

**ORIGINAL**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman			√
Krevda	√		
Ziegner	√		

PETITION OF SOUTHERN INDIANA GAS AND )  
ELECTRIC COMPANY d/b/a CENTERPOINT ENERGY )  
INDIANA SOUTH (“CEI SOUTH”) FOR (1) ISSUANCE OF )  
A CERTIFICATE OF PUBLIC CONVENIENCE AND )  
NECESSITY PURSUANT TO IND. CODE CH. 8-1-8.5 FOR )  
THE CONSTRUCTION OF TWO NATURAL GAS )  
COMBUSTION TURBINES (“CTs”) PROVIDING )  
APPROXIMATELY 460 MW OF BASELOAD CAPACITY )  
 (“CT PROJECT”); (2) APPROVAL OF ASSOCIATED )  
RATEMAKING AND ACCOUNTING TREATMENT FOR )  
THE CT PROJECT; (3) ISSUANCE OF A CERTIFICATE )  
OF PUBLIC CONVENIENCE AND NECESSITY )  
PURSUANT TO IND. CODE CH. 8-1-8.4 FOR )  
COMPLIANCE PROJECTS TO MEET FEDERALLY )  
MANDATED REQUIREMENTS (“COMPLIANCE )  
PROJECTS”); (4) AUTHORITY TO TIMELY RECOVER )  
80% OF THE FEDERALLY MANDATED COSTS OF THE )  
COMPLIANCE PROJECTS THROUGH CEI SOUTH’S )  
ENVIRONMENTAL COST ADJUSTMENT MECHANISM )  
 (“ECA”); (5) AUTHORITY TO CREATE REGULATORY )  
ASSETS TO RECORD (A) 20% OF THE FEDERALLY )  
MANDATED COSTS OF THE COMPLIANCE PROJECTS )  
AND (B) POST-IN-SERVICE CARRYING CHARGES, )  
BOTH DEBT AND EQUITY, AND DEFERRED )  
DEPRECIATION ASSOCIATED WITH THE CT PROJECT )  
AND COMPLIANCE PROJECTS UNTIL SUCH COSTS )  
ARE REFLECTED IN RETAIL ELECTRIC RATES; (6) IN )  
THE EVENT THE CPCN IS NOT GRANTED OR THE CTs )  
OTHERWISE ARE NOT PLACED IN SERVICE, )  
AUTHORITY TO DEFER, AS A REGULATORY ASSET, )  
COSTS INCURRED IN PLANNING PETITIONER’S )  
2019/2020 IRP AND PRESENTING THIS CASE FOR )  
CONSIDERATION FOR FUTURE RECOVERY )  
THROUGH RETAIL ELECTRIC RATES; (7) ONGOING )  
REVIEW OF THE CT PROJECT; AND (8) AUTHORITY )  
TO ESTABLISH DEPRECIATION RATES FOR THE CT )  
PROJECT AND COMPLIANCE PROJECTS ALL UNDER )  
IND. CODE §§ 8-1-2-6.7, 8-1-2-23, 8-1-8.4-1 *ET SEQ.*, AND 8- )  
1-8.5-1 *ET SEQ.* )

**CAUSE NO. 45564**

**APPROVED: AUG 10 2022**

## **ORDER OF THE COMMISSION ON RECONSIDERATION**

### **Presiding Officers:**

**James F. Huston, Chairman**

**Stefanie N. Krevda, Commissioner**

**Jennifer L. Schuster, Senior Administrative Law Judge**

On June 28, 2022, the Indiana Utility Regulatory Commission (“Commission”) issued a Final Order in this Cause (“Order”) that, among other things, granted a certificate of public convenience and necessity (“CPCN”) and other relief related to the proposal of Southern Indiana Gas and Electric Company d/b/a CenterPoint Indiana South (“CEI South” or “Petitioner”) to build two natural gas combustion turbines (“CTs”) at the A.B. Brown Generating Station (“Brown”) to replace retiring coal generation at that site.

On July 17, 2022, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Verified Petition for Rehearing and Reconsideration (“Petition for Rehearing and Reconsideration”) raising two issues related to the Order. On July 28, 2022, Petitioner filed its Response to the Petition for Reconsideration (“Response”) and a Request for Expedited Resolution of the Petition for Rehearing and Reconsideration (“Request for Expedited Resolution”). No timely reply was filed.<sup>1</sup>

After considering the OUCC’s Petition for Rehearing and Reconsideration, Petitioner’s Response and Request for Expedited Resolution, applicable law, the Order, and the evidence presented in this Cause, we find as follows:

**1. Evidence in Cause No. 45722.** The first issue raised in the Petition for Rehearing and Reconsideration involves certain evidence presented in a separate case pending before the Commission, Cause No. 45722, which relates to Petitioner’s proposal to securitize the right to bill and collect charges based on qualified costs associated with the retirement of the two Brown coal-burning generation units. According to the OUCC, Petitioner provided information about certain capital additions for the Brown facility, totaling approximately \$77 million, in response to certain data requests in Cause No. 45722 (the “45722 Capital Costs”). In the Petition for Rehearing and Reconsideration, the OUCC argues that the 45722 Capital Costs should also have been included in the best estimate of costs for the CTs presented in *this* Cause and, therefore, the \$334 million best estimate of costs for the construction of the CTs is inaccurate.

