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 MARCH, APRIL AND MAY, 2011, IN ACCORDANCE WITH THE PROVISIONS OF I.C. 8-1-2-42 AND FOR APPROVAL OF RATEMAKING TREATMENT FOR COST OF WIND POWER PURCHASES PURSUANT TO CAUSE NO. 43485.	)	**CAUSE NO. 38703 FAC 90** **APPROVED:** FEB 23 2011

BY THE COMMISSION:
Angela Rapp Weber, Administrative Law Judge

On December 13, 2010, Indianapolis Power & Light Company ("IPL" or "Applicant") filed its application with the Indiana Utility Regulatory Commission ("Commission") for approval of a fuel cost adjustment to be applicable during the billing cycles of March, April, and May 2011 for electric service and for approval of ratemaking treatment for cost of wind power purchases. Also, on December 13, 2010, Applicant filed its direct testimony and exhibits. On December 21, 2010, the IPL Industrial Group ("IIG") filed a Petition to Intervene, which the Presiding Officer granted pursuant to a Docket Entry dated February 3, 2011. On January 18, 2011, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its report in this Cause and the direct testimony of Gregory Guerrettaz and Michael Eckert. IPL filed rebuttal testimony on January 28, 2011. By Docket Entry dated February 3, 2011, the Presiding Officer issued a Docket Entry to IPL, to which IPL timely responded on February 7, 2011. On February 14, 2011, the IIG filed a Notice of Joinder in the OUCC's Proposed Order.

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 February 10, 2011 at 9:30 a.m. in Room 224 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Applicant, the OUCC and IIG appeared by counsel and Applicant and OUCC offered their respective prefiled testimony and exhibits which were admitted into evidence without objection. No members of the general public appeared.

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

1. **Notice and Jurisdiction.** Proper notice of the public hearing in this Cause was published 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, Ind. Code ch. 8-1-2. 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 in 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, plant 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 Ind. Code § 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 requirements is met through spot purchases. *Petitioner's Exhibit B.* Based upon the evidence presented, as discussed here and further below, 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. **Ancillary Services Market.** IPL witness Mr. Sadtler stated that as directed in the Commission's June 30, 2009 Phase II Order in Cause No. 43426 ("Phase II Order"), IPL held a discussion on September 9, 2010 with the OUCC to discuss IPL's experience with the Ancillary Services Market ("ASM"). He explained that the discussion topics included general observations about the impact of the economic downturn on customer usage, the increase in the wind generation capacity in the Midwest Independent Transmission System Operator, Inc. ("Midwest ISO") footprint, the relatively low and stable wholesale natural gas market, and their impact on the electric energy prices which make it difficult to identify specific benefits or costs related to ASM. He added IPL shared its operational initiatives related to participation in the ASM and the IPL-specific market results of that participation.

Mr. Sadtler generally described IPL's experience thus far with the ASM. He stated the Midwest ISO launched its ASM on January 6, 2009 and, to his knowledge, ASM has generally functioned without any major issue. He testified IPL's generators have been following real time signals as directed by Midwest ISO with minimal issues. According to Mr. Sadtler, Day Ahead and Real Time market clearing prices for Regulation, Spinning, and Supplemental Reserves appear to be at reasonable levels consistent with market conditions.

OUCC witness Mr. Eckert stated that IPL's proposed ratemaking treatment for the new ASM Charge types follows the treatment ordered in the Phase II Order.

In the Commission's Order in Cause No. 38703 FAC 85 ("FAC85 Order"), the Commission found that IPL is authorized to include credits or charges for Contingency Reserve Deployment Failure Charge Uplift Amounts for purposes of review in the FAC proceedings. In this proceeding, IPL Witness James Sadtler explained that as a result of the FAC85 Order, IPL included the credits and charges for Contingency Reserve Deployment Failure Charge Uplift Amounts into its cost of fuel in this proceeding.

Based upon the evidence, the Commission finds that IPL's treatment of the new and modified ASM Charge types, including Contingency Reserve Deployment Failure Charge Uplift Amounts, is consistent with the Commission's Phase II and FAC85 Orders and should be approved.

5. **Purchased Power Costs Above Monthly Standard.** 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. Mr. Sadtler explained that each day a Benchmark is established based upon a generic Gas Turbine ("GT"), using a generic GT heat rate of 12,500 btu/kWh and 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"). Mr. Sadtler explained that the Purchased Power Daily Benchmark is applicable to purchases beginning May 1, 2008 and ending April 30, 2012, with automatic two-year renewals. He explained that purchases made in the course of the 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. Sadtler sponsored *Applicant's Exhibit C-1* showing the applicable Purchased Power Daily Benchmarks for the applicable accounting period.

