

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

  
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PETITION OF NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY FOR APPROVAL OF THE )  
TERMINATION OF THE ALTERNATIVE )  
REGULATORY PLAN APPROVED BY THE )  
COMMISSION IN CAUSE NO. 41338, THE )  
ESTABLISHMENT OF A QUARTERLY GAS COST )  
RECOVERY MECHANISM IN ACCORDANCE WITH )  
INDIANA CODE 8-1-2-42 AND THE COMMISSION'S )  
ORDERS IN CAUSE NO. 37091, THE APPROVAL OF A )  
"FLEX" MECHANISM WHEREBY NIPSCO WILL BE )  
PERMITTED TO ADJUST ITS GAS COST FACTOR )  
ON A MONTHLY BASIS TO REFLECT CHANGES IN )  
COMMODITY GAS PRICES, AND RELATED RELIEF. )

CAUSE NO. 43629

APPROVED: AUG 26 2009

**BY THE COMMISSION:**

**James D. Atterholt, Commissioner**  
**Loraine L. Seyfried, Administrative Law Judge**

On January 12, 2009, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed its Petition with the Indiana Utility Regulatory Commission ("Commission") in this matter.

Pursuant to public notice duly given and published, a Prehearing Conference was held in this Cause on February 18, 2009 to establish a procedural schedule in this Cause. The Commission issued a Prehearing Conference Order on February 25, 2009.

Pursuant to public notice duly given and published, a Technical Conference was held on March 16, 2009 at 9:30 a.m. in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the Indiana Office of Utility Consumer Counselor ("OUCC"), intervenors NIPSCO Industrial Group and City of Hammond, and staff from the Commission participated in the Technical Conference.

On April 3, 2009, Petitioner prefiled its case-in-chief, consisting of the testimony of Michael J. Martin, Karl E. Stanley, and Katherine A. Cherven. On June 2, 2009, the OUCC prefiled its case-in-chief, consisting of the testimony of Bradley E. Lorton and Lianne N. Lockhart. On June 16, 2009, Petitioner prefiled the rebuttal testimony of Michael J. Martin.

Pursuant to public notice duly given and published, proof of which was incorporated into the record by reference and placed in the Commission's official file, a public hearing was held in this Cause on June 26, 2009 at 9:30 a.m. in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, Petitioner's and the OUCC's prefiled testimony and exhibits were admitted into evidence without objection from any party. No members of the general public attended the hearing.

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

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearings conducted herein was given and published by the Commission as required by law. Petitioner is a public utility within the meaning of Ind. Code § 8-1-2-1 of the Public Service Commission Act, as amended, and is subject to the jurisdiction of the Commission. The Commission has jurisdiction over Petitioner and the subject matter of this Cause in the manner and to the extent provided by the laws of the State of Indiana.

2. **Relief Requested.** Petitioner requests that the Commission approve the termination of an alternative regulatory plan ("ARP") that was approved in the Commission's August 11, 1999 Order in Cause No. 41338 ("August 11, 1999 Order"), and which permitted NIPSCO to use a redesigned gas adjustment mechanism featuring a monthly gas cost adjustment ("GCA") filing and an annual demand cost filing. NIPSCO requests authority to instead implement a quarterly GCA mechanism as permitted by Ind. Code § 8-1-2-42. In addition, NIPSCO initially requested authority to implement a proposed "flex" mechanism that would allow Petitioner to revise the "spot" portion of the approved GCA factor up or down within a range of approximately 30% of the approved GCA factor, based on changes in the market price of natural gas. In its rebuttal testimony, Petitioner withdrew its request for approval of the proposed flex mechanism and instead requested authority to implement the \$1.00 per dekatherm (\$1.00/Dth) flex mechanism that is being employed by other Indiana gas utilities.

3. **Petitioner's Case-in-Chief.** Michael J. Martin, Director, Regulatory and Governmental Policy, provided testimony summarizing the history concerning NIPSCO's current monthly GCA mechanism and the policy considerations Petitioner contemplated in returning to a quarterly GCA mechanism from a monthly GCA mechanism.

