

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED)
 PETITION OF INDIANA MICHIGAN)
 POWER COMPANY, AN INDIANA)
 CORPORATION, FOR APPROVAL) CAUSE NO. 44362
 PURSUANT TO IND. CODE 8-1-2-42(A) AND)
 8-1-8.8-11 OF A RENEWABLE ENERGY) APPROVED:
 PURCHASE POWER AGREEMENT WITH)
 HEADWATERS WIND FARM LLC,)
 INCLUDING TIMELY COST RECOVERY)

NOV 25 2013

ORDER OF THE COMMISSION

Presiding Officers:

Kari A.E. Bennett, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge

On June 28, 2013, Indiana Michigan Power Company (“I&M”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) for approval of a renewable wind energy project power purchase agreement between I&M and Headwaters Wind Farm, LLC, a subsidiary of EDP Renewables North America (“EDPR NA”), and recovery of associated costs. On June 28, 2013, I&M also filed the direct testimony of Marc E. Lewis, I&M’s Vice President of Regulatory and External Affairs, Joseph A. Karrasch, Manager – Asset Investments / Renewables for American Electric Power Company, Inc. (“AEP”), and Mohamed M. Abu-Karam, Engineer-Production Resource Modeling for American Electric Power Service Corporation (“AEPSC”).

On August 29, 2013, the Indiana Office of Utility Consumer Counselor (“OUCC”) prefiled the testimony of Ronald L. Keen. On September 16, 2013, I&M filed the rebuttal testimony of Marc E. Lewis. The Commission issued a docket entry on September 25, 2013, ordering additional information, to which I&M responded on September 27, 2013.

Pursuant to notice as required by law, proof of which was incorporated into the record, a public hearing in this Cause was held on October 2, 2013, at 9:30 a.m. in Room 222, PNC Center, 101 W. Washington Street, Indianapolis, Indiana. Counsel for I&M and the OUCC appeared and participated at the hearing. No members of the general public were present at the hearing.

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

- 1. Notice and Jurisdiction.** Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Petitioner is a “public utility” under Ind. Code § 8-1-2-1. The Commission may establish financial incentives pursuant to Ind. Code ch. 8-1-8.8, and may approve certain fuel costs pursuant to Ind. Code § 8-

1-2-42(a). Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. Petitioner's Characteristics and Business. I&M, a wholly-owned subsidiary of AEP, is a corporation organized and existing under the laws of the State of Indiana, with its principal office at One Summit Square, Fort Wayne, Indiana. I&M is engaged in, among other things, rendering electric service in the States of Indiana and Michigan. In Indiana, I&M provides retail electric service to approximately 457,000 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 the States of Indiana and Michigan. I&M's electric utility is an integrated and interconnected system that is operated within Indiana and Michigan as a single utility.

3. Relief Requested. I&M is seeking Commission approval of a renewable energy purchase power agreement ("REPA") under which I&M would purchase approximately 200 MWs of name plate rated wind power from Headwaters Wind Farm, LLC, a subsidiary of EDPR NA.¹ The source of the energy would be from a wind farm to be located in Randolph County, Indiana ("Headwaters Wind Farm"). The REPA includes the purchase of a bundled product entitling I&M to all associated energy, capacity and renewable energy certificates ("RECs") for a period of twenty years.

I&M requests the Commission approve the REPA and find it to be an "energy project" and a "renewable energy resource" as those terms are defined in Ind. Code §§ 8-1-8.8-2 and -10. As such the REPA would be eligible for certain incentives under the law.

In regards to cost recovery, I&M is requesting the Commission authorize I&M to recover the costs, including wind forecasting costs and REC registry fees, associated with the REPA through the full 20-year term of the Agreement via a rate adjustment mechanism in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11. For administrative efficiency and simplicity, I&M proposes the timely cost recovery be administered through I&M's fuel adjustment charge ("FAC") proceedings (or successor mechanism). Although I&M is proposing to have the cost recovery administered through its FAC, this cost recovery shall not be subject to the Section (42)(d)(1) test or and FAC benchmarks. Rather, I&M requests that the Commission make a definitive finding in this Cause that the REPA and associated costs are reasonable and necessary so that I&M will be presently authorized to recover those costs over the full term of the REPA.

