# REGULATORY FLEXIBILITY COMMITTEE

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## MEETING MINUTES[1]

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| **Meeting Date:** | **September 26, 2006** |
| **Meeting Time:** | **10:00 A.M.** |
| **Meeting Place:** | **Cardinal Hall, L.A. Pittenger Student Center; Ball State University** |
| **Meeting City:** | **Muncie, Indiana** |
| **Meeting Number:** | **2** |

**Members Present:** **Sen. Thomas Wyss, Co-Chairperson; Sen. Michael Delph; Sen. Beverly Gard; Sen. Victor Heinold; Sen. Brandt Hershman; Sen. Allie Craycraft; Rep. Jack Lutz, Co-Chairperson; Rep. James Buck; Rep. William Ruppel; Rep. Carlene Bottorff; Rep. David Crooks; Rep. Dan Stevenson.**

**Members Absent:** **Sen. James Merritt; Sen.Vaneta Becker; Sen. Larry Lutz; Sen. Earline Rogers; Sen. Connie Sipes; Rep. David Frizzell; Rep. Robert Behning; Rep. Timothy Neese; Rep. Matt Whetstone; Rep. Ryan Dvorak; Rep. Win Moses.**

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[1] Exhibits and other materials referenced in these minutes can be inspected and copied in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for copies may be mailed to the Legislative Information Center, Legislative Services Agency, 200 West Washington Street, Indianapolis, IN 46204-2789. A fee of $0.15 per page and mailing costs will be charged for copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is http://www.in.gov/legislative/. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Representative Jack Lutz and Senator Tom Wyss, Co-Chairmen of the Regulatory Flexibility Committee, convened the meeting at 10:25 a.m. Representative Lutz thanked legislators and members of the audience for traveling to Ball State University to consider important issues concerning Indiana's energy needs. He then announced that because several of the scheduled speakers were delayed by traffic problems, the meeting would begin with a discussion of the fourth agenda item concerning Indiana's need for new baseload electric generation. First, however, Representative Lutz introduced Phil Sachtleben, Associate Vice President for Governmental Affairs for Ball State. Mr. Sachtleben welcomed all in attendance to the university and extended an additional welcome from Ball State University President Jo Ann Gora, who was unable to attend the meeting.

**(1) Indiana's Need for Baseload Electric Generation**

Representative Lutz then invited Doug Gotham, Director of the State Utility Forecasting Group (SUFG), to speak about Indiana's future needs for electricity. Mr. Gotham indicated that his presentation[2] would address two topics: (1) the SUFG's 2006 Indiana Renewable Energy Resources Study;[3] and (2) Indiana's baseload resources needs, as set forth in the SUFG's 2005 electricity forecast.[4]

First, Mr. Gotham highlighted findings from the SUFG's 2006 Indiana Renewable Energy Resources Study. Noting that the 2006 report represents the fourth such study conducted by the SUFG,[5] Mr. Gotham began by comparing statistics on U.S. energy consumption versus Indiana energy consumption, based on the energy source used. In 2004, 40% of the total energy consumed in the United States came from petroleum sources. Natural gas and coal sources each accounted for 23% of the nation's total energy consumption, followed by nuclear energy, which represented 8% of the total energy consumed. Renewable resources comprised just 6% of the nation's total energy consumption. In Indiana, in the year 2002, coal accounted for 49.7% of the state's total energy consumption. Petroleum sources supplied 28.6% of the consumption, while natural gas accounted for 16.5%. Renewable resources represented only 1.5% of the energy consumed in Indiana.[6]

Turning from energy consumption to electricity production, Mr. Gotham compared U.S. electricity generation by energy source with Indiana electricity generation by energy

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[2]See Exhibit 1.

[3]A link to the 2006 Indiana Renewable Energy Resources Study is available at: https://engineering.purdue.edu/IE/Research/PEMRG/SUFG/.

[4]See Exhibit 2.

[5]With the enactment of P.L.159-2002, the General Assembly required the SUFG to "conduct an annual study on the use, availability, and economics of using renewable energy resources in Indiana." The SUFG is further required to submit a report on the study to the Indiana Utility Regulatory Commission (IURC) for inclusion in the IURC's annual reports to the Regulatory Flexibility Committee. (IC 8-1-8.8-14.) The first such report was presented to the Committee in the 2003 legislative interim.

[6]Percentages for Indiana energy consumption by energy source do not total 100%, because the state experienced a 3.7% net loss of electricity flow to other states.

source, for the year 2004. Coal was the primary fuel source used both nationally and at the state level, accounting for 49.6% of the electricity generated in the United States and 94.4% of that generated in Indiana. While natural gas was used to generate 17.8% of the country's electricity, it was used in just 1.9% of Indiana's production. Similarly, nuclear power, which accounted for 19.8% of U.S. electricity production, did not account for even a measurable percentage of Indiana's generation. The use of petroleum as a fuel source was negligible at both the national and state levels: petroleum was the fuel source for 3% of U.S. production and 0.4% of Indiana production. Finally, renewable sources were used to generate 9.2% of the country's electricity and 0.4% of Indiana's electricity. Mr. Gotham noted that both across the nation and in Indiana, hydropower was the renewable source used most often to generate electricity, comprising 77% of the renewables used in the United States and 74% of those used in Indiana. In examining different states' share of the total 328,027 GWh of renewable energy generated in the United States in 2003, Mr. Gotham reported that Indiana's generation accounted for just 0.2% of the national total.

Having observed that renewables were responsible for a small percentage of both the energy consumed and the electricity produced both nationally and in Indiana, Mr. Gotham described some of the barriers to more widespread use of these alternative energy sources. First, he stressed that cost is the major barrier, with most renewable technologies having high upfront capital costs for needed infrastructure and equipment (e.g., hydroelectric dams, solar panels, and wind turbines). In Indiana, there is little incentive for making these significant capital investments, given the state's low electricity rates. Citing statistics from the Energy Information Administration, Mr. Gotham reported that Indiana had the fifth lowest electricity rates in the country in 2004, with only Idaho, Kentucky, West Virginia, and Wyoming having lower rates. According to Mr. Gotham, existing and potential producers may determine that the costs of investing in renewable generation would not pay off if consumers are not willing to pay a premium for renewables-based electricity.

