

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

[Handwritten signature]
S/A

PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY FOR APPROVAL OF A FUEL)
COST CHARGE AND CUSTOMER CREDIT)
ADJUSTMENT TO BE APPLICABLE IN THE)
MONTHS OF FEBRUARY, MARCH AND APRIL)
2010, PURSUANT TO IC 8-1-2-42)
AND CAUSE NO. 41746)

CAUSE NO. 38706 FAC 85 *JL*

APPROVED: JAN 27 2010

[Handwritten signature]

BY THE COMMISSION:

David E. Ziegner, Commissioner

Aaron A. Schmoll, Administrative Law Judge

On November 6, 2009, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed its petition for Commission approval of a fuel cost adjustment to be applicable for bills rendered by Petitioner during the billing months of February, March, and April 2010. Petitioner also prefiled its direct testimony and exhibits in support of its petition on November 6, 2009. NIPSCO Industrial Group ("NIPSCO-IG") and the City of Hammond, Indiana ("Hammond") filed Petitions to Intervene on November 16, 2009 and November 30, 2009, respectively, both of which were granted. On December 16, 2009, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its report in this Cause along with the Direct Testimony of Gregory T. Guerrettaz (Public's Exhibit No. 1) and Michael D. Eckert (Public's Exhibit No. 2).

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 January 12, 2010, at 9:30 a.m., in Room 222 of the National City Center, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Petitioner, the OUCC, NIPSCO-IG, and Hammond appeared by counsel. Petitioner and 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. Petitioner is a public utility corporation incorporated under the laws of the State of Indiana, operating electric utility properties in northern Indiana and is subject to the jurisdiction of this Commission as provided in the Public Service Commission Act, as amended, Ind Code § 8-1-2. Thus, the Commission has jurisdiction over NIPSCO and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner has its principal office at 801 East 86th Avenue, Merrillville, Indiana. Petitioner 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. **Available Data on Actual Fuel Costs.** The Petitioner's cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity in Petitioner's last base rate case order, approved, July 15, 1987, in Cause No. 38045, was \$0.022556 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 28). Petitioner's cost of fuel to generate electricity and the cost of fuel included in the cost of purchased electricity for the months of July, August, and September 2009 averaged \$0.027142 per kWh (Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 28).

4. **Requested Fuel Cost Charge.** Petitioner seeks to change its fuel cost adjustment charge from the current charge of \$0.003203 per kWh (Petitioner's Exhibit 1-C, Ln. 6) to a charge of \$0.002890 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 30) for bills rendered in February, March, and April 2010 billing months. The requested fuel cost adjustment charge includes a variance of (\$13,257,592) (Petitioner's Exhibit B, Schedule 1, Ln. 25) that was over collected during July, August, and September, 2009, and a \$1,670,750 refund as defined in the terms of the Commission's Order in Cause No. 38706 FAC 80 S1. Petitioner's estimated monthly average cost of fuel to be recovered in this proceeding for the period February, March and April 2010, is \$36,313,359 (Petitioner's Exhibit B, Schedule 1, Ln. 23), and its estimated monthly average sales for that period are 1,233,632 MWh (Petitioner's Exhibit B, Schedule 1, Ln. 11).

5. **Statutory Requirements.** Ind. Code § 8-1-2-42(d) states that this Commission shall grant a fuel cost adjustment charge if it finds that:

(1) The electric utility has made 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;

(2) The 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 electric utility have not been offset by actual decreases in other operating expenses;

(3) 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 electric utility were approved. However, subject to Ind. Code § 8-1-2-42.3, if the fuel charge applied for will result in the electric utility earning a return in excess of the return authorized by the Commission in the last proceeding in which basic rates and charges of the electric utility were approved, the fuel charge applied for will be reduced to the point where no such excess of return will be earned.

(4) The utility's estimates of its prospective fuel costs for each such three (3) calendar months are reasonable after taking into consideration: (A) the actual fuel costs experienced by the utility during the latest three (3) calendar months for which actual fuel costs are available; and (B) the estimated fuel costs for the same latest three (3) calendar months for which actual fuel costs are available.

6. **Fuel Costs and Operating Expenses.** Petitioner's Exhibit 2-A, page 1, shows that fuel costs for the twelve months ending September 30, 2009, increased \$145,875,739 (Petitioner's Exhibit 2-A, p. 1, Ln. 22) from the pro forma level established in Petitioner's last

base rate case, Cause No. 38045. Petitioner's Exhibit 2-A also shows that Petitioner's total operating expenses, excluding fuel in the twelve months ended September 30, 2009, exceeded by \$213,406,725 (Petitioner's Exhibit 2-A, p. 1, Ln. 24) the pro forma level of other operating expenses determined pursuant to this Commission's Order in Cause No. 38045. The Commission finds that Petitioner's fuel costs have increased since its last general rate order and that the actual increases in fuel costs have not been offset by actual decreases in other operating expenses.