Mr. Martin provided background on Petitioner's initial decision to adopt a monthly GCA mechanism, and discussed recent changes in the marketplace. According to Mr. Martin, until 1999, NIPSCO followed the same quarterly gas cost recovery mechanism observed by other Indiana gas utilities. He stated that the quarterly mechanism served NIPSCO well until the late 1990s when the delivery of natural gas into the Petitioner's system by interstate pipeline companies and access to the interstate pipeline systems owned by interstate pipelines became fully deregulated. As a result, unregulated gas marketers and gas suppliers had the opportunity to compete with the Indiana local distribution companies ("LDCs"), if those LDCs opted to file tariffs that would provide marketers and suppliers access to the LDCs' customers, including residential customers. For marketers and suppliers to effectively compete for the utilities' customers, it was necessary for LDCs to price their product in a manner that provided price transparency. In response to this need for transparency, Mr. Martin stated that NIPSCO sought approval of a monthly gas cost recovery mechanism by filing a request for an ARP on December 1, 1998. Beginning on September 1, 1999, in accordance with the Commission's August 11, 1999 Order, NIPSCO began to file for increases or decreases in its commodity gas costs on a monthly basis. Today, Mr. Martin stated, NIPSCO continues to file a monthly commodity GCA with the Commission approximately ten days before the beginning of each month.

Mr. Martin further explained that in accordance with the Commission's August 11, 1999 Order, NIPSCO recovers its purchased gas demand cost (*i.e.*, its contractual obligations with storage and interstate pipeline providers) on an annual basis with rates changing on November 1 of each year. He noted that NIPSCO is in its tenth annual period since the monthly GCA first went into effect on September 1, 1999.

Mr. Martin stated that the natural gas marketplace has changed dramatically in the ten years since the Commission's August 11, 1999 Order. He stated that unregulated gas marketers and suppliers have had mixed success in offering services to utilities' residential and small customer segments. Today unregulated marketers and suppliers are using different approaches to acquire customers than those employed ten to thirteen years ago when the unregulated sales market to small residential and commercial customers was in its infancy. He noted that natural gas prices have been extremely volatile causing utilities to use different approaches to shield customers from the effect of rapidly rising and falling prices. Today LDCs, including NIPSCO, use financial hedging instruments, enter into longer term purchase agreements and optimize underground storage in an attempt to mitigate the volatility of gas prices. Mr. Martin stated that gas marketers are no longer attempting to attract customers by competing with NIPSCO's monthly gas commodity price, but are instead trying to sign customers to a multi-year sales arrangement that features a fixed price with some annual escalation. As a result, the compelling reasons to have a monthly mechanism that would change each element of NIPSCO's GCA on a monthly basis no longer exists, at least for the purpose of providing the marketers with pricing transparency.

Mr. Martin stated that he believes the change from the monthly to the quarterly GCA should have very little impact upon Petitioner's customers, particularly if NIPSCO is permitted to "flex" its quarterly projected gas costs up or down on a monthly basis. He stated that over the past ten years, NIPSCO's customers have become accustomed to the monthly changes in NIPSCO's GCA factor and that such changes are often reported in the local newspapers. Thus, because of the transparency, customers will not be able to discern any difference between what NIPSCO has been charging them for gas costs determined on a monthly basis versus the new proposed quarterly mechanism. He also noted that the rate simplification proposed by NIPSCO two years ago and approved by the Commission in Cause No. 43051, has impacted the manner in which NIPSCO depicts its gas costs, delivery charges and interstate pipeline and storage components on monthly customer bills. Because of those changes, customers will continue to see gas costs in the same category, further making this change transparent to customers.

Mr. Martin also stated that the transition to a quarterly filing should also be transparent for Choice customers. He noted a Choice customer's bill has two components: the commodity cost of gas provided by the unregulated marketer and supplier, and the delivery charge assessed by NIPSCO. The commodity cost component will not be influenced by NIPSCO's change to a quarterly GCA filing, and the delivery charge will remain unchanged.

