

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Handwritten initials and signature:
JL6
[Signature]

VERIFIED PETITION OF SOUTHERN INDIANA)
GAS AND ELECTRIC COMPANY d/b/a VECTREN)
ENERGY DELIVERY OF INDIANA, INC. FOR: (1))
AUTHORIZATION FOR THE TIMELY)
RECOVERY OF CAPITAL COSTS AND)
OPERATING EXPENSES RELATING TO THE)
DENSE PACK PROJECT AT WARRICK UNIT 4)
AND (2) APPROVAL FOR A MODIFICATON OF)
THE CERTIFICATE OF A PREVIOUSLY)
GRANTED PUBLIC CONVENIENCE AND)
NECESSITY TO INCORPORATE THE DENSE)
PACK PROJECT PURSUANT TO IND. CODE)
CHAP. 8-1-8.8)

CAUSE NO. 43568

FINAL ORDER

APPROVED:

JUN 17 2009

BY THE COMMISSION:

Larry S. Landis, Commissioner

Lorraine Hitz-Bradley, Administrative Law Judge

On August 29, 2008, Petitioner Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Petitioner" or "Vectren South") filed its petition with the Indiana Utility Regulatory Commission ("Commission") for authorization for the timely recovery of capital costs and depreciation expense relating to the installation of Dense Pack technology ("Dense Pack Project" or "Project") at Unit 4 of the Warrick Generating Station ("Warrick Unit 4") pursuant to Ind. Code § 8-1-8.8.

On October 15, 2008, the Commission issued a Prehearing Conference Order that established a procedural schedule for this proceeding in accordance with the agreement of the parties made at the Prehearing Conference and Preliminary Hearing held on October 8, 2008.

On October 17, 2008, Petitioner prefiled the prepared testimony and exhibits constituting its case-in-chief. The Indiana Office of the Utility Consumer Counselor ("OUCC") filed its direct testimony on December 16, 2008. Petitioner filed its rebuttal testimony on January 9, 2009.

Pursuant to notice, duly published as required by law, an evidentiary hearing was held on January 27, 2009, at 9:30 a.m. EST, in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the parties' prefiled evidence was admitted into the record.

Based upon the applicable law and the evidence of record, the Commission now finds:

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. Due, legal and timely notice of the filing of the Petition was given and published by Petitioner. Petitioner is a

“public utility” as that term is used in I.C. § 8-1-2-1(a). Petitioner is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana. The Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner’s Characteristics and Business.** Petitioner is an operating public utility incorporated under the laws of the State of Indiana, with its principal office and place of business in the City of Evansville, Indiana. Petitioner provides electric and gas utility service to the public in Indiana and is subject to regulation by this Commission in the manner and to the extent provided by the laws of the State of Indiana. This petition pertains to Petitioner’s electric utility business.

3. **Relief Requested.** Petitioner seeks authorization for the timely recovery of capital costs and depreciation expense relating to the installation of the Dense Pack Project at the Warrick Unit 4 pursuant to I.C. § 8-1-8.8. Specifically, Petitioner asks the Commission to find that installation of the Dense Pack Project constitutes a Clean Coal and Energy Project under I.C. § 8-1-8.8-2, and to grant financial incentives in the form of tracked cost recovery pursuant to I.C. § 8-1-8.8-11.

4. **Petitioner’s Case-In-Chief.**

(a) **Ronald G. Jochum.** Ronald G. Jochum, Petitioner’s Vice President – Power Supply, testified regarding installation and operation of the proposed Dense Pack technology at Warrick Unit 4. Mr. Jochum also identified the estimated costs associated with the Project and the benefits that will be achieved by the Project.

