

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Zay	√		
Deig	√		
Swinger	√		
Veleta	√		
Ziegner	√		

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**VERIFIED PETITION OF NIPSCO GENERATION LLC )  
 (“GENCO”) FOR A DETERMINATION BY THE )  
 COMMISSION TO DECLINE JURISDICTION )  
 PROVIDED BY INDIANA CODE CH. 8-1-8.5 WITH )  
 RESPECT TO ITS JURISDICTION OVER )  
 PETITIONER’S GENERATION RESOURCES AND )  
 FIND THAT SUCH GENERATION RESOURCES ARE )  
 REASONABLE AND NECESSARY TO SERVE )  
 NORTHERN INDIANA PUBLIC SERVICE COMPANY )  
 LLC (“NIPSCO”) EXPECTED MEGALOAD )  
 CUSTOMER LOAD. )**

**CAUSE NO. 46362**

**APPROVED: JUN 17 2026**

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Andy Zay, Chairman**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On February 2, 2026, NIPSCO Generation LLC (“GenCo” or “Petitioner”) filed with the Indiana Utility Regulatory Commission (“Commission”) its Verified Petition, together with its testimony and exhibits constituting its case-in-chief.

Petitions to Intervene were filed by Citizens Action Coalition of Indiana, Inc. (“CAC”), Northern Indiana Public Service Company LLC (“NIPSCO”), and the NIPSCO Industrial Group on February 4, 2026, February 9, 2026, and March 3, 2026, respectively. CAC and NIPSCO’s petitions were granted by docket entries dated February 25, 2026, and the NIPSCO Industrial Group’s petition was granted by docket entry dated March 5, 2026.

On March 19, 2026, the Indiana Office of Utility Consumer Counselor (“OUCC”) and CAC filed their respective testimony and attachments. GenCo filed rebuttal testimony on March 31, 2026.

The Commission held an evidentiary hearing on April 20, 2026, at 1:30 p.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the evidentiary hearing, the testimony and exhibits of Petitioner, the OUCC, and the CAC were admitted into the record without objection.

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

**1. Jurisdiction and Notice.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Pursuant to the Commission’s September 24, 2025 Order in Cause No. 46183 (“Declination Order”), GenCo is a “public utility” and an “energy

utility” for purposes of Ind. Code § 8-1-2.5-2.<sup>1</sup> Petitioner elected to become subject to the provisions of Ind. Code ch. 8-1-2.5. The Commission has jurisdiction over a public utility’s construction of generation facilities under Ind. Code ch. 8-1-8.5. The Commission also has jurisdiction under Ind. Code § 8-1-2.5-5 to consider an energy utility’s request for the Commission to decline its jurisdiction, in whole or in part, over an energy utility. Therefore, the Commission has jurisdiction over GenCo and the subject matter of this proceeding.

**2. Petitioner’s Characteristics.** GenCo is a limited liability company with its principal place of business located at 801 East 86<sup>th</sup> Avenue, Merrillville, Indiana. GenCo will purchase, construct, own and operate generation facilities and related assets. All sales by GenCo of electric energy produced by and capacity awarded to its generation facilities will be provided to NIPSCO through agreements that will be subject to Commission approval.

**3. Background and Requested Relief.** The Declination Order approved a Stipulation and Settlement Agreement (“Settlement”) concerning the Commission’s declination of its jurisdiction over Petitioner and the construction, operation, and financing of its generation facilities and related assets with respect certain statutes.<sup>2</sup> Specifically, regarding the GenCo Generation Approval Process set out in Section A.3.(i). of the Settlement, the Commission found that when combined with the ongoing review of generation resources and the provisions of the Settlement under Section A.1.(a).(i). that require GenCo’s acquisition activities to reflect NIPSCO’s expected load growth as shown in the Integrated Resource Plan (“IRP”) and negotiation processes, the Settlement appropriately balances the interests of GenCo in receiving expedited project review with the interests of other stakeholders in assuring transparency and access to relevant and important information when the Commission is reviewing a proposed generation project for approval. Declination Order at 41. The Commission directed GenCo to comply with all reporting requirements and otherwise follow the approval process for any future projects in accordance with the Settlement. *Id.*

