

ORIGINAL

Commissioner	Yes	No	Not Participating
Huston			√
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION BY)
SOUTHERN INDIANA GAS AND ELECTRIC)
COMPANY D/B/A CENTERPOINT ENERGY)
INDIANA SOUTH (“SIGECO”) PROVIDING)
NOTICE OF AND, IF NECESSARY UNDER IND.) CAUSE NO. 46140
CODE § 8-1-2-84(h), REQUESTING APPROVAL)
OF, A DISPOSAL AGREEMENT TO) APPROVED: APR 02 2025
EFFECTUATE THE SALE OF SIGECO’S)
INTEREST IN THE WARRICK UNIT FOUR)
GENERATING UNIT)

ORDER OF THE COMMISSION

Presiding Officers:

David E. Veleta, Commissioner

Kristin E. Kresge, Administrative Law Judge

On October 11, 2024, Southern Indiana Gas and Electric Company d/b/a CenterPoint Energy Indiana South (“SIGECO”) filed its Verified Petition establishing this Cause and the direct testimony and attachments of F. Shane Bradford, Vice President Indiana Electric. On November 21, 2024, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed its Notice of Intent Not to File Testimony.

The Commission held an evidentiary hearing in this Cause at 9:30 a.m. on January 7, 2025, in Hearing Room 222, 101 West Washington Street, Indianapolis, Indiana. SIGECO and the OUCC appeared and participated in the hearing by counsel, and evidence was admitted into the record without objection.

Based on the applicable law and evidence presented, the Commission finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given as required by law. SIGECO is a public utility as that term is defined in Ind. Code § 8-1-2-1(a) and is subject to the jurisdiction of the Commission in the manner and to the extent provided by the laws of Indiana, including jurisdiction over SIGECO’s rates and charges and provision of electric utility service within its assigned service area.

2. SIGECO’s Characteristics. SIGECO is a public utility corporation organized and existing under the laws of Indiana. SIGECO’s principal offices are located at 211 NW Riverside Drive, Evansville, Indiana. SIGECO owns, operates, manages, and controls, among other things, plant, property, equipment, and facilities for the production, storage, transmission, distribution, and furnishing of electric service to approximately 150,000 electric customers in Pike, Gibson, Dubois, Posey, Vanderburg, Warrick, and Spencer counties in Indiana.

3. Background. Alcoa Power Generating, Inc. (“APGI”) is a Tennessee corporation and a subsidiary of Alcoa Corporation (“Alcoa”). Warrick Newco, LLC (“Warrick”), a Delaware corporation, is also a subsidiary of Alcoa and operates an aluminum production facility in Warrick County, Indiana (the “Smelter”). APGI is the successor to Alcoa Generating Corporation, which entered into a Joint Operating Agreement (“JOA”) with SIGECO in 1968 related, in relevant part, to the ownership and operation of Unit Four of the Warrick Generating Station, a 300 MW, coal-fired generating unit (“Warrick Unit 4”). SIGECO and APGI each own an undivided one-half interest in Warrick Unit 4. Since 2001, APGI has operated Warrick Unit 4 for the benefit of both SIGECO and APGI and has supplied power to the Smelter from APGI’s undivided one-half ownership interest. SIGECO has used its undivided one-half ownership interest in Warrick Unit 4 (150 MW of installed capacity) as an electric generation resource in the same manner that SIGECO has utilized its wholly owned generation resources.

APGI, like its predecessor Alcoa Generating Corporation, is a Federal Energy Regulatory Commission (“FERC”) jurisdictional electric utility operating an industrial generator to support the Smelter, pursuant to a regulatory structure that predates the federal Public Utility Regulatory Policies Act of 1978. Since the inception of the Midcontinent Independent System Operator (“MISO”) energy markets in 2005, APGI has acted as a Load Serving Entity, supplying the Smelter pursuant to a grandfathered agreement. APGI is not an Indiana-certified public utility and has not been subject to regulation by the Commission with respect to rates or service. APGI has been designated by FERC as an electric utility with market-based rate authority.

On December 31, 2023, the JOA terminated, and SIGECO’s undivided one-half ownership interest in Warrick Unit 4 became no longer used and useful in SIGECO’s provision of electric utility service. As a result, SIGECO retired Warrick Unit 4 and proposed removing the unit from its books for ratemaking purposes in Cause No. 45990.¹ On December 28, 2023, SIGECO and APGI entered into a Disposal Agreement that, among other things, sets forth the terms and conditions under which SIGECO has agreed to sell its undivided one-half ownership interest in Warrick Unit 4 and associated real estate to APGI. On February 2, 2024, SIGECO’s Board of Directors unanimously approved a resolution ordering SIGECO to sell and convey to APGI, SIGECO’s undivided one-half ownership interest in Warrick Unit 4 and associated real estate.

4. Requested Relief. Based on the facts above, SIGECO asserts that APGI is not a public utility as that term is defined in Ind. Code § 8-1-2-1(a), and therefore, the Commission approval required by Ind. Code § 8-1-2-84(h) for the sale of non-used and useful property from one public utility to another public utility does not apply to SIGECO’s sale of its undivided one-half ownership interest in Warrick Unit 4 to APGI. Therefore, SIGECO requests that the Commission accept its filing as notice of SIGECO’s sale of its non-used and useful property to APGI but take no action to approve the sale or the Disposal Agreement. In the alternative, if the Commission determines that Ind. Code § 8-1-2-84(h) does apply to the facts of this Cause,

¹ The Commission’s February 3, 2025 Order in Cause No. 45990 removed Warrick Unit 4 from SIGECO’s books.