Mr. Sadtler stated IPL incurred a total of $527,362 of purchased power costs over the applicable Purchased Power Daily Benchmarks during August, September, and October 2010. He said IPL makes power purchases when economical, or because of unit unavailability. Mr. Sadtler testified 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. Sadtler prepared *Applicant'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 August, September, and October 2010, and the reasons for the purchases at-risk after consideration of Midwest ISO economic dispatch. Mr. Sadtler testified that utilizing the methodology approved in the Purchased Power Benchmark Order, $7,540 of purchased power is non-recoverable during the applicable accounting period. Therefore, IPL is seeking to recover $519,822 of purchased power costs in excess of the applicable Purchased Power Daily Benchmarks for August, September, and October 2010. Mr. Sadtler opined that the total purchased power costs incurred in August, September, and October 2010 are reasonable and added that IPL is providing its jurisdictional retail customers with the lowest fuel cost reasonably possible while maintaining a reliable supply.

OUCC witness Mr. Eckert stated Applicant followed the guidelines and procedures that were established in the Purchased Power Benchmark Order. According to the OUCC's calculations, all of the purchased power cost that exceeded the Benchmark, except $7,540, is recoverable. He recommended that Applicant be allowed to recover its requested purchased power over the Benchmark.

Based upon the evidence, the Commission finds that IPL's request for recovery of its purchased power over the benchmark is consistent with the Commission's Purchased Power Benchmark Order and should be approved.

6. **Contestable Revenue Sufficiency Guarantee Charges.** Mr. Sadtler testified that IPL's recovery of Contestable Revenue Sufficiency Guarantee ("RSG") charges proposed in this proceeding is consistent with the Commission's June 3, 2009 Order in Cause No. 43664 ("RSG Order"), in which the Commission approved a "benchmark" calculation to be used to determine the RSG Benchmark. Each day, a Benchmark is established based upon a generic GT, using a generic GT heat rate of 12,500 btu/kWh and 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"). Mr. Sadtler explained that any Revenue Sufficiency Guarantee First Pass Distribution amounts in excess of the RSG Daily Benchmarks are termed "Contestable RSG." Mr. Sadtler explained that the RSG Daily Benchmark calculations for the period of August, September, and October 2010 have been done in conformity with the RSG Order and were shown in *Applicant's Exhibit C-1*.

Mr. Forestal stated that during the applicable accounting period, IPL incurred a total of $30,406.94 of Contestable Real-Time RSG Charges. He stated IPL was not seeking recovery of any Contestable Real-Time RSG Charges in this proceeding. In accordance with the RSG Order, Mr. Forestal testified IPL deferred $25,698.62 of Contestable Real-Time RSG Charges in August 2010; $3,418.64 of Contestable Real-Time RSG Charges in September 2010; and $1,289.68 of Contestable Real-Time RSG Charges in October 2010.

OUCC witness Mr. Eckert recommended that Applicant be allowed to defer its Contestable Real-Time RSG Charges. Based on the evidence presented and given that no party objected to the deferral of its Contestable Real-Time RSG Charges, the Commission finds that IPL's deferral should be approved.

7. **Operating Expenses.** Ind. Code § 8-1-2-42(d)(2) requires the Commission to find that the utility's actual increases in fuel cost through the latest month for which actual fuel costs are available since the last Order of the Commission approving basic rates and charges of the utility have not been offset by actual decreases in other operating expenses. *Applicants's Exhibit 2* calculates the (d)(2) test (comparing the twelve-month period ending October 31, 2010 with the Commission's Order in Cause No. 39938 (August 23, 1995), and shows that total jurisdictional operating expenses excluding fuel costs have increased. Therefore, the Commission finds that IPL's actual increases in fuel cost have not been offset by actual decreases in other operating expenses in compliance with the statutory requirements of Ind. Code § 8-1-2-42(d)(2).

8. **Return Earned.** Ind. Code § 8-1-2-42(d)(3) requires the Commission to find that the fuel adjustment charge applied for will not result in the electric utility earning a return in excess of the return authorized by the Commission in the last proceeding in which the basic rates and charges of the utility were approved. 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 $29,241,000 to its authorized operating income representing the return on its Qualified Pollution Control Property. Thus, as reflected in *Applicant's Exhibit 3*, IPL has an authorized return of $192,241,000 for purposes of this proceeding. *Applicant's Exhibit 2* calculates the (d)(3) test, which shows that IPL's actual return for the twelve-month period ended October 31, 2010 was $178,312,000. Therefore, the Commission finds that during the twelve-month period ending October 31, 2010, IPL did not earn a return in excess of its authorized return in compliance with the statutory requirements of Ind. Code § 8-1-2-42(d)(3).

