

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF DUKE ENERGY INDIANA,)
INC. SEEKING (1) APPROVAL OF AN ONGOING)
REVIEW PROGRESS REPORT PURSUANT TO IND.)
CODE §§8-1-8.5 AND 8-1-8.7; AND (2) AUTHORITY)
TO REFLECT COSTS INCURRED FOR THE)
EDWARDSPORT INTEGRATED GASIFICATION)
COMBINED CYCLE GENERATING FACILITY)
(“IGCC PROJECT”) PROPERTY UNDER)
CONSTRUCTION IN ITS RATES AND AUTHORITY)
TO RECOVER APPLICABLE RELATED COSTS)
THROUGH ITS INTEGRATED COAL)
GASIFICATION COMBINED CYCLE GENERATING)
FACILITY COST RECOVERY ADJUSTMENT,)
STANDARD CONTRACT RIDER NO. 61 PURSUANT)
TO IND. CODE §§ 8-1-8.8-11 AND -12)

CAUSE NO. 43114 IGCC 9

APPROVED: APR 03 2013

ORDER OF THE COMMISSION

Presiding Officers:
David E. Ziegner, Commissioner
David E. Veleta, Administrative Law Judge

On June 8, 2012, Duke Energy Indiana, Inc. (“Duke”, “Petitioner” or “Company”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause. In its Petition, Duke requested: (1) approval of an ongoing review progress report; and (2) authority to reflect costs incurred through March 31, 2012 for the Edwardsport Integrated Gasification Combined Cycle Generating Facility (“IGCC Project”) property under construction in its retail electric rates, and authority to recover certain other applicable related costs through its Integrated Coal Gasification Combined Cycle Generating Facility Cost Recovery Adjustment, Standard Contract Rider No. 61 (“Rider 61” or “IGCC Rider”).

Pursuant to notice as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing was held in this Cause on January 15, 2013, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Duke, the Sierra Club, Citizens Action Coalition of Indiana, Save the Valley, and Valley Watch (collectively “Joint Intervenors”), and the Indiana Office of Utility Consumer Counselor (the “OUCC”) appeared and participated. No members of the general public were present or sought to testify.

At the evidentiary hearing, Petitioner presented the testimony and exhibits of W. Michael Womack, Vice President, Edwardsport IGCC Project; Jack L. Stultz, General Manager II, Regulated Fossil Stations; and Diana L. Douglas, Director of Rates for Duke Energy Indiana. The

testimony and exhibits offered by the Petitioner were admitted into evidence without objection. The OUCC presented the testimony of Mr. Wes R. Blakley, Senior Utility Analyst, which was admitted into evidence without objection. Joint Intervenors presented the testimony of Mr. Kerwin L. Olson, Executive Director of the Citizens Action Coalition, which was also admitted into evidence without objection.

On December 18, 2012, Joint Intervenors filed *Joint Intervenors' Objection To Participation of Chief Administrative Law Judge Loraine Seyfried In All Commission Deliberations In This and Related Proceedings*.¹ The Commission has not conducted any Executive Sessions in the IGCC-9 proceeding. Furthermore, with the issuance of this Order, any further discussion of this matter in the IGCC-9 proceeding is unnecessary.

Based upon applicable law and the evidence presented herein, the Commission finds as follows:

1. Notice and Jurisdiction. Due, legal, and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Duke is a public utility as defined by Indiana Code § 8-1-2-1, and is subject to regulation by the Commission to the extent provided for in the Public Service Commission Act, as amended. Accordingly, the Commission has jurisdiction over Duke and the subject matter of this proceeding.

2. Petitioner's Characteristics. Duke is an Indiana corporation with its principal office located at 1000 East Main Street, Plainfield, Indiana. Duke is engaged in the business of supplying electric utility service to the public in the State of Indiana. The Company owns, operates, manages, and controls plant, property, and equipment used and useful for the production, transmission, distribution, and furnishing of electric utility service to the public in the State of Indiana. Duke directly supplies electric energy to approximately 780,000 customers located in 69 counties in the central, north central, and southern parts of the State of Indiana. The Company also sells electric energy for resale to municipal utilities, Wabash Valley Power Association, Inc., Indiana Municipal Power Agency, and to other public utilities that in turn supply electric utility service to numerous customers in areas not served directly by Duke.

3. Relief Requested. In its Verified Petition, Duke requested: (1) approval of an ongoing review progress report pursuant to Indiana Code §§ 8-1-8.5-6 and 8-1-8.7-7; and (2) authority to add to the valuation of its utility property for ratemaking purposes the actual IGCC Project costs incurred through March 31, 2012, and authority to recover the financing costs and its other applicable related costs through its IGCC Rider and such reconciliation of charges or credits to actual amounts as are applicable.

¹ It is a practice of the Commission for the Chief Administrative Law Judge to attend Executive Sessions regardless of whether they are the assigned Administrative Law Judge. See *Northern Indiana Public Service Company*, Cause No. 43969, 2011 Ind. PUC LEXIS 369 (IURC December 21, 2011), *Indiana Finance Authority*, Cause No. 43976, 2011 Ind. PUC LEXIS 345 (IURC November 22, 2011), *Duke Energy Indiana, Inc.*, Cause No. 43743, 2011 Ind. PUC LEXIS 300 (IURC October 19, 2011), *Northern Indiana Public Service Company*, Cause No. 38706 FAC 80 S2, 2010 Ind. PUC LEXIS 326 (IURC September 22, 2010).

4. Prior Proceedings. In its November 2007 Order in Cause Nos. 43114 and 43114-S1 (the “CPCN Order”), the Commission issued certificates of public convenience and necessity and clean coal technology (“CPCNs”) authorizing Petitioner to construct the 630 megawatt IGCC plant in Knox County, Indiana near the location of the Company’s existing Edwardsport generation station. The CPCN Order approved Petitioner’s estimated construction cost for the IGCC Project of \$1.985 billion and Petitioner’s proposed IGCC Rider, which provides for the timely recovery of costs incurred in connection with the IGCC Project. The Commission also directed Petitioner to file semi-annual IGCC Rider and ongoing review progress report proceedings.

On May 1, 2008, Petitioner filed its first semi-annual IGCC Rider and ongoing review progress report proceeding related to the IGCC Project, designated as Cause No. 43114 IGCC-1. In addition to the ongoing review process approved by the Commission in its CPCN Order, the first semi-annual IGCC filing also included a request by the Company to revise the cost estimate of the IGCC Project from \$1.985 billion to \$2.350 billion, and a request for approval to undertake studies related to carbon capture at the IGCC Project and for cost recovery for such studies. On January 7, 2009, the Commission issued its order in Cause No. 43114 IGCC-1 (the “IGCC-1 Order”), in which it approved Petitioner’s revised construction cost estimate for the IGCC Project of \$2.350 billion and its ongoing review progress report. In the IGCC-1 Order, the Commission also approved the timely recovery of construction and operating costs through the IGCC Rider reflecting actual expenditures through February 28, 2008. Finally, the Commission approved the Company’s request for authority to undertake studies related to carbon capture at the IGCC Project and cost recovery for such studies.

