ORIGINAL

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

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| **VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR APPROVAL PURSUANT TO IND. CODE §§ 8-1-2-42(a), 8-1-8.8-11, AND TO THE EXTENT NECESSARY IND. CODE § 8-1-2.5-6, OF A RENEWABLE ENERGY POWER PURCHASE AGREEMENT WITH ROAMING BISON WIND, LLC, INCLUDING TIMELY COST RECOVERY.** | ) | **CAUSE NO. 45196** |
| | ) | **APPROVED:** JUN 05 2019 |

## ORDER OF THE COMMISSION

**Presiding Officers:**
**David L. Ober, Commissioner**
**Loraine L. Seyfried, Chief Administrative Law Judge**

On February 1, 2019, Northern Indiana Public Service Company LLC ("NIPSCO" or "Petitioner") filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") in this Cause for approval and associated cost recovery of a Wind Energy Purchase Agreement between NIPSCO and Roaming Bison Wind, LLC ("Roaming Bison"), which is an affiliate of Apex Clean Energy Holding, LLC, dated January 18, 2019 ("Roaming Bison Wind Energy PPA"). On February 1, 2019, NIPSCO filed its prepared testimony and exhibits constituting its case-in-chief.

On February 5, 2019, Citizens Action Coalition of Indiana, Inc. ("CAC") filed its Petition to Intervene, which the Presiding Officers granted in a docket entry dated February 18, 2019. On February 28, 2019, the Indiana Coal Council ("ICC") filed its Petition to Intervene, which the Presiding Officers granted in a docket entry dated March 12, 2019. On March 11, 2019, NIPSCO Industrial Group filed its Petition to Intervene, which the Presiding Officers granted in a docket entry dated March 25, 2019.[1] On March 20, 2019, the Indiana Coalition for Affordable and Reliable Electricity filed its Petition to Intervene, which the Presiding Officers granted in a docket entry dated April 2, 2019.

In accordance with the February 8, 2019 docket entry setting the procedural schedule for this Cause, the Indiana Office of Utility Consumer Counselor ("OUCC") and Intervenors filed testimony and exhibits constituting their respective cases-in-chief on March 15, 2019. NIPSCO filed its rebuttal testimony on March 29, 2019. On April 23, 2019, the OUCC filed Consumer Comments.

[1] The companies that comprise the NIPSCO Industrial Group are ArcelorMittal USA, Cargill, Inc., Praxair, Inc., and USG Corporation.

On April 4, 2019, the parties filed a request to continue the evidentiary hearing and asked that an attorneys' conference be convened to determine a new date and time. An attorneys' conference was held on April 12, 2019. At the attorneys' conference the parties agreed to an evidentiary hearing date of April 23, 2019. Subsequent to the attorneys' conference, the parties filed a request to consolidate the evidentiary hearing in this Cause with the evidentiary hearing in Cause No. 45195. By docket entry dated April 12, 2019, the Presiding Officers consolidated the evidentiary hearings as requested and set the hearing for April 23, 2019.

The Commission held an evidentiary hearing in this Cause on April 23, 2019 at 9:30 a.m., in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. At such time, the evidence of the respective parties was admitted into the record and cross-examination was conducted of Petitioner's witnesses. The hearing was then continued to May 1, 2019 at 9:00 a.m., to allow for admission of Petitioner's late-filed notices of publication.

Having considered the evidence presented and the applicable law, the Commission finds:

1. **Notice and Commission Jurisdiction.** Notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. NIPSCO is a public utility within the meaning of that term as used in Ind. Code § 8-1-2-1 and an "eligible business" as that term is defined in Ind. Code § 8-1-8.8-6. NIPSCO is also an "energy utility" within the meaning of Ind. Code § 8-1-2.5-2 and provides "retail energy service" as that term is defined by Ind. Code § 8-1-2.5-3. The Commission may establish financial incentives to encourage clean energy projects pursuant to Ind. Code ch. 8-1-8.8 and approve certain fuel costs pursuant to Ind. Code § 8-1-2-42(a). Under Ind. Code § 8-1-2.5-6, the Commission has jurisdiction over an energy utility's request to adopt an alternative regulatory plan. Petitioner published notice of the filing of the Verified Petition as required by Ind. Code § 8-1-2.5-6(d). Therefore, the Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

2. **NIPSCO's Characteristics.** NIPSCO is a limited liability company organized and existing under the laws of the State of Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, Indiana. NIPSCO is authorized by the Commission to provide electric utility service to the public in all or part of Benton, Carroll, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, Saint Joseph, Starke, Steuben, Warren, and White Counties in northern Indiana. NIPSCO owns, operates, manages, and controls electric generating, transmission, and distribution plant and equipment and related facilities, which are used and useful in the production, transmission, distribution, and furnishing of electric energy, heat, light, and power to the public. Pursuant to the Commission's Order dated September 24, 2003 in Cause No. 42349, NIPSCO has transferred functional control of its transmission facilities to the Midcontinent Independent System Operator, Inc. ("MISO"), a regional transmission organization operated under the authority of Federal Energy Regulatory Commission, which administers the use of NIPSCO's transmission system and the economic dispatching of NIPSCO's generating units pursuant to approved tariff provisions. NIPSCO also engages in power purchase transactions through MISO as necessary to meet the demands of its customers.

