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VIA FIRST CLASS U.S. MAIL AND EMAIL

August 24, 2018

Beth E. Heline
General Counsel
Indiana Utility Regulatory Commission
PNC Center
101 W. Washington Street
Suite 1500 A
Indianapolis, IN 46204

Re: Comments of the Midwest Cogeneration Association
Responding to IURC Draft Findings
GAO 2017-3 –Commission Inquiry on Indiana Utilities Back-Up, Maintenance, and
Supplemental Power Rates

Dear Ms. Heline:

The Midwest Cogeneration Association (“MCA”) appreciates the opportunity to review and comment on the Commission Staff’s July 25, 2018 draft report titled “Findings Related to Electric Utilities’ Backup, Maintenance, and Supplemental Power Rates” (Draft Report).

MCA respectfully disagrees with the Commission Staff’s conclusion that “the electric utilities are already providing cost-based, nondiscriminatory, and non-subsidizing required services subject to the ongoing oversight of the Commission.” Draft Report p. 16. Indeed, we believe the opposite conclusion is inescapable based on the submissions in the record of this proceeding.

We direct your attention to the following undisputed facts:

1. Three of the six utilities asked to respond to the General Assembly’s inquiry have no tariffs or tariff provisions which address the provision of back-up and maintenance power for customers with self-generation (Indiana Michigan Power Company (IMP), Duke Energy, and Indiana Municipal Power Agency (IMPA)).¹

¹ Duke, IMP, and IMPA have no tariffs that specifically apply to standby use and they handle requests for standby service on a case-by-case “special contract” basis. 5 Lakes Energy included IMP in its Apples-to-Apples comparison based on a conversation with an IMP representative who explained how their base tariff charges would be applied to standby customers.

2. None of the utilities provided “cost of service level documentation in sufficient detail to foster a review of the extent to which the rates for the identified services are cost-based, nondiscriminatory, and do not result in subsidization” as required by the General Assembly and requested by the Commission.
3. The current tariffs of two of the three Indiana utilities that submitted information on how they charge for backup and maintenance power (Vectren and Indianapolis Power & Light (“IP&L”)) impose the highest charges for backup and maintenance power of any utility in the Midwest Region according to 5 Lakes Energy’s Apples-to-Apples comparison of utility backup and maintenance charges.^{2,3}
4. The record demonstrates that Indiana Michigan Power Company (IMP), IP&L and Vectren charges for back-up and maintenance power greatly exceed NIPSCO’s charges for the same service, yet these utilities provided no explanation for why they incur higher costs than NIPSCO does to provide back and maintenance service.

Utility	No Outage	16 Hour Off-Peak	16 Hour On-Peak	Scheduled 8 Hour On-Peak 8 Hour Off-Peak	32 Hour On-Peak	Unscheduled 8 Hour On-Peak 8 Hour Off-Peak
IMP	\$10,030	\$10,413	\$16,225	\$16,225	\$17,751	\$16,225
IP&L	\$20,889	\$35,663	\$35,663	\$35,663	\$36,590	\$35,663
NIPSCO	\$ -	\$1,901	\$2,401	\$1,901	\$4,304	\$793.06+LMP
Vectren	\$21,832	\$22,124	\$22,124	\$22,124	\$24,148	\$23,856

5. The record shows that the IMP, IP&L and Vectren tariffs, unlike NIPSCO’s Rider 776, do not reflect the load profile of self-generation customers⁴, but instead charge self-generation customers the same demand charges that apply to full-service customers.⁵

² On May 25, 2018, MCA submitted 5 Lakes Energy’s “Apples-to-Apples” comparison of four Indiana utilities’ tariffs - - those of IMP, IP&L, NIPSCO, and Vectren. The Table in Attachment A to MCA’s May 25, 2018 submission compared these four Indiana utilities’ tariffs to one another and also to the thirteen other Midwest utility tariffs which 5 Lakes Energy has analyzed. MCA also provided 5 Lakes Energy’s tables comparing the main components of the four Indiana utilities’ charges in various scenarios in and 5 Lakes Energy’s underlying calculations for the charges shown for these four utilities’ tariffs in *Attachments B, C, D, E, and F* to that submission.