On November 3, 2008, Petitioner filed its second semi-annual IGCC Rider and ongoing review progress report proceeding related to the IGCC Project, designated as Cause No. 43114 IGCC-2. On May 13, 2009, the Commission issued its order in Cause No. 43114 IGCC-2 (the “IGCC-2 Order”), in which it approved the Company’s updated ongoing progress report for the IGCC Project, as well as the Company’s request for recovery under the IGCC Rider of the additional actual costs of the IGCC Project through September 30, 2008, and certain external costs related to the IGCC Project.

On May 1, 2009, Petitioner filed its third semi-annual IGCC Rider and ongoing review progress report proceeding related to the IGCC Project, designated as Cause No. 43114 IGCC-3. On December 2, 2009, the Commission issued its order in Cause No. 43114 IGCC-3 (the “IGCC-3 Order”), in which it approved the Company’s updated ongoing progress report for the IGCC Project, as well as the Company’s request for recovery under the IGCC Rider of the additional actual costs of the IGCC Project through March 31, 2009, and for certain external costs related to the IGCC Project.

On November 24, 2009, Petitioner filed its fourth semi-annual IGCC Rider and ongoing review progress report proceeding, designated as Cause No. 43114 IGCC-4. In that proceeding, Petitioner requested approval of: (1) the Company’s updated ongoing progress report for the IGCC Project; (2) recovery under the IGCC Rider of the additional actual costs of the IGCC Project through September 30, 2009, and for certain other applicable related costs; and (3) the establishment of a subdocket proceeding to provide a further review of the cost estimate for the IGCC Project. On July 28, 2010, the Commission issued its interim order in Cause No. 43114 IGCC-4 (the “IGCC-4 Order”) in which it approved the requested relief on an interim and subject to refund basis, pending the outcome of the Subdocket. On December 27, 2012, the Commission

issued an Order in Cause No. 43114 IGCC-4S1 (“IGCC-4S1 Order”) approving the IGCC-4 ongoing progress review report, removing the interim and subject to refund provisions of the IGCC-4 Order and approving with modifications a proposed Settlement Agreement.

On June 2, 2010, Petitioner filed its fifth semi-annual IGCC Rider and ongoing review progress report proceeding, designated as Cause No. 43114 IGCC-5. In that proceeding, Petitioner requested approval of: (1) the Company’s updated ongoing progress report for the IGCC Project; (2) recovery under the IGCC Rider of the additional actual costs of the IGCC Project through March 31, 2010, and for certain other applicable related costs. On December 27, 2012 the Commission issued an Order in Cause No. 43114 IGCC-5 approving the costs and rates reflected in Duke’s exhibits, including the actual IGCC Project costs incurred through March 31, 2010, but declined to authorize the implementation of the proposed IGCC-5 Rider 61 rates. The IGCC-4S1 Order approved the IGCC-5 ongoing progress review report.

On November 5, 2010; Petitioner filed its sixth semi-annual IGCC Rider and ongoing review progress report proceeding, designated as Cause No. 43114 IGCC-6 and requesting approval of: (1) the Company’s updated ongoing progress report for the IGCC Project; and (2) recovery under the IGCC Rider of the additional actual costs of the IGCC Project through September 30, 2010, and certain other applicable related costs. On December 27, 2012 the Commission issued an Order in Cause No. 43114 IGCC-6 which approved as reasonable the costs and rates reflected in Duke’s exhibits, including the actual IGCC Project costs incurred through September 30, 2010, but declined to authorize the implementation of the proposed IGCC-6 Rider 61 rates. The IGCC-4S1 Order approved the IGCC-6 ongoing progress review report.

On May 31, 2011, Petitioner filed its seventh semi-annual IGCC Rider and ongoing review progress report proceeding, designated as Cause No. 43114 IGCC-7 and requesting approval of: (1) the Company’s updated ongoing progress report for the IGCC Project; and (2) recovery under the IGCC Rider of the additional actual costs of the IGCC Project through March 31, 2011, and certain other applicable related costs. On December 27, 2012 the Commission issued an Order in Cause No. 43114 IGCC-7 which approved the ongoing review progress report for the IGCC Project, approved as reasonable the costs and rates reflected in Duke’s exhibits, including the actual IGCC Project costs incurred through March 31, 2011, but found the implementation of the proposed IGCC-7 rates to be unnecessary.

On November 30, 2011, Petitioner filed its eighth semi-annual IGCC Rider and ongoing review progress report proceeding, designated as Cause No. 43114 IGCC-8 and requesting approval of: (1) the Company’s updated ongoing progress report for the IGCC Project; and (2) recovery under the IGCC Rider of the additional actual costs of the IGCC Project through September 30, 2011, and certain other applicable related costs; and (3) approval of depreciation rates for the IGCC Project. On December 27, 2012 the Commission issued an Order in Cause No. 43114 IGCC-8 which approved the ongoing review progress report for the IGCC Project, and approved as reasonable the costs and rates reflected in Duke’s exhibits, including the actual IGCC Project costs incurred through September 30, 2011.

5. Summary of Evidence.

A. Petitioner’s Testimony. Mr. Womack testified that, as of the end of April 2012, the engineering, procurement, and construction work of the IGCC Project was complete with

the exception of the last 10% of pipe insulation, the last 5% of electrical heat tracing, and punchlist items. The pre-commissioning start-up was approximately 90% complete. Taking all of these phases of the IGCC Project into account, the IGCC Project overall was over 99% complete as the end of April 2012.

Mr. Womack stated that the primary activities at the site are focused on the commissioning of the power block equipment and the pre-commissioning activities in the gasification island. He stated that major progress had been made in commissioning and New Product Introduction (“NPI”) testing of the combustion turbine/generators (“CTGs”). CTG-2 was ignited on natural gas fuel for the first time on March 14, 2012 and reached full speed, no load (“FSNL”) status that same day. CTG-1, the unit on which all CTG NPI testing is conducted, completed Phase 1 of General Electric’s (“GE”) NPI testing program (validation of the inert purge system) on March 19, 2012, achieved first-fire on March 21, 2012, achieved FSNL, was synchronized to the grid, and generated approximately 25 MW on March 30, 2012. On April 19, 2012, CTG-1 reached full load and produced approximately 210 MW and continued to run into late April and early May to conclude Phase 2 of the NPI testing. With the issuance of a technical release document by GE in mid-May, Duke was able to operate both units simultaneously in order to complete commissioning of the steam turbine and other power block equipment.

Mr. Womack testified that in the gasification island, the emphasis is on completing the remaining precommissioning activities and the commissioning of individual components of the area. He stated that the precommissioning activities for areas outside the power block and gasification island are in a high states of readiness, including the air separation units (“ASU”), the coal handling systems, the unloading facility and conveyors, the raw water treatment facility, and the grey water treatment system components. The final commissioning of the grey water systems will be conducted in tandem with the gasification island as grey water is produced as a byproduct of commissioning and testing the gasification equipment.

Mr. Womack next discussed equipment issues in the ASU explaining that the booster air compressors in the ASU train experienced vibration during testing and that several temporary fixes had to be implemented in order to keep the overall power block commissioning and NPI testing on schedule, however, some delays were experienced in the power block NPI testing. He explained that one of the temporary fixes actually turned out to be harmful and resulted in damage to the first stage of the rotating compressor wheel on one of the ASU trains, but that since there are two trains, the team has been able to keep one functioning for NPI testing. Mr. Womack discussed that the permanent resolution was implemented in late summer 2012 and that the booster air compressors and ASU are under warranty, so the vendor will be paying or reimbursing all the direct costs of the temporary or permanent fixes.