The GenCo Generation Approval Process set out in Section A.3.(i) of the Settlement (at 13-14) provides, in relevant part, that:

Prior to the construction, purchase, or lease of a generation asset, or group of generation assets, GenCo will make a filing seeking either (i) approval of the generation resource(s) as reasonable and necessary to serve expected load growth, or (ii) declination of the Commission’s jurisdiction provided by Ind. Code § 8-1-8.5 as in the public interest. For purposes of either filing type, NIPSCO and/or GenCo will present evidence to demonstrate that the resource(s) are reasonable and necessary to serve load growth, consistent with this [Settlement]. Either filing type will contain: (1) an identification of the expected location and estimated cost of each generation resource; (2) information supporting the reasonable expectation that the load growth justifying the resource(s) will appear; (3) information supporting the conclusion that absent the investment, GenCo will be unable to meet

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<sup>1</sup> In the Declination Order (at 50-51), based upon its application of the statutes and precedents, the Commission found GenCo is a “public utility” within the meaning of Ind. Code § 8-1-2-1 and Ind. Code § 8-1-8.5-1 and is an “energy utility” within the meaning of Ind. Code § 8-1-2.5-2 for purposes of the ownership, development, financing, construction, and operation of its facilities.

<sup>2</sup> The specific statutes are identified in Settlement Agreement Revised Exhibit A attached to the Settlement.

its obligations to NIPSCO related to the reasonable expected load growth; and (4) the steps GenCo has taken to avoid exercise of the power of eminent domain.

On November 19, 2025, the Commission issued its Order of the Commission on Reconsideration in Cause No. 46183 finding that its declination of jurisdiction would better serve the public interest if GenCo were required to relinquish its eminent domain authority, particularly because the Commission did not decline its jurisdiction under Ind. Code § 8-1-2-101 (“Reconsideration Order”), effectively making item (4) above moot.

In this proceeding, GenCo requests the Commission decline to exercise, pursuant to Ind. Code 8-1-2.5-5, its jurisdiction to require a certificate of public convenience and necessity (“CPCN”) provided by Ind. Code ch. 8-1-8.5 (“CPCN Statute”) with respect to two 1,300 megawatt (“MW”) combined cycle gas turbine facilities (“CCGTs”) located at the Schahfer Generation Station and one 400 MW battery energy storage system (“BESS”) located at the Mitchell Generation Station being developed by GenCo (“Generation Resources”) and find that such Generation Resources are reasonable and necessary to serve NIPSCO’s expected megaload customer growth.

**4. Petitioner’s Case-in-Chief Evidence.** Daniel L. Douglas, President and Chief Operating Officer for GenCo supported GenCo’s requested relief, testifying that, as required under the GenCo Generation Approval Process, GenCo is seeking declination of the Commission’s jurisdiction provided by the CPCN Statute as in the public interest.

**A. Generation Resources.** Mr. Douglas testified GenCo will construct a 400 MW BESS to be located at NIPSCO’s former Mitchell Generation Station in Lake County, Indiana and two pairs of combustion turbines located at NIPSCO’s Schahfer Generation Station in Jasper County, Indiana, both of which will be converted to CCGTs, resulting in 2,600 MW of generating capacity. He stated GenCo has entered into contracts with engineering, procurement, and construction contractors and secured necessary equipment for the BESS and gas-fired generation, including turbines, for the combustion turbines and equipment for the eventual CCGT conversions. Mr. Douglas sponsored Confidential Attachment 1-B of Petitioner’s Exhibit 1, showing the cost estimate for each facility.