³ We understand that IP&L has negotiated revised tariff terms for backup and maintenance power in a recent rate case, but that the negotiated language has not yet been approved by the Commission and was not provided in this proceeding. Therefore, we cannot comment on those revisions and assume the Commission Staff has not considered it in its analysis in the Draft Report.

⁴ See “Final Report: Distributed Generation Operational Reliability and Availability Database,” Energy and Environmental Analysis, Inc., Prepared under contract with Oak Ridge National Laboratory, U.S. Dept. of Energy, January 2004. (Provided with these comments.) This study found that cogeneration technologies have a greater than 95% reliability or, stated another way, an outage rate of less than 5%.

⁵ See the utilities’ submissions, tariffs, and 5 Lakes Energy’s analyses of those tariffs.

We are disappointed that rather than holding the utilities to providing transparent tariffs specifically addressing the unique nature of backup and maintenance service and to providing actual “cost of service level documentation,” as requested by the Commission and as required for the Commission to perform the review requested by the General Assembly, the Commission Staff has simply accepted three utilities’ lack of any backup and maintenance tariff provisions⁶, failed to question three utilities’ unusually high charges compared to other Midwest utilities and NIPSCO’s Rider 776, and accepted the Indiana utilities’ disputed and counter-intuitive assumption that customers who use grid resources less than 5% of the time impose the same costs on the utility as do customers who use grid resources around the clock. MCA understood that the very reason for this proceeding was to test that assumption – i.e., to require the utilities to provide “cost of service level” data demonstrating that in order to “stand by” to provide occasional unplanned service for self-generation customers they must purchase, build, and/or maintain generation and distribution capacity at the same level as they do for full-time customers. Instead, the Commission Staff has simply accepted the utilities’ “standing by” argument and their reliance on full-service cost of service data to justify high charges for partial-use service.

The General Assembly required the Commission to review the utilities’ backup and maintenance tariffs and identify “the extent to which the rates offered by electric utilities... (A) are cost based; (B) are nondiscriminatory; and (C) do not result in the subsidization of costs within or among customer classes.” To do this, MCA believes the Commission must go back to the drawing board and require each of the utilities to identify both their charges for standby service and the actual costs they incur to provide standby service.

There is reason to be concerned that Indiana utility tariffs are over-charging standby customers and discouraging the development of cogeneration projects in Indiana.

1. Federal regulations long ago expressly prohibited the assumption that all cogeneration systems would experience an unplanned outage at the same time or during peak hours. 18 C.F.R. 292(c) This is the assumption underlying the argument that utilities are always “standing by” for every standby customer’s load.
2. Based on DOE data, charging 100% of the full-service demand charge for 5% use of utility resources is equivalent to charging 20 times more on a per rata basis for standby service than is charged for full-time use of the same resources. Because the standby customer’s load is more diverse, a proportionately lower the per-unit charge is required to recover the utility costs allocated to the class.⁷
3. Studies that have reviewed best practices for standby service tariffs have repeatedly found that standby demand charges should reflect load diversity with charges based on customer

⁶ The Commission cannot determine the charges a standby customer will incur under a “special contract,” whether those charges are cost-based, or otherwise review those charges as required by the General Assembly.

⁷ Rebuttal Testimony of Jeffrey Pollock, Michigan Public Service Commission Case No. U-18322: In the matter of the application of Consumers Energy Company for authority to increase its rates for the generation and distribution of electricity and for other relief; pp. 24-25

contribution to coincident peak demand and should move away from “ratchets” and toward daily or hourly “as used” demand charges. (See *Addendum* for a list of studies which MCA is providing with these comments.)

4. Indiana’s neighboring Midwest states of Michigan, Minnesota, Illinois, Ohio, and Missouri have recognized that customer-sited cogeneration presents a low-cost energy opportunity for their businesses and rate-payers alike. Those states are reviewing charges for standby service that are disproportionate to the true cost of service. These states are commissioning “roadmaps” for increasing cogeneration in their states while at the same time closely scrutinizing their utilities’ standby rates in special dockets on standby service and individual rates cases.⁸
5. Given that the current tariffs of two Indiana utilities (Vectren and IP&L) impose the highest charges for backup and maintenance power of any utility in the Midwest Region, there is reason to be concerned that these utilities tariffs are over-charging for standby service. Indeed, this is what was recently found in Michigan. After studying standby rates in a working group, in January 2017, the Michigan Public Service Commission (PSC) ordered its two major investor-owned utilities to provide cost of service studies for its standby charges and ultimately found that both utilities had been significantly overcharging standby customers. See PSC Dockets U-18322 and U-18255.

