

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY LLC FOR APPROVAL PURSUANT TO )  
IND. CODE §§ 8-1-42(a), 8-1-8.8-11 OF A SOLAR ENERGY )  
POWER PURCHASE AGREEMENT, INCLUDING TIMELY )  
COST RECOVERY. )

CAUSE NO. 45472

**INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S**  
**PROPOSED ORDER**

Comes now, the Indiana Office of Utility Consumer Counselor ("OUCC"), by counsel,  
hereby submits its Proposed Order to the Commission for its approval.

Respectfully submitted,



T. Jason Haas  
Attorney No. 34983-29  
Deputy Consumer Counselor

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

<b>VERIFIED PETITION OF NORTHERN INDIANA )</b>	
<b>PUBLIC SERVICE COMPANY LLC FOR )</b>	
<b>APPROVAL PURSUANT TO IND. CODE §§ 8-1-2- )</b>	<b>CAUSE NO. 45472</b>
<b>42(a), 8-1-8.8-11, OF A SOLAR ENERGY POWER )</b>	
<b>PURCHASE AGREEMENT, INCLUDING TIMELY )</b>	<b>APPROVED:</b>
<b>COST RECOVERY. )</b>	

**ORDER OF THE COMMISSION**

**Presiding Officers:**

**James F. Huston, Chairman**

**Stefanie N. Krevda, Commissioner**

**David E. Veleta, Senior Administrative Law Judge**

On December 23, 2020, 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 an Amended and Restated Solar Energy Purchase Agreement between NIPSCO and Green River Solar, LLC (“Green River”) dated December 23, 2020 (“Green River PPA”).

Also on December 23, 2020, NIPSCO filed its prepared testimony and exhibits constituting its case-in-chief including the direct testimony of Andrew S. Campbell, NIPSCO’s Director of Regulatory Support & Planning; Robert Lee, Vice President of Charles River Associates, Inc. (“CRA”); and Patrick N. Augustine, Vice President in CRA’s Energy Practice.

On February 16, 2021, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed the testimony and exhibits constituting its case-in-chief including the testimony of Anthony A. Alvarez, Utility Analyst in the OUCC’s Electric Division; Dr. Peter M. Boerger, Senior Utility Analyst in the OUCC’s Electric Division; and Michael D. Eckert, Assistant Director in the OUCC’s Electric Division.

On February 16, 2021, NIPSCO filed the rebuttal testimony of Mr. Campbell and Mr. Augustine.

The Commission set this matter for an evidentiary hearing to be held at 9:30 a.m. on March 11, 2021 in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. A Docket Entry was issued on March 4, 2021, advising that in accordance with ongoing COVID-19 pandemic, the hearing would be conducted via WebEx and providing related participation information. NIPSCO and the OUCC, by counsel, participated in the evidentiary hearing via WebEx video or audio, and the testimony and exhibits of NIPSCO and the OUCC, as well as Joint Exhibit No. 1, were admitted into the record without objection.

Based upon the applicable law and the evidence presented, 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. 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). 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 Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, 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. 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.

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 the 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. **The Green River Project.** Green River is an indirect, wholly-owned subsidiary of NextEra Energy Resources, LLC (“NextEra”). The Green River Project is being developed in Breckinridge County and Meade County, Kentucky and has an installed capacity of approximately 200 megawatts (“MW”).

4. **Requested Relief.** NIPSCO requests that the Commission enter a Final Order: (1) finding that the Green River PPA is reasonable and necessary, (2) authorizing NIPSCO to enter into the Green River PPA and determining the Green River Project to be an eligible Clean Energy Project for purposes of Ind. Code § 8-1-8.8-11; (3) authorizing the recovery of the retail jurisdictional portions of the power purchase costs on an accrual basis under the Green River PPA from retail customers through NIPSCO’s fuel adjustment clause (“FAC”) proceedings, or successor mechanism, over the 20-year term of the agreement; (4) approving confidential treatment of the Green River PPA pricing and other negotiated commercial terms and related confidential information; and (5) granting NIPSCO such additional and further relief as may be deemed or appropriate.

5. **NIPSCO’s Case-in-Chief.**

[The OUCC does not object to the testimony summary proposed by NIPSCO, but in the spirit of GAO 2020-005 II E 2, the recitation is not repeated here.]

