

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF HARRISON STEEL CASTINGS CO. )  
PURSUANT TO IND. CODE § 8-1-2-24(b) FOR )  
APPROVAL OF A TEMPORARY DISCOUNT TO THE )  
DEMAND COMPONENT OF THE RATES CHARGED )  
TO PETITIONER BY DUKE ENERGY INDIANA, INC. )  
RESPONDENT: DUKE ENERGY INDIANA, INC. )

CAUSE NO. 44764

APPROVED: MAY 25 2016

ORDER OF THE COMMISSION

**Presiding Officers:**  
**David E. Ziegner, Commissioner**  
**Loraine L. Seyfried, Chief Administrative Law Judge**

On March 11, 2016, Harrison Steel Castings, Co. (“Harrison Steel” or “Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) a Petition for approval of a temporary 10% discount to the entire demand component of the rates charged to Petitioner by Duke Energy Indiana, LLC (“DEI” or “Respondent”).

Petitioner filed its case-in-chief testimony and exhibits on March 11, 2016. On April 14, 2016, the Office of the Utility Consumer Counselor (“OUCC”) and DEI both filed case-in-chief testimony.

On April 25, 2016, Petitioner filed its Notice of Submission of Settlement. Petitioner, the OUCC, and DEI filed testimony in support of the parties’ settlement on May 2, 2016.

An evidentiary hearing was held on May 4, 2016 at 9:30 a.m., in Room 224 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Petitioner, the OUCC, and DEI appeared by counsel. Petitioner, the OUCC, and DEI offered their respective prefiled testimony and the settlement agreement into the record, all of which were admitted into evidence without objection. No other party or members of the general public appeared.

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

**1. Notice and Commission Jurisdiction.** Notice of the hearing in this Cause was given as required by law. Petitioner seeks relief pursuant to Ind. Code § 8-1-2-24. Petitioner is a customer of Respondent, which is an electricity supplier as defined in Ind. Code § 8-1-2.3-2 that is subject to the Commission’s jurisdiction for approval of its rates and charges. Therefore, the Commission has jurisdiction over the parties and the subject matter of this Cause.

**2. Petitioner’s Organization and Business.** Petitioner produces carbon and low/medium alloy steel castings for customers in the fields of agriculture, heavy equipment,

energy, military, mining, and the oil and gas industries. Petitioner was founded in 1906 and is located in Attica, Indiana, where it receives electric service from DEI.

3. **Background and Requested Relief.** Pursuant to Ind. Code § 8-1-2-24(b) and (f), Harrison Steel requests approval of a 10% discount to the entire demand component of the rates and charges that it receives from DEI for a period of three years. Harrison Steel had previously sought approval of its request for this discount from the Indiana Economic Development Corporation (“IEDC”). The IEDC granted approval of this discount on November 23, 2015, prior to the filing of the Petition in this Cause.

4. **Summary of the Evidence.**

A. **Case-in-chief Testimony.**

1. **Harrison Steel.** Robert S. Harrison, Vice President of Finance & Treasurer of Petitioner, testified that Harrison Steel is a world leader in the production of highly engineered carbon and low/medium alloy steel castings. Harrison Steel’s primary customers include mining, construction, and energy equipment manufacturers such as Caterpillar, Komatsu, Hitachi, Liebherr, National Oilwell, Siemens, Dana, AxleTech, Daniels Measurement, and many others. Harrison Steel’s castings go into mining trucks, bulldozers, off highway trucks, motor graders, scrapers, oil/gas meters, drilling rigs, turbines, and many other products.

Mr. Harrison described the history of events that led to Harrison Steel’s request for a temporary discount, stating that at its peak in 2012, Harrison Steel employed over 750 full-time employees in its Foundry Division. However, the industries that Harrison Steel serves have faced serious challenges in recent years, which has presented challenges to Harrison Steel. Mr. Harrison described the drop in sales between 2012 and 2016.

