

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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VERIFIED PETITION OF INDIANAPOLIS)
POWER & LIGHT COMPANY FOR)
APPROVAL OF AN ADJUSTMENT TO ITS)
RATES THROUGH ITS ENVIRONMENTAL)
COMPLIANCE COST RECOVERY)
ADJUSTMENT FOR THE BILLING MONTHS)
OF SEPTEMBER, OCTOBER, NOVEMBER)
AND DECEMBER, 2009 AND JANUARY AND)
FEBRUARY, 2010, PURSUANT TO THE)
COMMISSION'S ORDERS IN CAUSE NOS.)
42170, 42700 AND 43403.)

CAUSE NO. 42170 ECR 13

APPROVED: AUG 26 2009

BY THE COMMISSION:

David E. Ziegner, Commissioner
Aaron Schmoll, Administrative Law Judge

On June 19, 2009, Indianapolis Power & Light Company ("IPL" or "Petitioner") filed its petition for approval of its environmental compliance cost recovery adjustment ("ECCRA") pursuant to the Commission's Orders in Cause No. 42170, issued November 14, 2002 and Cause No. 42700, issued November 30, 2004. Also, on June 19, 2009, Petitioner filed the direct testimony and exhibits of David Kehres, Thomas W. Moore, Craig Forestal, Dwayne Burke and James Cutshaw. The Office of Utility Consumer Counselor ("OUCC") filed the testimony of Wes R. Blakley in this Cause on August 14, 2009.

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 August 19, 2009, at 10:00 a.m., EDT, in Judicial Courtroom 224, National City Center, 101 W. Washington Street, Indianapolis, Indiana. At the hearing Petitioner and the OUCC appeared by counsel and offered their prefiled testimony and exhibits which were admitted into evidence without objection. IPL's Responses to the Commission's August 17, 2009 Docket Entry was also 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:

1. **Commission Jurisdiction and Notice.** Proper notice of the hearing in this Cause was given as required by law. IPL owns and operates an electric utility and is subject to the jurisdiction of this Commission as provided in the Public Service Commission Act, as amended, IC 8-1-2, *et seq.* Thus, the Commission has jurisdiction over IPL and the subject matter of this Cause.

2. **Applicant's Characteristics.** IPL is an electric generating utility and is a corporation organized and existing under the laws of the State of Indiana, having its principal office at One Monument Circle, Indianapolis, Indiana. IPL is engaged in rendering electric

public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plants and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of such service to the public.

3. **Proposed Rider Adjustment.** The Commission's November 14, 2002 Order in Cause No. 42170 granted IPL a Certificate of Public Convenience and Necessity ("CPCN") for Petitioner's projects to comply with new environmental regulations restricting the emission of nitrogen oxides ("NOx") from Petitioner's generation units ("November 14 Order"). The November 14th Order also approved use of the ECCRA and procedures for implementing the ECCRA, including standardized forms for purposes of submission of information. On February 28, 2007 in Cause No. 42170-ECR-8, the Commission approved modifications to Petitioner's CPCN to include the installation of a sodium bisulfite ("SBS") injection system for the Selective Catalytic Reduction ("SCR") projects for Petersburg Units 2 and 3 to mitigate sulfur trioxides ("SO₃") emissions and for recovery of the cost of the SBS injection system.

The Commission's November 30, 2004 Order in Cause No. 42700 approved modifications to the CPCN to construct a Flue Gas Desulphurization ("FGD") system at Harding Street Unit 7 and FGD Enhancements on Petersburg Unit No. 3 (the "November 30 Order"). On August 31, 2005 in Cause No. 42170 ECR 5, on August 16, 2006 in Cause No. 42170 ECR 7 and on February 28, 2007 in Cause No. 42170 ECR 8, the Commission approved modifications to IPL's CPCN regarding IPL's cost estimates of the CCT projects. On September 13, 2007, in Cause No. 42170 ECR 9, the Commission found that the catalyst replacement and refurbishment expenditures incident to the operation of IPL's Selective Catalyst Reduction equipment are an ongoing cost appropriate for recovery in IPL's ECR semi-annual proceedings.