Mr. Womack provided an update on the companders that were damaged during initial testing. He stated that both companders were sent back to the manufacturer for repair and that between the two companders, there were enough good parts to make one fully functioning compander. The single fully functioning compander was returned to the site before it was actually needed to make nitrogen to support the firing of CTG-1 and thus there was no impact to the schedule. The repairs to the second compander were delayed due to the need for new bearings, but was returned to the site in April 2012 and tested immediately. This issue was successfully managed so that it did not impact the IGCC Project schedule. The failure of one of the companders was due to moisture which entered the equipment during storage and thus Duke was responsible for the cost

of repairs and the cause of the failure on the second unit is still under dispute between the Company, GE, and Air Products and thus it is unknown at this time which entity will bear the cost of the repair.

Mr. Womack testified that the power block commissioning and NPI testing milestones achieved have been important, but at a slower rate than planned due to various equipment issues, *e.g.* issues on the steam turbine, burners failing to ignite, booster air compressor issues, change out needed of valves on the heat recovery steam generator (“HRSG”), and unexpected vibration and strain on the 3rd stage turbine blades. He stated that it was too early to tell whether the unexpected vibration in the 3rd stage turbine blades was a long term problem, but that GE has been successful in mitigating the effect by manipulating operating conditions and equipment parameters. He further explained that GE was confident enough to issue the technical release of the CTGs to run on natural gas and that more testing is planned during Phase 5 of the NPI testing. Mr. Womack also described other equipment issues that did not cause a delay to the NPI testing.

Mr. Womack explained the equipment and other issues that have taken place while testing and commissioning the gasification island. He stated that some of them have been design related, *e.g.* inability to commission the grease pumps necessary for greasing the coal grinding rod mills, unacceptable shaking and movement in the downstream piping of the slurry piping system, and early component failure at a higher rate than expected. Mr. Womack continued by describing that some issues are not easily resolved and take extensive time and attention. Mr. Womack summarized that the team has resolved or is working to resolve many of these issues and that there should be no effect on future plant operations. He stated that the 3rd stage blade issue could be an exception since the extent of the issue and effect is not fully known, however Mr. Womack did reiterate that this issue will not have a long term effect on the performance and reliability of the plant.

Mr. Womack testified that this is a critical time in the construction process to identify and resolve issues before the plant becomes operational. He explained that any start-up of a large complex construction project will have some issues and problems, which is the purpose of the start-up and testing phase. That said, he noted the IGCC Project has had more issues and problems than other projects, but the extended start-up and testing period for the IGCC Project and GE’s NPI testing program allow time for resolution of the issues. He explained that methodically working through each issue and preventing negative impacts on the future operations of the IGCC Project is and will remain the focus of the entire IGCC Project team.

Mr. Womack described that the raw water treatment plant has been operating virtually flawlessly for approximately 6 months; the railroad spur is fully functional and coal is being regularly delivered by rail; the coal handling facility is fully functional and is being used to build a coal inventory for testing and operation; both air separation units have demonstrated through structured performance tests that they will meet the design specifications and performance standards required for the plant; nearly half of all the operating systems of the plant are under the care, custody, and control of the operations group, meaning they were successfully constructed, tested and turned-over; the combustion turbines have been successfully operated with virtually no problems from the balance of plant equipment in the power block; 30,000 devices (instruments and equipment components) have been successfully tested, leaving only about 1,000 left to complete.

Mr. Womack provided his opinion on this phase of the IGCC Project stating that although there have been challenges and issues, the IGCC Project team has proved to be well equipped to handle the challenges posed and that the team has aggressively worked all the issues to successful resolution in a safe manner while attempting to minimize the impact on schedule and costs and will continue to do as additional issues are uncovered. Mr. Womack stated that the Company is ready to complete this phase of the IGCC Project and move into the next phase, which is serving our customers' electricity needs for many years to come.

Mr. Womack testified in his supplemental testimony that the Master Project Schedule currently indicates an In-Service date of early March 2013 and a Substantial Completion date of early June 2013. He explained that the IGCC Project team undertook a rigorous schedule analysis focused on the areas of highest schedule uncertainty to create a completion schedule incorporating the IGCC Project's recent start-up and testing experience by including estimates of similar challenges into the future activities. The analysis yielded an "expected case" schedule, which was used to prepare the revised cost estimate. The "expected case" schedule In-Service date is projected to be May 29, 2013 and the Substantial Completion date is projected to be September 22, 2013.

In his supplemental testimony, Mr. Womack described the action taken by the Duke Board of Directors on October 30, 2012 approving a revised cost budget for the IGCC Project of \$3.154 billion (excluding allowance for funds used during construction ("AFUDC")), which includes a direct cost budget of \$3.012 billion, plus a \$37 million contingency allowance and a \$105 million budget for net operating costs during the NPI testing period from April 2012 to the projected In-Service date of May 29, 2013. He explained that the Board was also informed that the estimated AFUDC was approximately \$400 million, and the estimated net AFUDC on the Settlement Agreement hard cap cost amount was approximately \$320 million. Mr. Womack went on to discuss the Settlement Agreement in Cause No. 43114 IGCC 4S1 and its provisions providing for a hard cap and mitigating the impact to customers on future budget increases.

Mr. Womack testified that the root cause of both the schedule extension and cost increase is time and cost necessary to correct deficiencies in the IGCC Project which have been discovered during testing and commissioning of the IGCC Project. He stated that although none of the problems are expected to have a long term effect on the Plant's operating capability or reliability, they are numerous and material enough to cause schedule delay and cost increase. Mr. Womack explained that the direct cost of making modifications and repairs have increased, the extended schedule drives increased overhead costs because these costs continue to be capitalized to the IGCC Project, and the IGCC Project delay kept the power block portion of the plant from running on natural gas during summer 2012 when revenue potential was expected to be the greatest.

Finally, Mr. Womack presented the Commission with additional IGCC Project information, as requested by the Commission in its IGCC-1 and IGCC-2 Orders. This information requested by the Commission was outlined by Mr. Womack and contained in Petitioner's Exhibit A-3 and Petitioner's Confidential Exhibit A-3. As noted in Mr. Womack's Cause No. 43114 IGCC-8 testimony, much of this information pertained to the design and construction phases of the IGCC Project, which are now essentially complete and accordingly Mr. Womack provided only that information that focused on pre-commissioning, commissioning, and operations issues and status.

Mr. Stultz stated that the coal handling system has been receiving truck and train deliveries and has performed as expected. He discussed the current amount of coal inventory and that coal is

being received by train from Peabody's Bear Run Mine with planned deliveries of four trains per month until planned gasification operation begins. After that time, deliveries will be set to match coal usage at the IGCC Project. Mr. Stultz testified that the Company continues to report its coal receipt and usage at the IGCC Project to the Lieutenant Governor's Office and the Commission.

Mr. Stultz next discussed that all systems have been turned over for start-up and testing and that GE's NPI validation is underway and has been completed for both combustion turbines and the associated auxiliary equipment. He also stated that both combustion turbines have GE technical releases, which allows operation on natural gas to a tested maximum output.

