

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NIPSCO GENERATION )  
LLC FOR CERTAIN DETERMINATIONS BY THE )  
COMMISSION WITH RESPECT TO ITS )  
JURISDICTION OVER PETITIONER'S ACTIVITIES )  
AS A NON-RETAIL GENERATOR OF ELECTRIC )  
POWER. )

CAUSE NO. 46183

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PETITIONER'S MOTION FOR  
PROTECTION AND NONDISCLOSURE OF  
CONFIDENTIAL AND PROPRIETARY INFORMATION

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NIPSCO Generation LLC ("Petitioner" or "GenCo"), pursuant to 170 IAC 1-1.1-4, Ind. Code § 5-14-3-4 and Ind. Code § 8-1-2-29, respectfully requests that the Indiana Utility Regulatory Commission ("Commission") enter a Protective Order prohibiting dissemination outside of the Commission and adopting safeguards for the handling of certain documents to be submitted under seal to the Commission by Petitioner, or other participating parties in this Cause that contain trade secrets of which GenCo deems confidential, highly confidential, proprietary, and competitively sensitive (the "Confidential Information"). In support of this motion, GenCo represents the following:

1. Intervenor Takanock, Inc. ("Takanock") proposes to include Confidential Information in its Direct Testimony and Attachments filed in this

Cause. The Confidential Information may also be used in rebuttal testimony, cross-answering testimony, at the Evidentiary Hearing and/or discussed in the post-hearing submissions to be made in this Cause. A Commission protective order will allow the safe submission of the Confidential Information to the Commission.

2. The Confidential Information includes: Takanock Exhibit No. 1C and Confidential Attachment KD-1, which is a discussion of information related to NIPSCO and GenCo megaload strategy, including a copy of a slide deck provided in GenCo's CAC Request 3-002 Confidential Attachment C.

GenCo understands NIPSCO to be submitting a Motion for Protective Order to seek protection of Confidential Information proposed to be submitted by Citizens Action Coalition of Indiana, Inc. ("CAC") and Clean Grid Alliance ("CGA") as such information was provided to those parties by NIPSCO. GenCo supports NIPSCO's requested relief as disclosure of the information would be of harm to GenCo as well.

3. The Confidential Information contains trade secrets and is therefore confidential in accordance with Ind. Code § 8-1-2-29. In support of this motion, GenCo represents the following:

4. As affirmed by the Affidavit of Vincent A. Parisi, attached hereto as Exhibit A, the Confidential Information includes sensitive information about GenCo and NIPSCO's megaload business strategy. This information may be used to determine information about negotiating strategies and GenCo's availability as it pertains to serving potential future megaload customers. This Confidential Information would be of economic value to direct competitors of NIPSCO and ultimately then GenCo and provide insight into NIPSCO's business strategy with respect to GenCo and megaload market conditions. This Confidential Information would be of economic value to competitors of NIPSCO, and ultimately GenCo, since it can provide insight into individual strategy and megaload customer market conditions. Knowledge of this Confidential Information would provide competitors with an unfair advantage in the market, of which GenCo participates, to the detriment of all.

5. As explained in the attached Affidavit, the Confidential Information should be treated confidentially because (1) the Confidential Information is not available or ascertainable by third parties through normal or proper means; (2) GenCo is bound to keep this information confidential under non-disclosure agreements; (3) GenCo has taken reasonable steps to protect the Confidential Information, including sharing such information internally on a need to know basis and only providing the Confidential Information to external stakeholders

who have executed confidentiality agreements with GenCo or are otherwise bound to maintain its confidentiality; (4) the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by persons who could obtain economic value from its disclosure or use; and (5) public disclosure of the Confidential Information would cause substantial detriment.

6. GenCo requests that the Confidential Information be exempted from public disclosure.

7. The Commission has previously recognized that trade secrets must be protected when competitors can use the trade secret information to win an advantage. *Re Investigation into the Propriety of Declining to Exercise Its Jurisdiction*, Cause No. 38561 (IURC 1/18/1989).