The projects approved pursuant to the Commission's November 14 and November 30 Orders and our subsequent orders in various ECR proceedings, concern the first step of IPL's Multi-Pollutant Plan, (hereinafter referred to as "MPP-1"). The Commission's April 2, 2008 Order in Cause No. 43403 approved a modification to the CPCN to construct FGD Enhancements on Petersburg Unit No. 4 and to install mercury monitors ("April 2 Order") to allow IPL to reliably and economically achieve compliance with the Environmental Protection Agency's ("EPA") air emission regulations (this second step of IPL's Multi-Pollutant Plan is hereinafter referred to as "MPP-2") MPP-1 and MPP-2 are collectively referred to as the "Multi-Pollutant Plan". In this Cause, Petitioner seeks Commission approval of an ECCRA to earn a return on construction costs incurred as of May 31, 2009, and to timely recover depreciation and Operation and Maintenance ("O&M") expenses.

4. **Status of Petitioner's Construction of Qualified Pollution Control Property ("OPCP").** Petitioner submitted testimony regarding the status of the Clean Coal Technology ("CCT") projects. IPL Witness Kehres provided the final NOx project costs for the original projects approved in Cause No. 42170. He also stated that the SBS Injection Systems have not been completed. The current estimated completion date for the SBS Injection Systems is November 23, 2010. He stated that the final costs for the installation of the SBS Injection Systems will be reported once those projects are completed and placed into service.

Witness Kehres testified that there were two Multi-Pollutant Plan projects that were approved in the November 30th Order. The first was enhancement to the existing flue gas desulphurization ("FGD") system on Petersburg Unit 3. He stated that the FGD system on

Petersburg Unit 3 has been completed and that the project entered service on June 24, 2006. Witness Kehres testified that the performance of the upgraded scrubber has exceeded the original design emission target of 0.4 lbs. SO₂/MMBTU as the current emissions from Unit 3 are less than 0.2 lbs. SO₂/MMBTU. This better than expected performance will likely result in lower future SO₂ compliance costs as fewer SO₂ emissions allowances will be consumed on Unit 3.

The second Multi-Pollutant Plan project is construction of a new FGD system for Harding Street Station Unit 7. Witness Kehres testified that the Harding Street Unit 7 FGD went into service on September 17, 2007, although some construction/punchlist completion activities continue, including installation of hydroclones on the gypsum by-product dewatering system. He explained that the addition of hydroclones to the gypsum by-product dewatering system is required to remove excess fine inert materials, which will improve certain gypsum quality parameters such that the by-product gypsum will meet the specification for use in gypsum wallboard. He stated that the hydroclone installation is well underway and should be completed by August 1, 2009. Mr. Kehres noted that without the installation of the hydroclones a large portion of the by-product gypsum would have to be disposed as a waste in a landfill at significantly higher costs when compared to reuse in wallboard production. Mr. Kehres explained that the other remaining work includes installation of several platforms to improve access to several components, addition of pipe supports where needed, installation of control valves to improve system reliability, installation of a back-up inlet SO₂ analyzer for scrubber control, and improvements to plant drainage in the FGD area. He stated that these projects are planned to be completed during the upcoming ECR period.

Mr. Kehres stated that IPL has completed the installation of some additional stiffening to the Induced Draft ("ID") fan foundations to resolve the higher vibration levels. He explained that the modification of the ID fan foundations was necessary to address vibration issues resulting from the variable speed ID fans operating at higher speeds than anticipated. Mr. Kehres also testified that IPL has completed the installation of a continuous Particulate Emissions Monitoring System (PEMS) on the Unit 7 scrubbed stack and that the PEMS certification testing has also been completed. He stated that IPL is waiting on final certification from the Indiana Department of Environmental Management and the system will be placed into service once this certification has been received.

Mr. Kehres stated that after the start-up of the Harding Street Unit 7 FGD, IPL began experiencing operating deficiencies. He stated that Unit 7 was placed in service in 2007 and at that time IPL started having trouble with the Unit 7 ID fan vibration and the unit started experiencing opacity problems on the new wet stack. He stated that IPL determined that studies were needed in order to narrow down the causes and possible solutions to Unit 7 issues. In November 2007, IPL contracted with Alstom to verify its in-house data and provide additional data on Unit 7 flue gas parameters. They took flow measurements, pressure readings and air-in-leakage data from the SCR inlet to the "Dry Stack". This testing verified that the flows, pressure drops, and leakage rates were at design levels. Thus it was concluded that the FGD addition was causing the issues. Mr. Kehres stated that in early 2008, IPL contracted with Black and Veatch ("B&V") to perform a study to provide solutions for the Unit 7 operating deficiencies. The Alstom and B&V studies helped IPL solve several issues created by the FGD addition; however, not all findings of the studies resulted in capital projects. The Boiler Draft portion of the B&V study looked at adding bypass dampers, ductwork changes, adding fans, moving fans, etc. The final conclusion reached by B&V was that none of the options would make a significant change

in the Unit 7 boiler draft issues. Mr. Kehres stated that no capital projects resulted from this portion of the study. The Precipitator portion of the B&V study reviewed the addition of humidification, SO₃ injection, or NH₄ injection for performance improvement. Ultimately, chemical injection was not a recommendation of the study. Mr. Kehres stated that the total cost for the portions of the Alstom and B&V studies described above was approximately \$170,000, which is included in the O&M expenses being sought to be recovered in this proceeding.