3. **Requested Relief.** In its Verified Petition, NIPSCO requested the Commission enter a final order: (1) finding that the Roaming Bison Wind Energy PPA is reasonable and

necessary; (2) authorizing NIPSCO to enter into the Roaming Bison Wind Energy PPA and determining the Roaming Bison Project to be an eligible clean energy project for purposes of Ind. Code § 8-1-8.8-11; (3) authorizing the full and certain recovery of the retail jurisdictional portions of the power purchase costs on an accrual basis under the Roaming Bison Wind Energy PPA from retail customers through NIPSCO's fuel adjustment clause ("FAC") proceedings, or successor mechanism, over the entire 20-year term of the agreement; (4) approving confidential treatment of the Roaming Bison Wind Energy PPA pricing and other negotiated commercial terms and related confidential information; and (5) granting to NIPSCO such additional and further relief as may be deemed necessary or appropriate.

4. **NIPSCO's Case-in-Chief.** NIPSCO presented the testimony of: Andrew S. Campbell, Director of Regulatory Support and Planning for NIPSCO; Patrick N. Augustine, Principal in Charles River Associates' Energy Practice; and Robert Lee, Vice President of CRA International d/b/a Charles River Associates, Inc. ("CRA").

Mr. Campbell provided testimony to support NIPSCO's request for approval of the Roaming Bison Wind Energy PPA being developed in Montgomery County, Indiana. He described the Roaming Bison Project as having an installed capacity of approximately 300 megawatts ("MW") (nameplate capacity), providing NIPSCO with 100% of the electrical output of the Roaming Bison Project and any environmental attributes associated with the project for a term of 20 years beginning at the commercial operation date. He described the process NIPSCO followed that led to the execution of the Roaming Bison Wind Energy PPA and discussed how NIPSCO will integrate the Roaming Bison Wind Energy PPA into NIPSCO's and MISO's operations. He also discussed the viability of wind energy resources generally, and the terms of the Roaming Bison Wind Energy PPA outlining NIPSCO's rights to the wind energy project's production, capacity, and environmental attributes, and the benefits associated with the environmental attributes in the form of Renewable Energy Credits ("RECs"), and NIPSCO's proposal for recovering the costs associated with the Roaming Bison Wind Energy PPA.

Mr. Augustine discussed the preferred portfolio from NIPSCO's 2018 Integrated Resource Plan ("IRP") and how the assumptions associated with the new wind resource options modeled in the 2018 IRP compare with the cost of the Roaming Bison Wind Energy PPA. He said NIPSCO's preferred portfolio retires all four coal units at the R.M. Schahfer Generating Station in 2023 and retires the Michigan City Generating Station coal plant in 2028. He noted the 2018 IRP was developed through substantial quantitative and qualitative analysis, including the use of an all-source request for proposal ("RFP"). NIPSCO's Short Term Action Plan identifies a phased-in approach to selecting and acquiring replacement resources to the planned retirements. He testified the prioritized replacement resources are wind projects looking to qualify for the federal production tax credit ("PTC"), which saves customers nearly $500 million on a net present value ("NPV") basis compared to a portfolio that relies solely on solar plus storage resources.

Mr. Lee explained the analysis NIPSCO used to evaluate its various options for wind energy and why the Roaming Bison Wind Energy PPA is an economic choice for helping meet NIPSCO's retail electric load. He described the key findings outlined in the Opinion Letter provided from CRA to NIPSCO following the RFP. He testified that through the Opinion Letter and its attachments, CRA recommended certain assets as potential projects to advance to a definitive agreement phase and that the assets recommended for advancement were selected based

on the preferred portfolio in NIPSCO's 2018 IRP and the RFP scoring criteria developed in advance of the RFP process.

**5. OUCC's Case-in-Chief.** The OUCC presented the testimony of Mr. Anthony A. Alvarez, Utility Analyst in the Electric Division of the OUCC; and Ms. Neha Medhekar, Utility Analyst II in the Electric Division of the OUCC.

