energy to be obtained through the Amended Elkhart PPA remains reasonably priced compared to other alternatives available in the market.

**iii. Mark A. Becker.** Mr. Becker, Managing Director of Resource Planning for AEPSC, explained that the Amended Elkhart PPA is reasonable and necessary to meet I&M's capacity needs during the timeframe that this resource would be added to the system and that the price of the amended PPA is still consistent with I&M's 2021 IRP. He noted that, in 2024, the Preferred Portfolio adds 314 MW of short-term purchases to meet I&M's projected capacity need. The Preferred Portfolio will add 800 MW of nameplate wind capacity and 500 MW of nameplate standalone solar capacity by 2026. In 2027, 500 MW of additional nameplate standalone solar capacity will be added, along with 300 MW of nameplate solar coupled with 60 MW of nameplate storage. In 2028, 750 MW of simple-cycle combustion turbine capacity and 255 MW of battery storage will be added. He testified that the Amended Elkhart PPA is still consistent with the need for capacity demonstrated in Cause No. 45868, in which the Elkhart County Project PPA was originally approved.

Mr. Becker explained that the amount of solar capacity being acquired through the Amended Elkhart PPA is consistent with the amount of solar added in the Preferred Portfolio and I&M's current capacity needs. He stated that the Amended Elkhart PPA's operational characteristics are consistent with the solar resources selected in the 2021 I&M IRP. He explained how the Amended Elkhart PPA's levelized cost of energy ("LCOE") compares to the LCOEs of the IRP solar resources selected in the 2021 I&M IRP.

**iv. Edward J. Locigno.** Mr. Locigno, Manager of Regulatory Analysis and Case for AEPSC, supported I&M's request for approval of the Amended Elkhart PPA and the continued authorization of timely recovery of costs through the FAC and the incremental project development costs as originally approved in Cause No. 45868. He sponsored the public and confidential versions of the Elkhart Customer Rate Impact as Petitioner's Exhibit 4, Attachment EJL-1 and EJL-1C.

He discussed the confidential estimated incremental rate impact of the Amended Elkhart PPA for I&M's Indiana customers and explained that the estimated incremental bill impact for a residential customer with 1,000 kilowatt-hours ("kWh") of usage per month would be an increase of approximately \$0.14 based on the cost of the Amended Elkhart PPA.

He explained that, since November 2023, I&M has incurred approximately \$63,000 for development of the Amended Elkhart PPA through April 2024. He stated that, as the Commission authorized I&M in Cause No. 45868 to defer costs until all conditions precedent and other applicable contract terms are met and final, I&M believes it may continue to defer the costs

associated with the Amended Elkhart PPA. To the extent necessary, I&M requests that the Commission authorize it to continue to recover these costs in the same manner as authorized in Cause No. 45868.

**B. OUCC's Evidence.** Derek J. Leader, Utility Analyst in the OUCC's Electric Division, testified that he evaluated I&M's request for the Commission to approve amendments to the Elkhart County Solar Project PPA approved in Cause No. 45868 and the recovery of associated costs. He explained the confidential changes in price, agreeing with I&M's calculations that a residential customer using 1,000 kWh will experience an approximate \$0.14 incremental increase in their monthly bill. He stated that this still represents the lower end of the pricing spectrum for solar projects available to I&M.

Mr. Leader testified that the Amended Elkhart PPA price is consistent with the current market prices for solar projects based on I&M's 2023 All-Source RFP. He reviewed the annual LCOE Report issued by Lazard for 2024 and confirmed that the levelized cost of solar utility projects is between \$29 and \$92 per MWh. Mr. Leader opined that the Amended Elkhart PPA's price compares favorably to the prices in the Lazard report and the pricing included in I&M's 2021 IRP.

Mr. Leader recommended that the Commission approve the Amended Elkhart Project PPA as filed in this case. He said that his analysis confirms the price under the Amended Elkhart PPA is consistent with the IRP and current market conditions. He also noted that I&M's need for this capacity continues to be consistent with the 2021 IRP and Commission findings.

## **7. Commission Discussion and Findings.**

**A. The Amended PPA Remains Just and Reasonable.** Under 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. Ind. Code ch. 8-1-8.8 does not set forth specific factors the Commission must consider in determining whether a clean energy project is just and reasonable. The Commission has, however, considered some of the factors in Ind. Code chs. 8-1-8.5 and 8-1-8.7 in similar cases. Therefore, in determining whether an amended PPA is just and reasonable, we have found it appropriate to consider the following factors: (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.

Mr. Gaul described the confidential reasons the Elkhart PPA was amended. He also discussed the confidential events that led to the execution of the Amended Elkhart PPA.

The evidence of record reflects that the Amended Elkhart PPA remains consistent with I&M's 2021 IRP. Mr. Becker presented Confidential Figure MAB-3 and explained that the figure shows the Amended Elkhart PPA LCOE compares favorably to the respective IRP Tier 1 and Tier 2 Solar LCOEs. This indicates that the Amended Elkhart County PPA and assumed IRP solar resources are consistent from a cost perspective. Pet. Ex. 3 at 10. He concluded that the Amended Elkhart PPA is consistent with the 2021 IRP Preferred Portfolio from the type of capacity needed as well as from a price and operational perspective. He also stated that this PPA

remains necessary for I&M to meet its capacity requirements in an affordable, reliable, and sustainable manner. We agree.