Mr. Gotham explained that a second barrier to the development of renewables-based generation is the uncertainty surrounding certain technologies. For example, much of Indiana lacks the steady source of wind that is so conducive to wind power in the Great Plains states. Still, the U.S. Department of Energy's most recent wind map indicates that some northern areas of the state would be potentially favorable to wind power. In fact, two wind projects have been proposed in Benton County: one proposed by enXco in 2003 for 100 MW wind farm, and a second proposed by Orion Energy in June 2006 for a 130 MW wind farm.

Mr. Gotham then discussed a number of specific renewable energy sources and their current and potential uses in Indiana. He noted the recent attention given to ethanol and soy diesel, which are produced from corn and soybeans, respectively, and used as transportation fuels. Other energy crops that could be used in Indiana include fast growing hardwood trees and certain grasses. Mr. Gotham noted that switchgrass, in particular, has a high energy content. However, there are a number of economic hurdles to the use of energy crops, including harvesting and transportation costs, other high-value uses for land, and the lower prices of competing fossil fuels, such as coal.

According to Mr. Gotham, organic waste biomass (primarily in the form of wood waste) represents Indiana's single largest source of renewable energy in terms of overall consumption. With respect to electricity production, organic waste biomass represents the second largest renewable source of electricity generation in Indiana. Such generation is mainly fueled by landfill gas, municipal solid waste, animal waste biogas, and byproducts from wastewater treatment. Mr. Gotham testified that 11 landfills in Indiana generate electricity, totaling 33 MW of generating capacity. Another 16 landfills have been identified

as candidates for landfill energy projects by the U.S. Environmental Protection Agency (EPA). In addition to landfills, farms and confined feeding operations are another source of organic waste biomass in Indiana. Mr. Gotham explained that animal waste can be used to produce methane in an anaerobic digester. He noted that several dairies in Jasper County use this process to generate electricity for onsite use. However, Mr. Gotham pointed out that such biogas production is usually not economically practical for small livestock operations. According to the EPA, biogas recovery may be economically feasible for confined operations with more than 500 head of cattle or 2000 head of swine. Furthermore, efforts to collect waste from multiple smaller farms often result in the transfer of pathogens. Given this concern, a pipeline to transport animal waste for eventual use as biogas has been proposed in Clinton County.

Turning to inorganic sources of renewable energy, Mr. Gotham noted that fuel cells have received much attention nationally. However, currently available fuel cells cost about $3,000/kW, which is roughly twice the cost of a large coal-fired plant and about ten times the cost of a natural gas-fired turbine. Still, Mr. Gotham acknowledged that considerable research has been devoted to the challenges associated with the technology, including cost barriers and concerns about hydrogen production and storage.

Although fuel cells may be viable in the future, hydropower is currently the largest source of renewable electricity, both nationally and in Indiana. Indiana has about 60 MW of hydroelectric generating capacity, and the U.S. Department of Energy has identified another 66 MW of potential hydropower at existing dams. However, due to environmental permitting issues, only about 42 MW of this potential hydropower is considered viable. Furthermore, this 42 MW of potential hydropower is spread out over 27 sites, making its development economically impracticable.

Having concluded his report on renewable energy, Mr. Gotham focused on Indiana's baseload generation needs, as set forth in the SUFG's 2005 electricity forecast.[7] Mr. Gotham began by noting that the growth rates for electricity demand have been fairly stable over the past decade, both as projected and as actually observed. For example, growth in demand was projected to be 2.16% in the 2003 forecast, and 2.22% in the 2005 forecast. Mr. Gotham explained that these figures represent growth in demand for retail sales of electricity by investor owned and not-for-profit utilities, and take into account estimated transmission and distribution losses. Similarly, growth in peak demand (i.e., during the hot summer months when demand for electricity is greatest) was forecast at 2.07% in 2003, and 2.24% in 2005.

Having observed that the demand for electricity is likely to see steady growth in both the near and distant future, Mr. Gotham pointed out that this need can be met through a variety of means, including conservation measures, contractual purchases of electricity by utilities, purchases of existing plants, or new construction. Mr. Gotham then concluded his formal presentation by emphasizing that the 2005 forecast identifies a relatively balanced need for the three types of generation (i.e., peaking, cycling, and baseload) in the short term.

Mr. Gotham then welcomed questions from the Committee, at which point Senator Gard

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[7]Created under the authority of IC 8-1-8.5-3.5, the SUFG is charged with "develop[ing] and keep[ing] current a methodology for forecasting the probable future growth of the use of electricity within Indiana and within this region of the nation." The methodology developed and used by the SUFG involves producing a biennial forecast of the electricity needs of residential, commercial, and industrial consumers. The SUFG will issue its next biennial forecast in 2007.

asked whether the SUFG had observed any trends with respect to transmission and distribution losses over the years. Mr. Gotham responded that increased energy use tends to lead to increased transmission losses. He also explained that the longer electricity has to travel in the distribution process, the more electricity is lost. According to Mr. Gotham, this phenomenon has been observed in the Southwestern United States, where power must be distributed over long distances.

Senator Hershman then asked whether Indiana's peaking plants are being used to meet the state's electricity needs. Mr. Gotham explained that the SUFG did not have access to data from merchant power plants, but that he believed that such plants have been underused historically. However, Mr. Gotham did report that the Midwest Independent System Operator (MISO) had issued requests for emergency power from peaking plants in July and August. Discussion then followed among Committee members about why merchant plants do not provide the SUFG with data on their operations.

