

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY ("NIPSCO") FOR (1))
AUTHORITY TO MODIFY ITS RATES AND)
CHARGES FOR ELECTRIC UTILITY SERVICE; (2))
APPROVAL OF NEW SCHEDULES OF RATES AND)
CHARGES APPLICABLE THERETO; (3))
APPROVAL OF REVISED DEPRECIATION)
ACCURAL RATES; (4) INCLUSION IN ITS BASIC)
RATES AND CHARGES OF THE COSTS)
ASSOCIATED WITH CERTAIN PREVIOUSLY)
APPROVED QUALIFIED POLLUTION CONTROL)
PROPERTY PROJECTS; AND (5) APPROVAL OF)
VARIOUS CHANGES TO NIPSCO'S ELECTRIC)
SERVICE TARIFF INCLUDING WITH RESPECT)
TO THE GENERAL RULES AND REGULATIONS.)

CAUSE NO. 43969

PREHEARING
CONFERENCE
ORDER

APPROVED: JAN 05 2011

BY THE COMMISSION:

David E. Ziegner, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge

On November 19, 2010, Northern Indiana Public Service Company ("Petitioner") filed its Petition and Notice of Intent to File in Accordance with Minimum Standard Filing Requirements to modify its rates and charges for electric utility service, for approval of new schedules of rates and charges applicable thereto, and making certain other requests.

In accordance with 170 IAC 1-1.1-15 and pursuant to proper notice given as provided by law, a Prehearing Conference and Preliminary Hearing ("Prehearing Conference") was commenced on December 17, 2010, at 9:30 a.m. in Room 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of notice of the Prehearing Conference were incorporated into the record and placed in the official files of the Commission. The NIPSCO Industrial Group, the City of Hammond, Indiana ("Hammond"), Citizens Action Coalition of Indiana, Inc. ("CAC"), Indiana Municipal Utilities Group ("IMUG"), and NMLK Indiana filed petitions to intervene that were granted by the Commission at the hearing. Petitioner, the Office of Utility Consumer Counselor ("Public"), NIPSCO Industrial Group, Hammond, CAC and IMUG participated in the Prehearing Conference.

Prior to the opening of the record in this Cause and with the agreement and consent of all parties at the Prehearing Conference, an informal discussion was held regarding procedural scheduling and certain other matters pertinent to this Cause.

Pursuant to the matters presented to the Commission at the Prehearing Conference and the agreement of the parties, the Commission now enters the following findings and order which shall become a part of the record in this proceeding:

1. **Test Year and Accounting Method.** The test year to be used in determining Petitioner's actual and pro forma operating revenues, expenses and operating income under present and proposed rates shall be the twelve months ended June 30, 2010, adjusted for changes that are fixed, known and measurable for ratemaking purposes and that will occur within twelve months following the end of the test year recognizing that Petitioner may make proposals regarding rate adjustment mechanisms that are not limited by the 12-month adjustment period.

2. **Cut-Off Date.** The general rate base cutoff shall reflect used and useful property at the end of the test year.

3. **Petitioner's Prefiling Date.** Petitioner prefiled with the Commission the prepared testimony and exhibits constituting its case-in-chief, and submitted workpapers on November 19, 2010.

4. **Notice to Customers.** On or before January 19, 2011, Petitioner shall provide evidence of its compliance with 170 IAC 4-1-18(C) to provide notice to its residential customers which fairly summarizes the nature and extent of the proposed changes in its residential base rate schedules.

5. **Technical Conference.** The Commission will convene a Technical Conference on February 9, 2011 at 10:00 a.m. in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana to allow Petitioner the opportunity to present a summary of its filing and informally answer questions from the parties or the Commission concerning its filing.

6. **Hearing On Petitioner's Case-In-Chief.** An evidentiary hearing in this Cause shall commence on February 28, 2011 at 1:00 p.m. E.S.T., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana at which time Petitioner's case-in-chief shall be presented and its witnesses cross-examined. As necessary, the hearing will continue from day to day thereafter.

