

Comments of Citizens Action Coalition of Indiana on the IURC's Performance-Based Ratemaking (PBR) Report

July 16, 2025

We appreciate the opportunity to provide comments on the IURC's PBR report.¹ We are concerned that the report does not focus on the statutory directive to determine “[b]est practices for allocating the costs, benefits, and risks associated with performance incentive mechanisms between: (A) customers and customer classes; and (B) shareholders; **with affordability of service prioritized**” as required by Ind. Code § 8-1-2.5-6.5. (emphasis added). The report, as it stands, instead advances a framework that protects utility profits and flexibility while offering no guaranteed benefits for consumers. Below, we outline the report's critical flaws and propose corrective actions.

1. Areas of Agreement

CAC expresses appreciation for several aspects of the report. First, the report notes that “the devil is in the details” of PBR, and concedes it is “not a panacea.” It also provides some details on the limitations of PBR, including the administrative burden of transitioning to PBR and the lack of improvements in regulatory burden if utilities already file rate cases on a similar cadence as they would under PBR, among other limitations. Regarding performance incentive mechanisms (“PIMs”), the report recognizes that financial incentives may unjustly reward a utility. The report correctly notes that some PBR mechanisms, like formula-based rates, are clearly inappropriate for Indiana.

2. Report Looks for a Solution without Adequately Identifying the Problem

The report does not provide sufficient context for understanding why Indiana's electric rates have increased at a much faster rate than many other states. Failure to adequately understand the problems with current ratemaking will lead to solutions that do not address the root causes. CAC believes PBR is an example of such a solution that is not actually tailored to addressing our growing utility affordability crisis, and that the recommendations outlined in the report could exacerbate, rather than mitigate, it.

One of the leading causes of unaffordability in Indiana is the asymmetric power that electric utilities have relative to all other stakeholders at the General Assembly and before the IURC. Successful utility lobbying at the General Assembly has led to the passage of numerous bills that shift risk from utility shareholders to ratepayers, eliminated successful and popular customer programs like Energizing Indiana and net metering, and resulted in rate increases, tying the hands of the IURC to protect customers.

The report fails to adequately consider this context and connect the dots to explain why electric utilities are now pushing for legislative changes to enable PBR mechanisms, which they clearly see as opportunities to entrench their power, ensure ongoing rate increases, and insulate

¹ <https://www.in.gov/iurc/files/PBR-Report-to-IURC-May-9-2025.pdf>

their shareholders from risk. **The report should clearly identify that consumer advocates oppose the adoption of PBR at this time, given far more pressing issues related to affordability and consumer protection.**

For example, consider the Report's Section 3.1 Industry Overview, which discusses factors contributing to Indiana's rising electricity rates relative to other states:

- This discussion overlooks the fact that the enormous spending on environmental control technologies at coal plants was enabled by legislation that allowed for bill trackers and removed IURC discretion.
- Another example is enormous coal ash cleanup costs that are being imposed on ratepayers today because Indiana utilities in the past did not dispose of their coal ash in a prudent and safe manner (effectively resulting in previous rates being subsidized by today's ratepayers).
- It also fails to address the numerous statutes enacted in the past 20 years that gutted energy efficiency and allowed utilities to more easily pass on rate increases to customers through trackers, which have been a significant source of electricity price increases in Indiana.
- Finally, this section suggests Indiana customers benefit from "economically dispatched energy resources," when in actuality, Indiana utilities have been committing coal plants as "Must Run" in the market and adding decrement pricing to market bids, with uneconomic costs passed onto consumers. CAC's expert estimated that if Edwardsport continued to incur losses from bidding into the MISO wholesale market at the same rate the company did in the 3-month period September to November 2019 into the future, "DEI (Duke Energy Indiana) customers could pay an additional \$700-800 million more than necessary..."²

We ask that the report address these shortcomings.

