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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF INDIANAPOLIS POWER & LIGHT COMPANY FOR APPROVAL OF A FUEL COST CHARGE FOR ELECTRIC SERVICE DURING THE MONTHS OF JUNE, JULY, AND AUGUST 2009, IN ACCORDANCE WITH THE PROVISIONS OF I.C. 8-1-2-42.	)	CAUSE NO. 38703 FAC 83 APPROVED: MAY 27 2009

BY THE COMMISSION:
Loraine L. Seyfried, Administrative Law Judge

On March 12, 2009, Indianapolis Power & Light Company ("IPL") filed a Verified Application for approval of a fuel cost adjustment to be applicable during the billing cycles of June, July and August 2009, for electric service. Also, on March 12, 2009, Applicant filed its direct testimony and exhibits. On March 19, 2009, the IPL Industrial Group ("IIG") filed a Petition to Intervene, which petition was granted. On April 16, 2009, the Indiana Office of the Utility Consumer Counselor ("OUCC") filed its report in this Cause and the direct testimony of Gregory Guerrettaz and Michael Eckert. On April 30, 2009 IPL filed rebuttal testimony. On May 4, 2009, IPL filed its response to questions posed in a Docket Entry issued April 30, 2009.

Pursuant to public notice duly given and published as required by law, proof of which was incorporated into the record by reference and placed in the Commission's official file, a public hearing in this Cause was held on May 6, 2009, at 9:30 a.m., in the National City Center, Room 224, 101 W. Washington Street, Indianapolis, Indiana. At the hearing IPL, the OUCC and IIG appeared by counsel. IPL and the OUCC offered their respective prefiled testimony and exhibits which were admitted into evidence without objection. In addition, IPL offered into evidence its response to the Commission's April 30, 2009 Docket Entry, which was also admitted into evidence without objection. No other party or members of the general public appeared.

Based upon the applicable law and the evidence of record, the Commission now finds:

1. **Commission Jurisdiction and Notice.** Proper notice of the hearing in this Cause was given as required by law. IPL owns and operates an electric utility and is subject to the jurisdiction of this Commission as provided in the Public Service Commission Act, as amended, I.C. 8-1-2, *et seq.* Thus, the Commission has jurisdiction over IPL and the subject matter of this Cause.

2. **Applicant's Characteristics.** IPL is an electric generating utility and is a corporation organized and existing under the laws of the State of Indiana, having its principal office at Indianapolis, Indiana. IPL is engaged in rendering electric public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plants and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public.

3. **Source of Fuel.** IPL must comply with the statutory requirements of I.C. 8-1-2-42(d)(1) by making every reasonable effort to acquire fuel and generate or purchase power, or both, so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible. Generally, 99% of IPL's internally generated kilowatt-hours on an annual basis are generated by coal-fired capacity. IPL currently has long term contracts with five coal producers. The remainder of IPL's coal requirement is met through spot purchases. IPL's Exhibit B.

Based upon the evidence presented, the Commission finds that IPL is endeavoring to acquire fuel and generate or purchase power so as to provide electricity at the lowest cost reasonably possible.

4. **Operating Expenses.** I.C. 8-1-2-42(d)(2) requires the Commission to find that increases in a utility's fuel costs have not been offset by decreases in other expenses. Comparing the twelve-month period ending January 31, 2009 with the Commission's August 23, 1995 Order in Cause No. 39938, IPL's Exhibit No. 2 calculates the (d)(2) test, showing that total jurisdictional operating expenses excluding fuel costs have increased and therefore, the Commission should find that the "operating expense" test of I.C. 8-1-2-42(d)(2) is satisfied.

5. **Uninstructed Deviation Penalties.** In the Commission's February 7, 2007 Order in IPL's FAC 74 proceeding, the Commission found that uninstructed deviation penalties incurred on or after June 1, 2006 are a reasonable cost of generating power in the Midwest Independent Transmission System Operator, Inc.'s ("MISO" or "Midwest ISO") market and may be properly included as a cost of fuel in FAC proceedings, unless it is demonstrated that the utility failed to use Good Utility Operating Practice. The Commission further found that IPL could resume recovery of its uninstructed deviation charges in its FAC proceedings as of its January, 2007 accounting period. IPL received $392 in uninstructed deviation charges for November, 2008, $2,396 in uninstructed deviation charges for December, 2008, and a credit of $1,337 in uninstructed deviation charges for January, 2009. IPL is seeking recovery of net uninstructed deviation charges totaling $1,451. IPL Witness Dewayne Boyer stated that during the months of November, 2008 and January 2009 uninstructed deviation charges did not exceed revenue from uninstructed deviation.

