STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANA MICHIGAN POWER COMPANY ("I&M"), AN INDIANA CORPORATION, FOR APPROVAL OF CLEAN COAL AND ENERGY PROJECTS AND QUALIFIED POLLUTION CONTROL PROPERTY AND FOR ISSUANCE OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR USE OF CLEAN COAL TECHNOLOGY ("PROJECTS"); FOR ONGOING REVIEW; FOR APPROVAL OF THE TIMELY RECOVERY OF COSTS INCURRED DURING CONSTRUCTION AND OPERATION OF SUCH PROJECTS THROUGH I&M'S CLEAN COAL TECHNOLOGY RIDER; FOR APPROVAL OF DEPRECIATION PROPOSAL FOR SUCH PROJECTS; AND FOR AUTHORITY TO DEFER COSTS INCURRED DURING CONSTRUCTION AND OPERATION, INCLUDING CARRYING COSTS, DEPRECIATION, AND OPERATION AND MAINTENANCE COSTS, UNTIL SUCH COSTS ARE REFLECTED IN THE CLEAN COAL TECHNOLOGY RIDER, ALL PURSUANT TO IND. CODE 8-1-2-6.1, 8-1-2-6.7, 8-1-2-6.8, 8-1-2-42(a), 8-1-8.7, 8-1-8.8 AND 170 IAC 4-6-1 ET SEQ	)	**CAUSE NO. 44033**

OUCC PREFILED TESTIMONY OF

RONALD L. KEEN - PUBLIC EXHIBIT # 1

ON BEHALF OF THE

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

JULY 13, 2012

Respectfully submitted,

Randall C. Helmen, Atty. No. 8275-49
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CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ***OUCC Prefiled Testimony of Ronald L. Keen*** has been served upon the following counsel of record in the captioned proceeding by electronic service on July 13, 2012.

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OUCC TESTIMONY OF RONALD L. KEEN
CAUSE NO. 44033
INDIANA MICHIGAN POWER COMPANY ("I&M")

I. INTRODUCTION

1 **Q: Please state your name and your business address.**

2 A: My name is Ronald L. Keen. My business address is 115 West Washington
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom and in what capacity are you employed?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as a Senior Analyst within the Resource Planning and Communications
7 Division ("RPC").

8 **Q: Are you the same Ronald L. Keen who provided testimony in support of a**
9 **partial settlement in this cause in December 2011?**

10 A: Yes.

11 **Q: Please briefly describe the settlement the OUCC and I&M reached with**
12 **regard to Phase I of the Rockport Environmental Project ("REP").**

13 A: The settlement filed on December 13, 2011 afforded the OUCC and interveners
14 the opportunity to obtain specific and essential documentation to begin
15 evaluating the project; namely the Project Plan, Conceptual Engineering Study,
16 and Feasibility Study, which were not available prior to December 2011. After
17 obtaining these documents, the OUCC was able to verify and validate some of
18 the information I&M provided through its case-in-chief and supplemental

filings. This initial work provided a baseline that allowed the OUCC and interveners the ability to begin engaging in the assessment of the REP.

Q: What is Indiana Michigan Power Company ("I&M" or "Petitioner") requesting from the Commission?

A: Petitioner is requesting the Commission approve a Certificate of Public Convenience and Necessity ("CPCN") for the Rockport Environmental Project ("REP" or the "Project") and declare the REP to be a clean coal and energy project that constitutes qualified pollution control property. I&M states this project will allow the company to reduce airborne emissions of SO_2, NO_x, acid gases, mercury ("Hg"), particulate matter and other hazardous air pollutants ("HAPS") from existing coal-fired electric generating units.[1] Furthermore, Petitioner is requesting Commission approval of financial incentives, including timely recovery through I&M's existing Clean Coal Technology Rider ("CCTR"). This recovery would be subject to reconciliation of carrying costs during construction and post in-service costs of the Project, including a weighted average cost of capital carrying cost, depreciation and operation and maintenance ("O&M") costs (including consumables).[2] I&M asserts the proposed ratemaking and accounting treatment is consistent with 170 I.A.C. 4-6-1, *et seq.*[3]

Q: What have you done to identify and investigate issues presented in this testimony?

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1 *Verified Petition Of Indiana Michigan Power Company ("I&M"),* filed June 1, 2011, Page 1, Lines 1-6 and Page 2, Lines 1-2.
2 *Id.*, Page 2, Lines 2-7
3 *Id.*, Page 2, Lines 7-8

A: I reviewed the Petition, Direct Testimony and exhibits of I&M's witnesses I&M, as well as the REP Project Plan, the WorleyParsons engineering studies ("WPES"), the Project Budgetary Cost Estimate ("BCE"), the Environmental Protection Agency ("EPA") Consent Decree[4], Indiana Senate Enrolled Act No. 251, and Notices of Violation ("NOV") issued to American Electric Power ("AEP"). I examined pertinent sections of federal and state laws and attended workshops, including touring the Rockport facility. I met with I&M representatives and intervening parties to discuss issues related to this docket.

Q: What is the purpose of the OUCC testimony?