3. Affordability Should Be Prioritized

The report does not prioritize affordability as an outcome of ratemaking reforms, which is at odds with the law's directive to evaluate "[b]est practices for allocating the costs, benefits, and risks associated with performance incentive mechanisms between: (A) customers and customer classes; and (B) shareholders; with **affordability of service prioritized**" (emphasis added). Key omissions include:

- No discussion or evaluation of cost allocation between customers and customer classes.
- Limited discussion of best practices for allocating costs, benefits, and risks.
- No cost-benefit analysis showing whether PBR will lower rates or simply increase utility earnings. The PIMs should result in a net benefit to consumers in the context of each and every metric, the overall statutory goals, and electric service.
- No discussion about how the metrics for affordability should be outcome-oriented, not process or spending-oriented. Affordability metrics should measure the effect on consumers and on rates. Metrics that are defined by a particular investment (e.g., certain

² See IURC Cause No. 38707 FAC 123S1, CAC Ex. 1, p. 41.

types of plant or equipment) are not performance-based but spending-based and should be rejected.

- DERs (solar, storage, efficiency) are mischaracterized as merely “environmental” tools, ignoring their proven bill-saving benefits (e.g., as discussed below, Energizing Indiana’s 3:1 savings ratio, as well as 18,000 jobs).
- Virtual Power Plants (VPPs)—a proven affordability solution—are dismissed, despite, as discussed below, DOE and RMI studies showing \$17B+ in grid savings by 2030.

4. PBR Risks Excessive Profits without Consumer Protections

The report’s proposed mechanisms—multi-year rate plans, trackers, and incentives—shift financial risk to ratepayers while guaranteeing utility returns. While we oppose PBR, particularly in our jurisdiction, given the likelihood that PBR will not be performed fairly for consumers, we offer essential modifications that should be implemented if PBR moves forward:

- PIMs should only apply if they significantly improve utility performance rather than maintain the status quo. Insignificant or minor improvements in outcomes, or outcomes incentivized elsewhere (no double-dipping of incentives), should not result in an incentive payment.
- PBR should have hard rate caps or profit-sharing to ensure savings reach customers.
- Self-reported utility data without third-party audits are unacceptable for performance-based rewards.
- PBR should require automatic penalties or refunds for underperformance (e.g., if outages increase).
- PBR should ban rewards for baseline utility obligations being met.
- PIMs and reporting metrics should increase transparency and the availability and reporting of utility and energy operating and cost information. Further, metrics and outcomes should be available to the public in an understandable format, clearly defined, measurable, and unambiguous.
- The report suggests treating different utility costs in different ways. This type of hybrid PBR plan should not be allowed insofar as the utilities will undoubtedly devise hybrid approaches that will be unnecessarily complex and less transparent or more difficult for stakeholders and the IURC to assess and understand the potential impacts.
- The report mentions Fuel Adjustment Clauses but does not mention fuel cost sharing as a potential cost containment solution. Fuel cost risk sharing, put simply, shares the risk of fuel prices exceeding the level forecasted into base rates (as well as the savings if actual fuel costs are lower than what’s forecasted) between ratepayers and utilities. Nine states have fuel risk cost sharing mechanisms applicable to electric utilities (HI, ID, MO, MT, OR, VT, WA, WI, WY). These mechanisms can be found on RMI’s PIMs Database (filter for “fuel cost mechanisms (FCM).”³ More about fuel cost risk sharing and other methods of encouraging utilities to manage fuel costs more effectively are explored in an RMI report, *Strategies for Encouraging Good Fuel-Cost Management: A Handbook for Utility Regulators*.⁴

³ <https://pims.rmi.org/>

⁴ <https://rmi.org/insight/strategies-for-encouraging-good-fuel-cost-management/>