After Mr. Gotham's presentation, the Committee heard from Jack Wickes, counsel for the Indiana Industrial Energy Consumers, Inc. (INDIEC).[8] Mr. Wickes explained that INDIEC is an organization of manufacturers and other large-volume users of energy. According to Mr. Wickes, in any given year, INDIEC members consume 30%-35% of the energy used in Indiana. Having expressed INDIEC's appreciation for the Governor's efforts in developing the Hoosier Homegrown Energy Plan, Mr. Wickes then emphasized that Indiana's need for energy is directly related to increasing economic activity in the state. However, he noted that this economic activity cannot be sustained if Indiana consumers do not continue to have access to reliable electricity at a reasonable cost. Accordingly, he urged policymakers to consider new energy options in which the financial risks are shared by both utilities and ratepayers. Mr. Wickes suggested that if all costs for new generating capacity are automatically passed through by utilities to customers, the state's economic climate will be harmed, as increasing electricity costs make it more expensive to do business in Indiana.

Mr. Wickes also stressed the need to control the costs associated with bringing new capacity online. He encouraged utilities and policymakers to consider options that would be less costly than constructing new generating facilities. For example, he noted that the Dean H. Mitchell Generating Station in Gary has been mothballed since 2001. According to Mr. Wickes, NIPSCO made the decision to take the 582 MW plant offline, because the utility was concerned about the economic vitality of the area, as well as increasing environmental compliance costs. However, because it no longer can draw on the plant to meet consumers' demand for electricity, NIPSCO has been purchasing power in the open market. Mr. Wickes reported that this purchased power has cost ratepayers $82 million more in electric rates than they would have paid if the Mitchell plant had been operating over the past five years. He then suggested that needed retrofits and environmental updates to the plant could be undertaken at a cost less than that needed to construct a new generating facility.

At that point, Representative Stevenson interjected to point out that the land occupied by the Mitchell plant may be needed for the proposed expansion of the Gary airport. He also stated his understanding that the City of Gary had made payments to NIPSCO to bring the Mitchell plant back online. He then suggested that it would make more sense in the long term to build a new, more efficient plant at another location, so as not to interfere with Gary's economic development plans. Mr. Wickes responded by noting that the agreement between NIPSCO and the City of Gary has not approved by the IURC, and that no

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[8]See Exhibit 3.

payments have been made in connection with it. He maintained that retrofitting the existing plant still represents a better option than new construction, given the costs involved and the lack of progress made on the airport expansion. He also noted that NIPSCO would be compensated for any investment in retrofitting through both its rate of return and depreciation allowances. However, the company would not have the benefit of depreciation with respect to a new facility.

After Mr. Wickes concluded his remarks, Representative Lutz invited comments from Ed Simcox of the Indiana Energy Association (IEA). While acknowledging the concerns expressed by Mr. Wickes on behalf of industrial ratepayers, Mr. Simcox noted that electric rates for industrial consumers in Indiana consistently rank as the second or third lowest in the nation. This compares to rates for Indiana residential customers that rank as the eleventh lowest (or fifth lowest, by some accounts) nationally. Mr. Simcox commended the integrated resource planning performed by the IEA's member utilities and suggested that such planning has resulted in the low electric rates enjoyed by Indiana consumers. He also pointed out that in 2005 the General Assembly created a tax credit for investments made in integrated coal gasification powerplants.[9] In response to this incentive, Duke Energy and Vectren have filed a petition to construct a 630 MW Integrated Gasification Combined Cycle (IGCC) generating facility in Indiana. Mr. Simcox suggested that incentives such as the 2005 tax credit lower utilities' costs, which in turn keeps rates low for consumers.

**(2) Decoupling in the Natural Gas Industry**

After the discussion of Indiana's needs for electricity, Representative Lutz turned to the issue of "decoupling" in the natural gas industry. He invited Cynthia Marple, Director of Rates and Regulatory Affairs for the American Gas Association, to instruct the Committee on this topic.[10] Ms. Marple began by noting that "decoupling" refers to an alternative mechanism for determining the rates charged by gas utilities, in which the price charged to the customer is separated, or "decoupled" from the amount of gas consumed by the customer. Ms. Marple explained that this concept differs from the traditional utility rate design, in which utilities recover costs based on the volume of gas sold. This design results in utilities recovering their costs if customers consume, rather than conserve. High and volatile natural gas prices, along with increased concerns about global climate change, have led to decreasing demand for natural gas. As a result, many utilities have not been able to recover their approved costs through the traditional rate structure. Ms. Marple reported that in response to this reality, alternative rate mechanisms have been adopted in some states. Ms. Marple indicated that she would discuss two of these alternatives: revenue decoupling and flat delivery service charges.

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[9]With the enactment of P.L.191-2005, the General Assembly provided a tax credit for qualified investments in integrated coal gasification powerplants. An integrated coal gasification powerplant is a facility that converts coal into synthesis gas that is then used as a fuel to generate energy. (IC 6-3.1-29-6). IC 6-3.1-29-15 provides that the amount of the credit for a particular investment equals the sum of the following: (1) Ten percent (10%) of the first $500,000,000 invested. (2) Five percent (5%) of the amount of the investment that exceeds $500,000,000 only if the facility is dedicated primarily to serving Indiana retail consumers. Under IC 6-3.1-29-16, any credit awarded must be taken in ten annual installments, beginning with the year in which the plant is placed in service.

[10]See Exhibit 4.

Addressing revenue decoupling first, Ms. Marple explained that decoupling involves adjusting or "truing up" a utility's actual sales volumes to the weather-normalized sales volumes approved in the utility's last rate case. With decoupling, a customer's bill includes the standard components of a fixed monthly service charge, a volumetric distribution charge, and a volumetric commodity pass-through charge. However, with decoupling, the utility's tariff includes a symmetrical tracking mechanism that "trues up" the volumetric distribution charge. Thus, when sales volumes decline from the level forecasted in the utility's rate case, the true-up mechanism increases the distribution charge on customers' bills. When sales volumes increase from the level forecasted in the rate case, the true-up mechanism decreases the distribution charge. Decoupling therefore prevents the utility from increasing its earnings by increasing its sales volumes, because the additional distribution charge for the increased volume is refunded to customers.