A: The purpose of this testimony is to provide an overview of the OUCC's analysis of Petitioner's proposal and recommend the Commission deny Petitioner's request to be awarded a CPCN for this project until such time as I&M provides to the IURC a more detailed and precise project plan and cost estimation. In support of the recommendation contained herein, this testimony will:

1. Present the witnesses representing the OUCC;
2. Briefly describe the REP;
3. Provide an overview of the OUCC analysis of the REP;
4. Provide a brief analysis of the project management associated with the REP;
5. Briefly discuss the EPA Consent Decree;
6. Address concerns the OUCC has regarding specific aspects of the REP;

[4] U.S. v. Am. Elec. Power Serv. Corp., Case 2:99-cv-01250-EAS-TPK, Document 363, Filed October 9, 2007.

1 7. Provide a high-level overview of the OUCC analysis with regard to
2 alternatives to the REP;
3 8. Advocate for a cost cap of the REP; and
4 9. Present the recommendations of the OUCC.
5 **Q: Who else is testifying on behalf of the OUCC?**
6 A: The following table details the other OUCC witnesses and the issues each will
7 address.

OUCC WITNESS	ISSUES ADDRESSED
Cynthia Armstrong	• Discusses the environmental regulations that drive the need for the Rockport Environmental Project. • Discusses potential alternatives to the Rockport Environmental Project that could also meet new environmental requirements.
Brendon Baatz	• Provides a summary and discusses the shortcomings of the economic analysis presented by Petitioner's witness Scott Weaver. • Discusses the engineering analysis filed with the Commission by WorleyParsons in April 2012 as part of the Feasibility Studies for the Rockport environmental projects.
Wes Blakley	• Discusses Petitioner's requested ratemaking treatment for its proposed Environmental Compliance Plan for its Rockport Generating Units.
Ray Snyder	• Discusses and analyzes the SCR Ammonia System Study; • Discusses, analyzes and recommends changes to I&M's Water Supply Study proposal; • Discusses and analyzes the Coal Yard Modification Study; • Recommends the Commission deny all costs associated with the installation of the nuclear coal analyzers; and • Discusses OUCC concerns with and analysis of the Budget Estimate filed by I&M and the cost estimates contained in the WorleyParsons studies for the Rockport Environmental Project ("REP").

II. THE ROCKPORT ENVIRONMENTAL PROJECT

Q: Please describe the Rockport Environmental Project ("REP").

A: I&M proposes to install a Flue-Gas Desulfurization ("FGD") and Selective Catalytic Reduction ("SCR") system on one unit at the Rockport Generating Station. I&M states the installation of the FGD and SCR systems offer I&M the ability to comply with existing and potential future Environmental Protection Agency ("EPA") requirements while also creating the possibility the Rockport facility could use a greater portion of Illinois Basin coal in the coal mix, as opposed to the mix currently used at the facility.

Q: What is the projected cost of the REP?

A: According to I&M witness Paul Chodak III, the total cost of this project is approximately $1.414 Billion. He further testifies that the I&M portion is 50%, or $707 Million (the other half is allocated to American Electric Generating Co. ("AEG")).

Q: Is the $1.4 Billion price tag the total project cost for the Rockport facility?

A: No. The $1.414 billion is for a single unit upgrade at Rockport. The Petitioner has informed the OUCC verbally that I&M expects Unit 1 will be the unit upgraded for the REP as proposed in this petition.

Q: Please describe the ownership of the two Rockport units as the OUCC understands it.

A: Based on information provided to the OUCC,[5] Unit 2 is leased by I&M from a non-affiliated, non-utility institution. Consequently, the unique arrangement of leasing and power purchases which currently govern generation production at Rockport Unit 2 are different from those affecting power generated and purchased from Unit 1. Based on information received from I&M at a November 7, 2011 technical conference and contained in I&M witness Marc E. Lewis's testimony, the current lease agreement for Unit 2 expires in 2022[6] and I&M is currently negotiating with the investor group regarding the future of Unit 2 operations.

