

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

**IN THE MATTER OF THE PETITION BY DUNNS)
BRIDGE SOLAR II, LLC FOR CERTAIN) CAUSE NO. 46197
DETERMINATIONS BY THE COMMISSION WITH)
RESPECT TO ITS JURISDICTION OVER PETITIONER'S) APPROVED: MAY 21 2025
ACTIVITIES AS A GENERATOR OF ELECTRIC POWER)**

ORDER OF THE COMMISSION

Presiding Officers:

Wesley R. Bennett, Commissioner

Sean Gorman, Administrative Law Judge

On February 24, 2025, Dunns Bridge Solar II, LLC (“Petitioner”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) in this Cause for certain determinations, declinations of jurisdiction, and approvals relating to its proposed construction of a solar electric generation facility that will include a battery energy storage system, located entirely in Starke County, Indiana (collectively, “Facility”), in accordance with Ind. Code ch. 8-1-2.5.

Also on February 24, 2025, Petitioner prefiled the direct testimony and attachments of Christopher Neff, Project Director, Development for NextEra Energy Resources, LLC (“NextEra Energy Resources”).

On April 11, 2025, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Notice of Intent Not to File Testimony.

On April 16, 2025, Petitioner filed a Notice of Intent Not to File Rebuttal Testimony.

The Commission held an evidentiary hearing in this Cause in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana at 1:00 p.m. on May 1, 2025. Petitioner and the OUCC appeared and participated in the evidentiary hearing, during which Petitioner’s exhibits were admitted into the record without objection.

Based upon the applicable law and evidence, the Commission now finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. As discussed herein, Petitioner intends to engage in activity that would qualify it as a “public utility” under Ind. Code § 8-1-2-1 and as an “energy utility” under Ind. Code § 8-1-2.5-2. The Commission may decline to exercise, in whole or in part, its jurisdiction over an energy utility pursuant to Ind. Code § 8-1-2.5-5. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. Petitioner Characteristics. Petitioner is a limited liability company organized and existing under the laws of the State of Delaware and authorized to do business in the State of Indiana. Petitioner's principal place of business is at 700 Universe Blvd., Juno Beach, Florida 33408. Petitioner is an indirect, wholly-owned subsidiary of NextEra Energy Resources, which is itself a subsidiary of NextEra Energy, Inc. ("NextEra"). NextEra Energy Resources, through its subsidiaries, specializes in the development, construction, and operation of large-scale renewable power projects. NextEra Energy Resources is headquartered in Juno Beach, Florida.

3. Facility Overview. Petitioner's witness Christopher Neff provided testimony that described the Facility and its planned location. He stated that the project area containing the solar arrays and the battery energy storage system will be entirely located on unincorporated land in Starke County. He noted that the 345 kV transmission line that will interconnect the Facility to the Northern Indiana Public Service Company ("NIPSCO") transmission system will be partially located within Jasper County. He testified that the Facility will consist of approximately 475,000 solar panels, will have the capability to generate up to a nameplate capacity of approximately 200 megawatts ("MW") alternating current ("AC"), which will be paired with an attached battery energy storage system with installed capacity of approximately 100 MW (400 megawatt hours ("MWh") (nameplate capacity, AC-coupled), and will have a net capacity factor of approximately 23.7%. The Facility is expected to achieve commercial operation by December 31, 2026.

4. Relief Requested. Petitioner requests the Commission decline to exercise its jurisdiction over Petitioner pursuant to Ind. Code § 8-1-2.5-5 as it pertains to the construction, ownership and operation of the Facility.

5. Commission Discussion and Findings. If the Commission finds that Petitioner is a public utility for the purposes of Indiana's Utility Power Plant Construction Act, Ind. Code ch. 8-1-8.5 (the "Power Plant Act"), then Petitioner would be considered an "energy utility" as defined by Ind. Code § 8-1-2.5-2. The Commission may decline to exercise jurisdiction over Petitioner pursuant to Ind. Code ch. 8-1-2.5, including its jurisdiction under the Power Plant Act, to issue certificates of public convenience and necessity for the construction of the Facility. For the Commission to decline to exercise jurisdiction over Petitioner pursuant to Ind. Code ch. 8-1-2.5, the Commission must first assert jurisdiction over Petitioner.

