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VIA ELECTRONIC MAIL

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RE: INDIEC'S Comments in Response to May 9, 2025 Performance Based Ratemaking Survey

Dear Luke,

I am writing on behalf of Indiana Industrial Energy Consumers, Inc. ("INDIEC") to provide our comments in response to the May 9, 2025, *Performance Based Ratemaking Report* prepared for the Indiana Utility Regulatory Commission by Christensen Associates Energy Consulting, LLC.

INDIEC agrees with the overall sense of the Report that the participants in the process "expressed reluctance to overhaul the state's current regulatory framework" while also being receptive to "incremental or optional changes." *Report at 113*. INDIEC also agrees with the Report's approach, which focuses not on the establishment of a particular performance-based ratemaking ("PBR") framework, but rather on the presentation of "best practices" should a proposal be put forward by a utility to implement a multi-year rate plan ("MYRP") or a performance incentive mechanism ("PIM"). *Report at 3-4, 5-7, 28, 34-35 and 114*.

It has been, and remains, INDIEC's position that existing statutes already enable the Commission to approve a wide range of options in addition to purely traditional ratemaking approaches on a utility-specific and case-by-case basis. From INDIEC's perspective this includes many of the cost recovery mechanisms which the Report identifies as forms of "alternative regulation", such as the use of capital trackers, or in the blended space between alternative regulation and PBR, such as the use of future test years. *Report at 29-30 and Fig. 4.1*.

Moreover, as pointed out by INDIEC in our prior comments, but not expressly addressed in the Report, Indiana Code §8-1-2.5-6(a)(1) and (2) already give the IURC broad authority to approve rates incorporating PIMs and/or which rely on indices such as those identified in the Report. Indeed, Indiana Code chapter 8-1-2.5 expresses a set of legislative policy findings which reflect a clear understanding that when properly balanced with the interests of a utility's customers, such proposals may serve to promote the "safe, adequate, efficient and economical" provision of energy services.

It is INDIEC's position, then, that existing mechanisms already sufficient to implement desired incremental changes, and to do so on both a voluntary and utility/case specific basis. The Report's focus, then, on establishing a set of "Guiding Principles", which themselves incorporate components of traditional cost-of-service ratemaking, as the foundation of analysis for any future proposal is entirely appropriate and justified. INDIEC remains skeptical, however, of whether approval of any particular MYRP or PIM would lead to a more efficient outcome than that offered by existing cost recovery mechanisms.

For example, the Report specifically recommends "allowing IOUs to voluntarily file three- to four-year forecasted MYRPs." *Report at 3, Table ES.2*. As INDIEC pointed out on September 27, 2024 in response to the initial survey questions, Indiana law already allows for the use of future test years which can begin as much as 24 months after the rate case petition is filed. If timed properly, this could allow a utility to obtain rates which would remain in effect for a full two years. No appreciable benefit for consumers has necessarily resulted from this fact.

Similarly troubling is that with the ongoing major expansion of load growth in Indiana, utilities need to contemplate significant new capital investment not only in generation, but also transmission plant. This is exactly the sort of capital investment which the Report identifies as not being well aligned with indexed MYRPs. *Report at 1*. The Report, then proposes a hybrid MYRP, one not tied to an index, but inclusive of enough incentives to "provide sufficient revenue support of a rate case stay-out period." *Report at 3 Table ES.2*. INDIEC is, frankly, discouraged by the prospect that any MYRP following the proposed principles and guidelines, structured by any utility, could realistically provide reasonable assurances to customers that rate increases could be moderated by its adoption.

Even if such increases were put off by some form of stay-out period, the ultimate inclusion of those capital improvements will be felt in customer rates. As recent experiences with AES Indiana, CenterPoint, Duke, and NIPSCO all show, large capital investments (including due to generation and transmission investment) are driving significant rate increases for all customers both through tracker recovery and when the investments are finally included in ratebase. The rolling in of capital investment has generated its own problems including rapidly expanding revenue requirements and added pressure with respect to revenue allocation and subsidy reduction.

Finally, given the availability of existing tracking mechanisms such as the TDSIC, ECR, and CPCN statutes, all of which allow for changes in budgets and costs, there is little basis to anticipate a utility would instead elect to pursue a voluntary MYRP. Indiana's utilities have, generally, shown themselves unable to adhere to prior approved budgets or cost estimates. This makes it even more doubtful that a proposed MYRP, without adequate controls, would do any better at controlling increases in revenue requirements and customer rates than do existing mechanisms.

With specific respect to PIMs, INDIEC reiterates its concern with the messages being sent by adoption of such mechanisms. Indiana's monopoly utilities have existing obligations to provide safe and reliable service at just and reasonable rates to their customers. There is no basic need to coax them through incentivizes to meet their legal obligations, or to utilize specific, individualized, metrics to satisfy legal requirements. The use of PIMs, then, appears mostly supported by emphasis on meeting particular goals which are subject to change.

In this context, for example, the Report heavily relies on Indiana's Five Pillars as an expression of Indiana policy. It is not at all clear, however, that such goals will necessarily align with state policy enunciated by the task force recently established through Executive Order 25-66 which exhibits a heavy emphasis on only two of the Pillars – affordability and resource adequacy. In other words, in an environment in which shifts in emphasis seem likely to occur, establishing PIMs may misdirect investment or improvements on the part of the utilities. Caution, then, needs to be exercised to avoid misalignment between policy and ratemaking.

Overall, INDIEC believes that the Report is accurate in both summarizing stakeholder input and concluding that with respect to any PBR framework, "the devil is in the details." *Report at 28*. INDIEC continues to believe that if utilities desired to pursue approval of a PBR framework, they can do so through existing statutes. INDIEC furthermore remains skeptical that a final PBR framework which is acceptable to the utility and stakeholders, including customers, is likely to be pursued, or if pursued, successful.

Although INDIEC may disagree with some of the recommendations contained in the Report, we would also like to take this opportunity to thank the Commission and Christensen Associates for conducting a stakeholder process which both sought, and considered, candid input from participants such as INDIEC. Throughout the process both the IURC and Christensen Associates supported open, and respectful, dialogue between parties with diverse viewpoints. INDIEC appreciates the effort put in by the Commission and Christensen Associates to create an atmosphere in which competing viewpoints were heard and fairly evaluated.

Thank you for the opportunity to submit these comments, and please do not hesitate to contact me if you have any additional questions or desire clarifications.

Regards,

Joseph P. Rompala

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