

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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VERIFIED PETITION OF INDIANAPOLIS POWER )  
& LIGHT COMPANY FOR APPROVAL OF: (1) AN )  
ADJUSTMENT TO ITS RATES THROUGH ITS )  
APPROVED ENVIRONMENTAL COMPLIANCE )  
COST RECOVERY ADJUSTMENT COMMENCING )  
WITH THE SEPTEMBER 2016 BILLING CYCLE; (2) )  
PROPOSAL REGARDING TREATMENT OF NET )  
INVENTORY COSTS INCURRED IN CONNECTION )  
WITH HARDING STREET STATION UNIT 7 )  
REFUELING; (3) ONGOING REVIEW REPORTS, )  
CONSTRUCTION AND ASSOCIATED COSTS, )  
INCLUDING PROPOSED TREATMENT OF NPDES )  
ACCELERATION COSTS; AND (4) PROPOSAL )  
REGARDING TREATMENT OF OPERATIONS AND )  
MAINTENANCE SAVINGS ASSOCIATED WITH )  
HARDING STREET STATION UNIT 7. )

CAUSE NO. 42170 ECR 27

APPROVED: OCT 26 2016

ORDER OF THE COMMISSION

**Presiding Officers:**  
**David E. Ziegner, Commissioner**  
**Loraine L. Seyfried, Chief Administrative Law Judge**

On June 28, 2016, Indianapolis Power & Light Company (“IPL”) filed a Verified Petition and Request for Administrative Notice along with the direct testimony and exhibits of the following witnesses:

- Bradley D. Scott, Director, IPL Senior Vice President, Power Supply;
- Dale V. Fisher, Project Construction Manager for the IPL Mercury and Air Toxics Standards (“MATS”) Rule Compliance Project;
- Chris Migliaccio, Construction Manager for the IPL National Pollution Discharge Elimination System (“NPDES”) Compliance Project;
- Eugene Spindler, Plant Leader of Maintenance at IPL’s Petersburg Station;
- Angelique Collier, Director of Environmental Policy at AES US Services, LLC;
- Craig Forestal, Director of Regulatory Accounting at AES US Services, LLC; and
- James L. Cutshaw, IPL Revenue Requirements Manager.

On August 23, 2016, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the testimony and exhibits of the following witnesses:

- Wes R. Blakley, Senior Utility Analyst in the OUCC’s Electric Division; and
- Cynthia M. Armstrong, Senior Utility Analyst in the OUCC’s Electric Division.

On September 9, 2016, IPL filed the rebuttal testimony of Mr. Cutshaw.

The Commission held an Evidentiary Hearing in this Cause at 9:00 a.m. on September 20, 2016, in Room 224, 101 W. Washington Street, Indianapolis, Indiana. IPL and the OUCC appeared at and participated in the hearing. No members of the public appeared.

Based on the applicable law and the evidence presented, the Commission finds:

1. **Commission Jurisdiction and Notice.** Notice of the hearing in this Cause was given and published by the Commission as required by law. IPL is a public utility as that term is defined in Ind. Code § 8-1-2-1(a). Under Ind. Code §§ 8-1-2-6.6 and 8-1-2-6.8 and Ind. Code chs. 8-1-8.4, 8-1-8.5, 8-1-8.7 and 8-1-8.8, the Commission has jurisdiction over a public utility's cost recovery related to the use of clean coal technology, compliance projects, and clean energy projects and the ongoing review of powerplant construction. Therefore, the Commission has jurisdiction over IPL and the subject matter of this Cause.

2. **IPL's Characteristics.** IPL is a corporation organized and existing under the laws of the State of Indiana, with its principal office at One Monument Circle, Indianapolis, Indiana. IPL renders 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. **Background.** IPL's Environmental Compliance Cost Recovery Adjustment ("ECCRA") and the procedures for its implementation were initially approved in the Commission's November 14, 2002 Order in Cause No. 42170. Thereafter, the Commission issued additional orders authorizing projects and associated cost recovery through the ECCRA.

4. **Relief Requested.** IPL seeks Commission approval of an ECCRA to provide a return on construction costs incurred through May 31, 2016, and to timely recover depreciation and operating and maintenance ("O&M") expenses, as approved by the Commission's Orders in Cause Nos. 42170, 42700, 43403, 44242, 44339, and 44540. In its Verified Petition, IPL proposes this rate adjustment be effective for all bills rendered for electric services commencing with the first billing cycle for the September 2016 billing month or the first full billing cycle following the Commission's Order in this proceeding.

