

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

FILED

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REGULATORY COMMISSION

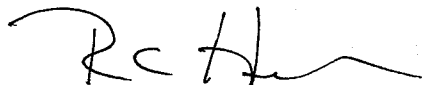
VERIFIED PETITION OF NORTHERN INDIANA)
PUBLIC SERVICE COMPANY, AN INDIANA)
CORPORATION, FOR APPROVAL PURSUANT TO)
IND. CODE §§ 8-1-2-42(a), 8-1-8.8-11 AND TO THE)
EXTENT NECESSARY 8-1-2.5-6 OF RENEWABLE)
WIND ENERGY PROJECT POWER PURCHASE)
AGREEMENTS WITH BUFFALO RIDGE I LLC AND)
BARTON WINDPOWER LLC, INCLUDING THE)
TIMELY RECOVERY OF COSTS THROUGH RATES)
AND CONFIDENTIAL TREATMENT OF POWER)
PURCHASE AGREEMENT PRICING AND RELATED)
CONFIDENTIAL INFORMATION.)

CAUSE NO. 43393

INDIANA OFFICE OF
UTILITY CONSUMER COUNSELOR
SUBMISSION OF PROPOSED ORDER
(RED-LINED)

MAY 28, 2008

Respectfully submitted,



Randall C. Helmen, Attorney No. 8275-49
Deputy Consumer Counselor for State Affairs

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing **OUC** PROPOSED ORDER RED-LINED has been served upon the following counsel of record in the captioned proceeding by electronic service, with paper copies available upon request, on May 28, 2008.

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BY THE COMMISSION:

Jeffrey L. Golc, Commissioner

Lorraine Hitz-Bradley, Administrative Law Judge

On November 20, 2007, Petitioner Northern Indiana Public Service Company ("NIPSCO") filed its petition with the Indiana Utility Regulatory Commission ("Commission") in this matter. NIPSCO's Petition requests the Commission find two purchased power agreements ("Wind PPAs" or "PPAs") for the purchase by NIPSCO of energy generated by wind turbines are reasonable and necessary and authorize NIPSCO to recover the full costs (the "Wind PPAs' Costs") of the Wind PPAs, including all associated Midwest Independent Transmission System Operator ("Midwest ISO") costs, from retail customers through a tracking mechanism.

The Board of Commissioners of LaPorte County, Indiana ("LaPorte") and the NIPSCO Industrial Group ("Industrial Group") filed petitions to intervene on November 28 and 29, 2007, respectively. NIPSCO filed its case-in-chief on November 30, 2007 and a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on December 4, 2007. The Commission issued separate docket entries on December 10, 2007 granting LaPorte's and the

Industrial Group's interventions. NIPSCO's Motion for Protection of Confidential and Proprietary Information was granted by docket entry on December 13, 2007.

A procedural schedule was established at the prehearing conference held on December 21, 2007, which was incorporated in the Commission's January 9, 2008 Prehearing Conference Order. NIPSCO filed two unopposed motions requesting amendment to the procedural schedule on February 15, 2008 and March 6, 2008. Both motions were granted by docket entries issued on February 18, 2008 and March 7, 2008. In accordance with the modified procedural schedule, the Industrial Group and Indiana Office of Utility Consumer Counselor ("OUCC") filed their cases-in-chief on March 24, 2008. The OUCC and Industrial Group sought leave to file material under seal, which request was addressed by the Commission on March 27, 2008. NIPSCO filed its rebuttal evidence on April 11, 2008.

Pursuant to notice as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public evidentiary hearing in this Cause was held on April 25, 2008 at 10:30 a.m., E.D.T. in Room 224 of the National City Center, 101 W. Washington St., Indianapolis, Indiana. At the hearing, the parties' testimony and exhibits were admitted into the record.

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

1. **Notice and Jurisdiction.** Due, legal and timely notice of the evidentiary hearing in this Cause was given and published by the Commission as required by law. Due, legal and timely notice of the filing of the Verified Petition was published by NIPSCO. NIPSCO is a "public utility" as that term is used in Ind. Code § 8-1-2-1(a), an "energy utility" as that term is

used in Ind. Code § 8-1-2.5-2 and an “eligible business” as that term is used in Ind. Code § 8-1-8.8-6. NIPSCO is subject to the jurisdiction of this Commission in the manner and to the extent provided by the laws of the State of Indiana. The Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

2. **Petitioner’s Characteristics and Business.** NIPSCO is a public utility corporation organized and existing under the laws of the State of Indiana and furnishing electric and gas service to the public. NIPSCO renders electric service to approximately 450,000 retail electric customers and has facilities located in 21 counties in northern Indiana. NIPSCO owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy. The Federal Energy Regulatory Commission (“FERC”) regulates NIPSCO’s wholesale rates and services, as well as its transmission business. Pursuant to the Commission’s Order dated September 24, 2003 in Cause No. 42349, NIPSCO has transferred functional control over its transmission facilities to the Midwest ISO. NIPSCO is a member of the Midwest ISO, the PJM Interconnection (“PJM”) and ReliabilityFirst.¹

3. **The Wind PPAs and Relief Requested.** NIPSCO is seeking approval of two Wind PPAs under which it would purchase a total of approximately 100 megawatts (“MWs”) of wind power from Buffalo Ridge I LLC (“Buffalo Ridge”) and Barton Windpower LLC (“Barton”), both of which are subsidiaries of Iberdrola Renewable Energies USA, Ltd. (“Iberdrola”).

¹ ReliabilityFirst is one of the North American Electric Reliability Corporation’s eight Regional Reliability Councils. ReliabilityFirst is a not-for-profit company designed to preserve and enhance electric service reliability and security for the interconnected electric systems within its territory.

The PPA with Buffalo Ridge will supply the electrical output and environmental attributes for 50.4 MW of energy to NIPSCO for a period of fifteen (15) years. The PPA with Barton will supply the electrical output and environmental attributes for 50 MW of energy to NIPSCO for a period of twenty (20) years. Both Wind PPAs provide that NIPSCO will receive the renewable energy certificates ("RECs") that may be produced.

NIPSCO requests the Commission approve the Wind PPAs and find the project to be an "energy project" and a "renewable energy resource" as those terms are defined in Ind. Code §§ 8-1-8.8-2 and -10. As such, the projects would be eligible for certain incentives under the law, including, but not limited to, timely cost recovery.

With regard to cost recovery, NIPSCO requests approval of the purchased power costs related to the purchases over the full terms of the Wind PPAs. NIPSCO asks that the Commission authorize it to implement a rate adjustment mechanism through which NIPSCO will recover the Wind PPAs' Costs in accordance with Ind. Code §§ 8-1-2-42(a) ("Section 42(a)") and 8-1-8.8-11. NIPSCO proposes to initially implement this rate adjustment mechanism contemporaneously with the processing of its quarterly fuel adjustment charge ("FAC") proceedings, provided that recovery of the Wind PPAs' Costs shall not be subject to the Section 42(d)(1) test or any FAC benchmarks. Rather, NIPSCO requests the Commission make a definitive finding in this Cause that the projects, Wind PPAs and associated costs are reasonable and necessary and that NIPSCO will be presently authorized to timely recover those costs in full over the terms of the Wind PPAs. NIPSCO seeks similar approval as was granted to Duke Energy Indiana, Inc. ("Duke Energy") in Cause No. 43097, Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren South") in Cause No. 43097 and Indiana Michigan Power Company ("I&M") in Cause No. 43328 with respect to wind power

contracts of those utilities.