8. Further, the Confidential Information is similar to confidential trade secret information previously found to be exempt from public disclosure by the Commission. See, e.g., *Re Indiana Michigan Power Co.*, Cause No. 46097 (IURC 2/19/2025), (competitively-sensitive load information related to hyperscaler data center projects; internal AEP presentation materials discussing highly competitively sensitive forecast information, including transmission capacity, resource needs, and large load additions; and forecasted load and other

operational information related to hyperscaler data center customers exempt from public disclosure); *Re Indiana Michigan Power Co.*, Cause No. 45673, (IURC 4/27/2022) (forecasted cost, price, and customer-specific information, including load and energy forecasts exempt from public disclosure); *Re Duke Energy Indiana LLC*, Cause 45567, (IURC 1/26/2022), (negotiated and competitive information related to large industrial customer exempt from public disclosure); and *Duke Energy Ind., Inc.*, Cause No. 45395 (IURC 12/29/2020), (costs, pricing-related and other competitive provisions of service negotiated between utility and customer exempt from public disclosure).

9. In addition, GenCo's request is consistent with Indiana cases in which courts have interpreted Indiana's trade secret statutes. *In Star Scientific, Inc. v. Carter*, 204 F.R.D. 410, 414-415 (S.D. Ind. 2001), the court held that a protectable trade secret includes any information or compilation which is used in a business and which gives the business an opportunity to obtain an advantage over competitors who do not have the information. The Indiana Supreme Court has also held that although a trade secret may include elements that are readily ascertainable in the public domain, the unique compilation of the information may afford a competitive advantage and constitute a protectable trade secret. *Amoco Production Co. v. Laird*, 622 N.E.2d 912, 919 (Ind. 1993). The Confidential Information discussed herein meets the statutory definition of trade secret as that

term has been interpreted in Indiana. See *Hydraulic Exchange and Repair, Inc. v. KM Specialty Pumps, Inc.*, 690 N.E.2d 782, 785-86 (Ind. Ct. App. 1998); *Bridgestone/Firestone, Inc. v. Lockhart*, 5 F. Supp. 2d. 667, 681 (S.D. Ind. 1997).

10. Based upon the above description of material for which GenCo seeks protection and the attached affidavit, GenCo requests the Commission enter a preliminary determination that the Confidential Information appears to be confidential and trade secret within the meaning of Ind. Code § 5-14-3-4(a) as defined by Ind. Code § 24-2-3-2, for the limited purpose of allowing the parties participating in this Cause to safely submit or otherwise make available the Confidential Information under seal for an in camera inspection by the presiding Administrative Law Judge and Commission for a final determination of the appropriateness of GenCo's request for protection. Subject to Paragraph 13 below, once a preliminary determination is made that the Confidential Information is exempt from public disclosure, Takanock will make available or submit a single copy of the material for which protection is sought to the Commission either via the Electronic Filing Database or in hard copy on light green paper and in a sealed envelope, designating that the contents are confidential and proprietary material submitted under a preliminary order of confidentiality, and which is marked to the attention of the presiding Administrative Law Judge. GenCo will notify the Commission when, and if, the information is no longer confidential.

11. Upon a preliminary determination that the Confidential Information is confidential and/or trade secret, GenCo proposes that the Commission issue a Docket Entry adopting the following procedures to assure the protection of the Confidential Information, which GenCo believes to be consistent with procedures followed by the Commission in similar situations:

a. That the Confidential Information will be made available solely for inspection by certain designated employees of the Commission and its Staff for the purposes of their analysis.

b. That the Confidential Information will be specifically filed, secured and under the control of a responsible person.

c. That any Commission employee or Staff member receiving access to such Confidential Information be under an obligation to secure and maintain exclusive control of documents, to refrain from directly or indirectly allowing public disclosure of such Confidential Information and to refrain and prohibit the copying and reproduction of the Confidential Information.

d. That any documents, materials or reports prepared by Commission employees or Staff members not have the effect of disclosing the Confidential Information.

e. That no Commission employee or Staff member should have access to the Confidential Information without first acknowledging in writing prior to access, the existence of an order providing for confidential treatment, the need to treat the Confidential Information in accordance with the provisions thereof, and the sanctions which may be imposed for unauthorized disclosure of such Confidential Information.

12. The participating parties who have a standard non-disclosure agreement or other appropriate confidentiality agreement that is acceptable to GenCo have already been provided with this information. However, if necessary, GenCo will request that the Commission enter a protective order safeguarding the dissemination of the Confidential Information.

13. Once a preliminary determination of confidentiality has been made, the Confidential Information will be provided subject to and contingent upon the right to retrieve the Confidential Information before it can be disclosed to any members of the public should the Commission upon a final determination find that the material submitted under seal should not be protected.