Mr. Douglas further testified that the Generation Resources are necessary to serve the load of a single NIPSCO megaload customer. He stated that on November 7, 2025, NIPSCO requested approval of a special contract dated September 18, 2025 by and between NIPSCO and Amazon Data Services, Inc. (“Amazon”) (“Customer Contract”), and NIPSCO and GenCo requested approval of a power purchase agreement dated November 7, 2025 by and between NIPSCO and GenCo (“PPA”), which are currently pending in Cause No. 46322. He stated service to Amazon is expected to begin by January 1, 2027, with its load requirements increasing periodically through the end of 2032, when Amazon’s requirements for electric service are expected to reach up to 2,400 MW. He testified GenCo is constructing up to 3,000 MW of generating capacity and based on current Midcontinent Independent System Operator, Inc. accreditation factors and planning reserve margin requirements, this 3,000 MW of generating capacity is necessary to serve Amazon’s anticipated 2,400 MW of load. He stated that all costs for the Generation Resources will be paid by Amazon.

Mr. Douglas also testified that without GenCo's investment in the Generation Resources, GenCo has no generation resources to provide NIPSCO to serve Amazon's load. As a point of comparison and to demonstrate the enormity of this transaction, he stated that as reported in NIPSCO's 2024 IRP, NIPSCO's total current electric load for non-data center customers is estimated to be 2,300 MW in 2028 and the net demonstrated capacity of NIPSCO's entire electric generating fleet as of the end of 2024 was 3,644 MW. Mr. Douglas testified that GenCo would not be able to meet its obligations to NIPSCO, pursuant to the currently pending PPA, without the incremental capacity from the Generation Resources and NIPSCO would not be able to meet its obligations to Amazon under the Customer Contract without the energy and capacity to be provided by GenCo to NIPSCO under the PPA.

Mr. Douglas explained that while the exercise of the power of eminent domain is moot based on the Commission's Reconsideration Order, GenCo has not needed to challenge any local regulations for the Generation Resources reasonable and necessary to serve NIPSCO's expected megaload customer growth in this filing.

Mr. Douglas testified GenCo anticipates beginning construction of the BESS and the CCGTs in the second quarter of 2026.

**B. Declination of Jurisdiction.** Mr. Douglas discussed the Commission's findings in the Declination Order. He stated the Commission directed GenCo to comply with all reporting requirements and otherwise follow the GenCo Generation Approval Process for any future projects in accordance with the Settlement. In addition, the Commission will evaluate GenCo's future generation resources as "reasonable and necessary" for NIPSCO to meet the load obligations of its megaload customers.

Mr. Douglas stated that in the Declination Order (at 49-52 (Section 5.I.iv.)), the Commission evaluated the four factors in Ind. Code § 8-1-2.5-5(b) to determine whether the public interest would be served in relation to the overall GenCo structure and found that "the evidence in this Cause supports a Commission determination that it is in the public interest to decline to exercise its jurisdiction of the statutes identified in the Settlement Agreement." Declination Order at 51. He noted the Commission concluded (at 52) by stating:

The Commission is highly aware of and sensitive to customer concerns surrounding the potential of new megaload customers. The GenCo structure is designed to optimize the insulation of NIPSCO's broader customer base from the financial risks associated with serving megaload customers. By ringfencing the generation assets dedicated to these high demand users, GenCo will offer the opportunity to ensure that electric service costs tied to data center development and operation do not result in costs to other ratepayers. While the model's effectiveness will depend on future special contracts such as PPAs submitted to the Commission, it reflects a forward-looking approach to risk mitigation.

The Commission finds that it is in the public interest to decline to exercise jurisdiction under the Statutes noted in the attachment to the Settlement Agreement, Joint Exhibit 1-S-R.

