

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF)
INDIANA MICHIGAN POWER COMPANY)
FOR APPROVAL OF CERTAIN)
TRANSACTIONS RELATING TO THE)
LEASING OF NUCLEAR FUEL FOR THE)
DONALD C. COOK NUCLEAR PLANT OF)
INDIANA MICHIGAN POWER COMPANY)

CAUSE NO. 44490

APPROVED: OCT 01 2014

Presiding Officers:
David E. Ziegner, Commissioner
David E. Veleta Administrative Law Judge

On May 12, 2014, Indiana Michigan Power Company (“Petitioner” or “I&M”) filed a petition (“Petition”) with the Indiana Utility Regulatory Commission (“Commission”) seeking approval of certain proposed leasing transactions relating to nuclear material (“Nuclear Fuel”) for the Donald C. Cook Nuclear Plant (“Cook Plant”).

Pursuant to notice, duly published as required by law, an Evidentiary Hearing was held in this matter on September 15, 2014, at 9:30 a.m. in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner and the Indiana Office of Utility Consumer Counselor (“OUCC”) appeared and participated in the Evidentiary Hearing. At the hearing, the prefiled testimony and exhibits of Petitioner and the OUCC were offered and admitted into evidence without objection. No other members of the general public were in attendance.

The Commission, having considered the evidence presented in this matter, and being duly advised in the premises, now finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given as required by law. Petitioner is a public utility within the meaning of the Public Service Commission Act, as amended, Ind. Code ch. 8-1-2, and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana. Petitioner seeks an order of the Commission, under Ind. Code §§ 8-1-2-76 through 8-1-2-80. Therefore, the Commission has jurisdiction over Petitioner and the subject matter herein.

2. Petitioner’s Characteristics. Petitioner is a corporation organized and existing under the laws of the State of Indiana, having its principal executive office at One Summit Square, Post Office Box 60, Fort Wayne, Indiana. Petitioner owns and operates electric utility properties for service to the public in Indiana and southwestern Michigan, including the Cook Plant, a nuclear-fueled steam electric generating station, located near Bridgman, Michigan. The Cook Plant consists of two generating units, both of which are in commercial operation, with a combined nominally-rated net electric output for both units of over 2,100 megawatts. The Cook Plant requires Nuclear Fuel in its production of power.

3. Petitioner's Direct Evidence. Mr. Jerald R. Boteler, Managing Director, Corporate Finance for American Electric Power Service Corporation ("AEPSC"), testified in support of Petitioner's request for approval for the leasing of Nuclear Fuel with a maximum aggregate value of up to \$600 million. Petitioner proposes that such approval would terminate on the later of the leasing of four separate nuclear fuel assemblies inserted into a reactor (each assembly being referred to hereinafter as a "Batch"), or December 31, 2016. Citing to prior Commission Orders, Mr. Boteler stated that the Commission has previously approved similar leasing arrangements. He explained that the Commission's August 1, 2011 Order in Cause No. 44025 authorized Petitioner to enter into one or more Nuclear Fuel lease agreements with as yet unspecified commercial banks, other financial institutions, insurance companies or other institutional investors (each a "Lessor"), under which Petitioner was authorized to lease from Lessor the Nuclear Fuel required for operation of the Cook Plant in an aggregate amount of up to \$600 million. Thereafter, Petitioner entered into (i) a Fuel Lease, dated as of November 1, 2011, with DCC Fuel IV LLC, in the aggregate amount of \$109,975,000, (ii) a Fuel Lease, dated as of April 27, 2012, with DCC Fuel V LLC, in the aggregate amount of \$109,500,000, (iii) a Fuel Lease, dated as of May 15, 2013, with DCC Fuel VI LCC, in the aggregate amount of \$101,353,500, and (iv) a Nuclear Fuel Lease Agreement, dated as of November 15, 2013, with IMP 11-2013, in the aggregate principal amount of \$110,200,000 (collectively, the "Current Leases"). The remaining \$168,971,500 of authority granted in Cause No. 44025 expired with the execution of the Nuclear Fuel Lease Agreement with IMP 11-2013 on November 15, 2013.

