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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

THE PETITION OF BP PRODUCTS NORTH AMERICA INC. FOR SUCH CERTIFICATES, PERMITS, AND AUTHORITY AS MAY BE REQUIRED BY LAW FOR PETITIONER TO PROVIDE SERVICES TO ENTITIES ADJACENT TO AND WITHIN THE FOOTPRINT OF ITS WHITING, INDIANA REFINERY, FOR THE COMMISSION TO DECLINE TO EXERCISE ITS JURISDICTION OVER PETITIONER AND ITS SERVICES, THROUGH AN ALTERNATIVE REGULATORY PLAN UNDER I.C. § 8-1-2.5 IF NECESSARY, EXCEPT FOR SUCH ISSUANCE OF CERTIFICATES, PERMITS, OR AUTHORITY AS DEEMED NECESSARY; AND FOR PROTECTION FROM DISCLOSURE OF CONFIDENTIAL AND PROPRIETARY INFORMATION	)	CAUSE NO. 43525 APPROVED: FEB 22 2012

ORDER OF THE COMMISSION

Presiding Officers:
James D. Atterholt, Chairman
Angela Rapp Weber, Administrative Law Judge

This matter is before the Indiana Utility Regulatory Commission ("Commission") on limited remand from the Indiana Supreme Court to consider the approval of a Stipulation and Settlement Agreement ("Settlement Agreement") entered into by BP Products of North America, Inc. ("BP") and Northern Indiana Public Service Company ("NIPSCO") (collectively "Settling Parties"), which incorporates a Non-Standard Agreement for Gas Service.

1. **Procedural History.** On June 27, 2008, BP filed a Verified Petition with the Indiana Utility Regulatory Commission seeking review of certain arrangements that were in place between BP and various entities in and around its Whiting, Indiana oil refinery. BP requested that the Commission find it was not acting as a public utility under the arrangements, or, alternatively, that the Commission decline to exercise jurisdiction over BP and issue any necessary regulatory approvals.

Following the submission of evidence and an evidentiary hearing on the matter, the Commission issued an Order on May 13, 2009 finding that BP was a public utility with respect to certain arrangements involving the delivery of electricity, steam, and water and sewer services to certain entities, including the City of Whiting and Marsulex, a tenant on BP's Whiting Refinery property. The Commission, however, concluded that BP was not acting as a public utility in delivering natural gas to Marsulex.

BP commenced an appeal of the Commission's May 13, 2009 Order with the Indiana Court of Appeals, and NIPSCO intervened before that Court. By order of the Court of Appeals, and subsequent order of the Commission, the appeal was temporarily stayed for remand proceedings in which the Commission considered evidence involving a contract between BP's predecessor and NIPSCO, as previously approved by the Commission. On June 23, 2010, the Commission issued its Order on Remand, which did not alter the material determinations of its May 13, 2009 Order.

Following the issuance of the Order on Remand, the Court of Appeals issued its initial decision in *BP Products North America, Inc. v. Indiana Office of Utility Consumer Counselor*, 947 N.E.2d 471 (Ind. Ct. App. 2011). In that decision, the Court of Appeals reversed the Commission's finding that BP was a public utility with respect to the provision of electricity, steam, and most water services, but affirmed the Commission with respect to BP's provision of water to the City of Whiting. NIPSCO filed a petition for rehearing, and the Court of Appeals issued a rehearing decision on July 18, 2011. *BP Products North America, Inc. v. Indiana Office of Utility Consumer Counselor*, 2011 WL 2791152 (Ind. Ct. App. July 18, 2011). On rehearing, the Court considered the application of Indiana Code § 8-1-2-87.5 ("Section 87.5") to BP's provision of natural gas to Marsulex and concluded the arrangement fell within the scope of that statute, thereby reversing the Commission's prior finding concerning the provision of natural gas.

On August 17, 2011, BP filed a petition to transfer, seeking review of the rehearing decision of the Court of Appeals. Following the completion of briefing, the Settling Parties jointly requested that the Indiana Supreme Court hold consideration of the petition for transfer in abeyance and requested the Court remand the matter to the Commission for review and approval of a settlement agreement. On October 28, 2011, the Supreme Court issued an Order remanding the matter to the Commission "for the limited purpose of reviewing, and if appropriate, approving the Settling Parties' settlement agreement."

On December 9, 2011, the Settling Parties filed a Joint Motion for Approval of Stipulation and Settlement Agreement requesting approval of a Settlement Agreement between BP and NIPSCO and a Non-Standard Agreement for Gas Service among BP, NIPSCO, and Chemtrade. The Settling Parties also prefiled the testimony of Fergus Simpson on behalf of BP and Karl E. Stanley on behalf of NIPSCO and other evidence in support of the Settlement Agreement. Pursuant to a docket entry dated January 9, 2012, the Presiding Officers determined the OUCC should provide its position concerning the Settlement Agreement, and the OUCC timely responded on January 10, 2012, indicating it had no objection.[1]

Pursuant to notice duly published as required by law, the Commission conducted an evidentiary hearing at 2:30 p.m. on January 11, 2012 in Room 224, 101 West Washington Street, Indianapolis, Indiana. BP, NIPSCO, the OUCC, and United States Steel, an intervenor, appeared at

[1] Indiana Code § 8-1-1-5(c) states, "If in any such proceeding the public interest is not otherwise adequately represented by counsel, in the opinion of the commission, it shall be the duty of the utility consumer counselor, if requested by the commission, to make adequate preparation for the presentation of the interests of the public in such proceeding and the utility consumer counselor shall at the hearing represent the public interests therein involved."

the evidentiary hearing. During the hearing, BP and NIPSCO offered their respective testimony and exhibits into evidence without objection. No members of the general public appeared.

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

2. **Notice and Jurisdiction.** Due, legal, and timely notice of the public evidentiary hearing in this Cause was given and published by the Commission as required by law. The Commission has jurisdiction, when requested under appropriate circumstances, to address the issue of what constitutes public utility service. *Hidden Valley Lake Property Owners v. HVL Utilities*, 408 N.E.2d 622, 628-29 (Ind. Ct. App. 1980). In addition, NIPSCO is a public utility as defined by Indiana Code § 8-1-2-1 and is subject to the jurisdiction of the Commission in the manner and to the extent provided for by the laws of the State of Indiana. Pursuant to an October 28, 2011 Order of the Indiana Supreme Court, the Commission has jurisdiction to review, and if appropriate, approve the Settlement Agreement between BP and NIPSCO.

3. **Settling Parties' Characteristics.** BP is a corporation organized under, and existing pursuant to, Maryland law with its principal offices located in Warrenville, Illinois. It is registered and authorized to do business in Indiana. BP's principal Indiana business involves the refining of oil into various petroleum distillates at the Whiting Refinery. The refinery covers approximately 1,400 acres.

NIPSCO is a public utility with its principal place of business located at 801 East 86th Avenue, Merrillville, Indiana, and is authorized by the Commission to provide retail natural gas and electrical utility service to the public in all or part of multiple counties in northern Indiana.

4. **Relief Requested.** The Settling Parties request review and approval of the Settlement Agreement executed between BP and NIPSCO, which integrates the Non-Standard Agreement for Gas Service between BP, NIPSCO, and Chemtrade Refinery Solutions, L.P. ("Chemtrade").[2] The Settling Parties state the proposed arrangement will establish a direct customer relationship between NIPSCO and Chemtrade so BP will no longer be acting as a public utility within the scope and meaning of Section 87.5.