9. **Estimating Techniques.** Ind. Code § 8-1-2-42(d)(4) requires the Commission to find that a utility's estimate of its prospective average fuel costs for each three calendar month is reasonable after taking into consideration the actual fuel costs experienced and the estimated fuel costs for the three calendar months for which actual fuel costs are available. According to *Applicant's Exhibit 1*, *Schedule 5* at 4, IPL's weighted average deviation between forecast and

actual fuel cost was -1.93%. IPL projected it fuel costs for the billing months of March, April, and May 2011 and showed that the estimates of its prospective average fuel costs for the projected period are reasonable after taking into consideration the difference between IPL's projected and actual fuel cost for the reconciliation period.

Based upon the evidence, we find that IPL's estimating techniques are reasonably accurate and that its estimate of fuel costs for March, April, and May 2011, should be accepted.

10. Wind Power Purchase Agreement. Mr. Sadtler testified that purchases from the Hoosier Wind Park are included in IPL's actual and projected fuel costs. He noted that pursuant to the approval received in Cause No. 43485, Applicant began receiving power from Hoosier Wind Park on November 1, 2009. Mr. Sadtler stated that for the months August, September and October 2010 IPL received 9,614 MWhs, 21,957 MWhs, and 30,801 MWhs, respectively.

The Commission finds that such costs are reasonable and approves IPL's ratemaking treatment of the wind PPA costs subject to the finding below.

11. Registration of Renewable Energy Credits. OUCC witness Mr. Guerrettaz recommended that IPL make an adjustment in its FAC91 proceeding to reflect that the cost to register Renewable Energy Credits ("RECs") should be allowed to flow through the FAC only when the REC has been sold. He said in FAC87, FAC88, FAC89, and FAC90, these registry fees were expensed as they were incurred. IPL witness Herman Schkabla disagreed with Mr. Guerrettaz's recommendation. He testified that in the Hoosier Wind Park Power Purchase Agreement Order in Cause No. 43485, the Commission found that IPL should be authorized to recover via a rate mechanism the costs of the Wind Power Purchase Agreement ("Wind PPA") on an accrual basis. He stated IPL considers the REC registry fees an associated cost of the Wind PPA and subject to the accounting authority approved by the Commission in Cause No. 43485. Mr. Schkabla testified the registry fee expenses are being incurred for the benefit of IPL customers and should be recovered as they are incurred. He stated that deferring fee expense recovery to the time when the RECs are actually sold could provide an incentive to sell RECs at times when it is not necessarily in the best interest of IPL's customers to do so.

Mr. Schkabla stated IPL chose to register its RECs with the North America Renewables Registry ("NAR") to ensure the highest level of transparency, quality, security, accountability, and protection against perceived double counting. In so doing, IPL will be maximizing the potential value of the RECs for its customers and complying with the accounting authority that was approved by the Commission in Cause No. 43485. The NAR registry system assigns a unique traceable serial number to each REC for each MWh of energy generated by a qualifying renewable facility. He stated the registry facilitates the trading and retirement of RECs and that absent a tracking system like the NAR, buyers only have the word of the seller that they will not sell RECs more than once.

Mr. Schkabla noted IPL has stated in its previous requests to the Commission for approval of Wind PPAs with Hoosier Wind Project, LLC and Lakefield Wind Project, LLC that IPL's primary intention is to inventory RECs for compliance with future state or federal Renewable Energy Standard ("RES") requirements. He stated IPL's REC inventory through December 31, 2010 is roughly 400,000, which represents less than 2.5% of IPL's 2010 actual retail energy requirements. Mr. Schkabla stated IPL's plan to this point has been to hold the

RECs for future compliance rather than sell them, particularly in light of the current soft market for RECs and the continued uncertainty surrounding future RES requirements.

According to Mr. Schkabla, he informed Mr. Guerrettaz that the NAR system imposed a three-year shelf life on registered RECs. This would imply that if IPL did nothing, the earliest vintage RECs in the NAR system would automatically retire starting in August 2012. In order to preserve value for IPL's customers and absent a state or federal RES in effect by mid 2012, IPL would likely sell RECs in lieu of allowing them to retire valueless in the registry. Mr. Schkabla stated that shortly after the discussion with Mr. Guerrettaz, IPL was informed by the NAR that they had eliminated the shelf life provision. As a result of this change, IPL is under no impending time requirement to sell its RECs to optimize their value to its customers. IPL will continue to monitor the REC markets and RES developments and will consider selling RECs if it is in the best interest of its customers to do so.