Witness Burke testified that since commencement of operation, the Harding Street Unit #7 FGD scrubber is removing at least 97% of the SO₂ from the Unit #7 flue gas. To quantify this SO₂ reduction, the pre-scrubber SO₂ emission rate was 2.46 pounds of SO₂ per million BTU and the post-scrubber SO₂ emissions rate is now 0.08 pounds of SO₂ per million BTU. Overall SO₂ emissions at Harding Street have decreased from 31,000 tons per year to 1,000 tons per year. Therefore, a significant reduction in SO₂ emissions has occurred at Harding Street due to the Unit #7 FGD scrubber. In addition to the SO₂ reductions, there have been reductions in PM/PM10/PM2.5 and ionic mercury due to operation of the Harding Street Unit #7 FGD scrubber. IPL believes the reduction in PM2.5 will assist Marion County in the PM2.5 attainment strategy. Mr. Burke stated that since September 17, 2007 (startup of scrubber), the Harding Street Unit #7 FGD scrubbed stack has experienced an increase in opacity readings causing IPL to frequently de-rate the unit.

Mr. Burke stated that IPL believes that a percentage of the increase in opacity readings can be attributed to the utilization of a Continuous Opacity Monitor System ("COMS") located upstream of the Harding Street Unit #7 FGD scrubber. Opacity is measured by the COMS in the duct work, and not at the stack exit, which is where the opacity limit applies. Harding Street currently operates its COMS for the scrubbed stack associated with Unit #7, in duct-work between the Unit #7 Electrostatic Precipitator ("ESP") and the recently installed Unit #7 FGD scrubber. IPL believes that the current location of the COMS is not ideal for obtaining data representative of actual particulate matter ("PM") emissions, as PM is removed in the scrubber downstream of the opacity monitor. Thus, actual PM emissions discharged at the scrubbed stack are lower than that represented by the current opacity monitor.

Mr. Burke testified that on September 10, 2008, IPL submitted a letter to IDEM requesting to install, certify, and operate a particulate matter continuous emission monitoring system ("PM CEMS") in place of the COMS as an alternative method to monitor particulate emission rates from the Unit #7 FGD scrubbed (wet) stack at IPL's Harding Street Generating Station. He stated that IPL would install the PM CEMS after the wet scrubber on Unit #7 and believes that a downstream PM CEMS should be the preferred method for monitoring PM emissions at the scrubbed stack associated with Unit #7. Mr. Burke explained that even though COMS and PM CEMS can both be utilized for compliance purposes, the problem with opacity monitors is that they do not necessarily correlate well with actual emission rates at opacity measurements of less than 15%. COMS are also relatively sensitive to particle size and moisture level within the flue gas stream.

Mr. Burke testified that on November 7, 2008, IDEM issued Commissioner's Order (#2008-02) and Variance Decision to IPL Harding Street regarding approval to install, certify and operate a PM CEMS in lieu of COMS for Harding Street Unit #7 scrubbed stack. The variance became effective on November 25, 2008. Since the issuance of the Commissioner's Order (#2008-02) and Variance Decision, IPL Harding Street has purchased and installed a PM

CEMS in the Unit #7 FGD scrubbed stack. He stated that the capital cost associated with the installation of a PM CEM is approximately \$575,000 with an estimated O&M expense of \$39,000. With the PM CEMS being a new install for IPL and some other utility units struggling to meet certification after installation, IPL Harding Street expects a 95% confidence that it can certify a PM CEMS. Mr. Burke testified that in actuality, the probability is more than likely higher than that due to the proposed vendor's record of success on recent PM CEMS installations and the knowledge of their staff on PM CEMS. He explained that IPL Harding Street performed PM CEMS certification testing the week of April 20, 2009 and submitted the results of the PM CEMS certification testing to IDEM on June 4, 2009. He explained that IDEM has sixty (60) days to determine if the unit is certified pursuant to EPA standards. IPL plans to initiate the operation of the certified PM CEMS associated with Harding Street Unit #7 FGD scrubbed stack by the end of 2009. Mr. Burke stated that upon operation of the certified PM CEMS, IPL will be able to report the total benefit of the Unit #7 FGD, not only in reductions of SO₂ air emissions, but also in particulate matter.