Having explained how decoupling works, Ms. Marple emphasized that decoupling is not meant to serve as an incentive to utilities; they receive no reward or bonus if customers' usage decreases. Rather, the mechanism works to level out increases or decreases in the distribution charge collected by a utility over a particular timeframe. This timeframe is the length of the true-up period for a particular utility and may be monthly, quarterly, or yearly. Ms. Marple then provided an example of a revenue decoupling mechanism with a yearly true-up. In her example, she assumed a 5% reduction in the volume of gas delivered in the first year, resulting in a revenue shortfall for the utility (due to a decrease in the distribution charge collected). However, the true-up mechanism would take effect in the second year to increase the distribution charge per therm[11] of gas delivered (and thus the amount of revenue collected), making the utility whole for its loss in the first year. Under this scenario, the utility ultimately collects no more or no less revenue than was originally approved in its rate case.

In examining the effects of decoupling on customers, Ms. Marple pointed out that the mechanism imposes no additional costs to the customer beyond those approved in the utility's rate case. However, decoupling does tend to reduce the variability in customers' bills. Because decoupling does not discourage natural gas conservation, customers may ultimately experience lower bills through reduced usage. Ms. Marple pointed to a 2003 study by the American Council for an Energy Efficient Economy (ACEEE) that projected a 20% decline in gas prices resulting from a 1.9% reduction in natural gas consumption.

Ms. Marple reported that decoupling tariffs had been approved for seven gas utilities in five different states: California, Maryland (two utilities), Ohio, Oregon (two utilities), and North Carolina. Decoupling tariffs for an additional 13 utilities are pending in nine states, including two pending applications in Indiana: one for Citizens Gas and one for Vectren.

Having discussed revenue decoupling as an alternative to traditional rate mechanisms, Ms. Marple turned to a second alternative: the flat delivery service charge. Ms. Marple explained that three states have approved flat charge tariffs, each of which is designed somewhat differently. In North Dakota, Xcel has a flat charge tariff in which all of its fixed costs are recovered through a fixed monthly service charge of $15.69. In Oklahoma, customers of ONEOK may choose a plan with a high monthly service charge and low distribution charges, or a plan with a low monthly service charge and high distribution charges. In Georgia, Atlanta Gas Light determines the flat monthly service charge for each customer individually. Natural gas utilities in Michigan, Missouri, and Kansas have applications for flat charge tariffs pending.

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[11] A therm is a commercial unit of heat energy.

In examining the benefits for customers, Ms. Marple noted that with a flat service charge, customers do not underpay or overpay the monthly distribution charge. A flat charge also offers improved bill stability over both a traditional rate design and decoupling. Finally, bills tend to be simpler and easier to understand, and the amount of bill variability due to commodity prices is transparent to the customer.

Before ending her presentation, Ms. Marple stressed that gas utilities do not make money on the cost of the gas they deliver. Because gas utility service is a fixed cost business, utilities actually lose money when the cost of natural gas is high. Noting that the traditional rate structure is more than 100 years old, she reminded the Committee that the traditional structure discourages energy conversation by allowing utilities to collect more revenue from increased usage. She ended by encouraging policymakers to consider revenue decoupling and other forms of innovative rate design that break the link between a utility's earnings and the energy consumption of customers.

**(3) Energy Assistance for Low-Income Residents**

There being no questions for Ms. Marple, Representative Lutz announced that the Committee would consider the issue of energy assistance for Indiana's low-income residents before breaking for lunch. He then invited Paul Mitchell, Coordinator of the state's Office of Federal Grants and Procurement, to address the Governor's energy assistance initiatives.[12] Thanking the Committee for its consideration of the issue, Mr. Mitchell began by discussing the Winter Heating Season Task Force established by the Governor in August 2005. Charged with developing a coordinated winter heating season policy, the task force consists of representatives from the Office of the Governor, Office of the Lieutenant Governor, the Indiana Housing and Community Development Authority, the Office of Energy and Defense Development, the IURC, and the Office of Utility Consumer Counselor (OUCC). Other public, private, and nonprofit stakeholders also participate in the task force's activities.

Mr. Mitchell explained that at the start of the 2005-2006 winter heating season, the task force recommended the following actions: providing assistance to low income residents that includes both bill assistance and weatherization programs; leveraging more funding through public-private partnerships; expanding the number of residents eligible for assistance; and identifying efficiencies to improve the return on investment of energy assistance programs. As a result of these recommendations, several initiatives were implemented. First, while eligibility for the state's Low-Income Energy Assistance Program (LIHEAP) had been limited to families with incomes at or below 125% of the federal poverty level, the Governor expanded the eligibility threshold to include families with incomes at or below 150% of the poverty level. The Governor also set aside $10,000,000 in Temporary Assistance for Need Families (TANF) funds that could be used, if needed, to assist households eligible for LIHEAP. A third initiative involved establishing the Help Thy Neighbor Heating Fund, a voluntary charitable fund to help families with incomes ranging from 150% to 200% of the poverty level avoid disconnection of their natural gas service.

Focusing on the Help Thy Neighbor Heating Fund, Mr. Mitchell noted that the creation of the fund was a statewide public-private effort involving all of Indiana's natural gas utilities. The fund was created with a $5,000,000 seed grant from the Lilly Endowment and a $1,000,000 donation from NIPSCO, Citizens Gas, and Vectren. Mr. Mitchell explained that the fund was designed to give one-time bill assistance to those families who do not qualify for LIHEAP, but who receive a disconnect notice from their natural gas utility. Under the

[12]See Exhibit 5.

program, eligible customers may qualify for a credit of up to $200 for a single disconnect notice. Each utility then makes special payment arrangements for any remaining balance due at the time. If the credit makes the customer's bill current, the customer is then enrolled in the utility's budget billing plan. Mr. Mitchell reported that it cost just $82,000 to administer the fund.