4. Statutory Framework. Ind. Code § 8-1-8.8-2 concerns the development of alternative energy sources, including a renewable "energy project." Ind. Code § 8-1-8.8-10 defines "renewable energy resource" to include energy from wind. Pursuant to Ind. Code § 8-1-8.8-11, an energy project is eligible for timely recovery of costs. This framework thus provides the basis for the requested Commission assurance of purchased power cost recovery through the full 20-year term of the REPA.

¹ On September 19, 2013, the Commission issued an Order in Cause No. 44358 finding, among other things, Headwaters Wind Farm, LLC to be a "public utility" within the meaning of Ind. Code § 8-1-8.5-1 and Ind. Code § 8-1-2-1.

The Commission has previously approved similar requests in Cause Nos. 43328, 43750 and 44034. In those cases, the Commission approved similar purchase agreements and approved timely cost recovery of the costs associated with those purchase agreements.

5. **I&M's Direct Evidence.** Mr. Lewis testified that I&M is seeking approval and cost recovery of a renewable energy purchase power agreement between I&M and Headwaters Wind Farm, LLC. Mr. Lewis testified regarding the transmission of the wind energy to I&M's customers and the recovery of the cost of purchase power as requested in the Verified Petition in this Cause. In particular, Mr. Lewis explained that I&M is seeking approval and cost recovery of the REPA between I&M and Headwaters. The source of the energy would be a wind farm located in the Randolph County, Indiana.

Mr. Lewis stated that the Commission has previously approved three REPAs, which include 100 MW and 50 MW REPAs with the Fowler Ridge Farm in Benton County, Indiana, and a 100 MW REPA with Wildcat Wind Farm 1 in Madison and Tipton Counties, Indiana (Cause Nos. 43328, 43750, and 44034, respectively). In those cases, I&M requested approval of twenty year wind purchase power agreements, as well as I&M receiving the RECs that would be produced. In those cases, the Commission found I&M's wind REPAs were renewable energy projects and authorized I&M to recover the cost incurred under the REPA per Ind. Code §§ 8-1-2-42(a) and 8-1-8.8, pursuant to a rate adjustment mechanism administered within I&M's FAC proceedings, or successor mechanism. The Commission further found that recovery was not subject to any FAC benchmark review or tests. Further, Mr. Lewis stated, the Commission found that the REPAs would bolster the production of emissions-free renewable energy sources in Indiana and also demonstrate the vitality of the market for commercial wind generation.

Mr. Lewis explained that the characteristics of wind generation and the proposed REPA fit well within I&M's renewable energy portfolio. Per Mr. Lewis, the REPA will help AEP's plan to increase its renewable energy portfolio and is an economic means of meeting the needs of I&M and its customers for renewable energy. In addition, the characteristic of wind generation and the proposed REPA fit well within I&M's 2011 Integrated Resource Plan ("IRP") which indicates that I&M is proceeding to acquire renewable wind resources. Mr. Lewis stated that adding another 200 MWs of wind energy means renewable energy will create approximately 4.5% of all of I&M's total generation.

Mr. Lewis testified that I&M issued a Request for Proposal ("RFP") in Indiana and Michigan in order to achieve competitive bids from several qualified wind projects. I&M subsequently entered into negotiations with EDPR NA over terms, conditions and price for the purchase of approximately 200 MWs of wind power. Thereafter, I&M executed the REPA and is expecting to start receiving energy on or before December 31, 2014, and will continue for a period of 20 years. According to Mr. Lewis, the REPA provides that I&M will receive its share of the RECs associated with the REPA. Mr. Lewis testified that the RECs are beneficial to I&M if I&M becomes subject to a Renewable Portfolio Standard ("RPS") or Greenhouse Gas ("GHG") regulation in the future. Specifically, the Indiana jurisdictional share of the RECS will be maintained and counted toward I&M's compliance with those regulations. Regardless of any future RPS or GHG mandates, receiving the RECS helps reduce GHG emissions per megawatt hour and enhances portfolio diversity.

