

**REBUTTAL TESTIMONY OF BARRY F. BLACKWELL
DIRECTOR OF RATES
DUKE ENERGY BUSINESS SERVICES LLC
ON BEHALF OF DUKE ENERGY INDIANA, INC.
CAUSE NO. 38707-FAC91 BEFORE THE
INDIANA UTILITY REGULATORY COMMISSION**

1 **Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A. My name is Barry F. Blackwell, and my business address is 1000 East Main
3 Street, Plainfield, Indiana 46168.

4 **Q. BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

5 A. I am employed by Duke Energy Business Services LLC, an affiliate of Duke
6 Energy Indiana, Inc. (“Duke Energy Indiana,” “Applicant” or “Company”) as
7 Director, Rates. Duke Energy Indiana is a wholly owned, indirect subsidiary of
8 Duke Energy Corporation.

9 **Q. ARE YOU THE SAME BARRY F. BLACKWELL THAT PREVIOUSLY**
10 **PROVIDED DIRECT TESTIMONY IN THIS PROCEEDING?**

11 A. Yes, I am.

12 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

13 A. The purpose of my rebuttal testimony in this proceeding is to respond to the
14 testimony of the Indiana Office of Utility Consumer Counselor (“OUCC”).
15 Specifically, I will respond to Mr. Michael Eckert regarding his recommendation
16 that the Commission defer a finding on Duke Energy Indiana’s coal decrement
17 pricing until the next FAC proceeding and to Mr. Gregory T. Guerrettaz,
18 regarding auditing the impacts of the Company’s coal decrement pricing. I will
19 also summarize the Procedural Agreement entered into between Duke Energy

1 Indiana and Steel Dynamics, Inc. (“SDI”).

2 **Q. MR. ECKERT TESTIFIED THAT “THE OUCC HAS NOT HAD**
3 **ADEQUATE TIME TO REVIEW DUKE’S REQUEST AND THE**
4 **POTENTIAL ISSUES ASSOCIATED WITH THAT REQUEST.” (PAGE 5)**
5 **DID DUKE ENERGY INDIANA REQUEST ANY SPECIFIC APPROVALS**
6 **OR OTHER ACTION FROM THE COMMISSION REGARDING THE**
7 **PRICE DECREMENT?**

8 A. No. As stated in the supplemental testimony of Mr. John Swez, the purpose of
9 Duke Energy Indiana’s supplemental testimony was to simply notify the
10 Commission, the OUCC, and the intervening parties of its growing inventory and
11 its plans to mitigate its growing inventory, including its implementation of the
12 avoided cost decrement pricing. The Company is not requesting approval from
13 the Commission of the price decrement at this time. In subsequent FACs, the
14 Company will include an update on the decrement and all parties will have an
15 opportunity to review and comment.

16 **Q. IS MR. ECKERT’S RECOMMENDATION THAT THE COMMISSION**
17 **DEFER A FINDING ON THIS ISSUE UNTIL DUKE’S NEXT FAC**
18 **APPROPRIATE?**

19 A. No. As Duke Energy Indiana is not requesting approval of the price decrement it
20 is not necessary for the Commission to issue a finding in this proceeding or to
21 agree to defer such finding to the next FAC. Duke Energy Indiana will provide an
22 update to the Commission and the parties in the next FAC regarding the status of
23 the avoided cost decrement. The Company believes this will allow the

1 Commission and parties additional time to review the Company's decision as to
2 the price decrement in the next FAC.

3 **Q. OUCC WITNESS GUERRETTAZ EXPRESSED CONCERN THAT**
4 **ADDITIONAL WORKPAPERS AND AUDIT STEPS MAY BE REQUIRED**
5 **TO VERIFY THE IMPACT OF THE COAL DECREMENT PRICING.**
6 **HOW DO YOU RESPOND?**

7 A. Duke Energy Indiana has a history of working collaboratively with the OUCC to
8 ensure that the OUCC has the necessary information to perform audits and
9 reviews of its FAC and other rider filings (*e.g.* Power hedging activities, issues
10 around the MISO ASM market, and emission allowance purchases and sales in
11 the Company's Rider 63 - Emission Allowance adjustment filings). Duke
12 Energy Indiana commits to working proactively with the OUCC to discuss and
13 provide the information needed for the audit in a timely manner.