Mr. Alvarez testified that the price for power from the Roaming Bison Project is in line with the national average. He stated that the interconnection of the Roaming Bison Project required MISO upgrades and triggered network impacts in the PJM Interconnection ("PJM") system. He indicated MISO allocated Roaming Bison $16 million and PJM allocated $9.6 million for a total of $25.6 million of network upgrade costs. He noted that NIPSCO indicated that Roaming Bison is responsible for these costs outside of the PPA contract price. Mr. Alvarez stated that Roaming Bison has not finalized the configuration and specification of the wind turbines and MISO may hold it subject to its generator modification process before it can proceed with interconnection. Mr. Alvarez noted that if MISO does not return a "non-substantive modification" determination, then MISO may not allow the interconnection to proceed. He stated that interconnection is integral to the Roaming Bison Wind Energy PPA.

Mr. Alvarez also recommended that the Commission require NIPSCO to report the following information annually for five years beginning with the commercial operation date: (1) the actual wind energy delivered on an hourly basis; (2) the corresponding NIPSCO Summer and Winter On-Peak and Off-Peak delivery hours identified; and (3) any and all curtailments, including specific dates, times, and reason for or cause of curtailment.

Ms. Medhekar testified NIPSCO's proposed cost recovery treatment is consistent with prior Commission-approved wind energy purchase power agreement ("PPA") cases.[2] She testified the Commission also approved similar wind PPAs and timely cost recovery of the costs associated with such PPAs for Indiana Michigan Power Company in Cause Nos. 43328 and 43750. She recommended the Commission authorize recovery of power purchases costs for the Roaming Bison Wind Energy PPA from retail customers through NIPSCO's FAC proceedings, or successor mechanism, over the entire 20-year term of the agreement.

**6. CAC's Case-in-Chief.** CAC presented the testimony of Elizabeth A. Stanton, PhD, Director and Senior Economist of the Applied Economics Clinic and a Senior Research Fellow at the Global Development and Environmental Institute at Tufts University. Dr. Stanton testified that she participated in the NIPSCO 2018 IRP stakeholder process and reviewed both NIPSCO's all-source RFP and the responses to the RFP. She evaluated NIPSCO's final 2018 IRP and co-authored comments submitted on behalf of CAC as part of that stakeholder process.

Dr. Stanton confirmed that both the price to be paid under the PPA and the timing of the procurement of the Roaming Bison wind resource were consistent with NIPSCO's 2018 IRP. Although Dr. Stanton voiced concern about some aspects of NIPSCO's IRP process, she found NIPSCO's 2018 IRP methodology and process to be an improvement relative to its 2016 IRP. She also commended NIPSCO for its substantial leadership demonstrated in its 2018 IRP analysis,

[2] Specifically, *N. Ind. Pub. Serv. Co.*, Cause No. 43393 (IURC July 24, 2008); *Ind. Mich. Power Co.*, Cause No. 44034 (IURC Aug. 31, 2011); and *Ind. Mich. Power Co.*, Cause No. 44362 (IURC Nov. 25, 2013).

including the utilization of an array of best practices, the ability of stakeholders to review commodity price forecasts used in the modeling, and the effort by NIPSCO to address in good faith criticisms of its 2016 IRP. Dr. Stanton recommended approval of the PPA.

7. **ICC's Case-in-Chief.** ICC presented the testimony of Charles S. Griffey, a consultant providing services to the electric and natural gas industries; and Emily S. Medine, Principal in the consulting firm of Energy Ventures Analysis, Inc.

Mr. Griffey opposed approval of the Roaming Bison Wind Energy PPA due to concerns with NIPSCO's 2018 IRP. Specifically, Mr. Griffey stated that the Roaming Bison Wind Energy PPA was inconsistent with the 2018 IRP due to NIPSCO's: (1) failure to include congestion costs, ancillary service costs, and the cost of transmission to alleviate congestion with increased renewables; (2) assuming increasing carbon dioxide taxes beginning in 2026 in all but one scenario despite the fact that the proposed regulatory construct does not contain a carbon trading regime; (3) assuming increased maintenance capital and operating and maintenance expenses far in excess of the historical norms; (4) assuming an additional $1 billion in environmental capital for the coal plants, which is uncertain; (5) implicit assumptions that the current levels of the PTC and investment tax credits for replacement PPA's will be available in the future (which contradicts assumptions in this case that the PTC will expire); (6) inflated assumptions for the amount of capacity that renewables in Indiana could provide; and (7) load forecast, which does not account for the possible loss of firm industrial load that may result if NIPSCO's proposed new industrial tariff structure is approved in Cause No. 45159.

Mr. Griffey contended that operating Michigan City and converting Schahfer Units 17 and 18 to gas would produce a lower NPV revenue requirement than NIPSCO's preferred portfolio, which includes the Roaming Bison Wind Energy PPA.