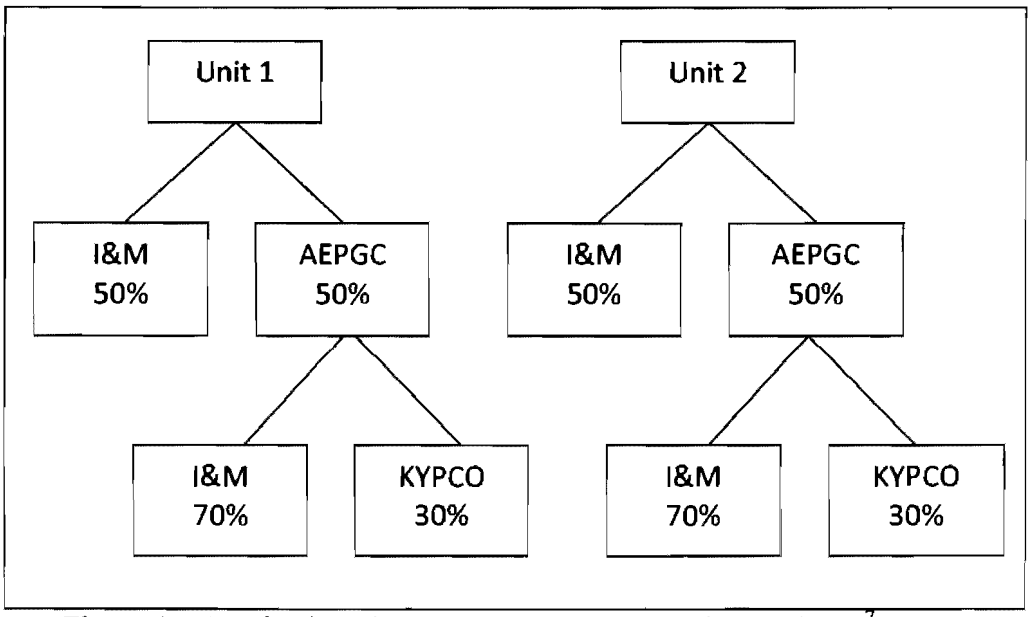

Figure 1 – Leasing/Purchase Power Arrangement for Rockport[7]

[5] Responses to OUCC Data Request Set No. 1 to I&M; Q&A No. Q-1-28 (Attachment RLK-2).
[6] Petitioner's Submission of Testimony in Support of Settlement Agreement, testimony of Marc E. Lewis, Filed December 20, 2011, Page 8, Lines 10-11.
[7] Responses to OUCC Data Request Set No. 1 to I&M; Q&A No. Q-1-28 (Attachment RLK-2).

It is the OUCC's understanding that there are three basic Unit 2 options currently being negotiated: (1) purchase of the Unit 2 system by I&M from the investor group; (2) continuation in some form of the existing leasing arrangements; and (3) termination of the leasing arrangements and shutdown of Unit 2.

Although I&M expected to conclude negotiations and reach a resolution regarding the Unit 2 leasing arrangement by January 2012, to the OUCC's knowledge those negotiations are ongoing. I&M stated that once a resolution regarding the lease has been reached, it will make a decision which Rockport unit will be upgraded first.

Q: Why are the ownership and leasing arrangements surrounding the Rockport units significant to this cause?

A: The decision regarding which unit to first upgrade may directly and/or indirectly affect the portion of costs paid by Indiana ratepayers.

Q: Would Indiana ratepayers' cost for the REP then be approximately $707 million?

A: No. The $707 million ($457 million Indiana Jurisdictional portion (65%))[8] refers to I&M's 50% ownership portion of the Rockport 1 Unit. Because of the purchase power agreements in place between I&M and AEG, I&M purchases 70% of the power from AEG's 50% ownership portion of the Rockport 1 unit. Thus, Indiana ratepayers are subject to additional capital costs of $321.6 million[9] through the Purchase Power Agreement with AEG.

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[8] Responses to OUCC Data Request Set No. 3 to I&M; Q&A No. Q-3-11 (Attachment RLK-1).
[9] 65% times $494,900,000 (WRB-2 I&M's 70% allocated portion of AEG's 50% ownership portion).

Q: What is the approximate annual revenue requirement associated with I&M's 50% and AEG's 50% ownership portions?

A: The total additional annual revenue requirement for I&M's 50% ownership of the investment, including depreciation, operations and maintenance expense would be $97,971,450[10] and the additional annual revenue requirement for AEG's 50% ownership of the investment would be $68,580,015.[11] OUCC witness Blakley discusses this in greater detail.

Q: Does I&M assert that this project is considered "clean coal technology"?

A: Yes. This project incorporates FGD/SCR technology designed to reduce SO_2, NO_x, acid gases, Hg, particulate matter, and HAPS emissions associated with the use of coal at the Rockport facility. I&M asserts that these FGD/SCR systems constitute "clean coal technology" ("CCT") as defined in I.C. §§ 8-1-2-6.1, 8-1-2-6.7, 8-1-2-6.8, 8-1-8.7, and 8-1-8.8-3 and an "air pollution device" as defined in 170 I.A.C. 4-6-1(a).[12] I&M also states that the systems constitute "qualified pollution control property" ("QPCP") under I.C. § 8-1-2-6.8 and that the entire project constitutes a "clean coal and energy project" ("CCEP") under I.C. § 8-1-8.8-2.[13]

Q: Does the OUCC agree that the project should be considered CCT?

A: Yes. According to I.C. § 8-1-8.7-1, CCT is defined as a technology used in a new or existing electric generating facility ("EGF") that directly or indirectly

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[10] *See* OUCC Witness Wes Blakley's Attachment WRB-2.
[11] *Id.*
[12] Petition filed June 1, 2011, Page 5, Paragraph 9, Lines 6-9.
[13] *Id.*, Page 5, Paragraph 9, Line 9 and Page 6, Lines 1-2.

1 reduces airborne emissions of sulfur or nitrogen based pollutants associated
2 with the combustion or use of coal and that is either:
3 1. Not in general commercial use at the same or greater scale in a new or
4 existing facilities in the United States as of January 1, 1989; or
5 2. Has been selected by the United States Department of Energy ("DOE") for
6 funding under the Innovative Clean Coal Technology ("ICCT") program
7 and is finally approved for such funding on or after January 1, 1989.
8 A utility cannot use CCT at a new or existing EGF without applying for and
9 receiving a CPCN from the Commission.