5. **Settlement Agreement and Non-Standard Agreement for Gas Service.** The Settling Parties submit for Comission approval a Settlement Agreement. Incorporated into the Settlement Agreement is the Non-Standard Agreement for Gas Service ("Non-Standard Agreement") executed by NIPSCO, BP, and Chemtrade. The Settlement Agreement and Non-Standard Agreement are summarized below.

According to the Settlement Agreement, the Settling Parties entered into the Non-Standard Agreement, and, as a result, Chemtrade will be billed directly by NIPSCO for gas service as separately metered for consumption at the leased facilities. Therefore, the arrangement substantially changes the circumstances addressed in the Court of Appeals' rehearing decision (i.e., NIPSCO has been providing gas distribution service to BP and BP then transported some of that gas to the facilities leased by Chemtrade). The Settling Parties agreed that upon Commission approval, the

[2] According to Mr. Fergus Simpson, as a result of a corporate transaction, Chemtrade is the successor to Marsulex.

revised service arrangement will establish a direct customer relationship between NIPSCO and Chemtrade, and BP will no longer be acting as a public utility pursuant to Section 87.5.

The Settlement Agreement further provides that BP no longer provides water to the municipal water utility operated by the City of Whiting. Since approximately July 2010, the City of Whiting has made other provisions for the supply of water to its water utility. Thus, the Settling Parties agree BP is no longer acting as a public utility with respect to the provision of water to the City of Whiting.

Further, contingent on Commission approval of the Settlement Agreement, BP will seek to withdraw and dismiss the petition to transfer, and upon withdrawal and dismissal, the Court of Appeals' decisions, dated April 25, 2011 and July 18, 2011, will constitute the final disposition of the appeal. If the Commission approves the Settlement Agreement, the Settling Parties have agreed to terminate all litigation between them related to the same factual circumstances regarding provisions of gas service.

Pursuant to the Non-Standard Agreement, Chemtrade will become a customer served directly by NIPSCO; NIPSCO will separately meter and bill Chemtrade's natural gas usage. According to the Non-Standard Agreement, the NIPSCO gas main is roughly 4,000 feet from the Chemtrade facility. Further, providing direct service to the facility would require the installation of a separate gas main through BP's property. The Settling Parties agree it would be uneconomical to construct a separate redundant main through BP's refinery property. NIPSCO therefore will deliver gas to Chemtrade as a direct customer by utilizing BP's existing distribution network within the Whiting Refinery. Under the Non-Standard Agreement, BP will be responsible for the delivery of gas from its entry into the BP System until its arrival at the Chemtrade facility. BP will redeliver gas to NIPSCO at the Chemtrade facility, where it will pass through a NIPSCO-owned meter for final delivery by NIPSCO to Chemtrade. Chemtrade will thus become a separate and direct customer of NIPSCO and will be separately metered and billed by NIPSCO for its distinct gas usage.

6. **<u>Summary of the Evidence</u>.** The Settling Parties submitted the Verified Testimony of Fergus Simpson and Karl Stanley. Mr. Simpson is the Commercial Development Manager for BP's Whiting Refinery and is responsible for the negotiation of contracts with suppliers, including NIPSCO. Mr. Simpson briefly summarized the history of the proceedings in Cause No. 43525 and the related appeals as set forth above.

Mr. Simpson stated that by an Order dated October 28, 2011, the Supreme Court stayed ruling on BP's Petition to Transfer until the earlier of a request by the Settling Parties or 120 days, and remanded the matter to the Commission for the limited purpose of reviewing and deciding whether to approve the Settlement Agreement. Mr. Simpson offered as exhibits the two decisions of the Court of Appeals and the Remand Order from the Indiana Supreme Court.

Mr. Simpson explained how the Settlement Agreement and Non-Standard Agreement address the Court of Appeals' determination that BP was acting as a public utility under Section 87.5. Previously, NIPSCO would deliver natural gas to BP at a meter near the Whiting Refinery's property line, and BP would then distribute the gas throughout its facility, including directly to the Chemtrade facility, using its privately-owned and -operated internal distribution system. Mr. Simpson stated the Court of Appeals found this arrangement constituted the transportation of gas on behalf of an end use customer pursuant to Section 87.5.

Mr. Simpson said that under the Settlement and Non-Standard Agreement, this arrangement has been materially altered. Following approval of the Agreements by the Commission, Chemtrade will become a direct customer of NIPSCO and receive service through a NIPSCO-owned meter at its facility. He testified NIPSCO will deliver gas to BP, but under the new arrangement BP will redeliver gas to NIPSCO at the Chemtrade meter. NIPSCO will then complete the delivery of gas to Chemtrade and separately bill the company as a separate customer. He explained Chemtrade thus will be a direct customer of NIPSCO, and will receive its gas service directly from NIPSCO. BP will provide limited access to its internal distribution to NIPSCO in order to assist NIPSCO in providing service to Chemtrade, thereby eliminating the need for an expensive project to build dedicated, and redundant, facilities to Chemtrade.

Mr. Simpson testified that the arrangement should render moot any concern that BP is transporting gas to Chemtrade as a public utility, and that the Settling Parties agree that the new arrangement will not subject BP to regulation as a public utility under Section 87.5. Mr. Simpson further testified BP supports approval of the Agreements because they provide a logical and efficient resolution to the unique facts of the case, allow Chemtrade to continue to receive gas service, satisfy NIPSCO's interests as a public utility, and bring an end to protracted and costly litigation. He further stated approval of the Agreements will provide certainty that will facilitate continued operations of the Whiting Refining and its focus on the business of refining oil.

Mr. Karl Stanley, NIPSCO's Vice President of Commercial Operations, also provided testimony in support of the Settlement Agreement and Non-Standard Agreement. Like Mr. Simpson, Mr. Stanley summarized the proceedings before the Commission in Cause No. 43525 and the related appeals and the execution of the Settlement Agreement and Non-Standard Agreement. Mr. Stanley also explained how the Settlement Agreement and Non-Standard Agreement address the delivery of gas to Chemtrade.

Previously, NIPSCO would deliver gas to BP at a meter located near BP's property line. That gas would be distributed throughout the Whiting Refinery, including to the Chemtrade facility, using BP's privately-owned and -operated internal gas distribution system. Mr. Stanley explained that under the new arrangement, Chemtrade will become a direct customer of NIPSCO and receive service through a NIPSCO-owned meter located at the Chemtrade facility. NIPSCO will deliver gas to BP, and BP will then redeliver a portion of that gas to NIPSCO at the NIPSCO meter located at the Chemtrade facility, through which NIPSCO will complete delivery to Chemtrade. Mr. Stanley stated NIPSCO will separately bill Chemtrade as a distinct customer.

Mr. Stanley testified that under the new arrangement, Chemtrade will be receiving its gas service directly from NIPSCO, as a direct customer of NIPSCO. BP will be providing NIPSCO only with limited access to BP's internal distribution system in order to assist NIPSCO in providing that service. The expensive installation of dedicated and redundant facilities to provide Chemtrade with gas will be avoided, and NIPSCO will be able to provide direct service to Chemtrade efficiently. Mr. Stanley stated the Settling Parties believe that the new arrangement should not subject BP to regulation as a public utility under Section 87.5.

Mr. Stanley stated NIPSCO supports approval of the Settlement Agreement and Non-Standard Agreement as a reasonable and just resolution. He also said the resolution is in the public interest because it brings closure to the litigation and will facilitate the continued operations of the Whiting Refinery, which is a major customer and employer in NIPSCO's service territory.

