

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

BP
Law
>DA

[Signature]

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: JUL 30 2009

BY THE COMMISSION:

David Lott Hardy, Chairman

Angela Rapp Weber, Administrative Law Judge

On May 13, 2009, the Indiana Utility Regulatory Commission ("Commission") issued a Final Order in this Cause. On May 29, 2009, British Products North America, Inc. ("BP") filed with the Commission a Notice of Appeal of the May 13, 2009 Order. On June 2, 2009, U.S. Steel also filed a Notice of Appeal of the May 13, 2009 Order.

On June 30, 2009, BP filed a Verified Motion to Stay Implementation ("Motion to Stay"), which requested that the Commission stay the implementation of its May 13, 2009 Order pending resolution of the appeal. The Commission's May 13, 2009 Order imposed annual reporting requirements on BP's provision of steam. In addition, the Order directed BP to enter into discussions with the Northern Indiana Public Service Company ("NIPSCO") with regards to BP's sale of electric service in NIPSCO's assigned service territory and in contravention of Indiana Code § 8-1-2.3-4. BP was required to file a notice of compliance with the Commission ninety days from the date of the Order so the Commission could ensure that the issue had been appropriately resolved. Finally, the May 13, 2009 Order created a Subdocket to this Cause so that the Commission could establish rates and charges for the provision of water/wastewater services or establish a regulatory plan pursuant to Indiana Code §§ 8-1-2-61.5(d) and 61.5(e).

There are four criteria that must be met in order to support the grant of a stay. Those criteria are: 1. irreparable harm; 2. likelihood of success on the merits; 3. balance of harms; and

4. public interest. *Doe v. O'Connor*, 781 N.E.2d 672, 674 (Ind. 2003). The Motion to Stay did not explain how BP would suffer irreparable harm if the Commission denied it. It did assert a reasonable likelihood of success on the merits but failed to offer support for this assertion. The third requirement, balance of harms, was not addressed. Although the Motion to Stay stated that the public interest would be served because time, money, and resources would not be unnecessarily spent, BP failed to fully explain how the public interest would be served and failed to offer support for this statement. Accordingly, the Commission hereby finds that the Motion to Stay should be denied.

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

1. The Motion to Stay filed by BP on June 30, 2009 is hereby denied.
2. This Order shall be effective on and after the date of its approval.

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

APPROVED: JUL 30 2009

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



**Brenda A. Howe
Secretary to the Commission**