Mr. Jochum testified that the Warrick Generating Station is located adjacent to Alcoa Inc.’s aluminum manufacturing facility in Warrick County. Of the four units at the Warrick Generating Station, the first three are owned by Alcoa Generating Corporation (“Alcoa”) and Unit 4 is jointly owned by Alcoa and Petitioner as tenants in common. Mr. Jochum stated that Petitioner only uses Illinois Basin coal as fuel at Warrick Unit 4. Mr. Jochum explained that the Commission granted a certificate of public convenience and necessity (“CPCN”) for a flue gas desulfurization project at Warrick Unit 4 (“FGD Project”) in its Order dated February 22, 2006 in Cause No. 42861. Mr. Jochum noted that the FGD Project being installed at Warrick Unit 4 will significantly reduce SO₂ emissions at Warrick Unit 4. However, the FGD Project will also decrease the net generating efficiency of Warrick Unit 4 because auxiliary energy will be used in the operation of the FGD. He said installation of the Dense Pack technology during the outage for installation of the FGD will lessen the impact of the FGD by increasing the operational efficiency of the turbines.

Mr. Jochum explained that the Dense Pack technology consists of a complete redesign of the high pressure and reheat pressure turbine with a smaller diameter shaft, longer blades and an additional row of blades. He said the Dense Pack technology improves the steam path efficiency by reducing aerodynamic-profile losses and secondary-flow losses and minimizing leakage losses. He stated that the collective result of the Dense Pack technology is an improvement in generating efficiency that allows the steam turbine to generate more electric energy (MWHs) from the same steam flow.

Mr. Jochum testified the Dense Pack technology resulted from an evolutionary process at General Electric ("GE"). According to Mr. Jochum, the first variant of the Dense Pack technology was known as Advanced Design Steam Path ("ADSP") which was introduced in 1995. A revision to ADSP by the GE design teams became known as Dense Pack. Mr. Jochum explained that an initial Dense Pack baseline test in April 1999 was followed by a series of tests using the Dense Pack design utilizing the same steam conditions. The first application of the Dense Pack technology occurred after 2000. Mr. Jochum said a key difference from older turbine designs is the movement from a double flow high pressure stage to a single flow stage with increased bucket and nozzle height. He said in the Dense Pack design the existing rotor is replaced with a smaller diameter solid rotor with improved steam seals; the turbine intershell is completely replaced.

Mr. Jochum testified about the environmental benefits of the Dense Pack Project. He explained that the emission of NO_x and SO₂ (which are currently regulated) will be reduced by approximately 2% prior to passing through the environmental control devices. Mr. Jochum stated that a comparable reduction in CO₂ emissions will result from the Project and that this reduction will assist Petitioner to comply with future CO₂ emission restrictions. According to Mr. Jochum, the Dense Pack Project will also reduce the amount of ash produced by Warrick Unit 4. He said the new design also is expected to have a slower rate of performance degradation, which will lower fuel costs over a minimum 7-year period between overhauls.

Mr. Jochum stated that Alcoa will manage GE's installation of the Dense Pack technology and Petitioner will monitor the Project utilizing its internal resources. Mr. Jochum explained that it would take approximately six weeks to complete the Dense Pack installation, utilizing multiple contractor shifts per day. He said that by installing the Dense Pack technology during the outage for the FGD, capital costs and operating costs will be reduced and the negative impact on operating efficiency due to the operation of the FGD will be offset by the operating efficiencies produced by the Dense Pack Project.

Mr. Jochum stated the total estimated cost of the Project is \$8,000,000, exclusive of allowance for funds used during construction ("AFUDC") and capitalized overhead. Mr. Jochum testified that Petitioner will be responsible for 50% of the Project cost and Alcoa will be responsible for the remaining 50% of the cost.

Mr. Jochum explained why the value to be derived from the Dense Pack Project justifies incurring these costs. He stated that the projected 2% reduction in emissions and fuel usage represents improvement over the original turbine design, but Petitioner estimates the efficiency improvement to be approximately 5% giving consideration to the condition of the existing turbine. Mr. Jochum testified that the Project may produce \$17.5 million to \$25 million or more in fuel cost savings between overhauls.