Mr. Martin expressed concern about potential negative financial impacts that might attend the adoption of a quarterly GCA mechanism. Mr. Martin stated that commodity gas costs incurred by NIPSCO totaled nearly \$700 Million for the calendar year 2008. He stated that Petitioner's ability to fully recover this cost in a timely manner is critical to Petitioner's continued financial well-being. The monthly GCA mechanism that has been used by NIPSCO

since 1999 has minimized variances between the revenues collected and the costs incurred for purchased gas. In moving to a quarterly GCA mechanism, Petitioner is concerned about the potential impact on its cash flow. To the extent commodity gas price increases are not immediately recovered in rates, the quarterly GCA mechanism allows the recovery of the resulting variance over a twelve-month period. This results in a carrying cost for the utility, which in difficult economic times can "stress" the utility from a financial perspective. He stated that NIPSCO's concerns are further heightened by the timing of NIPSCO's transition to a quarterly GCA.

In order to minimize the potential negative financial impact of NIPSCO's move to a quarterly GCA, Mr. Martin stated it is essential that the Commission approve a flexible quarterly GCA mechanism that allows NIPSCO to adjust its GCA factor in a manner that minimizes under-recoveries and over-recoveries. He stated that a GCA mechanism allowing NIPSCO to "flex" the spot purchases component of its approved GCA factor by as much as 30%, as described by Mr. Stanley, would provide significant protection for NIPSCO and GCA customers.

Mr. Martin confirmed that the transition to a quarterly GCA mechanism would not affect Petitioner's agreements with the OUCC regarding protocols to be observed in conjunction with GCA proceedings. Mr. Martin noted that in Cause No. 41338 GCA 5, Petitioner received approval for several changes in its monthly and annual GCA processes. One of the changes that Petitioner agreed to was a quarterly meeting with the OUCC and Commission staff to review relevant changes that would impact gas cost recovery. Mr. Martin stated that Petitioner has consistently met that expectation. He expressed his belief that both the Commission and the OUCC staff have seen value in the roundtable process and that Petitioner, to the extent it is feasible, would like to continue to have quarterly informal meetings with the parties to discuss any relevant change that may occur in the filings. He noted another important change that came out of the GCA 5 investigation was a need for Petitioner to be increasingly vigilant and transparent when it came to changes in any of its structured transactions that would impact the level of benefits that could be derived for the customer, as well as Petitioner, through its gas cost incentive mechanism. Lastly, Petitioner also agreed to a protocol that affects all of its transactions within the gas cost incentive mechanism. Mr. Martin stated that Petitioner is not anticipating any change in the agreement that established the protocol as part of this quarterly filing process.

Mr. Martin addressed the impact the quarterly GCA filing would have on the 2005 Gas ARP Stipulation and Agreement ("ARP Stipulation") approved by the Commission in its January 31, 2006 Order in Cause No. 42884. According to Mr. Martin, the only relevant impact is that in the ARP Stipulation, an agreement was made with the stakeholders that the monthly GCA process initiated by the Company in August of 1999 would come up for review in the subsequent ARP negotiation. In addition, Petitioner agreed that the effectiveness of the monthly GCA would terminate in May 2010, as long as Petitioner and the stakeholders could agree prior to that date on a GCA mechanism that would permit Petitioner to timely recover its gas costs. The filing of the quarterly GCA in this Cause would eliminate the need for this matter to be discussed by the stakeholders to the ARP Stipulation. Mr. Martin stated that the stakeholders in the ARP Stipulation have been notified of the filing in this Cause, and to his knowledge, none of the stakeholders has expressed any concern about the relief requested in this Cause.

Finally, Mr. Martin stated that NIPSCO is interested in synchronizing the NIPSCO quarterly GCA with the GCAs filed by NIPSCO's affiliates, NIFL and Kokomo Gas. Mr. Martin stated that one goal of the NIPSCO quarterly GCA filing has been to structure a common GCA for all three NiSource affiliates. This common GCA would include common filing dates, as well as common flex mechanisms. Because NIFL and Kokomo already use a quarterly GCA filing format, there was no need to include those companies within this petition. However, Petitioner does anticipate that at their earliest convenience, NIFL and Kokomo will file requests to adapt their GCA filing schedules to coincide with the quarterly filing cycle proposed to be used by NIPSCO.