Mr. Stultz testified that with the technical releases from GE on both combustion turbines, the Company has been running them on natural gas for commissioning purposes, while also putting energy on the grid. He stated that once the steam turbine is tested, the Company will then operate the combustion turbines and the steam turbine together both for commissioning purposes and when economic and will continue to do so throughout the start-up and testing period. Mr. Stultz explained that because the IGCC Project has not yet been placed in-service for accounting purposes, the costs associated with this operation (and associated revenues from selling energy into MISO) will be charges/credits to the capital budget of the IGCC Project.

Mr. Stultz explained the role of the Joint Validation Review Board, of which he is a member, and that it was implemented for management of start-up and testing. He explained that the board develops, reviews, and approves the unit test plans for various testing scenarios with 100% consensus required to go forward with testing plans prior to initiating the test and to also ensure the testing plans comply with the Company's environmental permit limits. Mr. Stultz also gave examples of the Joint Validation Review Board's review process. He also testified that this group has reviewed and approved 36 of 188 final test plans and that all test plans have been reviewed and approved in draft form.

Mr. Stultz continued by describing the role of the Joint Test Group explaining that this group performed the testing plans approved by the Joint Validation Review Board. He stated that this group has the responsibility of developing an execution plan for each of the approved final test plans and that each test plan requires a step-by-step run plan which is transmitted to Operations and Testing Personnel prior to the test in order to provide a clear set of expectations and clear guidance for run steps.

Mr. Stultz testified that following successful start-up and testing activities, a system would then be transferred to the operations group, whose responsibility is for the continuous operations of the system, maintenance and performance evaluations of the equipment on an ongoing basis and the filing of all documentation relating to the turned over system. He explained that this work continues up to and after the plant is placed in-service. Mr. Stultz explained that 91 of 214 operating systems have been tested and turned over to operations.

Mr. Stultz continued his testimony by describing the many on-going activities in preparation of the Edwardsport IGCC to become operational including employee training by classroom or simulator, field assistance of start-up efforts, walk downs confirming that the plant construction matches the drawings developed by design, development of budgets, safety procedures, operating procedures and general administration needs, such as time reporting and hiring. He also explained

that required spare parts, materials, and supplements have been ordered and received to be maintained in inventory to support the reliable operation of the plant.

Mr. Stultz testified that the Company is performing extended real-world testing of the plant under a variety of load scenarios, weather and other conditions to reduce unexpected outcomes and provide clear and pointed direction for validation of the plant systems and the plant as a whole. He stated that this done to verify that the plant operates as designed, and that flows, temperatures and pressures are as predicted. In Mr. Stultz's view, all this adds to the Company's confidence that the plant will perform in commercial operation as expected.

Next Mr. Stultz testified that the IGCC Project is nearing the stage of the IGCC Project where the construction team has checked all equipment and is ready to start the integrated running of the IGCC Project on syngas for testing. He continued that most of this testing involves GE's NPI process, so GE's role will increase and GE will step up its safety system checks and NPI validation to ensure the Company and GE that the plant is ready to be run in an integrated manner for final testing and commissioning. After that is successfully completed, the IGCC Project should be ready for commercial operation.

With regard to environmental permitting, Mr. Stultz explained that the appeal of the air permit remains pending before the Indiana Office of Environmental Adjudication and that the parties are pursuing mediation. The Indiana Department of Environmental Management ("IDEM") has not yet issued the final Title V renewal permit, however authorization received under previous permits remains effective for the Company to continue construction and to undertake start-up of the IGCC Station.

Mr. Stultz followed up on Mr. Womack's IGCC-8 testimony discussing the causes of exceedances under the NPDES permit. Mr. Stultz stated that operating procedures have been evaluated to assess possible changes that could reduce the iron content of contributing wastestreams and the Company has requested and received approval from IDEM for use of water treatment additives. In addition, dispensing equipment for these treatment additives has been installed. Mr. Stultz stated that Duke has also decided that a more efficient long-term approach to achieve the necessary iron removal was to reroute the significant iron-contributing wastewater streams, the coal pile runoff pond flow, and the Southeastern Pond underliner to the raw water treatment facility. Mr. Stultz stated that the Company reports on compliance activities about permit compliance to IDEM on a regular basis.

Ms. Douglas testified on behalf of the Company with respect to ratemaking issues. She explained that the purpose of her testimony was to explain the Company's request for timely recovery of costs in connection with the Company's IGCC Project, including CWIP ratemaking treatment for retail jurisdictional IGCC Project expenditures. Ms. Douglas explained that she developed rates and presented exhibits under two different scenarios: (1) reflecting rate mitigation measures ("Subdocket Rate Mitigation Scenario") as set forth in the Supplemental Testimony of Mr. Kent K. Freeman filed in the 4S1 Subdocket proceeding; and (2) reflecting the terms of the Settlement Agreement filed in the Subdocket ("Settlement Agreement Scenario").

On behalf of Duke, Ms. Douglas requested that the Commission approve the following: (1) the value of the IGCC Project upon which the Company is requesting authorization to earn a return; (2) the amount of Duke's expenditures for the IGCC facility incurred through March 31, 2012; (3)

recovery of incremental fees and expenses of Black & Veatch incurred by the Company from October 2011 through March 2012; (4) reconciliation of actual depreciation incurred from October 2011 through March 2012 to the estimated depreciation amount previously included in IGCC-7 on the portion of the IGCC Project that has been placed into service (certain IGCC Project-related transmission system expenditures); (5) recovery of estimated depreciation expense from October 2012 through March 2013 on the portion of the IGCC Project that has been placed in-service (certain IGCC Project-related transmission facilities); (6) inclusion of a credit for the retail portion of one-half of the Indiana Coal Gasification Technology Investment Tax Credit, \$15 million on an annual basis ("State Tax Credit"); (7) reconciliation of revenue requirements for operating expenses pending approval for recovery in Cause No. 43114 IGCC-7 to actual collections from October 2011 through March 2012; (8) the inclusion of a voluntary credit to HLF customers to correct for a clerical error in the development of IGCC-4 rates; and (9) adjustment of Petitioner's retail electric rates, via Rider 61 to reflect the revenue effect of such investment and cost recovery. Ms. Douglas also requested on behalf of the Company that the Commission approve a credit to reflect the jurisdictional impact of a proposed change in depreciation rates for in-service plant, which is part of the 2012 Settlement Agreement as approved by the Commission in the IGCC-4S1 Order.

Ms. Douglas described Petitioner's Exhibit C-4, Duke's Rider 61, of which the Company is requesting approval. Petitioner's Rider 61 includes definitions of the components of the formula used to develop the IGCC Revenue Adjustment Factors, a formulaic representation of the calculations used in developing the factors, revenue adjustment factors by retail rate group, a listing of retail allocation factors (based on the allocation factors approved in the Company's last general retail electric base rate case), and the billing cycle kWh and/or non-coincident peak demands used to develop the proposed IGCC Cost Recovery Adjustment.

Her testimony also explained Petitioner's Exhibit C-5, which includes the schedules that develop and support the IGCC-9 revenue adjustment factors. She explained that Page 1 of this exhibit sets forth schedules for the IGCC Project and includes data consistent with the requirements of 170 IAC 4-6-12 and the Commission's Orders in Cause Nos. 43114, 43114-S1 and 43114 IGCC-1; actual in-service dates for the in-service portion of the IGCC Project; total expenditures for the IGCC Project as of March 31, 2012; IGCC Project expenditures applicable to wholesale jurisdictional customers; retail IGCC facility investment as of March 31, 2012; and the amount of retail AFUDC included in the cost of the IGCC Project as of March 31, 2012.