Mr. Boyer provided an explanation for the fact that uninstructed deviation charges exceeded revenues for uninstructed deviation credits during December 2008. He stated that IPL's uninstructed deviation charges settled on the MISO S14 statements for operating days in December 2008 totaled $2,396, and the uninstructed deviation credit for those same days was $17,554. However, the uninstructed deviation credit for December 2008 included charges not only for the S14, but also charges for the S55 and S105 resettlements, which represented an additional charge of $39,027 from prior periods. He stated that IPL customers received uninstructed deviation credits on the S14 statements for these prior operating days. MISO has reversed some of these credits through the market settlement process, resulting in the uninstructed deviation amount, which flows through the FAC pursuant to the Commission's Order in Cause No. 42685, being a charge rather than a credit.

OUCC Witness Eckert recommended that the Commission allow the recovery of the uninstructed deviation charges. Given that no party objected to the inclusion of the uninstructed deviation charges, the Commission finds that its inclusion should be accepted.

6. **Changes in Charge Types as a Result of the Start of the Ancillary Services Market ("ASM").** In this proceeding, Mr. Boyer stated that in compliance with the Phase I

Order in Cause No. 43426 ("Phase I Order"), IPL is currently deferring the following new charge types related to the MISO Energy and Operating Reserves Market ("EOR"):

- Day Ahead Regulation Amount
- Day Ahead Spinning Reserve Amount
- Day Ahead Supplemental Reserve Amount
- Contingency Reserve Deployment Failure Charge Amount
- Real Time Excessive Deficient Energy Deployment Charge Amount
- Real Time Regulation Amount
- Regulation Cost Distribution Amount
- Real Time Spinning Reserve Amount
- Spinning Reserve Cost Distribution Amount
- Real Time Supplemental Reserve Amount
- Supplemental Reserve Cost Distribution Amount

He stated that the following charge types are incorporated into IPL's calculation of delta locational marginal pricing ("LMP") included in MISO Components of Fuel Cost shown on Exhibit 1, Schedule 6:

- Excessive Energy Amount
- Non-Excessive Energy Amount
- Net Regulation Adjustment.

Mr. Boyer testified that each of these new charge types was described in Joint Petitioner's Exhibit 7 in Phase II of Cause No. 43426. Mr. Boyer noted that final cost recovery determination of these charge types will be made by the Commission in its Phase II Order. Mr. Boyer stated that in accordance with the Phase I Order, IPL is requesting authority to treat for ratemaking purposes the new Non-Excessive Energy Amount and the new Excessive Energy Amount charge types in the same manner as the existing Real Time Asset Energy Amount (for generation), the existing Real Time Uninstructed Deviation Amount, and the Real Time Uninstructed Deviation Credit (collectively, "UD") are treated today by IPL, subject to refund pending a final determination by the Commission in Phase II of Cause No. 43426. Mr. Boyer explained that these two new charge types effectively replace and have similar cost causation characteristics as these three existing charge types and therefore should be treated in the same manner. The existing Real Time Asset Energy Amount is the means for compensating generators for providing generation in the real time market, with the UD amounts providing for real time deviations from MISO dispatch signals. If the two new replacement charge types implemented under EOR were included in the net deferral amount, the FAC rate would no longer reflect components of the cost of generating energy which are currently being incurred and recovered by IPL as delta LMP for native load.

Mr. Boyer stated that the following charges types were also modified as a result of the EOR:

- Day Ahead Market Administration Amount (Schedule 17)
- Day Ahead Revenue Sufficiency Guarantee ("RSG") Distribution Amount
- Day Ahead RSG Make Whole Payment Amount
- Real Time Market Administration Amount (Schedule 17)

- Real Time RSG First Pass Distribution Amount
- Real Time RSG Make Whole Payment Amount

Mr. Boyer testified that these items identified as modified would continue to be treated for ratemaking purposes as they are today by IPL until a final determination by the Commission in Phase II of Cause No. 43426. He stated that if the costs from a charge type are currently recovered through IPL's FAC, then amounts from that charge type should continue to be recovered through the FAC. If the costs from a charge type are currently deferred, then amounts from that charge type should continue to be deferred. This treatment is proposed because MISO makes no distinction or allocation between energy and ancillary services for the modified charge types.

Mr. Boyer further explained that in the Phase I Order the Commission authorized deferral of the new Net Regulation Adjustment charge type. However, IPL subsequently recognized that this charge type is closely related to Non-Excessive Energy as it represents the difference (charge or credit) between the generator's offer price and the LMP for megawatts generated in response to deployed regulation instructions. It ensures that generators recover no more than the cost of energy generated as deployed regulation while also compensating generators for following dispatch instructions when LMP does not cover the cost of generation. IPL believes it is appropriate to include this charge type in the FAC because it is a direct component of the cost of energy, and deployed regulation is energy. Therefore, IPL has requested to include this charge type in this proceeding.