Mr. Lewis stated that I&M supports the use of wind energy as a means of advancing generation diversity. He noted that I&M's customers are interested in the use of more renewables to meet their needs and adding wind energy provides I&M with opportunity to educate customers about renewable energy, particularly given that the Headwaters Wind Farm will be located in I&M's service area. Mr. Lewis testified that the Headwaters Wind Farm purchase encourages the further development of wind technology. He further noted that as environmental regulations of greenhouse gases continue to increase, it is important to develop an emissions strategy that will comply with reasonable anticipated regulations through the use of emission free generation. Mr. Lewis indicated that I&M and its customers will benefit from the capacity value the REPA received from the PJM Interconnection, L.L.C. ("PJM") markets. Last, Mr. Lewis noted that Indiana benefits from the approval of the REPA by supporting the development of the economy by creating construction jobs, operations jobs and also supplementing the income of Indiana's rural communities.

Mr. Lewis testified that the REPA will allow I&M to fulfill its commitment under the recent modification of the New Source Review ("NSR") Consent Decree that is part of a comprehensive environmental compliance plan. This plan will allow I&M to comply with new and emerging environmental mandates in a cost effective manner. Specifically, under the plan, I&M will avoid approximately \$2 billion dollars of capital expenditures at the Rockport Generating Plant that were under review by the Commission in Cause No. 44033. Instead, I&M is seeking approval from the Commission in Cause No. 44331 of the Rockport Clean Coal Technology ("CCT") Project that will substantially reduce I&M's cost of compliance.² Without the commitment to acquire additional wind resources, I&M risked expending billions of dollars or losing the Rockport Plant as a relatively low cost resource for I&M's customers. Per Mr. Lewis, the REPA will provide direct benefits to I&M's customers and allow I&M additional time to assess the future of its generation portfolio with more certainty about evolving environmental regulations.

Mr. Lewis testified that the approval of the REPA is consistent with Indiana's policy toward wind energy. He explained that Indiana has taken a positive stance toward the development of renewable energy, especially wind energy. The General Assembly has clearly expressed a public policy of supporting a reasonable and achievable growth of renewable energy through incentives and goals. He added that the Commission has also shown support for wind power through its review and approval of I&M's request to purchase 150 MWs of wind power from Fowler Ridge Wind Farm, LLC and 100 MWs from Wildcat Wind Farm 1 (Cause Nos. 43328, 43750, and 44034) and the approval of wind resources purchased by other Indiana utilities. Mr. Lewis stated that in its previous orders, the Commission has found that wind REPAs produce real benefits for utilities, customers, and the state of Indiana. Mr. Lewis explained how I&M buying renewable energy now can cut the cost if the State decides to place a mandate or carbon requirement causing prices to increase.

Mr. Lewis stated that EDPR NA will build the Headwaters Wind Farm in Randolph County, Indiana. The Headwaters Wind Farm will connect to I&M's transmission system at I&M's Desoto-Tanners Creek 345 kV transmission line, which is within the PJM footprint. Mr.

² The Commission approved a settlement in Cause No. 44331 in its Order issued on Nov. 13, 2013.

Lewis stated that PJM has the Generation Attributes Tracking System ("GATS") which is available to I&M for being a member. Per Mr. Lewis, GATS is a system for tracking emissions data, fuel source and RPS qualification information and creates certificates that can be used to demonstrate compliance with RPS.

Mr. Lewis testified that the costs under the REPA are competitive with the costs typically found for this kind of renewable resource in this region. The energy costs are attractive over the 20 year term. In addition, adding the REPA may increase I&M's ability to make system sales to other utilities, which would benefit customers under I&M's system sales sharing mechanism approved by the Commission and will also provide capacity credits to I&M from PJM markets, which also benefits I&M's Indiana customers.

Mr. Lewis testified that I&M requests that the Commission find the REPA to be a renewable energy project, as that term is defined in Indiana Code § 8-1-8.8-2. He explained that as such, it would be eligible for certain incentives under the law, including, but not limited to, timely cost recovery, which can be accomplished by authorizing the cost recovery proposed by I&M in this Cause. He stated that I&M requests the Commission to approve in this Cause all of the costs associated with the REPA during the 20-year term. Per Mr. Lewis, I&M seeks the authority to recover the Indiana retail jurisdictional portion of the costs on an accrual basis as part of I&M's FAC proceedings. Since the REPA provides an energy charge (per MWh of production) and no specified capacity charge, it would be appropriate to process the cost recovery as part of the FAC filings. The REPA would be included with I&M's other wind purchases in the semiannual FAC filings, on both a projected and actual basis. The energy delivered under the REPA would be allocated to each of I&M's jurisdictions and the costs recovered through the respective rate adjustment mechanisms.

