

## RESPONSES OF CITIZENS ACTION COALITION TO THE SECOND SET OF IURC PBR STUDY SURVEY QUESTIONS

CAC provides the following responses, in bold, to the questions posed.

### Stakeholder Workshop:

If you attended the IURC PBR Study Stakeholder Engagement Workshop that was held on October 17<sup>th</sup>, please answer the following two questions. If not, skip to the next section.

1. Did the workshop on October 17<sup>th</sup> provide helpful information regarding the IURC's plans to evaluate the applicability of PBR in Indiana?

**Yes, the workshop provided some helpful information.**

2. Did your organization feel it had the opportunity to provide comments and ask questions during the workshop?

**Yes, we felt we had the opportunity to provide comments and ask questions.**

3. What aspects of the workshop did you find valuable and what areas do you feel could be improved?

**An in-person format, with a virtual option so as to not preclude participants, would help foster better participation / more dialogue. Given the complex topics discussed, more detail on the specific topics could be beneficial. For example, it is unclear how the formula on Slide 17 would be operationalized and implemented for a utility in Indiana, so it is difficult for us to assess the pros and cons of this approach.**

### Current Regulatory Framework:

1. What goals and outcomes related to electric utility services should be pursued through regulation in Indiana?

**CAC generally agrees that the Five Pillars identify goals and outcomes that should be pursued through regulation in Indiana. Residential customer affordability is particularly important and deserves greater prioritization.**

**CAC also recommends that increasing utility transparency and accountability should be pursued.**

2. How well does the current rate-regulation framework in Indiana facilitate success in the following areas? (Very well/Adequately/Neutral/Poorly/Very Poorly)
- a. Reliability – **Neutral**
  - b. Resilience – **Neutral**
  - c. Stability – **Neutral**
  - d. Affordability – **Depends on the customer. Very poorly for residential class and low-income residential customers; Very well for large industrial customers and those customers that are successful in having Targeted Economic Development project costs socialized onto other customers.**
  - e. Environmental Sustainability – **Very poorly. It's not clear to CAC how this pillar is being measured, or even being considered, beyond "is the utility complying with environmental regulations".**
  - f. Utility cost control – **Very poorly**
  - g. Regulatory efficiency – **Adequately, depending on what is meant by regulatory efficiency. The speed by which final orders in docketed cases are issued may be a meaningful metric for the utility, but is not an indicator of a fair or reasonable outcome or process. If the intent is to move cases and processes more "efficiently," that could be achieved by creating uniform requirements for reporting by the utilities, which would help alleviate confusion and not stretch the already thin resources of the Commission and stakeholders even thinner, i.e., standardized mechanisms should be implemented for items such as performance incentives, performance metrics reports, DSM scorecards, etc.**
  - h. Customer service/connection time – **Poorly**
  - i. Financial health of the utility – **Very well**
  - j. Adaptability to the energy transition (e.g., retirement of coal generation facilities; adoption of distributed energy resources; electrification) – **Very poorly**
3. Will the current rate-regulation framework in Indiana remain appropriate for optimizing utility services in the following areas, given the transition from coal power generation and given the energy transition (e.g., adoption of distributed energy resources; electrification)? (Yes/No) If no, please explain what improvements could be made to the state's regulatory framework that would offer improvements to the status quo.
- a. Reliability – **(No response.)**
  - b. Resilience – **(No response.)**
  - c. Stability – **(No response.)**
  - d. Affordability – **Affordability needs to be better defined and systematically considered in cases. Utilities should be required to provide transparent and uniform reporting on basic affordability data like disconnections, arrearages, and customers on payment plans, among other information, for residential and LIHEAP residential**

customers, so affordability metrics can be tracked over time and compared across utilities. The use of trackers/riders needs to be significantly reformed. Antiquated cost allocation regimes used by Indiana utilities that result in residential customers bearing an unfairly large burden also need to be modernized. Finally, electric utilities should be required to offer low-income discount rates.