7. **Commission Discussion and Findings.** The Commission begins with a general discussion concerning settlements. Settlements presented to the Commission are not ordinary contracts between private Settling Parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). Any settlement agreement that is approved by the Commission "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (*quoting Citizens Action Coalition v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406. Furthermore, any Commission decision, ruling, or order—including approval of a settlement—must be supported by specific findings of facts and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement Agreement, a copy of which is attached to this Order and incorporated by reference, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement serves the public interest.

At issue is BP's status as a provider of gas service under Section 87.5. The Commission agrees with the Settling Parties that the terms of the Settlement Agreement and Non-Standard Agreement remove the arrangement from the scope of that statute. According to the evidence, Chemtrade will be a direct customer of NIPSCO and will be billed separately through a separate NIPSCO meter. BP will no longer be delivering gas to Chemtrade. Instead, BP will allow NIPSCO limited use of BP's internal infrastructure to deliver gas from the Refinery property line to the NIPSCO meter at the Chemtrade facility. The gas used by Chemtrade will be metered, billed, and delivered to Chemtrade by NIPSCO. The arrangement is efficient and practical because it avoids any need to construct separate, redundant facilities to provide dedicated gas service at considerable and unnecessary expense.[3] We therefore conclude that, upon implementation of the arrangement, BP will not be transporting gas on behalf of an end use consumer within the meaning of Section 87.5 and will not be subject to regulation as a public utility under that provision.

Approval of the Settlement Agreement and Non-Standard Agreement resolves a long-running dispute between NIPSCO and one of its largest customers, which is in the interests of all the parties involved. Chemtrade provides a service that facilitates the Whiting Refinery's continued operations. The Whiting Refinery is a major employer within NIPSCO's service territory and a major provider of petroleum products throughout the Midwest. This arrangement permits the continued operation of the Refinery with minimum of disruption. The terms of the arrangement also allow NIPSCO to serve a separate customer without any need to incur the additional and unnecessary expense of constructing a redundant gas main through the Whiting Refinery.

Accordingly, the Commission finds, based on the evidence presented, the Settlement Agreement and Non-Standard Agreement to be reasonable and in the public interest. The Commission therefore approves the Settlement Agreement and the Non-Standard Agreement for

[3] Indiana Code § 8-1-2-5 permits the joint use of facilities by public utilities and municipalities, which avoids the expensive duplication of such facilities. Nothing prohibits private entities from also voluntarily entering into joint use agreements like the one proposed by the Settling Parties in this Cause.

Gas Service without modification. With regard to future citation of the Settlement Agreement, we find the Settlement Agreement and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC Mar. 19, 1997).

The Commission also notes BP is no longer providing water service either directly or indirectly to the public. According to Mr. Simpson, BP ceased the provision of water service to the City of Whiting in July 2011 and has no plans to resume such service. Accordingly, BP is no longer providing water "to an entity that is a mere conduit serving the undifferentiated public," which was the basis of the Court of Appeals' holding that BP was acting as a public utility because of its sale of water to the City of Whiting. *BP Products North America*, 947 N.E.2d at 480. As a result, BP is no longer acting as a public utility in connection with water service.

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

1. The Settlement Agreement and the Non-Standard Agreement are approved.

2. The Settling Parties shall proceed to implement the provisions of the Settlement Agreement and the Non-Standard Agreement in accordance with their terms, commencing with the first day of the month following the issuance of this Order.

3. This Order shall be effective on and after the date of its issuance.

ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR; BENNETT NOT PARTICIPATING:

APPROVED: FEB 22 2012

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

Brenda A. Howe

Brenda A. Howe
Secretary to the Commission

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

THE PETITION OF BP PRODUCTS NORTH AMERICA, INC. FOR SUCH CERTIFICATES, PERMITS, AND AUTHORITY AS MAY BE REQUIRED BY LAW FOR PETITIONER TO PROVIDE SERVICES TO ENTITIES ADJACENT TO AND WITHIN THE FOOTPRINT OF ITS WHITING, INDIANA REFINERY, FOR THE COMMISSION TO DECLINE TO EXERCISE ITS JURISDICTION OVER PETITIONER AND ITS SERVICES, THROUGH AN ALTERNATIVE REGULATORY PLAN UNDER I.C.§ 8-1-2.5 IF NECESSARY, EXCEPT FOR SUCH ISSUANCE OF CERTIFICATES, PERMITS, OR AUTHORITY AS DEEMED NECESSARY; AND FOR PROTECTION FROM DISCLOSURE OF CONFIDENTIAL AND PROPRIETARY INFORMATION	)	CAUSE NO. 43525

STIPULATION AND SETTLEMENT AGREEMENT

Petitioner BP Products North America, Inc. ("BP") and intervenor Northern Indiana Public Service Company ("NIPSCO") (collectively, the "Parties"), solely for the purpose of compromise and settlement and having been duly advised by their respective staff and counsel, stipulate and agree that the terms and conditions of this Stipulation and Settlement Agreement ("Settlement") as set forth below, subject to their incorporation into a final Indiana Utility Regulatory Commission ("Commission") Order without modification or further condition unacceptable to any Party, represent a fair, just, reasonable and complete resolution of the issues in this Cause.

1. Prior proceedings. This Cause was commenced in June 2008 with a petition filed by BP, seeking determinations relating to certain arrangements in place between BP and other

entities in and around the property in Whiting, Indiana at which BP conducts refining operations. Following an evidentiary hearing in December 2008, the Commission issued an order on May 13, 2009 finding BP to be a "public utility" with respect to certain arrangements involving the delivery of electricity, steam and various water/sewer services, but not with respect to the delivery of natural gas to Marsulex, a tenant on BP's property. In that order, the Commission granted a partial declination of jurisdiction with respect to steam service.

BP commenced an appeal from the May 13, 2009 order, and NIPSCO intervened at the Court of Appeals. By order of the Court of Appeals and subsequent order of the Commission, the appeal was temporarily stayed for remand proceedings in which the Commission considered additional evidence relating to a contract between NIPSCO and BP's predecessor that was previously approved by the Commission. NIPSCO intervened as a party in the remand proceeding. On June 23, 2010, the Commission issued its remand order, declining to alter the material determinations in the May 13, 2009 order. The remand order included a direction that BP cease the provision of electricity to Marsulex, and BP sought a stay from the Commission as to that direction. By Docket Entry dated August 20, 2010, the Presiding Administrative Law Judge denied the motion to stay, and BP then filed an Appeal to the Full Commission, which has not been ruled upon.

Following issuance of the remand order, the appeal resumed and on April 25, 2011, the Court of Appeals issued its initial decision. <u>See</u> <u>BP Products North America, Inc. v. Indiana Office of Utility Consumer Counselor</u>, 947 N.E.2d 471 (Ind. Ct. App.), <u>on reh.</u>, 2011 WL 2791152 (2011), <u>transfer pending</u>. In that decision, the Court of Appeals reversed the finding that BP was a "public utility" with respect to the delivery of electricity to Marsulex and private arrangements involving steam and water/sewer services to Marsulex, U. S. Steel, Praxair and

Ineos. The Court of Appeals affirmed, however, the finding that BP acted as a "public utility" with respect to the provision of water to the City of Whiting. The initial appellate decision did not specifically address an argument raised by NIPSCO on cross-appeal, challenging the determination that BP was not a "public utility" with respect to natural gas transportation.