Ms. Douglas also explained the proposed ratemaking treatment for the costs of four IGCC Project-related transmission projects, which are in-service and were included in the Commission-approved IGCC Project estimate. Ms. Douglas explained that for the two transmission projects that qualify as part of the Midwest Independent Transmission System Operator's ("MISO") transmission expansion plan and are recognized by the MISO as Regional Expansion and Criteria Benefit ("RECB") projects, the Company will first seek cost recovery for such projects pursuant to its Rider No. 68 and the MISO's Schedule 26, consistent with the Commission's June 25, 2008 Order in Cause No. 42736-RTO14. If and to the extent that costs for an IGCC-related transmission project are not eligible for recovery through Rider No. 68 and Schedule 26, then the Company will seek cost recovery for such project (or portion of a project) through the IGCC Rider. The projects are in-service, and the Company expects a 50% reimbursement for such RECB projects; therefore, the Company has included 50% of the value of the projects in its IGCC Project valuation for construction work in progress ("CWIP") ratemaking purposes (representing the 50% of the projects that are not expected to receive MISO RECB reimbursement). Accordingly, Page 1 of Petitioner's

Exhibit C-5 shows the expenditures for the two RECB projects, including the reduction in IGCC Project expenses by the 50% amount for which the Company expects to be reimbursed by MISO through the RECB process.

Ms. Douglas continued her testimony stating that Page 2 of Petitioner's Exhibit C-5 shows the amount of accumulated depreciation as of March 30, 2012, applicable to the IGCC Project investment. Currently, the only portions of the IGCC Project that have been placed in-service and are being depreciated are the four transmission projects. The jurisdictional accumulated depreciation applicable to the jurisdictional IGCC Project investment as of March 31, 2012, was approximately \$534,375, which reflects the reduction due to the anticipated 50% MISO RECB reimbursement amount.

Ms. Douglas' testimony presented the calculation of the jurisdictional revenue requirement applicable to the IGCC Project investment through March 31, 2012, net of accumulated depreciation. Ms. Douglas explained that the retail IGCC investment as of March 31, 2012, was \$2,932,881,000. She stated that under the terms of the Settlement Agreement, the amount was updated to show \$2,404,000,000 (the retail jurisdictional portion of the \$2.595 billion Hard Cost Cap amount, with direct construction expenditures and AFUDC amounts as of June 30, 2012). The net retail jurisdictional IGCC Project investment at March 31, 2012, net of accumulated depreciation, was, therefore, \$2,403,466,000. This resulted in retail revenue requirements of \$122,279,000.

Ms. Douglas next discussed how the revenue conversion factors are determined. She stated that these rates have not been adjusted to reflect the provisions of the American Jobs Creation Act of 2004 because the Company will not be allowed to take the deduction in 2012 and 2013 due to its expected tax position after reflecting bonus depreciation for the IGCC plant. She continued stating that the Company determined that approximately half of the IGCC plant (including the power block, gas CTs, HRSGs, and steam turbine) was declared to be in-service as of August 1, 2012, for income tax purposes, which will produce bonus depreciation in 2012 and thus prevent the use of the Section 199 deduction in 2012 and the remainder of the plant is expected to be in-service for income tax purposes in 2013.

Ms. Douglas explained the calculation of the jurisdictional revenue requirement applicable to IGCC Project-related operating expenses. These operating expenses included: expenses incurred by the Company from October 2011 through March 2012 for services from Black & Veatch; reconciliation of the actual retail jurisdictional depreciation expenses from October 2011 through March 2012; estimated retail jurisdictional depreciation expense from October 2012 through March 2013 for the transmission projects already in-service; and the inclusion of a credit for the retail portion of one-half of the State Tax Credit.

Ms. Douglas' testimony also demonstrated that the fees and expenses incurred by the Company from October 2011 through March 2012, for services by Black & Veatch for IGCC Project oversight, totaled \$260,996.

Ms. Douglas stated that actual retail jurisdictional depreciation expense during the October 2011 through March 2012 period totaled \$119,527. This amount was reconciled with the estimated amount of depreciation for the same period that was included in IGCC-7 and the variance of

\$16,613 was included in this filing. Ms. Douglas testified that the estimated depreciation expense for the October 2012 through March 2013 forecast period was \$119,527.

The total of all these operating expense items, \$397,136, was included in the calculation of the total revenue to be recovered from retail customers. After application of the revenue conversion factor, the total retail jurisdictional amount to be recovered for operating expenses in this filing is \$405,615.

In addition, Ms. Douglas explained that the Company will be eligible to receive the benefit of the Indiana Coal Gasification Technology Investment Tax Credit ("State Tax Credit") in the amount of \$15 million on an annual basis once the IGCC Project is in-service. Since the plant is expected to be in-service during the time these proposed rates will be in effect, a credit of \$6,884,250 has been included (one-half of the annual State Tax Credit). She explained that this amount was converted to revenue requirements and netting other operating expenses, a credit of \$7,237,004 will be included in the calculation of the billing factors for this rider.

Next, Ms. Douglas explained that she had reconciled the retail jurisdictional revenue requirements pending approval for recovery in IGCC-7 applicable to operating expenses, to actual collections through retail rates received from October 2011 through March 2012. This reconciliation resulted in an over collection of \$461, which amount has also been included as a credit in the development of the IGCC rider factors proposed in the current proceeding.

Page 7 of Petitioner's Exhibit C-5, shows the calculation of the IGCC Revenue Adjustment Factors, by jurisdictional rate group. Also included is a voluntary credit adjustment by the Company to revenue requirements in the amount of \$612,612, which reduces the proposed rate for HLF customers to correct for a tracker administration clerical error. This error affected the rates that were proposed, approved and billed to HLF customers under IGCC-4 rates beginning in July 2010. The error stemmed from the use of an incorrect value for the kW billing determinants used to establish the rates approved in IGCC-4. The billing determinant used was understated, which caused the IGCC-4 factor to be overstated. Accordingly, the Company is providing the HLF customer class with a voluntary credit for the amount of the difference between what they were billed under IGCC-4 rates from October 2011 through March 2012 and what they would have been billed had the error not occurred. Ms. Douglas stated that the kW billing determinants for HLF have been computed correcting for this error in this proceeding.

Ms. Douglas discussed the derivation of the Company's weighted average cost of capital as of March 31, 2012, as shown on Petitioner's Corrected Exhibit C-5, p. 8. Ms. Douglas stated that the weighted average cost of capital has been calculated consistent with the Commission's administrative rules, the Commission's CPCN Order, and the Settlement Agreement to prospectively terminate the deferred income tax incentive for the IGCC Project and include deferred income taxes in the capital structure as zero cost capital.

Ms. Douglas also summarized AFUDC rates for the period October 2011 through March 2012 which were used in determining the amounts of AFUDC included in the value of the Company's IGCC facility through March 31, 2012.

Ms. Douglas next explained when CWIP ratemaking treatment for the IGCC Project will cease. She stated that consistent with 170 IAC 4-6-22 and in accordance with the Commission's

CPCN Order, the IGCC Project will be deemed to be under construction, and Duke will continue to receive revenues through Rider 61, until the Commission determines that this IGCC Project is used and useful in a proceeding that involves the establishment or investigation of Duke's retail electric base rates and charges.