Mr. Douglas testified that GenCo is requesting the Commission evaluate GenCo's Generation Resources as reasonable and necessary for NIPSCO to meet the load obligations of Amazon. He opined that GenCo's evidence demonstrates that the Generating Resources are reasonable and necessary to serve load growth, and includes: (1) an identification of the expected location and estimated cost of each generation resource; (2) information supporting the reasonable expectation that the load growth justifying the resource(s) will appear; (3) information supporting the conclusion that absent the investment, GenCo will be unable to meet its obligations to NIPSCO related to the reasonable expected load growth; and (4) the steps GenCo has taken to avoid exercise of the power of eminent domain.

Regarding the statutory factors set forth in Ind. Code § 8-1-2.5-5(b) that the Commission considers when determining whether to decline its jurisdiction, Mr. Douglas testified that in addition to this filing, GenCo agreed to submit an Annual Informational Filing to provide information about GenCo generation resources committed, anticipated, and under evaluation; the current cost estimate for each identified generation resource; and the final cost of generation resources that have reached commercial operation (Settlement at 12, Section 3.(h)). He stated the declination of jurisdiction for the Generation Resources eliminates provisions that have limited application for GenCo to undertake construction activities to provide generation resources as reasonable and necessary for NIPSCO to meet the load obligations of Amazon, and are unnecessary and wasteful, as supported by the Declination Order and GenCo's submission of the Annual Information Filing, as contemplated by Ind. Code § 8-1-2.5-5(b)(1).

Mr. Douglas testified that Amazon requires reliable service with load requirements for electric service up to 2,400 MW, which would not be possible without the Generation Resources. He stated the requested declination of jurisdiction is beneficial for the energy utility (i.e., GenCo), the energy utility's customer (i.e., NIPSCO), and Amazon, and promotes energy utility efficiency as contemplated by Ind. Code §§ 8-1-2.5-5(b)(2) and (3). He explained that the GenCo construct was intended to allow customers, such as Amazon, to be served with speed and flexibility, and the declination of jurisdiction for the Generation Resources will directly serve that goal. He stated, if GenCo were required to obtain a CPCN, wait to begin construction of the generation facilities until issuance of that CPCN, and then begin construction of the Generation Resources—as opposed to obtaining this declination and beginning construction well in advance of the traditional regulatory timeline—it would have a material, detrimental impact on GenCo, NIPSCO, and Amazon. He explained that it would also impact: (1) GenCo's ability to meet its obligations to NIPSCO under the PPA, and (2) NIPSCO's ability to then meet its obligations to Amazon under the Customer Contract, which are both pending in Cause No. 46322. He said the impact would likewise be detrimental to NIPSCO's non-data center customers and the state of Indiana, as it would negatively impact both the estimated \$1 billion in monthly bill credits anticipated to be provided to these customers and economic development in Indiana.

Mr. Douglas testified the prohibition in Ind. Code 8-1-8.5-2 for a public utility to begin the construction, purchase, or lease of any electric generation facility before a CPCN is issued presents a significant impediment to bringing online the Generation Resources necessary for NIPSCO to serve Amazon. He stated the Declination Order approved the GenCo Generation Approval Process, a process the Commission has found to be in the public interest, to address this concern. He stated that the declination of jurisdiction for the Generation Resources will allow GenCo to undertake construction activities to provide NIPSCO with the generation necessary to provide

service to Amazon by January 1, 2027, which would otherwise inhibit GenCo from competing with other providers of functionally similar energy services or equipment, as contemplated by Ind. Code § 8-1-2.5-5(b)(4).

**5. OUCC's Evidence.** Patrick A. Kelley, Utility Analyst for the OUCC, testified the OUCC does not object to the requested declination of jurisdiction, but he questioned the statutory basis for and propriety of finding that the Generation Resources are reasonable and necessary.

Mr. Kelley noted that in petitions for declination under Ind. Code § 8-1-2.5-5, petitioners are not required to demonstrate generation resources are “reasonable and necessary” and such a finding in this Cause is neither necessary nor appropriate. He stated a “reasonable and necessary” determination with respect to the Generation Resources is also inconsistent with the Settlement and invites improper future claims that this finding supports recovering the costs of the Generation Resources. Thus, Mr. Kelley recommended that if the Commission makes the requested reasonable and necessary finding, the Commission also ensure that its finding does not expressly or impliedly confer a right, responsibility, or obligation on GenCo, NIPSCO, or NIPSCO’s non-megaload retail customers, and expressly preclude the use of such finding as support for future cost recovery.