OUCC Witness Eckert did not contest IPL's treatment of any of the new charge types, except for the Net Regulation Adjustment, and agreed that IPL followed the treatment ordered by the Commission in the Phase I Order for modified charge types. With respect to the Net Regulation Adjustment, Mr. Eckert recommended that IPL defer that charge type as ordered by the Commission in the Phase I Order and not be allowed to put it in the FAC at this time.

On rebuttal, IPL Witness Boyer stated that IPL agrees with Mr. Eckert's contention that the Phase I Order authorizes deferral of the Net Regulation Adjustment and does not allow for the type of treatment being proposed by IPL in this proceeding. Mr. Boyer stated that it was after the issuance of the Phase I Order that IPL realized that if the Net Regulation Adjustment is not reflected in the MISO Components of Fuel Costs, that the FAC does not reflect the true cost of providing energy to its customers. Mr. Boyer provided examples of how the Net Regulation Adjustment is calculated. Mr. Boyer described the impact on the Fuel Cost Charge proposed in this proceeding should the Commission defer the Net Regulation Adjustment as requested by Mr. Eckert, concluding there would be no impact.

Based upon the evidence presented, the Commission finds that IPL's treatment of new and modified charge types, except for the Net Regulation Adjustment, is consistent with the Commission's Phase 1 Order, and should be approved. With respect to the Net Regulation Adjustment charge type, the Commission is not persuaded that IPL's evidence supports a modification in the treatment of that charge type authorized in our Phase I Order. Accordingly, we find that IPL's proposed treatment should not be approved and that this charge type should be deferred as set forth in the Commission's Phase I Order. In light of the fact that this finding does not alter the proposed fuel factor, IPL should apply the necessary correcting adjustments in its next FAC filing.

7. **Purchased Power Costs Above Monthly Standard**. Mr. Boyer testified that in the Commission's April 23, 2008 Order in Cause No. 43414 ("Purchased Power Benchmark Order"), the Commission approved a "benchmark" triggering mechanism for the judgment of the reasonableness of purchased power costs. Each day, a Benchmark will be established based upon a generic Gas Turbine ("GT"), using a generic GT heat rate of 12,500 btu/kWh, using the day ahead natural gas prices for the NYMEX Henry Hub, plus $0.60/mmbtu gas transport charge for a generic gas-fired GT (the "Purchased Power Daily Benchmark"). The Purchased Power Daily Benchmark is applicable to purchases beginning May 1, 2008 and ending April 30, 2010, unless further extended. Purchases made in the course of Midwest ISO's economic dispatch regime to meet jurisdictional retail load are a cost of fuel and are fully recoverable in the utility's FAC up to the actual cost or the Purchased Power Daily Benchmark, whichever is lower. Mr. Boyer sponsored IPL's Exhibit C-1 showing the applicable Purchased Power Daily Benchmarks for the applicable accounting period.

Mr. Boyer stated that IPL incurred a total of $244,913 of purchased power costs over the applicable Purchased Power Daily Benchmarks during November and December, 2008 and January, 2009. He stated that IPL makes power purchases when economical or due to unit unavailability. Mr. Boyer stated that consistent with the Commission's Purchased Power Benchmark Order, IPL has an opportunity to request recovery of and justify the reasonableness of purchased power costs above the applicable Purchased Power Daily Benchmark. To aid the Commission in its obligations, Mr. Boyer prepared IPL's Exhibit C-2, which summarizes the purchased power volumes, costs, the total of hourly purchased power costs above the applicable Purchased Power Daily Benchmarks for November and December, 2008 and January, 2009 and the reasons for the purchases at-risk after consideration of Midwest-ISO economic dispatch. Mr. Boyer testified that utilizing the methodology approved in the Purchased Power Benchmark Order, there were no amounts of purchased power that would be non-recoverable during the applicable accounting period.

OUCC Witness Eckert stated that Applicant followed the guidelines and procedures that were established in the Purchased Power Benchmark Order and the OUCC also calculated that there were no amounts of purchased power that would be non-recoverable during the applicable accounting period.