e. Environmental Sustainability – Environmental sustainability should be more clearly defined and systematically considered in cases.

f. Utility cost control – There should be cost control measures established so that utility shareholders are held responsible for cost overruns instead of these costs always falling on captive ratepayers.

g. Regulatory efficiency – (No response.)

h. Customer service/connection time– (No response.)

i. Financial health of the utility– (No response.)

j. Adaptability to the energy transition (e.g., retirement of coal generation facilities; adoption of distributed energy resources; electrification) – **Current policy (e.g., SEA 309 of 2017) undermines the adoption of distributed energy resources and has severely stunted Indiana’s DER market. Similarly, Indiana policies do not promote electrification. Utilities have been slow to advance grid enhancing technologies and virtual power plants, too. The regulatory framework could be improved to incentivize and encourage utilities to establish practices and tariffs that foster development of these types of tools and solutions, and additional flexibility could be given to the Commission to approve and implement innovative proposals related to them.**

4. Have rates increased at a faster pace than the historical average over the last decade? If so, why? **Yes. For example, Indiana investor-owned electric utilities Duke Energy, CenterPoint, and NIPSCO have each proposed a more than \$40 per month bill increase on residential customers within the last year. This magnitude of proposed rate increase is unprecedented in CAC’s 50-year organizational history.**

There are several underlying causes but they are generally rooted in utilities influencing policies, particularly at the legislature, to conduct operations in a manner that benefits shareholders at the expense of ratepayers. First, Indiana utilities imprudently kept uneconomic coal-fired generation resources online in the 2000s and 2010s, including incurring billions of ratepayer dollars in expenditures on limited use pollution control equipment. When natural gas and renewable energy quickly became far more cost-effective resources, utilities were stuck with bad investments in coal. Furthermore, they failed to safely dispose of coal ash for decades, and now must spend billions of dollars in clean up costs, which they request to pass along to ratepayers. Utilities have also been operating coal-fired power plants uneconomically, yet they have been allowed full cost

recovery of uneconomic dispatch. Now, utilities are making investments in renewable energy and natural gas, and the costs of these new facilities are “pancaked” on top of significant legacy coal costs.

Second, the General Assembly enacted numerous laws that undermined customer solutions while giving utilities near blank-check spending ability. These laws include repealing the successful energy efficiency resource standard and statewide third party delivery (Energizing Indiana), as well as repealing net metering, while enacting numerous tracker / rider laws that allow utilities to recovery all of their costs without regulatory lag, e.g., for any “federal mandate” / environmental compliance cost, transmission and distribution upgrades (TDSIC), and “lost revenues” associated with DSM plans. The TDSIC law has led to likely gold-plating of the T&D system and a sharp increase in some utilities’ T&D spending. Although the utilities have numerous trackers which significantly lower if not eliminate any risk, the utilities have still been rewarded with inflated profit margins via authorized ROEs that are higher than national trends.

Third, antiquated cost allocation approaches continue to be used to allocate costs across customer classes. These approaches have severely harmed residential customer affordability by over-allocating costs to them.

Fourth, residential customer rate design has discouraged energy efficiency. For example, several utilities still use an antiquated declining block rate design and have pushed for drastically higher fixed charges. The State of Indiana has also failed to adopt modern building codes that have more robust energy efficiency.

Fifth, most Indiana utilities use a future test year when establishing base rates, which can overestimate expenses and shift risk of under-recovery from utility shareholders onto ratepayers. In addition, when capital expenditures are higher than expected, utilities typically are granted approval to pass on the higher-than-anticipated costs.

Finally, inflation, rising demand / limited supply, and supply chain constraints are other factors that have further exacerbated affordability challenges in the past two years.