Ms. Medine testified that NIPSCO failed to demonstrate that the Roaming Bison Wind Energy PPA is needed to meet system demand because: (1) the process for the 2018 IRP is not complete and reliance on that IRP in this proceeding is premature; and (2) numerous flaws and inconsistencies in the 2018 IRP have been identified in stakeholder comments. She also noted that NIPSCO's proposal in its pending rate case could result in a reduction in demand associated with its largest customers to just 50 MW and the early retirement of all of NIPSCO's baseload generation. She testified that the 2018 IRP results may be different under a lower load forecast and criticized NIPSCO for not developing a 20-year load forecast with reduced industrial load.

Ms. Medine also testified that NIPSCO failed to demonstrate that the Roaming Bison Wind Energy PPA is the lowest cost energy choice. She identified her concerns with NIPSCO's 2018 IRP and asserted that NIPSCO has not shown any interest in finding solutions related to its existing coal fleet that would reduce customer impact, such as reducing operating costs, increasing dispatch of the coal units, or identifying lower cost regulatory compliance options. She also asserted that NIPSCO should have engaged an independent party to explore the sale of NIPSCO's coal units.

Ms. Medine also expressed concern with NIPSCO's request that cost recovery be administered through the FAC and not be subject to the 42(d) test or other benchmarks. She noted that wind generation costs in NIPSCO's latest FAC was more than double that of its coal and combined-cycle units and higher than the cost of its peaking units and indicated that the cost of

wind generation may continue to decline. She also stated that without the 42(d) test, there may be less incentive for the utility to actively manage its PPA.

8. **NIPSCO's Rebuttal Testimony.** Messrs. Campbell and Augustine filed testimony responding to the testimony of the OUCC and Intervenors.

Mr. Campbell testified NIPSCO agrees with Mr. Alvarez's recommendation that NIPSCO's request in this proceeding should remain subject to the Commission's findings in Cause No. 45207. He stated that at the time NIPSCO entered into the Roaming Bison Wind Energy PPA, it was aware that Roaming Bison would be required to request that the Commission decline to exercise jurisdiction and authority over the construction and operation of the wind facility. He testified this requirement was explicitly contemplated in the agreement and required that Roaming Bison file for such authority in a reasonable timeframe following execution of the PPA.

In response to Mr. Alvarez's concerns with PJM network upgrade costs, Mr. Campbell testified all network upgrade costs to the PJM system stemming from the Roaming Bison Project are Roaming Bison's sole responsibility. He testified Roaming Bison has been allocated certain network upgrade costs due to potential impacts on the PJM system; however, it is expected that these costs will be eliminated or significantly reduced based on the current and projected state of the system. Mr. Campbell agreed with Mr. Alvarez's conclusion that Roaming Bison may need to secure a "non-substantive modification" determination from MISO before it can proceed with interconnection and stated that Roaming Bison is planning to make such request prior to commencing operation. Mr. Campbell also testified that NIPSCO agrees with Mr. Alvarez's recommended reporting requirement. However, he noted the performance information that the OUCC seeks will already be embedded within NIPSCO's quarterly FAC filings and that NIPSCO commits to provide this information for the duration of the Roaming Bison PPA.

With regard to Mr. Griffey's contention that no curtailment costs were included in NIPSCO's 2018 IRP, Mr. Campbell testified that NIPSCO has taken into consideration that from time to time wind resources are curtailed from operating. He stated that after the conclusion of NIPSCO's 2018 IRP, NIPSCO evaluated possible curtailments of the Roaming Bison Project and concluded that they are expected to be de minimus.

Mr. Campbell disagreed with Ms. Medine that it is premature for NIPSCO to enter into and be granted recovery of the costs associated with the Roaming Bison Wind Energy PPA. He again explained that the wind projects qualifying for the higher PTC levels offered a significant value for customers and that aligning the on-boarding of new resources with the retirement of existing resources is not always possible. He further testified that NIPSCO currently has a need for capacity since retiring the Bailly Generating Station.

Mr. Campbell testified that while the generation costs from NIPSCO's most recent FAC filing quoted by Ms. Medine are accurate, those filings only include a portion of the costs associated with the operation of NIPSCO's coal and natural gas assets and that there are additional fixed and variable costs associated with the on-going operation of those assets not captured in the FAC because they are embedded in base rates. He stated that while the incremental wind cost is higher in the FAC, it represents the total cost associated with the generation and is more economic

for customers when considering the total cost of production, which is supported by the retirement analysis within NIPSCO's 2018 IRP.

Mr. Campbell testified the PPA costs should be excluded from NIPSCO's Purchase Power Benchmark. He stated this treatment is consistent with the ratemaking treatment granted for NIPSCO's existing wind agreements and for other utility PPAs.[3] Mr. Campbell testified NIPSCO views purchases made pursuant to PPAs as an alternative to other types of generation that NIPSCO would otherwise own where much of the cost of those assets are recovered through base rates rather than the fully loaded costs being used to develop the Purchase Power Benchmark.