- Independent management audits should be performed before implementing MYRPs in a way that ensures the going in base rates are set as low as possible (i.e., creating the strongest incentive for cost containment). In theory, the management audit will surface management and process efficiencies within the utility that will lower costs, and these savings can be returned to ratepayers at the start of the MYRP. It can also provide transparency into the utilities' operations and could help assess cost estimates proposed in a future PBR application. In Hawaii, the PUC required an independent management audit of Hawaiian Electric as part of HECO's most recent rate case. The audit identified operational inefficiencies (which equated to annual savings of roughly \$25 million) and was an important tool in identifying opportunities for the utility to realize cost savings that could be returned to customers through the MYRP's annual revenue adjustment mechanism. Illinois also passed legislation⁵ that requires audits for each major utility to be completed in a 6-month timeframe prior to implementing MYRPs. The audits focus on: capital projects placed into service since 2012, a utility's efforts to optimize reliability and resilience, a data baseline to inform utility MYRPs, and deficiencies that could impact the planning process. New York has also recently announced its intention to conduct audits of its utilities to support affordability.
- PIMs and other PBR mechanisms need to be considered when setting an appropriate ROE, and should be part of the established set of guiding principles for incentive regulation. Moreover, generally, there are opportunities to reform the way in which authorized ROE is set that would likewise be appropriate to consider as part of the guiding principles process. The Rebalancing Return on Equity paper⁶ provides a comprehensive explanation of why this is so important.
- PBR should prioritize affordability tools like DERs and VPPs and should aim to annually reduce residential disconnections for non-payment, particularly in the zip codes in the respective utility's service territory with the highest disconnection ratios.

5. Indiana's Current Lost Revenue Adjustment Mechanisms ("LRAM") Are Not Reasonably Implemented

Table 7.2: Recommendations for Revenue Decoupling states, "If stakeholders agree that the LRAM is reasonable, we recommend maintaining this approach with no changes." Stakeholders, including CAC, do not agree Indiana's existing LRAM is reasonable and have strongly opposed and litigated against these mechanisms for many years. Indiana's LRAM is particularly unfair and undermines customer affordability because (in at least some cases) it allows a utility to earn lost revenues on the lifetime of energy efficiency measures.⁷ LRAM adds millions of dollars in unnecessary costs to rates, exacerbating our affordability crisis. The PBR report should be modified to provide a more thorough critique of this mechanism and recommend that the General Assembly discontinue its use.

⁵ See Sec. 16-105.10, which also enabled PBR.

⁶ <https://rmi.org/rebalancing-return-on-equity-to-accelerate-an-affordable-clean-energy-future/>

⁷ Duke estimated the lifetime lost revenue total for its 2024-2026 DSM plan at \$103,926,272, which represents over 25% of the total cost of the plan. The Commission approved Duke's proposal, despite vehement opposition from consumer advocates. See IURC Final Order, Cause No. 45803 (July 26, 2023); CAC Exhibit 1, p. 15.

6. Rate Cases and MYRPs

The report's Table 5.19 Recommendations for MYRPs recommends allowing IOUs to voluntarily file three- or four-year forecasted MYRPs. We disagree that this is a reasonable conclusion based on the report. The report provides insufficient evidence that a three- or four-year MYRP would provide affordability benefits to ratepayers relative to the status quo ratemaking, including the forward-looking test years with phase-in rate increases used by many IOUs. It also fails to recognize CAC's comments in response to PBR surveys that indicated that rate cases are important and unique opportunities for transparency, including through the discovery process in rate cases. Indiana utilities are not filing rate cases every year (such as IOUs in Michigan), so there is no evidence that the cadence of rate cases is currently overly burdensome.

In addition, the report's Table 6.2 Recommendations for PIMs in Indiana recommends that the IURC allow IOUs to file PIMs as part of future rate applications. The recommendations fail to include anything that would ensure PIMs enhance affordability, so, as written, this recommendation appears to create opportunities for utilities to charge even higher rates from consumers based on currently unspecified performance using currently unspecified metrics. Such an open-ended recommendation creates the strong possibility for abuse by IOUs. The report provides insufficient evidence to demonstrate that the benefits of PIMs to ratepayer affordability outweigh the likely costs. **Furthermore, we request that, should this recommendation continue to be included in the report, it be modified to expressly recommend that the IURC allow stakeholders (not just IOUs) to propose PIMs, including financial penalties for utility underperformance.** Utilities' self-interest will be to propose PIMs that will likely increase their revenue and undermine customer affordability.

7. The Report Appears to Defend One-Way Ratemaking, i.e., Trackers

We are concerned that the report defends Indiana's 15+ automatic rate adjustments (e.g., TDSIC, Clean Coal Technology Investment and Operating Cost, Nuclear Life-Cycle Management Cost, Summer Reliability Adjustment, etc.) but ignores how they:

- Blunt rate shock for utilities, not customers (e.g., Duke's trackers caused 23% bill hikes in 3 years).
- Shift all financial risk to ratepayers, even for utility-controlled costs (e.g., transmission projects).
- Distort markets by propping up uneconomic coal/gas plants (e.g., MISO's \$3.9B coal losses, passed to consumers).