## **6. The OUCC's Case-in-Chief.**

A. Peter M. Boerger, Ph.D. The OUCC's evidence supports the conclusion that NIPSCO failed to meet its burden of proof that the proposed Solar Projects are reasonable and necessary under Ind. Code § 8-1-8.8-11. Dr. Boerger stated that while he did not argue NIPSCO provided insufficient evidence for approval of the Brickyard and Greensboro Projects in Cause No. 45403, he did raise concerns about the economics of the proposal. Despite those concerns he did not oppose approval of the projects on economic grounds based on the materiality of the costs in that proposal. However, NIPSCO did not present evidence modifying its 2018 IRP modeling in Cause No. 45403 in the same way it presented in Cause No. 45462 and has in this proceeding, which leads the OUCC to oppose approval of the Green River Project.

Dr. Boerger testified that his developing understanding of MISO's ongoing work has led him to believe the revised modeling performed by NIPSCO for Cause No. 45462 and this Cause did not go far enough in capturing potentially significant revised system economics as penetration of intermittent resources grows. While the proposal in this Cause, similar to that in Cause No. 45403, is small relative to the size of NIPSCO's overall replacement program, he concluded that NIPSCO has not provided sufficient evidence to reach a conclusion as to the reasonableness and necessity of the project presented for approval.

Dr. Boerger testified that while he appreciated the additional modeling NIPSCO performed and, to NIPSCO's credit, NIPSCO attempted to address the issue of reduced capacity accreditation for solar resources that he raised relating to the Brickyard and Greensboro Projects, NIPSCO identified other significant changes to the modeling assumptions, including a large drop in load related to Rate 831. He also stated it appears NIPSCO presents some changes to its modeling approach that were not previously presented or reviewed in the 2018 IRP. Most importantly, he testified that the totality of the changes cannot be properly reviewed under the constraints of the statute (Ind. Code ch. 8-1-8.8) allowing only 120 days from the date of filing to the date of the Commission's final order.

Dr. Boerger testified that the OUCC is also concerned that other significant changes have arisen since 2018 that were not made to NIPSCO's modeling. For instance, while NIPSCO reported the effect of Rate 831 on its forecasted load, there have likely been other changes in expected load since 2018. Also, while NIPSCO modeled the effects of expected reductions in solar capacity accreditation, there are other lessons to be learned from ongoing MISO initiatives pertaining to the effects of increasing levels of intermittent resources that should be modeled, as well as information from sources other than MISO regarding the rapidly evolving energy sector. His conclusion was that based on his developing understanding of all these changes, NIPSCO's 2018 IRP is no longer a valid foundation for making decisions regarding implementation of the Short-Term Action Plan. As such, updates to the modeling that were performed by NIPSCO and reported in this filing, cannot reasonably form the basis for resource decisions at this time. He also stated that based on the scope of changes made to the 2018 IRP in this proceeding, the absence of workpapers relevant to the updated assumptions and modeling and the limited amount of time to evaluate such workpapers in this statutorily time-constrained proceeding, the OUCC is unable to

properly evaluate the evidence NIPSCO presented regarding its updated modeling, nor judge its reasonableness and the necessity of the resources that the updated modeling supports.

Dr. Boerger stated that NIPSCO has not provided sufficient evidence to show its proposed investments are reasonable and necessary, explaining that given three years have elapsed since the 2018 IRP. Given the major changes happening in the electric utility industry, NIPSCO must perform a comprehensive update of its IRP modeling and provide sufficient time for the OUCC and other stakeholders to review the modeling and until that is done, there will not be sufficient evidence to judge the reasonableness of NIPSCO's resource expansion proposals. He additionally noted that the concerns he expressed in Cause No. 45403 regarding increased PPA prices are amplified by significant issues in this case regarding NIPSCO's revised IRP modeling. Therefore, in his opinion, it would not make sense to approve new generation resources, no matter how small, until updated IRP modeling evidence can be presented and reviewed.

Dr. Boerger also noted that NIPSCO "stepped out" in its 2018 IRP by proposing such a large shift from thermal to renewable resources that shifted people's perceptions of what was, and is, possible for a utility dominated by coal-fired generation. He testified that the OUCC has been supportive of NIPSCO's renewable additions, with the caveat of some concerns about some choices NIPSCO made pertaining to those resource additions. He stated the OUCC does not oppose NIPSCO continuing to shift toward renewable resources and recognizes, as a leader in this area, NIPSCO faces some risks and possible additional costs, with the end result being a more environmentally friendly utility. He said it would be a mistake to expect a bold plan of action can be implemented without some need for reevaluation and updating, and those changes should be especially considered prior to major capital investments, such as those requested in this proceeding. While he acknowledged delaying decisions does come with a cost, he said the old adage of "measuring twice and cutting once" seems appropriate here. He also noted that Congress just recently reauthorized tax credits for solar facilities and NIPSCO is about to begin its 2021 IRP process.