Ms. Katherine A. Cherven, Manager of Compliance in the Rates Department, provided testimony about NIPSCO's proposed transition from a monthly GCA filing to a quarterly GCA filing and monthly flex mechanism. As indicated in a timeline attached to her testimony as Petitioner's Exhibit KAC-1, NIPSCO proposes that the last annual demand filing, GCA 11, be made in August 2009. This annual filing will include reconciliations for the months of August 2008 through July 2009 and will establish the demand rates for November 1, 2009 through October 31, 2010. In the quarterly filing made at the end of June 2010, for the months of September, October and November 2010, the transition to updated demand costs in the quarterly filing will begin using Schedule 1A. The months of September and October will have used the previously approved demand rates from GCA 11 and therefore, the first month the Schedule 1A demand update will apply to will be the month of November 2010.

Ms. Cherven testified that with regard to purchased gas cost estimates, the proposed first quarterly filing will occur at the end of September 2009 and include estimates for the billing months of December 2009, January and February 2010. During this transition, Ms. Cherven stated it will also be necessary to make two monthly GCA filings: a GCA estimate for the month of October 2009 would be filed at the end of September 2009, and a GCA estimate for November 2009 would be filed at the end of October 2009.

With regard to monthly reconciliations, Ms. Cherven stated the proposed first quarterly filing that occurs at the end of September 2009 will not include any monthly reconciliations. Those reconciliation months that would normally be included in a quarterly filing for this timeframe will have been included in NIPSCO monthly GCA filings. The second quarterly filing that occurs at the end of December 2009 will include two months of reconciliation instead of three due to September 2009 having been reconciled in the November 2009 monthly GCA filing.

With regard to variance recovery, Ms. Cherven stated that each month, the amount of variance recovered is an allocated portion of twelve monthly reconciliations. Since there are no additional months reconciled in the first quarterly filing, the amount of variance recovered will include eleven months in December 2009, ten months in January 2010 and nine months in February 2010. Petitioner's Exhibit KAC-2 displays the number of variance months to be included in each monthly GCA estimate. The transition begins with the first quarterly filing and continues in the next four quarterly filings or twelve subsequent months. The transition is complete in March 2011 when the number of variance months included in the monthly GCA estimate returns to twelve months.

Ms. Cherven noted that the transition to a quarterly GCA mechanism will require an audit or review transition as well. She stated that the demand filing will include reconciliation months for review through July 2009. The two monthly GCA filings necessary during the transition will not be included in the annual demand filing for review and are not included in a quarterly filing for review. She stated NIPSCO proposes that the monthly GCA filed approximately September 23, 2009 for the month of October 2009 and the monthly GCA filed approximately October 23, 2009 for the month of November 2009 be filed under GCA 11 and receive interim approval when filed. The audit materials for these two months will be provided by mid-November and a final review, audit report, hearing and order be set for these two months.

Ms. Cherven testified that Petitioner is proposing to do a monthly flex adjustment for each month of the quarterly GCA filings. The first monthly flex adjustment will be made for the December 2009 GCA estimate, the first month of the first quarterly filing, and every month thereafter. The monthly flex adjustment will be filed no less than three days before the beginning of each calendar month.

Mr. Karl E. Stanley, Executive Director, Energy Supply and Trading for Petitioner, testified in support of Petitioner's proposed use of a monthly flex mechanism that would allow for adjustments in the spot purchase component of the GCA factors on a monthly basis, which would be limited to a 30% change from the originally approved market based gas cost estimate. Mr. Stanley noted that this proposal differs from the adjustment mechanism currently in use by other utilities within the state, which limits the flex to one dollar. The proposed 30% flex would be incorporated into the new quarterly gas cost filing process that is also being proposed by NIPSCO in this Cause.

Mr. Stanley described NIPSCO's monthly flex mechanism in greater detail. Mr. Stanley testified that, as part of the proposed quarterly GCA, NIPSCO will seek approval of three GCA factors, *i.e.*, one for each month of the GCA filing period. Each month's factor will use the NYMEX futures price as its primary input for that particular month of delivery, which will then be updated no more than six business days prior to the beginning of each month of the GCA period depending on how market based gas cost estimates may have changed. With regard to each monthly gas cost update, NIPSCO requests the ability to flex upward or downward from the originally approved market based gas cost component of the GCA factor for that month, depending upon how market prices may have moved since the time when the original quarterly filing had been submitted.