IPL further requests the Commission authorize IPL to record as a regulatory asset \$3.17 million of net inventory costs incurred in connection with the refueling of Harding Street Unit 7 ("HS-7") undertaken as part of the NPDES Compliance Project approved in Cause No. 44540. IPL proposes to amortize the regulatory asset as a recoverable expense for ratemaking purposes over ten years commencing on the effective date of the ECCRA factors approved in this filing. IPL requests that it be authorized to include the unamortized portion of the regulatory asset in IPL's rate base upon which it is permitted to earn a return in its next general rate case.

IPL also requests approval of its ongoing review reports and the construction work and costs incurred as of May 31, 2016. Such ongoing review reports include the semi-annual review reports filed in Cause No. 44339 related to the Eagle Valley Combined Cycle Gas Turbine ("CCGT") and the refueling of Harding Street Station Units 5 and 6.

As explained in greater detail below, IPL incurred \$5.5 million of NPDES Acceleration Costs to meet the federal NPDES and Coal Combustion Residuals (“CCR”) mandates, which are being applied against the contingency that remains on the NPDES Compliance Project. IPL requests the Commission authorize IPL to record as a regulatory asset the portion of the \$5.5 million not ultimately capitalized to utility plant in service and to amortize such regulatory asset as a recoverable expense for ratemaking purposes over ten years commencing on the date the NPDES Compliance Project is placed in service.

Finally, IPL requests approval to credit, through the ECCRA rate adjustment mechanism, O&M savings due to operating HS-7 on natural gas as opposed to coal.

**5. Net Inventory Costs Incurred In Connection with HS-7 Refueling.**

**A. IPL’s Evidence.** Mr. Scott explained that after the HS-7 Refueling Project is completed, IPL must remove from inventory those materials and supplies that are unnecessary to operate the refueled unit. He explained an inventory of spare parts, such as sulfur dioxide removal components and soot blower parts, is necessary and prudent to be able to make timely repairs for the reliable and continuous operation of the plant. Mr. Scott testified that the importance of HS-7 to the ongoing operation of IPL’s system rendered it necessary for IPL to maintain this inventory while the unit operated on coal. Thus, he testified that these costs are prudently incurred in connection with the compliance project.

Mr. Scott described the actions taken by IPL to mitigate the net inventory costs. He stated approximately \$362,000 of parts and equipment are being transferred to the Petersburg Generating Station and that IPL is in the process of selling or scrapping the remainder, which will further reduce the net inventory cost. Mr. Scott stated that in Cause No. 44540, his preliminary estimate of the net inventory cost was approximately \$4.8 million, which was reduced in Cause No. 42170 ECR 26 to approximately \$4.1 million. He testified that the current estimate of the net inventory costs is \$3.17 million.

Mr. Cutshaw testified that IPL requests authorization to record the \$3.17 million of materials and supplies as a regulatory asset and to amortize such regulatory asset as a recoverable expense for ratemaking purposes over ten years, commencing on the effective date of the ECCRA factors approved in this filing. IPL also requests authorization to include the unamortized portion of the regulatory assets in IPL’s rate base upon which it is permitted to earn a return in its next general rate case.

Mr. Cutshaw stated this request is consistent with the Orders in Cause Nos. 44540 and 42170 ECR 26. He stated that in this filing, the HS-7 conversion is complete, the estimated amount of the net inventory costs are now known with greater certainty, and the issue is ripe for consideration. He stated the forecasted amortization expense associated with the regulatory asset for net inventory costs is reflected in the revenue requirement in this proceeding and that any variance between the forecast and actual amortization of the regulatory asset will be reconciled in future environmental cost recovery (“ECR”) proceedings.

Mr. Cutshaw explained why IPL is requesting a return “of” but not a return “on” the regulatory asset for the net inventory costs. He said the net inventory costs are reflected in the

materials and supplies balance included in the original cost rate base authorized in IPL's recent rate case, Cause No. 44576, and while those basic rates are in effect, IPL will not request a return "on" the net inventory costs in the ECCRA. He explained that when materials and supplies are recognized as part of rate base in a general rate case, that treatment provides the utility the return "on" the investment, but not the return "of" the investment, and that both are necessary to make the utility whole. In addition, the costs were incurred as a result of environmental compliance and thus should be included in the ECCRA.

Mr. Cutshaw next discussed how the net inventory costs are eligible for recovery in the ECR tracker and explained how sound regulatory policy supports recovery of the net inventory costs. He stated the inventory was used and useful in the operation of HS-7 as a coal unit, and that HS-7 was converted to natural gas to bring the unit into compliance with environmental mandates. He added that he was unaware of any language in the ECCRA mechanism that would prohibit recovery of these costs.