4. **Statutory Framework.** Ind. Code § 8-1-8.8-2 concerns the development of alternative energy sources, including renewable “energy projects.” Ind. Code § 8-1-8.8-10 defines “renewable energy resource” to include energy from wind. Pursuant to Ind. Code § 8-1-8.8-11, an energy project is eligible for timely recovery of costs. This framework provides the basis for the requested Commission assurance of purchased power cost recovery through the full terms of the Wind PPAs. 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 Wind PPAs and full recovery of the Wind PPAs’ Costs through the full terms of the Wind PPAs.

This is not a case of first impression. We have granted relief comparable to what NIPSCO seeks here to Duke Energy, Vectren South and I&M. In those cases, we found wind power developments to be renewable resource projects. We approved the purchase agreements and timely cost recovery through a quarterly rate adjustment mechanism to be administered with these utilities’ FAC proceedings.

5. **NIPSCO’s Case-in-Chief.** NIPSCO presented testimony from Frank A. Shambo, Vice President of Legislative and Regulatory Affairs, Bradley K. Sweet, Director of Generation Dispatch and Energy Management, and Charles F. Adkins, a vice president in the consulting practice of NewEnergy Associates, LLC (“NewEnergy”).

Mr. Shambo’s testimony provided an overview of NIPSCO’s case in this proceeding. Mr. Shambo explained that NIPSCO made a decision to seek out 100 MW of renewable resources as part of the energy needs identified in its 2007 Integrated Resource Plan (“IRP”).

Wind is particularly attractive renewable resource. For example, wind power will diversify NIPSCO's generation portfolio, which now consists of coal, natural gas and hydroelectric generation. Mr. Shambo testified that unlike the traditional coal or natural gas powered generation, wind energy is not subject to fuel or transportation cost increases. It is also a non-emitting source and, therefore, will not require the installation of environmental air emission compliance equipment or result in any air emission related taxes as is potentially the case with traditional fuel sources.

Mr. Shambo highlighted other benefits of wind energy. He noted that wind power is not subject to the security risks commonly associated with imported fuels. NIPSCO will also gain experience in integrating wind into its operations and, in turn, the opportunity to educate its customers about renewable energy. Mr. Shambo stated that NIPSCO's customers are increasingly interested in the use of more renewable resources to meet their needs. Another benefit of securing contractual rights to wind power today is that it will aid in compliance with future greenhouse gas ("GHG") regulation. Mr. Shambo believes utilities cannot ignore the increasing demand for GHG regulation and must develop an emission strategy that anticipates such regulation will be enacted. Moreover, investment today will more gradually reflect the additional costs resulting from GHG regulation and also avoid cost increases for renewable resources that may result after GHG regulation is passed.

Mr. Shambo testified that debate about the adoption of renewable portfolio standards ("RPS") at both the federal and state level also supports the acquisition of wind energy. An RPS standard could require substantial capital investment. Mr. Shambo believes that voluntary action by NIPSCO and other utilities to invest in renewable resources at a level appropriate for their individual circumstances may obviate the need for more costly government mandates.

Mr. Shambo also stated that the Wind PPAs are contingent on Commission approval. He noted that NIPSCO believes the wind energy it will acquire under the Wind PPAs constitutes a renewable energy resource as that term is used in Ind. Code § 8-1-8.8-10 and should qualify for timely cost recovery. Mr. Shambo testified that timely approval of the Wind PPAs and the cost recovery sought by NIPSCO is necessary for the parties to the Wind PPAs to move forward. Commission approval will also help protect against ratings agencies viewing the Wind PPAs adversely in determining NIPSCO's credit rating.

Mr. Shambo said NIPSCO is requesting that the Wind PPAs' Costs be recovered on a timely basis through retail rates over the respective terms of each Wind PPA through a rate adjustment mechanism in accordance with Section 42(a). Mr. Shambo explained that under the proposed tracking mechanism, the energy costs of the Wind PPAs would be recovered in a fashion similar to fuel costs in the FAC, i.e. based on the estimated cost for the upcoming quarter and trued-up to actual cost in a subsequent quarter. The tracking mechanism would initially be implemented in conjunction with NIPSCO's FAC filing. Mr. Shambo stated that the Wind PPAs' cost recovery should not be subject to the Section 42(d)(1) test or any FAC benchmarks, including benchmarks set forth in the settlement agreement approved in Cause No. 38706-FAC71-S1. He noted that NIPSCO's proposed recovery mechanism is the same as was approved for use by Duke Energy, Vectren South and I&M.

Mr. Shambo testified that the approval of the Wind PPAs and related cost recovery was reasonable and in the public interest. He noted that improvements in wind generation technology, improvements in the science of locating the best wind resources, and continually increasing environmental emission restrictions all make renewable wind energy more important and economically viable than ever before. Given the current and potential future benefits of

renewable wind energy, Mr. Shambo felt it is appropriate for NIPSCO to offer its retail customers and other stakeholders the opportunity to include commercial scale, renewable wind energy in its portfolio of electric generation supplies.

Mr. Shambo also testified that the Wind PPAs are economic over their respective terms. These purchases position NIPSCO to meet a possible RPS and protect customers from price increases likely result from the demand for additional renewable resources. Moreover, the projects NIPSCO is acquiring from will receive tax credits for the wind developers so long as they are in service by December 31, 2008 (which is expected). These tax credits are not currently available to wind projects that are in service after December 31, 2008.

Mr. Shambo stated that the energy to be supplied from Buffalo Ridge and Barton will be used by NIPSCO to meet its native load obligations. NIPSCO selected the purchase of 100 MW of wind energy from the long list of options considered in its IRP as a cost competitive solution to the 20-year energy requirements of NIPSCO's retail customers. NIPSCO will also receive any RECs that are associated with energy generated by Buffalo Ridge and Barton and purchased by NIPSCO. Mr. Shambo explained these RECs could be counted towards NIPSCO's compliance with any future GHG or RPS regulations.

NIPSCO witness Bradley K. Sweet described the Wind PPAs NIPSCO has executed with Barton and Buffalo Ridge. The PPA with Buffalo Ridge is for wind generated by turbines located in Brookings County, South Dakota. It provides for the sale of 50.4 MW of electrical output and associated RECs for 15 years. The PPA with Barton is for wind generated in Worth County, Iowa and provides for the sale to NIPSCO of 50 MW of electrical output and associated RECs for 20 years. Mr. Sweet testified that Barton and Buffalo Ridge are now both affiliates of

Iberdrola, the largest owner/operator of wind farms in the world.