**6. CAC's Evidence.** Benjamin Inskeep, Program Director at CAC, testified that GenCo has failed to show the CCGTs to be constructed at the Schahfer Generation Station are reasonable and necessary, in the public interest, and consistent with the Five Pillars of electric utility service.<sup>3</sup>

Mr. Inskeep stated that such an enormous expansion of natural gas-fired generation at one site for a single customer is too great a risk, considering that Amazon can reduce its contract capacity with NIPSCO by 1,200 MW by March 31, 2029. Mr. Inskeep testified that the requested CCGTs would create environmental sustainability harm and may be insufficient solutions for maintaining reliability. He stated it is unreasonable for GenCo to meet 87% of the capacity and 100% of the energy of the new 2,400 MW load with a large natural gas power plant complex, and a more balanced portfolio of resources would help mitigate risks and ensure a proper balance of all the Five Pillars.

Regarding affordability, Mr. Inskeep testified that GenCo has not adequately explained how the CCGTs are the least cost and most prudent resource to meet the identified load additions, or whether they could negatively impact NIPSCO’s existing ratepayers through higher natural gas prices or reduced gas availability at the Schahfer Generation Station peaker plant. He asserted that alternatives are available for meeting the identified new customer load at the scale and timeline desired, but they have not been adequately considered by GenCo.

He recommended denial of GenCo’s request for declination of jurisdiction of the CCGTs. He testified that if the Commission declines his recommendation, it should consider approving the declination for only one of the two proposed CCGTs and the BESS, and directing GenCo to perform an analysis that considers alternatives to the second CCGT, including renewable energy and battery storage additions or wait to move forward with the second CCGT until it is known

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<sup>3</sup> The Five Pillars refer to the attributes of reliability, affordability, resiliency, stability, and environmental sustainability as set forth in Ind. Code § 8-1-2-0.6.

whether Amazon will exercise its contract option to reduce its contract capacity by 1,200 MW.

**7. Petitioner's Rebuttal Evidence.** Responding to OUCC witness Kelley's testimony, Mr. Douglas agreed that "reasonable and necessary" is not a statutory finding for the Commission to decline jurisdiction, but he stated that the Settlement requires proof that the generation is reasonable and necessary to serve load growth, consistent with the Settlement. As such, he stated that he believes GenCo's request for this finding is appropriate. Mr. Douglas testified the OUCC's cost recovery concern was addressed in the Declination Order (at 41): "such approval shall not be construed as a preapproval of cost recovery from any of NIPSCO's non-megaload customers or prejudgment of the prudence of a decision or need for a resource by NIPSCO should NIPSCO seek future approval of use of a GenCo resource to serve its non-megaload customers." Mr. Douglas opined that this language adequately addresses the OUCC's chief concern, and he stated that GenCo has no objection to incorporating similar language into the final order issued in this Cause to ensure clarity on this matter.

In response to Mr. Inskeep's testimony concerning the Five Pillars, Mr. Douglas testified the Five Pillars are factors to be considered in cases concerning Indiana's generation resource mix. He stated GenCo's relief sought in this case is not concerning Indiana's generation resource mix, such as a request for the issuance of a CPCN to construct or purchase a generation asset, or even a power purchase agreement for a generation asset. Instead, it is a case involving a decision as to whether the Commission should decline to exercise its jurisdiction. He explained that the Commission does not get to the question of Indiana's generation resource mix unless it decides to exercise jurisdiction. Mr. Douglas also noted that this is a supplemental declination of jurisdiction; GenCo originally asked for this jurisdiction to be declined completely and then resolved, as a part of that declination, the process for addressing the remaining aspect of jurisdiction. He testified that the process did not include a reservation of considering Indiana's "generation resource mix." Nevertheless, he opined, even if the Five Pillars did apply, consideration of those items would support GenCo's requested relief.