Mr. Stanley stated that NIPSCO is proposing to limit the amount of flex, up or down, to no more than 30% from the originally approved market based gas cost estimate. For example, if the originally approved gas cost estimate for market priced gas volumes was \$5/Dth, immediately prior to the month of delivery, NIPSCO would be able to flex up to \$6.50/Dth or flex down to \$3.50/Dth for these same market-priced gas volumes depending on the movement of market prices.

Mr. Stanley explained that the one dollar flex used by other Indiana utilities is not adequate, given the volatility of today's gas market prices. He stated that in his experience, as gas prices rise, the amplitude of the near-term volatility of gas prices also increases. As an example, he stated gas prices in the six dollar range will tend to vary plus or minus fifty cents on

a daily basis, while gas prices in the thirteen dollar range will often vary by as much as a dollar a day. If a gas utility can only flex prices by one dollar, the protection against price swings, as a percentage of the underlying gas price, diminishes as gas prices increase. Mr. Stanley testified that when prices are rising, if a utility is not permitted to flex gas prices enough, the result will be that the utility will be forced to bear higher costs associated with variances, primarily carrying costs. In addition, he stated that the utility's customers will not receive the necessary price signals to adapt their behavior in response to the escalating gas prices. While customers might believe they are getting a benefit, the recovery of the escalated cost is simply being delayed for later collection through the variance mechanism. During a period when prices are rising, the "recapture" of previously under-recovered amounts can further exacerbate the impact of high gas costs on a utility's customers. Additionally, during periods when prices are falling, customers will be delayed in seeing the positive impact that those falling prices may have on their current bills. Customers will only see the benefit after any variances are passed back through the normal GCA process. Mr. Stanley concluded that the proposed 30% flex strikes an appropriate balance between protecting customers from extreme market swings while at the same time sending a more accurate price signal as well as reducing future gas cost variances.

**4. OUCG's Testimony.** Lianne N. Lockhart, a Utility Analyst in the Natural Gas Division, testified that the OUCG supports the termination of Petitioner's monthly GCA ARP; the establishment of a quarterly GCA mechanism; and the placement of NIPSCO, Kokomo Gas and NIFL all on the same quarterly GCA period. However, she stated the OUCG does not recommend approval of NIPSCO's proposed 30% flex mechanism. Instead, the OUCG recommends approval of a \$1.00/Dth flex mechanism.

With regard to Petitioner's return to a quarterly filing, Ms. Lockhart stated that the quarterly GCA will allow for cost stability for the rate payers and reduce the volatility of bills, as stated in Mr. Martin's testimony. She stated that this will also create more standardization within the GCA process and will decrease the administrative workload for NIPSCO, the OUCG, and the Commission.

Ms. Lockhart testified that the OUCG supports the synchronization of Petitioner's quarterly GCA filing with those of NIFL and Kokomo Gas. She noted that NIFL and Kokomo Gas presently file quarterly GCAs at the same time. Ms. Lockhart discussed Petitioner's Exhibit KAC-1, which demonstrates how the synchronization would take place for the three companies. NIPSCO would file their first quarterly GCA in September 2009 for the months of December 2009 through February 2010, while NIFL and Kokomo will file their GCA for the months of February 2010 through April 2010 in November 2009. All three companies will file two GCAs during 2010 before the completion of the synchronization is accomplished in the September 2010 filing for the months of December 2010 through May 2011.

Mr. Bradley E. Lorton, also a Utility Analyst in the Natural Gas Division, testified in support of Petitioner's request to return to a quarterly GCA filing process. However, he provided testimony opposing Petitioner's proposed use of a 30% flex mechanism, suggesting that any modification to the existing one dollar flex collar should be the subject of a broader generic proceeding.

With regard to Petitioner's proposed return to a quarterly GCA filing, Mr. Lorton testified that the quarterly GCA provides a substantial measure of price stability for the customer while ensuring that the utility covers its gas costs, and at the same time minimizing the administrative burden to the extent possible.

Mr. Lorton testified in favor of monthly flex mechanisms for the spot market priced purchase portion of a utility's supply portfolio, and he identified the Indiana gas utilities that presently employ such a mechanism. Mr. Lorton noted that each of the utilities follows a flex mechanism that allows the utility to adjust the spot gas portion of its portfolio in the GCA up to \$1.00/Dth, plus or minus, about three business days before the billing begins. He stated that the OUCC has supported the one dollar flex collar because it provides flexibility for the utility, but at the same time is consistent with the regulatory objective of providing a reasonable level of stability for customers.