10 **Q: What factors must the Commission examine when awarding a CPCN for**
11 **CCT?**

12 A: Under I.C. § 8-1-8.7-3, the Commission is required to examine the following
13 factors:
14 1. The costs for constructing, implementing, and using CCT compared to
15 conventional emission reduction facilities;
16 2. Whether the CCT also extends the useful life of an existing EGF and, if so,
17 what the value of that extension is;
18 3. The potential reduction of sulfur and nitrogen based pollutants achieved by
19 the proposed CCT project;
20 4. The reduction of sulfur nitrogen based pollutants that can be achieved via
21 conventional pollution control equipment;
22 5. Federal sulfur and nitrogen based pollutant emission standards;
23 6. Likelihood of success for the proposed CCT project;

7. Cost and feasibility for retirement of an existing EGF;
8. Dispatching priority for the facility using CCT, considering direct fuel costs, revenues and expenses of the utility, and environmental factors associated with byproducts resulting from the use of CCT; and
9. Any other factors the Commission may consider relevant, including whether the construction, implementation and use of CCT is in the public interest.

Q: Has I&M satisfied the criteria regarding awarding a CPCN for the REP?

A: No. The case-in-chief and supporting documentation provided thus far do not contain a detailed comparison between the costs for constructing, implementing, and using CCT as compared to conventional emission reduction facilities or alternatives that could have been implemented at the Rockport facility. Examples of this comparative analysis include natural gas conversion and the use of other technologies to accomplish the same emission control. I&M has alluded to studies surrounding these issues, but has not been able to provide the OUCC with any detailed analysis that satisfies this criterion thus far.

I&M has discussed the federal sulfur- and nitrogen-based pollutant emission standards and the potential reductions of sulfur- and nitrogen-based pollutants that can be achieved by the proposed CCT project. However, Petitioner has not addressed the reduction of sulfur- or nitrogen-based pollutants that can be achieved via conventional pollution control equipment in any type of detailed comparative analysis against the proposed REP. While I&M also states that the REP can extend the operational life of the Rockport facility under the increasingly stringent EPA and other Federal guidelines and mandates, it has

1 not provided thus far any type of detailed analysis, studies, or other
2 documentation in this cause regarding the decommissioning costs for Rockport.
3 Finally, I&M has not provided details and/or a comparative analysis
4 regarding the dispatching priority for the facility using CCT. While the
5 WorleyParsons engineering studies do reference direct fuel costs and some of
6 the environmental factors associated with byproducts that may result from the
7 use of REP, there is no information in the studies nor does I&M provide
8 information comparing the current to anticipated revenues and expenses of the
9 utility directly associated with the installation of the REP.

10 **Q: Should I&M have supplied this information as part of its case-in-chief?**

11 A: Yes. While the OUCC and intervening parties can certainly ask questions to
12 discover this type of information, I&M bears the responsibility to provide this
13 information so that the IURC can conduct its own due diligence to ensure the
14 project satisfies the statutory requirements for a CPCN and serves the best
15 interests of the utility and the ratepayer. I&M has not done so up to this point
16 for a project where the engineering studies are only 10% complete.[14]

17 **Q: Is there is other documentation missing from I&M's case-in-chief?**

18 A: Yes. For example, when a utility requests post in-service accounting treatment it
19 must demonstrate that it will experience a loss of earnings, and must quantify
20 that loss as a percentage of total company earnings. I&M has not demonstrated

[14] Pre-filed Verified Supplemental Direct Testimony of Robert L. Walton, filed June 6, 2012, Page 6, Lines 9-12.

1 material earnings erosion, and has not quantified any erosion. Mr. Blakley will
2 discuss this lack of evidence in more detail.

III. PROJECT MANAGEMENT FOR THE ROCKPORT ENVIRONMENTAL PROJECT

3 **Q: What is the methodology I&M is using to manage this project?**

4 A: In testimony, workshops and discussions,[15] I&M has set forth a four-phase
5 approach to project development and management for REP:

6 1. Phase I – Project Planning, Conceptual Engineering Study, Feasibility
7 Study;
8 2. Phase IIa – Engineering Design, Permitting and Procurement;
9 3. Phase IIb – Detailed Design, Permitting, Contracting and Construction Start;
10 and
11 4. Phase III – Construction.

12 The OUCC participated in a briefing and discussion to better understand I&M's
13 project management methodology for large scale projects such as REP. The
14 OUCC appreciated the opportunity to gain further insight and perspective into
15 the Petitioner's process.

16 **Q: After attending the I&M project management briefing, does the OUCC**
17 **believe the process is both effective and efficient?**

18 A: Yes. The various checkpoints used in the process ensure I&M project managers
19 and developers frequently review the project for efficiency and effectiveness.

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[15] Direct Testimony of Robert Walton, filed August 1, 2011, page 5, line 3 through Page 7, Line 15. *See Also* Rockport Environmental Projects Technical Briefing, Cause No. 44033; November 7, 2011, Slide No. 10.

Q: If the OUCC believes the I&M project management process is efficient and effective, why is the OUCC not satisfied with the project as presented in the I&M case-in-chief and supplemental testimony?

A: The REP will have a significant impact on the ratepayer and yet I&M has not supplied enough detail at this juncture to warrant project approval and cost recovery. The OUCC has concluded that the internal I&M process requiring justification to internal management at specific project checkpoints is sufficient for that purpose, but lacks the specifics necessary to justify the project cost for recovery purposes.