Mr. Schkabla stated that in the event the Commission decides to accept Mr. Guerrettaz's recommendation, it should amend the recommendation to also include the recovery of registry fees when RECs are retired for compliance purposes. He stated IPL currently expects that most, if not all of the RECs, will be utilized in this manner.

In its response to the Commission's February 3, 2011 Docket Entry, IPL stated that while the costs associated with registering RECs through the NAR Registry are not directly incurred under the Wind PPA, the contract identifies IPL's intent to use such a registry to track the RECs from the Hoosier Wind project. In Cause No. 43485, IPL requested approval of the contract, including timely recovery of the associated costs through rates. *Indianapolis Power & Light Co.*, Cause No. 43485, 2008 Ind. PUC LEXIS 409 (IURC Oct. 1, 2008). IPL stated that the quarterly FAC filings would show, on both a projected and actual basis, costs associated with the Wind PPA. *Id.* at *12. IPL was granted the accounting authority and other relief requested in Cause No. 43485.

As outlined above, the parties to this proceeding did not dispute the reasonableness of the costs associated with the RECs, the registry fees associated with the RECs, the recovery of the costs through the FAC proceeding, or the Commission's Order in Cause No. 43485. The only issue for consideration is the timing of the recovery of RECs: whether the costs should be recovered at the time the cost is incurred, or when the REC is actually sold or retired.

The Commission's Order in Cause No. 43485 stated, "IPL is hereby authorized to recover the costs incurred under the Wind PPA . . . ." *Id.* at *36. The Commission recognizes that the costs incurred by IPL to register the RECs may be associated with the Wind PPA, but the costs are not directly incurred in accordance with or "under" the Wind PPA. Accordingly, based on the evidence presented, the Commission finds that Applicant's existing treatment of its REC registry fees is inconsistent with the Order issued in Cause No. 43485.[1]

Therefore, the Commission finds that IPL should recover the costs associated with registering RECs at the time of a REC's disposal or retirement for compliance purposes and should modify its accounting practices accordingly. In this FAC, Applicant included only $3,688 in registry costs, which is a relatively small amount. For the sake of administrative efficiency and because of a lack of material change that would occur to the factor approved in

[1] The Commission notes this finding is consistent with the Commission's finding in *Ind. Mich. Power Co.*, Cause No. 38702 FAC 65, 2010 Ind. PUC LEXIS 324 (IURC Sept. 22, 2010).

this Cause, Applicant shall credit back to ratepayers the $3,688 in REC registry costs in its next FAC filing.

12. **Reconciliation and Resulting Fuel Cost Factor for Electric Service.** IPL's total estimated cost of fuel for March, April, and May 2011 is $82,096,444, and its total estimated sales are 3,233,086 MWh. IPL's estimated cost of fuel is $0.025393 per kWh. The evidence of record indicates that IPL reconciled the actual fuel costs and revenues for August, September, and October 2010. Reconciliation of actual fuel costs and revenues results in a total variance of $1,713,854. Dividing this amount by the total estimated jurisdictional sales of 3,233,086 MWh results in a variance factor of $0.00053 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 $0.013676 per kWh for the March, April, and May 2011, billing cycles.

Pursuant to Ind. Code § 8-1-2-42(a), the Commission finds that this factor should be approved and become effective for all bills rendered for electric services during the billing cycles for the months of March, April, and May 2011, and beginning with the first billing cycles for the March 2011 billing month in Regular Billing District 41 and Special Billing District 01. As a result of the fuel cost factor approved herein, the typical residential customer using 1,000 kWh per month will experience an increase of $0.02 or 0.02% on his or her base electric bill compared to the factor approved in Cause No. 38703 FAC 89 (excluding various tracking mechanisms and sales tax).

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

1. The fuel cost factor set forth at Finding Paragraph No. 12 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 *Applicant's Exhibit 1-A*.

3. IPL's ratemaking treatment for the cost of wind power purchases pursuant to the Commission's Order in Cause No. 43485 shall be and hereby is approved as modified in Paragraph No. 11 above. IPL shall include the resulting adjustments in its next FAC filing.

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

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR; BENNETT NOT PARTICIPATING:
APPROVED: FEB 23 2011

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