Mr. Lorton testified that Petitioner's existing monthly GCA filing mechanism allows monthly changes in GCA costs without a collar or limit. Ostensibly, he stated, this mechanism was approved in order to accommodate Petitioner's Choice program. At the time, it was felt that quarterly GCAs would be too inflexible, and result in large divergences between prices offered by marketers and those established in the GCA process. Mr. Lorton stated that as the Choice program progressed, most marketers offered products similar to Petitioner's Price Protection Service, and direct competition with the GCA became less of an issue.

Mr. Lorton testified that the OUCC does not support Petitioner's proposal for a 30% flex collar. He explained that in recent years a one dollar collar has become a standard for natural gas utilities in Indiana. Mr. Lorton stated that the OUCC has agreements with Citizens Gas and Vectren for their respective flex mechanisms. The one dollar flex collar began as a result of a settlement agreement with Citizens Gas in Cause No. 37399 GCA 75 in 2002 and has since been renewed twice. In Cause No. 42890, a one dollar, up or down, flex collar was established for both Vectren North and Vectren South. Mr. Lorton stated that the GCA performance under these agreements has been very positive, and the OUCC believes the established mechanism to be both an operating success and a reasonable and beneficial balancing of interests between the utilities and their customers. He stated that several small gas utilities also have the one dollar flex collar mechanism. The OUCC has consistently used the agreements with Citizens Gas and Vectren as the model for the GCA flex in Indiana and believes that any modification to that model should be made in a generic proceeding that includes all Indiana gas utilities with similar agreements.

Mr. Lorton disagreed with Mr. Stanley's statements that a 30% flex collar is needed in order to avoid cash flow problems. He stated that not only are there several natural gas utilities in Indiana who have considerable experience with the one dollar flex mechanism, but Petitioner has had a full monthly GCA with no collar for a decade, and has still incurred considerable gas cost variances. Mr. Lorton stated that there will always be variances, and that volatility in spot purchases can occur in the course of a month or a week. He stated that Petitioner's performance with the monthly GCA has produced large variances that are proportionally as large, or larger, than comparable utilities with the monthly flex collar of \$1.00/Dth. Consequently, Mr. Lorton stated he did not believe Petitioner's cash flow concerns were well-founded.

Mr. Lorton concluded by stating that Petitioner's efforts to return to the quarterly GCA mechanism are welcomed by the OUCC, and should be approved by the Commission. However,

he recommended that the Commission's approval should include a flex collar of no more than \$1.00/Dth on Petitioner's spot purchase portion, which is in alignment with the mechanisms in place for other natural gas utilities in Indiana. Mr. Lorton restated his belief that any change in the \$1.00/Dth flex should be made in a generic proceeding.

**5. Petitioner's Rebuttal.** Mr. Michael J. Martin provided rebuttal testimony on behalf of Petitioner. Mr. Martin stated that Petitioner and the OUCC met a number of times to discuss this case, and that the only substantive issue where the two parties disagree is with regard to Petitioner's proposed 30% flex mechanism.

Mr. Martin stated that Petitioner fundamentally disagrees that a set \$1.00/Dth cap on both positive and negative monthly flexes achieves the price setting accuracy and reduction of gas cost variance objectives, which are the shared goals of both the OUCC and Petitioner. However, in light of the OUCC's opposition, Mr. Martin stated that NIPSCO is withdrawing its request for approval of a 30% flex mechanism. However, NIPSCO may seek to reintroduce the issue in a future proceeding, likely in conjunction with other gas utilities. Mr. Martin noted that one of the reasons given by Mr. Lorton for the OUCC's opposition to NIPSCO's flex proposal is that the OUCC believes any modification to the existing model for the GCA flex in Indiana should be made in a generic proceeding that includes all Indiana gas utilities with agreements based on that model. Mr. Martin stated that NIPSCO appreciates the value of state-wide conformity in GCA mechanisms, which is one of the reasons NIPSCO filed its petition in this Cause, and therefore will seek the participation of other gas utilities if NIPSCO decides to pursue changes in the existing flex mechanism.