Mr. Harrison testified that the company has restructured shifts and engaged in other cost cutting measures, such as undertaking several employment reductions to better align production with demand throughout the downturn. He stated that for each year from 2013 to the fall of 2015, Harrison Steel’s customers believed that a significant recovery would occur in the coming year because the business has been historically cyclical. However, in the fall of 2015, Harrison Steel’s customers indicated that 2016 demand would be significantly slower than 2015, with no recovery in sight. Mr. Harrison explained that this was due in part to the slowing Chinese market and the end of production increases by equipment producers and mines. As a result, demand has slowed while supply has increased, causing the price of commodities to plummet.

Mr. Harrison testified that to stabilize the company, Harrison Steel determined that another resizing of the organization was necessary and also explored shifting operations from night melting only to a single primary day shift. He stated that moving melt operations in alignment with the company’s primary shift would improve communication, overhead costs, and increase personnel utilization.

Mr. Harrison testified that the downside associated with day melting would be an increase in peak demand from 7.5 megawatts (“MW”) to 10 MW, resulting in an increase to the

peak demand charge of \$120,000 annually. Harrison Steel communicated with its DEI customer representative regarding the possibility of shifting operations to a single primary day shift and options to alleviate the impact of the additional demand charges that would accompany a shift in production. DEI recommended utilizing the temporary discount available under Ind. Code § 8-1-2-24(b). Accordingly, Harrison Steel contacted the IEDC at the end of September as well as its State Representative, Sharon Negele, who reached out to the IEDC on Harrison Steel's behalf. The IEDC formally granted approval of the discount on November 23, 2015.

Mr. Harrison testified that Harrison Steel satisfies the requirements of Ind. Code § 8-1-2-24 because it currently employs 180 full-time employees in its Foundry Division, its demand has increased from 7.5 MW to 10 MW, and it is not currently under a special contract, nor is it receiving service under an economic development tariff. In addition, Mr. Harrison testified that a temporary discount to Harrison Steel's demand rates and charges is necessary and essential for Harrison Steel to retain existing jobs at its facility in Attica, Indiana. He testified that the Commission should authorize application of the 10% discount to the entire demand component of Harrison Steel's rates and charges because Harrison Steel needs assistance to stay afloat amidst these difficult times. Mr. Harrison testified that applying the temporary discount to the entire component of Petitioner's demand charges is beneficial to all customers because doing so retains load on DEI's system and maintains an important employer and tax base in the Attica community.

Mr. Harrison concluded by testifying that Harrison Steel is fighting to survive a steep and lengthy business downturn, but that it is introducing many new parts to provide for the company's future. In addition, increased business in the future will result in Harrison Steel hiring more people because steel foundries have high labor content. Mr. Harrison testified that Harrison Steel has unique capabilities, making a highly customized product and serving some of the largest and best equipment manufacturers in the United States. Mr. Harrison testified that Harrison Steel's markets will return, but the Commission's help is needed to reduce costs during this critical time period.

2. **DEI.** Suzanne E. Sieferman, Director, Rates and Regulatory Planning – Indiana for Duke Energy Business Services LLC, described the request made by Harrison Steel. She testified that for an electric utility customer to receive a temporary discount to the demand component of the electricity supplier's applicable standard tariff, the customer must meet established criteria, including demonstrating that such a discount is necessary and essential for the customer to: (a) locate a facility in Indiana, (b) attract or create jobs, or (c) retain existing jobs at the facility. Ms. Sieferman stated that Harrison Steel's petition and direct testimony describes the current financial hardships being experienced by Petitioner and some of its customers and the options being considered to address these hardships and retain existing jobs at its facility. The filings also outline how Petitioner has satisfied the specific criteria for requesting this temporary discount, including applying for and receiving approval from the IEDC.

