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September 13, 2012

Beth Krogel Roads  
Assistant General Counsel  
Indiana Utility Regulatory Commission  
101 W. Washington Street, Suite 1500 E  
Indianapolis, IN 46204

Re: IURC RM #11-07—IRP rulemaking comments

Dear Ms. Roads:

The Sierra Club Hoosier Chapter, Citizens Action Coalition of Indiana, Hoosier Environmental Council, Indiana Distributed Energy Alliance and the Environmental Law and Policy Center jointly submit these comments on the draft proposed Integrated Resource Planning rule. We support the Commission's desire to make the planning process more amenable to public involvement and believe that the proposed rule accomplishes that goal. Our comments will focus on the concerns raised by the investor-owned utilities at the September 4 rulemaking workshop. We have attached suggested changes in rule language that we believe should alleviate their main concern.

The utilities' primary objection to the proposed rule raised at the meeting was that the provision to appeal a compliance determination by the director could lead to litigation. The utilities say that the proper procedure for appealing a utility's choice of resource is through the docketed proceedings by which a utility seeks the Commission's approval for a resource action. We agree. We suggest that the compliance determination and appeal procedure for an IRP be limited to the informational, procedural and methodological requirements of the rule. The content of the preferred resource plan as to its mix or sequence of resource actions should not be the subject of either a compliance determination or an appeal of that determination. We believe that such substantive issues should be limited to the CPCN process in which a utility seeks Commission approval of particular resource actions. Participants in the resource planning process should not seek to contest such decisions at the time an IRP is filed so long as the acceptance of the IRP filing is explicitly stated not to prejudice the final determination of any resource action, as the proposed rule does.

In the attached redline section of the rule, we offer language that expressly states that the compliance determination is limited to the informational, procedural and methodological requirements of the rule. We also propose that any appeal should be made only to the Commission chairman to ensure that the compliance determination, whether by the director or by the chairman, is not subject to judicial review under Ind. Code § 8-1-3-1.

As for the public advisory process—the second issue raised by the utilities at the meeting—we support the proposed language and congratulate the Commission for providing a framework that could result in meaningful public involvement in the resource planning process. We applaud the requirements that

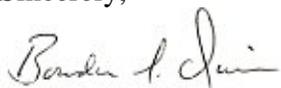
utilities shall solicit input from interested parties, consider and respond to all relevant input, and ensure that the public participation process occurs “in a timely manner that may affect the outcome of the utility resource planning efforts.” [4-7-2.1(e)(4)(B)] We are further encouraged by the Commission’s responses to the comments made about this section of the rule. We agree that utilities should be “responsive and accommodating to the interests of their stakeholders” and, if they are, the public participation aspect of the resource planning process will improve with each subsequent plan as stakeholders’ knowledge and “sophistication” improves. We strongly support the Commission’s recommendation that utilities hold more than the required two public meetings if stakeholder interest warrants, and that the public participation begin early enough in the planning process so that it can have a meaningful impact on the outcome.

Therefore we disagree with the suggestion made at the September 4 meeting that the public participation process used in Arkansas would satisfy the requirements of the rule. The Arkansas rule establishes a stakeholder process that is separate from the utility’s planning, producing a document that is only an appendix to the submitted plan. It may be completed only a day before the plan’s submission, as shown by the timeline on slide nine in the attached presentation that one utility gave at its stakeholder meeting in July. Furthermore, all stakeholders are required to participate in developing the document, even though their interests and viewpoints may substantially differ, inevitably leading to a compromise document that may not reflect the opinions of many of the stakeholders. We believe that the Arkansas model would not meet the proposed rule’s requirement that the utility solicit and consider input from “any interested party in regard to the development of the utility’s IRP and related potential resource acquisition issues.” [4-7-2.1(b)(2)] We hope that the Commission will discourage Indiana utilities from using this model in their planning processes.

In regards to the contemporary issues meeting, we are encouraged that the Commission foresees making this an annual event. We believe that the meetings will be important in shaping future planning processes to meet the changing needs of our society as we adapt to an environment that will be very different from the one that we have enjoyed in the past. We are gratified to see that the Commission will accept requests from the public about the issues to be discussed. We hope that it will schedule the meetings so that they will serve as the start of productive public advisory processes for the utilities.

Thank you for your consideration of our comments and suggestions.

Sincerely,



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