**B. OUCC's Evidence.** Mr. Blakley opposed IPL's proposed ratemaking treatment for the net inventory costs. He explained that the inclusion of materials and supplies inventories in rate base is common practice and is the proper ratemaking treatment of inventory for an investor-owned utility. He agreed with Mr. Cutshaw's statement that the net inventory balance related to HS-7 is a part of the overall materials and supplies inventory balance included in rate base, where it receives a return "on" investment. However, Mr. Blakley did not agree that a return "of" materials and supplies inventory is necessary to make a utility whole. First, he said this type of treatment was not addressed, requested, or approved in IPL's last rate case. Further, he said he was not aware of any precedent for the balance of materials and supplies inventory also receiving a return "of" through amortization. He explained materials and supplies inventory may enter the O&M expense stream when items are replaced as a part of the maintenance process; other times inventory may be capitalized to utility plant, which then becomes part of depreciable plant. He said to the extent inventory was used either through O&M or became depreciable plant, it would be included in the test year of a base rate case. But, he said until these things occur, inventory remains a part of rate base and receives a return "on" with no return "of" through depreciation or amortization.

Mr. Blakley stated disposing of non-usable inventory is common and occurs from time to time. He said inventory is used for replacing retired equipment, such as capital maintenance that IPL includes in its ECR tracker, and also for maintenance of the plant, which is considered an expense. But, he said it is difficult to predict the correct level of inventory to maintain for replacement and maintenance purposes and there is always going to be an amount of obsolete inventory. He said Mr. Scott's explanation of how IPL disposes of inventory by scrapping, selling, and salvaging is the correct way of accounting for non-usable inventory.

Mr. Blakley said IPL's request for special ratemaking treatment would allow IPL to recover a return "on" obsolete non-usable inventory plus a return "of" through amortization. He said Mr. Cutshaw's statement that this inventory was used and useful in the operation of HS-7 as a coal unit is not appropriate to the ratemaking treatment of inventory, because inventory is a balance of an investment in materials and supplies that is not yet used and useful. He explained that if equipment that is in operation reaches the end of its useful life and has to be replaced, new equipment can be taken out of inventory and installed. He said at that point, the inventory item

becomes used and useful and depreciation rates can be applied to it. He further disagreed with Mr. Cutshaw's statement that there was no language in the ECCRA mechanism that would prohibit recovery of these costs. He said that if this were the standard, then any item might be eligible for recovery in the ECR tracker. He discussed the Commission's rules on construction work in progress ("CWIP") and stated that inventory is not included because the ECR trackers are CWIP trackers, with projects receiving a cash return during construction.

Mr. Blakley concluded that IPL's proposal regarding the net inventory costs is not warranted because traditional ratemaking allows IPL to calculate a return "on" an average balance of investment in inventory in base rates. He said this is particularly true since the inventory that is a part of this request is in base rates. Mr. Blakley therefore recommended IPL recalculate the rates in this filing after removing the amortization of the net inventory costs in the amount of \$158,000 from the calculation of the revenue requirement.

Ms. Armstrong testified that while the inventory costs are indirectly related to converting HS-7 to natural gas, they are not specifically necessary for converting the units to operate on natural gas. She said these are not new items or expenses incurred as IPL converts HS-7 to natural gas, and that had IPL continued to operate HS-7 on coal, the materials and supplies in inventory would have been eventually used. She explained that typically, the ECCRA tracks new equipment or project costs incurred for the purposes of complying with environmental laws. Ms. Armstrong concluded it is not appropriate for IPL to track the net inventory costs through the ECCRA since the inventory costs are related to equipment already included in rate base and not specifically to new equipment required for the natural gas conversion of the Harding Street units.

**C. IPL Rebuttal's Evidence.** Mr. Cutshaw reiterated that the net inventory costs were prudently incurred and sound regulatory policy supports their recovery as proposed by IPL. He explained that the fate of the net inventory costs at issue in this proceeding was not known at the time of the filing of the last rate case and therefore it could not have been addressed at that time. He noted that he addressed this point in his direct testimony where he explained why IPL is requesting recovery "of" these inventory costs through the amortization of a regulatory asset.

Mr. Cutshaw cited a recent Michigan case where DTE Electric Company requested the same treatment as requested by IPL for such inventory. He also cited prior ECR orders involving Duke Energy Indiana and IPL where the Commission allowed the utility to recover the value of emission allowances that had been prudently maintained in inventory but which were no longer usable following the termination of the Clean Air Interstate Rule.

Mr. Cutshaw next addressed Mr. Blakley's argument that the Commission's CWIP and qualified pollution control property rules did not support recovery of the net inventory costs. He explained that IPL is not requesting recovery of the net inventory costs pursuant to the rules discussed by Mr. Blakley. Mr. Cutshaw explained that in Cause No. 44540, the Commission approved the HS-7 Refueling Project as part of the NPDES Compliance Project pursuant to Ind. Code ch. 8-1-8.4, not the rules cited by Mr. Blakley. Mr. Cutshaw explained how the net inventory costs are related to the direct or indirect compliance with a federally mandated requirement, and noted that Ms. Armstrong recognizes that the net inventory costs are at least indirectly related to converting HS-7 to natural gas. He stated that except for the need to comply

with the federal mandate, IPL would not need to expense the net inventory costs at this time. He said the sections of the Order in Cause No. 44540 addressed to these costs support this view.

