

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION



SDA  
CM

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 AUGUST, SEPTEMBER AND )  
OCTOBER 2010, PURSUANT TO IC 8-1-2-42 )  
AND CAUSE NO. 41746. )

CAUSE NO. 38706 FAC 87

APPROVED: JUL 28 2010



**BY THE COMMISSION:**

**David E. Ziegner, Commissioner**  
**Angela Rapp Weber, Administrative Law Judge**

On May 7, 2010, 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 August, September and October 2010. Petitioner also prefiled its direct testimony and exhibits in support of its petition on May 7, 2010. NIPSCO Industrial Group (“NIPSCO-IG”) filed its Petition to Intervene on May 7, 2010, which was granted by the Presiding Officers in a Docket Entry dated May 19, 2010. On June 14, 2010, 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). On June 9, 2010, Petitioner filed revised Testimony and FAC factor.

On July 2, 2010, the Commission issued a Docket Entry requesting responses from Petitioner to four questions. On July 8, 2010, NIPSCO filed its Responses to those questions.

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 July 9, 2010, at 1:30 p.m. in Room 224 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Petitioner, the OUCC, and NIPSCO-IG 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 January, February and March 2010 averaged \$0.027808 per kWh (Petitioner's Revised Exhibit A, Revised 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 \$0.003490 per kWh (Petitioner's Exhibit 1-C, Ln. 6) to a charge of \$0.003429 per kWh (Petitioner's Revised Exhibit A, Appendix B) for all bills rendered in August, September and October 2010 billing months. The requested fuel cost adjustment charge includes a variance of (\$5,650,709) (Petitioner's Exhibit B, Revised Schedule 1, Ln. 25) that was over collected during January, February and March 2010, and a \$1,670,750 refund as defined in the terms of the Final 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 August, September and October 2010, is \$38,491,521 (Petitioner's Exhibit B, Revised Schedule 1, Ln. 23), and its estimated monthly average sales for that period are 1,390,202 MWh (Petitioner's Exhibit B, Revised 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 considerations: (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 March 31, 2010 increased \$148,609,286 (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 March 31, 2010, exceeded by \$221,479,938 (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 (92.36% for the three months ended March 31, 2010). (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 Independent System Operator ("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 the Commission's Orders in Cause Nos. 42685, 43426 and 43665. The Petitioner included in the FAC factor \$1,724,441 as the total "MISO Components of Fuel Cost" experienced for the months of January, February and March 2010. (Petitioner's Exhibit B, Revised 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 August, September and October 2010 will be \$38,491,521 (Petitioner's Exhibit B, Revised Schedule 1, Ln. 23) on a monthly basis. Petitioner previously made the following forecasts of its fuel cost in January, February and March, 2010 and incurred the following actual costs, resulting in a percent error calculated as follows:

<b>Month</b>	<b>Estimated Fuel Cost</b>	<b>Actual Fuel Cost</b>	<b>Percent Estimate Over (Under) Actual</b>
January	\$0.029777/kWh	0.028790/kWh	3.43%
February	\$0.029423/kWh	0.028178/kWh	4.42%
March	\$0.029096/kWh	\$0.026411/kWh	10.17%
Weighted Average Error (%)			5.85%

(Petitioner’s Exhibit B, Schedule 5, p. 3, Lns. 28–29; Petitioner’s Exhibit B, Revised Schedule 5, pp. 1–2, Lns. 28–29 and Petitioner’s Exhibit B, Revised 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. 8). Based on the evidence, we find that NIPSCO has made every reasonable effort to project its fuel related costs for the billing months of August, September and October 2010.

**10. Return Earned.** Petitioner’s Revised Exhibit 2-A filed on July 8, 2010 in response to the Presiding Officers’ Docket Entry, demonstrates that for the twelve months ended March 31, 2010, Petitioner earned a jurisdictional return of \$135,481,391 (Petitioner’s Revised Exhibit 2-A, p. 1, Ln. 21c, Col. F), a 5.44% rate of return (Petitioner’s Revised Exhibit 2-B, Ln. 9) on its jurisdictional rate base from Cause No. 38045. This amount included \$21,578,000 (Petitioner’s Revised 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 \$2,350,712, (Petitioner’s Revised 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 Revised 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 \$246,816,273 (Petitioner’s Exhibit 2-A, p. 1, Ln. 21c, Col. B). Therefore, during the twelve-month period ending March 31, 2010, 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. In its Responses to the Commission’s July 2, 2010 Docket Entry, Petitioner submitted revised pages 1 and 2 to its Exhibit 2-A and a revised Exhibit 2-B to correct an error contained in its initial filing and to bring the net operating income shown on those schedules into accord with that shown on Exhibit 2-C. Petitioner’s Exhibit 2-A, as revised, reflects that for the twelve-month period ended March 31, 2010, 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 \$(0.001755) per kWh (Petitioner’s Exhibit B, Revised Schedule 1, Ln. 26) to be added to the estimated cost of fuel for the billing months of August, September and October 2010 in the amount of \$0.027688 per kWh (Petitioner’s Exhibit B,

Revised Schedule 1, Ln. 24). This results in a fuel cost charge factor of \$0.003429 per kWh (Petitioner's Exhibit B, Revised 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 \$0.06 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 5.0956 (Petitioner's Exhibit D, p. 1, Ln. 10) to be applicable during the billing months of August, September and October 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. OUCC 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 March 2010 in conformity with the requirement of Ind. Code § 8-1-2-42; (3) the level of operating income for the twelve-month period ending March 31, 2010 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 March 31, 2010 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 71 S1, instituting a three tier Benchmark. Originally Tier 1 of the Benchmark utilized the costs of a Combined Cycle Gas Turbine 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 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 January 2010 is \$79.38/MWh for the first 500 MWs; for February 2010 is \$75.63/MWh for the first 500 MWs; and for March 2010 is \$64.88/MWh for the first 500 MWs. Petitioner did not seek recovery of any purchased power costs in excess of the computed standard.

**16. Interim Rates.** Because the Commission is 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 August, September and October 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 August, September and October 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, LANDIS, MAYS AND ZIEGNER CONCUR:**

**APPROVED: JUL 28 2010**

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



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