Mr. Kehres testified that there are two additional Multi-Pollutant Plan projects that were approved in the Commission's April 2 Order; Petersburg Unit 4 FGD Enhancements and Mercury Monitoring Systems. He stated that IPL has decided to delay the Petersburg 4 FGD Enhancements project and that the Petersburg Unit 4 turbine overhaul outage has been rescheduled for 2011 to match the revised project completion schedule for the FGD Enhancements. He stated that engineering and procurement activities have begun on the Petersburg Unit 4 FGD project and will continue as necessary to support the revised project completion date.

Mr. Burke stated that because of the uncertainty associated with the federal CAIR IPL is planning to delay the targeted in service date of the Petersburg 4 FGD Enhancement project from 2010 to 2011 to allow more time for the EPA to finalize a CAIR replacement rule. As to recent developments relating to the Federal Clean Air Interstate Rule ("Federal CAIR"), Mr. Burke explained that on July 11, 2008, the D.C. Circuit Court issued an opinion vacating CAIR. On September 24, 2008, EPA and three (3) other petitioners filed with the U.S. Court Appeals (D.C.) a petition seeking rehearing and reinstatement of the Federal CAIR rule. EPA asked the court to reconsider its decision to vacate CAIR. On October 21, 2008, the D.C. Circuit Court asked the parties to the CAIR litigation if the court should vacate the rule or stay the mandate while the EPA revises CAIR which would allow CAIR to still be in effect. On November 18, 2008, EPA filed a brief stating that it prefers that the D.C. Circuit Court remand its initial decision. However, EPA preferred, at a minimum, that the D.C. Circuit Court stay its mandate and allow the rule to go into effect for a finite period of time until EPA revises the rule. Mr. Burke stated that on December 23, 2008, the Court granted EPA's petition to the extent that the case be remanded without vacatur for the agency to conduct further proceedings consistent with the Court's opinion in the case, and denied the remaining petitions. The Court determined that, notwithstanding the flaws of CAIR, remanding it without vacatur was preferable to retain the environmental benefits of the rules. As a result, CAIR became effective on January 1, 2009 for the annual NO_x budget trading program.

Mr. Burke described the CAIR NO_x emission reduction requirements that became effective on January 1, 2009. He stated that CAIR NO_x requires year round compliance as of January 1, 2009. This is referred to as annual NO_x compliance program. This new requirement is in addition to the summer ozone season requirements which have been in effect since the NO_x

SIP call. Further, CAIR NOx is phased in through two phases. Phase I became effective on January 1, 2009 with the effective emission reduction requirements of 0.15 lb / mm BTU remaining the same as the EPA NOx SIP call. Phase II is scheduled to go into effect on 1/1/2015 with the effective limit being lowered to 0.125 lb / mm BTU. He explained that IPL anticipates it will meet both the 2009 NOx annual and summer ozone season emission requirements through the successful operation of pollution control equipment. IPL completed adding additional layers of SCR catalyst for Petersburg Unit 2, Petersburg Unit 3, and Harding Street Unit 7 which lowered the NOx emission rates on those units as described in ECR 10. However, even though IPL is planning to be slightly long to flat on NOx emission annual and ozone allowances during the 2009 NOx seasons due to catalyst enhancements, it is feasible IPL may be required to purchase a relatively small amount of NOx annual and/or ozone allowances on the open market to help meet its 2009 NOx emission reduction requirements. Mr. Burke stated that IPL will purchase any needed NOx annual and/or ozone allowances on the open market to cover any shortfall as has been done in the past. IPL will continue to monitor the allowance market to determine the best opportunity to obtain the remaining NOx annual and/or ozone allowance shortfall prior to the EPA true up dates. Allowance purchases, if needed, will occur prior the EPA true up dates. The true up date for the annual compliance period is March 1 of every year following the compliance period. For example, the true up period for 2009 annual emissions is March 1, 2010. The true up date for ozone season compliance continues to be November 1 following completion of the ozone period which runs from May – September annually.

