

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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PETITION OF NORTHERN INDIANA)
PUBLIC SERVICE COMPANY, UNDER THE)
ONGOING REVIEW PROCESS APPROVED)
IN CAUSE NO. 42150, FOR APPROVAL OF)
AN ADJUSTMENT TO ITS ELECTRIC)
UTILITY RATES TO REFLECT COSTS)
RELATED TO ITS QUALIFIED)
POLLUTION CONTROL PROPERTY,)
INCLUDING CERTAIN EXPENSES AND A)
RETURN ON THE VALUE OF SUCH)
PROPERTY PURSUANT TO IND. CODE §§)
8-1-2-6.6, 8-1-2-6.8 AND 8-1-8.7 AND 170 IAC)
4-6-1, ET SEQ.)

CAUSE NO. 42150 ECR 13

APPROVED: APR 29 2009

BY THE COMMISSION:

Aaron Schmoll, Administrative Law Judge

On February 13, 2009, Northern Indiana Public Service Company ("Petitioner," "Company," or "NIPSCO") petitioned the Indiana Utility Regulatory Commission ("Commission") for approval of an adjustment to its electric utility service rates to reflect costs incurred in connection with the construction of its Qualified Pollution Control Property ("QPCP"), pursuant to the procedures approved by the Commission's order entered, November 26, 2002, in Cause No. 42150.

Pursuant to notice given as provided by law, proof of which was incorporated into the record, an evidentiary hearing was held in this matter, April 1, 2009, at 10:00 a.m., in Room 224, National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, NIPSCO presented its case in chief, consisting of pre-filed testimony and exhibits of Philip W. Pack, Mitchell E. Hershberger, and Curt A. Westerhausen, and supplemental testimony and exhibits of Curt A. Westerhausen, which were admitted into evidence, without objection. The Indiana Office of Utility Consumer Counselor ("OUCC") participated in the hearing, and presented its case-in-chief consisting of Prefiled Testimony from its witness Wes Blakely, which was admitted into the record without objection. No members of the general public appeared or participated in the hearing.

The Commission, having considered the evidence and being duly advised in the premises, now finds that:

1. **Notice and Jurisdiction.** Proper legal notice of the hearing in this case was given and published by the Commission as required by law. Petitioner is a public utility within the meaning of the Public Service Commission Act, as amended, Ind. Code 8-1-2, and is subject

to the jurisdiction of the Commission, in the manner and to the extent provided by Indiana law. The Commission has jurisdiction over the Petitioner and subject matter of this case.

2. **Petitioner's Characteristics and Generating System.** Petitioner is a public utility organized and existing under Indiana law, with its principal office at 801 E. 86th Street, Merrillville, Indiana 46410. NIPSCO owns and operates property and equipment used for the production, transmission, delivery and furnishing of electric utility service to the public in northern Indiana.

3. **Relief Requested.** On November 26, 2002 in Cause No. 42150, the Commission approved NIPSCO's proposed Environmental Cost Recovery Mechanism ("ECRM") as set forth in its Rule 47, which provides for ratemaking treatment of NIPSCO's QPCP pursuant to I.C. §§ 8-1-2-6.6 and 8-1-8.7-7 ("Original Order"). In the Original Order, the Commission also approved NIPSCO's proposed Environmental Expense Recovery Mechanism ("EERM") as set forth in its Rule 48, which provides for recovery of operation and maintenance and depreciation expenses related to NIPSCO's QPCP in service. In its petition for recovery of these environmental costs, NIPSCO proposed that the Commission maintain an ongoing review of its QPCP construction and expenditures and submit to the Commission annually a report of any revisions of its plan and cost estimates for such construction, which ongoing review the Commission has conducted. NIPSCO submitted a progress report in Cause No.43593, in which the Company presented and the Commission approved an update of the Company's NOx and CAIR/CAMR Compliance Plans, by an order issued on January 14, 2009.