Mr. Sweet explained that the terms of the Wind PPAs are identical except with respect to pricing and duration. The Buffalo Ridge PPA provides for a fixed price over a 15 year term while the Barton PPA has an escalating price over its 20 year term. Mr. Sweet described the RECs NIPSCO is entitled to receive under the Wind PPAs. These RECs are intended to capture any changes to government rules, regulations or law or changes to registration systems put in place over the terms of the Wind PPAs. The RECs are tradable credits corresponding to each MWh of electricity generated by a renewable-fueled or environmentally friendly source. Mr. Sweet noted that Mr. Adkins accounted for the value of the RECs in his analysis of the Wind PPAs. Mr. Sweet stated that NIPSCO does not currently intend to sell these RECs. However, the value of RECs could increase dramatically in the future. NIPSCO would consider selling RECs in the future to generate proceeds that would be used to reduce the cost of the Wind PPAs to its retail customers.

Mr. Sweet also stated that Buffalo Ridge and Barton will interconnect with transmission owning members of the Midwest ISO. NIPSCO will take delivery of the wind energy at metering points specified for the two projects. Mr. Sweet explained that the Midwest ISO marketplace allows participants to avoid the difficulties of requiring each buyer to arrange physical delivery of generation to their load. NIPSCO will be the Market Participant with respect to the wind energy and will make the energy available in the Midwest ISO real-time energy market as a price taker for the projects' actual output and will "settle" the sale price for the wind energy sold into the Midwest ISO against the price paid for the wind energy. Because the Midwest ISO treats wind energy projects as intermittent resources, NIPSCO avoids real-time Revenue Sufficiency Guaranty ("RSG") and Uninstructed Deviation charges assessed under the

Midwest ISO's tariff. Mr. Sweet testified that Barton and Buffalo Ridge are classified as energy resources only and are not classified as network resources under the Midwest ISO tariff.

Charles Adkins described the process NIPSCO engaged in to identify potential wind energy purchases and evaluate the merits of the proposals it received. Mr. Adkins was retained by NIPSCO to aid in this process. Mr. Adkins testified that NIPSCO's 2007 IRP demonstrated that NIPSCO's forecasted demand reflects steady growth and shows a need for additional generating capacity to meet the needs for electricity within NIPSCO's service area. The 2007 IRP set a target of securing 100 MW of renewable energy resources, which Mr. Adkins noted was consistent with the wind energy resources I&M and Duke Energy contracted to receive.

Mr. Adkins testified that NIPSCO used a request for proposals ("RFP"), issued in 2006, to test the market availability and viability of a broad range of supply-side, demand-side and renewable options from various providers. Mr. Adkins explained that the goal of the RFP was to provide NIPSCO with capacity and energy with a reliable, least-cost and diversified energy portfolio. NIPSCO received a total of nine responses that included proposals for renewable/DSM technology. Mr. Adkins explained that proposals were required to pass several screens to warrant further consideration. The first screen ensured the proposals were complete, received on time and signed by a duly authorized officer or agent. No renewable/DSM proposal was screened out at this level. The second screen evaluated the bids' compliance with the requirements of the RFP. Mr. Adkins stated that three wind proposals and one DSM proposal failed to meet these requirements and were eliminated. The requirements these four responses failed to fulfill included failure to: (1) deliver to a Midwest ISO commercial pricing node; (2) provide audited financials; (3) have a credit rating of no less than BBB-; (4) have a sufficient tangible net worth; and (5) provide evidence of transmission feasibility.

Mr. Adkins explained that NIPSCO engaged in further evaluation of Indiana-based wind proposals in response to proposed legislation affording incentives for electric utilities to procure Indiana-based wind power. NIPSCO invited two developers of Indiana-based wind energy to reinstate their bids. Only one provider chose to resubmit a proposal. NIPSCO added this provider to its short-list of bidders and commenced two-party negotiations with the developers to further refine the commercial terms of their proposals.

NIPSCO, with Mr. Adkins' assistance, evaluated the competing proposals based on economic value. NIPSCO considered the locational marginal price ("LMP") in this analysis. Mr. Adkins explained that the wind proposals were adjusted to include the LMP for each proposed delivery point and for the NIPSCO load zone using historical data for 2006 from the Midwest ISO. A positive differential reflected a benefit and a negative differential reflected a cost. Inherent differences in the availability of wind among the wind proposals, driven largely by the geographic location and the consistency of the wind, were also accounted for. Based on this analysis, Mr. Adkins concluded that the proposals from Buffalo Ridge and Barton offered the greatest economic value to NIPSCO.

6. OUCC's Case-in-Chief. Barbara Smith, a Utility Analysis in the Electric Division of the OUCC, discussed the OUCC's position regarding NIPSCO's wind power purchases from Barton and Buffalo Ridge. Ms. Smith noted that the OUCC supports using wind energy to diversify generation portfolios when the overall cost impact is reasonable. She also acknowledged wind energy can have a positive environmental benefit when it displaces energy from fossil fuel generation. However, she said that in this case, the transmission to carry the wind energy from either South Dakota or Iowa to Indiana is not robust and, therefore, adds much uncertainty.

Ms. Smith described the Midwest ISO Generation Interconnection Queue ("Queue") process and Buffalo Ridge's and Barton's status in the Queue. Buffalo Ridge is in the final stage of the Queue, having submitted an interconnection agreement to FERC and placed in service the transmission upgrades required to connect the wind energy to the Midwest ISO commercial pricing node. Barton is still in the third stage which requires preparation of a Facility Study identifying a detailed timetable and a refined cost estimate for the required transmission facility upgrades. Ms. Smith noted that Barton's current status meant the details regarding what is needed to connect this project to the Midwest ISO grid, including timeframes and facility upgrades, are not yet known.

Ms. Smith explained that the OUCC was concerned about the potential for increasing transmission congestion and related costs in the area where Barton and Buffalo Ridge are located because the Midwest ISO listed active projects totaling nearly 22,000 MW of wind generation that have requested interconnection by 2014 in the Buffalo Ridge, South Dakota area while only 1,900 MW of outlet transmission capacity is planned for this region in that same time period. She believed that increases in transmission congestion and related costs are likely to increase absent additional transmission capacity investments.

Ms. Smith believed that NIPSCO's use of historical data to forecast congestion was inadequate because of the increasing amount of generation and the substantially smaller amount of transmission in the Midwest ISO transmission Queue. At the request of the OUCC and other intervenors, NIPSCO conducted an additional LMP analysis using the Renewable Midwest ISO future projection information. NIPSCO conducted this analysis and made modifications recommended by the Intervenor. Ms. Smith testified this analysis showed the cost of congestion increasing for Barton, Buffalo Ridge and Indiana wind through 2016. The Barton

transmission congestion costs decreased in the final 2021 model, while the Buffalo Ridge and Indiana wind costs continued to rise. Ms. Smith believed these results indicate that the transmission and congestion costs are volatile. She contended NIPSCO should have considered this volatility as part of the RFP results prior to any negotiation and sought pricing at the NIPSCO load zone to help mitigate the risk of any probable congestion costs between the wind farm location and the NIPSCO load zone.