Mr. Cutshaw testified that the effect of the OUCC's proposed disallowance would be to penalize IPL for prudently maintaining inventory necessary to allow HS-7 to continue to operate on coal. He said Mr. Blakley's discussion of materials and supplies fails to recognize that the investment associated with materials and supplies is advanced by the utility so as to ensure an inventory of spare parts is available to make timely repairs for the reliable and continuous operation of the plant. Accordingly, he said the materials and supplies were used and useful in the provision of service. He indicated there is long and well-established precedent for the recovery of utility plant and property that was once used and useful but which became economically obsolete. He said allowance of the proposed amortization of these net inventory costs rendered economically obsolete due to the federally mandated compliance project is consistent with that sound regulatory policy. He further noted that the \$3.17 million in one-time net inventory costs is less than the semi-annual credit of \$4.762 million IPL has included in this proceeding to reflect O&M savings due to operating HS-7 on natural gas. He said the fact that IPL has only reflected \$158,000 of amortization of the net inventory costs in this proceeding further underscores the reasonableness of IPL's proposal.

**D. Commission Discussion and Findings.** At the time of our Order in Cause No. 44540, we found this issue was not ripe for consideration because the final costs had not been determined and IPL had yet to formally request a modification of its MATS Compliance Project in Cause No. 44242. *Indianapolis Power & Light Co.*, Cause No. 44540 at 26 (IURC 7/25/2015). The Commission directed IPL to present its net inventory costs in a future ECCRA filing when it seeks modification of the approval granted in Cause No. 44242. *Id.* In Cause No. 42170 ECR 26, IPL updated the status of this issue and the Commission directed IPL to continue its effort to mitigate these costs and to explain IPL's proposed accounting and ratemaking treatment in its next ECR proceeding.

At the time of our decision in Cause No. 44540, IPL's rate case was also pending in Cause No. 44576.<sup>1</sup> As indicated by Mr. Cutshaw, the Order in Cause No. 44576 reflected a historical test period ended June 30, 2014 and the original cost rate base included a materials and supplies inventory based on a 13-month average during the test period. Consequently, the net inventory costs are reflected in the materials and supplies balance included in rate base and IPL is earning, and will continue to earn, a return "on" the materials and supplies inventory until its next rate case.<sup>2</sup> IPL now seeks exceptional ratemaking treatment to recover a return "of" the net inventory costs without any corresponding adjustment to the average inventory costs included in base rates.

We believe that the normal treatment of average inventory balances creates all the revenue requirement elements available for recovery in the normal course of setting rates, i.e., a return "on" the average inventory included in rate base and a return "of" at the test year

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<sup>1</sup> IPL filed its base rate case on December 29, 2014 and the Commission recently issued its Order on March 16, 2016.

<sup>2</sup> Although IPL could have chosen to remove the average amount of materials and supplies inventory associated with HS-7 once it became clear that it would proceed with the HS-7 refueling project, it did not choose to do so.

representative amount of capitalization or consumption of the average inventory. The asymmetrical treatment of the return elements, namely the adjustment on the consumption side without consideration of an average balance adjustment, is contrary to our statutory mandate to ensure that rates are just and reasonable. The balancing of traditional ratemaking with the special ratemaking authorized by such statutes as Ind. Code ch. 8-1-8.4 requires that the Commission afford sufficient consideration and respect to the established norms of ratemaking that have served both consumers and utilities reasonably well.

IPL references an order from the Michigan Public Service Commission (“MPSC”), *DTE Electric Co.*, Case No. U-18033, 2016 WL 2998131 (MPSC 5/20/2016), in support of its proposal. Similar to IPL, DTE requested a regulatory asset to be amortized as an expense, but did not request a regulatory asset to receive a return on. Ultimately, the MPSC permitted DTE to charge the inventory write-down to accumulated depreciation, which is not what IPL requests in this case. Consequently, not only does this order not address Indiana law and its regulatory requirements, it also does not support the relief requested by IPL.

IPL also notes that we have previously allowed utilities to recover the value of emission allowances that had been prudently maintained in inventory, but which were rendered economically obsolete following the termination of environmental regulations. *Indianapolis Power & Light Co.*, Cause No. 42170 ECR 25 (IURC 8/26/2015) and *Duke Energy Ind., Inc.*, Cause No. 42061 ECR 25 (IURC 7/29/2015). However, those cases are distinguishable. In both cases, the emission allowances were not included in the utility’s rate base, but were being tracked through the ECR mechanism. In contrast, IPL already recovers the cost of the average net inventory through the materials and supplies expense embedded in its rates.