7. Efforts to Acquire Fuel and Generate or Purchase Power to Provide Electricity at the Lowest Reasonable Cost. Petitioner's witnesses described Petitioner's efforts to purchase fuel and generate and purchase power at the lowest cost reasonably possible. Witness Strnatka testified that Petitioner's primary fuel for generation of electric energy is coal (92.25% for the three months ended September 30, 2009). (Petitioner's Exhibit 4, p. 2). Based on the evidence, we find that Petitioner has made every reasonable effort to acquire fuel and generate or purchase power so as to provide electricity to its retail customers at the lowest fuel cost reasonably possible, as hereinafter discussed.

8. Midwest ISO Day 2 Energy Costs. NIPSCO took into account in its forecast for this case the operational changes associated with the Midwest ISO Day 2 energy market, in accordance with the Commission's Orders in Cause Nos. 42685, 42962, 43426, 43471, 43665; and its FAC proceeding from FAC 68. In Cause No. 42685, Petitioner was authorized to treat certain defined Midwest ISO Day 2 market costs as a cost of fuel for purposes of the FAC process. In Cause No. 43426 Petitioner was authorized to treat certain defined ASM costs as a cost of fuel for purposes of the FAC process. In Cause Nos. 42962, 43471 and 43665, Petitioner was authorized to recover in FAC proceedings its Revenue Sufficiency Guarantee ("RSG") costs incurred after December 8, 2005. In the evidence submitted in support of its requested relief in this proceeding, Petitioner followed our orders in both Cause Nos. 42685, 43426 and 43665. The Petitioner included in the FAC factor \$2,608,887 as the total "MISO Components of Fuel Cost" for the months of July, August and September, 2009. (Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 19).

9. Estimation of Fuel Cost. The Petitioner estimates that its prospective total average fuel costs for the billing months of February, March and April January 2010, will be \$36,313,359 (Petitioner's Exhibit B, Schedule 1, Ln. 23) on a monthly basis. Petitioner previously made the following forecasts of its fuel cost in July, August and September, 2009 and incurred the following actual costs, resulting in a percent error calculated as follows:

Month	Estimated Fuel Cost	Actual Fuel Cost	Percent Estimate Over (Under) Actual
July	\$0.029759/kWh	\$0.027687/kWh	7.48%
August	\$0.029884/kWh	\$0.027712/kWh	7.84%
September	\$0.029218/kWh	\$0.026006/kWh	12.35%
Weighted Average Error (%)			9.2%

Petitioners' Exhibit B, Schedule 5, pp. 1-3, Lns. 28-29; Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 29.

OUCW Witness Gregory T. Guerrettaz testified that nothing had come to his attention that would indicate that the projections used by NIPSCO for fuel costs and sales of power were unreasonable. Public's Exhibit No. 1, p. 7. Based on the evidence, we find that NIPSCO has made every reasonable effort to project its fuel related costs for the billing months of February, March and April 2010.

10. Return Earned. Petitioner's Exhibit 2, containing Exhibit 2-A, demonstrates that for the twelve months ended September 30, 2009, Petitioner earned a jurisdictional return of \$126,599,049 (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. F), a 5.09% rate of return (Petitioner's Exhibit 2-B, Ln. 9) on its jurisdictional rate base from Cause No. 38045. This amount included \$16,389,145 (Petitioner's Exhibit 2-A, p. 1B, Ln. 1) of opportunity off-system sales made from internally generated power, offset by fuel, purchased power costs, supporting variable costs and taxes for a net profit of \$1,027,676, (Petitioner's Exhibit 2-A, p. 1, Ln. 21b) in accord with the settlement agreement, referred to as the "August Agreement," approved by the Commission in Cause No. 42824 Order, Ordering Paragraph 1 (Aug. 23, 2006). As shown in Petitioner's Exhibit 2-A, the jurisdictional return authorized in Cause No. 38045, beginning in 1992 and thereafter, and adjusted for the Environmental Cost Recovery Mechanism return authorized in Cause No. 42150 ECR 13, pursuant to Ind. Code § 8-1-2-6.6 and 6.8, was \$243,545,687 (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. B). Therefore, during the 12-month period ending September 30, 2009, NIPSCO did not earn a return more than that authorized in its last base rate case, as appropriately adjusted.

11. Earnings Subject to Sharing. Pursuant to the Commission's September 23, 2002 Order in Cause No. 41746 and the settling parties' acceptance of that Order, NIPSCO must share the over-earnings reported in each FAC. Petitioner's Exhibit 2-A reflects that for the 12-month period ended June 30, 2009, Petitioner has no such over-earnings.