5. What could be done to improve affordability for customers?
  - Reduce utility authorized returns on equity.
  - Create a new low-income rate that is durable and funded by ratepayers that meaningfully reduces bills of income-constrained residential customers.
  - Disallow improper and imprudent utility expenditures, including disallowance of uneconomic coal plant dispatch, coal ash cleanup costs necessary to rectify imprudent

utility coal disposal practices, utility plant that is no longer used and useful, and excessive and unreasonable executive compensation.

- Significantly enhance energy efficiency programs.
- Create a new distributed generation tariff that fairly compensates excess generation, allows third-party power purchase agreements, and provides long-term certainty for customers.
- Reducing use of trackers / riders.
- Modernize cost allocation approaches, especially for Production Plant, so that residential customers are not unfairly burdened.
- Increase transparency and reporting on affordability metrics so progress can be clearly measured and tracked over time.

#### Multi-Year Rate Plans & Performance Incentive Mechanisms:

1. Would you support a regulatory regime that allows the option to use a MYRP on the state's investor-owned utilities, meaning three or more years between rate applications? (This could mean forecasting revenues over a three-year period, operating under a price or revenue cap, or setting rates annually based on a cost-of-service formula.) Explain why or why not.

**No, not at this time and without fully understanding and vetting a specific proposal. The questions list three distinct examples of MYRP that have different risks, costs, and benefits. MYRP is a very broad category, so CAC would need additional details about what specifically is envisioned and what specific consumer protections would be included. A vague provision allowing MYRP without adequate consumer protections, safeguards, transparency, and accountability mechanisms could exacerbate our existing challenges.**

**In general, the MYRP appears to be a solution in search of a problem. It is not addressing the fundamental issues with Indiana's regulatory landscape and with the increasing unaffordability of utility rates. A MYRP appears to be a tool to primarily benefit utility shareholders by providing certainty and guaranteed rate increases year-over-year, while shielding the utility from scrutiny by reducing the frequency of rate cases and spreading out rate increases over many smaller increases to avoid customer backlash from less frequent but larger individual rate increases. It does not appear to be focused on addressing the identified affordability challenges faced by customers in Indiana, and could even undermine affordability.**



2. Do you support utilities operating under a price cap (or revenue) cap over a five-year period, where prices (or revenue requirements) are adjusted each year according to a formula based on inflation and industry productivity? Why or why not?

**No, not at this time and without fully understanding and vetting a specific proposal. CAC needs more information about the formula that would be used, how each variable would be operationalized, what transparency and reporting mechanisms would be in place, and what added consumer protections would be adopted. Establishing a formula for setting rates creates significant opportunity for utilities to use information asymmetries and their ability to charge ratepayers for expert witnesses to get significant rate increases even if their costs do not actually increase.**

**For example, there has been inadequate explanation provided on how “industry productivity” is measured and evaluated, and whether such a concept has methodological and operational rigor and validity. Furthermore, other variables (S, X, Y) identified on Slide 17 of the October 17 presentation are not well defined and unclear.**

**Vague formulas like this can be easily gamed by utilities and their experts when operationalized in cases to benefit their shareholders at the detriment of ratepayers. Entities like the IURC, OUCC, and CAC may not have the adequate expertise or staff to evaluate complex and arcane economic and econometric formulas that could have significant impacts on consumer rates.**

3. If utilities established a revenue requirement forecast for three or more years, would it be more burdensome to validate the reasonableness of such forecasts compared to evaluating a single future test year? What additional information would utilities need to provide to assist in the evaluation of such forecasts?