Ms. Smith noted that local Indiana wind testing and development has increased since NIPSCO conducted its RFP and recommended that NIPSCO initiate a new RFP to solicit energy from a selection that includes new wind development. She also recommended NIPSCO perform a detailed congestion cost analysis on any newly selected wind energy resource prior to negotiating prices in future purchased power contracts. She explained that while Indiana wind appeared to be more expensive than out-of-state wind based on the total impact on NIPSCO's overall generation fleet, Indiana wind may be more economic given the uncertainty of future transmission congestion over the term of the contract. She opined that while the future congestion costs to bring South Dakota and Iowa wind to Indiana are not known, congestion will continue to worsen over the next seven years. She stated that since NIPSCO has not agreed to assume the risk of congestion costs, ratepayers will be left to bear that risk. She did not believe this was reasonable. She recommended the Commission require NIPSCO to pay congestion costs without recovery from ratepayers.

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In addition, Ms. Smith recommended NIPSCO submit certain reports to the Commission and OUCC including: (1) quarterly updates on the remaining Midwest ISO studies including the facilities needed for interconnection and the timetable for interconnection; (2) quarterly reports within each FAC listing the hourly congestion cost components of LMP for each wind farm; and

(3) annual reports showing the actual wind energy delivered on an hourly basis. Ms. Smith also urged NIPSCO staff to become more actively and consistently engaged in discussions on current Midwest ISO Queue issues and wind delivery through active participation in the Midwest ISO Interconnection Process Task Force and the Indiana Wind Working Group.

7. **Industrial Group's Case-in-Chief.** Mr. Dauphinais, testifying on behalf of the Industrial Group, opposed NIPSCO's purchase of wind power under the Wind PPAs. Although he did not, in general, oppose the purchase of wind power, Mr. Dauphinais believed NIPSCO failed to show that the Wind PPAs represent the least cost option for either wind power or power in general. Mr. Dauphinais expressed concern that the Wind PPAs present a significant transmission congestion cost, would result in a net present value cost rather than a benefit and fail to provide the option for NIPSCO to require the wind facilities to seek network resource interconnection service from the Midwest ISO.

Mr. Dauphinais testified that NIPSCO was responsible for all Midwest ISO charges including imbalance and congestion costs at and after the delivery point under the Wind PPAs. He stated that the total per MWh cost for transmission congestion and marginal transmission losses for the Midwest ISO to move power from the Barton and Buffalo Ridge delivery point to NIPSCO's native load in that hour is represented by the difference between the LMP at the NIPSCO load zone and the projects' nodes. Mr. Dauphinais testified that LMPs are very volatile and in a given hour can be as high as \$3,500 or as low as negative \$500 per MWh and the difference between individual LMPs can be equally as volatile depending on aggregate power flows and the location of transmission constraints.

Mr. Dauphinais noted that Buffalo Ridge and Barton are located 500 to 350 miles,

respectively, from the approximate geographic center of the NIPSCO service territory. He contended this distance increased the likelihood that transmission constraints will be encountered on the path from generation to load. He also asserted that this distance increased the likelihood that any transmission reinforcements constructed to mitigate those constraints will be greater in length and cost. Mr. Dauphinais believed the congestion will be magnified by the flood of requests for interconnection of new wind generation in the area where Barton and Buffalo Ridge are located.

Mr. Dauphinais acknowledged that NIPSCO had used historical data to estimate the cost of transmission congestion and marginal transmission losses over the terms of the Wind PPAs, but that he believed this was an entirely inadequate approach. He advocated use of a production cost simulation technique utilizing a detailed power flow mode notwithstanding limitations related to the number of assumptions involved in such a forecast. In response to requests from the Intervenor and OUCC, NIPSCO did perform production cost runs for 2011, 2016 and 2021 using the Midwest ISO's Reference Future and Renewable Future assumptions. Mr. Dauphinais said the results suggest that under certain conditions, the per MWh cost of the Wind PPAs, including congestion, may exceed that of Indiana wind facilities. He went further, noting that only one of the two Wind PPAs show a lower projected per MWh cost, including congestion, during any period evaluated than the projected Midwest ISO price at the NIPSCO load zone. He concluded that the Wind PPAs would not likely provide a net present value benefit due to the results for 2011 and 2016 and are not the least cost option for NIPSCO to meet the needs of its native load customers.

Mr. Dauphinais testified that NIPSCO made only limited attempts to hedge the congestion cost risk associated with the Wind PPAs. He acknowledged that Financial

Transmission Rights ("FTRs") could not be obtained for the Wind PPAs because they are not designated as network resources and that FTRs would not provide an effective long-term hedge for the congestion risk even if NIPSCO could acquire them. No other method is readily available to hedge the long term congestion cost risk associated with the Wind PPAs.

Mr. Dauphinais raised additional concerns with the absence of any provision in the Wind PPAs placing an obligation on Buffalo Ridge or Barton to seek the level of interconnection service necessary from the Midwest ISO to allow the facilities to be designated as network resources for NIPSCO. He stated NIPSCO would not be able to take credit for the capacity attributes of the facilities for resource adequacy purposes unless it can make such a designation. Mr. Dauphinais testified that if Midwest ISO capacity prices rise to the level of PJM capacity prices, a 20% capacity factor for Barton and Buffalo Ridge would be worth close to \$1.3 million in avoided cost annually to NIPSCO. He acknowledged that current Midwest ISO capacity rates are between 19% and 38% of PJM capacity costs. Mr. Dauphinais did not believe the cost of obtaining network resource status for Buffalo Ridge and Barton would have an impact on the normal per MWh charge. He said any additional costs required could be passed through as an additional cost to NIPSCO.

Mr. Dauphinais also disagreed with NIPSCO's allocation of the Wind PPAs' Costs on a per kilowatt hour basis. He testified that had NIPSCO negotiated for the proper level of interconnection service, the Wind PPAs would provide capacity and that the failure to obtain the proper level of interconnection service should not be a determining factor for cost allocation. Mr. Dauphinais advocated allocating costs based on how the costs would have been allocated if NIPSCO had built the facilities itself and obtained the proper level of interconnection service such that it had capacity attributes. In addition, Mr. Dauphinais testified that the form of

payment under the Wind PPAs negotiated between NIPSCO and the Wind PPA facilities should not determine cost allocation for ratepayers.

Mr. Dauphinais recommended that the allocation of the Wind PPAs' costs should be determined in NIPSCO's upcoming rate case. The rate case will allow adequate time to thoroughly review the appropriate allocation of the cost associated with the purchase. He also noted that NIPSCO indicated that it may propose to change how the Wind PPAs' costs are recovered from or allocated to NIPSCO's customers in a future rate case.