14 **Q. ARE THERE ANY OTHER ISSUES THAT HAVE ARISEN AS A RESULT**
15 **OF DUKE ENERGY INDIANA'S FILING OF SUPPLEMENTAL**
16 **TESTIMONY?**

17 A. Yes. Although SDI has not filed testimony on the issue, SDI has requested
18 additional time to serve data requests on Duke Energy Indiana on issues relevant
19 to the FAC91 proceeding until the filing of the Company's next FAC proceeding.
20 In addition, SDI has requested that the Company agree to the approved fuel factor
21 in FAC91 being subject to refund until the issuance of the later of the final order
22 in FAC92 or in a subdocket (if any) initiated in FAC92.

1 **Q. HAVE THE COMPANY AND SDI REACHED AN AGREEMENT ON**
2 **THESE ADMINISTRATIVE ISSUES?**

3 A. Yes. Duke Energy Indiana and SDI have agreed to enter into the attached
4 Agreement as to Procedures for FAC91 and FAC92 (“Agreement”) for the sole
5 purpose to establish procedures for the FAC92 proceeding. It in no way addresses
6 any substantive issues in the current proceeding. The Agreement has been
7 provided as Exhibit A.

8 **Q. WHAT ADMINISTRATIVE PROCEDURES ARE SDI AND THE**
9 **COMPANY AGREEING TO?**

10 A. Duke Energy Indiana agrees that it will not object to the introduction of relevant
11 discovery responses from FAC91 into the evidentiary record of FAC92. The
12 Company also agrees to allow SDI to conduct discovery during the interim period
13 between the date of the Agreement and filing of its petition in FAC92.

14 **Q. ARE THERE OTHER ISSUES UPON WHICH THE COMPANY AND SDI**
15 **HAVE REACHED AGREEMENT?**

16 A. Yes. The Company agreed to propose in this proceeding that if the fuel factor is
17 approved by the Commission that it be subject to refund until the issuance of the
18 later of the final order in FAC92 or an order in a subdocket initiated in FAC92 (if
19 any). The Company also agrees to include this language in its proposed order.

20 **Q. HAS SDI AGREED TO ANYTHING IN EXCHANGE FOR THIS**
21 **AGREEMENT?**

22 A. Yes. SDI agrees that in exchange for this Agreement, it will not file a motion
23 with the Commission requesting a subdocket in this proceeding. If SDI wishes to

1 move for a subdocket in FAC92, Duke Energy Indiana does not waive its right to
2 contest that motion.

3 **Q. WHAT ABOUT OTHER PARTIES IN THIS PROCEEDING?**

4 A. I understand that Duke Energy Indiana's attorney has spoken with the attorneys
5 for the Industrial Group and the OUCC and that they have no objections to this
6 Agreement.

7 **Q. IS THE COMPANY REQUESTING THE COMMISSION'S APPROVAL**
8 **OF THE ATTACHED PROCEDURAL AGREEMENT WITH SDI?**

9 A. Yes. Both Duke Energy Indiana and SDI believe this represents a reasonable
10 compromise regarding Duke Energy Indiana's desire for expedient review of its
11 FAC proceedings and SDI's desire to further analyze Duke Energy Indiana's coal
12 purchasing practices, inventory and avoided cost decrement pricing.

13 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

14 A. Yes, it does.

Agreement as to Procedures for FAC91 AND FAC92 between Duke Energy Indiana and SDI

This agreement ("Agreement"), entered into between Duke Energy Indiana, Inc. ("Duke Energy Indiana") and Steel Dynamics, Inc. ("SDI") on this 2nd day of March, 2012, has the sole purpose to establish procedures for Cause No. 38707, FAC92 ("FAC 92") before the Indiana Utility Regulatory Commission. This Agreement in no way addresses any substantive issues in Cause No. 38707 FAC91 ("FAC91").