Mr. Lewis explained that the REPA is reasonable and in the public's best interest and I&M requests that the Commission approve in this Cause all of the costs associated with the REPA during its 20-year term. Mr. Lewis testified that the REPA reduces I&M's variable costs, is recognized for capacity value by PJM, and increases the potential for system sales. The REPA further diversified I&M's generation portfolio, supports a home grown renewable resource, encourages economic development, and meets the increasing interest of customers in the use of more renewable resources. Per Mr. Lewis, I&M requests that the Commission approve the REPA between I&M and Headwaters Wind Farm, LLC and authorize I&M to engage in the REPA as a renewable energy project. I&M also requests approval of and recovery of all of the purchased power costs related to the purchase over the full 20-year term and associated costs. Mr. Lewis noted that this request includes the incremental costs associated with the REPA such as wind forecasting costs and REC registry fees. I&M proposes that cost recovery be implemented through a rate adjustment mechanism with I&M granted the authority to recover the retail portion of those costs on an accrual basis in accordance with Indiana Code 8-1-2-42(a) and Indiana Code 8-1-8.8-11 contemporaneously with the processing of I&M's FAC. Mr. Lewis stated that although I&M is proposing to have the cost recovery administered through its FAC, this cost recovery is not subject to the Section 42(d)(1) test or any FAC benchmarks. Rather, I&M requests that the Commission make a definitive finding in this Cause that the REPA and associated costs are reasonable and necessary so that I&M will be presently authorized to recover those costs over the full term of the REPA.

Mr. Karrasch explained the RFP process and the benefits associated with RECs. Mr. Karrasch testified that I&M utilizes AEPSC to negotiate on behalf of I&M to secure long-term REPAs. He stated that AEP affiliates have entered into twenty-five (25) long-term wind REPAs, one (1) long-term hydro REPA, and one (1) long-term solar REPA to serve customers of five of its regulated electric operating companies, all through the experience of AEPSC. He testified that AEP currently owns assets or has long-term REPAs for a total of 2,844.8 MW of renewable generation.

Mr. Karrasch described the previous REPAs the Commission has approved for I&M. The REPAs include two (2) agreements with Fowler Ridge Wind Farm and one (1) with the Wildcat Wind Farm. The Fowler Ridge Farm agreements had two phases to it, Fowler I and Fowler II. Fowler I provides 100 MW to I&M and its affiliate Appalachian Power Company and began providing the electricity in January 2009. Fowler II provides 200 MW in which I&M contracted 50 MW and affiliate AEP Ohio contracted 100 MW. Delivery of commercial wind energy from Fowler II began in December 2010. The third REPA was with the Wildcat Wind Farm, located in Madison and Tipton Counties, Indiana. I&M contracted 100 MW, of the 202.5 MW available, and delivery started in January 2013.

Mr. Karrasch testified that the RFP issued in this case sought proposals that could result in I&M obtaining approximately 200 MW of wind energy resources for I&M and its customers. Mr. Karrasch explained that on February 25, 2013, I&M placed a RFP on its website which required that by March 11, 2013, interested parties had to submit a Pre-Qualification Form. Qualified parties were then notified by March 15, 2013, to submit complete proposals, and final proposals were required to be submitted by April 8, 2013, to AEPSC. I&M saw it beneficial to issue the RFP in February 2013 so that it could complete the evaluation and contracting so that projects could qualify for the federal subsidy (Section 45 Production Tax Credit (PTC)) for wind resources, which are to expire in December 2013.

Mr. Karrasch described the RFP and the requirements that companies had to meet. The RFP's purpose was for I&M and a qualified bidder to enter into a 20 year power purchase agreement for the Renewable Energy Products (Energy, Capacity, RECs, and all beneficial environmental attributes) which would provide I&M with 200 MW of energy. Requirements for interested bidders included, the project must be capable of being operational on or about December 31, 2014, the project must be interconnected to I&M transmission lines, and the project must be capable of qualifying for Section 45 Production Tax Credit. Mr. Karrasch stated the Section 45 Production Tax Credit helps to "buy-down" the purchase price that I&M or any purchaser would pay for Renewable Energy Products.