Mr. Boteler testified that, in this Cause, Petitioner is proposing to enter into one or more lease agreements ("New Lease") with one or more as yet unspecified commercial banks, other financial institutions, insurance companies or other institutional investors ("New Lessor") for the lease of nuclear fuel. The New Lease will be a capital lease with all tax benefits claimed by Petitioner. The form of the New Lease for the nuclear fuel will be substantially similar to the Current Leases. He also said the net rent to be paid by Petitioner will be determined in substantially the same manner as under the Current Leases. Alternately, Petitioner and New Lessor may agree upon a different manner of computing rent, such as assuming equal monthly consumption of the Nuclear Fuel. He said each Batch will be amortized to zero, other than Batches still in heat production on the last day of the lease term, which will be purchased by I&M on the termination date for the then unamortized value of such Nuclear Fuel.

Mr. Boteler stated that, unless the New Lease is earlier terminated or extended, Nuclear Fuel will be leased under the New Lease for a period up to 60 months. After a minimum time following the execution of the New Lease, I&M or the New Lessor may terminate the New Lease for any reason, upon 180 days prior written notice. The New Lessor may terminate the New Lease prior to a scheduled termination date under certain circumstances, including if (a) it becomes subject to certain adverse rules, regulations or declarations with respect to its status or the conduct of its business; (b) certain changes occur in the Price-Anderson Act or Atomic Energy Act; (c) there is a nuclear incident of sufficient magnitude; or (d) certain adverse regulatory events occur in connection with the New Lease or the Cook Plant.

At termination of the New Lease, Mr. Boteler stated I&M will purchase all of the New Lessor's interests in the unamortized Nuclear Fuel then subject to the New Lease. Title to the Nuclear Fuel will be transferred to Petitioner or, under certain circumstances, a party designated by I&M and approved by the New Lessor. Petitioner will be obligated to pay the New Lessor a

purchase price equal to the then-unamortized value of the Nuclear Fuel then under lease. Upon consummation of such purchase, all obligations of I&M under the New Lease will terminate, except to the extent provided therein.

Mr. Boteler testified the final interest rate spread will be based on one month LIBOR or a fixed rate plus a spread based upon Petitioner's credit ratings. He said that although the interest rate will not be known until the transaction is closed, the proposed method of financing Petitioner's Nuclear Fuel should be of a lower cost than would be the case if Petitioner financed the Nuclear Fuel directly by the issuance of its own notes and equity because Petitioner's weighted average cost of capital is in excess of the interest rate Petitioner will pay under the New Lease.

Mr. Boteler concluded that in his opinion it is advisable and in the best interests of Petitioner's customers, as well as in the public interest, to effect the transactions proposed herein. The proposed transactions are reasonably necessary to the operation and management of Petitioner's business in order that Petitioner may provide adequate service to the public at a projected lower cost. Further, Mr. Boteler testified that the capital structure of Petitioner, after giving effect to the proposed transactions, will be reasonable and in the public interest; and after the proposed transactions, the total amount of Petitioner's outstanding stock, and notes maturing more than 12 months from the date hereof and other evidence of indebtedness will not exceed the fair value of Petitioner's property.

4. OUCC's Testimony. Duane P. Jasheway, a Utility Analyst in the Electric Division of the OUCC, testified that the cost of Petitioner's Nuclear Fuel is recovered through its semi-annual FAC applications, whether the fuel is owned by I&M or leased through a third party. Accordingly, he stated, any Nuclear Fuel cost savings that may be realized by lease financing will be passed through to ratepayers via the FAC in a timely manner. He noted that OUCC's Exhibit DJP-1, a document provided by Petitioner to the OUCC during informal discovery, demonstrates that savings from the proposed lease transactions are projected to yield a net present value of approximately \$13 million. Given Petitioner's commitment not to enter into any lease at a higher cost than ownership, he opined that any leasing activity should benefit ratepayers. He also noted that when taking into account the estimated combined savings since 2007, Petitioner's ratepayers have saved approximately \$30 million due to Petitioner's nuclear fuel leasing practices. Mr. Jasheway recommended that Petitioner continue to calculate the annual savings resulting from its leasing activity and provide that information to the Commission and the OUCC in future FAC and nuclear fuel leasing proceedings. Mr. Jasheway noted that the OUCC did not have any other concerns with existing owned fuel in this Cause.