WHEREFORE, GenCo respectfully requests that the Commission make and enter appropriate orders in this Cause:

(i) Finding the Confidential Information to be preliminarily



confidential for the limited purpose of allowing it to be safely filed with the Commission under seal;

(ii) Thereafter make a final determination that the Confidential Information is exempt from public disclosure under Ind. Code § 8-1-2-29 and § 5-14-3-4;

(iii) Adopting the procedures set forth herein to ensure that the Confidential Information is appropriately secured and made available only to the appropriate Commission employees of the Commission's Staff on a need-to-know basis, and who are under an obligation not to disclose such confidential information to any third party; and

(iii) Granting to GenCo such other relief as may be appropriate.

Respectfully submitted,



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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by email transmission upon the following:

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Dated this 14<sup>th</sup> day of April, 2025.

  
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Bryan M. Likins

STATE OF INDIANA     )  
                                      )  
COUNTY OF LAKE     )

**AFFIDAVIT OF VINCENT A. PARISI**

Affiant, upon being first duly sworn, subject to the penalties for perjury, states that:

1. I am President and Chief Operating Officer for Northern Indiana Public Service Company LLC ("NIPSCO" or "Company"). My business address is 801 E. 86th Avenue, Merrillville, Indiana 46410.

2. I am responsible for ensuring safe, reliable, and affordable service to NIPSCO's 1.2 million electric and gas customers across the state. I am also responsible for NIPSCO's financial health and have oversight responsibility over risk management, regulatory, legislative and external strategies.

3. I am supplying this Affidavit to support Petitioners' Motion for Protection and Nondisclosure of Confidential Information seeking a determination that certain information contained in Takanock Exhibit No. 1C, Direct Testimony of Kenneth Davies, and Confidential Attachment KD-1 is confidential and exempt from disclosure pursuant to 170 IAC 1-1.1-4, Ind. Code § 8-1-2-29 and Ind. Code § 5-14-3-4 ("Confidential Information").

4. As set forth in Petitioner's Motion for Protection and Nondisclosure of Confidential and Proprietary Information, the information included in Takanock Exhibit No. 1C and Confidential Attachment KD-1 would be used to determine information about negotiating strategies and GenCo's availability as it pertains to serving potential future megaload customers. This information may be used to influence NIPSCO's discussions with other existing and potential customers and thereby could have the effect of limiting future benefits to GenCo and NIPSCO and its other retail customers, and, potentially, the State. Such information would also provide an unfair advantage to potential energy resource competitors and suppliers. The Confidential Information, if disclosed or otherwise made publicly available, would allow competitors of NIPSCO, and ultimately GenCo, to make strategic changes to their own business, marketing and negotiating plans, which would place NIPSCO's customers at an unfair competitive and economic disadvantage.

5. The Confidential Information is not available or ascertainable by third parties through normal or proper means. GenCo has maintained the confidentiality of the Confidential Information by taking all reasonable steps in order to protect the Confidential Information, including sharing such information internally on a need-to-know basis.

6. The Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by, persons who could obtain economic value from its disclosure or use. Public disclosure of the Confidential Information would cause substantial detriment to GenCo and others.

7. The Confidential Information is not available or ascertainable by third parties through normal or proper means. GenCo has maintained the confidentiality of the Confidential Information by taking all responsible steps in order to protect the Confidential Information, including sharing such information internally only on a need to know basis and only providing such information to external parties who have executed a confidentiality agreement with GenCo or are otherwise bound to keep the information confidential.

8. As described in the Motion and detailed above, the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by persons who could obtain economic value from its disclosure or use.

9. Further, public disclosure of the Confidential Information would cause substantial detriment to GenCo, NIPSCO, and its customers.

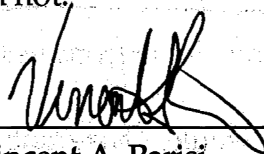
10. For all the foregoing reasons, the Confidential Information should be protected from public disclosure.

8. As described in the Motion and detailed above, the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by persons who could obtain economic value from its disclosure or use.

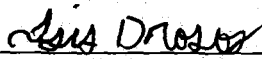
9. Further, public disclosure of the Confidential Information would cause substantial detriment to NIPSCO, its customers, and the State.

10. For all the foregoing reasons, the Confidential Information should be protected from public disclosure.

11. Further, Affiant sayeth not,

  
\_\_\_\_\_  
Vincent A. Parisi

The preceding Affidavit of Vincent A. Parisi was subscribed and sworn before me this 11 day of April 2025.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: March 16, 2033

My County of Residence: Lake