12. Fuel Cost Adjustment Factor. As we have set forth herein, Petitioner has met the tests of Ind. Code § 8-1-2-42(d) for establishing a revised fuel cost charge. Petitioner's evidence presented a variance factor of \$(0.004034) per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 26), to be added to the estimated cost of fuel for the billing months of February, March and April 2010, in the amount of \$0.029436 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 24), resulting in a fuel cost charge factor of \$0.002890 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 30), after subtracting from that cost the cost of fuel in NIPSCO's base rates and adjusting for applicable taxes. The average residential customer using 1,000 kWh per month will experience an overall decrease of \$0.31 on his or her electric bill from the currently approved factor.

13. Customer Credit Adjustment Factor. Pursuant to our September 23, 2002 order in Cause No. 41746, Petitioner has set forth evidence of a Customer Credit Adjustment Factor percentage of 5.4374 (Petitioner's Exhibit D, p. 1, Ln. 10) to be applicable during the billing months of February, March and April 2010. Petitioner's evidence showed the factor is calculated in accordance with the methodology prescribed in the September 23, 2002 order in Cause No. 41746.

14. OUCW Report. Mr. Guerrettaz testified: (1) NIPSCO has calculated the fuel cost element of the proposed fuel cost adjustment in conformity with the requirements of Ind. Code § 8-1-2-42; (2) NIPSCO has calculated a variance for the quarter ending September, 2009 in conformity with the requirement of Ind. Code § 8-1-2-42; (3) the level of operating income for the twelve month period ending September 30, 2009 is less than the level approved in NIPSCO's last rate case, Cause No. 38045, adjusted to reflect our order in NIPSCO's most recent ECR

proceeding; and (4) the fuel cost adjustment for the quarter ending September 30, 2009 has been properly applied.

15. Purchased Power Costs Above Monthly Standard. Mr. Crum described the Revised Benchmark that applies to Petitioner's purchased power transactions on and after October 1, 2007. He stated that on January 30, 2008, a final order was issued in Cause No. 38706-FAC-71S1, instituting a three tier Benchmark. Originally Tier 1 of the Benchmark utilized the costs of a Combined Cycle Gas Turbine ("CCGT") to establish the benchmark for determining the level of purchased power costs to be recovered by Petitioner. Effective December 1, 2008 Sugar Creek was dispatched into the Midwest ISO and Tier 1 was eliminated. When Tier 1 of the Benchmark was eliminated on December 1, 2008, Tier 2 of the Revised Benchmark became applicable to the first 500 MW of power purchases used to serve FAC load and became Tier 1. The current Tier 1 of the Revised Benchmark utilizes the costs of a Combustion Turbine ("CT") for determining the level of purchased power recovery. The current Tier 1 formula is almost the same as the recovery formula previously approved for Petitioner and other Indiana utilities using a benchmark recovery mechanism. Current Tier 2 permits, absent an act of God or a force majeure situation, Petitioner to recover 85% of its purchased power costs in excess of 500 MW. The applicable purchased power benchmark computed for July, 2009 is \$46.63/MWh for the first 500; for August, 2009 is \$45.88/MWh for the first 500 MWs; and for September, 2009 is \$37.00/MWh for the first 500 MWs. Petitioner did not seek recovery of any purchased power costs in excess of the computed standard.

OUCW Witness Eckert confirmed Petitioner's purchased power benchmark calculations and confirmed \$16,877 of purchase power as being non-recoverable in compliance with the Revised Benchmark.

Mr. Eckert stated that a Final Order had been issued in Cause No. 38706 FAC 80 S1 ("FAC 80 Subdocket") and that NIPSCO has circulated a draft hedging policy to the parties for review.

16. Interim Rates. Because we are unable to determine whether Petitioner will earn an excess return while this Order is in effect, the Commission finds that the rates approved herein should be interim rates, subject to refund.

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

1. Petitioner's requested fuel cost charge to be applicable to bills rendered in the months of February, March and April 2010, as set forth in Finding No. 12 above is hereby approved on an interim basis subject to refund as set out in Finding No. 16 above.

2. Petitioner's requested Customer Credit Adjustment Factor percentage to be applicable to bills rendered in the months of February, March and April 2010, as set forth in Finding No. 13 above, is hereby approved.

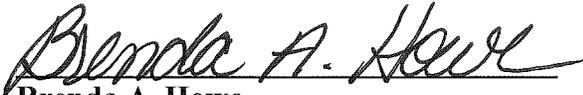
3. Petitioner shall file with the Electricity Division of the Commission, prior to placing in effect the fuel cost adjustments herein approved, an amendment to its rate schedule with reasonable reference therein reflecting that such charges are applicable to the rate schedules reflected on the amendment.

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

HARDY, ATTERHOLT, GOLC, LANDIS AND ZIEGNER CONCUR:

APPROVED: JAN 27 2010

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

A handwritten signature in cursive script that reads "Brenda A. Howe". The signature is written in black ink and is positioned above a horizontal line.

**Brenda A. Howe
Secretary to the Commission**