Q: What phase of the Project is I&M in currently?

A: According to I&M witness Robert Walton, Phase I activities on the REP have concluded.[16]

Q: Have you reviewed the Project Plan?

A: Yes. I reviewed the Project Plan dated January 11, 2012, which was provided to the OUCC on January 25, 2012 and filed with the Commission on March 30, 2012.

Q: When was the original Petition in this cause filed?

A: The petition was filed on June 1, 2011.

Q: Have you reviewed the Conceptual Engineering Study?

A: Yes. I reviewed the eighteen WorleyParsons engineering studies filed with the Commission on April 2, 2012.

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[16] Pre-Filed Verified Supplemental Testimony of Robert Walton, filed June 6, 2012, page 8, line 13.

1 **Q: Have you reviewed the Budgetary Cost Estimate?**

2 A: Yes. I reviewed the Budgetary Cost Estimate filed with the Commission on
3 March 30, 2012.

4 **Q: Are there discrepancies or vague aspects within the Budgetary Cost**
5 **Estimate?**

6 A: Yes. While OUCC witness Wes Blakley will provide additional detail regarding
7 various aspects of the Budgetary Cost Estimate ("BCE"), I want to highlight
8 two issues as examples.

9 The first pertains to Line 900 – *Total–Professional Services &*
10 *Overheads*. There is no breakout for sub-categories or sub-costs that were used
11 to generate the total for this line. There are zero dollar costs associated with
12 "Material" and $103,420,300 in costs for "Labor," but the "Total" cost for this
13 line is $104,420,300. This $1,000,000 discrepancy is then compounded by the
14 16.05% Risk Allowance (Contingency) and the Upper Accuracy Allowance of
15 20%, creating a total discrepancy of $1,392,600.

16 The second issue involves the use of an Upper Accuracy Allowance
17 combined with an unusual Risk (Contingency) Allowance factor.

18 **Q: Why is the use of the Upper Accuracy Allowance an issue for the OUCC?**

19 A: Before I can explain why an "Upper Accuracy Allowance" is a concern to the
20 OUCC, there needs to be an explanation of why Contingency Funds, Reserve
21 Funding and Budget Allowances are all considered effective project

1 management concepts regarding risk, and a description of the specific purpose
2 each serves.

3 **Q: Briefly explain the use of contingency funds.**

4 A: Any well-developed project cost estimate should reveal key assumptions used
5 as the basis of cost estimate documentation. These assumptions can lead to
6 risks. This is addressed in the project budget by budgeting sufficient additional
7 time and/or funding to deal with the potential occurrence of these risks by
8 establishing a separate budget category. This funding category – referred to as a
9 Contingency Fund – is created to mitigate the impacts of unforeseen events.

10 **Q: Briefly explain the use of budget allowances in project cost management.**

11 A: Budget allowances are usually established to fund anticipated events that within
12 the scope of the project. An estimate prepared early in a project's developmental
13 phase, such as the Cost Estimate Analysis prepared for the proposed REP, may
14 be the basis for the initial funding and approval of the project. However, it
15 generally does not include sufficient detail to accurately account for all items,
16 elements, or deliverables since design development is still evolving.

17 **Q: How do budget allowances differ from contingency funds?**

18 A: Budget allowances differ from contingency funds in that they are not risk-based
19 or dependent. Budget allowances are developed for events which are expected
20 to occur and are within the scope of the project.

1 **Q: Briefly describe reserve funding.**

2 A: Reserve funds are common in project management and are usually discretionary
3 funds used by senior management for purposes they choose. Projects may be
4 susceptible to changes in scope or deliverables during the life of the project (*i.e.*,
5 rapidly changing technology may make project elements obsolete before or
6 shortly after they're delivered). In such a case, senior management can elect to
7 use reserve funding to mitigate the effect of evolving scope and deliverables.

8 **Q: How do reserve funds differ from allowances and contingencies?**

9 A: Reserve funds are generally outside the purview of the Project Manager, while
10 contingency funds and budget allowances are typically controlled by the Project
11 Manager.

12 **Q: Isn't the "Upper Accuracy Allowance" contained in the Budgetary**
13 **Analysis simply a type of allowance?**

14 A: No. This "allowance" is neither specific nor is it event- or element-oriented by
15 its title. In response to OUCC Data Request Question No. 9-3, I&M stated that
16 "the upper [accuracy] allowance of +20% represents the high end of the
17 -15%/+20% estimate accuracy expectation[.]" (Attachment RLK-3)

18 **Q: Why does the OUCC consider the Risk Allowance factor "unusual"?**

19 A: If the Upper Accuracy Allowance is, in fact, the high end of the -15%/+20%
20 estimate accuracy expectation, then that allowance is the contingency factor
21 alluded to in testimony by witness Walton.[17] Consequently, the Risk Allowance
22 – which is augmented by the term "Contingency" in parenthesis – is an

[17] Pre-filed Direct Testimony of Robert L. Walton, filed August 1, 2011, Page 21, Lines 17-21 and Page 22, Lines 1-13.