Dr. Boerger concluded NIPSCO has not provided sufficient evidence to allow the OUCC to reach a conclusion as to the reasonableness and necessity of the Green River PPA presented for approval.

B. Anthony A. Alvarez. Mr. Alvarez supported Dr. Boerger's position in this proceeding that the OUCC cannot make a recommendation on the petition at this time. However, should the Commission move forward with approval of the petition, he had one recommendation: the Commission should require NIPSCO to formally trace and validate the chain of successive ownership representation of the Green River Project and provide documentation to the Commission and the OUCC showing the project's ownership from when the "Interconnection Customer" was first identified in the MISO GIA dated February 22, 2019, then subsequently, when it was bid into its Phase II RFPs. This is because the Interconnection Customer listed in the MISO GIA was not NextEra or Green River, but a company named "OSSER LLC."

C. Michael D. Eckert. Mr. Eckert testified NIPSCO's requested cost recovery treatment is consistent with prior Commission energy PPA cost recovery treatment approval. Should the Commission approve NIPSCO's request, Mr. Eckert recommended the Commission

authorize recovery of associated power purchase costs from retail customers through NIPSCO's FAC proceedings, or successor mechanism, over the entire term of the Solar PPAs.

## **7. NIPSCO's Rebuttal Testimony.**

A. Mr. Campbell. Mr. Campbell first responded to the concern expressed by Mr. Alvarez. He explained that OSER LLC ("OSER") is a subsidiary of Orion Renewable Energy Group LLC ("Orion"), who is a fairly well-known and a respected renewable energy developer. He noted that, through OSER, Orion partnered with Vectren South to construct a 50 MW solar energy project located in Spencer County, Indiana, which was filed with and approved by the Commission under a settlement agreement in Cause No. 45086. He explained NIPSCO had conversations with NextEra, which confirmed that NextEra purchased the Green River Project from OSER. He also noted that it is not unusual for renewable energy developers, such as NextEra, to purchase a project or book of business from another developer, as certain development companies specialize in the early development phases of a project then, after doing so, larger developers come in and take the project to completion. He testified that this information should alleviate any concerns the OUCC or Commission may have had about the ownership of the Green River Project.

In response to Dr. Boerger, Mr. Campbell testified NIPSCO, in coordination with CRA, submitted a well-received IRP in 2018, completed in conjunction with the All-Source RFP, which allowed NIPSCO to incorporate real-world market data and conditions in the 2018 IRP. He stated the 2018 IRP demonstrated an opportunity to transition NIPSCO's resource portfolio in a manner that would create significant customer savings, in part by taking advantage of available tax incentives. He explained that under the Short-Term Action Plan, NIPSCO began negotiating with wind projects coming out of the All-Source RFP. He said that as explicitly contemplated by the Short-Term Action Plan, in late 2019, CRA issued and administered the Phase II RFPs for NIPSCO, which were completed in early 2020, at which time NIPSCO began negotiations with the preferred projects identified by CRA in the Phase II RFPs. He also testified that those negotiations ultimately resulted in NIPSCO coming to terms with several solar and solar plus storage projects, that have been presented to the Commission. He explained that NIPSCO has submitted projects to the Commission shortly after the completion of commercial negotiations, generally within a couple months (beginning in mid-2020 and continuing through early 2021) in an attempt to allow the Commission and all interested stakeholders to complete their review as timely as possible. Throughout this time, NIPSCO has continued to monitor industry trends and market developments, including at MISO, and in executing the Short-Term Action Plan, NIPSCO has been responsive to market changes. He stated that NIPSCO also took the additional step of performing updated IRP modeling in early 2020, informed by the results from the Phase II RFPs in the form of the 2020 portfolio analysis.

Mr. Campbell continued by discussing how NIPSCO's evidence was sufficient, and in fact was more robust than the evidence presented in prior renewable generation CPCN requests, which all had been approved by the Commission. This evidence is generally the updated IRP modeling that Witness Augustine refers to as the "2020 portfolio analysis." He explained that NIPSCO provided this additional evidence because NIPSCO is well aware that the implementation of its Short-Term Action Plan represents a series of significant, long-term investments and commitments by NIPSCO, including some of the earliest utility-scale solar projects presented by

a jurisdictional utility in Indiana.; therefore, NIPSCO wanted to provide the most up-to-date analysis to support its proposal in this proceeding. He further explained the 2020 portfolio analysis was provided direct response to the OUCC's position in Cause No. 45403.