Mr. Burke stated that since the beginning of 2009, the NOx annual allowance market has traded between \$1200/ton and \$4250/ton whereas the NOx ozone allowance market has traded between \$325/ton and \$625/ton. The market volatility has increased from the past as a result of two actions. First, the D.C. Circuit granted rehearing only to the extent that it remanded the rules to EPA without vacating them on December 23, 2008. The December 23, 2008 ruling leaves CAIR, including the CAIR trading programs, in place until EPA issues a new rule to replace CAIR within the next two (2) years. EPA is continuing to record allowance allocations under the CAIR NOx trading program, in some cases for years beyond the estimated two-year period for promulgation of a replacement rule. EPA is taking these actions consistent with the State or Federal rule that applies. When making any decisions on, and arrangements for, purchasing or selling CAIR NOx allowances, EPA has indicated that prospective buyers and sellers should keep in mind the potential impact that the status of CAIR and any replacement rule may have on the value of the allowances, particularly those allocated for years after the expected finalization of a replacement rule. EPA's continued recording of CAIR NOx allowances does not guarantee or imply that any allowances will continue to be usable for compliance after a replacement rule is finalized or that they will continue to have value in the future. In short, the remand does little to relieve the uncertainty created by the vacatur. The court's decision remains unchanged; the requirement on the Agency to rewrite the rule remains unabated; and the value of credits associated with the rule is still exceedingly speculative. Second, the current world financial crisis has led to speculative participants fleeing the market; only those who need the allowances for NOx annual and ozone season compliance appear to be participating at this time as evidenced by low trade volumes. Taken together these activities have led to illiquid markets which in fact don't accurately reflect a true market. However, once CAIR is finalized the markets will likely stabilize. At that time, IPL will provide an update to the Commission on the emission allowance market.

Mr. Burke described the emission reduction requirements for CAIR as it relates to SO₂. He stated that as previously indicated CAIR contains two emission reduction components: NO_x and SO₂. As with NO_x, SO₂ emission reduction requirements are phased in. As previously indicated, Phase I NO_x became effective on January 1, 2009. However, Phase I for CAIR SO₂ takes effect on January 1, 2010 and requires a 50% reduction in SO₂ emissions. Phase II for CAIR SO₂ is scheduled to take effect on January 1, 2015 and will require an additional 33% reduction. Mr. Burke stated that beginning on January 1, 2010 IPL, like other regulated entities, will be required to submit SO₂ allowances at a ratio of 2:1. Subsequently, on January 1, 2015 IPL will submit allowances at a ratio of 2.86:1.

Mr. Burke explained the impact of the Court's remand of CAIR. He stated that IPL believes that the underlying amount of uncertainty remains essentially the same as the initial vacatur. No one knows how the Agency will 'rewrite' the rule, in large part because the DC Circuit's decision left little of the original rule intact. Nor is it clear how, or even whether, a remanded rule will be enforced, especially with respect to timetables. Because of these uncertainties, the value of credits associated with the rule is still exceedingly speculative. However, due to the remand of CAIR, IPL commenced operation of its NO_x equipment on a year round basis to ensure compliance with the CAIR requirements. The Indiana CAIR replacement rule and the emergency rule were withdrawn by the Indiana Department of Environmental Management as a result of the Court's remand of CAIR.

Mr. Burke stated that at this time, it does not appear IPL will be required to install additional NO_x equipment until a CAIR replacement rule is developed and finalized but that IPL may be required to purchase a limited number of NO_x allowances on the open market to help supplement its compliance plan as it has done in the past.

IPL had previously delayed the Mercury Monitoring projects due to the uncertainty surrounding the Clean Air Mercury Rule ("CAMR"), which was recently vacated by the courts. Mr. Kehres stated that IPL has now decided to suspend the Mercury Monitoring projects and will not proceed with the installation of the Mercury Monitoring Systems at this time.

Witness Burke testified that on October 3, 2007, the Indiana Air Pollution Control Board adopted, with minor changes from the EPA Clean Air Mercury Rule ("CAMR"), the state rule to implement EPA's CAMR. The rule became effective on February 3, 2008, with compliance required in 2010. On February 8, 2008, the United States Court of Appeals for the District of Columbia Circuit vacated two EPA rules addressing utility mercury emissions that were the stimulus for the Indiana Air Pollution Control Board's CAMR.

The first is the EPA's rule delisting coal and oil-fired electric generating units from the list of sources whose emissions are regulated under section 112 of the Clean Air Act, 42 U.S.C. § 7412. Revision of December 2000 Regulatory Finding ("Delisting Rule"), 70 Fed. Reg. 15,994 (March 29, 2005). The second is the EPA's rule that set performance standards for new coal-fired electric generating units and established total mercury emission limits for States along with a cap-and-trade program for new and existing coal-fired electric generating units. Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units ("CAMR"), 70 Fed. Reg. 28,606 (May 18, 2005). On March 24, 2008, the EPA and various members of industry filed petitions with the court for rehearing of these decisions. Subsequently, on May 20, 2008 the D. C. Circuit Court of Appeals rejected a request from the

utilities and EPA for an en banc hearing. At this time, it is unclear whether the utilities or EPA will seek additional review from the U.S. Supreme Court.