If the Commission determined to resolve cost allocation now, Mr. Dauphinais believed the Wind PPAs' Costs should be allocated to classes using the most recent production plant investment demand allocation method approved by the Commission. According to Mr. Dauphinais, cost recovery factors should then be derived by dividing the amount allocated to each class by an estimate of sales to that class.

Mr. Dauphinais recommended that the Commission reject the Wind PPAs, as proposed, due to the significant congestion risk associated with moving power from Buffalo Ridge and Barton across approximately 350 to 500 miles to the NIPSCO service territory via the Midwest ISO market. He said any approval should be conditioned on correcting the terms of the Wind PPAs as they pertain to securing the capacity attributes of the facilities for NIPSCO and to renegotiate the delivery point for the Wind PPAs to a point in or very near the NIPSCO service territory. Mr. Dauphinais further testified that if NIPSCO is authorized to recover the Wind PPAs' Costs through a tracking mechanism, any additional off-system sales profits created by the Wind PPAs should be passed on to ratepayers.

8. **NIPSCO's Rebuttal Testimony.** Messrs. Shambo, Sweet and Adkins offered rebuttal testimony on behalf of NIPSCO. Mr. Shambo addressed Mr. Dauphinais' proposals on the allocation of the Wind PPAs' Costs to NIPSCO ratepayers. He testified that NIPSCO is proposing to recover the Wind PPAs' Costs on a volumetric basis and that this treatment is similar to the methodology approved for I&M's, Duke Energy's and Vectren South's wind power purchase trackers. Mr. Shambo also explained that Mr. Dauphinais' proposal will change the impact on residential and small commercial customers and increase the complexity of the rate adjustment proceeding. He disagreed with Mr. Dauphinais' position that the Wind PPAs should be treated as if they had a capacity component. He noted that NIPSCO presently has no contractual right to require Buffalo Ridge and Barton to seek designation as network resources and that even if they were so designated, any capacity value NIPSCO could receive from the Wind PPAs is not the same as the capacity provided by NIPSCO's generating units. He said wind power availability is significantly different than that provided by NIPSCO's generating units in that it does not always produce power when electricity is needed.

Mr. Shambo disagreed with Mr. Dauphinais' contention that NIPSCO is purchasing wind generation capacity rather than fuel. While wind power provides a useful, environmentally friendly supplement to generation facilities, it cannot, by itself, provide a tool to ensure that NIPSCO can meet the reasonable demands of its customers at all times. Mr. Shambo stated that the Wind PPAs represent purchased power, not capacity. Mr. Shambo urged the Commission to reject Mr. Dauphinais' invitation to simply ignore the form of payment agreed to by the parties negotiating the contract. Mr. Shambo testified different structures bring different costs and benefits to ratepayers. For example, ratepayers will pay no return on the wind turbines and other capital expenditures required to produce the wind energy. They will incur no expenses if the

wind never blows. Had NIPSCO constructed these turbines itself NIPSCO's rates would reflect all expenses associated with their maintenance.

Mr. Shambo did agree with Mr. Dauphinais' recommendation that NIPSCO pass through any off-system sales profits created by the Wind PPAs. However, he disagreed with Mr. Dauphinais' position that NIPSCO should purchase power from the Midwest ISO rather than acquiring wind power from Barton and Buffalo Ridge. Mr. Shambo believed such a strategy would be short-sighted because concern continues to mount about GHG emissions by utilities and pressure for use of renewable energy is great. Mr. Shambo testified that NIPSCO and its customers will be better served by gaining experience with renewable energy other than hydro power through these relatively small long term commitments. He further explained that adoption of an RPS will likely increase the cost of acquiring renewable resources. Combined with federal tax credits to wind developers which have not been renewed, Mr. Shambo opined that now is the most economic time to acquire renewable resources. Regardless of whether NIPSCO's analysis is sufficient under a least cost standard, Mr. Shambo urged the Commission to exercise its independent authority under Ind. Code § 8-1-8.8-11 to authorize recovery of the Wind PPAs' Costs.

Mr. Shambo also responded to Ms. Smith's conclusion that the Wind PPAs should be disapproved. He testified that the evidence does not support her recommendation that a new request for proposal should be issued because of additional studies and wind development in Indiana. According to Mr. Shambo, NIPSCO's additional evaluations show that the other parties' primary concern with the Wind PPAs, adverse LMP differentials, is not projected to make prices for Indiana wind power more favorable than the prices under the Wind PPAs. Mr. Shambo also questioned whether Indiana, alone, could construct sufficient wind generation to

satisfy mandatory renewable energy requirements at the level proposed in prior federal and state legislation. Mr. Shambo did state that NIPSCO was willing to explore the Midwest ISO Interconnection Process Task Force and Indiana Wind Working Group in more detail and to identify personnel whose participation would be the most meaningful to NIPSCO.

Mr. Sweet disagreed with Mr. Dauphinais' assertion that NIPSCO would have to pay the congestion and transmission losses incurred to transmit the power from South Dakota and Iowa to the NIPSCO load zone. Mr. Sweet explained that LMP is not designed to price the cost of transmitting power from one part of the Midwest ISO footprint to another. Mr. Sweet agreed with Mr. Dauphinais that LMPs constantly change, but disagreed this should weigh against NIPSCO's purchase of wind from Buffalo Ridge and Barton. He noted that other Indiana utilities face the same risk with respect to their wind energy purchases. Congestion constraints and losses on the transmission system can occur anywhere, in Indiana or in South Dakota. Mr. Sweet also disagreed with the contention of Mr. Dauphinais that any transmission reinforcements constructed to mitigate constraints will be greater in length and, thus, greater in cost because of the distance of Buffalo Ridge and Barton to NIPSCO. He said the length of a constraint is not the distance between the injection and withdrawal point. The constraint may not be a line at all but may be a transformer or even as small as a current transformer on a breaker.

Mr. Sweet also disagreed with Mr. Dauphinais' assertion that transmission congestion and related costs will necessarily increase in the area where Barton and Buffalo Ridge are located. Mr. Sweet acknowledged that announced capacity exceeded transmission but noted that projects must enter into Interconnection Agreements to connect to the Midwest ISO transmission grid which assure additional wind projects will not be built until transmission upgrades are completed. Mr. Sweet also noted that the Midwest ISO is evaluating transmission expansion

beyond the 1,900 MW of outlet transmission planned in the area of Buffalo Ridge and Barton the benefit of which is projected to exceed the costs.

Mr. Sweet also explained that NIPSCO did not seek to require Barton and Buffalo Ridge to be designated as network resources because most wind providers do not request that designation due to the additional costs for transmission upgrades above those required for energy resource interconnection service. The additional transmission upgrades are for the entire connected capacity of the project, but wind farms receive only a small percentage of the connected capacity as a capacity resource due to the intermittent nature of wind generation.

