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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMPLAINT OF THE)
NORTHERN INDIANA PUBLIC SERVICE COMPANY)
AGAINST UNITED STATES STEEL CORPORATION)
BECAUSE OF BREACH OF CONTRACT, VIOLATION OF)
ELECTRICITY SUPPLIERS' SERVICE AREA)
ASSIGNMENTS ACT; VIOLATION OF NATURAL GAS)
SERVICE TERRITORY; UNLAWFUL PROVISION OF)
RETAIL ELECTRIC SERVICE TO AN END USE)
CONSUMER; AND RELATED MATTERS)
RESPONDENT: UNITED STATES STEEL CORPORATION)

CAUSE NO. 43363

IN THE MATTER OF THE COMPLAINT OF UNITED)
STATES STEEL CORPORATION AND ARCELORMITTAL)
INDIANA HARBOR INC. AGAINST NORTHERN INDIANA)
PUBLIC SERVICE COMPANY FOR DETERMINATION)
THAT PASS-THROUGH ARRANGEMENT IS NOT IN)
VIOLATION OF TARIFF OR UTILITY LAW)
REQUIREMENTS)
RESPONDENT: NORTHERN INDIANA PUBLIC SERVICE)
COMPANY)

CAUSE NO. 43369

APPROVED: MAY 09 2012

COMMISSION ORDER ON REMAND

Presiding Officers:

James D. Atterholt, Chairman

Angela Rapp Weber, Administrative Law Judge

On May 11, 2010, the Indiana Utility Regulatory Commission ("Commission") issued an Order in these consolidated Causes. The Commission found, among other things, that United States Steel Corporation ("U.S. Steel"), by its sale of electricity to ArcelorMittal Indiana Harbor Inc. ("ArcelorMittal"), was acting as a public utility and violating Indiana Code ch. 8-1-2.3; U.S. Steel, by transporting natural gas to ArcelorMittal, was acting as a public utility pursuant to Indiana Code § 8-1-2-87.5 and violating the Northern Indiana Public Service Company's ("NIPSCO") tariff; and as a result of U.S. Steel's transportation of natural gas, U.S. Steel must obtain a necessity certificate from the Commission pursuant to Indiana Code § 8-1-2-87.5.

On June 1, 2010, NIPSCO filed a Petition for Reconsideration, and the Commission denied it pursuant to an Order dated August 18, 2010. On June 10, 2010, NIPSCO filed a Notice of Appeal in this matter, and U.S. Steel and ArcelorMittal filed a Joint Notice of Appeal. On June 9, 2011, the Indiana Court of Appeals held that U.S. Steel was not acting as a public utility by providing electricity to ArcelorMittal because "U.S. Steel has provided electricity to only one customer located within its industrial complex pursuant to a special agreement." *U.S. Steel Corp. v. N. Ind. Pub. Serv. Co.*, 952

N.E.2d 542, 555 (Ind. Ct. App. 2011). The Court also found that U.S. Steel's provision of electricity was "not in an attempt to displace NIPSCO as an electricity supplier, but out of convenience and as a continuance of its previous distribution of electricity to itself when it owned the Plate Mill." *Id.* at 556. The Court concluded that U.S. Steel did not act as a public utility because it was not providing service directly or indirectly to the public and thus did not violate Indiana Code ch. 8-1-2.3. The Court of Appeals remanded to the Commission with instructions to vacate the portions of the May 11, 2010 Order that concluded U.S. Steel was acting as a public utility with respect to the provision of electricity to ArcelorMittal and violating Indiana Code ch. 8-1-2.3. The Court of Appeals affirmed the Commission's determination that U.S. Steel acted as a public utility by transporting gas to ArcelorMittal pursuant to Indiana Code § 8-1-2-87.5 and violated NIPSCO's tariff ban on resale. On February 7, 2012, the Indiana Supreme Court denied U.S. Steel's and ArcelorMittal's Petition to Transfer Jurisdiction.

The purpose of this Order on Remand is to conform our May 11, 2010 Order to the Court of Appeals' decision. Thus, the Commission vacates the portion of our May 11, 2010 Order finding that U.S. Steel acted as a public utility by providing electricity to ArcelorMittal. The Commission also vacates the portion of our May 11, 2010 Order finding that U.S. Steel violated Indiana Code ch. 8-1-2.3 by providing electricity to ArcelorMittal.

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

1. The portion of the Commission's May 11, 2010 Order finding that U.S. Steel acted as a public utility by providing electricity to ArcelorMittal is vacated.
2. The portion of the Commission's May 11, 2010 Order finding that U.S. Steel violated Indiana Code ch. 8-1-2.3 is vacated.
3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: MAY 09 2012

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


Brenda A. Howe
Secretary to the Commission