Mr. Jochum testified that the Dense Pack Project is consistent with Indiana regulatory policies which encourage the enhancement of generation efficiency. He pointed out that in Cause No. 43321, the Commission initiated an investigation of Section 111(d)(13) of the Public Utility Regulatory Policies Act, which was added by Section 1251 of the Energy Policy Act of 2005. Mr. Jochum explained that Section 111(d)(13) requires state commissions to consider whether it is appropriate to implement a standard requiring each electric utility to develop and implement a

10-year plan to increase the efficiency of its fossil fuel generation. He stated the Commission determined that it was not necessary to promulgate the Section 111(d)(13) standard at this time because the Indiana electric utilities submitted evidence of their plans to increase the efficiency of their fossil fuel generation and provided information on fuel efficiency in their Integrated Resource Plans (“IRPs”). Mr. Jochum also called attention to the Commission’s finding that its IRP regulations and the CPCN statutory framework assure that Indiana’s electric utilities consider more efficient fuel utilization in their planning process. Mr. Jochum cited the provision in the Commission’s IRP Rules (170 I.A.C. § 4-7-8) requiring utilities to consider “energy efficiency improvements” and “the most economical source of supply-side resources.” In addition, Mr. Jochum noted that the CPCN statute (I.C. § 8-1-8.5-3) provides that the Commission must take into account methods of providing reliable, efficient and economical electric service, including the refurbishment of existing facilities. Mr. Jochum also testified that the Dense Pack Project is consistent with the State’s Strategic Energy Plan, which encourages improvements in energy efficiency, the development of more efficient coal utilization technologies and the modernization of Indiana generation capacity.

Mr. Jochum discussed Petitioner’s proposal to include the capital costs for the Dense Pack Project in its Qualified Pollution Control Property Construction Cost Adjustment (“QPCP-CC2”). He testified that the QPCP-CC2 mechanism was approved pursuant to I.C. § 8-1-8.8 to allow Petitioner to recover a return on its investment in the Warrick Unit 4 FGD Project on a timely basis. He testified that he believed that because the Dense Pack Project increases generating efficiency and reduces regulated air emissions, it is eligible to be treated as a Clean Coal and Energy Project (“CCEP”) pursuant to I.C. § 8-1-8.8.

Mr. Jochum testified the Project offered substantial potential for reducing SO₂, NO_x and carbon emissions in an efficient manner and there are no lower cost conventional technologies capable of providing these emission reductions and fuel cost savings. Mr. Jochum stated that retiring existing capacity was not an alternative to the Dense Pack Project because Petitioner needs all of its capacity to meet the requirements of its retail customers.

Finally, Mr. Jochum explained that the Project was in the public interest because it will reduce fuel costs and emissions and generate comparable power while reducing coal usage. He stated that the Project is a part of a series of investments made to sustain reliable and efficient operations at Warrick Unit 4. Mr. Jochum further explained that Warrick Unit 4 represents a unique partnership between Petitioner and Alcoa, and stressed the importance of their reaching an agreement on key decisions that impact future operations and costs. In sum, Mr. Jochum stated that the Project not only serves to improve plant efficiency and operating costs, resulting in a direct benefit to customers, but the Project also helps to sustain the partnership and the long term viability of the plant in terms of serving the needs of both owners.

(b) Scott E. Albertson. Scott E. Albertson, Director of Regulatory Affairs for Vectren Utility Holdings, Inc., testified regarding the ratemaking treatment Petitioner proposes for recovery of capital costs and depreciation expense relating to the Dense Pack Project. Mr. Albertson said that I.C. 8-1-8.8, *et seq.* provides financial incentives for CCEP, including timely recovery of costs incurred during construction and operation of CCEP. He stated that the Dense Pack Project constitutes CCEP and is entitled to I.C. § 8-1-8.8 incentives because it involves the installation of an advanced technology that causes the unit to generate electric energy more

efficiently, thereby reducing emissions of SO₂, NO_x and other pollutants. Mr. Albertson stated that that Petitioner requests authorization to recover through tracking mechanisms a return on the construction costs of the Project using a fixed rate of return of 7.32% and depreciation expense relating to the Project using a depreciation accrual rate of 9.4%.