Mr. Douglas testified that Mr. Inskeep seemed to ignore that GenCo's request relates to its obligation to provide energy and capacity to NIPSCO that is tied to a customer-specific contract (as the Settlement requires). He testified that the resiliency, stability, and reliability of a generation resource are all issues that would be important to that specific customer, and these particular Generation Resources are the assets set forth in the Customer Contract. He stated that while Mr. Inskeep raised concerns that he claimed relate to environmental sustainability, the specific concerns under this pillar set forth in Ind. Code § 8-1-2-0.6(5) that the Commission is to consider are: "(A) the impact of environmental regulations on the cost of providing electric utility service; and (B) demand from consumers for environmentally sustainable sources of electric generation." Mr. Douglas testified the Generation Resources are the specific assets the customer has contractually agreed to, and the Commission should trust that a sophisticated customer can address the cost of electric service and its desire for sustainable sources.

As to affordability, Mr. Douglas testified the entire GenCo structure has been created with a primary objective of protecting other retail customers from risk and potential attendant cost increases, a fact recognized by the Commission in its GenCo Order (at 52):

The GenCo structure is designed to optimize the insulation of NIPSCO's broader customer base from the financial risks associated with serving megaload customers.

By ringfencing the generation assets dedicated to these high demand users, GenCo will offer the opportunity to ensure that electric service costs tied to data center development and operation do not result in costs to other ratepayers.

He testified that the electric service—which could not be provided to this megaload customer but for approval, construction, and operation of the Generation Resources for which declination is sought—will result in an estimated \$1 billion in direct credits to NIPSCO’s other retail customers, something that inarguably furthers affordability.

**8. Commission Discussion and Finding.** GenCo requests the Commission decline to exercise its jurisdiction provided by the CPCN Statute with respect to the Generation Resources and to also find that such Generation Resources are reasonable and necessary to serve NIPSCO’s expected megaload customer growth. This proceeding was filed in furtherance of Petitioner’s obligations under the Settlement and the Declination Order. The Settlement (at 13-14, Section 3(i)) states, in pertinent part:

Prior to the construction, purchase, or lease of a generation asset, or group of generation assets, GenCo will make a filing seeking either (i) approval of the generation resource(s) as reasonable and necessary to serve expected load growth, or (ii) declination of the Commission’s jurisdiction provided by Ind. Code § 8-1-8.5 as in the public interest. For purposes of either filing type, NIPSCO and/or GenCo will present evidence to demonstrate that the resource(s) are reasonable and necessary to serve load growth, consistent with this Agreement. Either filing type will contain: (1) an identification of the expected location and estimated cost of each generation resource; (2) information supporting the reasonable expectation that the load growth justifying the resource(s) will appear; (3) information supporting the conclusion that absent the investment, GenCo will be unable to meet its obligations to NIPSCO related to the reasonable expected load growth; and (4) the steps GenCo has taken to avoid exercise of the power of eminent domain. Subject to Commission approval, the Settling Parties participating in the proceeding agree to support a procedural schedule for either type of filing that would have a Commission order issued not more than 120 days after the filing of a petition and supporting testimony. However, to the extent Commission review and issuance of an order on an expedited basis is necessary, GenCo (and/or NIPSCO, as necessary) may seek approval of a procedural schedule that would have a Commission order issued not more than 90 days after the filing of a petition and supporting testimony. If GenCo has reasonably demonstrated that issuance of an order on an expedited basis is necessary, the other participating Settling Parties shall not unreasonably withhold their support of GenCo’s request for an expedited procedural schedule.