MCA appreciates the Commission Staff’s observation that “the creation of a specific tariff for cogeneration customers ... may encourage additional interest in private generation.” Draft Report, p. 16. But, unfortunately, this observation is bracketed by the notion that lower charges for standby service should depend on an agreement to take non-firm service. This comment reflects a fundamental misunderstanding of why standby service is necessary. *If a customer’s business operations do not require a guarantee of service, it does not need standby service.* But the overwhelming number of industrial, commercial and industrial cogeneration operations need *firm* backup service. Consider a hospital, a university, a high-rise office building, a data center, a factory. These customers may self-generate some or all of their own power 95% of the time, but they cannot agree to turn-off the heart monitors, lights, air conditioning, or steel-rolling machines when their cogeneration system has a malfunction without devastating effects on their patients, customers, employees, products, and businesses. It is a fundamental mistake to put these customers in the basket of “non-firm” service customers. Under properly designed standby tariffs, standby customers pay their fair share of utility costs for firm service through cost-based reservation fees and demand charges which reflect their proportionate use of utility resources when they require it.⁹

⁸ See activities in neighboring states referenced in “Standby Rates: Barriers to CHP Deployment on a National Scale,” Alliance for Industrial Efficiency, 2018 (provided with these comments).

⁹ See “Standby Rates for Combined Heat and Power Systems: Economic Analysis and Recommendations for Five States,” James Selecky, et al., The Regulatory Assistance Project, February 2014; “Designing Standby Rates Well,” Carl Linvill, The Regulatory Assistance Project, Presentation to Standby Rates Workshop, Minnesota Dept. of Commerce, Sept.11, 2014; “Guide to Successful Implementation of State Combined Heat and Power Policies,” State and Local Energy Efficiency Action Network (SEEAction), May 2013 (These reports are provided with these comments.)

If the Commission Staff's underlying suggestion is that cogeneration technologies may pose different issues than do solar or other less reliable self-generation technologies, we agree. Properly designed standby rates are key to the economics of customer-sited cogeneration while they may not be a good fit for customer-sited solar photo voltaic generation. We note that this question arose in both Michigan and Minnesota where standby rate working groups evolved into separate dockets or sub-dockets for cogeneration and solar customers.

Finally, MCA respectfully disagrees with the Commission Staff's statement suggesting that the impacts of applying full-service tariff charges for standby service was considered "in a holistic fashion" and approved in prior rate cases. Draft Report, p. 16. While we understand that the issue of standby rates has been raised in some utility rate cases, we also understand it has not been raised in every case. Further, there is no indication in the record here that historic cost data specifically pertaining to the class of standby customers – as required by and presented to the Michigan Public Service Commission --has ever been presented to the Commission. Presumably, this is why the General Assembly ordered a specific, evidence-based review of backup and maintenance charges and cost of service documentation for standby customers. No such documentation has been provided.

CONCLUSION

For the reasons stated above and in MCA's two prior comments, MCA respectfully disagrees with the Commission Staff's conclusion that "the electric utilities are already providing cost-based, nondiscriminatory, and non-subsidizing required services subject to the ongoing oversight of the Commission." Draft Report p. 16. MCA believes the analysis and conclusions in the Draft Report are skewed by the Staff's adoption of the faulty, undocumented, and impermissible assumption that standby service imposes the same costs on utilities as does full-time service. By adopting this assumption and accepting data from full-service tariff cost of service studies rather than demanding data and studies focused on standby service costs, the Draft Report fails to respond the General Assembly's directive in Indiana Code 8-1-2.4-4(h).

RECOMMENDATIONS

MCA respectfully recommends that the Draft Report be amended to 1) acknowledge the absence in the record of data and studies focused on standby service costs and 2) recommend that the utilities be required to provide this specific information in a generic docket to be opened by the Commission to focus on proper cost-allocation for standby service and best practices for standby rate design.

We appreciate the opportunity to comment on the Draft Report and look forward to continuing dialogue on these issues.

Respectfully submitted,



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