In response to Ms. Medine's concern for the value of long-term PPAs if the cost of wind decreases over time, effectively locking in a high price, Mr. Campbell testified that NIPSCO believes it is prudent to lock-in the PPA with Roaming Bison for a 20-year term. He explained that, in general, new projects require a long-term commitment to attract the financing required to build the project and that these durations tend to be between 15 to 20 years, which is supported by the bids received in its RFP. He testified that through the 2018 IRP and the subsequent due diligence analysis, the expected levelized cost of electricity ("LCOE") associated with the Roaming Bison Wind Energy PPA represents a significant savings relative to NIPSCO's existing generation at a term that fits within the confines of the planning horizon.

Mr. Augustine responded to Mr. Griffey's concerns with NIPSCO's 2018 IRP by noting that each of those concerns was addressed in his rebuttal testimony in NIPSCO's pending rate case and incorporated a copy of that testimony as Confidential Attachment 2-R-A. Mr. Augustine stated that Mr. Griffey did not perform any independent analysis to contradict the findings from NIPSCO's 2018 IRP, which demonstrates that new wind resources are lower cost than existing coal plants.

Mr. Augustine stated that Mr. Griffey's lack of understanding of the MISO market and NIPSCO's LCOE analysis resulted in unfounded claims regarding the Roaming Bison Project's cost-effectiveness. He explained why he disagreed with Mr. Griffey's claims regarding: (1) NIPSCO's use of a 20-year NPV instead of a 30-year NPV; (2) the capacity credit assigned to wind resources in MISO; (3) the nodal pricing and congestion analysis performed by NIPSCO for the Roaming Bison Project and possible curtailment costs; and (4) NIPSCO's LCOE analysis and how it relates to the 2018 IRP. He also noted that Mr. Griffey's own assumptions would conclude that wind resources provide substantial savings versus holding the current coal fleet.

Mr. Augustine also responded to Ms. Medine's concerns about the 2018 IRP process by noting the IRP is a planning document and not subject to a ruling or formal approval by the Commission. He explained how NIPSCO conducted its IRP process, noting that NIPSCO performed several stakeholder-requested analyses prior to the submission of the 2018 IRP, including some requested by Ms. Medine and ICC. Mr. Augustine testified NIPSCO consistently found that its preferred portfolio would provide significant savings, even in the scenarios developed by Ms. Medine.

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[3] Citing, *Duke Energy Ind., Inc.*, Cause No. 43097 (IURC Dec. 12, 2006); *S. Ind. Gas and Elec. Co. d/b/a Vectren Energy Delivery of Ind., Inc.*, Cause No. 43259 (IURC Dec. 5, 2007), and *Ind. Mich. Power Co.*, Cause No. 43328 (IURC Nov. 28, 2007).

In response to Ms. Medine's suggestions that NIPSCO's 2018 IRP may have come to a different conclusion if it had more fully evaluated industrial load loss, Mr. Augustine testified NIPSCO did evaluate a low load scenario in the 2018 IRP, which was based on substantial industrial load leaving the system, and it found that retiring coal units provided savings to customers in that scenario. He also noted that because NIPSCO is part of the MISO market, the competitiveness of the existing coal fleet versus the alternative renewable resources in the preferred portfolio is not predominantly driven by NIPSCO's internal load obligations, but by the cost structure of the different resources and their position in the market.

With regard to Ms. Medine's concern that a 20-year wind contract exposes NIPSCO customers to potentially higher costs if the cost of wind generation declines, Mr. Augustine testified that NIPSCO has found that the value of the PTC is greater than potential future cost declines in underlying wind technology and Ms. Medine provided no evidence to the contrary. He noted the PTC is worth approximately 55% of the total installed costs of a project coming online in 2020 with a capacity factor in the range of the projects currently being pursued. Mr. Augustine testified that NIPSCO's 2018 IRP analysis concluded that renewable additions, including wind, were far less risky than retaining coal, since portfolios that retired coal early and replaced capacity with renewable resources were lower cost across all scenarios and performed best on all risk metrics from NIPSCO's stochastic analysis.

**9. Commission Discussion and Findings.** Ind. Code § 8-1-8.8-11 provides that "[a]n eligible business must file an application to the commission for approval of a clean energy project" and that "[t]he commission shall encourage clean energy projects by creating [certain] financial incentives for clean energy projects, if the projects are found to be reasonable and necessary." In addition, "energy from wind" is specifically listed as one of the clean energy resources in Ind. Code § 8-l-37-4(a)(l) through Ind. Code § 8-l-37-4(a)(l6), thus making it a "renewable energy resource" under Ind. Code § 8-1-8.8-10. This framework provides the basis for NIPSCO's request for Commission approval to enter into the Roaming Bison Wind Energy PPA and for assurance of purchased power cost recovery through the full terms of the Roaming Bison Wind Energy PPA. Section 42(a) also authorizes recovery of purchased electricity. Finally, Ind. Code § 8-1-2.5-6, which authorizes alternative regulatory plans, provides a further basis for the approval of the Roaming Bison Wind Energy PPA and recovery of the costs through the terms of the Roaming Bison Wind Energy PPA.

