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 MAY, JUNE AND JULY 2011, PURSUANT TO IC 8-1-2-42 AND CAUSE NO. 41746.	)	**CAUSE NO. 38706 FAC 90** **ORDER ON RECONSIDERATION** **APPROVED:** JUN 29 2011

BY THE COMMISSION:
Kari A.E. Bennett, Commissioner
Angela Rapp Weber, Administrative Law Judge

On February 4, 2011, the Northern Indiana Public Service ("NIPSCO") filed its Petition in this Cause. On April 27, 2011, the Indiana Utility Regulatory Commission ("Commission") issued an Order. On May 17, 2011, the NIPSCO Industrial Group ("Industrial Group") filed with the Commission Industrial Group's Petition for Reconsideration ("Petition for Reconsideration"). The Petition for Reconsideration noted the Commission in its April 27, 2011 Order used the benchmark authorized by the Order approved in NIPSCO's most recent case, Cause No. 43526, rather than the benchmark approved in Cause No. 38706 FAC 71-S1. However, for purposes of the expense test and the earnings test, the Commission used the operating expenses and authorized return approved in Cause No. 38045 because NIPSCO's rates and charges authorized by the Order issued in Cause No. 43526 are not effective. The Industrial Group stated NIPSCO's rates and charges approved in Cause No. 43526 are not effective because of NIPSCO's actions. Thus, NIPSCO should use the benchmark from Cause No. 38706 FAC 71-S1.

On May 24, 2011, NIPSCO filed its Response to NIPSCO Industrial Group's Petition for Reconsideration ("Response"). Generally, the Response stated the Commission properly used the benchmark approved in Cause No. 43526. NIPSCO explained the Order in Cause No. 43526 is effective, and the implementation of a benchmark is separate from the implementation of base rates. Base rates, unlike the benchmark, in Cause No. 43526 were subject to the filing of rate schedules and approval by the Commission's Electricity Division. The Response asked the Commission to deny the Petition for Reconsideration.

On May 31, 2011, the Industrial Group filed its Reply in Support of Petition for Reconsideration ("Reply"). The Reply stated NIPSCO is able to benefit from its failure to make its compliance filing in Cause No. 43526 because the authorized return and level of operating expenses is higher in Cause No. 38045 than those approved by the Order in Cause No. 43526. In addition, the benchmark approved in Cause No. 43526 is higher than that approved by the Order in Cause No. 38706 FAC 71-S1. The Industrial Group stated NIPSCO should not be able to benefit from portions of the Order in Cause No. 43526 it likes while avoiding the portions it dislikes.

The Commission, having reviewed the Petition for Reconsideration, Response, and Reply, denies the Industrial Group's Petition for Reconsideration. The Order approved by the Commission on August 25, 2010 has not been stayed and is effective. Ordering Paragraph 2 of the Commission's Order in Cause No. 43526 states, "The new schedule of rates and charges shall be effective upon filing with and approval by the Electricity Division or by Order of the Commission." Therefore, the effectiveness of NIPSCO's rates and charges was subject to an additional filing requirement after the issuance of the Order. As of the date of this Order, that additional filing requirement has not been met. The benchmark approved in Cause No. 43526, however, was not subject to a subsequent requirement or filing. Accordingly, the Commission finds NIPSCO's currently-effective benchmark is that which was approved by the Commission in the Order dated August 25, 2010 in Cause No. 43526.

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

1. The Industrial Group's Petition for Reconsideration is denied.

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

ATTERHOLT, BENNETT, MAYS AND ZIEGNER CONCUR; LANDIS ABSENT:

APPROVED: JUN 29 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