Ms. Sieferman also described the ratemaking and accounting treatment that DEI is requesting. She stated that DEI is requesting authority to defer the cost of the temporary demand discount, including carrying costs at DEI's weighted average cost of capital, for ratemaking

purposes for subsequent recovery in DEI's next general retail rate case, to be amortized over an established recovery period. Ms. Sieferman testified that recovery of carrying costs is necessary for DEI to be made whole as a result of shifting recovery of demand revenues associated with this customer from the current period into the future, when recovery will begin. Ms. Sieferman testified that the requested deferral is specifically authorized within Ind. Code § 8-1-2-24(d).

Ms. Sieferman testified that DEI's proposed accounting treatment is in accordance with Generally Accepted Accounting Principles, noting that costs associated with regulatory lag can be capitalized for accounting purposes, provided certain provisions are met. She further testified that for DEI to defer the cost of the discount, including carrying costs, as a regulatory asset, it must be probable that such costs will be recovered through rates in future periods. To satisfy that standard, she recommended the Commission's Order specifically approve the accounting and ratemaking treatment proposed by DEI.

3. **OUCC.** Wes R. Blakley, Senior Utility Analyst with the OUCC, testified that Harrison Steel has complied with the requirements for receiving a discount of its demand charge per Ind. Code § 8-1-2-24(b) by: increasing its peak demand from 7.5 MW to 10 MW, employing more than 50 full-time employees, falling on hard economic times and needing relief to retain existing jobs, introducing new parts in pursuit of increasing business and creating new jobs, and applying for and receiving approval for the temporary discount from the IEDC.

Mr. Blakley testified that Ind. Code § 8-1-2-24(d) describes how the credit is later recovered by the utility. He testified the utility can defer the credit until the next rate case, but noted the statute is silent about how the deferred cost would be recovered by DEI. Mr. Blakley suggested that the deferral be amortized over a period of years at least as long as the cost was deferred. He also noted there is no mention in the statute of carrying costs, and that the OUCC does not believe recovering the cost of the discount plus a return, including a return on equity, is consistent with the spirit of the statute. However, he testified, if the Commission approves a carrying charge, the OUCC recommends it be limited to DEI's long-term debt cost rate so as to avoid unnecessary deferrals that could contribute to rate shock in a future case.

Mr. Blakley recommended the Commission approve Harrison Steel's request for a temporary discount to the demand component in DEI's tariff of rates and charges. He also recommended that in the event DEI requests carrying charges on the discount, the Commission deny the request; or alternatively, if a carrying charge is approved, it should be limited to the long-term debt rate of the utility and the deferral should be amortized over a period of years at least as long as the costs were deferred.

**B. Settlement Agreement and Supporting Testimony.** Subsequent to the filing of the parties' cases-in-chief, Harrison Steel, DEI, and the OUCC entered into a Settlement Agreement ("Settlement") resolving each of the issues raised in the present Cause.

1. **Harrison Steel.** Mr. Harrison testified that the Settlement reflects a comprehensive agreement resulting from arms-length negotiations between the parties, which he believes is fair, reasonable, and in the public interest.

Describing the terms of the Settlement, he explained the parties agreed that Harrison Steel has satisfied all requirements of Ind. Code § 8-1-2-24 necessary to receive a temporary 10% discount to the entire demand component of the rates and charges that Harrison Steel pays DEI (“Discount”), and that Harrison Steel’s request for the Discount should be approved. He noted that no party opposed Harrison Steel’s requested relief, and that the OUCC supported Harrison Steel’s requested relief. Mr. Harrison stated that the Discount will apply to Harrison Steel’s bills starting on the first bill rendered after the Commission enters a final order in this Cause approving the Settlement. The Discount will cease to apply to Harrison’s bills three years after the effective date of the Discount.

Mr. Harrison further testified that the Settlement permits DEI to defer, as a regulatory asset, the cost of the Discount and carrying costs thereon for subsequent recovery in connection with DEI’s next general retail electric rate case. Carrying costs will be calculated using DEI’s long-term debt rate. DEI will amortize the regulatory asset, with carrying costs, over three years following the effective date of rates after the final order in DEI’s next general retail electric rate case.