Following the filing of a rehearing petition by NIPSCO, the Court of Appeals issued a rehearing decision on July 18, 2011. In that decision, the Court addressed the application of Ind. Code §8-1-2-87.5 and concluded BP was acting as a "public utility" within the scope of that statute by distributing natural gas to Marsulex, reversing the Commission finding to the contrary.

On August 17, 2011, BP filed a petition to transfer, seeking review of the Court of Appeals rehearing decision by the Indiana Supreme Court. BP and NIPSCO subsequently entered into negotiations directed to reaching a mutually acceptable resolution of the disputed issues, and by joint motion requested that the Indiana Supreme Court hold the transfer petition in abeyance and remand the cause to the Commission for consideration of a settlement agreement. The Indiana Supreme Court granted that motion by Order dated October 28, 2011.

2. Resolution as to natural gas issue. BP, NIPSCO and Marsulex (which by virtue of a corporate transaction is now Chemtrade Refinery Solutions Limited Partnership or "Chemtrade") have agreed to enter into a Non-Standard Agreement for Gas Service, pursuant to which Chemtrade will be billed directly by NIPSCO for gas service as separately metered for consumption at the leased facilities. A copy of the Non-Standard Agreement for Gas Service is attached hereto as Exhibit A and incorporated herein by reference. The proposed arrangement will materially alter the circumstances addressed in the Court of Appeals' rehearing decision, under which NIPSCO had been providing gas distribution service to BP and BP then transported some of that gas to the facilities leased by Chemtrade. The Parties stipulate and agree that, upon

Commission approval, the revised service arrangement will establish a direct customer relationship between NIPSCO and Chemtrade, so that BP will no longer be acting as a "public utility" within the scope and meaning of Ind. Code §8-1-2-87.5, and accordingly all issues relating to BP's status as a "public utility" under that provision will be moot.

3. Resolution as to water contract with City of Whiting. BP ceased providing water to the municipal water utility operated by the City of Whiting in or around July 2010. Since that time, the City of Whiting has made other arrangements for the supply of water. The Parties stipulate and agree that, as a result, BP is no longer acting as a "public utility" with respect to the provision of water to the City of Whiting, and accordingly all issues arising from that status are now moot.

4. Resolution solely as to BP's pending appeal. Contingent on Commission approval of this Settlement, BP will withdraw and dismiss its petition to transfer that is pending at the Indiana Supreme Court. Upon that withdrawal and dismissal, the Court of Appeals' decisions, including both the initial decision dated April 25, 2011 and the rehearing decision issued on July 18, 2011, will constitute the final disposition of the appeal. The Parties agree not to seek to reopen, relitigate or otherwise alter the legal determinations set forth in the Court of Appeals' initial and rehearing decisions, relating to the same factual circumstances regarding provisions of gas service.

5. Procedure before the Commission. The Parties stipulate and agree that the terms and conditions described herein constitute a fair, just, reasonable and complete resolution of all issues raised in this Cause. The Parties will request Commission approval of this Settlement in its entirety, without any change or condition that is unacceptable to any Party. The Parties will

support any Commission order accepting and approving this Settlement in accordance with its terms, and will not seek rehearing, reconsideration and/or appeal with respect to any such order.

6. Procedure before the Indiana Supreme Court. Upon the issuance of a final order by the Commission approving this Settlement in its entirety, without change or alteration unacceptable to any Party, and after such an order becomes final and non-appealable, BP shall withdraw and dismiss its petition to transfer at the Indiana Supreme Court. BP shall make all necessary and appropriate filings and take such steps as may be required to secure the withdrawal and dismissal of the transfer petition. All Parties shall cooperate as needed to secure that relief, and shall take no action in any way opposing, objecting to or otherwise interfering with or resisting the withdrawal and dismissal of the transfer petition.

7. Non-Approval or Alteration. If the Settlement is not approved by the Commission, the Parties agree that the terms hereof shall not be admissible in evidence or in any way discussed in any subsequent proceeding. Moreover, the concurrence of the Parties with the terms of the Settlement is expressly predicated upon the Commission's approval of the Settlement in its entirety without modification or further condition unacceptable to either Party. If the Commission modifies the Settlement in any way, unless all of the Parties confirm to the Commission in writing that they consent to any such modification, the Settlement shall be null and void and shall be deemed withdrawn and of no force and effect. In that event, BP shall be entitled to take such action and steps as it sees fit to seek an order from the Indiana Supreme Court granting the pending petition to transfer, and all Parties shall be entitled to assert such positions and make such filings in any and all further proceedings as they see fit, without any prejudice or impediment arising from this Settlement or from any proceedings seeking approval of the terms herein.

8. Successors. This Settlement shall inure to the benefit of and be binding upon the successors, heirs, and assigns of the Parties.

9. Privileged Communications. The communications and discussions and materials produced and exchanged during the negotiation of the Settlement relate to offers of settlement and shall be privileged and confidential.

10. Authorization. The undersigned represent and agree that they are fully authorized to execute the Stipulation on behalf of the designated Parties who will be bound thereby.

ACCEPTED and AGREED this 8th day of December, 2011.

BP PRODUCTS NORTH AMERICA INC.

N. D. S[illegible]

(Signature)

N. D. SPENCER

(Printed Name)

VICE PRESIDENT

(Title)

ATTEST:

Fergus S[illegible]

NORTHERN INDIANA PUBLIC SERVICE COMPANY

____

(Signature)

____

(Printed Name)

____

(Title)

ATTEST:

____

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10. Authorization. The undersigned represent and agree that they are fully authorized to execute the Stipulation on behalf of the designated Parties who will be bound thereby.

ACCEPTED and AGREED this _____ day of December, 2011.

BP PRODUCTS NORTH AMERICA INC.

____
(Signature)

____
(Printed Name)

____
(Title)

ATTEST:

____

NORTHERN INDIANA PUBLIC SERVICE COMPANY

Karl E. Stanley
(Signature)

KARL E. STANLEY
(Printed Name)

VP, COMMERCIAL OPERATIONS
(Title)

ATTEST:

Gary W. Pottorff

EXHIBIT A
TO
STIPULATION AND SETTLEMENT AGREEMENT

Non-Standard Agreement for Gas Service

THIS NON-STANDARD AGREEMENT FOR GAS SERVICE ("Agreement") is made and entered this 8th day of December, 2011, by and between Northern Indiana Public Service Company, an Indiana corporation, ("NIPSCO"), Chemtrade Refinery Solutions Limited Partnership ("Customer"), a limited partnership organized and existing under the laws of the State of Delaware, and BP Products North America Inc. ("BP"), a Maryland corporation (each of NIPSCO, Customer, and BP are individually referred to herein as a "Party" and collectively referred to as the "Parties");

WITNESSETH:

WHEREAS, Customer desires to obtain natural gas service exclusively from NIPSCO for Customer's tail gas treatment facility which produces sodium bisulfite ("Facility") located within the bounds of the property owned by BP at 2815 Indianapolis Boulevard, Whiting, Indiana 46394 ("BP Property"); and

WHEREAS, NIPSCO is willing and able to provide natural gas service to Customer pursuant to its existing tariff; and

WHEREAS, NIPSCO's gas main is located approximately 4000 feet from the Facility, and service to the Facility from said gas main can only be accomplished by traversing the BP Property; and

WHEREAS, NIPSCO's General Rules and Regulations Applicable to Gas Service require Customer to provide a contribution, letter of credit, or minimum guarantee prior to the installation of new facilities to provide gas service; and

WHEREAS, it is economically undesirable, from Customer's perspective, to incur the time and expense associated with the construction of a gas service line that traverses the BP Property; and