Mr. Campbell also testified that NIPSCO's 2018 IRP is still a valid foundation upon which to base resource decisions for at least three reasons: (1) the 2018 IRP process, which occurred in concert with the All-Source RFP, was robust and well-developed, ultimately resulting in the Short-Term Action Plan and has been well-received, including in the Director's Report; (2) the Commission has repeatedly relied upon the 2018 IRP in approving multiple clean energy projects that resulted from one of the RFPs completed in conjunction with the IRP or contemplated by the Short-Term Action Plan, including as recently as January 27, 2021 in the Commission order in Cause No. 45403 approving a pair of PPAs; and (3) NIPSCO voluntarily undertook the additional effort and expense to perform the 2020 portfolio analysis and then presented its results in support of its Verified Petition in this proceeding, which was directly in response to criticisms from the OUCC in Cause No. 45403.

In response to the OUCC's complaint that the statutory 120-day procedural schedule in this proceeding does not provide sufficient time for the OUCC to form an opinion of the reasonableness of NIPSCO's request, Mr. Campbell stated that NIPSCO has done its best to work with the OUCC to assist in its review of the evidence presented in NIPSCO's case-in-chief—such as providing thorough discovery responses and being available for informal discussions. He also noted that the OUCC did not submit a single discovery request seeking information about the 2020 portfolio analysis and Dr. Boerger did not participate in any informal discussion about it either, despite NIPSCO's offer to do so, as reflected in Attachment 1-R-A to his rebuttal testimony. He further noted that it was the Indiana Legislature, not NIPSCO or the Commission, who enacted Ind. Code ch. 8-1-8.8 and chose to include a 120-day procedural schedule in sub-section 11 to encourage the development of clean energy projects. Mr. Campbell went on to explain the OUCC was part of the 2018 IRP stakeholder process and has repeatedly been provided the 2018 IRP analysis in prior proceedings but only now claims it is no longer a sufficient basis for project approval. Furthermore, NIPSCO's 2020 portfolio analysis was provided in response to a criticism by the OUCC in Cause No. 45403 which increased the evidence the OUCC was required to review, but directly responding to the OUCC's concerns has now somehow created too much work for them in this proceeding. In his words, "[t]he OUCC cannot have it both ways." He stated that it is reasonable to expect that the OUCC would perform a timely review of the evidence NIPSCO has submitted. All of this forms the basis for his testimony that NIPSCO has provided more evidence than in prior cases and has thus met its burden of proof and submitted sufficient evidence on which the Commission should determine that the Green River Project reasonable and necessary

Mr. Campbell also directly rebutted Dr. Boerger's claim that NIPSCO's 2018 IRP is no longer a valid foundation for making decisions regarding implementation of the Short-Term Action Plan arising from that IRP, stating the 2018 IRP was well-developed and has continued to receive positive feedback from many sources, including in the Director's Report. He noted that Mr. Augustine discussed this topic more fully but that NIPSCO's timeline for implementing the Short-Term Action Plan has always been 3 years (2019-2021). He stated NIPSCO is currently on a reasonable and prudent path to implement the Short-Term Action Plan, and the Green River Project proposed for approval in this proceeding is an integral part of that plan, which is intended to replace the capacity from Schahfer, which is set to fully retire no later than 2023. However, if

the Commission were to adopt the OUCC's position, it would pose a significant disruption to NIPSCO's generation transition, thereby leading to reliability risk and exposing NIPSCO and its customers to substantial financial risk.

Mr. Campbell testified about the implications of adopting the OUCC's proposal, which would require NIPSCO to perform completely updated IRP analysis and only then seek approval of generation resource additions. He explained NIPSCO has been very diligent in its efforts to capitalize on tax incentives through innovative ownership, develop a diverse portfolio, and negotiate risk-balanced projects with industry-leading developers and that denying approval of the Green River Project and, in essence, requiring NIPSCO to "go back to the drawing board" for new IRP analysis would send the message that utilities can only act immediately after an IRP. This would have real-world implications for NIPSCO as it looks to replace Schahfer's retiring capacity, including eliminating three Indiana-based solar projects that will have significant economic benefits for the state and local economies, which could harm NIPSCO, its customers, and the State of Indiana. It would also send the wrong message about whether utilities can rely on their IRPs for ongoing generation decisions—unless the decisions are concurrent with the issuance of an IRP—and whether project developers should worry about the regulatory climate in Indiana. He said this would not be appropriate, especially in light of the Commission's somewhat recent decision to require IRPs to be submitted on a 3-year cycle (instead of a 2-year cycle). NIPSCO's processes leading to the Green River Project has been well-thought-out and appropriately timed as it transitions its resource portfolio to add diversity of resources, and to do so largely with resources located in Indiana.