Mr. Harrison explained that the Settlement also details the scope of the Settlement, the obligations of the parties in terms of supporting the Settlement, the effect of rejection or modification of the Settlement, and related issues.

2. **DEI.** Ms. Sieferman testified that DEI requests the Commission find the Settlement reasonable, supported by substantial evidence, and in the public interest, and that the Commission approve the Settlement in its entirety, without changes or conditions. In addition, DEI requests that the Commission allow DEI to defer as a regulatory asset, the cost of the discount, including carrying costs thereon calculated at DEI’s long-term debt rate, for subsequent recovery in connection with its next general retail electric rate case.

Ms. Sieferman testified that the Settlement is a product of negotiations among the parties conducted at an arms’ length basis. She identified the primary substantive features of the Settlement and stated that the Settlement is intended to resolve all disputes, claims, and issues that were, or could have been, raised in this proceeding.

She testified that the Settlement provides economic relief for Harrison Steel through a temporary demand discount and allows for reasonable recovery of costs for DEI, while addressing the OUCC’s concerns regarding the allowance of carrying costs on the deferred discount. She concluded that the Settlement provides a reasonable balance to the issues presented in this proceeding.

3. **OUCC.** Mr. Blakley identified four points leading to his conclusion that the Settlement is reasonable and in the public interest. First, he noted that Mr. Harrison described in some detail the financial distress that threatens the viability of Harrison Steel, a significant employer in the Attica, Indiana region. He testified that the closure of the Harrison Steel plant would have a ripple effect from the loss of jobs, including the loss of income to support other merchants in the area, and that it would also result in more costs that DEI would need to spread out among its remaining customers.

Second, Mr. Blakley explained that he believes Ind. Code § 8-1-2-24(b) was designed to address the situation presented in this Cause – assisting a struggling customer with a measured discount for a specified period of time.

Third, Mr. Blakley stated that Harrison Steel has complied with all statutory requirements to be eligible for the discount.

Fourth, Mr. Blakley testified that providing one customer a discount will result in other ratepayers paying the difference, but that as he understands it, it is not a significant amount, especially when spread across DEI's service territory. Noting that his direct testimony had recommended that DEI not receive any carrying costs on the deferred amount since all other ratepayers were also pitching in, he testified that all parties agreed this disagreement should not result in any delay in providing Harrison Steel the relief it needs. Towards that end, DEI agreed to limit its carrying costs to the long term debt rate, which is lower than its weighted cost of capital.

Mr. Blakley testified that for the above-described reasons the OUCC believes the Settlement is reasonable and in the public interest, and recommends its approval.

**5. Commission Discussion and Findings.** Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including the approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Ind., Inc. v. Public Service Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just, and consistent with the purpose of Indiana Code ch. 8-1-2, and that such agreement serves the public interest.

**A. Statutory Requirements.** Ind. Code § 8-1-2-24(b) establishes the requirements for seeking relief under the statute, and provides:

A customer of an electricity supplier (as defined in IC 8-1-2.3-2) that is a public utility that is under the jurisdiction of the commission for the approval of rates and charges may apply to the commission for a temporary discount to the demand

component of the rates and charges contained in the electricity supplier's applicable standard tariff for service to a single facility of the customer that is located in Indiana if the customer:

- (1) has or will have a maximum demand for electricity of at least five (5) megawatts at the facility;
- (2) employs or will employ more than fifty (50) full-time employees at the facility;
- (3) demonstrates that the temporary discount is necessary and essential for the customer to locate a facility in Indiana or to attract or create additional jobs or retain existing jobs at the facility;
- (4) demonstrates that the customer's demand for electricity at the facility will:
  - (A) for an existing customer, increase by at least one (1) megawatt as a result of the jobs created or retained under subdivision (3); or
  - (B) for a prospective customer, equal at least five (5) megawatts as a result of locating the facility in Indiana; and
- (5) has applied for and received from the Indiana economic development corporation approval for the requested temporary discount amount.