An eligible business includes an energy utility, such as NIPSCO, that "undertakes a project to develop alternative energy sources, including renewable energy projects…." Ind. Code § 8-1-8.8-6(3). The evidence demonstrates that the Roaming Bison Project will provide energy from wind, thus qualifying as a renewable energy project under Ind. Code § 8-1-8.8-10. While NIPSCO is not actually constructing, and will not own, the physical facilities that comprise the Roaming Bison Project, it is proposing to enter into a PPA for the purchase of the energy from those facilities and is therefore contributing to the development of the project. Accordingly, we find that NIPSCO is an eligible business for purposes of reviewing its request for the creation of financial incentives under Ind. Code § 8-1-8.8-11. Our determination herein is consistent with prior Commission Orders concerning similar requests for approval of wind power purchase agreements and the creation of financial incentives under Ind. Code ch. 8-1-8.8. *See, N. Ind. Pub. Serv. Co.*, Cause No. 43393 (IURC July 24, 2008); *Ind. Mich. Power Co.*, Cause No. 44362 (IURC Nov. 25, 2013);

*Duke Energy Ind., Inc.*, Cause No. 44444 (IURC May 7, 2014); *Indianapolis Power & Light Co.*, Cause No. 43740 (IURC Jan. 27, 2010).

According to Ind. Code § 8-1-8.8-11, the Commission shall encourage clean energy projects by creating financial incentives for such projects, if found to be reasonable and necessary. While Chapter 8.8 does not set forth specific factors the Commission should consider in determining the reasonableness and necessity of a clean energy project, the Commission has considered some of the factors outlined in Chapters 8.5 and 8.7 in other cases. *See Ind. Mich. Power Co.*, Cause No. 44511 at 7-8 (IURC Feb. 4, 2015) (Chapter 8.5 factors relevant for clean energy solar pilot project); *see also, Ind. Mich. Power Co.*, Cause No. 44182, at 53-54 (IURC July 17, 2013) (Chapter 8.7 factors relevant for Life Cycle Management Project under Chapter 8.8).

As set forth further below, the evidence in this Cause supports a finding that the energy to be obtained from the Roaming Bison Wind Energy PPA is needed by NIPSCO, is reasonably priced compared to other alternatives, and provides other material benefits. The evidence demonstrates that the Roaming Bison Wind Energy PPA will provide emission-free electric generation and allow for the development of another local renewable resource that will further diversify NIPSCO's generation resources. Notwithstanding the objections raised by the other parties, we find the terms of the Roaming Bison Wind Energy PPA to be reasonable and necessary, and we approve the Roaming Bison Wind Energy PPA and authorize NIPSCO to recover those PPA costs from retail customers.

**A. Need for the Wind PPA.** NIPSCO has a demonstrated need for additional resources in 2023 and the 2018 IRP developed a multi-step process to be implemented over a few years that provides a reasonable transition to acquire replacement resources. The proposed Roaming Bison Wind Energy PPA also enables effective use of the PTC to reduce the cost of wind resources beyond those cost decreases that can be anticipated from technological improvements if the wind resources were instead to be acquired at a later date.

NIPSCO relies on its 2018 IRP to support its request for approval of the capacity and energy that will be provided by the Roaming Bison Wind Energy PPA. ICC Witness Medine argued that reliance on the 2018 IRP was premature because the Director's Report has yet to be issued. While the Director's Report has not yet been issued, we note that 170 IAC 4-7-2.2 specifically provides that the Director's Report neither approves nor disapproves an IRP. Nor do we need to approve NIPSCO's 2018 IRP and its preferred portfolio in this proceeding. Instead, we must determine whether to approve NIPSCO's chosen resource, the Roaming Bison Wind Energy PPA, and in doing so, consider whether that chosen resource is supported by a well-developed IRP.

The evidence demonstrates that the Roaming Bison Wind Energy PPA is consistent with NIPSCO's 2018 IRP and Short Term Action Plan. The record reflects that within its IRP process, NIPSCO conducted an all-source RFP and considered 90 proposals supported by 59 projects across five states with different generation resources for modeling, including natural gas, coal, wind, solar, battery storage, and demand response. NIPSCO also engaged and considered stakeholder input throughout the IRP process. The evidence demonstrates that NIPSCO made significant improvements to its 2018 IRP (as compared to its 2016 IRP), which has resulted in an IRP that is more technically sound and provides a reasonable basis for assessing NIPSCO's request. Both the

OUCC and CAC noted the consistency of the Roaming Bison Wind Energy PPA with NIPSCO's 2018 IRP and recommended the Commission approve NIPSCO's request.