While the report correctly defines the reasoning behind trackers as costs that are "largely outside the utility's control, volatile in nature, and materially significant," it wrongly assumes that the non-fuel trackers are part of that. There are also concerning contradictions in the PBR report with respect to tracking mechanisms. The authors list "formula rates" ("essentially, comprehensive cost tracker," with weak cost-containment incentive⁸) as part of multi-year rate plans – used in performance-based rate schemes – then declare they "are not considered a form of PBR." They also suggest that "capital trackers" (like for power plants and transmission lines)

⁸ <https://www.nasuca.org/wp-content/uploads/2021/10/Lowry-Presentation-for-NASUCA-Final.pdf>

could be included in potential PBR options, while again stating that trackers are not necessarily PBR tools. The report should honestly address this and recommend that non-fuel trackers be eliminated and that the “used-and-useful” standards for cost recovery be reinstated.

8. Distributed Energy Resources (DERs) Undermined

The report characterizes DERs, such as energy efficiency, solar plus storage, and demand response, as only enhancing environmental quality or sustainability but misses this critical component of utility bill affordability. The report ignores DERs’ affordability potential, despite evidence that:

- Energy efficiency is the cheapest resource, yet Indiana killed our Energy Efficiency Resource Standard, the statewide implementation of utility-sponsored energy efficiency under Energizing Indiana, and allowed Indiana to institute the lowest threshold nationally for commercial and industrial customer opt out of paying into and participating in programs at a mere one (1) megawatt.⁹ Energy efficiency alone creates immediate savings for customers, is the cheapest energy resource available, and is a powerful economic development tool. Energizing Indiana accomplished threefold savings for every dollar spent¹⁰ and created 18,000 jobs from 2012 to 2014.¹¹ The demise of Energizing Indiana cut savings by nearly \$150 million from 2015 through 2019,¹² and energy efficiency job creation dropped 19% immediately.
- Customer-owned solar alone (and with storage) provides immediate savings as well, if the proper policies are in place. Net metering’s repeal crashed rooftop solar (67% drop in I&M’s territory)¹³— with projected job growth in the rooftop solar sector to be tepid for the next 20 years.¹⁴ And the new pricing structure based on energy market rates that fluctuated wildly for customers in that period (rather than the steady retail rate customers pay utility monopolies under net metering) demonstrates the difficulty for customers in determining whether to install solar power.¹⁵
- Virtual Power Plants, wherein DERs can be combined and act as a single power plant with web-based systems coordinating the resources, could save \$17B by 2030 (Brattle Group) but require Indiana to implement policies or have willing utilities to move forward with such cost-saving tools for customers.

These are powerful tools to help achieve affordability. The report should prioritize affordability, as required by the legislature, and emphasize the utmost importance of these initiatives.

⁹ <https://www.utilitydive.com/news/indiana-kills-its-energy-efficiency-program/244552/>; see also I.C. § 8-1-8.5-9, -10.

¹⁰ IURC DSM Report to the Indiana General Assembly (August 15, 2014), available at: https://www.citact.org/sites/default/files/DSM_Report_to_General_Assembly_w_Cover_Letter_8-15-2014%281%29.pdf

¹¹ 2014 Energizing Indiana Evaluation Report (May 1, 2015), pp. 161-165, available at: <https://citizensactioncoalitioneducati.box.com/s/ulj2djd24cosg99yifsg9jp4nj78qfmp>; see also https://static1.squarespace.com/static/5936d98f6a4963bcd1ed94d3/t/5b58ab1c352f53ceb86b21dc/1532537629787/Indiana+EERS+Rollback+Policy+Brief+25July2018_Final+%282%29.pdf

¹² *Id.*

¹³ IURC Cause No. 45933, CAC Ex. 1, p. 83.

¹⁴ <https://pv-magazine-usa.com/2023/11/21/indiana-killed-net-metering-solar-down-67-utility-now-seeking-23-rate-increase/>

¹⁵ IURC Cause No. 45933, CAC Ex. 1, pp. 83-86.