Mr. Adkins explained in rebuttal that NIPSCO had used historical LMP data from the Midwest ISO because that was the only data available at the time. He acknowledged that an ideal approach would have been to use both a historical and a prospective model in projecting future LMP. However, a forecast did not exist at the time NIPSCO was evaluating its wind projects and developing such a projection is not a trivial matter because it would involve developing an integrated resource plan for the entire Midwest ISO system, siting future generation resources, and developing a transmission expansion plan.

Mr. Adkins testified NIPSCO, at the request of the OUCC and the Intervenors, used newly available data from the Midwest ISO to project LMP prices after filing its case-in-chief. The result of the revised analysis using projected LMP prices was that in all years except one the economic savings of selecting Barton and Buffalo Ridge over Indiana wind are maintained. He concluded that the transmission congestion risk is unlikely to jeopardize these savings. Mr. Adkins noted that his analysis of the Net Present Value Utility Cost conducted in the context of NIPSCO's 2007 IRP had demonstrated that purchasing wind power from Barton and Buffalo

Ridge was economically superior to purchasing Indiana wind or not buying wind at all. Mr. Adkins also stated that the forecasted Midwest ISO renewables data represented a rather conservative case because it did not consider any future transmission enhancements and assumes enactment of an RPS that results in even more wind generation located in the west.

Mr. Adkins also responded to Ms. Smith's contention that future LMPs will only continue to increase in the upcoming years. He acknowledged that the underlying economics (inflation, fuel escalation, etc.) will cause future LMPs to increase in the upcoming years but disagreed that congestion will necessarily increase. The purpose of LMP is to identify economic incentives to correct congestion.

9. **Commission Discussion and Findings.** After close and careful consideration of the record in this proceeding, we do not believe sufficient evidence has been presented to support a finding that the relief requested herein should be approved. In determining whether a proposal is in the public interest we must balance the risks and rewards of both the shareholders and the ratepayers. In evaluating the Wind PPAs it is undisputed that all of the risks associated with congestion constraints – getting the power from Iowa or South Dakota to Petitioner's load - fall squarely on the ratepayers. Although the Wind Farms will inject their power into the Midwest ISO's market at their own point of interconnection, the great distance between NIPSCO's native load and those points of interconnection increase the likelihood of transmission constraints. NIPSCO's arguments to the contrary, the evidence is undisputed that there is considerably more generation being developed in that area of the country than transmission facilities, and it appears that a bottleneck is or shortly will be forming. On the other hand, there are considerable reliable renewable energy resources closer to NIPSCO's service territory to explore without exposing the NIPSCO ratepayers to this indeterminable risk of congestion charges. Finally, if NIPSCO is

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willing to amend its request and agree to share the risk and cost of congestion constraints with ratepayers, the Commission, under certain conditions as outlined below would approve this amended request. The Commission's specific findings are as follows:

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A. LMP Differential. As previously discussed, the OUCC and Industrial Group raised concerns about the LMP differential involved in the purchase of wind power. Buffalo Ridge and Barton are located in South Dakota and Iowa, respectively, and are both interconnected with the Midwest ISO. As described, the Wind Farms would deliver power into the Midwest ISO market at their respective interconnection points, NIPSCO would then take delivery of the wind energy at metering points specified for the two projects, sell the energy at the Midwest ISO node serving the wind farms for the prevailing LMP and "settle" the sale price for the wind energy sold into the Midwest ISO against the price paid for the wind energy. NIPSCO would then buy power at the Midwest ISO node serving NIPSCO's load to serve its retail customers. As a result of this structure, the differential between the LMP at NIPSCO's load and the node where the wind energy is sold represents a potential cost or benefit to customers. The OUCC and Industrial Group opposed approval of the Wind PPAs because of the risk customers' rates will be adversely impacted by the LMP differentials. For the reasons we discuss below, we agree with these arguments.

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The OUCC and Industrial Group raised concerns about the LMP differential. Specifically they raised concerns about the great risk associated with the LMP differential over the terms of the Wind PPAs. First, they noted that NIPSCO presented no estimated congestion data with its petition or case in chief testimony. Second, they criticized NIPSCO's use of historical LMP data for one year to evaluate the potential LMP differential, contending reliance on historical data alone is woefully inadequate, especially when attempting to forecast LMPs over a term of 15 to

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20 years.

After its case in chief had been filed, NIPSCO, at the request of the other parties,
conducted an analysis of the LMP differential using newly available forecasted data from the
Midwest ISO. NIPSCO's consultant New Energy conducted this analysis. The production runs
were performed for the years 2011, 2016 and 2021. The results of these production runs were
summarized in the Industrial Group's Exhibit JRD-2 (confidential). While the results of that
analysis are subject to interpretation, they indicate, on balance, that the transmission congestion
costs will be volatile. We note that the runs for 2011 and 2016 both project per MWh costs,
including congestion costs, for the the Wind Farms to exceed the costs to purchase energy at the
NIPSCO load zone.

We must acknowledge that reality often departs from forecasts. NIPSCO attempted to
address the previously referenced bottleneck condition due to the excess of new generation
planned versus new transmission planned in the area of the Wind Farms by speculating that
many of those generation facilities may not be constructed. Similarly, NIPSCO is also
speculating that since a portion of its analysis for the year 2021 projects a lower MWh cost at the
Wind Farm interconnect than at the NIPSCO load zone, the risk to ratepayers of excessive
congestion charges is no greater than for other previously approved wind PPA cases. While we
do not believe that NIPSCO needed to provide absolute assurance that the LMP differential will
not significantly deviate from projections the evidence indicates a clear risk of exorbitant
transmission constraint costs that NIPSCO failed to adequately address in negotiations with the
Wind Farms or in this proceeding. NIPSCO did not appear to attempt to address the most
significant cost risk to its ratepayers during its PPA negotiations As pointed out by the
Industrial Group's witness, Mr. Dauphinais, NIPSCO should have, at the very least, hedged the

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Second, the OUCC and Industrial Group raise concerns about the allegedly great risk associated with the LMP differential over the terms of the Wind PPAs. The evidence does not support rejecting the Wind PPAs on this basis. Even if NIPSCO's historical analysis of the LMP differential was insufficient as the OUCC and Industrial Group claim, NIPSCO performed the forecasted LMP analysis requested by the Industrial Group and the OUCC. T

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long term congestion risk associated with the wind PPAs or negotiated the delivery point of the Wind PPA to a point closer to the NIPSCO service territory.

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NIPSCO rejects the notion that the risk of congestion charges is greater because of the distance of Buffalo Ridge and Barton to NIPSCO's load zone. First, they fail to appreciate the significance of the fact that there are over 20,000 MW of future wind projects in the subject area which exceeds the planned transmission projects for the same area. Secondly, it is intuitive to us that there are going to be congestion cost risks associated with moving power 500 miles to the NIPSCO service territory. Otherwise, the Wind Farms and/or NIPSCO would have been indifferent to changing the delivery point of the Wind PPA. Again, there are numerous renewable energy sources closer to NIPSCO's load zone which could have been explored and would have come with significantly lower congestion cost risks.

