



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)
FEBRUARY, MARCH AND APRIL 2011,)
PURSUANT TO IC 8-1-2-42 AND CAUSE)
NO. 41746.)

CAUSE NO. 38706 FAC 89

APPROVED: JAN 26 2011

BY THE COMMISSION:
Carolene R. Mays, Commissioner
Angela Rapp Weber, Administrative Law Judge

On November 3, 2010, Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”) filed its Petition with the Indiana Utility Regulatory Commission (“Commission”) for approval of a fuel cost adjustment and customer credit adjustment to be applicable for bills rendered by Petitioner during the billing months of February, March, and April 2011. Petitioner also prefiled its direct testimony and exhibits in support of its Petition on November 4, 2010. NIPSCO Industrial Group (“NIPSCO-IG”) filed its Petition to Intervene on November 12, 2010, which was granted by the Presiding Officers in a Docket Entry dated November 23, 2010. On December 8, 2010, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its report in this Cause along with the direct testimony of Gregory T. Guerrettaz and Michael D. Eckert. On December 27, 2010, the NIPSCO-IG filed direct testimony from its witness James R. Dauphinais.

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 4, 2011 at 1:30 p.m. in Room 224, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Petitioner, the OUCC, and NIPSCO-IG appeared by counsel. Petitioner, the OUCC, and NIPSCO-IG 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:

- 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. Petitioner is subject to the jurisdiction of the Commission as provided in the Public Service Commission Act, as amended, Ind. Code § 8-1-2 *et seq.* 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.** 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 July, August and September 2010 averaged \$0.028138 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 \$0.010176 per kWh (Petitioner's Exhibit 1-C, Ln. 6) to a charge of \$0.009974 per kWh (Petitioner's Exhibit A, Appendix B) for all bills rendered in February, March, and April 2011 billing months. The requested fuel cost adjustment charge includes a variance of \$1,818,169 (Petitioner's Exhibit B, Schedule 1, Ln. 25) that was under-collected during July, August, and September 2010. Petitioner's estimated monthly average cost of fuel to be recovered in this proceeding for the period of February, March, and April 2011, is \$38,735,711 (Petitioner's Exhibit B, Schedule 1, Ln. 23), and its estimated monthly average sales for that period is 1,214,255 MWh (Petitioner's Exhibit B, Schedule 1, Ln. 11).

5. **Statutory Requirements.** Ind. Code § 8-1-2-42(d) states that the 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 September 30, 2010 increased \$188,690,574 (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 September 30, 2010 exceeded by \$259,699,906 (Petitioner's Exhibit 2-A, p. 1, Ln. 24) the pro forma level of other operating expenses determined pursuant to the Commission's Order in Cause No. 38045. The Commission finds that Petitioner's fuel costs have increased since its applicable general rate Order, and 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. Mr. Strnatka testified that Petitioner's primary fuel for generation of electric energy is coal (92.52% for the three months ended September 30, 2010). (Petitioner's Exhibit 4, p. 2). NIPSCO-IG witness Mr. Dauphinais raised concerns regarding NIPSCO's treatment of renewable energy credits ("RECs") obtained as part of the purchase of wind energy. Mr. Dauphinais recommended that the Commission require NIPSCO to file detailed testimony and information in its next FAC explaining what NIPSCO is doing to reasonably maximize the value of the RECs in order to minimize its fuel costs for its FAC customers. He also recommended that NIPSCO be required to explain why its approach to maximizing the value of the RECs is reasonable. (NIPSCO IG Exhibit 1, pp. 8-9).

NIPSCO is recovering the costs of the wind purchases pursuant to authority granted in Cause No. 43393. In that Cause, NIPSCO described its intent to use proceeds from the sale of RECs associated with those purchases to reduce the cost of the Wind Power Purchase Agreements to its retail customers. To date, NIPSCO has offered no explanation concerning its use of the RECs for the benefit of its customers. Therefore, the Commission finds that in FAC 90, NIPSCO should provide detailed testimony and information explaining what it is doing to reasonably create value for the RECs.

Based on the evidence, the Commission finds 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, the Commission authorized Petitioner 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 the Commission

authorized Petitioner to treat certain defined ASM costs as a cost of fuel for purposes of the FAC process. In Cause Nos. 42962, 43471, and 43665, the Commission authorized Petitioner 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. Petitioner included in the FAC factor \$4,331,850 as the total “MISO Components of Fuel Cost” for the months of July, August, and September 2010. (Petitioner’s Exhibit B, Schedule 5, p. 4, Ln. 19).

9. **Estimation of Fuel Cost.** Petitioner estimated that its prospective total average fuel costs for the billing months of February, March, and April 2011 will be \$38,735,711 (Petitioner’s Exhibit B, Schedule 1, Ln. 23) on a monthly basis. NIPSCO-IG witness Mr. Dauphinais testified that NIPSCO should be required to provide more information in testimony to support the basis of its projected costs in future FAC proceedings, specifically with respect to projected coal costs. Mr. Dauphinais noted NIPSCO provided no testimony or information regarding why it is forecasting higher market coal prices and did not present any testimony concerning how it forecasted its expectations in regard to market coal pricing and fuel surcharges. Mr. Dauphinais also noted NIPSCO has not provided any testimony or information regarding NIPSCO’s evaluation and selection of any proposed coal contracts that may be going into effect during the January through March 2011 forecast period of this FAC. Mr. Dauphinais testified that he was unable to form an opinion concerning the reasonableness of NIPSCO’s forecasted fuel costs given the lack of detailed information provided by NIPSCO.