According to Ms. Douglas, the total adjusted revenue requirement for this filing, consistent with the Settlement Agreement provisions and reflecting inclusion of the state tax credit, is \$96,841,423.

Ms. Douglas also described the impact of the proposed IGCC Project ratemaking treatment, under the terms of the Settlement Agreement and assuming approval of the IGCC-8 proposed factor,² the monthly bill of a typical residential customer using 1,000 kilowatt-hours would result in a decrease in the monthly bill of a residential customer using 1,000 kilowatt-hours by \$0.14 or approximately 0.2%, from the base bill plus the IGCC-8 factor then being billed to customers.

Ms. Douglas concluded her testimony by discussing the accounting treatment for costs incurred and revenues generated during testing before the plant will be declared in-service and the accounting treatment for these expenses and revenues as discussed by Mr. Stultz. She explained that the FERC Uniform System of Accounts provides for the inclusion in the cost of constructed plant the necessary costs of testing or running a plant or parts during a test period prior to such plant becoming ready for or placed in-service. She explained that these costs and revenues will be charged to the IGCC capital project until the plant is declared in-service for accounting purposes, after which time they will be accounted for as operations and maintenance ("O&M") expenses or revenues.

B. OUC's Testimony. Mr. Blakley testified that Duke filed its rates in IGCC-9 under two different scenarios. Mr. Blakley went on to describe the rate mitigation measures included in the Settlement Agreement and that by accepting these rate mitigations, the impact on ratepayers is lower. He explained that the effect on residential customer rates (IGCC-8 vs. IGCC-9) using 1,000 kWh is reduced from \$8.26 to \$8.12. He explained that the difference can be attributed to higher accumulated depreciation, lower tax rates and a lower weighted average rate of return between IGCC-8 and IGCC-9.

Mr. Blakley also discussed the increase in the demolition costs of the old Edwardsport plant. He stated that, as Mr. Stultz discussed a new contractor has been hired to demolish the plant at a cost of \$1.5 million and that those costs have already been recovered in Petitioner's base rates over the years. He testified that Petitioner has not requested to recover those demolition costs in the IGCC tracker.

Mr. Blakley also confirmed that the figures used in the calculation of the Company's IGCC-9 adjustments factors, including the rate mitigations per the Settlement Agreement are supported by the testimony, exhibits, and workpapers filed by the Petitioner.

C. Joint Intervenors' Testimony. Mr. Olson testified that the purpose of his testimony was to reiterate Joint Intervenors' policy concerns regarding allowing the Company to recover financing costs known as CWIP; remind the Commission of Joint Intervenors concerns

² On December 27, 2012, the Commission approved the rate factor in the IGCC-8 proceeding.

raised in prior IGCC-related dockets; authenticate various documents Joint Intervenors obtained during discovery so they can be admitted into the record; and address the testimony of Ms. Douglas as to the “in-service” declaration for a portion of the Edwardsport plant for income tax purposes.

First, Mr. Olson provided a background on the alternative regulatory treatments of CWIP and a history of CWIP ratemaking treatment in Indiana. He testified that, traditionally, the ratemaking principles of used and useful and interperiod equity have resulted in regulatory commissions refusing to allow CWIP in rate base. In effect, the rationale for the traditional treatment is that present utility customers should not be required to pay for a plant that is not providing or capable of providing its specific service. Also, present utility customers should not be required to pay for a plant under construction because that plant is for the benefit and use of future customers. Thus, rather than violate the regulatory principles of used and useful and interperiod equity, CWIP has generally been excluded from rate base. By excluding CWIP from rate base, the utility does not earn a return on the capital it has expended for the construction. In order to allow the utility an opportunity to earn a return on capital expended for construction and also to defer actual payment by the ratepayers of that return until the plant is in-service, the accounting entry known as AFUDC is utilized and capitalized and added to the construction costs in the CWIP account upon the in-service date of the plant in question. This increases the size of the addition to rate base when the IGCC Project comes online.

According to Mr. Olson, many regulatory jurisdictions still do not permit CWIP in the rate base and very few allow 100% of CWIP in the rate base for major construction projects. Others, like Indiana in his view, allow CWIP in rate base in some amount in some circumstances, for example: (1) for certain projects; (2) for projects being constructed by financially distressed utilities; or (3) on some part of the CWIP balance. In support of this assertion, Mr. Olson referred to Joint Intervenors’ Exhibit KLO-1, the *Current Return on CWIP versus AFUDC Regulatory Survey Results*, March 2006, which was produced by the Wisconsin Public Service Commission and reports the varying regulatory treatment for CWIP in the limited number of jurisdictions that completed the survey. Mr. Olson testified that it is the position of Joint Intervenors that Duke is not entitled to cost recovery in this proceeding and that Joint Intervenors believe CWIP is inappropriate.

Joint Intervenors again reiterated some of their prior concerns relating to the IGCC Project. Mr. Olson stated that this review period was significant enough to remind the Commission of Joint Intervenors’ previous concerns because this review period revolved around start-up, testing, validation, and commissioning of the IGCC Project. In addition, it is also a phase of the IGCC Project, where GE is conducting NPI testing.

Mr. Olson reminded the Commission of Joint Intervenors’ witness David Schlissel’s concerns in Cause No. 43114 IGCC-8 regarding the “cascade effect” of construction problems attributable to imprudence and gross mismanagement by Petitioner and/or its contractors causing a delay in the process. In addition, Mr. Olson referred to Mr. Schlissel’s testimony where he testified that, in his opinion, sharp conflicts between Petitioner and GE regarding the integration of the NPI testing by GE into the IGCC Project’s overall start-up, testing and commissioning process was negatively impacting its progress.

Mr. Olson discussed Mr. Schlissel’s testimony in Cause No. 43114 IGCC-4S1 wherein he testified that the start-up, testing and commissioning phase was being directly and adversely affected by a combination of unexpected issues resulting from both design and construction

problems caused by the Company and/or its contractors, which is subsequently affecting the pace of the commissioning process. He stated that further delays would cause increased financing costs (either AFUDC or CWIP) and that these will continue to accrue as the commissioning phase is extended.

Mr. Olson also expressed Mr. Schlissel's concern that Duke's costs are only capped under the Settlement Agreement through the date the Company declares the plant "in service" because the Company now distinguishes the in-service date from the substantial completion date, and that Duke might begin recovering costs above the Settlement Agreement cap before all the testing activities have been successfully completed. The risk, as Mr. Schlissel expressed it, is that ratepayers will have to bear the costs if the plant has to be shut down for extended periods to fix problems that arise after Duke declares the plant "in service" – even if the plant is not fully complete.

Mr. Olson also stated Joint Intervenors' concern from prior ongoing review proceedings that the method being employed by Duke to calculate the AFUDC rate of return on its direct investment in the IGCC Project is incorrect as a matter of Indiana law is applicable to this proceeding.

Mr. Olson's testimony next discussed the relevance of certain documents (the "Significant Issues and Recommendations" section from the GE Monthly Progress Reports from October 2011 through August 2012) obtained from Petitioner during discovery and that he is authenticating them as such. Although certain of these documents are outside of the time period for this proceeding, Mr. Olson opined that all of the referenced GE Monthly Progress Reports are relevant because of GE's concerns about how certain activities will impact the IGCC Project later. Mr. Olson also stated that some of the GE Monthly Progress Reports discuss the "challenges" identified in Mr. Womack's testimony. He continued his testimony describing the additional documents attached to his testimony as an October 2012 Mr. Womack letter to Mr. Parks at GE directing GE to discontinue the issuance of the GE Monthly Progress Report; a May 3, 2012 Edwardsport IGCC Project Update board presentation and three additional presentations from October 2012 that assess progress and problems with the IGCC Project.