Mr. Albertson testified that Petitioner proposes to use its existing QPCP-CC2 Adjustment to recover a return on its Dense Pack investment (including AFUDC and capitalized overhead) and its existing Qualified Pollution Control Property Operating Expense Adjustment (“QPCP-OE2”) to recover depreciation expense relating to the Project.

Mr. Albertson explained that Petitioner currently files requests with the Commission for changes in its QPCP-CC2 Adjustment to recover a return on the construction costs of the Warrick Unit 4 FGD Project at approximately six-month intervals. He said these filings utilize standardized forms that could easily incorporate the Dense Pack Project. Mr. Albertson sponsored as an exhibit the forms which Petitioner proposes to use in the QPCP-CC2 filings to reflect the Dense Pack Project (Petitioner’s Exhibit No. SEA-3, Schedules 1-3), using an illustrative construction cost of \$4,000,000. Mr. Albertson said the QPCP-CC2 revenue requirement (including income taxes and the Indiana Utility Receipts Tax [“IURT”]) will be allocated to the various rate schedules using the production plant allocation factors approved in Petitioner’s last electric rate case (Cause No. 43111) and adjustments for each schedule would be calculated by dividing the revenue requirement for that schedule by the annual sales quantity for that class. Mr. Albertson said the adjustments for the Dense Pack Project and the Warrick Unit 4 FGD Project would be consolidated into a single QPCP-CC2 adjustment.

Mr. Albertson stated that the authorized return in the FAC earnings test would be adjusted to include a return on the Dense Pack Project authorized by the Commission in the QPCP-CC2 proceedings and asserted that this treatment is consistent with the Commission’s treatment of the Warrick Unit 4 FGD Project and other environmental trackers. Mr. Albertson stated that depreciation expense recovered through the QPCP-OE2 Adjustment would be deducted from the construction costs included in future QPCP-CC2 filings.

Mr. Albertson testified that the QPCP-OE2 Adjustment would apply to the Dense Pack Project in the same manner and at the same time as the Warrick Unit 4 FGD Project. Mr. Albertson explained that the Dense Pack Project is not expected to increase Petitioner’s O&M expenses and, therefore, no O&M expenses related to the Project will be included in the QPCP-OE2 Adjustment. He stated QPCP-OE2 petitions will be made at approximately 12 month intervals and will reflect expenses recoverable for both the Warrick Unit 4 FGD and the Dense Pack Project, grossed up for the IURT. Mr. Albertson said the revenue requirement would be allocated to rate schedules based on the production plant demand allocators approved in Petitioner’s last electric rate case (Cause No. 43111). Mr. Albertson sponsored an exhibit showing how the QPCP-OE2 schedules would include depreciation expense relating to the Dense Pack Project (Petitioner’s Exhibit SEA-5, Schedules 1-5).

Mr. Albertson testified that the Dense Pack depreciation expense would be projected for a forward-looking twelve (12) month period by applying the 9.4% depreciation rate for the Project to the average plant balance. He also explained the process for reconciling recovered revenues with actual expenses incurred, noting that the proposed reconciliation process would operate in

the same manner as that currently used for the Warrick Unit 4 FGD. He stated that any variance resulting from over/under recoveries would be recovered or credited over the following twelve (12) month projection period.

(c) **Janice M. Barrett.** Janice M. Barrett, Petitioner's Director, Regulatory and Plant Accounting, testified regarding the accounting issues relating to the Dense Pack Project. Ms. Barrett explained the process Petitioner will use to segregate the capital costs of the Project which will be recorded as Turbogenerator Units in Account 314, a sub-account of Account 101, Utility Plant in Service. She said an overhead allocation for general oversight, management and administrative costs will be capitalized to the Project, along with AFUDC accrued and recorded in accordance with Electric Plant Instructions in the FERC Uniform System of Accounts. Ms. Barrett testified that Petitioner will use the same AFUDC rate that it uses for other construction projects. She indicated that post-in-service AFUDC would only be recorded on the increment of construction costs not previously incorporated into the QPCP-CC2 Adjustment. She explained that Petitioner proposes to depreciate the project over 10.7 years, the estimated remaining life of the assets in Account 314 as determined in the depreciation study submitted in Cause No. 43111, resulting in proposed depreciation accrual rate of 9.4%.