**Yes, evaluating revenue requirement for more than one year is necessarily more work than evaluating revenue requirement for a single year. A longer rate case procedural schedule giving intervenor parties significantly more time to file their case-in-chief would be one example of what would be needed to better evaluate such forecasts. Utilities would also need expanded minimum filing requirements that includes detailed support and workpapers for all years to be filed at the time the utility files its case-in-chief.**

**However, even with these changes, CAC’s concern is not simply an issue with needing additional information, but rather a larger concern about forecasts becoming increasingly inaccurate as they go further into the future. Three or more years is an unreasonably long amount of time into the future to base decisions on establishing just and reasonable rates given the extreme changes we are experiencing in the utility industry specifically, and the**

**larger economy more generally (e.g., see how inflation rates, supply chain issues, equipment costs, load forecasts, IRPs, etc. have changed just in the past 3 years).**

4. Would you expect a utility to obtain financial benefits from operating under some form of price (or revenue) cap? Why or why not?

**It is unclear what exactly is meant by a utility “obtain[ing] financial benefits.” If this term means increased shareholder profits and reduced risk to utility shareholders, then yes.**

5. Would you expect customers to obtain benefits from a utility operating under some form of price (or revenue) cap? Why or why not?

**No. It is unclear how establishing a formula to increase rates every year for consumers would be beneficial.**

6. Would you support financial rewards (i.e., PIMs) for utilities that provide superior service quality or penalties for utilities that provide sub-par service quality, as established by specific metrics? Does your opinion change if the PIMs are optional (opt-in) or if the PIMs are set specifically for each utility rather than the same PIM target for all utilities.

**Utilities with monopoly service territories should not receive additional rewards on top of their generous authorized returns on equity in return for providing the service that they are required to provide under the law. A utility’s ROE is its opportunity for profit in exchange for providing efficient service at just and reasonable rates. It is not just and reasonable to increase customer rates in order to give a financial reward to a monopoly utility for doing something it is supposed to do by law.**

**CAC supports penalties for utilities that provide sub-par service quality. Such penalties would help motivate utilities to provide better service to captive ratepayers. Penalties for sub-par service should not be “opt-in” for utilities, nor should they be established by utilities.**

7. How would you define success or failure for a performance-based regulation mechanism such as a MYRP or PIM?

**Lower residential customer bills, better environmental sustainability, better reliability / stability / resiliency, and more transparency and accountability.**

8. Does your organization agree that incremental updates to Indiana’s existing regulatory structure would be a better approach to address the goals of both Indiana utilities and consumers, compared

to requiring the utilities to operate under some form of MYRP? If so, what incremental updates could be considered, and what goals would these updates help to address?

**Yes. Incremental updates that could be considered include:**

- **Ending residential security deposits, late fees, disconnection / reconnection fees, and convenience fees.**
- **Establishing uniform and regular utility reporting requirements than enhance transparency around key affordability metrics**
- **Eliminating or curtailing the use of trackers / riders for T&D expenditures, generation, and environmental compliance projects.**
- **Eliminating economic development riders to the extent such discounts are recovered from other customers.**
- **Disallowance of uneconomic coal plant dispatch costs.**
- **Disallowance of cleanup costs of coal ash that was imprudently stored.**
- **Ending the use of future test years and instead using historical test years and regulatory mechanisms that incent utility cost discipline and efficiency by keeping some regulatory lag.**
- **Establishing a low-income rate that provides meaningful monthly bill discounts.**
- **Modernizing cost allocation methodologies to ensure that industrial customers and data centers are paying their fair share.**
- **Improving rate design to incent efficiency (eliminating declining block rates; reducing fixed charges; establishing opt-in voluntary time of use rate options; creating multi-family rates that have lower charges to reflect the lower cost to serve these customers).**

**Additional Information:**

1. Do you have any additional information or comments to share regarding the exploration of performance-based regulation for Indiana utilities?

**(No response.)**

2. Would you find value in a second workshop? If so, what topic areas would you want to discuss?

**Yes. An in-person workshop, with a virtual option maintained, could be beneficial for facilitating additional dialogue. It would also be beneficial to see a couple of case studies of how similar proposals were implemented in several jurisdictions, including identification of best practices as well as common pitfalls that led to problems when similar concepts were adopted in other jurisdictions.**



Respectfully submitted,

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