Mr. Karrasch explained the process once a bidder was determined to be qualified. The RFP included a form REPA and other guidance required for evaluation of the Qualified Bidder's Proposal(s). The form REPA defined items such as terms and conditions, requirements for commencement of deliveries and construction of the facility, delivery metering, O&M, performance assurance, insurance, permitting and licensing, Supervisory Control and Data Acquisition ("SCADA") requirements, billing and settlement terms, and credit and collateral requirements. The form REPA also discussed the fact that bidders must show proof they can complete a project like the one proposed to I&M. Bidders had to show they have completed

projects similar to the one in the RFP in the United States. Qualified bidders had to include detailed information to describe where and how they would complete the project.

Mr. Karrasch stated I&M had received seven proposals, in which three were short-listed for further review and due diligence. The evaluation process started with I&M making sure all required information was provided. All three chosen proposals were able to provide the full 200 MW of capacity requested in the RFP and were lower in price than other proposals that had to be combined to meet the 200 MW requirement. A negotiation process was then started between AEPSC and Headwaters Wind Farm, LLC (the lowest cost proposal), and the two companies were able to negotiate and execute a REPA on June 5, 2013.

Mr. Karrasch explained the Headwaters Wind Farm is being developed by EDPR NA, in Randolph County, Indiana. The location of the facility interconnects with I&M transmission lines. I&M will receive 200 MW of wind energy from the Headwaters Wind Farm. Mr. Karrasch stated that EDPR NA has developed over 3,800 MW of wind energy throughout the United States and that I&M affiliates AEP Ohio and Public Service Company of Oklahoma ("PSO") have executed REPAs with EDPR NA.

Mr. Karrasch testified the REPA has an around-the-clock contract price with an annual escalation factor. The REPA entitles I&M to the Renewable Energy Products. Mr. Karrasch explained the benefits of executing a 20-year wind REPA on behalf of I&M. According to Mr. Karrasch, the 20-year wind REPA allows I&M to secure the lowest available prices for reliable renewable resources and to ensure that this energy will be economically accessible to its native load customers in the coming years. The 20-year wind REPA also provides a direct benefit to the consumer as it allows renewable energy resource to procure long-term financing, thereby amortizing the project cost over a longer period. Such financing has the effect of reducing the upfront costs and allows for a more economically leveled price over the term of the contract.

Mr. Karrasch explained I&M's request to include associated costs incurred during operation of the REPA, such as wind forecasting costs and REC Registry fees in I&M's rate adjustment mechanism. As a PJM requirement, capacity resources, including contracted wind resources, must be offered into the RTO's day-ahead energy market. As such, these energy offers are based on resource-specific wind energy productions forecasts. Part of offering energy into the PJM market involves providing a day-ahead hourly energy forecast for the REPA, no different than what is required of the Fowler Ridge and Wildcat Wind Farm REPAs. Providing necessary input to PJM's day-ahead generation forecast reduces the potential impact of balancing operating reserve charges for deviations from the day-ahead forecast to real time operations. Mr. Karrasch indicated that the cost of wind forecasting is a prudent cost of doing business in the PJM RTO. Mr. Karrasch testified that the forecasting costs, which are expected to be approximately \$20,000 annually and equate to approximately \$400,000 in the aggregate over the 20 year term of the REPA, are incurred as a result of the REPA. Mr. Karrasch further testified that in addition to the wind forecasting costs, there are REC registry fees associated with the use of GATS and the Michigan Renewable Energy Certification System ("MIRECS").

Mr. Karrasch stated that the REPA stipulates that I&M will receive all current and future attributes, including the associated RECs. These RECs are legal proof that one MWh of electricity has been generated by a renewable fuel or environmentally friendly source. The RECS

are expected to be tracked through PJM GATS and MIRECS (for I&M's Michigan jurisdictional share). MIRECS and GATS databases track the ownership of RECs and generation attributes that result from the generation of electricity sourced from renewable resources. RECs are traded or used to meet regulated or voluntary standards or goals. The RECs associated with the wind project demonstrate that I&M has obtained all renewable attributes associated with the renewable energy produced by the project.