Ms. Barrett testified that Petitioner proposes to continue the accrual of AFUDC and defer the accrual of depreciation expense on the Project after its in-service date until the costs are reflected in the QPCP-CC2 or QPCP-OE2 Adjustments. Ms. Barrett explained Petitioner's proposal to defer the accrual of depreciation expense on the Project from its in-service date until depreciation expense on the Project is reflected in the QPCP-OE2 Adjustment. She explained that Petitioner's proposed accounting for the deferred depreciation is in accordance with Generally Accepted Accounting Principles and the Statement of Financial Accounting Standards No. 71. Ms. Barrett also noted that there are no assets in service that are being retired as part of the Project.

Ms. Barrett testified concerning Petitioner's proposed rate of return for the Project. She noted that while I.C. § 8-1-8.8 provides for authorization of up to three hundred basis points above the return that would otherwise be allowed on CCEP, Petitioner proposes a fixed rate of return of 7.32% be used for the Dense Pack Project. This rate is equal to the overall weighted cost of capital determined in Petitioner's last electric base rate case. Ms. Barrett explained that a fixed rate of return would simplify the filings and eliminate the need to recalculate the rate of return with each filing. She stated a fixed rate of return of 7.32%, when combined with a mechanism for timely capital cost recovery, will be well received by the financial community and rating agencies. Ms. Barrett showed in Petitioner's Exhibit No. MSH-2, page 1 of 2, that using Petitioner's current capital structure, approved 10.40% cost of common equity from the last electric rate case and the cost of long-term debt at September 30, 2008 of 6.31%, Petitioner's overall weighted cost of capital would be 7.41%, which is only 9 basis points higher than the proposed rate of return. Ms. Barrett stated that compared to using the current capital structure, the proposed 7.32% rate is conservative and does not include an incentive return.

5. **OUC's Evidence.** Wes R. Blakley, Senior Utility Analyst with the OUC, testified regarding Petitioner's Dense Pack Project. Mr. Blakley testified that Petitioner is rebuilding a turbine at Warrick Unit 4 and that the end result is a turbine that will run more efficiently. He also stated that an alternative to a turbine upgrade is full replacement of the

turbine, which would be more efficient than the old one, but the Qualified Pollution Control Property (QPCP) statutes do not consider new turbines to be QPCP. Mr. Blakley said that the Dense Pack Project is not QPCP because the Commission's QPCP rules as outlined in 170 I.A.C. § 4-6-1 limit the definition of "air pollution control device" to equipment which is "(1) designed to directly or indirectly reduce airborne emissions that result from the combustion of coal or designed to temporarily or permanently control, remove, store, or otherwise dispose of solid or liquid effluent byproducts resulting from the direct or indirect reduction of airborne emissions of sulfur or nitrogen based pollutants; (2) not intended to reduce airborne emissions of sulfur or nitrogen based pollutants by replacing the generation of electricity through coal combustion with another method of electricity generation; and (3) not intended to generate additional amounts of electricity for the operations described in subdivision (1)."

Because the Dense Pack project generates more electric energy from the same steam flow, Mr. Blakley contends that it is not an air pollution control device. Mr. Blakley recommended that the Commission deny Petitioner's request for its Dense Pack Project to be considered QPCP and deny its request to recover its investment and associated expenses of this project in its CC2 and OE2 trackers. Mr. Blakley indicated, however, that the OUCC would not oppose recovery of costs related to this asset in Petitioner's next base rate case.

6. Petitioner's Rebuttal Evidence. Petitioner offered rebuttal testimony of Mr. Jochum in response to the recommendations of the OUCC Witness Blakley. Mr. Jochum asserted that even if the OUCC's interpretation of the Commission's QPCP rules is correct, the definitions in those rules are not applicable to Petitioner's proposal because Petitioner is requesting approval of the Project as CCEP pursuant to I.C. § 8-1-8.8, not as QPCP under the Commission's QPCP rules.