Mr. Campbell acknowledged that the Green River Project was located in Kentucky, not Indiana, but explained the project allows for an element of regional or geographic diversity. He explained this was important because it allows NIPSCO to have projects spread throughout MISO LRZ6. This can help protect customers by better ensuring all of NIPSCO's future renewable generation assets will not be impacted by a lack of wind or sun at the same time, and also ensuring potential congestion in a particular area of MISO or NIPSCO's service territory will not impact all generation assets.

Mr. Campbell provided several implications of following the path the OUCC advocated for. First, the Green River Project submitted for approval in this proceeding would not be approved, which means NIPSCO and its customers would lose the benefits of the project. Second, NIPSCO would need to wait until its 2021 IRP cycle was completed in late fall of 2021. Mr. Campbell outlined what this timeline would look like if an RFP is run concurrent with the 2021 IRP: (1) RFP results would be expected in early 2022; (2) NIPSCO would then be required to identify preferred projects and negotiate deals all over again, which would likely take anywhere from 6-12 months; (3) then, in late 2022 through early 2023, NIPSCO would again need to file for Commission approval of any projects; (4) under a 120-day procedural schedule, this would lead to project approvals in early-to-mid 2023; (5) this would result in NIPSCO's projects coming out of a 2021 IRP not being approved until approximately 2 years after issuance of the IRP in fall 2023, which is not much different than the situation today, where NIPSCO submitted the Green River Project for approval in December of 2020, approximately 2 years after issuance of the 2018 IRP in the fall of 2018. Furthermore, the projects coming out of this process would likely not enter into commercial operation until late 2024 and into 2025 and would not qualify for the full 30% ITC. Looking at all of this, NIPSCO would be in a position of significant risk related to Schahfer's



retirement in 2023. He provided Figure 1 and explained that NIPSCO's "open" position without the 900 MWs from the three Solar Projects presented in Cause No. 45462, the Green River Project, or any additional projects would be 2,271 MWs (ICAP)—a significant gap that the Commission would likely not deem acceptable. He also noted the potential impact denial of the Green River Project could have on the viability of projects NIPSCO continues to negotiate.

Mr. Campbell testified about the risks this would place on NIPSCO. NIPSCO and its customers would likely face reliability concerns by not having enough resources or capacity to meet its resource adequacy needs within MISO. Further, this could result in NIPSCO not having enough physical resources to adequately hedge customers' MISO market exposure. In turn, this could result in volatility in NIPSCO's cost to service its customers. While under this scenario NIPSCO could rely on procuring capacity and energy through the MISO market, because of the magnitude of this open position, there is no guarantee that NIPSCO would be able to procure its needs affordably. He concluded that, undoubtedly, NIPSCO and its customers would be exposed to significant market risk.

Mr. Campbell also testified that NIPSCO takes its obligation to provide safe, reliable service at a reasonable cost very seriously, including planning to meet both the short- and long-term needs of its customers. Through its 2018 IRP, companion All-Source RFP, and subsequent Phase II RFPs, he said NIPSCO is now well into implementation of the Short-Term Action Plan that will ensure it continues to meet this obligation when Schahfer is retired. This proceeding is one of the steps in that Plan—a very important step. He explained that, following completion of the Short-Term Action Plan, NIPSCO will have a flexible, diverse, cost-effective, and much cleaner generation portfolio. Also, through owned generation resources, contracted PPAs, and participation in the MISO market, NIPSCO is confident it will be able to reliably serve customers every hour of every day at a reasonable price. He stated NIPSCO will not be doing this work in its own, as both MISO (primarily through its market oversight and resource planning efforts) and the Commission (primarily through its regulatory oversight) have important and complimentary roles in ensuring that NIPSCO's customers, and all customers in Indiana for that matter, will receive the electric service they deserve and expect.