WHEREAS, BP, the owner of the real property upon which the gas service line would be constructed, has indicated its opposition to the construction of such a service line; and

WHEREAS, although it is NIPSCO's standard practice to serve customers via facilities that are under NIPSCO's control up to a delivery point that is typically located at the customer's meter, NIPSCO, in light of the unusual circumstances presented herein, is willing to provide natural gas service to Customer for the benefit of the Facility pursuant to a non-standard arrangement, upon and subject to the terms and conditions expressed herein; and

WHEREAS, such non-standard arrangement would entail NIPSCO's use of BP's existing natural gas distribution system within the BP Property (the "BP System"), with BP remaining solely responsible for the operation of the BP System and solely responsible for natural gas while it is passing through the BP System, and, then, NIPSCO's metering of Customer's natural gas consumption at or near the Facility, as delivered through the BP System inside the BP Property; and

WHEREAS, pursuant to the provisions of this Agreement, BP agrees to provide NIPSCO with the use of and access to the BP System to the extent needed to complete delivery of natural gas to the Facility, and Customer agrees to accept service from NIPSCO subject to such risks and limitations on service reliability as may arise from the completion of delivery over, in part, facilities under the operation and control of BP rather than NIPSCO;

NOW THEREFORE, for and in consideration of the premises and of the covenants and agreements set forth hereinafter, the Parties, with the intent of being legally bound, do hereby covenant and agree as follows:

1. NIPSCO agrees to provide, and Customer agrees to receive, natural gas service for the benefit of the Facility at metering facilities owned by NIPSCO at or near the Facility (the "Delivery Point").

2. NIPSCO and Customer agree that the gas service provided to Customer at the Delivery Point shall be provided in accordance with an applicable NIPSCO tariff. NIPSCO and Customer further agree that said gas service shall be subject to all of the terms and conditions of existing and successor NIPSCO tariffs as approved by the Indiana Utility Regulatory Commission ("IURC"). Customer agrees to apply for service and to execute such documents, including, without limitation, one or more contracts for service, if such documents and contracts are required by NIPSCO's tariff from time to time depending on the nature of the services provided to Customer.

3. The Parties agree that BP will be responsible for the delivery of the gas from its entry into the BP System until its arrival at the Delivery Point, and that NIPSCO will have no responsibility for the gas while it is passing through the BP System. BP assumes this responsibility in exchange for NIPSCO's agreement to settle all gas issues related to Cause No. 43525. BP further assumes the responsibility, during the duration of this Agreement, to maintain in good working order such facilities that are part of the BP System that are needed to ensure the reliable delivery of gas to the Facility. BP agrees to indemnify and hold NIPSCO harmless from any and all claims from any party in any forum, including reasonable attorneys' fees, resulting from or related to the delivery of natural gas from its entry into the BP System until its arrival at the Facility.

4. Customer understands and agrees that the above-described metering arrangement is a non-standard arrangement, in that the delivery will be completed in part through facilities over which NIPSCO has no control and for which NIPSCO has no responsibility. Customer further understands and agrees that NIPSCO's agreement to this non-standard arrangement is conditioned on the agreement of Customer and BP to all of the terms expressed herein, and subject to approval by the IURC.

5. Customer agrees that the non-standard arrangement described herein can only be accomplished by the use of subtractive metering, whereby natural gas usage measured by meter(s) installed at or near the Facility shall be subtracted from natural gas delivered, metered and billed to BP. This arrangement will result in BP having access to natural gas usage data and billing information associated with Customer's Facility. Customer agrees to NIPSCO providing such information to BP and hereby agrees to waive any and all claims it might assert against NIPSCO's disclosure of such information to BP, its affiliates, or subsidiaries.

6. Because this non-standard service arrangement introduces additional sources of potential dispute between NIPSCO, BP and Customer (viz., the use of subtractive metering and the use of distribution facilities outside of NIPSCO's control), BP and Customer agree to promptly pay any undisputed amounts on their respective monthly bills, and with regard to any disputed amount, to either remit payment for the disputed amount or pay such disputed amount into escrow pending resolution of the dispute. BP and Customer acknowledge and agree that NIPSCO's execution and performance of this Agreement is expressly conditioned on and made in reliance on BP's and Customer's agreement to the terms of this Section 6.

7. Customer understands that its service may be interrupted if it becomes necessary for NIPSCO to disconnect service to BP, and hereby irrevocably waives and releases NIPSCO, its affiliates, officers, directors, employees and agents from, any claims Customer may have against NIPSCO arising out of any such interruption. NIPSCO will provide advance notice of such an interruption, to the extent practicable.

8. Customer agrees that the quality of service being provided by NIPSCO to Customer shall be measured only at the point the gas enters the BP System, and NIPSCO has no obligation or responsibility for the quality of service conveyed beyond that point. Customer agrees that by utilizing natural gas conveyed to the Customer Facility via facilities not owned and operated by NIPSCO, Customer assumes all risks associated with the receipt at the Facility of gas delivered in such manner, including but not limited to fluctuations in odorant levels, BTU levels, quality of natural gas, delivery pressures, interruption of delivery, and damage to the Facility.

9. Customer understands and agrees that NIPSCO's ability to promptly respond to problems associated with the meter(s) used to measure Customer's natural gas usage may be negatively affected, based on the security protocols prescribed by BP. Accordingly, Customer hereby irrevocably releases NIPSCO, its affiliates, officers, directors, employees and consultants, from any and all claims, suits, proceedings, costs and damages (including reasonable attorneys' fees) arising out of any failure by NIPSCO to respond to problems associated with the meters used to measure Customer's natural gas usage that is attributable to BP's security protocols.

10. Customer agrees that because natural gas is to be delivered to the Facility in part via facilities outside of NIPSCO's control, in the event of a meter malfunction NIPSCO shall have the authority to determine in its sole discretion whether the malfunction was due to any factor other than ordinary wear and tear or a fault with the meter itself. If NIPSCO determines that the malfunction was due to any factor other than ordinary wear and tear or a fault with the meter itself, Customer agrees to reimburse NIPSCO for any and all costs associated with any

meter repair and/or replacement, including but not limited to travel time and overhead. In the event Customer disputes a NIPSCO determination that a malfunction is due to factors other than ordinary wear and tear, Customer will pay NIPSCO for any costs incurred by NIPSCO, including reasonable attorney fees, if NIPSCO successfully defends a challenge to NIPSCO's determination. With the consent of NIPSCO, which shall not be unreasonably withheld, BP and/or Customer may effectuate and implement any necessary meter repair and/or replacement, at their sole cost and subject to NIPSCO's acceptance, as may be appropriate and efficient to facilitate the operation of the Facility.

11. Customer shall permit NIPSCO to construct, install, maintain, remove and replace on the Facility property (a description of which is set forth as Exhibit A) such facilities as NIPSCO in its reasonable judgment deems necessary to commence, continue, meter and terminate NIPSCO's service to Customer, including meters, regulators, bypass facilities, and shut off valves. Upon request, Customer and/or BP shall also provide a telephone line and a power source at no charge, to enable NIPSCO to remotely read its meter. Customer and BP further agree to give NIPSCO access to the premises for purposes of reading, servicing, operating, replacing, and/or removing said facilities. Customer, BP and NIPSCO may agree from time to time upon mutually acceptable safety and security protocols to be observed by the parties and their representatives, but failure to agree on such safety and security protocols shall not in any way affect NIPSCO's rights to any and all payments under this Agreement.