Ind. Code § 8-1-8.5-1(a) defines "public utility" to mean a: (1) public, municipally owned, or cooperatively owned utility; or (2) joint agency created under Ind. Code ch. 8-1-2.2. Petitioner is a limited liability company that will generate electricity, some of which may ultimately be consumed by Indiana residents. The Commission has previously asserted jurisdiction over investor-owned public utilities pursuant to Ind. Code ch. 8-1-8.5. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 43235, 2007 WL 8420716 (IURC June 13, 2007). In addition, Petitioner's property "is used in a business that is public in nature and not one that is private." *See Foltz v. City of Indianapolis*, 130 N.E.2d 650, 659 (Ind. 1955). Accordingly, Petitioner's business is "impressed with a public interest" and would render service "of a public character and of public consequence and concern," which leads us to determine that Petitioner is a "public utility" within the meaning of Ind. Code § 8-1-8.5-1. *Id.*

The Commission must also determine that Petitioner satisfies the definition of “public utility” found in Ind. Code § 8-1-2-1. The evidence establishes that Petitioner’s ownership, development, financing, construction, and operation of the Facility is for the purpose of sale of the power generated by that plant in the wholesale market to public utilities, energy service providers, and power marketers within and outside of Indiana. The Commission has found in prior cases that a business that generates electricity and then only sells that electricity directly to public utilities is itself a public utility. *See, e.g., Benton County Wind Farm, LLC*, Cause No. 43068, 2006 WL 4400582 (IURC Dec. 6, 2006) (“Benton County”). In Benton County, the Commission specifically found that it had jurisdiction over a wind energy generator with wholesale operations. Thus, based on the evidence and applicable law, the Commission finds Petitioner is a “public utility” within the meaning of Ind. Code §§ 8-1-2-1 and 8-1-8.5-1 and is “an energy utility” under Ind. Code § 8-1-2.5-2 for purposes of owning, developing, financing, constructing, and operating the Facility.¹

When the Commission concludes that Petitioner is a “public utility” as defined in the Public Service Commission Act and in the Power Plant Act, the Indiana Code authorizes the Commission to decline to exercise, in whole or in part, jurisdiction over an “energy utility” if certain conditions are satisfied. In particular, the Indiana Code provides that the Commission may enter an Order, after notice and hearing, that the public interest requires the Commission “to commence an orderly process to decline to exercise, in whole or in part, its jurisdiction over ... the energy utility ...” Ind. Code § 8-1-2.5-5(a).

In determining whether the public interest will be served by a declination of jurisdiction, the Commission will consider the following:

- (1) Whether technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies render the exercise, in whole or in part, of jurisdiction by the commission unnecessary or wasteful.
- (2) Whether the commission’s declining to exercise, in whole or in part, its jurisdiction will be beneficial for the energy utility, the energy utility’s customers, or the state.
- (3) Whether the commission’s declining to exercise, in whole or in part, its jurisdiction will promote energy utility efficiency.
- (4) Whether the exercise of commission jurisdiction inhibits an energy utility from competing with other providers of functionally similar energy services or equipment.

Ind. Code § 8-1-2.5-5(b).

Mr. Neff testified regarding the requirements of Ind. Code § 8-1-2.5-5. He testified that technological or operating conditions, competitive forces, or the extent of regulation by other state or federal regulatory bodies renders the exercise, in whole or in part, of jurisdiction over Petitioner

¹ Ind. Code § 8-1-2.5-2 defines “energy utility” to mean, among other things, a public utility or municipally owned utility within the meaning of Ind. Code § 8-1-2-1. Because we have determined that Petitioner is a “public utility” under Ind. Code § 8-1-2-1, Petitioner is also an “energy utility.”

by the Commission unnecessary or wasteful. He explained that Petitioner is already subject to the requirements of Starke County, the rules and regulations of the Federal Energy Regulatory Commission ("FERC"), and other federal, state and local agencies and that the requirements of those governmental entities adequately address concerns the Commission may otherwise have and protect the public interest regarding the future operation and wholesale transactions involving the Facility. In addition, competitive forces in the wholesale power markets serve as an adequate check on these activities, particularly on the wholesale power price. Midcontinent Independent System Operator ("MISO") is responsible for the safe and reliable operation and planning, including generation interconnection planning, of the electric transmission systems under its functional control, which includes the NIPSCO transmission system to which the Facility will interconnect.