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Mr. Dauphinais alleges that NIPSCO's analysis shows that purchasing wind energy is more expensive than simply making purchases from the Midwest ISO energy markets at the projected LMP price. We agree with Mr. Dauphinais's contention that the requirement of least cost resource planning is a significant component to be considered when evaluating a generation proposal. Our experience with wind power to date suggests that it may not be the absolute least cost option in the short-run. We have approved the purchase of wind for I&M, Vectren South and Duke Energy even though there was a slight premium associated with purchasing wind power in the short-run. We have approved the purchase of wind energy notwithstanding a reasonable premium because other benefits, including environmental, economic, educational and other social benefits created and to be created by renewable energy projects justify a reasonable price premium. However, in none of those cases were we faced with the level of uncertainty on congestion charges that we see here. It is not possible for us to say whether we are dealing with

a "slight premium" or a significant premium that may last for 20 years. For the foregoing reasons we decline approval of NIPSCO's requested relief, namely, we decline approval of the PPAs and their associated cost recovery.

B. Conditional Approval. If NIPSCO is interested in amending its Petition, we will conditionally approve the Wind PPAs if NIPSCO and/or the Wind Farms agree to assume the risk of the LMP differential. This approval is further conditioned on and subject to the following:

1. Wind PPAs' Cost Recovery. NIPSCO proposes to recover the Wind PPAs' Costs over the full terms of the agreements through a purchased power tracker in accordance with Section 42(a) and Ind. Code § 8-1-8.8-11. This purchased power tracker will initially be administered in conjunction with NIPSCO's quarterly FAC proceedings, provided that the costs shall not be subject to the Section 42(d)(1) test or any FAC benchmarks.

We find NIPSCO shall be authorized to recover the Wind PPAs' Costs over the full terms of the agreements. A review of Ind. Code § 8-1-8.8-1 *et seq.* demonstrates and we find that the Barton and Buffalo Ridge projects satisfy the statutory definition of an "energy project" defined in Ind. Code § 8-1-8.8-2 in that the projects will develop alternative energy sources, including renewable energy. We further find that the projects also qualify as "renewable energy resources" as defined by Ind. Code § 8-1-8.8-10. Ind. Code § 8-1-8.8-11 provides that renewable energy projects, such as NIPSCO's Wind PPAs, are eligible for incentives, including timely recovery of costs. Based on the record evidence, the Commission finds that the recovery of all of the purchased power costs related to the

Deleted: Mr. Shambo also testified that given future uncertainty about legislation imposing a renewable portfolio standard, entering into reasonably priced agreements before demand pushes the prices up higher will prove to be a good economic decision for Indiana ratepayers. Moreover, the General Assembly has adopted a policy of encouraging entry into renewable energy projects through Ind. Code § 8-1-8.8-1 *et seq.* We believe the General Assembly understood the potentially higher costs of renewable energy projects and for that reason adopted legislation specifically encouraging their development. While we will evaluate all wind purchase agreements to evaluate whether any premium is reasonable, we find the price set forth in the Wind PPAs are reasonable.¶

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Capacity. Mr. Dauphinais recommended conditioning approval of the Wind PPAs on Barton and Buffalo Ridge investing in the infrastructure upgrades necessary to qualify as Network Resources under the Midwest ISO's tariff. Such designation would allow Buffalo Ridge and Barton to qualify a percentage of their output ... [11]

purchase over the full term of the Wind PPAs should be approved. We find that NIPSCO shall implement a purchased power tracker, in accordance with Section 42(a), to be administered in conjunction with its FAC proceeding (or successor mechanism), through which the Wind PPAs' Costs shall be recovered. Although NIPSCO is proposing to have the cost recovery administered through its FAC proceedings, we clarify that this cost recovery shall not be subject to the Section 42(d)(1) test or any FAC benchmarks as all findings of reasonableness have been made in this Order for the full term of the Wind PPAs.

2. Reporting. The OUCC recommends that NIPSCO file an annual confidential report showing the actual wind energy delivered on an hourly basis for the Wind PPAs, provide quarterly updates on the remaining Midwest ISO studies, including the facilities needed for interconnection and the timetable for this interconnection, and provide quarterly reports within each FAC listing the hourly congestion cost components of LMP for each wind farm. NIPSCO has agreed to these filings with certain exceptions. NIPSCO has agreed, and we find it shall file, an annual confidential report showing the actual wind energy delivered on an hourly basis for the Wind PPAs for a period of five (5) years. NIPSCO also does not object to providing information on the status of Barton and Buffalo Ridge's interconnection. However, rather than filing these reports quarterly, NIPSCO's Proposed Order urged submission of these informational filings after certain milestones are achieved to avoid unnecessary filings. We find that NIPSCO shall make an informational filing in this Cause when Buffalo Ridge receives FERC approval of its interconnection agreement. Informational filings shall also be made after Barton obtains a complete Facility Study, submits its interconnection agreement to FERC for approval

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and receives FERC approval of the interconnection agreement. We contemplate separate submissions within twenty (20) days after each milestone is reached.

NIPSCO agrees to provide hourly congestion cost components of LMP for each wind farm available to the OUCC during the quarterly reviews of the tracking mechanism we approve in this Cause. However, NIPSCO recommends this information be set forth electronically as part of its workpapers rather than as an exhibit to its supporting evidence because of the numerous data points. Such a filing could require as many as 6,624 data points.² We find that NIPSCO shall provide a data disk containing this information to the OUCC in conjunction with its audit of the Section 42(a) tracker as part of its workpapers.

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3. Reasonableness of the Wind PPA Terms. With the exception of the uncertainty surrounding future congestion costs, the record establishes that the Wind PPAs are 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 Wind PPAs were reached after arms length negotiations. NIPSCO will only pay for the energy it receives at a set price established by the Wind PPAs. Buffalo Ridge and Barton retain the responsibility for the construction, ownership, operation and maintenance of the facilities.

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Substantial evidence shows and we find that the energy provided through the Wind PPAs are a reasonable 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 capacity resources. The record

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² There will be three months in a quarter with as many as 92 days. Each day will have 24 hours. The schedule will identify the LMP for every hour of those 92 days for the nodes serving both wind farms and NIPSCO's load.

shows that the addition of the Wind PPAs to the resource mix will provide needed energy. NIPSCO's evidence established that it reasonably modeled the Wind PPAs in its IRP. The evidence also substantiates the numerous benefits available from environmentally friendly renewable energy such as that made available from the Barton and Buffalo Ridge projects. These projects will not only produce emissions free electricity but will help further educate NIPSCO, its customers and other Indiana citizens on the advancement and availability of renewable energy technology. This may increase consumer interest in protecting the environment by supporting renewable, environmentally friendly energy sources.

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4. Allocation of Wind PPAs' Costs. NIPSCO proposes to recover the Wind PPAs' Costs on a volumetric basis. This treatment is similar to the methodology approved for I&M's, Duke Energy's and Vectren South's wind power purchase trackers. Mr. Dauphinais advocates determining the allocation of the Wind PPAs' Costs to customers in NIPSCO's upcoming rate case or allocating the cost to customers using the most recent production plant investment demand allocation method approved by the Commission.