**B. Temporary Discount.** We may approve a temporary discount to the demand component of the rates and charges contained in the electricity supplier's applicable standard tariff if we find that the discount is just and reasonable and consistent with the circumstances described by the customer. Ind. Code § 8-1-2-24(c). The amount of the discount is 10% for circumstances not involving a redevelopment project or a brownfield project. *Id.* A temporary discount expires three years after the effective date of the discount. Ind. Code § 8-1-2-24(d). The cost of the temporary discount shall be included "in the cost of service for the electricity supplier and shall be deferred for ratemaking purposes by the electricity supplier for subsequent recovery in connection with the electricity supplier's next general retail electric rate case." *Id.* In addition, pursuant to Ind. Code § 8-1-2-24(e), a customer receiving a temporary discount under the statute may not,

- (1) enter into a contract with the customer's electricity supplier for electric utility service to the facility that provides for rates, terms, or conditions that differ from the rates, terms, and conditions contained in the electricity supplier's applicable standard tariff; or
- (2) take electric utility service to the facility under a commission-approved economic development tariff offered by the electricity supplier.

For existing customers, a temporary discount applies "only to the demand component of the customer's rates and charges related to the increase in the customer's load...." Ind. Code § 8-1-2-24(f). However, we may authorize the application of the applicable temporary discount to all or part of the demand component of the customer's rates and charges related to the entire facility if we determine that a broader application is beneficial to all customers of the electricity supplier.

In this case, Harrison Steel requests approval of a temporary 10% discount to the entire demand component of the rates charged to it by DEI. No party opposed Harrison Steel's requested relief, and the OUCC submitted testimony in support of the relief. Both the OUCC and DEI have entered into a Settlement with Petitioner supporting the requested relief.

We find that Harrison Steel has demonstrated that it is an important long-time employer in the Attica community and that the industries Harrison Steel serves have faced serious challenges in recent years, in turn presenting serious challenges to Harrison Steel. The evidence presented shows that Harrison Steel has restructured shifts and engaged in other cost cutting measures to address these challenges, including the difficult decision to undertake several employment reductions. Between 2012 and the present, the number of Harrison Steel's full-time employees has dropped from 750 to 180.

The evidence also shows that to stabilize the company, Harrison Steel began exploring the possibility of shifting operations from night melting only to a single primary day shift. This shift is designed to improve communication, overhead costs, and increase personnel utilization. However, the downside associated with day melting would be an increase in peak demand from 7.5 MW to 10 MW, resulting in an increase to the peak demand charge of \$120,000 annually. After consulting State Representative Sharon Negele and DEI, Harrison Steel determined that the increase in its demand charge could be alleviated in part by seeking a temporary discount pursuant to Ind. Code § 8-1-2-24. Harrison Steel requested approval of the discount from the IEDC, which granted such approval on November 23, 2015.

We find that Petitioner has satisfied all the requirements of Ind. Code § 8-1-2-24 necessary to receive a three-year, 10% discount to the entire demand component of the rates charged to Petitioner by DEI. Harrison Steel demonstrated that (1) it is increasing peak demand from 7.5 MW to 10 MW; (2) it employs more than 50 full-time employees; (3) a temporary discount is necessary and essential for it to retain existing jobs at its facility; (4) it has applied for and received approval of the discount from the IEDC; and (5) it is not receiving service under an economic development tariff or special contract. Harrison Steel also demonstrated that applying the temporary discount to the entire component of the demand charges that it pays DEI is beneficial to all customers because doing so retains load on DEI's system, which will contribute to the system's cost recovery requirements. Further, the enhanced economic health of Harrison Steel will help retain an important employer and tax base in the Attica community in which DEI customers live and work.