In this six-month Environmental Cost Recovery ("ECR") proceeding, NIPSCO seeks (1) ratemaking treatment for its QPCP that, on December 31, 2008, had been under construction for at least six months, as required by 170 IAC 4-6-1, computed in accordance with its Rule 47; and (2) adjustment to its rates to reflect operation and maintenance and depreciation expenses related to its QPCP now in service. NIPSCO requests authority to reflect additional values of QPCP in its rates and charges for electric service beginning May 1, 2009, via the ECRM, and expenses associated with QPCP in its rates and charges for electric service in the 12-month period beginning May 1, 2009, via the EERM.

4. **Summary of Petitioner's Evidence Presented in this Cause.** Philip Pack testified regarding the Company's QPCP under construction on which NIPSCO proposes to earn a return. Mr. Pack identified the construction start date, anticipated cost and in-service date and QPCP value for each project at December 31, 2008. Mr. Pack testified that these capital projects will be used and useful for the public convenience and constitute a part of the Company's updated NOx and CAIR/CAMR Compliance Plans approved by the Commission in Cause No.43593. Mr. Pack also testified that all of the projects on which the Company is seeking a return have been under construction for at least six months. Mr. Pack sponsored Schedule 1A of Petitioner's Exhibit 3 which shows a total net balance for such QPCP at December 31, 2008, of \$ 268,130,198, which is the value on which Petitioner proposes to earn a return in this case.

Mr. Pack also testified concerning NIPSCO's reasonably incurred operating, maintenance and depreciation expenses connected with its QPCP now in service. Mr. Pack testified that the reasonably incurred operating expenses include auxiliary power, chemicals and monitoring

necessary to operate the QPCP, as well as those expenses for maintaining the QPCP, such as expenses of operating the chemical system, catalyst, soot blowers, controls, overfired air, low NOx burners and the applicable balance of the facility. Mr. Pack testified that in the period ending December 31, 2008, NIPSCO reasonably incurred \$ 7,717,026 of such expenses.

Mr. Hershberger testified that he computed, in accordance with the FERC Uniform System of Accounts, the allowance for funds used during the construction ("AFUDC"), as shown in Schedule 1 of Petitioner's Exhibit 3. In Schedule 2 of Petitioner's Exhibit 3, Mr. Hershberger computed a NIPSCO weighted cost of capital of 8.53 %, using its regulatory capital structure, at December 31, 2008, which is the date of valuation of the QPCP in accordance with 170 IAC 4-6-14. Mr. Hershberger indicated that the cost rates for long-term debt and preferred stock reflect the costs of such capital at December 31, 2008. The cost rates for common equity capital and customer deposits were those approved and used by the Commission in the Company's last general electric rate case, Cause No. 38045. Mr. Hershberger indicated that deferred taxes and the reserve for post-retirement benefits were treated as zero-cost capital. The cost of post-1970 investment tax credits reflects the weighted costs of a capital structure consisting of long-term debt, preferred stock and common equity capital.

Mr. Hershberger also described his computation of the Company's proposed annual return on its QPCP of \$ 22,871,506, which is the product of the Company's QPCP value times its weighted cost of capital. Pet's. Ex. 3, Revised Sch. 4, Page 1 of 2. Mr. Hershberger computed the Company's 12-month and 6-month revenue requirements related to a return on the QPCP as of December 31, 2008, in the amounts of \$ 35,794,411 and \$ 17,897,206 respectively. Id.

Mr. Hershberger also testified to the depreciation expense connected with the operation of its QPCP now in service. As required by the Commission's Original Order, Mr. Hershberger testified that NIPSCO depreciates the QPCP projects using the same depreciation rates in the Commission's Order in Cause No. 38045 (July 15, 1987). Mr. Hershberger sponsored the actual depreciation expense, which is \$11,004,473, for the total 12 months ending December 31, 2008, the jurisdictional portion thereof is \$ 10,915,181 (Pet's. Ex. 3, Sch. 1-EERM, Page 1 of 2).

Mr. Westerhausen testified that upon Commission approval of the proposed ratemaking treatment of the Company's QPCP, the Company would cease accruing AFUDC on the QPCP. He identified the production allocation percentages attributable to each of the Company's rate schedules to be used to allocate QPCP values to customer classes (Pet's. Ex. 3, Sch. 5) and said that the source for these allocation factors is the Company's most recent cost of service study, introduced as Petitioner's Exhibits RDG-2 and RDG-3 (revised) in the Commission's Order in Cause No. 42150 (Nov. 26, 2002) and approved for use in the Company's subsequent proceedings for recovery of a return on the QPCP costs. Adjustments were made to these production allocation percentages to reflect significant migration of customers between rates that were approved by the Commission in Cause Nos. 42150 ECR 7 and 42150 ECR 8.