Mr. Jochum also did not agree with the OUCC's characterization of the Project as one intended to increase generation capacity. He explained that while the Project may have the ultimate affect of generating more electricity from a given amount of steam flow, this occurs because of the improvement in generating efficiency, not because Petitioner is seeking to increase name plate capacity. Rather, Mr. Jochum asserted that the intent of the Project is to obtain better efficiency in order to reduce coal consumption and achieve a corresponding reduction in air emissions.

Mr. Jochum also contended that I.C. § 8-1-8.8 does not exclude projects that result in the generation more efficient of electricity. Citing I.C. § 8-1-8.8, Mr. Jochum explained that the Dense Pack Project meets all the requirements for CCEP because it is an advanced technology that reduces regulated air emissions at a coal-fueled generating plant. He also called attention to the definition of CCT in I.C. § 8-1-8.8-3, which provides CCT is a technology used in a new or existing energy production or generating facility that directly *or indirectly* reduces or avoids airborne emissions associated with the combustion or use of coal. Mr. Jochum pointed out that the terms cited by the OUCC (qualified pollution control property and air pollution control device) do not appear in I.C. § 8-1-8.8, and therefore, the meaning of these terms is inapplicable to Petitioner's proposals in this proceeding.

Mr. Jochum testified that the Commission has recognized that timely cost recovery helps achieve important policy goals such as maintenance of utility credit ratings and a reduction in

regulatory lag. He said that under the present market conditions, timely recovery of costs associated with the Project is particularly important due to pressures to maintain adequate cash flows. He noted the recent report issued by Standard & Poor's on Vectren Corporation and its subsidiaries which emphasized that "construction risks and costs must be managed" for Vectren to maintain its current A- corporate credit rating. The report further stated that the future outlook for Vectren Corporation and its subsidiaries, including Petitioner, includes an "expectation of supportive regulatory practices and maintenance of current financial measures, which are somewhat weak for the current rating." Mr. Jochum explained that a denial of timely recovery for the Project could detract from the positive perception of Indiana's regulatory environment and would exacerbate already difficult market conditions.

Mr. Jochum also discussed his testimony in Cause No. 43321, the Commission's investigation pursuant to the Energy Policy Act of 2005 of whether each electric generating utility should develop a plan to increase the efficiency of its fossil fuel generation. He stated that he testified in that case about Petitioner's intention to install the Dense Pack technology on Warrick Unit 4 and Brown Units 1 and 2. Mr. Jochum noted that the Commission found that the utilities were already adequately addressing the need for greater fuel efficiency as required under the Energy Policy Act of 2005. Mr. Jochum indicated that the Dense Pack Project is an integral part of Petitioner's program to increase the efficiency and reduce the environmental impact of its fossil fuel generating units.

Mr. Jochum asserted that Petitioner is proposing to include the Project in its QPCP-CC2 and QPCP-OE2 tracking mechanisms for the purpose of administrative convenience, not because of the Commission's QPCP rules. He stated that if the Commission finds the Project should not be included in the proposed QPCP trackers, Petitioner requests that the Commission authorize a separate I.C. § 8-1-8.8 tracker for the Project.

7. Commission Findings and Discussion. Petitioner seeks authorization for the timely recovery of capital costs and depreciation expense relating to the installation of the Dense Pack Project at the Warrick Unit 4 pursuant to I.C. § 8-1-8.8. Specifically, Petitioner asks the Commission to find that installation of the Dense Pack Project constitutes a CCEP under I.C. § 8-1-8.8-2, and to grant financial incentives in the form of tracked cost recovery pursuant to I.C. § 8-1-8.8-11. Ind. Code § 8-1-8.8, *et seq.* provides financial incentives for CCEP, including timely recovery of costs incurred during construction and operation of CCEP. Petitioner asserts that the Dense Pack Project constitutes CCEP and is entitled to I.C. § 8-1-8.8 incentives because it involves the installation of an advanced technology that causes the unit to generate electric energy more efficiently, thereby reducing emissions of SO₂, NO_x and other pollutants. Petitioner requests authorization to recover through tracking mechanisms a return on the construction costs of the Project using a fixed rate of return of 7.32% and depreciation expense relating to the Project using a depreciation accrual rate of 9.4%.