12. BP hereby grants NIPSCO a license to construct, install, maintain, remove and replace on the BP Property such facilities as NIPSCO in its reasonable judgment deems necessary to commence, continue, meter and terminate NIPSCO's service to Customer, including meters, regulators, bypass facilities, and shut off valves, provided that if BP or Customer already has adequate facilities installed and in good working order, NIPSCO shall purchase such facilities at a price equal to the net book value thereof recorded in the relevant accounting records as of the date of such purchase and use such facilities for purposes of providing service to Customer pursuant to this Agreement. Upon termination of this Agreement, BP and/or Customer agree to re-purchase said facilities from NIPSCO at a price equal to the net book value thereof as recorded in NIPSCO's accounting records as of the date of such purchase. NIPSCO, Customer and BP agree to coordinate their efforts so that such activities can be accomplished in a prudent and timely manner. Title to said facilities pursuant to the aforesaid purchase and re-purchase of such facilities shall be conveyed free and clear of any and all liens, claims or encumbrances of any nature (other than those encumbrances expressly imposed by this Section 12 and the obligations expressly imposed on any Party under this Agreement affecting the use or transfer of such facilities), and shall include appropriate warranties and indemnifications, and shall be effectuated by a bill of sale or other instrument or instruments reasonably satisfactory to the respective legal counsel for each of BP, Customer and NIPSCO.

13. This Agreement shall be submitted to the IURC for approval and shall not take effect until the first day of the next succeeding month after it has been approved by the IURC in a manner acceptable to all of the Parties. The Parties further agree that any dispute arising out of or relating to the interpretation of this Agreement shall be subject to and submitted to the IURC for its review and decision.

14. Termination. This Agreement shall remain in effect, until the earlier to occur of (i) termination by a Party upon written notice to all other Parties in the event another Party breaches any material obligation required of such Party under this Agreement and such Party fails to cure such breach within 15 days after written notice thereof from the non-breaching Party, or (ii) upon written notice by one Party to all other Parties following the termination or expiration of gas service by NIPSCO to Customer at the Customer's facility. Termination of this Agreement pursuant to clause (i) of this Section 14 is not the exclusive remedy for the non-breaching Parties, and each Party shall have available to it all rights and remedies with respect to any breach of this Agreement available hereunder, or at law or in equity, unless expressly provided otherwise under the NIPSCO Gas Tariff.

15. All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to be made or given when personally delivered or two (2) business days after being mailed by registered or certified United States mail, postage prepaid, return receipt requested, or one (1) business day after being sent by Federal Express or other recognized courier guaranteeing overnight delivery, postage prepaid, to the Parties at the following respective addresses, or at such other address as a respective Party may designate from time to time pursuant to a notice duly given hereunder to the other Parties:

Chemtrade Refinery Solutions Limited Partnership
155 Gordon Baker Road, Suite 300
Toronto, ON M2H 3N5
Canada
Attn: General Counsel

With a copy to:

James Quain
Chemtrade Refinery Solutions Limited Partnership
4273 Welland Drive
West Bloomfield, MI 48323

BP Products North America Inc.
Finance Manager, Whiting Refinery
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

With a copy to:

Fergus Simpson, Commercial Development Manager
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

NIPSCO
Michael Pasky
Executive Director, Major Accounts
Northern Indiana Public Service Company
801 E. 86th Avenue
Merrillville, Indiana 46410
Email: mrpasky@nisource.com

16. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of NIPSCO's Gas Tariff, the provisions of this Agreement shall govern and control.

17. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

18. This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of Indiana, without regard to any choice of law or conflicts of law rules that would direct the application of the laws of another jurisdiction.

19. The terms and conditions of Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 shall survive any expiration or termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed as of the day and year first above written.

CHEMTRADE REFINERY SOLUTIONS GP ULC,
as General Partner of CHEMTRADE REFINERY
SOLUTIONS LIMITED PARTNERSHIP

____
(Signature)

Mark Davis
(Printed Name)

Chief Executive Officer
(Title)

ATTEST:

____

BP PRODUCTS NORTH AMERICA INC.

N.D. Spencer
(Signature)

N. D. SPENCER
(Printed Name)

VICE PRESIDENT
(Title)

ATTEST:

[signature]

NORTHERN INDIANA PUBLIC SERVICE COMPANY

(Signature)

(Printed Name)

(Title)

ATTEST:

BP PRODUCTS NORTH AMERICA INC.

____
(Signature)

____
(Printed Name)

____
(Title)

ATTEST:

____

NORTHERN INDIANA PUBLIC SERVICE COMPANY

____
(Signature)

KARL E. STANLEY
(Printed Name)

VP, COMMERCIAL OPERATIONS
(Title)

ATTEST:

____

EXHIBIT A

Marsulex SBS Land Lease Parcel

A part of the Northwest ¼, of the Northeast ¼, of Section 17, Township 37 North, Range 9 West, of the Second Principal Meridian, Amoco Oil Corporation, City of Whiting, Lake County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said Section 17; thence (using Amoco Oil coordinates as a Basis of Bearing) North 89°00'57" West along the northerly line of said Section 17, a distance of 1622.84 feet; thence South 00°00'00" East, a distance of 87.91 feet to the Point of Beginning; thence continuing South 00°00'00" East, a distance of 38.04 feet; thence North 90°00'00" East, a distance of 31.30 feet; thence North 0°00'00" East, a distance of 20.88 feet; thence North 90°00'00" East, a distance of 16.09 feet; thence South 0°00'00" East, a distance of 76.56 feet; thence North 90°00'00" East, a distance of 57.00 feet; thence South 0°00'00" East, a distance of 47.00 feet; thence North 90°00'00" East, a distance of 7.44 feet; thence South 0°00'00" East, a distance of 28.44 feet; thence North 90°00'00" West, a distance of 59.60 feet; thence North 0°00'00" East, a distance of 64.50 feet; thence North 90°00'00" West, a distance of 32.23 feet; thence South 0°00'00" East, a distance of 20.88 feet; thence North 90°00'00" West, a distance of 12.75 feet; thence South 0°00'00" East, a distance of 23.66 feet; thence North 90°00'00" West, a distance of 93.32 feet; thence North 0°00'00" East, a distance of 40.66 feet; thence North 90°00'00" West, a distance of 58.92 feet; thence North 0°00'00" East, a distance of 48.52 feet; thence North 90°00'00" East, a distance of 67.79 feet; thence North 0°00'00" East, a distance of 60.02 feet; thence North 90°00'00" East, a distance of 77.20 feet back to the Point of Beginning, containing 0.538 acres, more or less.