In its Response, Petitioner states that the 45722 Capital Costs are unrelated to the construction of the new CTs approved in this Cause but, rather, relate to the continued operation and maintenance of the Brown coal-burning facilities until their scheduled retirement and should not have been included in the \$334 million best estimate of costs for the construction of the CTs.

Based on our review of the evidence of record and briefing on the Petition for Rehearing and Reconsideration, we deny the OUCC’s Motion for Rehearing and Reconsideration as to this

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<sup>1</sup> Under 170 IAC 1-1.1-22(e)(2), a reply in support of a petition for rehearing and reconsideration is due seven days after the service of the response in opposition to the petition. Any reply was due by August 4, 2022, seven days after the service of the Response on July 28, 2022; thus, the reply filed by the OUCC on August 5, 2022 was untimely.

issue. The 45722 Capital Costs are unrelated to the construction of the CTs approved in this Cause and were therefore properly excluded from Petitioner's best estimate of costs for the CTs. Continued operation of the Brown coal-burning units until they close (including related costs, such as the 45722 Capital Costs) was not the subject of Petitioner's CPCN request in this Cause.

**2. Pipeline Cost Recovery.** The OUCC also objects to how the Commission addressed the issue of cost recovery related to the Texas Gas Transmission ("TGT") pipeline lateral, arguing that the Order is internally inconsistent and leaves open the possibility of pipeline cost recovery even if the Federal Energy Regulatory Commission ("FERC") does not approve the TGT pipeline. In particular, the OUCC argues that the following statement in the Order is inconsistent with two subsequent ordering paragraphs: "[I]t is appropriate that Petitioner should receive reasonable cost recovery for the expenses it incurs for the service it receives from the TGT pipeline." Order at 28.

The OUCC finds this statement to be at odds with ordering paragraphs 9 and 22:

9. To the extent that reasonable pipeline costs allocated to CEI South's customers are not ultimately recovered through CEI South's FAC mechanism, we grant its alternative request for deferral of such costs until such costs are recovered through base rates following a general rate case.

...

22. A subdocket shall be created to address cost recovery and allocation issues related to the costs incurred pursuant to the Precedent Agreement with TGT as discussed herein. In the event CEI South is ultimately not permitted to reflect the fixed lateral demand charge in its FAC as a result of such subdocket, CEI South is authorized to defer as a regulatory asset for future recovery the demand costs it incurs until such time as such costs are recovered through CEI South's base rates.

Order at 39, 40. The OUCC argues that "the Commission's ruling can be read to allow [Petitioner] to recover cost[s] associated with the pipeline, despite the pipeline never having been used and useful to [Petitioner]. Further, allowing [Petitioner] to defer and record a regulatory asset for pipeline costs creates a regulatory hurdle and barrier to future parties arguing against its inclusion in [Petitioner's] rates." Petition for Reconsideration and Rehearing at 7.

In response, Petitioner states:

The OUCC contends that the Commission's ruling suggests that if FERC denies the pipeline, CEI South would still be permitted to recover the cost associated with the pipeline. This is not what the Order provides. What the Commission has found is that the Precedent Agreement with TGT is appropriate for providing gas service to the CTs and CEI South should be permitted to recover the costs associated with the Precedent Agreement.

Response at 11.

Petitioner's Response also provides a more complete review of the findings that lead to the ordering paragraphs being questioned by pointing to the underlying Commission discussion within the Order—specifically, that the workings of the two ordering paragraphs are consistent as the subdocket will review the costs reasonably assignable to Petitioner's electric service customers and the allocation thereof. In the event such reasonable costs are not found to be recoverable through the FAC, they may be deferred for future recovery.

Petitioner's summary of this issue is accurate. The applicable ordering paragraphs, read in the context of the rest of the Order, only provide CEI South an avenue to potentially recover the reasonable pipeline costs if FERC grants its request to build the TGT pipeline lateral.

The OUCC's related objection to the creation of a regulatory asset as creating a "regulatory hurdle and barrier to future parties arguing against" the inclusion of pipeline costs in Petitioner's rates also fails for the same reason, as the Order does not permit cost recovery if FERC does not approve the pipeline lateral. The OUCC appears to be contemplating a hypothetical scenario in which FERC has denied the request to build the TGT pipeline but somehow the Order still allows cost recovery for construction costs of the non-approved pipeline project (which could not be constructed under that scenario). This is not a valid interpretation of the language of the Order.

Thus, we also deny the Petition for Reconsideration and Rehearing as to this issue.

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

1. The OUCC's Petition for Rehearing and Reconsideration is denied.
2. Petitioner's Request for Expedited Resolution is granted.
3. This Order shall be effective on and after the date of its approval.

**HUSTON, KREVDA, AND ZIEGNER CONCUR; FREEMAN ABSENT:**

**APPROVED: AUG 10 2022**

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

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**Dana Kosco  
Secretary of the Commission**