7. **Settlement Hearing.** If the parties have a settlement agreement to present by that time, a settlement hearing shall be conducted in this cause on April 18, 2011, at 10:00 a.m., E.D.T., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Evidence in support of any such settlement agreement shall be filed with the Commission and served on the parties at least five (5) business days before the settlement hearing. In the event a settlement of all of the parties or to which no party objects is presented at the settlement hearing which covers any or all issues in this Cause and which is supported by substantial evidence, the Commission may proceed to issue an order or orders resolving the settled issues without the need for further evidentiary hearings concerning those issues. The Commission may continue the settlement hearing to another date if the Commission believes a continuance would facilitate the prospects for settlement. Settlements may also be presented to the Commission five (5) days prior to the evidentiary hearings scheduled pursuant to Paragraph 11 hereof.

8. **Field Hearing.** A public field hearing to provide interested ratepayers with an opportunity to offer comments concerning this Cause shall be held in the City of Gary, the largest municipality served by Petitioner, at a date, time, and location to be determined later by the Commission.

9. **Public's And Intervenors' Prefiling Date.** The Public and all Intervenors shall prefile with the Commission and serve on all parties of record the prepared testimony and exhibits constituting their respective cases-in-chief on or before May 16, 2011.

10. **Cross-Answering Testimony.** The Public and all Intervenors shall prefile with the Commission and serve on all parties of record any cross-answering testimony and exhibits responding to the cases-in-chief prefiled by parties other than Petitioner on or before May 30, 2011.

11. **Petitioner's Rebuttal Prefiling.** Petitioner shall prefile with the Commission and serve on all parties of record its rebuttal testimony and exhibits on or before June 15, 2011.

12. **Hearing On Public's And Intervenors' Cases-in-Chief And For Petitioner's Rebuttal.** The evidentiary hearing in this Cause shall resume on July 11, 2011 at 10:00 a.m., E.D.T., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana and continue as necessary, from day to day thereafter. At such time, the Public and all Intervenors shall present their respective cases-in-chief and cross-answering evidence and their witnesses shall be cross-examined. Thereafter, Petitioner may offer its rebuttal evidence and its rebuttal witnesses shall be made available for cross-examination.

13. **Post-Hearing Submissions and Order.** The following post-hearing schedule should apply:

<u>Event</u>	<u>Due Date</u>
Petitioner's submission of its proposed order and post-hearing brief, if any	August 11, 2011
Public's and Intervenors' submission of their proposed orders, exceptions to Petitioner's proposed order and post-hearing briefs, if any	September 7, 2011
Public's and Intervenors' submission of replies to each others' proposed orders, exceptions and briefs, if any	September 21, 2011
Petitioner's submission of exceptions to proposed orders and replies to exceptions and briefs of Public and Intervenors	September 30, 2011

170 IAC 1-5-2(c)(4) provides an exception to complete a case filed under the MSFR beyond the typical 10-month period if exceptional circumstances so warrant. In order for the parties to agree to the schedule proposed herein, the parties have proposed a schedule that provides for a Commission Order to be issued by December 30, 2011, which is beyond 12 months from the date of Petitioner's prefiling date. The Commission finds that exceptional circumstances do exist and that the underlying schedule is reasonable. Further, we authorize the Presiding Officers to this Cause to make further modifications to the underlying procedural schedule, for good cause shown.

14. Witness Order. Each party shall submit its intended order of its witnesses to the Commission and the parties in writing at least two business days in advance of the commencement of each hearing.

15. Objection to Prefiled Testimony and Exhibits. Any objections to the admissibility of prefiled testimony or exhibits shall be filed with the Commission and served on all parties of record no less than two (2) business days prior to the commencement of the hearing at which the testimony or exhibit will be offered into the record. This deadline shall not apply to any corrections to prefiled testimony submitted less than 5 business days prior to the commencement of the hearing at which the testimony or exhibit will be offered into the record.

16. Corrections and Copies. Any corrections to prefiled testimony or exhibits shall be filed with the Commission and served on all parties of record no less than two (2) business days prior to the date scheduled for commencement of the hearing at which the testimony or exhibit will be offered into the record. If corrections to an exhibit appear in multiple iterations or are extensive, the exhibit with corrections incorporated shall be rebound as necessary to minimize confusion over the substance and pagination of the exhibit.