Mr. Burke provided an update on new legislative environmental activities that may have a significant impact on IPL's business. He stated that on May 21, 2009, the Energy and Committee reported H.R. 2454, the Waxman-Markey climate change bill, "The American Clean Energy and Security Act of 2009 (ACESA)" by a vote of 33 to 25. Key provisions in the bill:

- Require electric utilities to meet 20% of their electricity demand through renewable energy sources and energy efficiency by 2020;
- Invest in new clean energy technologies and energy efficiency, including energy efficiency and renewable energy (\$90 billion in new investments by 2025), carbon capture and sequestration (\$60 billion), electric and other advanced technology vehicles (\$20 billion), and basic scientific research and development (\$20 billion);
- Mandate new energy-saving standards for buildings, appliances, and industry;
- Reduce carbon emissions from major U.S. sources by 3% by 2012, 17% by 2020 and over 80% by 2050 compared to 2005 levels. Complementary measures in the legislation, such as investments in preventing tropical deforestation, may achieve additional reductions in carbon emissions; and
- The electricity sector will receive 35% of the allowances, representing 90% of current utility emissions. Local electric distribution companies, whose rates are regulated by the states, will receive 30% of the allowances, which they must use to protect consumers from electricity price increases.

Mr. Burke explained that IPL plans to monitor this bill and other greenhouse gas legislation as it moves to the House floor for further debate. IPL will provide an update to the Commission on the greenhouse gas activities at the Federal level during its next filing or sooner should conditions warrant.

Petitioner's Exhibit DK-2 shows the projected in-service dates for the implementation of IPL's Multi-Pollutant Plan projects and the estimated total project cost of compliance, by project, for each of IPL's generating facilities where Multi-Pollutant Plan projects are being installed. Petitioner's Exhibit CF-2 MPP provides details of the construction costs which have been incurred through May 31, 2009. IPL Witness Kehres testified that the current cost projections for the Multi-Pollutant Plan projects remain unchanged since the previous filing.

In Petitioner's ECR 8 proceeding, OUCC Witness Blakley proposed that IPL submit in subsequent ECR filings the monthly progress reports it receives from Advatech LLC, pursuant to Section 2.3.2 of the No Lien Agreement for Engineering Procurement and Construction ("EPC") services between IPL and Advatech LLC dated September 23, 2005. Petitioner agreed to submit such reports and Petitioner provided Petitioner's Exhibit DK-3, which included Progress Reports received since its last proceeding. OUCC Witness Blakley testified that nothing came to his attention that "would indicate that Petitioner's calculation of estimated ECR adjustment factors for the relevant period is unreasonable."

Based on the evidence, we find that the costs incurred through May 31, 2009 for the CCT projects are reasonable and appropriate. We approve the construction work through May 31, 2009, and the reflection of such costs in the ECCRA.

5. Compliance with Applicable Requirements.

A. Amount of QPCP Construction Costs. 170 IAC 4-6-12 ("Section 12") requires Petitioner to make certain submissions as part of its prefiled written testimony and exhibits in support of its request for ratemaking treatment for its QPCP construction costs. Pursuant to Section 12(a), Witness Forestal sponsored Petitioner's Exhibits CF-2 NOx and CF-2 MPP, which set forth the construction costs as of May 31, 2009 for which Petitioner seeks ratemaking treatment in this Cause. This ECCRA includes recovery of costs approved in this Commission's prior orders in Cause No. 42170 and Cause No. 42700. Mr. Forestal stated that the projects approved in the April 2 Order must be under construction for at least six months prior to inclusion in the ECCRA and that projects approved in the Commission's April 2 Order would be included in a later ECCRA once this condition has been met.

B. Rate of Return on Approved QPCP Construction Costs. Petitioner's Exhibit CF-1 NOx reflects the calculation of Petitioner's Gross Revenue Conversion Factors as approved in Cause No. 42170 utilizing an allowed rate of return of 8.00% and a gross rate for borrowed funds of 3.27%. Petitioner's Exhibit CF-1 MPP reflects the calculation of Petitioner's Gross Revenue Conversion Factors as approved in Cause No. 42700 utilizing an allowed rate of return of 7.70% and a gross rate for borrowed funds of 3.65%.