Mr. Mitchell concluded his remarks by noting some of the outcomes achieved as a result of the initiatives implemented during the 2005-2006 heating season. For example, the state offered assistance to 335,000 more households and leveraged an additional $16,000,000 in public and private funding for bill assistance. The state also ensured that the LIHEAP program was available and fully funded through May 31, 2006, which is beyond the moratorium during which utilities are prohibited by law from disconnecting service for low-income customers. In looking ahead to the upcoming heating season, Mr. Mitchell identified several of the Administration's goals: identifying sustainable funding sources to support the state's LIHEAP program; continuing to use public-private partnerships to meet the needs of families at or below 200% of the poverty level; and expanding conservation and weatherization efforts that improve the return on investment of economic development projects.

Representative Lutz then asked Stephanie Reeve of the Indiana Housing and Community Development Authority (IHCDA) to discuss IHCDA's role in administering the state's LIHEAP program.[13] Ms. Reeve explained that while her agency was created by the General Assembly in 1978, it was known as the Indiana Housing Finance Authority until 2005, when the legislature moved several community development programs from the now-defunct Department of Commerce to the authority. According to Ms. Reeve, the rationale for the shift in programming (and the authority's resulting name change) was to make one agency responsible for all housing and community development efforts aimed at revitalizing communities. In 2006, the General Assembly further added to IHCDA's responsibilities by transferring oversight of the state's LIHEAP program from the Family and Social Services Administration (FSSA) to IHCDA.[14] Ms. Reeve noted that certain administrative efficiencies were made possible by transferring LIHEAP to IHCDA. For example, before 2006, IHCDA had worked closely on housing projects with Indiana's Community Action Agencies, which in turn had worked with FSSA to administer the LIHEAP program across the state. With the 2006 change in the law, IHCDA is now the sole state agency providing funding to the Community Action Agencies.

Having explained the rationale for transferring LIHEAP from one state agency to another, Ms. Reeve delivered statistics on Indiana's LIHEAP program for the 2005-2006 heating season. She reported that for FY 2006,[15] the Indiana LIHEAP program received a federal appropriation of $56,000,000, including both regular and contingency releases. She noted, as had Mr. Mitchell, that the state also set aside $10,000,000 in TANF funds for LIHEAP. Finally, $1,000,000 from oil overcharge funds[16] was contributed to LIHEAP.

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[13]See Exhibit 6.

[14]See P.L.181-2006, SEC. 12 (HEA 1261).

[15]Because the LIHEAP program is federally funded, the federal fiscal year applies. Thus, for purposes of LIHEAP, FY 2006 began on October 1, 2005, and ended on September 30, 2006.

[16]Under IC 4-12-1-14.2, "all oil overcharge funds received from the federal government are annually appropriated to the lieutenant governor for the lieutenant governor's use in carrying out the home energy assistance program."

According to Ms. Reeve, the total available funding allowed over 156,000 low-income households to receive energy assistance. Of the households that received assistance, 33% received crisis benefits. Ms. Reeve reported that the average regular benefit was $275, and the average crisis benefit was $180, with combined benefits distributed totaling $55,000,000. Ms. Reeve suggested that a number of factors led to an increase in the number of households served during the past heating season: the expansion of the income eligibility standard from 125% to 150% of the poverty level; the higher cost of heating a home; and larger federal and state allocations.

After reporting on the 2005-2006 heating season, Ms. Reeve looked ahead to the upcoming winter. She indicated that the FY 2007 LIHEAP program year would begin on October 1, 2006. However, she noted that during the past several years, the federal appropriation for LIHEAP has not been finalized until January. Consequently, IHCDA expects to operate under a continuing resolution until the federal Labor, Health & Human Services, and Education Appropriation is finalized. In light of this uncertainty, IHCDA has decided to budget $49,967,000 statewide for LIHEAP, based on the lowest proposed federal appropriation to date. Of this amount, $43,970,960, or 88% of the total, will be directed to the state's LIHEAP program, with the remainder (approximately $6,000,000) directed to the weatherization program. Ms. Reeve stated that there is approximately $7,000,000 left over from the $10,000,000 TANF allocation made in FY 2006. She reported that IHCDA plans to use this money as a "war chest" to be tapped as necessary in the upcoming heating season. Additionally, Indiana has approximately $18,000,000 from a supplemental LIHEAP appropriation made in March 2006. If the 2007 LIHEAP appropriation proves insufficient for the upcoming winter, this money could also be used to meet the need for assistance.

There being no questions for Ms. Reeve, Representative Lutz invited Stan Pinegar of the IEA to discuss the efforts of utilities to help their low-income customers maintain service during the winter months. Noting that individual utilities have long maintained their own charitable programs to assist low-income customers during the winter, Mr. Pinegar acknowledged the remarkable outcomes that were achieved by the Help Thy Neighbor Program and the collaborative efforts behind it. He predicted that the program would continue to provide valuable assistance to Indiana's working poor during the upcoming heating season.

Turning to the efforts of the IEA's member utilities, Mr. Pinegar reported that Indiana's five investor-owned electric utilities together provided $1.3 million during 2005-2006 for both heating and cooling assistance for 12,800 low-income customers. Similarly, the state's natural gas utilities provided $16.6 million in heating assistance to 85,000 customers during the 2005-2006 heating season. Mr. Pinegar explained that the assistance provided by the electric and gas utilities included both contributions made by the utilities themselves and the voluntary donations of some of their customers.

Mr. Pinegar further noted that utilities routinely encourage their customers to enroll in their budget billing plans, or to arrange for other payment plans when appropriate. Other efforts on the part of the industry include hosting public affairs events with the IURC and the OUCC, such as a weatherization event planned for October 19, 2006, in Indianapolis.

