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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE COMPLAINT)
OF NUCOR STEEL-INDIANA, A DIVISION)
OF NUCOR CORPORATION AGAINST)
DUKE ENERGY INDIANA, INC. FOR)
DETERMINATION OF REASONABLE)
AND JUST CHARGES AND CONDITIONS)
FOR ELECTRIC SERVICE AND REQUEST)
FOR EXPEDITED ADJUDICATION.)

CAUSE NO. 43754

INTERIM ORDER

APPROVED: OCT 21 2009

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RESPONDENT: DUKE ENERGY INDIANA,)
INC.)

BY THE COMMISSION:

David E. Ziegner, Commissioner

Angela Rapp Weber, Administrative Law Judge

On August 6, 2009, Complainant Nucor Corporation ("Nucor") filed its Complaint against Respondent Duke Energy Indiana, Inc. ("Duke Energy Indiana") with the Indiana Utility Regulatory Commission ("Commission") in this Cause. The Complaint concerns the establishment of reasonable and just charges and conditions for electric service by Duke Energy Indiana to Nucor at Nucor's Crawfordsville, Indiana Plant ("Crawfordsville Plant"). Nucor currently receives electric service from Duke Energy Indiana pursuant to long-term electric supply agreements, which will expire on October 31, 2009.

Pursuant to notice as provided by law, a Prehearing Conference in this Cause was held on August 31, 2009 in Room 224 of the National City Center, 101 West Washington Street, Indianapolis, Indiana at 10:00 a.m. Proofs of publication of the notices of the Prehearing Conference have been incorporated into the record and placed in the official files of the Commission. Nucor, Duke Energy Indiana, and the Indiana Office of Utility Consumer Counselor ("OUCC") (collectively, the "Parties") appeared and participated at the hearing. No members of the general public appeared.

At the Prehearing Conference, an informal discussion was held regarding procedural and other matters in this Cause. Specifically, the Parties discussed the ensuing expiration of the current electric supply agreements, which are at issue in Nucor's Complaint in this Cause. The Parties agreed that an additional four-month extension of the agreements was necessary. The Presiding Officers continued the Prehearing Conference on the record until September 14, 2009 to allow presentation of evidence in support of the proposed Four-Month Extension Agreement to the Electric Supply Agreements ("Four-Month Extension Agreement"). On September 9, 2009, Duke Energy Indiana filed the Verified Testimony of Jeffrey R. Bailey,

Duke Energy Business Services, LLC's Director of Pricing and Services, in support of the proposed Four-Month Extension Agreement.

On September 14, 2009, the Prehearing Conference reconvened at 10:30 a.m. in Room 220 of the National City Center, 101 West Washington Street, Indianapolis, Indiana so that the Parties could offer evidence in support of the Four-Month Extension Agreement. At that hearing, Duke Energy Indiana, Nucor, and the OUCC were present and participated. No members of the general public were present.

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

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the Prehearing Conference in this Cause was given and published by the Commission as required by law. Nucor owns and operates the Crawfordsville Plant, which is a steel production facility near the City of Crawfordsville, Indiana. Duke Energy Indiana is a public utility within the meaning of the Public Service Commission Act, as amended, and is subject to the jurisdiction of the Commission in the manner and to the extent provided in Ind. Code 8-1-2 *et seq.* The electric supply agreements are special contractual arrangements between Nucor and Duke Energy Indiana, approved by the Commission pursuant to Ind. Code §§ 8-1-2-24 and -25, and remain under the supervision and regulation of the Commission. The Commission has jurisdiction over Nucor and Duke Energy Indiana and this proceeding.

2. **Background and Relief Sought by this Petition.** Duke Energy Indiana (formerly known as PSI Energy, Inc. and Public Service Company of Indiana, Inc.) provides Nucor with electric service pursuant to long-term electric supply agreements. The Commission approved an Electric Supply Agreement in an Order dated August 26, 1987 in Cause No. 38344; approved an As-Available Supplemental Energy Service Agreement dated April 4, 1994; and approved a First Amendment to the July 31, 1987 Electric Supply Agreement dated June 20, 1996 (collectively, such agreements, as amended, are referred to as the "Nucor Electric Supply Agreements").