1 additional contingency fund. Thus, the project now has contingency factors
2 adding up to approximately 36%. In addition, it seems odd for a Risk Allowance
3 to be calculated at 16.05%, especially for a project with the engineering
4 completion rate of 10%[18] since this risk allowance appears to be designed to
5 compensate for and deal with the potential occurrence of risks.

IV. THE EPA CONSENT DECREE

6 **Q: Have you read the consent decree?**

7 A: Yes. I have read the Consent Decree filed October 9, 2007 in the U.S. District
8 Court for the Southern District of Ohio, Eastern Division.

9 **Q: Does the decree address violations committed by AEP?**

10 A: Yes. The decree specifically mentions alleged violations of the Prevention of
11 Significant Deterioration ("PSD") and Nonattainment New Source Review
12 ("NSR") provisions in Parts C and D of Subchapter I of the Act, 42 U.S.C. §§
13 7470-7492, 7501-7515, and federally enforceable state implementation plans
14 developed by Indiana.[19]

15 **Q: Were Notices of Violation ("NOVs") issued to AEP as a result of these**
16 **alleged violations?**

17 A: Yes. According to the decree, NOVs were issued to AEP with respect to "such
18 violations"[20] on November 2nd and 22nd, 1999 and on June 18, 2004.

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[18] Pre-filed Verified Supplemental Direct Testimony of Robert L. Walton, filed June 6, 2012, Page 6, Lines 9-12.

[19] United States of America and State of New York, v. Am. Elec. Power Serv. Corp., Case 2:99-cv-01250-EAS-TPK, Document 363, Filed October 9, 2007, page 2, lines 3-9.

[20] United States of America and State of New York, ET AL., v. American Electric Power Service Corp., ET AL., Case 2:99-cv-01250-EAS-TPK, Document 363, Filed October 9, 2007, page 2, lines 10-11.

1 Furthermore, the document states the EPA provided both AEP and Indiana with
2 "actual notice pertaining to Defendant's alleged violations, in accordance with
3 Section 113(a)(1) and (b) of the Act, 42 U.S.C. § 7413(a)(1) and (b)."[21]

4 **Q: Is the Rockport facility specifically addressed in the consent decree?**

5 A: Yes. The Rockport facility is listed as one of the coal-fired steam generating
6 Units grouped under the heading of "AEP Eastern System."[22]

7 **Q: Does the OUCC have an opinion regarding the recovery of costs associated**
8 **with satisfaction of consent decree requirements?**

9 A: Yes. The OUCC supports ratepayer funding of projects mandated by and
10 complying with federal EPA requirements. However, the OUCC cannot support
11 ratepayer funding of projects satisfying the conditions of a consent decree but
12 not required to satisfy EPA mandates or requirements.

13 **Q: Does Senate Enrolled Act No. 251 ("SEA 251") address this type of cost**
14 **recovery?**

15 A: Yes. SEA 251 dealt with cost recovery for implementation of federal rules and
16 regulations; however, I do not read SEA 251 as providing for recovery of costs
17 associated with or incurred as a result of violating existing laws. I&M should
18 not be allowed to circumvent the language of I.C. § 8-1-8.4-4(b),which prevents
19 recovery of penalties I&M otherwise would have incurred, simply by signing a
20 consent decree and alleging the requirements of the decree are not a penalty
21 since the allegations were never proven.

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[21] *Id.* lines 13-16.
[22] *Id.,* pages 8-10, paragraph 7.

V. PROJECT CONCERNS

1 **Q: Does the OUCC have concerns with the WorleyParsons engineering**
2 **analysis results as they pertain to the proposed REP?**

3 A: Yes. The OUCC examined in detail all eighteen studies performed by
4 WorleyParsons and we found a number of issues. To highlight the nature of the
5 problems with the REP as proposed, OUCC witness Snyder provides his
6 detailed analysis on three areas of concern regarding Selective Catalytic
7 Reduction ("SCR") Ammonia System Study; the Water Supply Study and the
8 Coal Yard Modifications Study.

9 **Q: Briefly describe the issue regarding Ammonia System Study.**

10 A: As stated in the SCR Ammonia System Study by WorleyParsons[23], anhydrous
11 ammonia was chosen by I&M to be the preferred SCR reagent. The EPA and
12 United States Occupational Safety and Health Administration ("OSHA")
13 classify anhydrous ammonia as a "highly hazardous chemical".[24] I&M proposes
14 delivering anhydrous ammonia with rail cars containing approximately 28,500
15 gallons per car or by tanker-truck, each of which carry about 6,700 gallons.[25]
16 AEP has specified a 14-day on-site storage supply, or approximately 270,000
17 gallons to be stored in three 90,000 gallon storage tanks. As Mr. Snyder
18 testifies, there are serious health, safety, and environmental regulatory concerns
19 with this choice of reagent.

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[23] SCR Ammonia System Study, WorleyParsons, page 1.
[24] OSHA List of Highly Hazardous Chemicals, accessible at http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_id=9761&p_table=STANDARDS
[25] SCR Ammonia System Study, WorleyParsons, page 4.

Q: Briefly describe the issue regarding Water Supply Study.