Mr. Neff testified that all electricity generated at the Facility will be sold to either a contracted offtaker or MISO. Petitioner does not intend, nor does it request authority, to sell the electricity generated by the Facility to the general public or to any retail customer. Instead, the power will be generated solely for resale on a wholesale basis and the Facility will be subject to the jurisdiction of FERC under the provisions of the Federal Power Act, 16 U.S.C. § 824 *et seq.* Petitioner has indicated that it will operate the Facility in a manner consistent with good utility practice.

Mr. Neff testified that he believes the public interest will be served in a number of important respects by the addition of the electric generating capacity represented by the Facility.

Mr. Neff testified that solar energy's renewable nature, coupled with the battery storage capacity of the Facility, will help protect future generations from the risks of dwindling energy supplies.

Mr. Neff testified that the Commission declining to exercise jurisdiction will benefit Petitioner's ability to devote its efforts and resources towards compliance with other federal, state and local regulations as well as the requirements of MISO, all of which will promote the efficiency of Petitioner's ongoing development and operation of the Facility.

Mr. Neff testified that the exercise of Commission jurisdiction will inhibit Petitioner in competing with other providers of functionally similar energy services or equipment. He testified that should the Commission exercise jurisdiction over Petitioner, Petitioner would be placed at a disadvantage with respect to other independent power producers such as wind projects and other solar projects over whom the Commission has declined to exercise jurisdiction. Such regulation would expose Petitioner to the risk of regulatory lag and hinder the quick implementation of business decisions in a highly competitive market, which would create a significant competitive disadvantage for Petitioner. In addition, the Commission's exercise of jurisdiction may compel Petitioner to publicly disclose proprietary information to its disadvantage.

The evidence in this Cause demonstrates that Petitioner does not intend, nor does it request authority, to sell the electricity generated by the Facility to the general public or to any retail customer. Instead, the power will be generated solely for resale subject to the jurisdiction of FERC under the provisions of the Federal Power Act, 16 U.S.C. § 824 *et seq.* Petitioner has indicated that it will operate the Facility in a manner consistent with good utility practice. Further, the costs of

the Facility will not be recovered through a rate base/rate of return or other process typically associated with public utility rates.

The evidence presented demonstrates that further Commission regulation of the Facility: (1) would be duplicative of other regulatory bodies; (2) could complicate and cause inefficiencies in Petitioner's development and operation of the Facility; (3) could impede Petitioner's ability to compete with other wholesale solar providers; and (4) would be an unnecessary use of the Commission's resources. Consequently, we find Petitioner's request that the Commission decline to exercise its jurisdiction over the Facility is in the public interest and is granted. In so finding, as part of the Commission's public interest analysis regarding Petitioner's proposed declination of jurisdiction, we have considered several additional factors the Commission has typically considered in similar proceedings, as discussed below.

A. **Location.** As part of its public interest analysis, the Commission may consider whether the Facility's planned location would serve the public interest. Based on the factors reviewed below, the Commission finds that the Facility's proposed location may be compatible with the surrounding land uses.

i. **Local, State, and Federal Requirements.** Mr. Neff summarized the local, state, and federal permits and laws that may impact the Facility. He testified Petitioner has applied or would apply for and obtain all necessary federal, state, and local permits needed for construction and operation of the Facility. Regarding local approvals required by Starke County, he testified that Starke County has an ordinance governing solar generation facilities, which requires the issuance of an Improvement Location Permit by the County. He testified that Petitioner anticipates this permit will be issued at the time of construction of the facilities. He testified Petitioner executed a Road Use Agreement with the County, and under this agreement, Petitioner will coordinate with the County regarding the use of the County roads during construction and will provide a surety bond that approximates the maximum total cost to repair County roads due to heavy construction equipment and project components traversing identified County roads. He testified that Petitioner also executed a Decommissioning Agreement with the County, which requires that Petitioner prepare a decommissioning plan and post decommissioning security.

ii. **Land Use and Solar Resources.** Mr. Neff testified Petitioner is a subsidiary of NextEra Energy Resources, which specializes in the development of utility-scale solar, wind, and energy storage projects in the United States. Based on the evidence presented, it appears that Petitioner, utilizing NextEra Energy Resources's experience in developing other renewable projects throughout the United States, has determined that the solar resource at the Facility site is sufficient for the development of an economically viable project.