Based on the evidence presented, we find that the provisions of the Settlement regarding the Petitioner's request for a temporary, 10% discount to the entire demand component of the rates charged to Petitioner by DEI are reasonable, amply supported by the evidence of record, and should be approved.

**C. Ratemaking treatment.** Both DEI and the OUCC presented evidence on the ratemaking treatment of the discount. The parties agreed that the relevant provision of the statute on this issue is Ind. Code § 8-1-2-24(d), which provides that:

A temporary discount authorized under subsection (c) expires three (3) years after the effective date of the discount. The cost of the temporary discount shall be included by the commission in the cost of service for the electricity supplier and shall be deferred for ratemaking purposes by the electricity supplier for subsequent recovery in connection with the electricity supplier's next general retail rate case.

DEI initially requested authority from the Commission to defer the cost of the temporary demand discount, including carrying costs at DEI's weighted average cost of capital, for ratemaking purposes for subsequent recovery in DEI's next general retail rate case, to be amortized over an established recovery period. DEI testified that recovery of carrying costs is necessary in order for it to be made whole as a result of shifting recovery of demand revenues associated with Petitioner from the current period into the future, when recovery will begin after Commission approval of DEI's next general retail electric rate case.

The OUCC agreed that the statute permits DEI to defer the credit until the next rate case, but initially recommended that the deferral be amortized over a period of years at least as long as the costs were deferred. The OUCC also initially recommended against DEI's recovery of carrying costs, noting that there is no mention of carrying costs in the statute. The OUCC testified that recovering a return, including a return on equity, is inconsistent with the spirit of the statute. However, as an alternative, the OUCC recommended limiting recovery of carrying costs to DEI's long-term debt cost rate.

The Settlement permits DEI to defer the discount and carrying costs into a regulatory asset until a final order is issued in DEI's next rate case, after which DEI will amortize the regulatory asset over three years. Carrying costs will be calculated using DEI's long-term debt rate.

Based on the evidence presented, we find that the provisions of the Settlement regarding ratemaking treatment of the discount are reasonable, amply supported by the evidence of record, and should be approved.

**D. Conclusion.** For all of the foregoing reasons, we find that the Settlement is reasonable, supported by the evidence of record, and in the public interest. Accordingly, the Settlement is approved in its entirety, without modification.

The parties agree that the Settlement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849, at \*7-8 (IURC March 19, 1997).

**6. Confidentiality.** On March 11, 2016, Harrison Steel filed a Motion for Protection of Proprietary and Confidential Information ("Motion"), seeking confidential protection of certain information that it intended to submit. Harrison Steel supported its Motion with an affidavit indicating that the information at issue contains confidential, proprietary, and

competitively sensitive trade secrets. The Motion was granted on a preliminary basis by a Docket Entry on March 22, 2016. The confidential information was then submitted to the Commission under seal.

Having reviewed the information submitted under seal by Harrison Steel, we find that the documents qualify as confidential trade secret information within the scope of Ind. Code § 5-14-3-4(a) and Ind. Code § 24-2-3-2. Pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 8-1-2-29, these documents are exempt from public access and disclosure by Indiana law and shall be held confidential and protected from public access and disclosure by the Commission.

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

1. The Settlement, a copy of which is attached to this Order, is approved.
2. Harrison Steel is authorized to receive a temporary, 10% discount to the entire demand component of the rates and charges that Harrison Steel pays DEI. The discount will apply to Harrison Steel's bills starting on the first full month after the date of this Order. The discount will cease to apply to Harrison Steel's bills three years after the effective date of the discount.
3. DEI is authorized to defer, as a regulatory asset, the cost of the discount described in this Order and carrying costs, for subsequent recovery in connection with DEI's next general retail electric rate case. Carrying costs will be calculated using DEI's long-term debt rate. DEI will amortize the Regulatory Asset over three years following entry of the final order in DEI's next rate case.
4. The documents identified in Finding Paragraph 8 above qualify as confidential trade secret information within the scope of Ind. Code § 5-14-3-4(a) and Ind. Code § 24-2-3-2. Pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 8-1-2-29, these documents are 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.

**STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR:**

**APPROVED:**

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

  
\_\_\_\_\_  
**Mary M. Baccera**  
**Secretary of the Commission**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF HARRISON STEEL )  
CASTINGS CO. PURSUANT TO IND. CODE )  
§ 8-1-2-24(b) FOR APPROVAL OF A ) CAUSE NO. 44764  
TEMPORARY DISCOUNT TO THE DEMAND )  
COMPONENT OF THE RATES CHARGED TO )  
PETITIONER BY DUKE ENERGY INDIANA, )  
INC. )

RESPONDENT: DUKE ENERGY INDIANA, LLC

Harrison Steel Castings Co. Settlement Agreement (Cause 44764)

1. This Settlement Agreement (“Settlement”) is entered into by and between Harrison Steel Castings, Co. (“Harrison”), Duke Energy Indiana, LLC (“DEI”), and the Indiana Office of the Utility Consumer Counselor (“OUCC”), (collectively, “Settling Parties”).
2. The Settling Parties agree that this Settlement resolves all disputes, claims, and issues from the Indiana Utility Regulatory Commission (“Commission”) case docketed as Cause 44764.
3. The Settling Parties agree that Harrison has satisfied all requirements of Ind. Code § 8-1-2-24(b)-(g) necessary to receive a temporary ten percent (10%) discount to the entire demand component of the rates and charges that Harrison pays DEI (“Discount”), and that the Commission should approve Harrison’s request for the Discount.
4. The Settling Parties agree that the Discount will apply to Harrison’s bills starting on the first bill rendered after the Commission enters a Final Order in this Cause approving this Settlement. The Discount will cease to apply to Harrison’s bills three (3) years (36 months) after the effective date of the Discount.
5. The Settling Parties agree that DEI may defer, as a regulatory asset (“Regulatory Asset”), the cost of the Discount and carrying costs thereon for subsequent recovery in connection with DEI’s next general retail electric rate case (“Rate Case”). Carrying costs will be calculated using DEI’s long-term debt rate. DEI will amortize the Regulatory Asset, with carrying costs over three (3) years following the effective date of rates after the final order of the Rate Case.
6. The Settling Parties agree that the evidence of record that has already been prefiled with the Commission<sup>1</sup> by the Settling Parties constitutes substantial evidence to support this Settlement and provides a sufficient evidentiary basis upon which the Commission can make

<sup>1</sup> Namely, the Direct Testimony and Exhibits of Robert S. Harrison (prefiled by Harrison on March 11, 2016); the Direct Testimony of Wes R. Blakley (prefiled by the OUCC on April 14, 2016); and the Direct Testimony of Suzanne E. Sieferman (prefiled by DEI on April 14, 2016)

any findings of fact and conclusions of law necessary for approval of this Settlement. The Settling Parties agree that their previously submitted prefiled testimony and exhibits will be offered into evidence without objection by any Settling Party, and that the Settling Parties hereby waive cross-examination of each other's witnesses. In addition, the Settling Parties will coordinate on an agreed-upon proposed order.

7. This Settlement is a complete and interrelated package that is intended to resolve all issues between the Settling Parties as to Harrison's filing in Cause 44764, that were or could have been raised.

8. The Settling Parties will not appeal or seek rehearing, reconsideration or stay of a Final Order approving this Settlement in its entirety or without any change or condition(s) unacceptable to any adversely affected Settling Party (or related orders to the extent such orders are specifically implementing the provisions of this Settlement) except with the agreement of all Settling Parties on the issues subject to rehearing, reconsideration, or appeal.