Non-Standard Agreement for Gas Service

THIS NON-STANDARD AGREEMENT FOR GAS SERVICE ("Agreement") is made and entered this 8th day of December, 2011, by and between Northern Indiana Public Service Company, an Indiana corporation, ("NIPSCO"), Chemtrade Refinery Solutions Limited Partnership ("Customer"), a limited partnership organized and existing under the laws of the State of Delaware, and BP Products North America Inc. ("BP"), a Maryland corporation (each of NIPSCO, Customer, and BP are individually referred to herein as a "Party" and collectively referred to as the "Parties");

WITNESSETH:

WHEREAS, Customer desires to obtain natural gas service exclusively from NIPSCO for Customer's tail gas treatment facility which produces sodium bisulfite ("Facility") located within the bounds of the property owned by BP at 2815 Indianapolis Boulevard, Whiting, Indiana 46394 ("BP Property"); and

WHEREAS, NIPSCO is willing and able to provide natural gas service to Customer pursuant to its existing tariff; and

WHEREAS, NIPSCO's gas main is located approximately 4000 feet from the Facility, and service to the Facility from said gas main can only be accomplished by traversing the BP Property; and

WHEREAS, NIPSCO's General Rules and Regulations Applicable to Gas Service require Customer to provide a contribution, letter of credit, or minimum guarantee prior to the installation of new facilities to provide gas service; and

WHEREAS, it is economically undesirable, from Customer's perspective, to incur the time and expense associated with the construction of a gas service line that traverses the BP Property; and

WHEREAS, BP, the owner of the real property upon which the gas service line would be constructed, has indicated its opposition to the construction of such a service line; and

WHEREAS, although it is NIPSCO's standard practice to serve customers via facilities that are under NIPSCO's control up to a delivery point that is typically located at the customer's meter, NIPSCO, in light of the unusual circumstances presented herein, is willing to provide natural gas service to Customer for the benefit of the Facility pursuant to a non-standard arrangement, upon and subject to the terms and conditions expressed herein; and

WHEREAS, such non-standard arrangement would entail NIPSCO's use of BP's existing natural gas distribution system within the BP Property (the "BP System"), with BP remaining solely responsible for the operation of the BP System and solely responsible for natural gas while it is passing through the BP System, and, then, NIPSCO's metering of Customer's natural gas consumption at or near the Facility, as delivered through the BP System inside the BP Property; and

WHEREAS, pursuant to the provisions of this Agreement, BP agrees to provide NIPSCO with the use of and access to the BP System to the extent needed to complete delivery of natural gas to the Facility, and Customer agrees to accept service from NIPSCO subject to such risks and limitations on service reliability as may arise from the completion of delivery over, in part, facilities under the operation and control of BP rather than NIPSCO;

NOW THEREFORE, for and in consideration of the premises and of the covenants and agreements set forth hereinafter, the Parties, with the intent of being legally bound, do hereby covenant and agree as follows:

1. NIPSCO agrees to provide, and Customer agrees to receive, natural gas service for the benefit of the Facility at metering facilities owned by NIPSCO at or near the Facility (the "Delivery Point").

2. NIPSCO and Customer agree that the gas service provided to Customer at the Delivery Point shall be provided in accordance with an applicable NIPSCO tariff. NIPSCO and Customer further agree that said gas service shall be subject to all of the terms and conditions of existing and successor NIPSCO tariffs as approved by the Indiana Utility Regulatory Commission ("IURC"). Customer agrees to apply for service and to execute such documents, including, without limitation, one or more contracts for service, if such documents and contracts are required by NIPSCO's tariff from time to time depending on the nature of the services provided to Customer.

3. The Parties agree that BP will be responsible for the delivery of the gas from its entry into the BP System until its arrival at the Delivery Point, and that NIPSCO will have no responsibility for the gas while it is passing through the BP System. BP assumes this responsibility in exchange for NIPSCO's agreement to settle all gas issues related to Cause No. 43525. BP further assumes the responsibility, during the duration of this Agreement, to maintain in good working order such facilities that are part of the BP System that are needed to ensure the reliable delivery of gas to the Facility. BP agrees to indemnify and hold NIPSCO harmless from any and all claims from any party in any forum, including reasonable attorneys' fees, resulting from or related to the delivery of natural gas from its entry into the BP System until its arrival at the Facility.

4. Customer understands and agrees that the above-described metering arrangement is a non-standard arrangement, in that the delivery will be completed in part through facilities over which NIPSCO has no control and for which NIPSCO has no responsibility. Customer further understands and agrees that NIPSCO's agreement to this non-standard arrangement is conditioned on the agreement of Customer and BP to all of the terms expressed herein, and subject to approval by the IURC.

5. Customer agrees that the non-standard arrangement described herein can only be accomplished by the use of subtractive metering, whereby natural gas usage measured by meter(s) installed at or near the Facility shall be subtracted from natural gas delivered, metered and billed to BP. This arrangement will result in BP having access to natural gas usage data and billing information associated with Customer's Facility. Customer agrees to NIPSCO providing such information to BP and hereby agrees to waive any and all claims it might assert against NIPSCO's disclosure of such information to BP, its affiliates, or subsidiaries.

6. Because this non-standard service arrangement introduces additional sources of potential dispute between NIPSCO, BP and Customer (viz., the use of subtractive metering and the use of distribution facilities outside of NIPSCO's control), BP and Customer agree to promptly pay any undisputed amounts on their respective monthly bills, and with regard to any disputed amount, to either remit payment for the disputed amount or pay such disputed amount into escrow pending resolution of the dispute. BP and Customer acknowledge and agree that NIPSCO's execution and performance of this Agreement is expressly conditioned on and made in reliance on BP's and Customer's agreement to the terms of this Section 6.

7. Customer understands that its service may be interrupted if it becomes necessary for NIPSCO to disconnect service to BP, and hereby irrevocably waives and releases NIPSCO, its affiliates, officers, directors, employees and agents from, any claims Customer may have against NIPSCO arising out of any such interruption. NIPSCO will provide advance notice of such an interruption, to the extent practicable.

8. Customer agrees that the quality of service being provided by NIPSCO to Customer shall be measured only at the point the gas enters the BP System, and NIPSCO has no obligation or responsibility for the quality of service conveyed beyond that point. Customer agrees that by utilizing natural gas conveyed to the Customer Facility via facilities not owned and operated by NIPSCO, Customer assumes all risks associated with the receipt at the Facility of gas delivered in such manner, including but not limited to fluctuations in odorant levels, BTU levels, quality of natural gas, delivery pressures, interruption of delivery, and damage to the Facility.

9. Customer understands and agrees that NIPSCO's ability to promptly respond to problems associated with the meter(s) used to measure Customer's natural gas usage may be negatively affected, based on the security protocols prescribed by BP. Accordingly, Customer hereby irrevocably releases NIPSCO, its affiliates, officers, directors, employees and consultants, from any and all claims, suits, proceedings, costs and damages (including reasonable attorneys' fees) arising out of any failure by NIPSCO to respond to problems associated with the meters used to measure Customer's natural gas usage that is attributable to BP's security protocols.

10. Customer agrees that because natural gas is to be delivered to the Facility in part via facilities outside of NIPSCO's control, in the event of a meter malfunction NIPSCO shall have the authority to determine in its sole discretion whether the malfunction was due to any factor other than ordinary wear and tear or a fault with the meter itself. If NIPSCO determines that the malfunction was due to any factor other than ordinary wear and tear or a fault with the meter itself, Customer agrees to reimburse NIPSCO for any and all costs associated with any

meter repair and/or replacement, including but not limited to travel time and overhead. In the event Customer disputes a NIPSCO determination that a malfunction is due to factors other than ordinary wear and tear, Customer will pay NIPSCO for any costs incurred by NIPSCO, including reasonable attorney fees, if NIPSCO successfully defends a challenge to NIPSCO's determination. With the consent of NIPSCO, which shall not be unreasonably withheld, BP and/or Customer may effectuate and implement any necessary meter repair and/or replacement, at their sole cost and subject to NIPSCO's acceptance, as may be appropriate and efficient to facilitate the operation of the Facility.