ICC argued that NIPSCO's 2018 IRP does not demonstrate that its preferred portfolio is the least cost portfolio by criticizing NIPSCO's performance of its 2018 IRP resource portfolio modeling in two stages: (1) a retirement analysis; and (2) a resource replacement analysis. ICC believes the two-stage methodology implemented by NIPSCO was biased because the retirement analysis stage considered lower cost replacement resources than was evaluated in stage two when the retirements were already set. However, ICC fails to recognize that the two analyses have distinct purposes. The purpose of the first stage was to evaluate a range of coal unit retirement combinations using different replacement resource combinations based on the all-source RFP responses. The purpose of the second stage was to evaluate different replacement portfolios using different resource characteristics involving the duration of the resource commitment and whether the resource was to be utility-owned or acquired through a PPA. Witness Augustine demonstrated that the cost profile of the PPA under consideration was similar to the assumptions used in the 2018 IRP which were based on a combination of bids from the RFP responses. While ICC criticized various aspects of NIPSCO's modeling, Witness Augustine, in rebuttal, adequately addressed those criticisms. He further noted that NIPSCO modeled every scenario requested by stakeholders, including those requested by ICC, and in each instance, retiring coal units sooner rather than later was preferable and replacement of the coal units with renewable resources was more economic than other resources.

ICC also argued that because the cost of wind generation has been declining, NIPSCO's entering into a 20-year PPA exposes customers to potentially higher costs compared to the costs if a commitment is delayed for an unspecified period of time. While wind prices may or may not continue to decline, the likely phase-out or elimination of the PTC supports the acquisition of this wind resource now rather than later. Witness Augustine testified that the PTC is worth approximately 55% of the total installed costs of a project coming online in 2020 with a capacity factor in the range of the projects currently being pursued, which saves customers nearly $500 million over the life of the projects.

NIPSCO utilized an array of best practices, including conducting an all-source RFP to inform model inputs, which gave NIPSCO an unusual level of credibility from which to forecast the cost of utility scale, supply-side resources; transparent inclusion of input forecasts, outputs, and assumptions; a thorough description of most aspects of screening and portfolio selection; and fair consideration of a wide range of supply-side alternatives without arbitrary limitations on the amount of those resources that can be selected or unsupported cost additions. The evidence clearly demonstrates that NIPSCO has a need for capacity by 2023, which is supported by its 2018 IRP. NIPSCO has prepared an IRP that demonstrates the acquisition of replacement resources over a period of time, with particular focus on wind facilities in the near term given the probable expiration of the PTC, is appropriate. Based upon the evidence presented, the Commission finds that NIPSCO has shown a need for the requested Roaming Bison Wind Energy PPA.

**B. Reasonableness of the Terms of the Roaming Bison Wind Energy PPA.** The record establishes that the Roaming Bison Wind Energy PPA is the result of a thorough RFP process and a quantitative and qualitative evaluation of the RFP responses. The record further demonstrates that the terms of the PPA were reached after arms-length negotiations. NIPSCO will

only pay for the energy it receives at a set price established by the Roaming Bison Wind Energy PPA. Roaming Bison retains the responsibility for the construction, ownership, operation, and maintenance of the facilities.

As we stated in *S. Ind. Gas and Elec. Co.*, Cause No. 45052 (IURC Apr. 24, 2019) ("*Vectren South*"), "[o]utcomes that reasonably minimize such potential risk and serve to foster utility and customer flexibility in an environment of rapid technological innovation on both the utility and customer side of the meter are, therefore, a lens through which we will review Vectren South's request." *Id.* at 20. NIPSCO's request in this Cause as well as those in Cause Nos. 45194 and 45196 involves approximately 800 MW of wind resources, which represents a minority fraction of the resources that may need to be developed over the IRP planning period. Approval of these near-term resources leaves open the type and timing of additional resources. Consistent with this idea of optionality, we note that NIPSCO plans to issue another RFP in the near future to evaluate the economics and performance characteristics of a wide range of resources available in the market.

The circumstances presented here are dramatically different from those presented in *Vectren South* where the utility proposed to build an 850 MW facility to meet the needs of 1,200 MW utility and created fixed costs to be paid by customers for potentially 30 years or longer. The Roaming Bison Wind Energy PPA represents a small portion of NIPSCO's capacity needs and is for a 20-year period, which provides for reduced risk to customers. NIPSCO's 2018 IRP was explicitly developed to maintain optionality to enable making adjustments and modifications as circumstances warrant.