Mr. Campbell contrasted NIPSCO's proposed implementation of the Short-Term Action Plan with the OUCC's proposed path, which is significantly more uncertain and risky and would lead to NIPSCO losing the opportunity to contract with the Green River Project. He cautioned that it could also have broader impacts by leading to cancellation of these and other projects NIPSCO has sought approval for, which would be bad for NIPSCO, its customers, and the State of Indiana more generally. This would inject significant uncertainty into Indiana's regulatory framework and very well could make developers hesitant to continue to work with NIPSCO and/or other Indiana utilities in the future. Given that NIPSCO is following the Commission's IRP process and timelines, and the costs of the Green River Project is market-based and aligned with NIPSCO's 2018 IRP, if the project is not approved, he believed it would be reasonable to expect developers may be hesitant to go through the time and expense to work with Indiana utilities. He concluded by testifying that it is important that the Commission not adopt the OUCC's position and thereby erect unreasonable regulatory hurdles for renewable projects, especially in situations like the one presented here where NIPSCO's proposed project is supported by a solid IRP, as updated in early 2020, and market-based RFPs.

B. Mr. Augustine. Mr. Augustine first testified that the Green River Project is unquestionably consistent with the 2018 IRP, noting the OUCC has not claimed that it is not, choosing rather to question the 2018 IRP itself. He explained that the 2018 IRP (including as updated in the 2020 portfolio analysis) continues to be a sufficient foundation on which to base the approval of the Green River Project, despite the OUCC's claims to the contrary through Dr. Boerger's testimony. He agreed with Dr. Boerger's general observations that the MISO market is changing, but disagreed with his assertion that NIPSCO's 2018 IRP is no longer a valid foundation for three major reasons: (1) NIPSCO's 2018 IRP was favorably reviewed by the Director's Report, particularly with regard to the use of a RFP to validate resource assumptions, something NIPSCO has done again with the Phase II RFPs that selected the Green River Project; (2) NIPSCO's 2018 IRP was specifically designed to be flexible in the face of evolving market conditions, and NIPSCO's Short-Term Action Plan explicitly called out changes that would be tracked in support of future resource decisions, meaning that the IRP conclusions were not reliant on a single set of assumptions that could later be invalidated by evolving market conditions; and (3) as a direct result of the flexibility built into NIPSCO's preferred portfolio strategy, NIPSCO performed updated analysis of its portfolio in 2020 to incorporate market changes, validate the direction of the 2018 IRP's preferred portfolio, and pivot slightly in its resource selection.

Following a recitation of several of the compliments from the Director's Report, Mr. Augustine testified the 2018 IRP was effective in identifying that a significant number of cost-effective renewable projects were available in the market to replace retiring coal capacity, with an acknowledgement that optionality was preserved to allow NIPSCO to continue to assess the market throughout the implementation of its resource plan. Since the initial All-Source RFP, NIPSCO has subsequently conducted the Phase II RFPs to solicit additional projects, a step that was fully consistent with the overall framework established in the 2018 IRP. He further explained that in all the CPCN proceedings NIPSCO has initiated for renewable projects coming out of the 2018 IRP, the Commission has generally been complimentary of NIPSCO's IRP. For example, as recently as January 27, 2021 in Cause No. 45403, the Commission lauded NIPSCO's 2018 IRP and found that proposed solar and solar plus storage PPAs coming out of the Phase II RFPs were supported by a well-developed IRP. He stated that he was aware of nothing that would impact the conclusion recently reached by the Commission, including anything the OUCC said in its testimony in this proceeding.

Mr. Augustine also provided background about the Short-Term Action Plan, which has always been intended for implementation from 2019-2021. In the 2018 IRP, the Short-Term Action Plan specifically stated that select replacement projects would be identified as part of the 2018 All-Source RFP, but that NIPSCO would "[c]onduct a subsequent All-Source RFP to identify preferred resources to fill remainder of 2023 capacity need (likely renewables and storage)."<sup>1</sup> He recalled that the Commission explicitly acknowledged this element of NIPSCO's Short-Term Action Plan in the 2019 CPCN proceedings for wind, noting that it preserved optionality.<sup>2</sup> Thus, he believed the OUCC should not be surprised that NIPSCO is seeking approval of projects coming out of RFPs that began in 2019, as this was by design.

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<sup>1</sup> See p. 2, Table 1-1; p. 179, Figure 9-32 of Attachment 3-A (the 2018 IRP) to Augustine direct testimony.

<sup>2</sup> See Commission order in Cause No. 45195 (at p. 10), issued on June 5, 2019, which stated that "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."