Mr. Abu-Karam explained the forecasted cost impact on I&M customers from the REPA. Mr. Abu-Karam provided a 20 year summary view of the net cost impact of the REPA on I&M's customers. Mr. Abu-Karam testified that the REPA will result in a cost savings for I&M's customers. According to Mr. Abu-Karam, the average cost to I&M's customers over the 2015-2034 time frame is projected to be a net benefit of 0.042 cents per kWh and therefore, the REPA is expected to result in a cost savings to I&M's customers.

6. OUCC's Direct Evidence. Mr. Keen provided a brief description of Petitioner and the Headwaters Wind Project and addressed I&M's request for approval of the REPA. Mr. Keen stated that I&M is requesting Commission approval of the REPA in order to fulfill its commitment under the recent modification of the NSR Consent Decree, which is part of a comprehensive compliance plan that I&M believes will allow it to cost-effectively comply with environmental mandates.

Mr. Keen stated the OUCC believes the REPA is in the best interests of Indiana customers. Mr. Keen further stated the OUCC recommended the Commission approve the REPA but that I&M be required to submit specific reports to the Commission and the OUCC. The reports include quarterly updates on any remaining, new or future studies by PJM, that discuss or impact the Headwaters Wind Farm, including but not limited to studies pertaining to a type of facility required for congestion relief, interconnection, other network functions and any timetables associated with the required upgrade or construction of facilities. Further he stated the OUCC also recommends I&M submit to the Commission and the OUCC an annual report showing the actual wind energy delivered on an hourly basis and any other information requested by the Commission.

7. I&M's Rebuttal Evidence. Mr. Lewis addressed the reporting requirements recommended by Mr. Keen. He said that after reviewing the OUCC's prefiled testimony, he initiated discussions with the OUCC. He said that both parties worked to develop a mutual understanding of the reporting requirements and were able to reach an agreement on a path forward that will permit the timely approval of I&M's Petition subject to a compromise regarding the reporting requirements.

Mr. Lewis summarized Mr. Keen's two recommended reporting requirements and stated that, based on discussions with the OUCC, I&M recommends a modified version of the first reporting requirement. Mr. Lewis stated I&M agrees to Mr. Keen's second reporting requirement, as it is consistent with current reporting requirements. Mr. Lewis stated I&M will submit annually to the Commission and the OUCC (a) a report regarding any facilities which I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Headwaters Wind Farm; and (b) a confidential report showing the actual wind energy

delivered on an hourly basis by the Headwaters Wind Farm for a period of five (5) years from the commencement of the REPA.

Mr. Lewis stated that the modified version of the first reporting requirement is reasonable and appropriate because the information requested in the OUCC's original version of the first reporting requirement is better sourced directly from PJM and/or Headwaters Wind Farm. He said that an annual report is sufficient and thus it is unnecessary to require I&M to submit reports quarterly. He explained that this modified reporting requirement recognizes that the processing of the request for an interconnection with PJM is completed and the executed Interconnection Service and Construction Service Agreements have been filed with the Federal Energy Regulatory Commission. He noted that any infrastructure costs resulting from additional interconnection studies will not be borne by I&M because Headwaters Wind Farm, LLC is responsible for constructing, operating and maintaining all interconnection facilities under the terms of the REPA. Mr. Lewis provided a link to PJM's website which provides access to the status of the PJM queue and public documents related to the Headwaters Wind Farm. Moreover, AEPSC manages the wind agreements, including the REPA, on behalf of I&M and is not privy to non-public interconnection or transmission network studies that may impact the Headwaters Project. Finally, Mr. Lewis noted that much of the information the OUCC has proposed I&M submit would already be provided by Headwaters Wind Farm, LLC if the proposed reporting requirements are adopted by the Commission in Cause No. 44358. Mr. Lewis stated that the modified reporting requirement eliminates the duplication of reporting and recognizes that broader information is better sourced through PJM and/or Headwaters Wind Farm, LLC.

Regarding the second reporting requirement recommended by Mr. Keen, Mr. Lewis noted that I&M is already subject to reporting this information relevant to the REPA between I&M and Fowler Ridge Wind Farm approved in Cause Nos. 43750 and 43328 and Wildcat Wind Farm in Cause No. 44034. He said that in these prior cases, the Commission has also recognized the confidential nature of the information being reported. He stated that this type of information continues to be confidential. Thus, I&M will agree to submit annually, to the Commission and the OUCC, a confidential report showing the actual wind energy delivered on an hourly basis by the Headwaters Wind Farm for a period of five (5) years from the commencement of the REPA.