Mr. Martin confirmed that NIPSCO now requests that the Commission approve the recommended \$1.00/Dth flex collar as described by Mr. Lorton, which is in alignment with the mechanisms in place for other natural gas utilities in Indiana.

**6. Commission Discussion and Findings.** Petitioner seeks the termination of its existing monthly GCA alternative regulatory plan, which was approved in the Commission's August 11, 1999 Order. Although the Commission's initial approval of the monthly GCA ARP did not include a termination date, Petitioner subsequently agreed to a termination date of April 30, 2010, as part of a settlement agreement in Cause Nos. 42884 and 42800, which was approved by the Commission's consolidated Order in those Causes on January 31, 2006.

The termination of an ARP is governed by Ind. Code § 8-1-2.5-7, which provides as follows:

The commission may:

- (1) On its own motion;
- (2) At the request of the utility consumer counselor;
- (3) At the request of the affected energy utility; or
- (4) At the request of any class satisfying the standing requirements of

IC 8-1-2-54;

enter an order notifying an energy utility subject to an alternative regulatory plan or over which jurisdiction was either limited or not exercised under this chapter that the commission will proceed to terminate the plan, or any part thereof, or

exercise jurisdiction over the energy utility or its retail energy service to the extent the public interest requires, unless a formal request for a hearing is filed by the energy utility with the commission not more than fifteen (15) days after the date of the order. In the event that such a formal request is timely filed, the commission shall hold a hearing concerning such matters and issue its order thereon based upon the evidence introduced at the hearing. However, if the commission has declined jurisdiction in whole or in part or approved an alternative regulatory plan under this chapter for a fixed term of years, such jurisdiction may be reimposed on the plan, or any part of the plan, may be terminated before expiration of the term only if material and irreparable harm to the energy utility, the energy utility's customers, the state, or the safety of the energy utility's workforce has been established.

Petitioner pointed out in its Petition that when initially approved, the monthly GCA ARP was unlimited in duration, and argued that the monthly GCA ARP is therefore eligible for termination under the first clause set forth in the statute cited above. The Commission notes that the first clause allows the Commission, at the request of the affected energy utility, to enter an order notifying the energy utility that the Commission will terminate an alternative regulatory plan, unless a formal request for a hearing is filed by the energy utility within fifteen days of the date of the order.

No party to this proceeding expressed opposition to Petitioner's request to terminate the monthly GCA ARP. Rather, witnesses for the OUCC testified in support of the termination of the monthly GCA ARP, stating that the quarterly GCA process will create more standardization within the GCA process, and will decrease the administrative workload for NIPSCO, the OUCC and the Commission. Mr. Martin testified that the proposed change to a quarterly GCA will be transparent to NIPSCO's sales customers and also to customers who participate in the Choice program. With regard to the stakeholders in the ARP Stipulation approved by the Commission's January 31, 2006 consolidated Order in Cause Nos. 42884 and 42800, Mr. Martin testified that to his knowledge, none of the stakeholders has expressed any concern about the relief requested in this Cause. Mr. Martin testified that those stakeholders were notified of the filing in this Cause, and also were mailed copies of the Petition filed in this Cause on January 12, 2009. After considering the evidence, and hearing no argument to the contrary, the Commission finds that the requested termination of Petitioner's monthly GCA ARP is in the public interest and should be approved, consistent with the transition process described below. The Commission finds that such termination should be effected pursuant to the first clause of Ind. Code § 8-1-2.5-7 described above.

With regard to the transition from a monthly GCA to a quarterly GCA, the Commission notes that the Technical Conference on March 16, 2009 allowed all of the participants to gain a better understanding of the timeline proposed by Petitioner, which was included as Exhibit KAC-1 to Ms. Cherven's testimony. No party expressed opposition to the transition proposal advanced by Ms. Cherven, which involves a period of overlap during which Petitioner will be making filings pursuant to both the monthly and the quarterly processes. After considering Ms. Cherven's proposals, the Commission finds that the following transition process should be adopted:

