ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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 NOVEMBER AND DECEMBER 2010 AND JANUARY 2011, PURSUANT TO IC 8-1-2-42 AND CAUSE NO. 41746.	)	CAUSE NO. 38706 FAC 88 APPROVED: OCT 27 2010

BY THE COMMISSION:
David E. Ziegner, Commissioner
Angela Rapp Weber, Administrative Law Judge

On August 5, 2010, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed its Petition for the Indiana Utility Regulatory Commission's ("Commission") approval of a fuel cost adjustment and a customer credit adjustment to be applicable for bills rendered by Petitioner during the billing months of November and December 2010 and January 2011. Petitioner also prefiled its direct testimony and exhibits in support of its Petition on August 5, 2010. NIPSCO Industrial Group ("NIPSCO-IG") filed its Petition to Intervene on August 11, 2010, which was granted by the Presiding Officers in a Docket Entry dated August 23, 2010. On September 9, 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 September 27, 2010, the Commission issued a Docket Entry requesting responses from Petitioner to two questions. On September 29, 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, an Evidentiary Hearing in this Cause was held on October 4, 2010, at 9:30 a.m. in Room 224, 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 Evidentiary Hearing in this Cause was given as required by law. Petitioner is a public utility 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, plant 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 applicable 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 April, May and June 2010 averaged $0.032071 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 $0.003429 per kWh (Petitioner's Exhibit 1-C, Ln. 6) to a charge of $0.010176 per kWh (Petitioner's Exhibit A, Appendix B) for all bills rendered in November and December 2010 and January 2011 billing months. The requested fuel cost adjustment charge includes a variance of $12,358,987 (Petitioner's Exhibit B, Schedule 1, Ln. 25) that was under-collected during April, May and June 2010, and a $534,143 refund as defined in the terms of the Final Order in Cause No. 38706-FAC80S2. Petitioner's estimated monthly average cost of fuel to be recovered in this proceeding for the period November and December 2010 and January 2011 is $36,798,681 (Petitioner's Exhibit B, Schedule 1, Ln. 23), and its estimated monthly average sales for that period is 1,250,655 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;
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> (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;
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> (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.
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> (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 June 30, 2010 increased $169,880,198 (Petitioner's Exhibit 2-A, p. 1, Ln. 22) from the pro forma level established in Petitioner's applicable 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 June 30, 2010, exceeded by $239,268,049 (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 applicable 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 (92.52% for the three months ended June 30, 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 $12,427,362 as the total "Midwest ISO Components of Fuel Cost" experienced for the months of April, May and June 2010. (Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 19).

The Petitioner estimated the total "Midwest ISO Components of Fuel Cost" for this same period to be $3,083,298. (Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 19). The cause of the deviation between the actual and estimated amounts was the subject of an inquiry put forth in the Presiding Officers' September 27, 2010 Docket Entry. Petitioner's response noted that "NIPSCO was highly impacted" by a known PJM market-to-market modeling error which affected its ability to hedge its transmission congestion costs. It further discussed an ongoing effort with the Midwest ISO, its stakeholders and the Federal Energy Regulatory Commission ("FERC") to recover related lost revenues due to the error through a complaint filing at FERC by the Midwest ISO. Because the outcome of the noted FERC filing will impact Petitioner's fuel costs, the Commission finds that NIPSCO shall provide updates on such filing in future FACs until the matter is concluded. In addition, the FAC summary process has an implied expectation that significant factors affecting the cost of fuel for jurisdictional customers be presented in pre-

filed testimony. That this significant factor was not brought forth by Petitioner until an additional inquiry from the Commission suggests that perhaps this implied expectation is not sufficient. Accordingly, the Commission will note the potential insufficiency of its expectation as we continue the ongoing informal review of the FAC oversight process initiated in the Cause No. 38706-FAC80S2, Interim Order dated June 23, 2010.

9. **Estimation of Fuel Cost.** The Petitioner estimates that its prospective total average fuel costs for the billing months of November and December 2010 and January 2011 will be $36,798,681. (Petitioner's Exhibit B, Schedule 1, Ln. 23) on a monthly basis. Petitioner previously made the following forecasts of its fuel cost in April, May and June 2010 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
April	$0.028951/kWh	0.031716/kWh	(8.72)%
May	$0.028342/kWh	0.032805/kWh	(13.60)%
June	$0.0280026/kWh	$0.031756/kWh	(11.82)%
Weighted Average Error (%)			(11.41)%

(Petitioner's Exhibit B, Schedule 5, p. 1–3, Lns. 28–29; Petitioner's Exhibit B, Schedule 5, p. 4, Ln. 29).

OUCC 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). As previously noted, the experienced "Midwest ISO Components of Fuel Cost" deviated significantly from the estimated amount. This deviation was a material source of the Weighted Average Error shown above. Based on the evidence, we find that NIPSCO has made every reasonable effort to project its fuel related costs for the billing months of November and December 2010 and January 2011.

10. **Return Earned.** Petitioner's Exhibit 2-A demonstrates that for the twelve months ended June 30, 2010, Petitioner earned a jurisdictional return of $149,349,481 (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. F). This amount included $24,562,610 (Petitioner's Exhibit 2-A, p. lB, Ln. 1) of opportunity off-system sales, offset by fuel, purchased power costs, supporting variable costs and taxes for a net profit of $3,110,653, (Petitioner's Exhibit 2-A, p. l, 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 14, pursuant to Ind. Code § 8-1-2-6.6 and 6.8, was $248,768,741. (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. B). Therefore, during the twelve-month period ending June 30, 2010, NIPSCO did not earn a return more than that authorized in its applicable 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 twelve-month period ended June 30, 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 $0.003152 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 26) to be added to the estimated cost of fuel for the billing months of November and December 2010 and January 2011 in the amount of $0.029424 per kWh (Petitioner's Exhibit B, Schedule 1, Ln. 24). This results in a fuel cost charge factor of $0.010176 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 increase of $6.75 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 4.9089 (Petitioner's Exhibit D, p. 1, Ln. 10) to be applicable during the billing months of November and December 2010 and January 2011. 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 June 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 June 30, 2010 is less than the level approved in NIPSCO's applicable 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 June 30, 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-FAC71S1, 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 April 2010 is $52.13/MWh for the first 500 MWs; for May 2010 is $55.75/MWh for the first 500 MWs; and for June 2010 is $53.63/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 November and December 2010, and January 2011 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 November and December 2010 and January 2011, as set forth in Finding No. 13 above, is hereby approved.

3. Petitioner shall include in its quarterly FAC filings updates concerning the Midwest ISO's complaint filing with FERC related to lost revenues in accordance with Paragraph 8.

4. 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.

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

LANDIS, MAYS AND ZIEGNER CONCUR; ATTERHOLT ABSENT:

APPROVED: OCT 27 2010

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