C. Recovery of Depreciation and Operation and Maintenance (O&M) Expenses. Our November 14, November 30 and April 2 Orders, provide for the timely recovery of depreciation and O&M expenses. Petitioner's Exhibit CF-2 NOx and Petitioner's Exhibit CF-2 MPP included prospective depreciation and O&M expenses. Witness Forestal testified that the estimated O&M expenses were for ammonia and urea costs that will be consumed for the operation of the SCRs and SNCRs, limestone, chemicals and labor costs (including benefits) for the operation of the FGDs, as well as for maintenance of the equipment.

IPL Witness Moore provided a review of the implementation of IPL's Selective Catalytic Reduction ("SCR") Catalyst Management Program and provided information regarding the replacement and refurbishment expenditures which will be incurred incident to operation of IPL's SCR systems at Petersburg Unit 2, Petersburg Unit 3 and Harding Street Unit 7 for which recovery will be sought in future proceedings. He also presented updated and new information regarding the continuing processes for the SCR Management Program, the SBS Injection System and SCR System modifications to be undertaken as a result of year round operation of the SCRs presently installed. Mr. Moore stated that with the initiation of year round operation of the SCRs, several system modifications and additions have been identified as needed to provide safe and efficient NOx reduction throughout the year. He explained that in the fall of 2009, Petersburg Unit 3 will be taken off line for a unit outage. At that time IPL plans to make the necessary equipment modifications and additions to the Petersburg Unit 3 SCR. Petersburg Unit 2 is not scheduled for an outage until late 2010. For that reason several of these essential modifications for year round operation were undertaken during the most recent scheduled outage for Petersburg Unit 2 in late March and early April of 2009.

Mr. Moore identified and described the equipment modifications and additions. He stated that the initial construction and operation of the SCR's at Petersburg were intended to provide optimal NOx reduction of the flue gases. Provisions for additional catalyst and year round operation were included but delayed until needed.

He stated that these items were identified prior to the Petersburg Unit 2 outage in March of this year. Each of these tasks was undertaken for Unit 2 at the time of the outage. Where applicable, work for these items on Petersburg Unit 3 will be completed during the Fall 2009 outage.

Mr. Moore also explained that three additional items are identified for inclusion with each Unit's SCR. The work for these tasks is scheduled for the next available outage windows. He explained that two final equipment additions, related to year round operation, have been identified in the area of the ammonia tank farm and handling system.

Mr. Moore stated that other modifications or additions to the SCR equipment have been investigated. He explained that several other system additions and modifications have been identified and studied for implementation on the Petersburg SCR Systems. For various reasons, both technical and economic, these changes have been dismissed or delayed at this time. Mr. Moore also acknowledged a substantive change for the planned in-service date for the SBS Injection System for Petersburg Units 2 and 3. He stated that due to further technical advances in the process and delays in the detailed design of the system, a new in-service date of November 23, 2010 has been established. He stated that the patent holder and developer of the SBS Injection System have continued to provide process modifications and enhancements for increased process efficiency and reduced capitalized costs. On August 18, 2009, IPL filed its responses to the Commission's August 17, 2009 Docket Entry explaining what "enhancements for increased process efficiency and reduced capitalized costs" have been made.

D. Revenue Requirement. Section 12(5) requires Petitioner to submit evidence regarding the derivation of its revenue requirement, including tax calculations, associated with the ratemaking treatment for the QPCP construction costs. Petitioner's Exhibit CF-1 NOx and Petitioner's Exhibit CF-1 MPP provide this information. Petitioner's Exhibit CF-2 NOx and CF-2 MPP provide details of the construction costs which have been incurred through May 31, 2009. Witness Forestal stated that the CCT projects for which IPL is seeking recovery had been under construction at least six months, including modifications to the projects that are necessary for year round operation, at a cost of \$474.2 million, including AFUDC through May 31, 2009. Petitioner's Exhibit CF-2 NOx and Petitioner's Exhibit CF-2 MPP indicate that the total ECR 13 revenue requirement associated with QPCP construction costs as of May 31, 2009 is \$21.066 million.

Mr. Forestal explained that IPL also included projected depreciation and O&M associated with the CCT controls that are now in-service for the billing period of September 2009 through February 2010. The amount of depreciation expense that is included in ECR 13 is \$14.1 million, and the amount of O&M included in ECR 13 is \$9.5 million. Petitioner's Exhibit JC-2 demonstrates that the jurisdictional revenue requirements applicable to ECR 13 are \$45.24 million.