1. Petitioner should file, under Cause No. 41338 GCA 11 an annual demand cost application, which should establish demand costs for the period November 2009 through October 2010, and which should reconcile commodity costs for the period August 2008 through July 2009.
2. Petitioner should file its first quarterly GCA application by the end of September 2009, to establish GCA factors for the period December 2009 through February 2010. There should be no gas cost reconciliation for this first quarterly GCA filing because the reconciliations for the months of such reconciliation will take place in GCA 11. NIPSCO should file this quarterly GCA under Cause No. 43629 GCA 12.
3. Petitioner should file a monthly GCA at the end of September 2009 to establish October 2009 rates, and to reconcile the month of August 2009. A second monthly GCA should be filed at the end of October 2009 to establish November 2009 rates and reconcile the month of September 2009. Both of these months should be filed under GCA 11 and will be subject to interim approval.
4. Petitioner should request final approval of the reconciliation of gas costs for the months of August 2009 and September 2009 as part of the hearing for Petitioner's second quarterly GCA, which will also be reconciling gas costs for the months of October 2009 and November 2009.

The final matter to be addressed in this order is Petitioner's use of a flex mechanism in conjunction with the quarterly GCA mechanism. Although Petitioner initially sought approval of a flex mechanism that would allow Petitioner to flex up or down by an amount capped at 30% of the originally approved market based gas cost estimate, Petitioner subsequently withdrew this proposal in light of the OUCC's opposition. The OUCC did not agree with the merits of Petitioner's proposal, and expressed its preference for a \$1.00 flex mechanism that was established in agreements with Citizens Gas and Vectren. The OUCC further expressed its belief that any modification to the existing one dollar flex mechanism, which is employed by many Indiana gas utilities, should be explored in a generic proceeding that includes all Indiana gas utilities with agreements similar to the Citizens Gas and Vectren agreements. In his rebuttal testimony, Mr. Martin indicated NIPSCO's agreement with the value of state-wide conformity in GCA mechanisms, and therefore indicated that NIPSCO would seek the participation of other gas utilities if it decides to pursue changes in the existing flex mechanism.

Although the OUCC opposed the 30% flex mechanism proposed by Petitioner, the OUCC did recommend that the Commission approve a flex collar of no more than \$1.00/Dth on Petitioner's spot market priced purchase portion, which would be in alignment with the mechanisms in place for other gas utilities in Indiana. In his rebuttal testimony, Mr. Martin stated that NIPSCO is willing to adhere to the OUCC's proposal limiting monthly flexes to \$1.00/Dth, in a manner similar to the companies mentioned in Mr. Lorton's testimony. Based on the parties' agreement on this point, the Commission finds that Petitioner should be permitted to employ a \$1.00/Dth flex mechanism that is consistent with the mechanisms approved for Citizens Gas in Cause No. 37399 GCA 75, and Vectren North and Vectren South in Cause No. 42890.

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

1. Petitioner's monthly GCA alternative regulatory plan, approved by the Commission in its August 11, 1999 Order in Cause No. 41338, shall be terminated, consistent with this Order.

2. Petitioner shall file, under Cause No. 41338 GCA 11 an annual demand cost application, which shall establish demand costs for the period November 2009 through October 2010, and which shall reconcile commodity costs for the period August 2008 through July 2009.

3. Petitioner shall file its first quarterly GCA application by the end of September 2009, to establish GCA factors for the period December 2009 through February 2010. There shall be no gas cost reconciliation for this first quarterly GCA filing, because the reconciliations for the months of such reconciliation will take place in GCA 11. NIPSCO shall file its quarterly GCA under Cause No. 43629 GCA 12.

4. Petitioner shall file a monthly GCA at the end of September 2009 to establish October 2009 rates, and to reconcile the month of August 2009. A second monthly GCA shall be filed at the end of October 2009 to establish November 2009 rates and reconcile the month of September 2009. Both of these months should be filed under GCA 11 and will be subject to interim approval when filed.

5. The hearing on the reconciliation of gas costs for the months of August 2009 and September 2009 shall be consolidated with the hearing for Petitioner's second quarterly GCA, which will be reconciling gas costs for the months of October 2009 and November 2009.

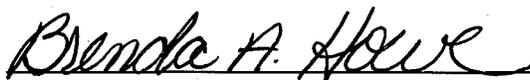
6. Petitioner shall be permitted to implement a \$1.00 per dekatherm flex mechanism as indicated herein in association with its quarterly GCA applications.

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

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

**APPROVED: AUG 26 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**