The Nucor Electric Supply Agreements previously were scheduled to terminate on July 31, 2009. However, Duke Energy Indiana and Nucor agreed to a Three-Month Extension of Electric Supply Agreements ("Three-Month Extension Agreement"). The Commission approved the Three-Month Extension Agreement in an Order dated June 10, 2009 in Cause No. 43676, which, subject to certain revisions, continued the Nucor Electric Supply Agreements up to and including October 31, 2009. Nucor filed its Complaint in this proceeding during this three-month extension period.

In the present Cause, the Parties requested that the Commission grant an additional extension of the Nucor Electric Supply Agreements. Specifically, the Parties requested a four-month extension so that the Nucor Electric Supply Agreements will be in effect during the pendency of this Cause. The Parties stated that an extension will allow Duke Energy Indiana and Nucor to continue to negotiate a new electric supply agreement and permit the Commission to appropriately consider the issues presented in this Cause.

3. **Evidence In Support of Proposed Four-Month Extension.** Mr. Jeffrey R. Bailey testified on behalf of Duke Energy Indiana and in support of the Four-Month Extension Agreement. He testified that the Four-Month Extension Agreement would extend the current Commission-approved terms and conditions for the provision of service by Duke Energy Indiana to Nucor at its Crawfordsville Plant facilities. He stated the Four-Month Extension Agreement simply changes the expiration date of the Three-Month Extension Agreement from October 31, 2009 to February 28, 2010. Also, it will allow Duke Energy Indiana and Nucor additional time to continue to attempt to reach an agreement on the terms of a new long-term contract and provide the Commission with the time necessary to administer this proceeding pursuant to the schedule agreed to by the Parties at the August 31, 2009 Prehearing Conference.

Mr. Bailey stated that maintaining the status quo for the terms and conditions of electric service to Nucor for this relatively short extension of time is reasonable to support the objectives discussed above. He testified that the proposed four-month extension of the existing terms and conditions of electric service to Nucor will not adversely affect the reliability of service to Duke Energy Indiana's other customers. Finally, Mr. Bailey noted that Duke Energy Indiana, Nucor, and the OUCC support approval of the Four-Month Extension Agreement.

At the September 14, 2009 hearing, Duke Energy Indiana and Nucor stipulated that Duke Energy Indiana would be entitled to interrupt service to Nucor down to its firm load level (in accordance with the Nucor Electric Supply Agreements) for a total of 100 hours. According to the stipulation, Nucor's service may be interrupted from the date of the September 14, 2009 hearing to the proposed termination date of the Nucor Electric Supply Agreements, which, if the Commission approves the Four-Month Extension Agreement, will be up to and including February 28, 2010.

4. **Discussion and Findings.** The evidence presented at the September 14, 2009 hearing supports the proposed four-month extension of the Nucor Electric Supply Agreements. The record demonstrates that this brief extension will allow the Commission to consider the issues presented and permit the orderly disposition of the matters in this Cause. The record also demonstrates that the proposed four-month extension will allow time for Duke Energy Indiana and Nucor to work towards reaching an agreement on a long-term special contract or to allow termination of negotiations. The Commission notes that the Four-Month Extension Agreement is supported by the Parties to this Cause. Accordingly, having reviewed the proposed Four-Month Extension Agreement and the evidence in this Cause, the Commission finds that the proposed Four-Month Extension Agreement should be approved.

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

1. The requested Four-Month Extension Agreement between Duke Energy Indiana, Inc. and Nucor Corporation is hereby approved.

2. The stipulation of the parties is accepted such that Duke Energy Indiana shall be entitled to interrupt service to Nucor down to its firm load level (pursuant to the Nucor Electric Supply Agreements) for a total of 100 hours from the date of the September 14, 2009 up to and including February 28, 2010.

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

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

APPROVED: OCT 21 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