Mr. Jasheway concluded his testimony with two recommendations from the OUCC: (1) the Commission should approve Petitioner's request for authorization for its nuclear financing arrangements; and (2) I&M should be required to provide regular updates of its leasing developments, including all terms of said agreements and a calculation of the comparative annual savings to ratepayers of leasing the Nuclear Fuel versus ownership.

5. Petitioner's Rebuttal. I&M witness, Mr. Boteler, submitted brief rebuttal noting that I&M is agreeable to the OUCC's recommendations, and specifically, I&M agrees to provide regular updates, in future FAC and nuclear fuel lease proceedings, of its nuclear leasing

developments, including all terms of said agreements and a calculation of the comparative annual savings to ratepayers of leasing, subject to appropriate confidential treatment of confidential information.

6. Commission Discussion and Findings. I&M requests Commission approval to enter into a New Lease(s) with one or more New Lessors. Pursuant to the terms of the New Lease, New Lessor will finance and lease to Petitioner, or New Lessor will purchase from, and lease back to, Petitioner, Nuclear Fuel with a maximum aggregate value of up to \$600 million. Unless the New Lease is earlier terminated or extended, Nuclear Fuel will be leased under the New Lease for a period up to 60 months.

I&M was first authorized by the Commission to enter into a leasing transaction related to the Nuclear Fuel for the Cook Plant in the Commission's December 5, 1990 Order in Cause No. 39051. As noted by the parties, the Commission has approved similar leasing arrangements in Cause Nos. 34795, 41748, 43351, 43682 and most recently in Cause No. 44025.

Based on the evidence presented, we find Petitioner's request for approval to enter into a New Lease(s) as set forth herein is reasonable, in the interest of the public and should be approved. The proposed transaction(s) is reasonable in the operation and management of Petitioner's business so as to provide adequate service to the public at a reasonable cost. The evidence demonstrates that the leasing activity is projected to result in ratepayer savings when compared to the ownership option. In addition, I&M has committed to only entering into such leases that cost less than ownership. The capital structure of Petitioner, after giving effect to the proposed transactions, will be reasonable and in the public interest. After the proposed transactions, the total amount of Petitioner's outstanding stock and long-term indebtedness will not exceed the fair value of Petitioner's utility property.

At the Evidentiary Hearing, I&M indicated it did not object to the OUCC's recommendations. We find those recommendations are reasonable and should be implemented. Therefore, I&M shall provide annual updates, through FAC testimony, of its Nuclear Fuel leasing activity.

7. Petitioner's Request for Confidential Treatment. On July 9, 2014, Petitioner filed a Motion for Protection of Confidential and Proprietary Information ("Motion") requesting confidential treatment for trade secret information it intended to submit in this Cause, which was supported by the Affidavit of Mr. Boteler. Mr. Boteler stated that Schedule A of the Current Leases includes information and formulae for determining lease pricing ("Confidential Information"). He stated the Confidential Information has actual or potential economic value to I&M and could cause significant financial damage if publicly disseminated. He further stated that Petitioner and its affiliate, AEPSC, have taken all reasonable steps to protect the Confidential Information from disclosure. On July 23, 2014, the Presiding Officers issued a Docket Entry granting confidential treatment on a preliminary basis.

Pursuant to Ind. Code §§ 8-1-2-29 and 5-14-3-4(a)(4) and based on the evidence presented, we find the Confidential Information to constitute a "trade secret" and should continue to be afforded confidential treatment. Accordingly, this information is exempted from public disclosure and will continue to be held as confidential by the Commission.

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

1. Petitioner's request to enter into a New Lease(s) for Nuclear Fuel with one or more New Lessors is hereby approved. This Order constitutes the certificate of authority.
2. Petitioner shall annually notify the Commission of its nuclear fuel leasing activity, including all terms of said agreements and a calculation of the comparable savings to ratepayers of leasing the Nuclear Fuel versus ownership, through testimony in its FAC proceeding.
3. This Order shall be effective on and after the date of its approval.

STEPHAN, MAYS-MEDLEY AND ZIEGNER CONCUR; WEBER ABSENT:

APPROVED:

OCT 01 2014

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



Brenda A. Howe

Secretary to the Commission