The Settlement authorizes GenCo to request that the Commission either approve the Generation Resources as reasonable and necessary to serve expected load growth (i.e., a request subject to Ind. Code ch. 8-1-8.5) or decline its jurisdiction provided by Ind. Code ch. 8-1-8.5 as in the public interest (i.e., a request for declination under Ind. Code § 8-1-2.5-5). GenCo has elected not to pursue a CPCN under Ind. Code ch. 8-1-8.5 and instead requests the Commission decline its jurisdiction to require a CPCN.

As required by the Settlement, GenCo's case-in-chief included: (1) an identification of the expected location and estimated cost of each generation resource; (2) information supporting the reasonable expectation that the load growth justifying the resource(s) will appear; and (3) information supporting the conclusion that absent the investment, GenCo will be unable to meet its obligations to NIPSCO related to the reasonable expected load growth. With respect to the fourth criteria identified above related to eminent domain, GenCo witness Douglas acknowledged that given the Commission's Reconsideration Order, GenCo's potential exercise of eminent domain is moot; therefore, there is nothing to explain regarding the steps GenCo has taken to avoid exercising the power of eminent domain.

The Commission may decline to exercise its jurisdiction, in whole or in part, over an energy utility or the utility's retail energy service or both, if the Commission concludes, after considering four factors, that the public interest will be served. The four factors the Commission must consider are as follows:

- (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.

Based on the evidence presented, the Commission finds each of these factors will be served by the Commission declining jurisdiction of the CPCN Statute as GenCo requested, and that GenCo's petition for declination is consistent with the overall GenCo structure we approved in the Declination Order and our finding that the GenCo structure is in the public interest. *See* Declination Order at 47-52 (Section 5.I.). As explained by Mr. Douglas, the public interest will be served by a declination of the Commission's jurisdiction by eliminating provisions that have limited application upon GenCo undertaking construction activities to provide the Generation Resources for NIPSCO to meet Amazon's load, and as such, are unnecessary, as contemplated by Ind. Code § 8-1-2.5-5(b)(1). The requested declination of jurisdiction is beneficial for GenCo, GenCo's customer (i.e., NIPSCO), Amazon, and the state of Indiana and promotes energy utility efficiency as contemplated by Ind. Code § 8-1-2.5-5(b)(2) and (3). In addition, the requested declination will allow GenCo to undertake construction activities to provide NIPSCO with the generation necessary for NIPSCO to provide service to Amazon and thereby compete with other providers of functionally similar energy services or equipment, as contemplated by Ind. Code § 8-1-2.5-5(b)(4).

CAC recommended denial of GenCo's declination request in this Cause, due in large part to Mr. Inskeep's position that GenCo did not show how the request would satisfy Indiana's Five Pillars. However, we have not considered the application of the Five Pillars in other declination

proceedings.<sup>4</sup> See e.g., *Sycamore Riverside Energy LLC*, Cause No. 46295 (IURC Dec. 30, 2025). As discussed above, GenCo addressed each of the four factors the Commission must consider under Ind. Code § 8-1-2.5-5(b). The process for addressing the remaining aspects of the Commission’s jurisdiction over GenCo was defined in the Declination Order and that process did not include a reservation of considering Indiana’s “generation resource mix.” Notwithstanding, given the specific facts presented in this case, Mr. Douglas’ rebuttal testimony provides support that GenCo’s requested relief is consistent with the Five Pillars. Thus, we reject Mr. Inskeep’s recommendation to deny GenCo’s request for a declination of jurisdiction with respect to the Generation Resources.

While the OUCC did not object to Petitioner’s requested declination of jurisdiction, OUCC witness Kelley questioned the statutory basis for and propriety of GenCo’s requested finding that the Generation Resources are reasonable and necessary. GenCo witness Douglas acknowledged that reasonable and necessary is not a statutory finding the Commission must make to decline jurisdiction and is being requested based on the terms of the Settlement. We agree with the OUCC that Section A.3.(i). of the Settlement requires GenCo to seek *either* a CPCN *or* a declination of Commission jurisdiction and, in either filing, *present evidence* to demonstrate that the resources are reasonable and necessary to serve load growth. The Settlement, under Section A.1.(a).(i). also requires that GenCo’s generation will be tailored to NIPSCO’s anticipated megaload needs. This requirement exists regardless of GenCo’s decision to seek a CPCN or a declination of jurisdiction, which is supported by the Settlement’s requirement that GenCo will present evidence in either type of filing that any proposed generation resource is reasonable and necessary to serve load growth.