With the exception of working papers, an original and five (5) copies of all prepared testimony and exhibits shall be filed with the Commission. Parties shall provide copies of any exhibits or materials used in cross examination during the proceeding to the other parties, the assigned staff advisors and the presiding Commissioner and administrative law judge at the time said exhibits and materials are so used in cross examination. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper.

Parties may also elect to file documents with the Commission using the Commission's Electronic Filing System in lieu of filing paper documents. Pursuant to the terms and conditions of the Electronic Filing System, documents filed electronically are deemed filed the date they are submitted, subject to verification and acceptance by the Commission, and will receive an electronic file stamp. With respect to electronic filings, if a party organizes its filing in a bound volume for ease of reference at a hearing, the party shall provide, within two (2) business days of the electronic filing, two (2) such bound volumes for use by the presiding officers during the hearing. When supplying the bound volumes, the party shall provide a copy of the email reflecting the date the electronic filing was accepted by the Commission.

Regardless of whether filing is made with paper copies or electronically, the filing party, on the day of filing, shall also email a copy of the filing to the Presiding Administrative Law Judge.

17. Working Papers. Parties shall submit to the Commission two sets of the working papers and other supporting materials normally generated in association with the production of technical evidence within 7 calendar days of the testimony prefiling date. At the same time, Parties shall serve a copy of such working papers on the Petitioner and Public, if applicable, and any Intervenor requesting a copy thereof in writing.

18. Sworn Testimony. Any witness testimony to be offered into the record of this proceeding shall be made under oath or affirmation. In accordance with 170 IAC 1-1.1-18(h), if the prefiled testimony of a witness is to be offered into evidence at the evidentiary hearing, and the witness sponsoring the prefiled testimony is not required to, and does not, attend the evidentiary

hearing, the prefiled testimony shall be accompanied by the witness's sworn affidavit or written verification at the time the evidence is offered into the record.

19. **Stipulations.** Prior to the evidentiary hearing, the parties are encouraged to consider whether they will stipulate to: (1) the qualifications of expert witnesses; (2) the admissibility of prefiled testimony and exhibits; and (3) the waiver of cross-examination of witnesses. The parties may consult as to whether any prefiled evidence can result in the narrowing of issues presented for determination by the Commission.

20. **Intervention.** Pursuant to 170 IAC 1-1.1-11, any party permitted to become an Intervenor in this Cause shall be bound by the record as it stands at the time its Petition to Intervene is granted.

21. **Discovery.** Discovery shall be conducted on an informal basis and available for all parties. Any party receiving a discovery request prior to the prefiling of the Public's and Intervenors' cases-in-chief shall respond to or object to the discovery request within ten (10) business days following receipt absent agreement of the affected parties for a longer period or the granting of an extension by the Commission. Following the prefiling of Public's and Intervenors' cases-in-chief, responses to discovery shall be provided within seven (7) business days except that from the prefiling of the Public's and Intervenors' cases-in-chief until the filing of cross-answering testimony, responses to discovery from the Public and Intervenors to one another shall be provided within five (5) calendar days. After Petitioner prefiles its rebuttal case, discovery between all parties shall be provided within five (5) calendar days. Discovery requests received after noon on a Friday will be deemed received the next business day. Objections not made within the applicable time period shall be deemed waived unless an extension is agreed upon or obtained from the Commission. If more time is needed to respond to a discovery request, the parties will attempt in good faith to reach agreement upon the amount of time needed. If the parties are unable to agree, the party desiring more time may seek and obtain an extension from the Commission for good cause shown.

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

1. The determinations of the Prehearing Conference set forth in this Order are made a part of the record in this Cause and shall be binding on all parties of record during the proceedings in this Cause.

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

ATTERHOLT, LANDIS, MAYS, AND ZIEGNER CONCUR:

APPROVED:

JAN 05 2011

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



Brenda A. Howe

Secretary to the Commission