DATA REQUESTS

Duke Energy Indiana agrees that it will not object to the introduction of discovery responses from FAC 91 into the evidentiary record of FAC 92.

Duke Energy Indiana agrees to allow SDI to conduct discovery during the interim period between the date of this Agreement and the filing of its petition in FAC92. To the extent that discovery is relevant to issues in fuel clause filings and Indiana Code Section 8-1-2-42, Duke Energy Indiana will strive to respond within ten (10) calendar days. However, voluminous data requests may require additional time, and Duke Energy Indiana agrees to communicate such intentions to SDI within 24 hours of receiving such voluminous data requests.

Duke Energy will not respond to data requests relevant to the FAC92 proceeding, to the extent they request information that is routinely included in FAC proceedings, until such testimony is filed in FAC92. Furthermore, Duke Energy agrees to update its SDI data request responses from FAC 91 for FAC 92 within five calendar days of Duke Energy Indiana's filing of its petition and direct testimony constituting its case in chief in FAC92.

FUEL FACTOR APPROVED IN FAC 91

Duke Energy Indiana agrees that it will propose that the fuel factor approved in FAC 91 be subject to refund until the issuance of the later of the final order in FAC92 or an order in a subdocket initiated in FAC92 (if any) and Duke Energy Indiana will include that language in its proposed order.

MOTIONS IN FAC91 OR FAC92

SDI agrees that in exchange for this procedural agreement, it will not request the opening of a subdocket in FAC 91.

Duke Energy does not waive its right to contest a request to open a subdocket (if any) in any of its FAC proceedings.

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PRESENTATION OF THIS AGREEMENT.

The Parties will jointly move the Commission for approval of this Agreement as to Procedures for FAC 92 between Duke Energy Indiana and SDI. Duke Energy Indiana will file testimony in support of this Agreement to provide an evidentiary basis for its approval. SDI will be given a reasonable opportunity to review said testimony before it is filed.

If the Order of the Commission in this proceeding materially modifies or conditions approval of this Agreement, only the Parties to this Agreement may decide to accept or reject such modification or condition.

EFFECT AND USE OF STIPULATION AND AGREEMENT.

The terms of this Agreement, represent a fair, just and reasonable resolution by negotiation and compromise. As set forth in the Order In *Re Petition of Richmond Power & Light*, Cause No. 40434 at page 10, as a term of this Agreement, the Parties request that the Commission assure them that it is not the Commission's intent to allow this Agreement, or the Order approving it, to be cited as precedent by any person or deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues.

This Agreement is solely the result of compromise in the settlement process. Nothing contained herein is to be construed or deemed an admission, liability or wrongdoing on the part of Duke Energy Indiana. Each of the parties hereto has entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience and expenses.

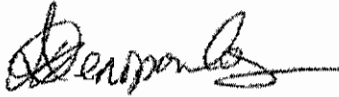
The evidence presented by the Parties in this Cause constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Agreement, as filed.

The undersigned represent and agree that they are fully authorized to execute this Agreement on behalf of their designated clients who will be bound thereby.

The provisions of this Agreement shall be enforceable by any party at the Commission or any court of competent jurisdiction, whichever is applicable.


The communications and discussions during the negotiations and conferences which produced this Agreement have been conducted on the explicit understanding that they are or relate to offers of settlement and shall therefore be privileged.

2/3 *AK*



Damon E. Xenopoulos, Principal
Brickfield, Burchette, Ritts & Stone, P.C.
1025 Thomas Jefferson St., N.W.
8th Floor, West Tower
Washington, D.C. 20007

Dated: 3/2/12



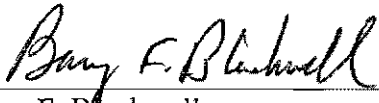
Casey M. Holsapple, Senior Counsel
Duke Energy Indiana, Inc.
1000 E. Main Street
Plainfield, Indiana 46168

Dated: 3/2/12

VERIFICATION

I, Barry F. Blackwell, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Dated this 6th day of March, 2012.



Barry F. Blackwell