The evidence supports that the average expense for materials and supplies in IPL’s base rates includes recovery for the items for which IPL seeks exceptional ratemaking treatment. IPL’s proposal seeks to address only one aspect of the existing ratemaking treatment, namely the return of. Therefore, because IPL’s proposal does not provide reasonable symmetry in how it addresses the traditional base rate cost recovery of the items, we decline to authorize IPL’s proposal to earn a return of the \$3.17 million in net inventory costs.<sup>3</sup>

## **6. NPDES Acceleration Costs.**

**A. IPL’s Evidence.** Mr. Scott explained that IPL incurred NPDES Acceleration Costs to preserve the option to treat flue gas desulfurization wastewater at Petersburg by the April 2017 CCR Rule compliance deadline. He explained that subsequent to amending the engineering, procurement, and construction (“EPC”) contract for the project, the variance granted by the Indiana Department of Environmental Management extended the deadline for CCR compliance and made the acceleration of this portion of the NPDES Compliance Project no longer necessary. He said that while IPL considered the variance was always a possibility, time was of the essence in making sure that IPL would meet the original

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<sup>3</sup> Although we are not approving IPL’s proposed ratemaking treatment for the net inventory costs, we are aware that IPL is considering filing another base rate case proceeding in the near future. In the event that these expenses fall within the test year, IPL may again have the opportunity to address the appropriate ratemaking treatment of the net inventory costs.

compliance deadline. He said to that end, IPL negotiated a cancellation curve in the contract amendment. He said once the variance was granted and the appeals period had ended, the contract was terminated. At that point, the contracted cost to date was \$5.5 million, resulting in a \$4.5 million savings.

Mr. Scott explained that the \$5.5 million is being reflected as CWIP in the NPDES Compliance Project authorized in Cause No. 44540. He said that as explained by IPL Witness Cutshaw, IPL is requesting authority to create a regulatory asset up to \$5.5 million for recovery after the NPDES Compliance Project is completed and in service in September 2017.

Mr. Cutshaw testified that upon completion by the end of September 2017, IPL will receive an itemized detail of the work performed by the EPC contractor. He said at that time, IPL will be able to determine what portion of the \$5.5 million is not attributable to the utility plant that will be placed in service upon completion of the NPDES Compliance Project at Petersburg. He also discussed why sound regulatory policy supports recovery of the NPDES Acceleration Costs.

**B. OUCC's Evidence.** Ms. Armstrong discussed the nature of the NPDES Acceleration Costs and stated these costs are recorded as part of the contingency reserve in the current NPDES Compliance Project costs and will not cause the project to increase over the amount authorized in Cause No. 44540. Ms. Armstrong testified IPL has not provided enough evidence as to the exact nature of these costs to determine whether creating a regulatory asset for these costs is necessary and reasonable. She stated it is unclear why these costs would not be attributable to utility plant in service, and IPL has not provided any explanation as to why these costs could not be recovered by the ratemaking treatment already granted for the NPDES Compliance Project through the ECCRA.

Mr. Blakley testified that the amount and nature of these costs are unknown at this time and probably will not be known until later in 2017. He recommended that IPL wait until more information about the amount and nature of the NPDES Acceleration Costs are known before requesting special regulatory asset recovery for these costs.

**C. IPL's Rebuttal Evidence.** Mr. Cutshaw testified that Mr. Blakley's recommendation was acceptable to IPL. He explained that IPL discussed the NPDES Acceleration Costs and its proposed accounting and ratemaking treatment for these costs as part of this proceeding in order to be transparent and keep the Commission and parties apprised as to the status of the NPDES Compliance Project as part of the Commission's ongoing review of the project. He explained that because the exact nature of the costs will not be known until the project is in service, IPL agrees that this issue need not be decided at this time. He said IPL will provide an update in a subsequent ECCRA filing once the exact nature of the costs is better known.

**D. Commission Discussion and Findings.** The record shows that the NPDES Acceleration Costs are currently recorded in CWIP and will reside there until the NPDES Compliance Project is placed in service and recorded to Utility Plant in Service. The record further shows that once the NPDES Compliance Project is complete (anticipated by the end of September 2017), IPL will receive an itemized detail of the work performed and will be

able to determine what portion (if any) of the \$5.5 million is not attributable to the utility plant that will be placed in service. Accordingly, we accept IPL's proposal to provide an update on this issue in a subsequent ECCRA filing once the exact nature of the costs is better known.