A: As stated in the Water Supply Study, Alstom, the manufacturer of the Dry Flue Gas Desulfurization ("DFGD"), recommends a 45,000 gallon water storage tank as a sufficient backup water supply to provide a 30-minute water supply to the DFGD in case of an interruption of the river water supply pumping system. However, WorleyParsons recommends a 90,000 gallon storage tank as a one-hour backup water supply for the DFGD. Therefore, WorleyParsons is suggesting a water storage tank twice the size of the tank recommended by Alstom. The OUCC believes the larger tank is not necessary and therefore, not justified.

Q: What equipment or processes are supplied by river water?

A: Currently, river water supplies water for the cooling towers for Units 1 and 2, makeup water for the boilers, water to AK Steel, and water for general washdown. The proposed systems will use a total of 2,450 gal/min. The combined river water usage of Rockport (and AK Steel) with the new systems installed and operational will be approximately 37,459 gal/min. River water is supplied by six pumps with a total operational capacity of 120,000 gal/min pump water. As Mr. Snyder will testify, the river water supply capacity is more than three times the projected usage.

Q: Briefly describe the issue regarding Coal Yard Modification Study.

A: In the Coal Yard Modification Study, WorleyParsons recommends the installation of two nuclear coal analyzers at a cost of $1,495,000 "[f]or the purpose of improving the accuracy of the coal blending system and providing a

means of recording trends in the coal supplies." However, there is no mention of the coal analyzers in either the Petitioner's Direct Testimony filed on August 1, 2011 or Supplemental Testimony filed on June 6, 2012 nor is there any reference in any report or testimony supplied by I&M that claims the analyzers are required in order to meet any Federal regulations. The WorleyParsons study states only that "Given the past satisfactory performance of this [existing] blending operation, this same mode of blending operation will be continued for both Units 1 and 2." It states further, "For the purpose of improving the accuracy of the coal blending system and providing a means of recording trends in the coal supplies, the addition of two (2) coal analyzers is recommended..." Mr. Snyder will provide additional analysis and testimony opposing the inclusion of this equipment as a part of this CPCN.

VI. ALTERNATIVES TO INSTALLATION OF THE REP AT ROCKPORT

Q: Please describe the alternatives to the Rockport environmental projects.

A: I&M modeled and evaluated two alternatives in addition to the proposed REP. The two options were (1) retire a single unit at Rockport by January 1, 2016 and replace it with a similar-sized new-build natural gas combined cycle unit or (2) retire a single unit at Rockport by January 1, 2016 and replace the lost capacity with purchased power through 2025.

Q: Has I&M issued a Request for Proposals (RFP) to determine the existence or availability of generating capacity in or near Indiana that might meet the energy and capacity requirements of the Company?

A: No. To the OUCC's knowledge, I&M has not issued a formal RFP to determine whether or not generation currently exists to replace the power needs of Rockport.

Q: Has I&M modeled any alternatives other than two discussed above?

A: No. As the OUCC understands it, I&M did not model other alternatives such as conversion of one Rockport unit to a gas fired unit or the construction of a new natural gas combined cycle on a brownfield site. The modeling I&M pursued regarding construction of a new natural gas combined cycle unit was done using greenfield input data.

Q: Did the OUCC examine this analysis?

A: OUCC witness Brendon Baatz will explain in detail the OUCC's evaluation of the modeling and analysis.

VII. SHOULD THE COST OF THE REP BE CAPPED

Q: If the Commission ultimately approves the REP, should the Commission include a cap?

A: Yes. If the IURC ultimately approves the CPCN for this project to I&M, the OUCC is recommending the REP be capped at $1.09 billion dollars.

Q: If I&M has stated the project is estimated to cost $1.414 billion, why is the OUCC recommending a cap that is less than the original estimate for the project provided by the utility?

A: On March 30, 2012, I&M filed a Budgetary Cost Estimate with the Commission that contained a summary of the costs associated with the REP. In that summary, the Project Subtotal was $1,009,138,800 before a 16.05% Risk

Allowance (Contingency) and a 20% Upper Accuracy Allowance were factored in. The OUCC is contesting $100,107,800, resulting in a project subtotal of $909,031,000. Consequently, the OUCC recommends the Commission cap the project at $909,031,000 with a 20% contingency added ($181,806,200) for a total capped project cost of $1,090,837,200 or $1.09 billion.

VIII. RECOMMENDATIONS

Q: Please summarize the OUCC's recommendations.

A: The OUCC recommends the Commission deny Petitioner's request for a CPCN for the Rockport Environmental Project until such time as I&M provides a more detailed and precise project plan and cost estimation. However, should the Commission decide to award a CPCN for the REP, the OUCC recommends denial of Petitioner's request to recover through rates the SCR portion of the proposed project, and cap the overall costs for the project at $1.097 billion.

Q: Does this conclude your testimony?