Accordingly, we find that the energy and capacity provided through the Roaming Bison Wind Energy PPA is a reasonable and necessary addition to NIPSCO's portfolio of generating resources necessary to meet the need for electricity within NIPSCO's service area, while also mitigating the risk through the diversification and use of an economic mix of resources that provides flexibility. The record shows that the addition of the Roaming Bison Wind Energy PPA to the resource mix will provide needed energy and capacity. NIPSCO's evidence established that it reasonably modeled the Roaming Bison Wind Energy PPA in its 2018 IRP. NIPSCO Witness Lee also demonstrated that the NPV utility costs analysis showed that acquiring the wind energy from Roaming Bison was superior to other options available to NIPSCO, including not acquiring wind.

**C. Cost Recovery.** NIPSCO proposed timely cost recovery be administered through NIPSCO's FAC proceedings (or successor mechanism). Ind. Code § 8-1-8.8-11 provides that renewable energy projects, such as the Roaming Bison Wind Energy PPA, are eligible for incentives, including timely recovery of costs. We further find that the costs to be incurred pursuant to the Roaming Bison Wind Energy PPA are reasonable throughout the term of the Roaming Bison Wind Energy PPA. Based on the record evidence, the Commission finds that the recovery of all of the purchased power costs related to the purchase over the full term of the Roaming Bison Wind Energy PPA should be approved. We further find that NIPSCO should recover the Roaming Bison Wind Energy PPA costs through its FAC proceeding (or successor mechanism). As Mr. Campbell explained in rebuttal, the cost included in the PPA includes all costs of the resource, not just the energy component. Based upon the evidence presented and consistent with prior Commission decisions in other wind PPA proceedings, we find that NIPSCO's recovery of its Roaming Bison

Wind Energy PPA costs should not be subject to the Section 42(d)(1) test or any other benchmarks.

**D. Reporting Requirements.** The OUCC recommends the Commission require NIPSCO to report the following information annually for five years beginning with the commercial operation date: (1) the actual wind energy delivered on an hourly basis; (2) the corresponding NIPSCO Summer and Winter On-Peak and Off-Peak delivery hours identified; and (3) any and all curtailments, including specific dates, times, and reason for or cause of curtailment (the "Reporting Information"). In rebuttal, NIPSCO agreed to provide the Reporting Information as part of its FAC filings for the duration of the Roaming Bison Wind Energy PPA. We find that NIPSCO shall include the Reporting Information in its FAC filings in Cause No. 38706 FAC XX, commencing at the commercial operation date of the wind farm for the duration of the Roaming Bison Wind Energy PPA.

**E. Conclusion.** We find the evidence of record in this proceeding supports approval of the Roaming Bison Wind Energy PPA and the proposed method of cost recovery. The Roaming Bison Wind Energy PPA terms and costs are reasonable, it provides needed energy, diversifies NIPSCO's supply portfolio, provides environmental benefits, and defends against fuel cost volatility. These attributes provide direct benefits to all stakeholders. We find the Roaming Bison Wind Energy PPA costs should be recovered through a Section 42(a) tracking mechanism to be administered through NIPSCO's quarterly FACs.

**10. Confidential Information.** On February 1, 2019, NIPSCO filed a motion for protective order, which was supported by affidavit showing documents to be submitted to the Commission were trade secret information as defined by Ind. Code § 24-2-3-2 and within the scope of Ind. Code § 5-14-3-4(a)(4). On February 19, 2019, the Presiding Officers issued a docket entry finding the information described in the request for confidentiality to be confidential on a preliminary basis. After reviewing the designated confidential information, we find all such information qualifies as confidential trade secret information as defined in Ind. Code § 24-2-3-2. This information has independent economic value from not being generally known or readily ascertainable by proper means. NIPSCO takes reasonable steps to maintain the secrecy of the information and disclosure of such information would cause harm to NIPSCO. Therefore, we affirm the preliminary ruling and find this information should be exempted from the public access requirements contained in Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29, and held confidential and protected from public disclosure by the Commission.

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

1. NIPSCO is authorized to engage in the Wind Energy Purchase Agreement with Roaming Bison or its assigns and successors.

2. NIPSCO's Wind Energy Purchase Agreement with Roaming Bison or its assigns or successors, is approved as a renewable energy project.

3. NIPSCO is authorized to recover the Roaming Bison Wind Energy PPA Costs over their full term pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8-11, to be administered within

NIPSCO's FAC proceedings (or successor mechanism). This recovery shall not be subject to any tests or FAC benchmarks.

4. NIPSCO shall include the Reporting Information in its FAC proceedings, as set out in Paragraph 9.D. above.

5. NIPSCO's request for confidential trade secret treatment is granted, and such Confidential Information shall be excepted from public disclosure.

6. This Order shall be effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:**

**APPROVED:** JUN 05 2019

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

Mary M Becerra

**Mary M. Becerra**
**Secretary of the Commission**