**7. HS-7 Operations and Maintenance Savings.**

**A. IPL's Evidence.** Mr. Scott testified that the costs of operating HS-7 on coal are reflected in the cost of service used to establish IPL's base rates approved by the Commission in Cause No. 44576. He said that IPL recognizes there are O&M savings, excluding fuel, due to operating the unit on natural gas. He stated IPL proposes to credit these O&M savings through the ECR proceedings. Mr. Scott explained that IPL examined the historical costs of O&M for HS-7 operating on coal and estimated O&M costs of operating the unit on natural gas; the difference is the estimated savings. He stated the savings of \$4.762 million presented in this filing are lower than expected for subsequent ECR filings because of one-time O&M repairs of the windbox discovered during the HS-7 refueling outage.

**B. OUC's Evidence.** The OUC witnesses took no exception to IPL's proposed treatment of O&M savings associated with the refueling of HS-7.

**C. Commission Discussion and Findings.** We find IPL's six month estimate of O&M savings associated with operating HS-7 on natural gas to be reasonable. We further approve IPL's proposal to reflect the O&M savings as a credit through the ECCRA mechanism.

**8. Other Ongoing Review Matters.**

**A. IPL's Evidence.** Mr. Fisher reviewed the implementation of IPL's MATS Compliance Project and updated the progress attained subsequent to the issuance of the Order in Cause No. 44242. He described the work completed during this reporting period and discussed the work planned to be accomplished prior to the next ECR proceeding. Mr. Fisher stated that shortly after the beginning of 2016, construction was completed on Petersburg Unit 3 and the project emphasis shifted to the commissioning, start-up, and turnover of the MATS equipment and systems to the plant for operation and maintenance. He said that at this time, only two tasks remain for the completion of the MATS Compliance Project. First, the EPC contractor's final punch list for Petersburg Unit 3 must be completed to achieve the status of Final Completion for the unit. He said Petersburg Units 1, 2 and 4 were awarded this status in April 2016. Second, Mr. Fisher explained there is additional work necessary for the MATS Compliance Project which will be completed outside the scope of the EPC contract. He said this work is necessary to complete the project and that IPL expects the total costs of the project to be approximately \$23 million less than the amount approved by the Commission. Mr. Fisher concluded that the project is progressing as scheduled, within budget, and has an exemplary safety record.

Mr. Scott presented the semi-annual ongoing review reports filed in Cause No. 44339 and explained IPL's request for Commission approval of the ongoing review reports and the construction work and costs incurred as of May 31, 2016. He explained that the Eagle Valley CCGT is on schedule and within the Commission-approved cost estimate. He stated that while the costs associated with the HS-7 Refueling Project are not yet final, IPL expects the costs will

be within the Commission-approved cost estimate. Mr. Scott concluded that the Commission should approve the ongoing review reports and the construction and costs presented therein.

Mr. Migliaccio reviewed the implementation of IPL's NPDES Compliance Project approved in Cause No. 44540 and discussed the work completed through May 2016 as well as the work planned to be accomplished prior to the next ECR proceeding. He stated that significant amounts of project engineering and construction activities have occurred during this reporting period for the NPDES Compliance Project. He discussed the project cost and stated that the project is progressing as scheduled, within budget, and has an extremely good safety record.

**B. OUCC's Evidence.** The OUCC witnesses took no exception to the ongoing review reports.

**C. Commission Discussion and Findings.** IPL's evidence in this Cause included its ongoing review and status reports on the relevant Commission-approved environmental compliance and generation projects. Such ongoing review reports include the semi-annual review reports filed in Cause No. 44339 related to the Eagle Valley CCGT and the refueling of Harding Street Station Units 5 and 6. These projects are not subject to timely cost recovery through the ECCRA. These reports show the CCGT project remains on schedule and below the Commission-approved cost estimate. More specifically, the semi-annual review report filed in Cause No. 44339 shows that the current cost estimate for the CCGT remains \$590 million, which is below the \$631 million cost estimate (minus confidential gas lateral costs) approved by the Commission. While the \$631 million amount does not include Allowance for Funds Used During Construction ("AFUDC"), the Order in Cause No. 44339 (at 23) states that the actual, accrued amount of AFUDC will be included as part of the approved cost. The refueling of Harding Street Station Units 5 and 6 is also on schedule and physically complete. We approve the progress reports dated May 31, 2016 for the projects approved in Cause Nos. 44242, 44339, and 44540 and the construction and costs (including AFUDC) presented therein.

## **9. ECCRA Factors.**

**A. Environmental Compliance Costs.** IPL Exhibit 6, Attachments CF-2 MATS and CF-2 NPDES set forth the construction costs as of May 31, 2016, for which IPL seeks ratemaking treatment in this Cause. Mr. Forestal said that the environmental compliance projects for which IPL is seeking recovery have been under construction at least six months, at a cost of \$676 million (inclusive of AFUDC and net of retirements).