iii. **Water Use and Supply.** Mr. Neff testified the Facility will not have significant water use and will have negligible or no impact on local water supplies. Water will be used during construction and removal of project facilities, primarily for dust control. After construction is completed, water may be used for panel washing, if necessary.

iv. Transmission Interconnection and Compliance with General Administrative Order 2022-1. Mr. Neff testified regarding the Facility's interconnection with the NIPSCO transmission system. He testified NIPSCO's transmission system is part of the wholesale power grid controlled by MISO. He testified the Facility's queue position with MISO is J1336. He testified MISO completed its Phase I, II, and III System Impact Studies of the Facility. He testified that Petitioner has entered into a Generator Interconnection Agreement ("GIA") for the Facility. He explained that Dunns Bridge Energy Storage, LLC (a predecessor project company to Petitioner) executed a GIA for the Facility with NIPSCO and MISO on February 22, 2023, that was later assigned to Petitioner. He testified MISO's generator interconnection process will ensure that the Facility's interconnection with the NIPSCO transmission system will not negatively impact transmission system performance.

Mr. Neff testified to additional generation characteristics and interconnection details applicable to the Facility as requested by the Commission's GAO 2022-1. Regarding the Facility's expected capacity factors, dispatchability and accreditation characteristics, Mr. Neff testified the Facility's expected net capacity factor (P50) is 23.7%. Petitioner provided the Facility's expected 1st year capacity factor at 50% probability exceedance level in Petitioner's Exhibit 1, Attachment CN-21. Mr. Neff testified that through MISO's generator interconnection process, the Facility will secure network resource interconnection service for the 200 MW AC capacity. He testified the Facility will be dispatched according to MISO's interconnection tariff and the GIA. Based on the evidence, the Commission finds Petitioner provided information responsive to GAO 2022-01.

v. Use of the Public Right-of-Way. Petitioner seeks to retain the right to use the public right-of-way within the Facility site to place collector and transmission lines in the public right-of-way and to clarify issues surrounding use of the public right-of-way for road crossings. Based upon the evidence presented, we find Petitioner's request for limited use of the public right-of-way to be reasonable. Petitioner will retain the right to use the public right-of-way as identified in its evidence.

B. Need. In determining whether to decline to exercise jurisdiction, the Commission has previously considered whether the development of additional generating capacity will serve the public interest. Mr. Neff testified there is a need for the electricity generated by the Facility, as evidenced by Petitioner's negotiations with a potential offtaker. Mr. Neff testified regarding the various benefits of the Facility, including the environmental benefits of solar generation, efficiencies that flow from proximity to generation resources, economic benefits to landowners, generation of local tax revenues, the creation of jobs during the construction and operation of the Facility, and the benefit of the Facility having utility-scale battery storage.

Based on the evidence, the Commission finds that Petitioner's proposed development of additional generating capacity through its construction of the Facility will serve the public interest.

C. Financing and Management. To ensure that Indiana consumers are not adversely affected by the proposed development of generation plants in Indiana, developers have demonstrated to the Commission that the financial structure of a proposed project would not jeopardize retail electric supply. Petitioner submitted Attachment CN-22 to Petitioner's Exhibit 1,

NextEra Energy Inc.'s 2023 Annual Report. Based on this exhibit, the Commission finds Petitioner has shown it has the ability to finance, construct, and manage the Facility.

D. Transfers of Ownership. The Commission reserves its jurisdiction under Ind. Code § 8-1-2-83 and requires Petitioner to obtain prior Commission approval of any transfer of assets owned by Petitioner. Petitioner shall not be required to seek prior Commission approval, but shall provide written notice under this Cause to the Commission and the OUCC, of any transfers of ownership of Facility assets or ownership interests in Petitioner involving: (1) the grant of a security interest, mortgage, deed of trust or other encumbrance to a bank or other lender or collateral agent, administrative agent or other security representative, or a trustee on behalf of bondholders in connection with any financing or refinancing (including any lease financing), or any investor, guarantor, equipment supplier or financing entity; (2) Petitioner or an affiliate becoming a debtor in possession; (3) a foreclosure (or deed in lieu of foreclosure) on the property owned by Petitioner; or (4) a transfer of all or a part of the ownership of the Facility or its assets to an affiliate of Petitioner. Additionally, a third-party owner and operator may succeed to Petitioner's declination of jurisdiction, provided: (1) the Commission determines that the successor has the necessary technical, financial, and managerial capability to own and operate the Facility and (2) the successor satisfies the same terms and conditions imposed on Petitioner as set forth in this Order.