11. Customer shall permit NIPSCO to construct, install, maintain, remove and replace on the Facility property (a description of which is set forth as Exhibit A) such facilities as NIPSCO in its reasonable judgment deems necessary to commence, continue, meter and terminate NIPSCO's service to Customer, including meters, regulators, bypass facilities, and shut off valves. Upon request, Customer and/or BP shall also provide a telephone line and a power source at no charge, to enable NIPSCO to remotely read its meter. Customer and BP further agree to give NIPSCO access to the premises for purposes of reading, servicing, operating, replacing, and/or removing said facilities. Customer, BP and NIPSCO may agree from time to time upon mutually acceptable safety and security protocols to be observed by the parties and their representatives, but failure to agree on such safety and security protocols shall not in any way affect NIPSCO's rights to any and all payments under this Agreement.

12. BP hereby grants NIPSCO a license to construct, install, maintain, remove and replace on the BP Property such facilities as NIPSCO in its reasonable judgment deems necessary to commence, continue, meter and terminate NIPSCO's service to Customer, including meters, regulators, bypass facilities, and shut off valves, provided that if BP or Customer already has adequate facilities installed and in good working order, NIPSCO shall purchase such facilities at a price equal to the net book value thereof recorded in the relevant accounting records as of the date of such purchase and use such facilities for purposes of providing service to Customer pursuant to this Agreement. Upon termination of this Agreement, BP and/or Customer agree to re-purchase said facilities from NIPSCO at a price equal to the net book value thereof as recorded in NIPSCO's accounting records as of the date of such purchase. NIPSCO, Customer and BP agree to coordinate their efforts so that such activities can be accomplished in a prudent and timely manner. Title to said facilities pursuant to the aforesaid purchase and re-purchase of such facilities shall be conveyed free and clear of any and all liens, claims or encumbrances of any nature (other than those encumbrances expressly imposed by this Section 12 and the obligations expressly imposed on any Party under this Agreement affecting the use or transfer of such facilities), and shall include appropriate warranties and indemnifications, and shall be effectuated by a bill of sale or other instrument or instruments reasonably satisfactory to the respective legal counsel for each of BP, Customer and NIPSCO.

13. This Agreement shall be submitted to the IURC for approval and shall not take effect until the first day of the next succeeding month after it has been approved by the IURC in a manner acceptable to all of the Parties. The Parties further agree that any dispute arising out of or relating to the interpretation of this Agreement shall be subject to and submitted to the IURC for its review and decision.

14. Termination. This Agreement shall remain in effect, until the earlier to occur of (i) termination by a Party upon written notice to all other Parties in the event another Party breaches any material obligation required of such Party under this Agreement and such Party fails to cure such breach within 15 days after written notice thereof from the non-breaching Party, or (ii) upon written notice by one Party to all other Parties following the termination or expiration of gas service by NIPSCO to Customer at the Customer's facility. Termination of this Agreement pursuant to clause (i) of this Section 14 is not the exclusive remedy for the non-breaching Parties, and each Party shall have available to it all rights and remedies with respect to any breach of this Agreement available hereunder, or at law or in equity, unless expressly provided otherwise under the NIPSCO Gas Tariff.

15. All notices, demands and other communications required or permitted to be given under this Agreement shall be in writing and shall be deemed to be made or given when personally delivered or two (2) business days after being mailed by registered or certified United States mail, postage prepaid, return receipt requested, or one (1) business day after being sent by Federal Express or other recognized courier guaranteeing overnight delivery, postage prepaid, to the Parties at the following respective addresses, or at such other address as a respective Party may designate from time to time pursuant to a notice duly given hereunder to the other Parties:

Chemtrade Refinery Solutions Limited Partnership
155 Gordon Baker Road, Suite 300
Toronto, ON M2H 3N5
Canada
Attn: General Counsel

With a copy to:

James Quain
Chemtrade Refinery Solutions Limited Partnership
4273 Welland Drive
West Bloomfield, MI 48323

BP Products North America Inc.
Finance Manager, Whiting Refinery
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

With a copy to:

Fergus Simpson, Commercial Development Manager
BP Products North America, Inc.
2815 Indianapolis Boulevard
Whiting, Indiana 46394

NIPSCO
Michael Pasky
Executive Director, Major Accounts
Northern Indiana Public Service Company
801 E. 86th Avenue
Merrillville, Indiana 46410
Email: mrpasky@nisource.com

16. In the event of any conflict between the terms and conditions of this Agreement and the terms and conditions of NIPSCO's Gas Tariff, the provisions of this Agreement shall govern and control.

17. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

18. This Agreement shall be governed by and construed in accordance with the laws of the United States of America and the State of Indiana, without regard to any choice of law or conflicts of law rules that would direct the application of the laws of another jurisdiction.

19. The terms and conditions of Sections 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17 and 18 shall survive any expiration or termination of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed as of the day and year first above written.

CHEMTRADE REFINERY SOLUTIONS GP ULC,
as General Partner of CHEMTRADE REFINERY SOLUTIONS LIMITED PARTNERSHIP

____
(Signature)

Mark Davis
(Printed Name)

Chief Executive Officer
(Title)

ATTEST:
____

BP PRODUCTS NORTH AMERICA INC.

N. D. S.

(Signature)

N. D. SPENCER

(Printed Name)

VICE PRESIDENT

(Title)

ATTEST:

[illegible]

NORTHERN INDIANA PUBLIC SERVICE COMPANY

____

(Signature)

____

(Printed Name)

____

(Title)

ATTEST:

____

BP PRODUCTS NORTH AMERICA INC.

____
(Signature)

____
(Printed Name)

____
(Title)

ATTEST:

____

NORTHERN INDIANA PUBLIC SERVICE COMPANY

____
(Signature)

KARL E. STANLEY
(Printed Name)

VP, COMMERCIAL OPERATIONS
(Title)

ATTEST:

____

EXHIBIT A

Marsulex SBS Land Lease Parcel

A part of the Northwest ¼, of the Northeast ¼, of Section 17, Township 37 North, Range 9 West, of the Second Principal Meridian, Amoco Oil Corporation, City of Whiting, Lake County, Indiana, more particularly described as follows:

Commencing at the northeast corner of said Section 17; thence (using Amoco Oil coordinates as a Basis of Bearing) North 89°00'57" West along the northerly line of said Section 17, a distance of 1622.84 feet; thence South 00°00'00" East, a distance of 87.91 feet to the Point of Beginning; thence continuing South 00°00'00" East, a distance of 38.04 feet; thence North 90°00'00" East, a distance of 31.30 feet; thence North 0°00'00" East, a distance of 20.88 feet; thence North 90°00'00" East, a distance of 16.09 feet; thence South 0°00'00" East, a distance of 76.56 feet; thence North 90°00'00" East, a distance of 57.00 feet; thence South 0°00'00" East, a distance of 47.00 feet; thence North 90°00'00" East, a distance of 7.44 feet; thence South 0°00'00" East, a distance of 28.44 feet; thence North 90°00'00" West, a distance of 59.60 feet; thence North 0°00'00" East, a distance of 64.50 feet; thence North 90°00'00" West, a distance of 32.23 feet; thence South 0°00'00" East, a distance of 20.88 feet; thence North 90°00'00" West, a distance of 12.75 feet; thence South 0°00'00" East, a distance of 23.66 feet; thence North 90°00'00" West, a distance of 93.32 feet; thence North 0°00'00" East, a distance of 40.66 feet; thence North 90°00'00" West, a distance of 58.92 feet; thence North 0°00'00" East, a distance of 48.52 feet; thence North 90°00'00" East, a distance of 67.79 feet; thence North 0°00'00" East, a distance of 60.02 feet; thence North 90°00'00" East, a distance of 77.20 feet back to the Point of Beginning, containing 0.538 acres, more or less.