IPL reconciled estimated expenses and revenues to actual for the ECR-11 period of September 2008 through February 2009 resulting in a total variance of \$100,768 (Petitioner's

Exhibits CF-3, CF-4 and CF-5). Mr. Forestal stated that the depreciation expense variance for ECR-11 was approximately 5.49% because it included a correction to the depreciation for the period of September 2007 through February 2009 because the value of Harding Street 7 FGD was misstated in the fixed asset system. Mr. Blakley testified that the misstatement was due to disputed amounts with Advatech of approximately \$10 million, which were inadvertently excluded from the depreciable value utilized in the depreciation expense calculation. The depreciation variance arises from inclusion of the corresponding depreciation that would have been reflected in prior ECR billing periods if the disputed amounts were properly reflected. Mr. Blakley recommended that IPL be permitted to recover the depreciation corresponding to the disputed amounts. Combining the reconciliation variance with the jurisdictional revenue requirements result in total ECR 13 costs to collect of \$45,340,768

E. Net Operating Income for Fuel Adjustment Clause. Pursuant to 170 IAC 4-6-21, Petitioner shall add the approved return on its QPCP to its net operating income authorized by the Commission for the purposes of IC 8-1-2-42(d)(2) and IC 8-1-2-42(d)(3) in all subsequent Fuel Adjustment Charge proceedings. However, the Commission requires that, for purposes of computing the authorized net operating income for IC 8-1-2-42(d)(2) and IC 8-1-2-42(d)(3), the jurisdictional portion of the increase return shall be phased-in over the appropriate period of time that the Petitioner's net operating income is affected by this earnings modification resulting from the Commission's approval of this QPCP Construction Cost Rider.

F. Allocation of Jurisdictional Revenue Requirement. 170 IAC 4-6-15 provides that a utility's QPCP jurisdictional revenue requirement should be allocated among the utility's customer classes in accordance with the allocation parameters established in the utility's last general rate case. In accordance with Section 12(6), Petitioner's Exhibit JC-2 demonstrates the allocation of the QPCP construction cost revenue requirement among the utility's customer classes. Petitioner's allocation factors are from Petitioner's most recent electric rate case (Cause No. 39938) approved August 24, 1995.

G. Amount of Rider Adjustment. In Petitioner's Exhibit CF-3, the following ECCRA rate for each customer class was proposed:

- \$0.005880 per KWH for Rate RS, CW (with associated Rate RS service)
- \$0.009262 per KWH for Rates SS, SH, OES, UW, CW (with associated Rate SS service)
- \$0.005805 per KWH for Rates SL, PL, PH, HL

H. Approval of Rider Adjustments. The Commission finds that Petitioner has complied with the rules and procedures applicable to its request, including the requirements of 170 IAC 4-6, the November 14 Order, the November 30 Order, the April 2 Order and our subsequent orders regarding the Rider. The Commission further finds that the proposed Rider Adjustments are properly calculated. Therefore, the Commission finds that the Rider Adjustments contained in Petitioner's Exhibit CF-3, as shown in Petitioner's Exhibit A, should be approved.

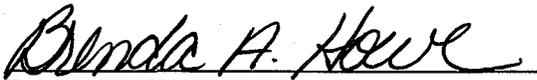
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The CCT Projects construction work and construction costs incurred as of May 31, 2009, are hereby approved.
2. Petitioner's proposed rate adjustments in its ECCRA as set out in this Order shall be and the same are hereby approved.
3. Pursuant to 170 IAC 4-6-21, Petitioner shall add the approved return on its QPCP to its net operating income authorized by the Commission for the purposes of IC 8-1-2-42(d)(2) and IC 8-1-2-42(d)(3) in all subsequent Fuel Adjustment Charge proceedings. However, for purposes of computing the authorized net operating income for IC 8-1-2-42(d) and IC 8-1-2-42(d)(3), the jurisdictional portion of the increased return shall be phased-in over the appropriate period of time that the Petitioner's net operating income is affected by this earnings modification resulting from the Commission's approval of this QPCP Construction Cost Rider.
4. Prior to placing the proposed rate adjustments in effect, Petitioner shall file with the Electricity Division of the Commission an amendment to its tariff reflecting the approved QPCP Construction Cost Rider rate adjustments contained in Petitioner's Exhibit CF-3, as shown in Petitioner's Exhibit A.
5. This Order shall be effective on and after the date of its approval.

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

APPROVED: AUG 26 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**