E. Affiliate Transactions. In addition to determining whether the public interest would be served if the Commission declines to exercise its jurisdiction, the Commission must also consider what actions it must take to ensure that the public interest is served throughout the commercial life of the Facility. Specifically, the Commission must determine the extent to which it must reserve its authority over Petitioner's activities involving affiliate transactions and transfers of ownership. To ensure the Commission's declination of jurisdiction over an "energy utility" is in the public interest, the Commission must be assured that adequate consumer protections are in place, should an "energy utility" subsequently become an affiliate, as defined in Ind. Code § 8-1-2-49, of any regulated Indiana retail utility. While the Commission is declining to exercise its jurisdiction over Petitioner's affiliate transactions initially, the Commission reserves its authority to regulate Petitioner should it become an affiliate of any regulated Indiana retail utility. Accordingly, Petitioner must inform the Commission and the OUCC at the time it becomes an affiliate of any regulated retail utility operating in Indiana if such an affiliation occurs.

Petitioner shall obtain prior Commission approval with respect to the sale of any electricity to any affiliated, regulated Indiana retail electric utility. The Commission notes that it retains certain authority under Section 201 of the Federal Power Act to examine Petitioner's books, accounts, memoranda, contracts, and records consistent with the limitations contained therein. 16 U.S.C. § 824.

6. Financial Assurance. As a condition of this Order, the Commission requires Petitioner to maintain financial assurance to ensure that the Facility will be properly decommissioned at the end of its serviceable life. In his testimony, Mr. Neff identified the decommissioning requirements applicable to the Facility and stated that Petitioner is required to provide a decommissioning security (*e.g.*, a performance or surety bond) to Starke County. Petitioner shall provide the Commission with notice when such financial instrument has been

established, including the form and amount, or in the event Petitioner is no longer required to comply with all or part of the financial assurance requirements agreed to in the decommissioning plan.

7. Reporting Requirements. In addition to the foregoing requirements, as a condition of this Order and our continued declination of jurisdiction, Petitioner must file Annual Reports with the Commission as provided in Ind. Code § 8-1-2-49, and provide any other information requested by the Commission. These reporting requirements are intended to ensure that the Commission obtains reliable, up-to-date information in a timely manner necessary to carry out its statutory obligations. Additionally, due to recent supply chain issues that could potentially limit the availability of components necessary to build the Facility, Petitioner shall provide an update on any supply chain-related challenges and/or delays until the Facility is placed into commercial operation. A responsible officer of Petitioner shall verify all reports, and Petitioner shall file the reports under this Cause within the timeframes prescribed herein.

The following reports shall be prepared and filed by Petitioner:

A. Initial Report. Petitioner's initial quarterly report, due within 30 days after the date of this Order, shall provide the following information, to the extent it is known and available:

- (1) Facility ownership and name(s) of the Facility;
- (2) Name, title, address, email address, and phone number(s) for primary contact person(s) for the Facility;
- (3) Number and location of solar panels deployed;
- (4) The anticipated total output of Facility;
- (5) Manufacturer, model number, and operational characteristics of panels;
- (6) Connecting utility(s);
- (7) Copy of any Interconnection System Impact Studies prepared by MISO;
- (8) Expected in-service (commercial operation) date;
- (9) An estimate of the engineering/construction timeline and critical milestones for the Facility;
- (10) The status of the GIA with MISO; and
- (11) The information listed below in the Subsequent Reports section to the extent such information is available.

B. Subsequent Reports. Petitioner agrees to file subsequent reports within 30 days of the end of each calendar quarter until the quarter that occurs after commercial operation is achieved and that immediately precedes the annual report filing date of April 30th of each year. Thereafter, Petitioner will file reports on an annual basis in this Cause. Subsequent reports should include the following information:

- (1) Any changes to the information provided in the Initial Report;
- (2) Any Interconnection Studies and/or reports not previously submitted to the Commission;
- (3) Copy of the GIA as filed with FERC;

- (4) Notice of the establishment of an independent financial instrument, including its form and amount;
- (5) Achievement of construction milestones described in the GIA and such events as the procurement of major equipment, the receipt of major permits material to the construction and operation of the Facility, construction start-up, initial energization, and commercial operation;
- (6) When commercial operation is achieved, the nameplate capacity, term and identity of a purchaser for any contracts then existing for utility sales, contingency plans (if any) detailing response plans to emergency conditions as required by state or local units of government, the interconnecting transmission owner and/or MISO, and the Facility's certified (or accredited) dependable capacity rating; and
- (7) An update on all supply chain related challenges and/or delays