We decline to accept Mr. Dauphinais' recommendations. Based on the evidence presented, we find it reasonable to treat the recovery of these costs in the same manner as other energy costs embedded in purchased power costs, *i.e.*, volumetrically. There is no capacity charge associated with these purchases and NIPSCO will only recover the costs of the energy actually generated and used. Buffalo Ridge and Barton do not currently possess the requisite interconnection with the Midwest ISO to provide capacity to NIPSCO. We disagree with Mr. Dauphinais that NIPSCO receives the same sort of benefits it would receive under the Wind

PPAs as if it were constructing the wind turbines itself. NIPSCO has not sought to earn a return on any capital investment and ratepayers will not incur expenses unless Barton and Buffalo Ridge generate electricity. We also agree with NIPSCO that Mr. Dauphinais' proposed methodology will change the impact on residential and small commercial customers and increase the complexity of the rate adjustment proceeding.

We find the evidence of record in this proceeding supports approval of the Wind PPAs and the proposed method of cost recovery as modified herein. The Wind PPAs' terms are reasonable, their costs are reasonable, they provide needed energy, diversify NIPSCO's supply portfolio, provide environmental benefits and defend against new environmental emissions regulations and fuel cost volatility. These attributes provide direct benefits to all stakeholders. We find the Wind PPAs' Costs should be recovered through a Section 42(a) tracking mechanism to be administered contemporaneously, but separate from, NIPSCO's quarterly FACs.

10. **Confidential Information.** On December 13, 2007, the Presiding Officers made preliminary findings that certain designated information marked "confidential" as requested in NIPSCO's Motions for Protection of Confidential and Proprietary Information should be treated as confidential in accordance with Ind. Code § 5-14-3-4 and that confidential procedures should be followed with respect to this confidential information. Upon review of the confidential information submitted pursuant to the Presiding Officers' preliminary determinations, the Commission confirms its prior preliminary findings and concludes that the information for which NIPSCO sought and the Commission preliminarily granted confidential treatment contains confidential, proprietary, competitively sensitive trade secret information that has economic value to NIPSCO, Barton and Buffalo Ridge from neither being known to, nor ascertainable by, its competitors and other persons who could obtain economic value from the knowledge and the

use of such information; that the public disclosure of such information would have a substantial detrimental affect on NIPSCO; and that the information is subject to efforts of NIPSCO that are reasonable under the circumstances to maintain its secrecy. Accordingly, the confidential information contained in (1) Direct Testimony of Bradley K. Sweet, Petitioner's Exhibits Sweet-1,-2 and -3; (2) Direct Testimony of Charles F. Adkins, Petitioner's Exhibits Adkins-2 and-3, (3) Direct Testimony of Barbara A. Smith on behalf of the OUCC, including BAS Attachment C; (4) Direct Testimony of James R. Dauphinais, including JRD-2; and (5) Rebuttal Testimony of Charles F. Adkins, Petitioner's Exhibit 3R are exempt from the public access requirements of Ind. Code §§ 5-14-3-3 and 8-1-2-29 and shall continue to be held as confidential by the Commission.

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

1. Based upon the findings as set forth in this Order, NIPSCO's proposal to enter into PPAs and to implement a cost recovery mechanism pursuant to Ind. Code 8-1-2-42(a) os hereby denied.

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2. If NIPSCO modifies its request by agreeing to hold its ratepayers harmless for congestion costs associated with the PPA, then NIPSCO's proposal is approved subject to the following:

Deleted: NIPSCO's Wind PPAs with the Barton and Buffalo Ridge, or their assigns or successors, shall be and are hereby authorized as a Renewable Energy Project.

a. NIPSCO is hereby authorized to recover the Wind PPAs' Costs over their full term pursuant to Ind. Code §§ 8-1-2-42(a) and 8-1-8.8, to be administered within NIPSCO's fuel adjustment charge ("FAC") proceedings (or successor mechanism). This recovery shall not be subject to any FAC benchmark review or tests.

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b. NIPSCO shall annually file a confidential report of the actual energy produced by Barton and Buffalo Ridge for a period of five years from the date of their commercial operation.

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

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

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HARDY, GOLC, LANDIS, SERVER AND ZIEGNER CONCUR:

APPROVED:

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

Brenda A. Howe
Secretary to the Commission

We have not required other Indiana utilities to bear the risk of LMP differentials for wind purchases. For that matter, all Indiana utilities face LMP differentials for all sales and purchases in the Midwest ISO marketplace because the Midwest ISO has different nodes for purchases from generators and sales to customers. It would be unreasonable to ask NIPSCO to assume this risk and would chill the willingness of future Indiana utilities to enter into agreements to acquire wind energy, since virtually every such agreement would be subject to LMP differential cost. Such a policy would directly contradict the Legislative intent behind Ind. Code § 8-1-8.8-1 *et seq.* of developing “a robust and diverse portfolio of energy production or generating capacity, including. . . the use of renewable resources.” Moreover, there is no showing that Indiana ratepayers would be better off eliminating the risk of LMP differentials. The record contains no evidence demonstrating what premium wind farms would require to incur such a risk.

Capacity. Mr. Dauphinais recommended conditioning approval of the Wind PPAs on Barton and Buffalo Ridge investing in the infrastructure upgrades necessary to qualify as Network Resources under the Midwest ISO’s tariff. Such designation would allow Buffalo Ridge and Barton to qualify a percentage of their output as capacity. Under the Wind PPAs and the Midwest ISO tariff, NIPSCO would be entitled to count this capacity requirement towards its planning reserve margin.

We decline to impose this condition on our approval of the Wind PPAs. NIPSCO

has no contractual right to require Barton and Buffalo Ridge to obtain this level of interconnection and it is not clear if Buffalo Ridge and Barton would agree to the addition of such a condition. Moreover, the record contains no evidence on what such an interconnection status would cost. Thus, we have no basis to conclude NIPSCO can obtain these terms without adversely affecting the favorable prices it receives under the Wind PPAs. Moreover, Mr. Dauphinais himself concedes wind farms generally do not receive capacity credits equal to their total output. Mr. Shambo explained that capacity provided by the Wind PPAs would not be the same as capacity provided by NIPSCO's generating units because wind power is significantly different in terms of availability. The wind does not always blow when electricity is needed. While Mr. Dauphinais indicated the potential value could be as high as \$1.3 million annually to NIPSCO, this was based on the cost of capacity in the PJM market. Mr. Dauphinais acknowledged that the price of capacity in the Midwest ISO is 19% to 38% of the PJM cost. There is no evidence in the record to determine the cost involved in obtaining network resource interconnection status for the two projects. Absent such evidence, we cannot conclude that ratepayers would benefit from incurring the cost necessary for Barton and Buffalo Ridge to obtain network resource interconnection status.