Finally, Mr. Pinegar addressed the industry's concerns over the sales tax exemption for LIHEAP funds enacted during the 2006 legislative session.[17] Mr. Pinegar reported that the

[17]IC 6-2.5-5-16.5 provides that "[t]ransactions involving home energy are exempt from the state gross retail tax if the person acquiring the home energy acquires it after June 30, 2006,

utilities' concerns about administering the one-year exemption have been largely put to rest by the electric utilities' success in implementing the exemption during the summer cooling season. Mr. Pinegar credited the Department of Revenue with easing the utilities' concerns about software compatibility and other issues.

After Mr. Pinegar's formal remarks, Representative Lutz asked whether the amounts of low-income assistance reported by Mr. Pinegar included unpaid customer bills written off as bad debt by the utilities. Mr. Pinegar indicated that the figures he cited did not include bad debt amounts.

With no further questions being posed to Mr. Pinegar, Representative Lutz recessed the meeting at 1:15 p.m. He announced that testimony would resume at 2:30 p.m.

**(4) Overview of the Hoosier Homegrown Energy Plan**

Representative Lutz reconvened the meeting at 2:30 p.m. and asked John Clark, Director of the Office of Energy and Defense Development, to provide an overview[18] of the Governor's Hoosier Homegrown Energy Plan.[19] Mr. Clark thanked the Committee for the opportunity to share a plan that he described as the result of the collaborative efforts of both the Administration and interested stakeholders. He noted that the plan was designed with Indiana's economic, environmental, homeland security, and public health interests in mind.

Mr. Clark first examined Indiana's current energy outlook. He noted that 75% of the energy expenditures made in Indiana leave Indiana. For example, Indiana already imports most of the oil and gas used in the state. According to Mr. Clark, the prices paid for these imports are volatile and often high. Furthermore, while Indiana is still a major coal producer, it now consumes twice the amount of coal that it produces. Between 1990 and 2004, the value of the total coal consumed in Indiana exceeded the value of the total coal produced by $1 billion. Noting the SUFG's projections that Indiana's demand for electricity would continue to exceed the state's existing resources at a steadily increasing rate through the year 2022, Mr. Clark reported that Indiana is poised to become a net importer of electricity. Compounding this problem is the fact that a new baseload generation plant has not been built in Indiana in the last 20 years.

Looking to the future, Mr. Clark asserted that an economic comeback for the state depends largely on the successful development of Indiana's energy potential. By producing more of the energy it consumes, Indiana can create new, well-paying jobs. Similarly, by not exporting needed revenue for imported energy, Indiana can reinvest that money within its own borders, further strengthening its economy. Having stressed energy planning as a crucial component in the Administration's overall economic strategy, Mr. Clark then outlined the energy plan's key goals: (1) trading current energy imports for future economic growth; (2) producing electricity, natural gas, and transportation fuels from clean coal technologies and bioenergy; and (3) improving energy efficiency and infrastructure.

Focusing on clean coal technologies and biomass, Mr. Clark suggested that new clean

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and before July 1, 2007, through home energy assistance."

[18]See Exhibit 7.

[19]See Exhibit 8.

coal plants could produce needed electricity, along with syngas and other fuels. He maintained that the planning, construction, and operation of such plants would create new jobs. Similarly, biomass facilities would encourage rural development and produce energy, while avoiding the some of the environmental hazards associated with plants powered by fossil fuels.

Mr. Clark then acknowledged that Indiana has already taken a significant step in producing "homegrown" energy through its recent commitment to biofuels. In 2005, one ethanol plant produced just 100 MM gallons of ethanol in Indiana. To date in 2006, twelve new ethanol plants have been announced statewide, for an additional capacity of 1,160 MM gallons. At least three new biodiesel production facilities are also being planned for the state. In March 2006, Indiana was chosen as the home for what will be the largest soy biodiesel facility in the world.

Finally, Mr. Clark highlighted some of the actions the state needs to take to accomplish the goals underlying the plan. For example, the Governor seeks to extend the newly enacted state tax credits for qualifying clean coal utilities and biofuels facilities to include non-utility clean coal projects and biomass investments using Indiana-based feed stocks. Another plan involves replacing all of the vehicles in the state government fleet with flexible fuel vehicles, with the goal of the entire fleet being flexible-fuel capable by 2010. Additional action steps include: seeking federal tax credits and loan guarantees under the Energy Policy Act of 2005 (EPAct 2005) for Indiana energy facilities; expanding the Indiana Finance Authority's "Volume Cap" funds to include renewable energy investments and new clean coal developments; and requiring the Department of Local Government Finance to require applicants for heating and cooling units for new buildings to consider geothermal heating and cooling systems.

Mr. Clark concluded by stating that the Hoosier Homegrown Energy plan would result in thousands of new high-paying jobs, economic and energy security, a strengthened ability to attract new employers to Indiana, and more stable and affordable energy supplies for consumers.

**(5) H.R. 23: Renewable Energy Development**

Following Mr. Clark's testimony, Representative Lutz announced that the Committee would next consider the topic of renewable energy, as directed by H.R. 23-2006.[20] Representative Lutz then asked Ed Simcox of the IEA to present the industry's perspective on the subject. Mr. Simcox began by explaining the reasons for the industry's opposition to the adoption of a renewable electricity standard (RES)[21] in Indiana. Mr. Simcox noted that in the 22 states that have adopted an RES, the rates for electricity are generally higher than those in Indiana. He also pointed out that the wind potential in those states is much greater than in Indiana. Mr. Simcox urged policymakers to consider economic incentives,

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[20]H.R. 23 urged the Legislative Council to assign the issue of renewable energy development to the Regulatory Flexibility Committee. Accordingly, the Legislative Council assigned the topic to the Committee in Legislative Council Resolution 06-01. Assuming assignment of the topic to the Committee, H.R. 23 further directed the Committee to study "the potential for various renewable energy resources to be used as a fuel source, or to generate electricity, in a manner that is economically and environmentally sound."