Ind. Code 8-1-8.8-2(1)(B), in pertinent part, defines "clean coal and energy projects" as "[p]rojects to provide advanced technologies that reduce regulated air emissions from existing energy production or generating plants that are fueled primarily by coal or gases from coal from the geological formation known as the Illinois Basin, such as flue gas desulfurization and

selective catalytic reduction equipment.” The technologies identified as examples in the definition of CCEP are specifically designed for the primary purpose of reducing emissions.

We note that in past proceedings construing I.C. § 8-1-8.8 and allowing recovery for clean coal and energy projects, we have done so for specific items that were clearly designed to reduce regulated emissions. *Verified Petition of PSI Energy, Inc., for Approval of Certain Clean Coal and Energy Projects*, Cause No. 42411 S-1 at 10(B), 2004 Ind. PUC LEXIS 361 at *28 (Ind. Util. Regulatory Comm’n Nov. 10, 2004). In addition, the Commission has also recognized that the definition of advanced technology is unrelated to the definition of clean coal technology. *Id.* at *30. Therefore, an analysis under the provisions of I.C. 8-1-8.8 requires a strict analysis of all aspects of a proposed project’s qualifications.

The description of the Dense Pack Project is, in essence, a complete turbine rebuild. We find this a capital replacement project, within the category of operation and maintenance, which all well-run electric utilities are likely to perform between rate cases to ensure the reliability of their facilities. Even though Dense Pack costs may not have been contemplated during the last base rate case, maintenance and overhaul is usually performed on a schedule, and those costs are included in the normal course of rate making.

The fact that Petitioner has chosen a seemingly logical upgrade and replacement technology that has the benefit of producing incremental electricity with a corresponding reduction in emissions does not make it CCEP. Simply because a particular piece of equipment, added or rebuilt, may make the generating station more efficient doesn’t automatically make that equipment or action eligible for recovery outside of a rate case. Many, if not most, projects involving replacement of parts of a plant will result in some increase in efficiency.

But we find that an “indirect” reduction of emissions must have a closer proximate link to the equipment than in this case to qualify as CCEP. Both Mr. Jochum and Mr. Albertson testified that one of the main benefits of Dense Pack is that it allows a steam turbine to generate more electricity from the same steam flow, requiring the use of less fuel to produce the same number of megawatts. However, the Dense Pack technology is not being installed for the purpose of reducing emissions. The reduction in emissions resulting from the Dense Pack Project occurs only because the amount of coal per megawatt has been reduced as a result of the more efficient use of steam. Any reduction in the amount of coal burned would yield the same result.

If we were to allow financial incentives for every replacement that had as a by-product an increase in efficiency and corresponding reduction in emissions, we would essentially render the distinctions of CCEP meaningless. We believe this would be an unintended consequence of CCEP laws and we do not find it appropriate to expand the intent of those laws as Petitioner has requested us to do herein. Therefore, after examining the various statutes that define CCEP and the procedures needed to approve the projects and the recovery of the investment and associated costs, we find that this project is not entitled to the special ratemaking treatment outlined in I.C. § 8-1-8.8.

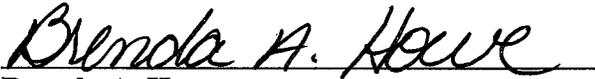
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION, that

1. The Dense Pack Project does not constitute a reasonable and necessary clean coal and energy project as defined in I.C. § 8-1-8.8-2 and therefore special ratemaking regulatory treatment pursuant to I.C. 8-1-8.8-11 is denied.
2. This Order shall be effective on and after the date of its approval.

HARDY, GOLC, AND ZIEGNER CONCUR; LANDIS ABSENT:

APPROVED: JUN 17 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**