ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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 AND 8-1-8.7 AND 170 IAC 4-6-1 *et. seq.*	)	**CAUSE NO. 42150 ECR 15** **APPROVED:** APR 30 2010

BY THE COMMISSION:
Aaron Schmoll, Administrative Law Judge

On February 12, 2010, Northern Indiana Public Service Company ("Petitioner", 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.

On April 9, 2010, the Presiding Officer issued a docket entry posing two questions to Petitioner. On April 14, 2010, Petitioner submitted Supplemental Testimony from Curt A. Westerhausen responding to those questions, along with revised Exhibit 3, Schedule 1-EERM.

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 15, 2010, at 10:00 a.m., in Room 222, 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, which were admitted into evidence, without objection. Petitioner also offered its supplemental testimony of Mr. Westerhausen and its reponses to the Commission's April 9, 2010 Docket Entry. 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 that was admitted into the record without objection.

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 Petitioner presented and the Commission approved an update of the Petitioner's NOx and CAIR/CAMR Compliance Plans and its costs of QPCP construction, 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, 2009, 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, 2010, via the ECRM, and expenses associated with QPCP in its rates and charges for electric service in the 12-month period beginning May 1, 2010, via the EERM.

4. **Summary of Petitioner's Evidence Presented in this Cause.** Philip Pack testified regarding Petitioner'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 as of December 31, 2009. Mr. Pack testified that these capital projects will be used and useful for the public convenience and constitute a part of Petitioner'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 Petitioner is seeking a return have been under construction for at least six months. Mr. Pack sponsored Schedules 1 and 1A of Petitioner's Exhibit 3 which shows a total net balance for such QPCP at December 31, 2009, of $287,448,747, 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, 2009, NIPSCO reasonably incurred $9,128,611 of such expenses, as shown in Petitioner's Revised Exhibit 3, Schedule 1-EERM, Page 1 of 2.

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 7.99 %, using its regulatory capital structure, at December 31, 2009, 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, 2009. The cost rates for common equity capital and customer deposits were those approved and used by the Commission in Petitioner'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 Petitioner's proposed annual return on its QPCP of $22,967,155, which is the product of the Petitioner's QPCP value times its weighted cost of capital. As shown in Petitioner's Exhibit 3, Schedule 4, Page 1 of 2, Mr. Hershberger computed Petitioner's 12-month and 6-month revenue requirements related to a return on the QPCP as of December 31, 2009, in the amounts of $35,495,918 and $17,747,959 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 Cause No. 38045 (July 15, 1987). Mr. Hershberger sponsored the actual depreciation expense, which is $12,488,075, for the total 12 months ending December 31, 2009, the jurisdictional portion thereof is $12,386,746, as shown in Petitioner's Revised Exhibit 3, Schedule 1-EERM, Page 1 of 2.

Mr. Westerhausen testified that upon Commission approval of the proposed ratemaking treatment of Petitioner's QPCP, Petitioner would cease accruing AFUDC on the QPCP. He identified the production allocation percentages attributable to each of Petitioner's rate schedules to be used to allocate QPCP values to customer classes as shown in Petitioner's Exhibit 3, Schedule 5, and said that the source for these allocation factors is Petitioner's most recent cost of service study, introduced as Petitioner's Exhibits RDG-2 and RDG-3 (revised) in Commission's Order in Cause No. 42150 (Nov. 26, 2002) and approved for use in Petitioner's subsequent proceedings for recovery of a return on the QPCP costs.

In this EERM period, adjustments were made to the production and energy allocation percentages to reflect significant migration of customers between rates. Mr. Westerhausen addressed NIPSCO's proposed adjustment, as shown in Revised EERM-Exhibit 3, Schedule 1, to reflect the significant migration of customers from Rate 847 to Rates 824, 832, and 833. Based upon the Commission-approved allocation methodology in the Cost of Service Study, NIPSCO proposes to migrate the net Production Rate Base calculated on a demand basis for these customers along with adjusting their associated energy allocation. Mr. Westerhausen testified that this adjustment is appropriate in order to prevent any unintended consequences of the migration of customers between Rates and to properly allocate their share of environmental costs through the EERM. He further testified that this adjustment is consistent with the production allocation and energy adjustments previously approved by the Commission in Cause Nos. 42150-ECR-7, 42150-ECR-8, and 42150-ECR-14.

Mr. Westerhausen discussed Petitioner'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 Petitioner beginning with May 2010 billing, as shown in Petitioner's Exhibit 3, Schedule 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 Revised 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 Petitioner'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 $21,616,686 of which $21,482,136 was jurisdictional, as shown on Petitioner' Revised Exhibit 3, Schedule 2, Page 1 of 2. Mr. Westerhausen testified that NIPSCO has reconciled projected period recoveries of EERM revenue with actual revenue, as shown on Petitioner's Exhibit 3, Schedule 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.

At the evidentiary hearing, Petitioner presented its Director of Electric Regulatory Policy Timothy R. Caister. Mr. Caister explained why certain SCR related expenses had been categorized as fixed in some circumstances, and as variable in others. He testified that the expenses were categorized base on the underlying nature of the circumstances under which the work was performed, with expenses occurring during scheduled outages being categorized as fixed and expenses incurred under other circumstances being categorized as variable.

5. <u>Commission Discussion and Findings</u>. Based upon the evidence presented in this Cause, the Commission finds that NIPSCO's requested relief should 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, 2010, 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, 2010.

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, 2010. 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, 2010.

3. NIPSCO is hereby authorized to reflect its proposed production and energy allocation percentage adjustments reflecting the recent migration from Rate 847 to Rates 824, 832, and 833.

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

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

APPROVED: APR 30 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