[21]A renewable electricity standard requires utilities to generate a specified percentage of their electricity from renewable sources, such as wind, biomass, geothermal, and solar energy.

rather than mandated renewables standards, to encourage the development of renewable energy. He again pointed to the 2005 tax credit for investments in integrated coal gasification powerplants as evidence that economic incentives work, given the plans by Duke and Vectren to build an IGCC facility in Indiana.

Mr. Simcox then invited representatives from a number of utilities to outline their individual efforts to use and develop renewable resources and alternative energy technologies. First, Jim Layfield described Duke Energy Indiana's 20-year power purchase agreement (PPA) to buy 100 MW of electricity from the proposed Benton County wind farm. He also described additional renewable initiatives[22] undertaken by Duke, including entering into a 15-year PPA for coal mine methane, supporting several biomass co-firing studies, commissioning wind assessment studies, and installing a number of renewable energy demonstrations throughout Indiana. Next, Marc Lewis of Indiana Michigan Power provided examples of the industry's support of wind projects throughout the country and described Indiana Michigan's six hydroelectric plants along the St. Joseph River. Fred Mills of Indianapolis Power & Light discussed his company's Green Power program, which gives customers the option to purchase electricity generated from renewable sources. Mr. Mills also announced that IPL has sought approval from the IURC for its Empower plan, which includes renewable energy programs, energy efficiency measures, and alternative pricing options for customers.

John Ross of NiSource reported that his company had tested a process that involves burning both biomass and coal at its Michigan City Generating Station. He further noted that NIPSCO & NiSource Technologies is a corporate partner in the BioTown, USA project in Reynolds, Indiana. John Bohls, President of Vectren Enterprises (a non-utility subsidiary of Vectren Corporation), described his company's landfill gas projects in Johnson City, Tennessee, and in Atlanta, Georgia. He also mentioned a Vectren-sponsored project in St. Lucy County, Florida, to convert waste into energy syngas. Finally, Trevor Vance of the Indiana Statewide Association of Rural Electric Cooperatives reported that his member cooperatives had contracted to purchase 8MW of power from a wind project in Illinois. He then emphasized that a state RES is not necessary, given the many renewable energy projects undertaken by utilities voluntarily.

Following remarks from the industry representatives, Representative Lutz invited the testimony of Jesse Kharbanda of the Indiana Coalition for Renewable Energy and Economic Development (ICREED).[23] Thanking the Committee for its attention to renewable energy, Mr. Kharbanda described ICREED's efforts to promote economic development in Indiana through renewable resource projects. Mr. Kharbanda explained that ICREED is a coalition of elected officials, corporations, economic development groups, and clean energy advocates. He then acknowledged the support of Representatives Don Lehe and Dale Grubb for several of ICREED's initiatives. Mr. Kharbanda also gave credit to Governor Daniels for being the second governor in the nation to endorse the "25 x '25" initiative, which calls for meeting 25% of the nation's energy needs from renewable sources by 2025. Mr. Kharbanda reported that ICREED is working to create a state-level 25 x '25 action group to ensure that the national policy is implemented in Indiana.

Mr. Kharbanda then focused on another initiative that ICREED is championing: the enactment of a statewide RES. Mr. Kharbanda urged lawmakers to support legislation that would require 10% of Indiana's electricity to come from renewable sources by 2017. According to Mr. Kharbanda, twenty states have passed RES legislation, and RES

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[22]See Exhibit 9.

[23]See Exhibit 10.

legislation is pending in an additional 15 states. He further noted that Senator Richard Lugar and Congressman Pete Visclosky have publicly endorsed an Indiana-specific RES.

After encouraging legislators to adopt an RES, Mr. Kharbanda indicated that the Committee would hear from additional speakers[24] who would: (1) describe the economic opportunities afforded by an RES; (2) address frequently asked questions about renewable electricity generation; and (3) discuss the often undervalued and unrecognized benefits of an RES.

First to address the Committee was Ron Gick, who announced that he would speak from the perspective of a landowner and businessman. Mr. Gick told the Committee that he farms 1,000 acres in Benton County, works full-time for Beck's Hybrids, chairs Benton County's Board of Zoning Appeals, and serves as president of the board for the new ethanol plant in Rensselaer. Mr. Gick then described the financial benefits that wind farms bring to the rural communities in which they locate, including lease payments to local landowners who allow developers to place wind towers on their land. Mr. Gick explained that wind companies typically pay between $4,000 and $9,000 per year for the use of one acre of land. In contrast, leasing the same acre of land for the production of crops would yield $140 to $170. According to Mr. Gick, the total lease payments for Orion's proposed wind project in Benton County could add $300,000 to $650,000 per year to the local economy. Arguing that an RES would encourage more companies to make similar investments in other rural Indiana communities, Mr. Gick encouraged Committee members to enact RES legislation in the upcoming session.

The Committee also heard from Steve Aker, a project manager for White Construction, Inc., based in Clinton, Indiana. Mr. Aker reported that his company's Wind Power Division installed over 300 MW of wind-based power generation in 2005. He further noted that the company has 360 MW of wind power currently under construction and another 300 MW planned for 2007. Mr. Aker pointed out that none of this activity has involved sites in Indiana. Rather, White Construction's wind business has tended to occur in states with renewable electricity standards. Citing the statistic that 70% of wind power investment nationally has been made in states with an RES, Mr. Aker urged legislators to adopt an RES for Indiana.