The evidence of record in this Cause supports a finding that the Amended Elkhart PPA remains competitively priced and that the energy to be obtained from the Amended PPA remains reasonably priced compared to alternatives available in the market. Based on the evidence of record, the Commission finds the price for energy and capacity produced by the Amended Elkhart PPA remains reasonable for a project of this nature and scope. Accordingly, the Commission finds that I&M has provided the best cost estimate and the Project remains a just and reasonable clean energy project under Ind. Code § 8-1-8.8-11, and the Amended Elkhart PPA is therefore approved.

**B. Accounting and Ratemaking.**

**i. Timely Cost Recovery.** Mr. Locigno testified that, in this proceeding, I&M proposes that the Amended Elkhart PPA continue to be treated in the same manner as approved by the Commission in the 45868 Order, consistent with Ind. Code § 8-1-2-42(a). Mr. Leader of the OUCC testified that no changes to Petitioner’s proposed accounting and ratemaking treatment are warranted based on the Amended Elkhart PPA.

When we approve a PPA under Ind. Code § 8-1-8.8-11, we must determine that the PPA is in the public interest and is reasonable over its term. We find that, based on the evidence of record, the rates set forth in the Amended Elkhart PPA are reasonable and in the public interest, and I&M should be authorized to recover the Amended Elkhart PPA costs throughout the full term of the Amended PPA through its FAC pursuant to Ind Code § 8-1-8.8-11 in the manner Petitioner proposed. Consistent with our finding in the 45868 Order, we further find that Petitioner’s recovery of the costs of the Amended Elkhart PPA should not be subject to the requirements of Ind. Code § 8-1-2-42(d) or other comparable tests or benchmarks.

**ii. Incremental PPA Project Development Costs.** In the 45868 Order, we found that PPA project development costs are necessarily incurred. The deferral and subsequent recovery of these costs are 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. Mr. Locigno testified that I&M has incurred incremental project development costs for the amendment, and the OUCC did not oppose the recovery of those costs. For the same reasons we granted Petitioner’s request to defer expenses as a regulatory asset in the 45868 Order, we grant Petitioner’s request to defer the incremental expenses incurred to enter into the Amended Elkhart PPA through the same regulatory asset.

**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 enumerated in the statute: reliability, affordability, resiliency, stability, and environmental sustainability.

In the 45868 Order, we determined that the Elkhart County Solar Project 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.

Mr. Williamson discussed each of the Five Pillars of Ind. Code § 8-1-2-0.6. He testified that the Amended Elkhart PPA is necessary to provide reliable capacity and energy to replace the capacity needs related to the retirement of Rockport. In addition, since the execution of the original Elkhart County Solar Project PPA, the developer has achieved key milestones in the development of the project, including an executed interconnection agreement and key local approvals. The maturity of the project reduces the ongoing development risk for I&M's customers. Mr. Williamson discussed confidential details regarding the levelized cost of energy to support affordability and noted that the rate impact is expected to be \$0.14 for a customer using 1,000 kWh per month. Regarding resiliency and stability, he stated that this generation resource will augment the adequacy of I&M's electric utility service because it supports I&M's effort to fulfill the electrical demand requirements of its customers. He stated that the Amended Elkhart PPA will further diversify I&M's generation resource portfolio, which will provide I&M with optionality on how to manage the overall system in the event of disruption or abnormal events. Regarding environmental sustainability, Mr. Williamson noted that the Amended Elkhart PPA will increase the amount of renewable generation resources used to serve I&M's customers over a period of 30 years.

The Commission has considered the Five Pillars enumerated in Ind. Code § 8-1-2-0.6 in reaching our decision in this proceeding. The Amended Elkhart PPA and I&M's corresponding accounting and ratemaking proposals support affordability for customers while allowing I&M to transition its generation resources in a way that supports environmental sustainability, reliability, resilience, and stability for customers. The Commission finds that the Amended Elkhart PPA is consistent with legislative directives.

**D. Conclusion.** I&M has clearly established a continued need for capacity. The Amended Elkhart PPA is reasonable and necessary 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 the evidence of record supports approval of the Amended Elkhart PPA, including the associated agreement and cost recovery proposed by I&M. We approve the Amended Elkhart PPA as an eligible "clean energy project" for purposes of Ind. Code ch. 8-1-8.8. Finally, I&M's proposed accounting and ratemaking is also approved.

**8. Confidential Information.** On June 7, 2024, 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 offered into evidence at the evidentiary hearing were trade secret information within the scope of Ind. Code § 5-14-3-4(a) (4) and Ind. Code § 24-2-3-2. On June 26, 2024, the Presiding Officers issued a docket entry finding such information

confidential on a preliminary basis. Subsequently designated confidential information was submitted 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. The Amended Elkhart PPA is approved.
2. The Elkhart County Solar Project remains a just and reasonable clean energy project under Ind. Code § 8-1-8.8-11 under the terms of the Amended PPA.
3. Petitioner is authorized to recover the costs of the Amended Elkhart PPA over the full term as proposed, pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, to be administered within I&M's FAC proceedings (or a successor mechanism). This recovery shall not be subject to Ind. Code § 8-1-2-42(d) tests or FAC benchmarks.
4. Petitioner is authorized to use the proposed ratemaking treatment to defer incremental expenses incurred to enter into the Amended Elkhart PPA as part of the regulatory asset the Commission approved in Cause No. 45868 and to recover such deferred costs through the SPR in accordance with Ind. Code § 8-1-8.8-11.
5. The information filed 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 and 8-1-2-29, 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.
6. This Order shall be effective on and after the date of its approval.

**HUSTON, BENNETT, FREEMAN, AND ZIEGNER CONCUR; VELETA ABSENT:**

**APPROVED: OCT 09 2024**

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

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**Dana Kosco**  
**Secretary of the Commission**