8. **Contestable Revenue Sufficiency Guarantee ("RSG") Charges.** IPL Witness Boyer testified that in the Commission's July 16, 2008 Order in Cause No. 43471 ("RSG Order"), the Commission approved a "benchmark" calculation to be used to determine the RSG Benchmark. Each day, a Benchmark will be established based upon a generic Gas Turbine ("GT"), using a generic GT heat rate of 12,500 btu/kWh, using the day ahead natural gas prices for the NYMEX Henry Hub, plus $0.60/mmbtu gas transport charge for a generic gas-fired GT (the "RSG Daily Benchmarks"). Any RSG First Pass Distribution amounts in excess of the RSG Daily Benchmarks are termed "Contestable RSG." The RSG Daily Benchmarks methodology is applicable for the period April 1, 2008 through March 31, 2009. Mr. Boyer stated that the RSG Daily Benchmark calculations for the applicable accounting period have been done in conformity with the RSG Order and were shown in IPL's Exhibit C-1.

Mr. Forestal stated that during the applicable accounting period IPL incurred a total of $21,143.05 of Contestable Real-Time RSG Charges. He stated that IPL was not seeking recovery of any Contestable RSG in this proceeding. In accordance with the RSG Order, Mr. Forestal stated that IPL deferred $1,247.34 of Contestable Real-Time RSG Charges in November

2008; $9,095.02 of Contestable Real-Time RSG Charges in December 2008; and $10,800.69 of Contestable Real-Time RSG Charges in January 2009.

OUCC witness Eckert recommended that Applicant be allowed to defer its Contestable RSG charges. Given that no party objected to the deferral of its Contestable RSG charges, the Commission finds that its deferral is approved.

9. **Return Earned.** For the purpose of applying the return test from IC 8-1-2-42(d)(3), in Cause No. 39938, the Commission established an authorized return of $163,000,000 for Step 2 of a two step increase in IPL's basic rates and charges. In accordance with 170 IAC 4-6-21 and the Commission's order in Cause No. 42170, IPL added $31,563,000 to its authorized operating income representing the return on its Qualified Pollution Control Property ("QPCP"). Thus, IPL has an authorized return of $194,563,000 for purposes of this proceeding. IPL's Exhibit 3. IPL's actual return for the twelve-month period ended January 31, 2009, was $180,449,000. Therefore, during the twelve month period ending January 31, 2009, IPL did not earn a return in excess of the stipulated return for this proceeding.

10. **Estimating Techniques.** IPL's weighted average fuel cost estimating error during the months of November 2008 through January 2009 was an underestimation of 2.76%. IPL's responses to the Presiding Officer's April 30, 2009 Docket Entry provided additional information regarding the causes of the deviation between forecast and actual costs in January, 2009. Based upon the evidence presented, we find that IPL's estimating techniques are reasonably accurate and that its estimate of fuel costs for June, July and August 2009, should be accepted.

11. **Reconciliation and Resulting Fuel Cost Factor for Electric Service.** IPL's total estimated cost of fuel for June, July and August 2009 is $82,096,492, and its total estimated sales are 3,958,293 MWh. IPL's estimated cost of fuel is $0.020740 per kWh. The evidence of record indicated that IPL reconciled the actual fuel costs and revenues for November and December 2008 and January 2009. Reconciliation of actual fuel costs and revenues results in a total variance of $1,954,597. Dividing this amount by the total estimated jurisdictional sales of 3,958,293 MWh results in a variance factor of $0.000494 per kWh. Combining the variance factor with the estimated per kWh cost of fuel, subtracting the base cost of fuel and adjusting for Indiana Utility Receipts Tax, results in a proposed fuel factor of $0.008914 per kWh for the June, July and August 2009, billing cycles.

Pursuant to I.C. 8-1-2-42(a), we find that this factor should be approved and become effective for all bills rendered for electric services beginning with the first billing cycles for the June 2009 billing month in Regular Billing District 41 and Special Billing District 01. As a result of the fuel cost factor approved herein, the average residential customer using 1,000 kWh per month will experience a decrease of $3.26 or 4.14% on his or her electric bill.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The fuel cost factor set forth at Finding Paragraph No. 11 herein shall be and hereby is approved and authorized.

2. IPL shall file with the Electricity Division of the Commission prior to placing in effect the fuel cost factor approved herein, a separate amendment to its rate schedules with clear reference therein reflecting that such factor is applicable to the rate schedules reflected on the amendment, as shown in IPL's Exhibit 1-A.

3. IPL shall make the necessary correcting adjustments with respect to the Net Regulation Adjustment in its next FAC consistent with Finding Paragraph No. 6 above.

4. This Order shall be effective on and after the date of its approval.

GOLC, LANDIS, SERVER AND ZIEGNER CONCUR; HARDY ABSENT:

APPROVED: MAY 2 7 2009

I hereby certify that the above is a true and correct copy of the Order as approved.

Brenda A. Howe

Brenda A. Howe,
Secretary to the Commission