The Commission, in its Declination Order approving the Settlement, stated that “the Commission will evaluate GenCo’s future generation resources as ‘reasonable and necessary’ for NIPSCO to meet the load obligations of its megaload customers.” Settlement at 41. The Commission went on to state that:

such approval shall not be construed as a preapproval of cost recovery from any of NIPSCO’s non-megaload customers or prejudgment of the prudence of a decision or need for a resource by NIPSCO should NIPSCO seek future approval of use of a GenCo resource to serve its non-megaload customers. Any such use will be independently presented to the Commission in a new proceeding and will be determined based on the merits of the proposal at that time.

*Id.* Thus, the Commission’s determination of whether the proposed Generation Resources are “reasonable and necessary” is solely for purposes of determining GenCo’s compliance with the Settlement as approved in the Declination Order and cannot be used for any other purpose.

Based on our consideration of the evidence, we find the public interest will be served by declining to exercise the Commission’s jurisdiction as requested by Petitioner. We further find that the Generation Resources are reasonable and necessary for the limited purpose of determining GenCo’s compliance with the Settlement and Declination Order. Specifically, the Generation

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<sup>4</sup> Requests under Ind. Code § 8-1-2.5-5 are not included in the Commission’s GAO 2023-04 for which evidence regarding the Five Pillars is encouraged.

Resources are reasonable resources to serve the expected megaload growth, and the addition of these Generation Resources is necessary, as without them, GenCo would not be able to reasonably provide sufficient energy and capacity to NIPSCO for use by NIPSCO to serve its expected megaload growth. Consistent with the Declination Order and our discussion above, this finding shall not be construed as a preapproval of cost recovery from any of NIPSCO's non-megaload customers or prejudgment of the prudence of a decision or need for a resource by NIPSCO should NIPSCO seek future approval of use of a GenCo resource to serve its non-megaload customers. Any such use will be independently presented to the Commission in a new proceeding and will be determined based on the merits of the proposal at that time.

**9. Confidential Information.** On February 2, 2026, Petitioner filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information in this Cause, which was supported by an affidavit from Mr. Douglas showing that certain information to be submitted to the Commission was trade secret information as defined in Ind. Code § 24-2-3-2 and should be treated as confidential in accordance with Ind. Code §§ 5-14-3-4 and 8-1-2-29. In a February 25, 2026 Docket Entry, the Presiding Officers determined the information should be held confidential on a preliminary basis, after which the information was submitted under seal. After review of the information and consideration of the affidavit, we find the information is trade secret information as defined in Ind. Code § 24-2-3-2, is exempt from public access and disclosure pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29 and shall be held as confidential and protected from public access and disclosure by the Commission.

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

1. Petitioner's request for the Commission to decline to exercise its jurisdiction under Ind. Code ch. 8-1-8.5 regarding the Generation Resources is approved.
2. The Generation Resources are reasonable and necessary to serve NIPSCO's expected megaload customer growth as required by, and for the limited purpose of determining compliance with, the Settlement as approved in Cause No. 46183.
3. The information filed in this Cause pursuant to Petitioner's motion for protective order is deemed confidential pursuant to Ind. Code §§ 5-14-3-4 and 8-1-2-29, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.
4. This Order shall be effective on and after the date of its approval.

**ZAY, DEIG, SWINGER, VELETA, AND ZIEGNER CONCUR:**

**APPROVED: JUN 17 2026**

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

\_\_\_\_\_ on behalf of  
**Dana Kosco**  
**Secretary of the Commission**