Mr. Lewis described the confidential nature of the information that would be included in this part of the annual report. He explained that I&M is required by the terms of the REPA to protect such information from public disclosure. He stated that such information is not readily ascertainable on a non-confidential basis by third parties by proper means, and described the efforts taken by I&M to protect the information from public disclosure, consistent with its contractual obligations. He explained that it is his understanding that the Commission has consistently found that such reports should be submitted on a confidential basis in other proceedings.

8. Commission Discussion and Findings. I&M seeks approval of the REPA as a clean energy project under Ind. Code ch. 8-1-8.8. I&M qualifies as an "eligible business" under Ind. Code § 8-1-8.8-6 because it is an energy utility that has proposed to "undertake[] a project to develop alternative energy sources, including renewable energy projects" No party challenged I&M's status as an eligible business under Chapter 8.8.

The project for which I&M seeks approval is the REPA. Ind. Code § 8-1-8.8-2(2) defines “clean energy projects” as “[p]rojects to develop alternative energy sources, including renewable energy projects” The REPA will provide for the development of the Headwaters Wind Farm, which is a “renewable energy resource” under Ind. Code § 8-1-8.8-10, increasing the availability of emissions-free renewable energy sources in Indiana and the potential for off-system sales. In addition, the REPA provides for the diversification of I&M’s generation portfolio, supports a “home grown” renewable resource, and encourages economic development. No party disputed that the REPA is a clean energy project.

Accordingly, I&M seeks a finding from the Commission that the REPA is reasonable and necessary under Ind. Code § 8-1-8.8-11, and if the Commission grants approval, seeks the creation of certain financial incentives pursuant to Ind. Code § 8-1-8.8-11(a). We address each issue in turn.

A. Approval of the Wind REPA. The record establishes that the REPA resulted from arms-length negotiations. I&M will own all of the environmental credits, including RECs, associated with its capacity share of the project. EDPR NA retains the responsibility for construction, ownership, operation, and maintenance of the plant. Like the other wind power purchase agreements approved by this Commission, the REPA represents a reasonable addition and diversification of I&M’s capacity portfolio. This renewable energy opportunity will be available independent of fuel price volatility or increased environmental emissions restraints and costs. The evidence demonstrates that I&M’s cost per MW of energy under the REPA is lower than the other proposals received in response to the RFP. The Commission finds that the pricing and other terms of the REPA are reasonable and necessary. Accordingly, the Commission grants an approval of the REPA as a clean energy project.

B. Wind REPA Cost Recovery. The Commission finds that Petitioner shall be authorized to recover all of the purchased power costs and other reasonable and necessary costs related to the REPA over its full twenty-year term, as proposed by Petitioner. The prudence of purchased power costs under the REPA shall not be subject to any further review. Any other costs claimed as associated costs will be subject to review and challenge through the rate adjustment mechanism described below. Ind. Code § 8-1-8.8-11(a) provides that renewable energy projects, such as the REPA, are eligible for incentives, including timely recovery of costs and financial incentives. We further find that Petitioner should be authorized to recover reasonable and necessary associated costs incurred during the operation of the REPA, including wind forecasting costs and REC registry fees, which will be subject to review and challenge through the rate adjustment mechanism described below. As explained by witness Karrasch, wind forecasting costs are a cost of doing business in the PJM RTO and are a necessary input to PJM’s day-ahead generation forecast.

We find that I&M should be authorized to recover via a rate adjustment mechanism, the retail portion of the costs of the REPA on an accrual basis in accordance with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11 contemporaneously with the processing of I&M’s FAC proceedings (or a successor mechanism). While the cost recovery of the REPA should be administered through I&M’s FAC proceedings (or successor mechanism), during the twenty-year term of the REPA recovery of purchased power costs, as detailed in the REPA, shall not be subject to the Section 42(d)(1) test or any FAC or purchased power benchmarks, economic dispatch requirements, or

least cost requirements. This relief is consistent with Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11. However, consistent with our prior orders, including the Order issued in Cause No. 44034, and as agreed by the parties here, we find that any “associated costs” I&M seeks to recover during the 20-year term of the REPA will remain subject to review and challenge through the rate adjustment mechanism contemporaneously with the processing of I&M FAC proceedings. The Commission finds that Petitioner’s cost recovery proposal should be approved as outlined above.