A: Yes.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

By: Ronald L. Keen
Indiana Office of
Utility Consumer Counselor

Date: 7/13/12

INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. 1
IURC CAUSE NO. 44033

DATA REQUEST NO Q-1-28

REQUEST

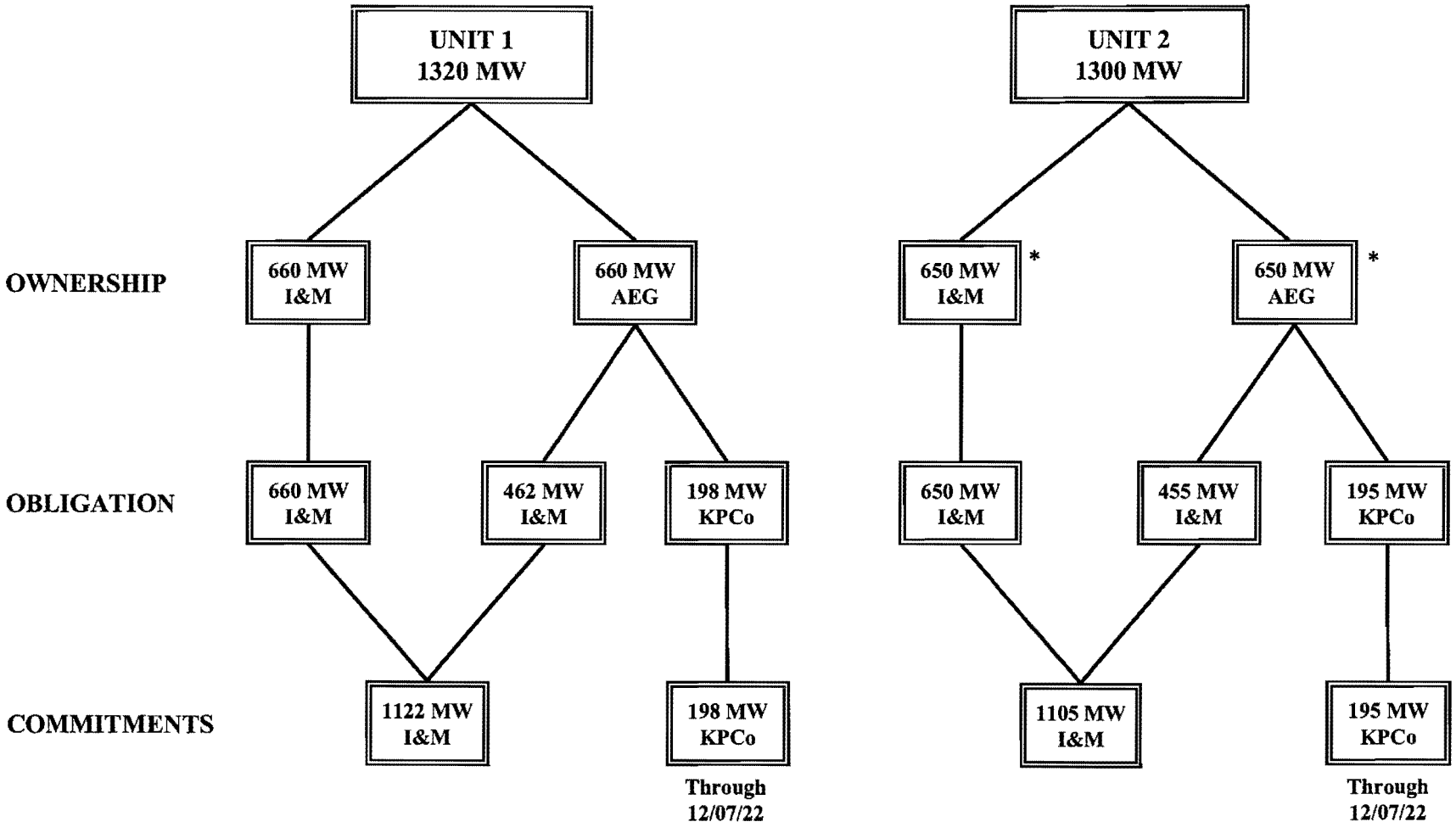
Please state whether the following chart is an accurate representation of the relationship between I&M and the AEP Generating Company relative to Units 1 and 2 of the Rockport facility.

RESPONSE

No. Please see the attached chart OUCC 1-28.

Indiana Michigan Power Compa
Cause No. 44033
OUCC Set 1, Q28

ROCKPORT PLANT
OWNERSHIP, OBLIGATION AND COMMITMENTS



* Both I&M and AEG sell and leaseback their respective shares of Rockport Unit 2. The lessors are non-affiliated, non-utility institutions. During the term of the lease, I&M and AEG each has full entitlement to 50% of the power and energy from Rockport Unit 2.

INDIANA MICHIGAN POWER COMPANY
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
DATA REQUEST SET NO. 3
IURC CAUSE NO. 44033

DATA REQUEST NO Q-3-11

REQUEST

Referring to Witness Chodak's testimony on page 12, lines 18-19, is the "$1.414 billion" the total cost of the project? Does I&M's ownership share of $707 million reflect the Indiana jurisdictional portion only, or is it Indiana Michigan Total Company? Please provide the Indiana jurisdictional share of the $707 million if not already provided.

RESPONSE

I&M's ownership share of $707 million reflects Indiana Michigan Total Company 50% ownership responsibility of the $1.414 billion total cost of the project. An estimate of the Indiana jurisdictional share of the $707 million can be calculated by applying the Indiana demand allocation factor of 0.6465519 that was utilized in the Indiana Basic Rate Case filed September 23, 2011 (Cause #44075). The resulting estimated Indiana jurisdictional share would be $457 million.