Mr. Olson then addressed the testimony of Ms. Douglas with regard to declaring approximately half of the Edwardsport IGCC plant is to be in-service as of August 1, 2012 for income tax purposes. He stated that it is his understanding that this partial in-service declaration does not affect either the accounting or the rates for which the Company is proposing in IGCC-9 and that, assuming this understanding is correct, Joint Intervenors take no position with regard to this at this time. Mr. Olson stated that it will ultimately be the Internal Revenue Service – and not the Company that will make the final determination.

D. Petitioner's Rebuttal Testimony. Mr. Womack stated that the review period for this proceeding covers October 2011 through March 2012, and that his testimony does not address all events that have occurred since then or the issues raised by Joint Intervenors regarding the Settlement Agreement.

Mr. Womack strongly disagreed with Mr. Olson's testimony suggesting that the IGCC Project delays that have occurred during start-up, testing, and validation may be due to mismanagement and stated that Mr. Olson fails to describe any particular actions that he believes constitute mismanagement, but simply summarizes Mr. Schlissel's unsupported testimony in previous proceedings. Mr. Womack explained, as he previously stated in his direct and

supplemental testimony, that the required schedule extensions have been driven by the circumstances of the IGCC Project, caused largely by circumstances outside of the Company's control. He stated that the delays in testing and commissioning result from issues uncovered and corrected during the IGCC Project team's extensive and thorough testing of the IGCC Project. Mr. Womack testified that the associated delays occurred despite the prudent decisions and actions of the experienced IGCC Project team in response to the scope increases.

Mr. Womack also responded to Mr. Olson's testimony wherein he cited Mr. Schlissel's previous testimony regarding the cascade effect of construction problems attributable to imprudence and gross mismanagement by the Company and/or contractors which had delayed the start-up, testing, and commissioning phase. Mr. Womack stated that it appears that Mr. Schlissel's cascade effect primarily referred to chronic piping/welding problems and that Mr. Olson is mixing the two separate problems.

Mr. Womack also addressed Mr. Olson's testimony as he cited reference to Mr. Schlissel's testimony stating that the start-up schedule was affected by a combination of unexpected issues resulting from both design and construction problems during this period. Mr. Womack stated again, as he did in his IGCC-8 testimony that this should not be a surprise given the extent of the commodity quantity growth that affected the overall IGCC Project schedule and that to preserve as much of the overall IGCC Project schedule as possible, Petitioner worked to couple the test and start-up activities with remaining construction activities.

Mr. Womack further testified regarding Mr. Olson's reference to Mr. Schlissel's previous testimony addressing the "deep conflict" in the relationship between Petitioner and GE and its negative impact on start-up, testing and commissioning. Mr. Womack reiterated his disagreement with Joint Intervenors' characterization and that as he previously stated there was a lack of consensus between the two companies regarding the sequence and timing of some NPI testing, but that they did not materially impact the IGCC Project schedule. He stated that Duke and GE are now in agreement regarding the sequence and duration of the remaining NPI testing activities and meet daily to review the status of the tests and to discuss any adjustments.

Mr. Womack responded to Mr. Olson's testimony directing the Commission to the "Significant Issues and Recommendations" section in the GE Monthly Progress reports from October 2011 through March 2012 stating that this section of the report parroted the same language about duration and quality of Duke's commissioning effort and that the Company believes these statements were made in and motivated by anticipation of a commercial dispute.

Mr. Womack addressed Mr. Olson's testimony directing the Commission to the "Significant Issues and Recommendations" section in the GE Monthly Progress reports from April 2012 through August 2012 stating that GE reiterated what the Company believes are inaccurate or misleading statements and that GE alternates between raising the good work done by the Duke team and reiterating their old concerns.

Mr. Womack also addressed Mr. Olson's reference to his October 2012 letter to Mr. Parks of GE wherein Mr. Womack directed GE to discontinue their monthly progress report. Mr. Womack responded that there are several reasons to discontinue the reports, primarily because they were no longer meaningful or accurate and that in the Company's view GE was using them to position itself for a potential commercial dispute. In addition, GE's work on the IGCC Project had

reached a point where only NPI testing remained and there were better and more meaningful avenues for reporting NPI testing information, such as the Joint Test Group reports which have been made available to Black & Veatch and the Commission staff. Mr. Womack emphasized that the discontinuance of these reports does not deprive the Commission or Intervenors of critical information.

Mr. Womack concluded his rebuttal testimony addressing Mr. Olson's testimony discussing several Duke Energy management presentations that discuss the drivers of contingency usage and cost increase. He stated that all major issues in the presentations have been presented to the Commission in IGCC review proceedings.

Ms. Douglas responded to the testimony of Mr. Olson on ratemaking issues. Ms. Douglas first responded to Mr. Olson's contention that CWIP ratemaking was inappropriate for the IGCC Project. Ms. Douglas emphasized that there are valid arguments in favor of CWIP ratemaking treatment, notably that such treatment provides for a more gradual phase-in of rate increases and is supportive of utility credit quality, which translates into lower debt financing costs in customer rates. In addition, she noted that the Indiana legislature has already made the decision that "clean coal and energy projects" and "eligible businesses" building "new energy producing and generating facilities" should be eligible for CWIP ratemaking treatment, citing Indiana Code Chapter 8-1-8.8. Moreover, she stated that the Commission has determined that the IGCC Project meets the statutory definitions set forth in Indiana Code Chapter 8-1-8.8, and as such, has appropriately approved CWIP ratemaking treatment for the IGCC Project in the CPCN Order and in subsequent IGCC Rider cases. In Ms. Douglas' view, the proper forum for Mr. Olson's argument continues to be the Indiana General Assembly rather than the Commission.

Ms. Douglas also responded to Mr. Olson's concern with the Company's method for calculating AFUDC rates. Ms. Douglas explained that Petitioner calculates its AFUDC rate in accordance with the FERC Uniform System of Accounts, which has been adopted by the IURC for use by Indiana electric utilities, and presented FERC's general instructions for the computation of AFUDC rates as Petitioner's Exhibit F-1. She explained that the Company's calculation does not include accumulated deferred income taxes because it is not one of the elements specified to be included in the calculation by FERC. She explained that there are logical reasons why the AFUDC rate and Indiana rate of return calculations should differ. She stated that financing costs are part of the utility's cost structure, just as labor, materials and taxes are, and that these costs will be incurred from the initial point of cash outlay until the cost of acquiring or building the asset has been fully recovered through rates. She explained that financing costs are recovered via ratemaking as AFUDC is capitalized as part of the construction project, and the accrual of AFUDC is replaced by a cash return via base rates or a CWIP tracker mechanism. She explained that once the asset is placed in-service, certain tax-book timing differences related to depreciation will begin to occur resulting in the accumulation of deferred income tax balances. She further explained that deferred income taxes are not included when calculating AFUDC rates in recognition of the fact that plant that is under construction and has not yet been placed in-service generally will not generate cumulative deferred income tax balances.