Mr. Augustine also emphasized that NIPSCO explicitly designed the Short-Term Action Plan to preserve flexibility to be able to respond to such developments. In the 2018 IRP, NIPSCO noted that the Short-Term Action Plan did not commit to immediately filling the entire 2023 capacity gap but left room to evaluate market and technology changes on a dynamic basis. It specifically noted that such changes might include MISO market changes regarding renewable resource availability, renewable capacity credit, and seasonal capacity constructs. He explained that, in fact, NIPSCO included a full section on “Capacity Resource Planning With Non Dispatchable Resources” in its 2018 IRP chapter on the preferred portfolio. Within this section, NIPSCO noted that MISO was likely to move to an ELCC capacity credit methodology for solar, that renewable capacity credit is likely to change over time, and that seasonal capacity accounting may be required in the future as part of MISO’s Resource Availability and Need initiative. In anticipation of these market changes, NIPSCO’s 2018 IRP emphasized that if capacity credit rules or methodologies change, NIPSCO’s IRP path can be cost-effectively scaled to adjust and by not committing to any single, large asset for the majority of UCAP needs, NIPSCO can flexibly adapt as rules and technologies change. This is precisely what NIPSCO has done as it has implemented the Short-Term Action Plan. He noted as well that the 2020 portfolio analysis accounted for market changes and incorporated evolving technology options that were identified in the Phase II RFPs and how the inclusion of more paired solar plus storage capacity through the Bridge II and Cavalry Projects (presented in Cause No. 45462) was an example of how NIPSCO has been slightly adjusting its preferred portfolio resource selection in response to market changes.

Mr. Augustine testified extensively about the reasons for and contents of the 2020 portfolio analysis, which was undertaken to evaluate the direction of NIPSCO’s preferred portfolio in light of the new resource information received through the Phase II RFPs and in light of several changes to NIPSCO’s system and the MISO market in which NIPSCO participates. He outlined what Dr. Boerger had said in Cause No. 45403, including suggesting that NIPSCO may need to revisit the Short-Term Action Plan from the 2018 IRP due to observed increases in solar costs and evolving MISO rules regarding solar capacity credit. According to Mr. Augustine, the 2020 portfolio analysis is exactly the kind of additional IRP modeling Dr. Boerger had requested in that proceeding, and this analysis addressed both changes in solar project prices and certain changes in the MISO market from the RIIA studies. He stated that based on a recent discovery response, it does not seem the OUCC or Dr. Boerger have even reviewed the 2020 portfolio analysis to determine if it is responsive to and addresses the concerns expressed in Cause No. 45403.<sup>3</sup>

Mr. Augustine outlined the contents of the 2020 portfolio analysis<sup>4</sup> in some detail, which included:

- A comprehensive accounting of NIPSCO’s existing portfolio of resources and associated operational characteristics, including plant capacities, heat rates, variable operations and maintenance costs, forced outage and maintenance rates, must run expectations for coal

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<sup>3</sup> See Attachment 2-R-A. The OUCC noted in its response to discovery that NIPSCO has represented that the 2020 portfolio analysis addressed both items, but that Dr. Boerger has not analyzed the 2020 portfolio analysis to determine if this is the case.

<sup>4</sup> Mr. Augustine explained that while a copy of his workpapers related to the 2020 portfolio analysis was provided to the OUCC in Cause No. 45462, NIPSCO inadvertently did not provide those to the OUCC when it submitted its case-in-chief in this proceeding. However, NIPSCO provided these exact same work papers to the OUCC on the same day the OUCC raised this issue to NIPSCO inside of this proceeding.

units, existing power purchase agreement and feed in tariff terms, short-term market capacity purchase expectations, and generation profiles for existing and recently approved intermittent resources.

- Monthly projections for NIPSCO's load on a total energy and peak load basis, along with hourly load shapes, demand side management (DSM) expectations, and a comparison with the load forecast used in the 2018 IRP.
- A documentation of all key commodity price inputs, including coal prices, natural gas prices, CO<sub>2</sub> prices, MISO power prices, MISO capacity prices, and a summary of the stochastic distribution used for power prices. A comparison of key variable inputs relative to what was used in the 2018 IRP was also provided.
- A detailed summary of the fourteen new resource tranches that were developed from the Phase II RFPs, including key operational parameters such as size, cost, capacity factor expectations, hourly generation profiles for renewable resources, and begin and end dates. A summary of the new resources that were included in each of the six portfolios that were evaluated was also provided, including the additional market capacity purchases assumed for each portfolio over time.
- Financial input assumptions related to NIPSCO's cost of capital and other related variables, as well as relevant capital and fixed operations and maintenance expenditures expected over time for the existing portfolio and recently approved renewable resources.
- A summary of major portfolio analysis outputs, including annual capacity accounting, annual CO<sub>2</sub> emissions accounting, and annual revenue requirement accounting by portfolio and by component, along with a net present value summary. The integrated scorecard of results across all of NIPSCO's key metrics for each portfolio was also provided.
- Detailed revenue requirement financial statements for each portfolio and each of the 200 stochastic iterations that were evaluated, including annual summaries of key variable portfolio cost components and comprehensive financial rate base accounting.