SIGECO requests that the Commission approve the sale under the terms of the Disposal Agreement.

5. **SIGECO's Case-in-Chief.** SIGECO witness Bradford testified about the history and termination of the JOA, the negotiation and terms of the Disposal Agreement, the current operational status of Warrick Unit 4, and why the sale of SIGECO's interest in Warrick Unit 4 is reasonable and benefits SIGECO's customers.

Mr. Bradford testified that since 1968, Warrick Unit 4 has been operated (first by SIGECO and later by APGI) for the benefit of both SIGECO and APGI. Over the years, SIGECO and APGI have executed various amendments to the JOA. He stated that effective December 31, 2023, SIGECO's interest in Warrick Unit 4 is no longer used and useful and SIGECO has retired Warrick Unit 4 and removed it from its books and records. Mr. Bradford explained that on December 28, 2023, SIGECO and APGI entered into a Disposal Agreement that, among other things, sets forth the terms and conditions under which SIGECO has agreed to sell its undivided one-half ownership interest in Warrick Unit 4 and associated real estate to APGI. Mr. Bradford attached a confidential copy of the Disposal Agreement to his testimony. He stated that SIGECO and APGI held numerous discussions regarding the future of Warrick Unit 4, which led to formal arm's-length negotiations to allow APGI to purchase SIGECO's interest in Warrick Unit 4 and to solely continue to operate Warrick Unit 4 until the Disposal Agreement is closed.

Mr. Bradford summarized the terms of the Disposal Agreement, in his public and confidential testimonies. He testified that SIGECO and APGI also executed a Capacity Sale Agreement, under which APGI will sell SIGECO 50% of the total capacity of Warrick Unit 4 in MISO Planning Year 2024/2025, and an Interim Agreement, which sets forth the terms and conditions under which APGI is entitled to operate Warrick Unit 4 until the closing of the Disposal Agreement.

Mr. Bradford testified that beginning on January 1, 2024, APGI took on all rights and responsibilities of operating Warrick Unit 4, including assuming all liabilities, environmental and other, that relate to periods after January 1, 2024, and that SIGECO will not be involved in the operation of Warrick Unit 4.

Mr. Bradford testified that Warrick relies on APGI's 50% output from Warrick Unit 4 to power its Smelter and that due to the operational efficiency of the generating unit, it is not feasible to operate the unit at 50% capacity. Therefore, Mr. Bradford stated, APGI needs to have the ability to run the unit at 100% capacity so that it continues to serve its primary purpose of powering the Smelter. He stated that although SIGECO no longer requires the continued operation of Warrick Unit 4 for its own system needs, it does have an economic and capacity interest in the continued operation of Warrick Unit 4 at least through the end of the 2024/2025 MISO Planning year due to the Capacity Sale Agreement. He testified that SIGECO also recognizes the economic importance to the local area of the continued operation of Warrick Unit 4 to supply power to the Smelter

because Warrick has a significant impact on the local economy as a taxpayer, employer, and user of local labor and materials.

Mr. Bradford testified that the sale of Warrick Unit 4 is a step in SIGECO's generation transition plan from a fleet comprising primarily coal generation to a fleet of clean, renewable generation supported by natural gas generation. He also stated that SIGECO's exit from responsibility for Warrick Unit 4 will reduce its overall operating and maintenance expense for 2024 and beyond and will eliminate future capital investments and associated fuel costs of jointly operating the facility. Finally, Mr. Bradford stated that the payment of the purchase price to SIGECO offsets the remaining, unrecovered balance of Warrick Unit 4 asset. For these reasons, Mr. Bradford testified that SIGECO's sale of its undivided one-half ownership interest in Warrick Unit 4 to APGI is reasonable.

6. Commission Discussion and Findings. Ind. Code § 8-1-2-84(h) states:

Any public utility corporation, upon the order of a majority of its board of directors and with the approval of the commission, may sell and convey or lease to any other public utility corporation any of its real or personal estate or other property not used and useful in its public service.

This statute applies to the sale of non-used and useful property and real estate to another public utility. It is undisputed that although SIGECO is a public utility, APGI is not a public utility as defined by Indiana law. Based on these facts, neither Ind. Code § 8-1-2-84(h) nor any other statute requires SIGECO to obtain Commission approval to sell non-used and useful property to an entity that is not a public utility. Therefore, we find that no Commission approval is required for the sale of SIGECO's undivided one-half ownership interest in Warrick Unit 4 to APGI.

While we need not approve SIGECO's sale of its undivided one-half ownership interest in Warrick Unit 4, which is no longer used and useful to SIGECO, we accept SIGECO's notice of the sale to APGI. We will apply this notice as needed in service and rate determinations going forward.

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

1. Notice is taken of SIGECO's sale of its undivided one-half ownership interest in Warrick Unit 4, which is no longer used and useful, to APGI.
2. This Order shall be effective on and after the date of its approval.

BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR; HUSTON ABSENT:

APPROVED: APR 02 2025

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

**Dana Kosco
Secretary of the Commission**