ORIGINAL

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 SEPTEMBER, OCTOBER AND NOVEMBER 2009, IN ACCORDANCE WITH THE PROVISIONS OF I.C. 8-1-2-42.	)	CAUSE NO. 38703 FAC 84 APPROVED: AUG 26 2009

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

On June 12, 2009, Indianapolis Power & Light Company ("IPL") filed its application for approval of a fuel cost adjustment to be applicable during the billing cycles of September, October and November 2009, for electric service. Also, on June 12, 2009, IPL filed its direct testimony and exhibits. On July 1, 2009, the IPL Industrial Group ("IIG") filed a Petition to Intervene, which petition was granted. On July 24, 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.

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 August 12, 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, and IPL and the OUCC offered their respective prefiled testimony and exhibits which were 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 fuel 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 April 30, 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. Mr. Boyer stated that the uninstructed charge type is no longer used in the MISO Energy and Operating Reserves Market ("MISO EOR") which began January 6, 2009. He stated that IPL does not anticipate receiving revenues from uninstructed deviation charges in future periods since the MISO EOR does not include this charge type. Mr. Boyer stated the amounts shown as Revenue from Uninstructed Deviation in this proceeding represent results of resettlements of prior periods and resulted in charges of $635.30 in February and $1,731.20 in March, 2009.

OUCC Witness Eckert agreed that other than resettlements for uninstructed deviation that IPL will no longer incur charges or credits and recommended that the Commission allow the recovery of the net effect of the Uninstructed Deviation charges and revenues in this proceeding. 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") and the Commission's May 27, 2009 Order in IPL's FAC83 proceeding ("FAC83 Order"), IPL is currently deferring the following new charge types related to the MISO 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
- Net Regulation Adjustment Amount

He stated that the following charge types are incorporated into IPL's calculation of Delta LMP included in MISO Components of Fuel Cost shown on Exhibit 1, Schedule 6:

- Excessive Energy Amount
- Non-Excessive Energy Amount

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 IPL's FAC83 proceeding, IPL requested approval to include the new Net Regulation Adjustment charge type in the FAC. In the FAC83 Order, the Commission rejected IPL's request and found that this charge type should be deferred as set forth in the Phase I Order. Since the Commission's finding did not alter the proposed fuel factor, IPL was directed to apply the necessary correcting adjustments in its next FAC filing. Mr. Boyer stated that IPL has made the correcting adjustments in this proceeding.

OUCC Witness Eckert stated that IPL's treatment of new and modified charge types follows the treatment ordered in the Phase I Order. Mr. Eckert stated that after IPL's filing in this proceeding, the Commission issued its Order in Phase II of Cause No. 43426 on June 30, 2009 ("Phase II Order"). He stated that IPL will implement the ratemaking treatment ordered by the Commission Phase II Order in its next FAC filing.

Mr. Boyer stated that in accordance with the Commission's Phase I Order and FAC83 Order, the following charges types have been modified:

- 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.

OUCC Witness Eckert agreed that IPL followed the treatment ordered by the Commission in the Phase I Order for modified charge types. He agreed that IPL has made the correcting entries as ordered by the Commission in its FAC83 Order

Based upon the evidence presented, the Commission finds that IPL's treatment of new and modified charge types is consistent with the Commission's Phase I Order and FAC83 Order, and should be approved.

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 $87,336 of purchased power costs over the applicable Purchased Power Daily Benchmarks during February, March and April 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 February, March and April 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 IPL 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. **<u>Contestable Revenue Sufficiency Guarantee ("RSG") Charges</u>.** IPL Witness Boyer testified that he reviewed the Commission's July 16, 2008 Order in Cause No. 43471 ("43471 RSG Order") and the Commission's June 3, 2009 Order in Cause No. 43664 ("43664 RSG Order"). In each of these orders, 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 Revenue Sufficiency Guarantee First Pass Distribution amounts in excess of the RSG Daily Benchmarks are termed "Contestable RSG." Mr. Boyer stated that the RSG Daily Benchmarks calculations for February, March and April 2009 have been done in conformity with the applicable 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 $15,312.88 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 Orders, Mr. Forestal stated that IPL deferred $8,314.05 of Contestable Real-Time RSG Charges in February 2009; $6,499.23 of Contestable Real-Time RSG Charges in March 2009; and $499.60 of Contestable Real-Time RSG Charges in April 2009.

OUCC witness Eckert recommended that IPL 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. **<u>Return Earned</u>.** For the purpose of applying the return test from I.C. 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 $31,581,000 to its authorized operating income representing the return on its Qualified Pollution Control Property. Thus, IPL has an authorized return of $194,581,000 for purposes of this proceeding. (IPL's Exhibit 3). IPL's actual return for the twelve-month period ended April 30, 2009, was $188,842,000. Therefore, during the twelve month period ending April 30, 2009, IPL did not earn a return in excess of the stipulated return for this proceeding.

10. **<u>Estimating Techniques</u>.** IPL's weighted average deviation between forecast and actual fuel cost was 13.01%. Mr. Boyer testified that the primary reasons for the positive deviation of forecasted versus actual fuel cost were twofold. First, the actual cost of fuel burned was lower than anticipated. Also, lower IPL retail load and lower LMP's in the MISO market caused the mix of generators to shift toward lower cost units. Second, IPL incurred a higher volume of economic purchased power at a lower price due to the lower LMP's in the MISO market. Based upon the evidence presented, we find that IPL's estimating techniques are reasonably accurate and that its estimate of fuel costs for September, October and November 2009, should be accepted.

11. **Reconciliation and Resulting Fuel Cost Factor for Electric Service.** IPL's total estimated cost of fuel for September, October and November 2009 is $57,917,339, and its total estimated sales are 3,320,166 MWh. IPL's estimated cost of fuel is $0.017444 per kWh. The evidence of record indicated that IPL reconciled the actual fuel costs and revenues for February, March and April 2009. Reconciliation of actual fuel costs and revenues (including the FAC83 Net Regulation Adjustment) results in a total variance of $(8,229,901). Dividing this amount by the total estimated jurisdictional sales of 3,320,166 MWh results in a variance factor of $(0.002479) 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 $0.002548 per kWh for the September, October and November 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 September 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 $6.36 or 8.43% 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. This Order shall be effective on and after the date of its approval.

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

APPROVED: AUG 2 6 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