9. The Settling Parties agree to support in good faith the terms of this Settlement before the Commission and further agree not to take any positions adverse to or inconsistent with the Settlement, or any adverse positions against each other with respect to the Settlement before any appellate courts, or on rehearing, reconsideration, remand or subsequent or additional related proceedings before the Commission.

10. The Settling Parties also agree to support or not oppose this Settlement in the event of any request for a stay by a person not a party to this Settlement or if this Settlement is the subject matter of any other state proceeding.

11. The Settling Parties shall remain bound by the terms of this Settlement and shall continue to support or not oppose all the terms of the Settlement on appeal, remand, reconsideration, etc., even if the Commission rejects the Settlement. However, in the event that the Settlement is rejected by the Commission and such rejection is ultimately upheld on rehearing, reconsideration, and/or appeal, at the point when all such proceedings and appeals are complete, this Settlement shall become void and of no further effect (except for provisions which have already been fully implemented or that are explicitly stated herein to survive termination/voiding).

12. If the Commission approves the Settlement in its entirety, or approves the Settlement with modifications that are not unacceptable to affected Settling Parties, and such Commission approval is ultimately vacated or reversed on appeal, the Settling Parties agree to support or not oppose the terms of this Settlement in any additional proceedings before the Commission (as well as any subsequent appeals). In such situation, the Settling Parties agree not to take any positions adverse to or inconsistent with the Settlement or any adverse positions against each other with respect to the Settlement or the subject matters herein, on remand or in additional related proceedings before the Commission.

13. The positions taken by the Settling Parties in this Settlement shall not be deemed to be admissions by any of the Settling Parties and shall not be used as precedent, except as

necessary to implement the terms of this Settlement. This provision shall survive termination/voiding of this Settlement.

14. It is understood that this Settlement is reflective of a good faith negotiated settlement and neither the making of the Settlement nor any of its provisions shall constitute an admission by any Settling Party in this or any other litigation or proceeding except as necessary to implement or enforce this Settlement. It is also understood that each and every term of the Settlement is in consideration and support of every other term.

15. The Settling Parties will support this Settlement before the Commission and request that the Commission expeditiously accept and approve the Settlement. This Settlement is a complete, interrelated package and is not severable, and shall be accepted or rejected in its entirety without modification or further condition(s) that may be unacceptable to any Settling Party.

16. The communications and discussions during the negotiations and conferences and any materials produced and exchanged concerning this Settlement all relate to offers of settlement and shall be privileged and confidential, without prejudice to the position of any Settling Party, and are not to be used in any manner in connection with any other proceeding or otherwise. This provision shall survive termination/voiding of this Settlement.

17. The undersigned Settling Parties have represented and agreed that they are fully authorized to execute the Settlement on behalf of their designated clients, and their successors and assigns, who will be bound thereby.

18. This Settlement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

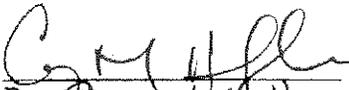
ACCEPTED AND AGREED THIS \_\_\_\_\_.

[Signature pages to follow]

**For Harrison Steel Castings, Co.:**

  
\_\_\_\_\_  
Tabitha L. Balzer, its attorney

**For Duke Energy Indiana, LLC**

  
By: Casey M. Holsapple

**For the Indiana Office of the Utility Consumer Counselor:**

\_\_\_\_\_  
Randall C. Helmen, Chief Deputy Consumer Counselor  
Indiana Office of the Utility Consumer Counselor

**For Harrison Steel Castings, Co.:**

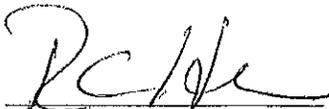


Tabitha L. Balzer, its attorney

**For Duke Energy Indiana, LLC**

By: \_\_\_\_\_

**For the Indiana Office of the Utility Consumer Counselor:**



Randall C. Helmen, Chief Deputy Consumer Counselor  
Indiana Office of the Utility Consumer Counselor