C. **Additional Requirements.** Petitioner shall notify the Commission in the event that it modifies or suspends the Facility under the terms of the GIA and does not reinstitute work within three years following commencement of such suspension. If the Commission determines that Petitioner: (1) has failed to enter into an agreement pursuant to MISO generator interconnection procedures, (2) has suspended the Facility under the terms of the GIA and has not reinstated work within three years following commencement of such suspension, or (3) has otherwise suspended its efforts to complete the Facility within three years of this Order, the Commission may issue an order in accordance with Ind. Code § 8-1-2.5-7 providing notice to Petitioner of the Commission's intent to proceed to issue an Order terminating the declination of jurisdiction set forth herein.

8. **Conclusion.** Consistent with Ind. Code § 8-1-2.5-5, the Commission finds that declining to exercise its jurisdiction over Petitioner, as requested and discussed above, will facilitate moving forward with construction of the proposed Facility and add generation capacity in Indiana. This should be beneficial to the State of Indiana and for those public utilities that may indirectly have access to the power produced. We further find that declining to exercise our jurisdiction over Petitioner will promote energy utility efficiency. In addition, Petitioner has demonstrated that it, utilizing NextEra and its affiliates' experience and financial position, has the technical, financial, and managerial capabilities to construct, own, and operate the proposed Facility. It has also shown that the wholesale market for electricity in Indiana may benefit from the addition of the Facility's generating capacity and battery storage, and, therefore, its market entry is reasonable.

Accordingly, based on these findings and the additional requirements contained in this Order, the Commission finds a declination of its jurisdiction over Petitioner as an energy utility, except in the areas in which we reserve jurisdiction that are identified above, is in the public interest. While the Commission is not declining jurisdiction for a particular term of years, the Commission does not intend to reassert jurisdiction absent circumstances affecting the public interest. Petitioner is not granted authority to offer its power for sale to the general public; therefore, any revenue Petitioner derives from the sale of electricity for resale by the purchaser is not subject to the public utility fee.

If the Commission determines Petitioner: (1) has failed to commence construction of the Facility within the timeframe provided under this Order, (2) is no longer diligently pursuing the commencement of construction of the Facility, or (3) has not completed construction of the Facility under the terms of the GIA, then the Commission may issue an Order in accordance with Ind. Code § 8-1-2.5-7 providing notice to Petitioner of the Commission's intent to proceed to issue an Order terminating the declination of jurisdiction set forth herein. Through the quarterly status reports required by this Order, Petitioner shall notify the Commission and the OUCC when construction begins and when commercial operation of the Facility begins. Petitioner will satisfy the reporting requirements outlined above before commercial operation of the Facility begins. Petitioner shall also file with the Commission any Annual Report required to be filed with FERC and provide the Commission such other information as we may from time to time require from other Indiana public utilities or otherwise request.

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

1. Petitioner is a "public utility" within the meaning of Ind. Code §§ 8-1-8.5-1 and 8-1-2-1 and an "energy utility" within the meaning of Ind. Code § 8-1-2.5-2.
2. The Facility is a "utility" within the meaning of Ind. Code § 8-1-2-1.
3. The Commission declines to exercise its jurisdiction over Petitioner and its construction, operation, and financing of the Facility, except as specifically stated within this Order.
4. Petitioner shall not exercise an Indiana public utility's rights, powers, and privileges of eminent domain and of exemption from local zoning, land use requirements, land use ordinances, and construction-related permits in the operation and construction of the Facility. Petitioner shall retain the right to a limited use of the public right-of-way within the Facility area as described above.
5. Petitioner shall not sell at retail in the State of Indiana any of the electricity generated by the Facility without further Order of the Commission. The gross revenues generated by sales for resale of the electricity generated by the Facility are adjudged to be exempt from the public utility fee prescribed by Ind. Code ch. 8-1-6.
6. Petitioner shall comply fully with the terms of this Order and file with the Commission under this Cause all information required by the terms of this Order.
7. This Order shall be effective on and after the date of its approval.

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

APPROVED: MAY 21 2025

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

**Dana Kosco
Secretary of the Commission**