Wayne Hoffman of Orion Energy discussed some of the project-level benefits of wind farms, including payments to local farmers, increased spending at area businesses, property tax payments to local governments, and the creation of construction jobs and operations and maintenance jobs. Acknowledging that Orion had been fortunate to secure a PPA with Duke Energy for electricity produced at the planned Benton County wind farm, Mr. Hoffman claimed that other wind developers are unwilling to invest large amounts of capital in a state in which there is an uncertain market for the energy to be produced. Mr. Hoffman asserted that the adoption of an RES in Indiana would reduce the uncertainty for potential wind investors in the state. As an example of how an RES can spur investment in a state, he reported that Gamesa of Spain, the world's second-largest manufacturer of wind turbines, announced that it would open three facilities in Pennsylvania after that state enacted an RES. Before concluding, Mr. Hoffman suggested that tax credits are not as effective as an RES in attracting developers to a state. He noted that while tax credits reduce the cost of construction, they do not guarantee a market for the energy produced. Additionally, such credits cut needed revenue streams to local governments. Finally, state tax credits are of no benefit to developers that lack taxable income in the state.

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[24]See Exhibit 11.

S. Michael Hudson, CEO of I Power Energy Systems LLC, next discussed the potential of renewable energy-related manufacturing in Indiana. He explained that I Power is based in Anderson, Indiana, and manufactures products that produce baseload electric power and heat for onsite use by commercial, industrial, or governmental buildings. Mr. Hudson also mentioned several other businesses that are currently involved in the renewable energy business in Indiana: Rolls-Royce, Cummins, Caterpillar, Delphi Electronics, Remy International, and Light Engineering. Pointing to several studies that have concluded that Indiana has the potential to attract similar ventures, Mr. Hudson highlighted the finding by the Renewable Energy Policy Project that Indiana has the second highest potential in the country to generate renewable energy manufacturing jobs. As did Mr. Hoffman, Mr. Hudson cited the enactment of an RES in Pennsylvania as crucial in bringing wind projects, and the accompanying turbine manufacturing jobs, to that state. He concluded by imploring Committee members to adopt a similar policy for Indiana.

At that point, Representative Lutz informed the remaining RES proponents that the group had already exceeded its allotted hour to address the Committee. Noting that the time for the Committee's scheduled use of the BSU facilities had already expired, Representative Lutz asked the ICREED representatives to give their final remarks. The Committee then heard brief testimony from Steve Jones, Director of enXco Development Corporation's Midwest Office. Noting his thirty years of experience working for an investor-owned utility before joining enXco, Mr. Jones offered several reasons why Indiana utilities may be reluctant to voluntarily add wind power to their resource portfolios. For example, Indiana utilities may not be aware of the success that utilities in other states have had in integrating wind as a reliable resource within their energy mixes. Noting the increasingly likely possibility that environmental regulations will restrict carbon emissions in the near future, Mr. Jones suggested that utilities also may fail to recognize wind's value as a carbonless energy source that could replace some of the carbon-emitting fossil fuels traditionally used to generate electricity. Finally, utilities' expertise in fossil fuel-based generation, along with their relative inexperience in using wind power, may prevent them from reconsidering the make-up of their energy portfolios.

Stephan Jay, M.D., chair of the Department of Public Health at the Indiana University School of Medicine, provided statistics on the impact of the combustion of fossil fuels on public health. Noting that the public health costs of fine particle pollution in Indiana exceed $5 billion annually, Dr. Jay advocated the adoption of an RES as a means to reduce powerplant emissions and thus improve public health.

The Committee also heard from Beth Soholt, director of Wind on the Wires, a nonprofit coalition of various wind power interests. Ms. Soholt addressed the cost of wind generation, along with transmission and wind integration issues. Noting that the cost of wind power has decreased as the size of wind turbines has increased, Ms. Soholt cited data from the U.S. Department of Energy's National Renewable Energy Laboratory that estimates the cost of wind power to be 3¢-6¢ per kWh, taking into account the federal production tax credit. As to transmission issues, Ms. Soholt maintained that in some parts of Indiana, wind generators can be interconnected to existing transmission facilities without the need for new infrastructure. As new transmission infrastructure is constructed to meet the state's growing demand for electricity, wind facilities can be added to the expanded system. In addressing wind integration issues, Ms. Soholt noted that incorporating wind to comprise up to 20% of a utility's overall supply portfolio typically costs less than ½¢ per kWh to account for wind variability and uncertainty.

Finally, Jesse Kharbanda again spoke to report the results of a rate impact study commissioned by the Environmental Law & Policy Center in 2006. Noting that several entities had conditioned their support of a statewide RES on the results of such a study, Mr.

Kharbanda explained that the study was conducted to determine the impact of that an RES would have on the retail electric rates paid by Indiana consumers. Peter Boerger, a Purdue-educated economist who authored the study, concluded that the implementation of an RES would increase electric rates by 1.14% over ten years. Comparing the Indiana results to those determined for other states, Mr. Kharbanda reported that 28 studies had indicated, in the aggregate, an increase of 0.7% in electric rates following the implementation of an RES. Mr. Kharbanda stated that the Center would follow up on the Indiana study by disaggregating the data by customer class.

Following the testimony of the ICREED speakers, Representative Lutz allowed brief remarks from Lynn Teel, President of the Indiana Soybean Growers Association (ISGA). Ms. Teel then read a letter[25] urging lawmakers to provide tax incentives that would encourage livestock businesses to purchase methane digesters to convert animal waste into electricity. Ms. Teel explained that the ISGA supported such incentives for Indiana's livestock operations, because livestock farms provide a market for Indiana soybeans. While suggesting that mandates for renewable energy use may be necessary in the future, Ms. Teel stopped short of recommending the adoption of such policies in the near term, in favor of providing incentives to would-be producers of renewable energy.

There being no further testimony,[26] Representative Lutz thanked the Committee for its attention to the important energy issues facing Indiana. He adjourned the meeting at 4:40 p.m.

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[25]See Exhibit 12.

[26]Due to the delayed start of the meeting and the resulting time constraints, the Indiana Municipal Power Agency (IMPA) was not able to testify during the meeting. However, IMPA has provided written testimony that was distributed to Committee members after the meeting. This testimony is attached to these minutes as Exhibit 13.