Mr. Blakley testified that according to IPL, the average residential customer using 1,000 kWh per month will experience a decrease of \$0.4713, or 0.4513%. Mr. Blakley said that, with the exception of the net inventory costs and NPDES Acceleration Costs discussed above, nothing came to his attention that would indicate that IPL's calculation of estimated ECCRA factors for the relevant period is unreasonable.

Based on the evidence discussed above, we find that the costs incurred through May 31, 2016, for the environmental compliance projects used in the computation of the proposed ECCRA are reasonable and appropriate. Therefore, we approve the construction work through May 31, 2016, and the reflection of such costs in the ECCRA as proposed by IPL.

**B. Gross Revenue Conversion Factors and Rate of Return on Environmental Compliance Investment.** IPL Exhibit 6, Attachment CF-1 MATS reflects the calculation of IPL's Gross Revenue Conversion Factors as approved in Cause No. 44242, utilizing an allowed rate of return of 6.45% and a gross rate for borrowed funds of 2.30%. IPL Exhibit 6, Attachment CF-1 NPDES reflects the calculation of IPL's Gross Revenue Conversion Factors as approved in Cause No. 44540, utilizing an allowed rate of return of 6.45% and a gross rate for borrowed funds of 2.30%.

We find IPL's Gross Revenue Conversion Factors were calculated properly and approve their use in determining the ECCRA revenue requirement.

**C. Recovery of Depreciation and O&M Expenses.** The Orders in Cause Nos. 44242 and 44540 authorize the timely recovery of depreciation and O&M expenses. IPL Exhibit 6, Attachments CF-2 MATS and CF-2 NPDES include prospective depreciation and O&M expenses for the billing period of September 2016 through February 2017.

Mr. Forestal said that the estimated O&M expenses include chemicals for the operation of the baghouses and precipitators (MATS), the Ash silos (NPDES), and for equipment maintenance. The forecasted O&M also includes the incremental savings or expenses for the maintenance for the HS-7 Refueling Project and six months amortization of deferred costs for the MATS Compliance Project that were not reflected as in service in Cause No. 42170 ECR 26.

We find IPL's estimated depreciation and O&M expenses are reasonable and approve the inclusion of these expenses in the ECCRA revenue requirement.

**D. Revenue Requirement.** In accordance with 170 IAC 4-6-12(5), IPL submitted evidence regarding the derivation of its revenue requirement, including tax calculations, associated with the ratemaking treatment for the environmental compliance construction costs.

IPL Exhibit 6, Attachments CF-2 MATS and CF-2 NPDES provide details of the costs that have been incurred through May 31, 2016. Based on IPL's exhibits, the total ECR 27 jurisdictional revenue requirement associated with earning a return on the environmental compliance construction costs as of May 31, 2016 is \$45.579 million.

Mr. Forestal explained that IPL also included projected depreciation and O&M associated with the environmental controls that are now in service for the billing period of September 2016 through February 2017. Mr. Forestal described how the MATS in-service assets are reflected in the ECCRA filing. The O&M and initial depreciation for the in-service MATS projects are being treated consistent with the Commission's Order in Cause No. 44242 and the approval granted in Cause No. 43403 for IPL's MPP2 project.

IPL's filing includes \$13.309 million of depreciation expense applicable to jurisdictional retail customers and \$4.311 million of O&M expenses applicable to jurisdictional retail customers. IPL Exh. 7, Attachment JC-1. IPL also reconciled estimated expenses and revenues to actual for the ECR 25 period of September 2015 through February 2016, resulting in a total variance of \$4.280 million. IPL Exh. 6, Attachment CF-3. The total jurisdictional revenue

requirement applicable to this ECCRA is \$49.859 million as reflected in IPL Exhibit 6, Attachment CF-3.

We find IPL has properly calculated its revenue requirement. Accordingly, we approve IPL's jurisdictional revenue requirement of \$49.859 million as shown on IPL Exhibit 6, Attachment CF-3.

**E. Net Operating Income for Fuel Adjustment Charge.** 170 IAC 4-6-21, Ind. Code § 8-1-8.8-11(a)(5), and the Commission's orders regarding IPL's environmental compliance projects authorize IPL to add the approved return on its environmental compliance investment to its net operating income authorized by the Commission for the purposes of Ind. Code §§ 8-1-2-42(d)(2) and (d)(3) in all subsequent Fuel Adjustment Charge proceedings. However, the Commission requires that, for purposes of computing the authorized net operating income for Ind. Code §§ 8-1-2-42(d)(2) and (d)(3), the jurisdictional portion of the increased return shall be phased-in over the appropriate period of time that IPL's net operating income is affected by the earnings modification resulting from the Commission's approval of this ECCRA.