Mr. Dauphinais did not oppose the use of NIPSCO’s forecasted fuel costs for January through March 2011 for purposes of the fuel factor in this FAC because the costs are subject to review of the reasonableness of those costs in the FAC reconciliation process. Mr. Dauphinais recommended that the Commission direct NIPSCO to file detailed testimony and information supporting both the reasonableness of its forecasted fuel costs and the actual fuel costs being reconciled. Mr. Dauphinais noted the short amount of time available in FAC proceedings requires that the utility present detailed testimony and information, which, on its own, supports the reasonableness of the utility’s fuel costs.

The Commission has noted as recently as NIPSCO’s FAC 88 that the summary nature of the FAC process has an implied expectation that significant factors affecting the cost of fuel be presented in prefiled testimony. As Mr. Dauphinais testified, NIPSCO is projecting a 2.3 mill per kWh increase in its steam generation for the months of January through March 2011. It is reasonable for a party to expect additional information when material changes in cost occurred. Therefore, the Commission finds that NIPSCO should increase the level of detail in filings to support the reasonableness of its forecasted and actual fuel costs on a going forward basis, to include at a minimum, its basis for increases in the market coal prices it forecasts.

Petitioner previously made the following forecasts of its fuel cost in July, August, and September 2010, and incurred the following actual costs, resulting in a percent error calculated as follows:

<u>Month</u>	<u>Estimated Fuel Cost</u>	<u>Actual Fuel Cost</u>	<u>Over (Under) Estimate</u>
July	\$0.027785/kWh	\$0.031182/kWh	(10.89)%
August	\$0.027812/kWh	\$0.028523/kWh	(2.49)%
September	\$0.027439/kWh	\$0.024429/kWh	12.32 %
Weighted Average Estimating Error			(1.60)%

(Petitioner's 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 nothing had come to his attention that would indicate the projections used by NIPSCO for fuel costs and sales of power were unreasonable. (Public's Exhibit No. 1, p. 8). Because the forecasted costs are subject to reconciliation, at this time the Commission finds NIPSCO has made every reasonable effort to project its fuel related costs for the billing months of February, March and April 2011. However, as set out above, NIPSCO should provide more detailed testimony to support its forecasted fuel costs in future FAC proceedings.

10. Return Earned. Petitioner's Exhibit 2, containing Exhibit 2-A, demonstrates that for the twelve months ended September 30, 2010, Petitioner earned a jurisdictional return of \$181,807,636 (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. F). This amount included \$31,941,061 (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 \$5,474,342, (Petitioner's Exhibit 2-A, p. 1, Ln. 21b) in accordance with the Settlement Agreement approved by the Commission in the Order dated August 23, 2006 in Cause No. 42824, Ordering Paragraph 1. 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 15, pursuant to Ind. Code § 8-1-2-6.6 and 6.8, was \$251,181,723 (Petitioner's Exhibit 2-A, p. 1, Ln. 21c, Col. B). Therefore, during the twelve-month period ending September 30, 2010, the Commission finds 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 ending September 30, 2010, Petitioner has no such over-earnings.

12. Fuel Cost Adjustment Factor. As the Commission 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 \$0.000476 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 2011, in the amount of \$0.031901 per kWh (Petitioner's Exhibit B, Schedule 1,

Ln. 24). This results in a fuel cost charge factor of \$0.009974 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 typical residential customer using 1,000 kWh per month will experience an overall decrease of \$0.21 on his or her electric bill from the currently approved factor.

13. Customer Credit Adjustment Factor. Pursuant to the Commission's September 23, 2002 Order in Cause No. 41746, Petitioner set forth evidence of a Customer Credit Adjustment Factor percentage of 4.0940 (Petitioner's Exhibit D, p. 1, Ln. 10) to be applicable during the billing months of February, March, and April 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. OUCR Report. Mr. Guerrettaz testified: (1) NIPSCO 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 calculated a variance for the quarter ending September 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 September 30, 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 September 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, the Commission issued a Final Order in Cause No. 38706 FAC71 S1, instituting a three-tiered 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 it 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 July 2010 is \$61.13/MWh for the first 500 MWs; for August 2010 is \$60.00/MWh for the first 500 MWs; and for September 2010 is \$49.50/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 February, March, and April 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 February, March, and April 2011, as set forth in Finding No. 13 above, is hereby approved.

3. Petitioner shall include in its quarterly FAC filings updates concerning its utilization of the RECs associated with the wind purchases being recovered through the authority granted it in Cause No. 43393 as set out in Finding No. 7. NIPSCO shall also include in its quarterly FAC filings detailed testimony concerning the reasonableness of its forecasted fuel costs in accordance with Finding No. 9.

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.

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JAN 26 2011

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



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