Mr. Westerhausen discussed the Company's form for reconciling projected period recoveries of ECRM revenue with actual revenue collections and the calculation of the ECRM factors proposed to be used by the Company beginning with May 2009 billing. Pet's. Ex. 3, Sch. 6. He also testified regarding his computation of NIPSCO's jurisdictional revenue requirement

connected with its QPCP associated with each rate schedule, in Petitioner's Exhibit 3, Schedule 7. Mr. Westerhausen affirmed that the computations he had made in regard to the ECRM are consistent with the Original Order in Cause No. 42150, and that the factors set forth in proposed Appendix D to Petitioner's tariff are the result of those computations.

Mr. Westerhausen also testified to the Company's computation of rate adjustments to recover operating, maintenance and depreciation expenses connected with the operation of its QPCP now in service. These expenses totaled \$ 18,721,499 of which \$18,603,654 was jurisdictional. Pet's. Ex. 3, Sch. 1-EERM, p. 1. Mr. Westerhausen testified that NIPSCO has reconciled projected period recoveries of EERM revenue with actual revenue. Pet's. Ex. 3, Sch. 2-EERM. Mr. Westerhausen affirmed that the computations he had made in regard to the EERM are consistent with the Original Order in Cause No. 42150, and that the factors set forth in proposed Appendix E to Petitioner's tariff are the result of those computations.

Mr. Blakely of the OUCC testified that he discovered an error in NIPSCO's computation of AFUDC included in the QPCP, that NIPSCO agreed to submit supplemental testimony with revisions, and that NIPSCO committed to working with the OUCC during the interim before its next filing to fully address the error. Mr. Blakely testified that nothing else came to his attention and recommended that NIPSCO's request be approved as revised.

Mr. Westerhausen filed supplemental testimony which sponsored revised schedules of Exhibit 3; specifically revised schedules 1, 1A, 4, and 7. A calculation error was identified on the original Schedule 1, related to the AFUDC Current Activity of \$1,911,886 for the BGS7 SCR. Mr. Westerhausen explained that the entire amount has been removed from the calculations in the revised schedules. The Company plans to review the calculation of the AFUDC charges for the project, and any necessary adjustment will be made in the next filing. As a result of this change, the revised total cost of QPCP under construction, net of accumulated depreciation, is \$268,130,198, as opposed to \$270,042,084. The ECRM factor for residential customers decreased from what was initially filed by \$0.000019 per kWh used per month.

5. **Commission Discussion and Findings.** Based upon the evidence presented in this Cause, the Commission finds that NIPSCO's requested relief shall be granted. Specifically, the Commission finds that NIPSCO shall be authorized to reflect the additional values of QPCP in its rates and charges for electric service in accordance with NIPSCO's ECRM, beginning on May 1, 2009, and that the factors should be implemented subject to refund until the Commission completes its annual review of NIPSCO's QPCP expenditures. The Commission finds that NIPSCO shall be authorized to reflect its proposed rate adjustments reflecting the recovery of operation, maintenance and depreciation expenses for electric service in accordance with NIPSCO's EERM, beginning on May 1, 2009.

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

1. NIPSCO is hereby authorized to reflect the additional values of QPCP identified herein in its rates and charges for electric service in accordance with NIPSCO's ECRM,

beginning May 1, 2009. The factors shall be implemented subject to refund as described herein, pending completion of the Commission's annual review of NIPSCO's QPCP expenditures.

2. NIPSCO is hereby authorized to reflect the rate adjustments reflecting the recovery of operation, maintenance and depreciation expenses identified herein in its rates and charges for electric service in accordance with NIPSCO's EERM, beginning May 1, 2009.

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

HARDY, GOLC, LANDIS, SERVER, AND ZIEGNER CONCUR:

APPROVED: APR 29 2009

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



Brenda A. Howe
Secretary to the Commission