**F. Allocation of Jurisdictional Revenue Requirement.** 170 IAC 4-6-15 requires IPL to allocate the jurisdictional revenue requirement among the utility's customer classes in accordance with the allocation parameters established in its last general rate case. Mr. Cutshaw testified that the retail allocation factor is based on the retail jurisdictional share of the twelve-month average system peaks used to allocate production plant, operating expenses and depreciation expenses respectively from IPL's cost of service study as used in IPL's last general rate proceeding. He said there are no non-jurisdictional customers based upon the cost of service study in Cause No. 44576, which is why the jurisdictional retail allocation percentages are 100%. Mr. Cutshaw also explained how the reconciled O&M and depreciation expense variances from Cause No. 42170 ECR 25 are allocated between jurisdictional and non-jurisdictional customers.

Based on the evidence presented, we find IPL has complied with 170 IAC 4-6-15 and approve IPL's allocation factors.

**G. ECCRA Factors.** As shown on Exhibit A to the Petition (I.U.R.C. No. E-17, 2<sup>nd</sup> Revised No. 179.2), the proposed ECCRA factors for each customer class are:

\$0.007962	per KWH for Rates RS, CW (with associated Rate RS service)
\$0.007638	per KWH for Rates SS, SH, OES, UW, CW (with associated Rate SS service)
\$0.005387	per KWH for Rate HL
\$0.006815	per KWH for Rates SL, PL, PH
\$0.001657	per KWH for Rates MU-1, APL

**H. Approval of ECCRA Factors.** The Commission finds that IPL has complied with the rules and procedures applicable to its request, including the requirements of 170 IAC 4-6 and our subsequent orders regarding the ECCRA. The Commission further finds

that the proposed ECCRA factors are properly calculated, comply with the provisions of the Settlement Agreement as approved in Cause No. 44242, and reflect the roll into basic rates authorized in Cause No. 44576. Therefore, the Commission approves the ECCRA factors contained in Exhibit A to the Petition (I.U.R.C. No. E-17, 2<sup>nd</sup> Revised No. 179.2), effective for all bills rendered for electric services beginning with the first full billing cycle following the Commission's Order in this proceeding.

**10. Confidential Information.** IPL filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on June 28, 2016. The motion was supported by an affidavit showing the documents to be submitted to the Commission were trade secret information within the scope of Ind. Code §§ 5-14-3-4 and 24-2-3-2. The Presiding Officers granted the Motion in an August 26, 2016 Docket Entry, finding the information should be held confidential on a preliminary basis. There was no objection as to the confidential and proprietary nature of the information submitted under seal in this proceeding. Accordingly, pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, we find that the confidential information is trade secret and exempt from public access and disclosure by the Commission.

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

1. The environmental compliance projects construction work and construction costs used in the computation of the proposed ECCRA, incurred as of May 31, 2016, are approved.

2. IPL's proposed rate adjustments in its ECCRA as set out in Paragraph 9G of this Order are approved.

3. In accordance with 170 IAC 4-6-21 and Ind. Code §§ 8-1-8.8-11(a)(5) and 8-1-8.4-7(c)(1), and as set forth above in Paragraph 9E, IPL shall add the approved return on its environmental compliance investment to its net operating income authorized by the Commission for the purposes of Ind. Code §§ 8-1-2-42(d)(2) and 8-1-2-42(d)(3) in all subsequent Fuel Adjustment Charge proceedings. However, for purposes of computing the authorized net operating income for Ind. Code §§ 8-1-2-42(d)(2) and 8-1-2-42(d)(3), the jurisdictional portion of the increased return shall be phased-in over the appropriate period of time that IPL's net operating income is affected by this earnings modification resulting from the Commission's approval of this ECCRA.

4. Prior to implementing the authorized rate adjustment, IPL shall file the applicable rate schedules under this Cause for approval by the Commission's Energy Division.

5. IPL's request for authority to create a regulatory asset for approximately \$3.17 million in net inventory costs incurred in connection with the HS-7 Refueling Project is denied.

6. IPL shall provide an update on the NPDES Acceleration Costs in a subsequent ECCRA filing once the exact nature of the costs is better known.

7. IPL's ongoing review reports, including the semi-annual review reports filed in Cause No. 44339, are approved. The construction work and costs associated with the projects approved in Cause No. 44339, incurred as of May 31, 2016 (inclusive of AFUDC), are approved.

8. The information filed in this Cause pursuant to IPL's Motion for Protection is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

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

**STEPHAN, FREEMAN, HUSTON, WEBER, AND ZIEGNER CONCUR:**

**APPROVED:**

**OCT 26 2016**

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

  
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**Mary M. Beceira**  
**Secretary of the Commission**