C. Reporting Requirements. The OUCC recommended two separate reporting requirements in connection with the REPA. As explained in Mr. Lewis’ rebuttal testimony, I&M and the OUCC have discussed these proposed reporting requirements and have reached agreement on a modified version of the first reporting requirement recommended by the OUCC. We find that the compromise proposal set forth in Mr. Lewis’ rebuttal testimony is reasonable and should be adopted. More specifically, we find that I&M should submit an annual report to the Commission and the OUCC regarding any facilities which I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Headwaters Wind Farm. We further find that I&M should file an annual confidential report showing the actual wind energy delivered on an hourly basis by the Headwaters Wind Farm to I&M for a period of five (5) years from the date of commercial operation of the Headwaters Wind Farm.

9. Confidential Information. On June 28, 2013, I&M filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information, through which protection from public disclosure was sought for certain pricing and commercial trade secrets (“Confidential Information”). On July 24, 2013, the Presiding Officers made a preliminary finding that certain designated information marked Confidential Information in Petitioner’s Motion should be treated as confidential in accordance with Ind. Code § 5-14-3-4 and that confidential procedures should be followed with respect to this Confidential Information. Upon review of the Confidential Information submitted pursuant to the Presiding Officers’ preliminary determination, the Commission confirms this prior preliminary finding. The Commission also concludes that the information for which Petitioner sought confidential treatment contains confidential, proprietary, competitively sensitive trade secret information that has economic value to Petitioner and to EDPR NA from neither being known to, nor ascertainable by, its competitors and other persons who could obtain economic value from the knowledge and the use of such information; that the public disclosure of such information would have a substantial detrimental effect on Petitioner and EDPR NA; and that the information is subject to efforts of Petitioner that are reasonable under the circumstances to maintain its secrecy. Accordingly, the Confidential Information submitted to the Commission, including that contained in I&M Exhibit JAK-3 (Confidential), and Exhibit JAK-4 (Confidential), Exhibit MMA-1 (Confidential) and the working copy of Exhibit MMA-1 (Confidential) provided in response to the Commission’s September 25, 2013 Docket Entry are exempt from the public access requirements of Ind. Code §§ 5-14-3-3, 8-1-2-29, and 24-2-3-1 and shall continue to be held as confidential by the Commission.

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

1. Petitioner shall be and is hereby issued an approval for I&M’s REPA with Headwaters Wind Farm, LLC, or its assigns or successors, pursuant to Ind. Code ch. 8-1-8.8.

2. The REPA shall be and hereby is determined to constitute a "clean energy project" under Ind. Code ch. 8-1-8.8-1, and is hereby approved as reasonable and necessary and therefore eligible for the financial incentives set forth in Ind. Code § 8-1-8.8-11.

3. I&M shall be and is hereby authorized to recover the purchased power costs incurred under the REPA, including reasonable and necessary associated costs, such as wind forecasting and REC registry costs, over its full 20-year term pursuant to Ind. Code § 8-1-2-42(a) and Ind. Code ch. 8-1-8.8, to be administered within I&M's FAC proceedings (or a successor mechanism). As provided in Paragraph 8B, the purchased power costs I&M seeks to recover during the 20-year term of the REPA shall not be subject to additional prudence review or the FAC benchmark test, but any associated costs I&M seeks to recover will remain subject to review and challenge in I&M's FAC (or any successor rate adjustment mechanism) proceedings.

4. For a period of five (5) years from the date of commercial operation of the Headwaters Wind Farm, I&M shall annually submit to the OUCC and the Commission a confidential report showing the actual wind energy delivered on an hourly basis by the Headwaters Wind Farm to I&M. I&M shall also annually submit to the OUCC and the Commission a report regarding any facilities which I&M is required to upgrade or construct for purposes of congestion relief and the interconnection of the Headwaters Wind Farm.

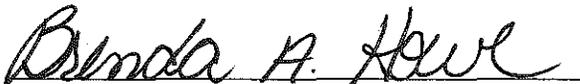
5. I&M's Confidential Information shall continue to be excepted from public disclosure.

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

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: NOV 25 2013

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


Brenda A. Howe
Secretary to the Commission