Ms. Douglas confirmed that Mr. Olson is correct that the IRS will have the opportunity to review and determine whether it agrees that the Company's timing and amount of its depreciation income tax deductions for the plant are appropriate, but that it is the Company's responsibility to reach an informed determination of the proper timing and amount of tax depreciation, which hinges

on an in-service date determination for income tax purposes. Ms. Douglas stated that Mr. Olson was not correct that this determination does not affect the accounting or the rates the Company has proposed.

She reiterated that the federal income tax rate used in the revenue conversion factors was not adjusted to reflect the benefit of a tax deduction under IRC Section 199 provided for in the American Jobs Creation Act of 2004. She stated that the inability to utilize the 199 deduction in the near term is outweighed by the larger benefit customers will receive over time from the positive impact on the rate of return from larger accumulated deferred income tax balances in the capital structure resulting from the bonus depreciation tax deduction. She also emphasized that the benefits to customers of the bonus depreciation will not be limited to this tracker, but customers will also receive benefits of the higher accumulated deferred income tax balances that result from the bonus depreciation of the IGCC plant in Standard Contract Rider No. 62 – Qualified Pollution Control Property Revenue Adjustment and the next retail electric base rate proceeding.

Ms. Douglas testified that Mr. Olson did not question the accuracy of the Company's rate calculations as presented in her testimony or exhibits; nor does he state that the rates proposed in her exhibits were not computed in accordance with the IGCC-1 Order.

Finally, Ms. Douglas noted that Mr. Blakley's testimony states that the Company's rate calculations are supported by the testimony, exhibits, and workpapers.

6. Commission Discussion and Findings.

A. Ongoing Review Progress Report for IGCC-9. Mr. Womack testified concerning the IGCC Project progress report and issues relating to start-up, testing, validation, and commissioning activities and explained in detail the schedule delays resulting from the increase in bulk commodity quantities. He explained the IGCC Project has encountered delays in testing and commissioning due to issues that have been uncovered and subsequently corrected. Thus, the facts explored in previous IGCC proceedings relating to the increased commodity quantities continue to have an impact on the IGCC Project through the ongoing review period of this proceeding. Joint Intervenors reiterated their prior testimony considered in previous IGCC dockets that these delays have been caused by mismanagement of the IGCC Project.

Joint Intervenors renewed their previous concerns related to the "cascade effect" of construction problems and the impact of the "deep conflict" between GE and the Company and its impact on the IGCC Project. The Commission finds that these concerns of Joint Intervenors have been addressed in other proceedings and we are not persuaded that evidence presented herein alters those findings. Accordingly, they will not be addressed again in the present docket.

We further find that the Company has adequately satisfied the information reporting requirements to the Commission for purposes of these review proceedings as specified in the IGCC-1 and IGCC-2 Orders and subsequently amended in Cause No. 43114 IGCC-8. Accordingly, we approve the ongoing progress report for IGCC-9.

B. Ratemaking Issues. Joint Intervenors contend that Duke is not entitled to cost recovery in this proceeding and that Joint Intervenors believe CWIP is inappropriate. However, pursuant to Indiana Code ch. 8-1-8.8, and this Commission's Orders in previous IGCC proceedings,

the Commission finds no basis to discontinue the recovery mechanism for the IGCC Project it previously found appropriate within the statutory construct in Indiana.

Joint Intervenors assert that the Company's calculation of AFUDC is incorrect. Ms. Douglas explained that Petitioner calculated its AFUDC rates in conformance with FERC's general instructions for the computation of AFUDC rates (found in the Code of Federal Regulations), which this Commission has adopted for use by Indiana electric utilities, and that the Company's calculation does not include accumulated deferred income taxes because it is not one of the elements specified to be included in the calculation by FERC. She also explained that deferred income taxes are not included when calculating AFUDC rates in recognition of the fact that plant which has not yet been placed in-service generally will not generate cumulative deferred income tax balances because it is not yet depreciating. We agree with Ms. Douglas that excluding deferred income taxes from the calculation of AFUDC rates is in accordance with the FERC instructions we have adopted for use by Indiana electric utilities and, therefore, is in accordance with this Commission's rules. We therefore find the Company's calculation of AFUDC rates to be applied to IGCC investment is correct.

Ms. Douglas testified as to the updated IGCC Rider and the associated calculations and assumptions contained in that Rider. Joint Intervenors did not present evidence of any miscalculations or propose any alternative calculations. The OUCC found the figures used in the calculation of the Rider to be supported by the exhibits of the Company. Based on our review of the evidence presented on this issue, we find that Duke's IGCC Rider, as sponsored by the testimony of Ms. Douglas, accurately reflects the net retail jurisdictional IGCC Project investment as of March 31, 2012, and that the proposed IGCC-9 Rider is accurately calculated and accurately incorporates the provisions of the Cause No. 43114 IGCC-4S1 Settlement Agreement. We find that the IGCC Project costs, including the actual IGCC Project investment incurred through March 31, 2012, up to the amount of the Hard Cost Cap and Additional AFUDC, as defined by the IGCC 4S1 Settlement Agreement and reflected in the testimony and exhibits of Ms. Douglas, are hereby approved consistent with our findings herein.

Ms. Douglas also sponsored Petitioner's Exhibit C-6 which shows the impact of the proposed IGCC Project ratemaking treatment. The monthly bill of a residential customer using 1,000 kilowatt-hours will decrease by \$0.14 or approximately 0.2% with implementation of this factor.

7. Petitioner's Request for Confidential Treatment. On June 8, 2012, Petitioner filed a "Motion for Protection of Confidential and Proprietary Information" ("Motion") in this Cause. In its Motion, Duke requested that certain details of various pricing and operating characteristic information for the IGCC Project (e.g. project cost estimates, details of forecasted operations and maintenance expenses of the IGCC Project, the detailed project schedules, operations staffing and training schedules, safety training, test and startup plans and procedures, quality control information, commodity curves), confidential information provided to Duke by its two primary contractors, GE and Bechtel Power Corporation ("Bechtel"), and confidential information provided to Duke by other IGCC contractors and vendors, be treated as confidential and a trade secret and not subject to public disclosure (collectively referred to as "Confidential Information"). In support of its Motion, the Petitioner included sworn Affidavits supporting the Petitioner's request for confidential treatment from W. Michael Womack and from GE and Bechtel representatives.

In a July 27, 2012 Docket Entry, the Presiding Officers made preliminary findings that the Confidential Information should be subject to confidential treatment. Pursuant to Indiana Code § 5-14-3-4(a)(4), we find that the Confidential Information submitted in this Cause is a “trade secret” and should continue to be held as confidential by the Commission.

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

1. The ongoing review progress report for the IGCC Project is hereby approved by the Commission based on the evidence of record.

2. The costs as reflected in the exhibits and testimony of Ms. Douglas and consistent with our findings above, including the actual IGCC Project costs incurred through March 31, 2012 (up to the Hard Cost Cap plus Additional AFUDC), are reasonable and are hereby approved. Rider 61 shall go into effect for all bills rendered after the filing of the proposed Rider 61 with the Commission’s Electricity Division.

3. Petitioner’s Confidential Exhibits and Joint Intervenors’ Confidential Cross-Examination Exhibits presented in this proceeding are found to be confidential and a trade secret, excepted from public access, and will continue to be held as confidential by the Commission.

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

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

APPROVED: APR 03 2013

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



Brenda Howe
Secretary to the Commission