Mr. Augustine stated that Dr. Boerger did not provide a substantive review or critique of the 2020 portfolio analysis, but has summarily concluded that NIPSCO's updates to the modeling reported in this proceeding relying on a now invalid foundation (the 2018 IRP), cannot reasonably form the basis for resource decisions at this time. He said Dr. Boerger has effectively "moved the goalposts" by initially requesting in Cause No. 45403 that NIPSCO update its analysis and now, after NIPSCO did precisely what he requested, asserting that the fully responsive updated analysis provided in NIPSCO's case-in-chief in this proceeding cannot be relied upon because its foundation is invalid.

As Mr. Augustine had explained in his direct testimony, the 2020 portfolio analysis included an updated NIPSCO load forecast (including, but not limited to, load changes from NIPSCO's implementation of Rate 831), updated commodity price inputs (including power price forecasts reflective of recent views of the MISO market's generation mix evolution), changes to the assumed capacity credit for solar over time (based on ongoing developments at MISO), and

the introduction of stochastic renewable output variability. The analysis also contained six new portfolio concepts that were developed based on the results of the Phase II RFPs and MISO's changing market rules. While this does constitute updates and changes to the 2018 IRP, he explained that NIPSCO did not make any wholesale changes to its modeling approach as part of the 2020 portfolio analysis. In fact, the modeling approach deployed in the 2020 portfolio analysis was quite similar to the approach used in NIPSCO's 2018 IRP, using the same methods and models that the stakeholders, including the OUCC and the Commission, reviewed during the 2018 IRP process. He explained these methods and models, and concluded it would be reasonable for the OUCC to review the updated analysis as part of this case in the context of the 2018 IRP, which they are extremely familiar with from past regulatory proceedings.

Mr. Augustine noted that any changes in approach were made to account for recent power market developments, changes that Dr. Boerger himself identified in his direct testimony in Cause No. 45403. He provided further testimony about how the 2020 portfolio analysis has largely addressed several changes in the MISO market, as discussed in the OUCC's responses to NIPSCO's discovery requests. He also noted that Dr. Boerger only offered a vague assertion that his "developing understanding of the work of the MISO has led [him] to believe the revised modeling...did not go far enough in capturing potentially significant revised system economics as penetration of intermittent resources grows." Only later, in response to NIPSCO data requests, did Dr. Boerger identify other matters that he believes have not been considered or addressed in the 2020 portfolio analysis, such as the growing "energy adequacy focus" in MISO's RIIA initiative, including implications for operating reserves and congestion; a growing "operating reliability" focus in the RIIA initiative, including issues related to system stability; MISO's ongoing Resource Availability and Need initiative; and the effects of increasing levels of intermittent resources on hourly market prices.<sup>5</sup> Mr. Augustine responded by discussing his familiarity with MISO's RIIA initiative, including a recent summary report published in February of 2021 as part of this initiative. He then explained that NIPSCO's 2020 portfolio analysis largely addressed MISO's RIIA initiative, particularly with regard to resource adequacy and energy adequacy.

Mr. Augustine began his concluding testimony by stating NIPSCO's 2018 IRP developed a clear conclusion that retirement of existing coal-fired facilities and replacement with predominantly renewable resources provided cost savings to customers and mitigated risk, and NIPSCO is well on its way down the path to implementing this plan. He testified that the Green River Project is consistent with the Short-Term Action Plan that was established. Therefore, he offered confidence that NIPSCO has a solid evidentiary basis to continue implementing the Short-Term Action Plan and that the Green River Project is reasonable and necessary generation additions for NIPSCO.

Mr. Augustine reiterated that since the filing of its 2018 IRP, NIPSCO has been consistently evaluating and reevaluating the markets and its resource options; conducted the Phase II RFPs in 2019-2020 to gain the latest market cost and technology information for resource decisions; and performed a thorough portfolio analysis in 2020 to confirm the direction of the preferred portfolio and the Short-Term Action Plan. While Dr. Boerger says that NIPSCO should consider the "old adage of measuring twice and cutting once," Mr. Augustine noted that Dr. Boerger failed to acknowledge that NIPSCO has, quite literally, measured twice already. This is

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<sup>5</sup> See Attachment 2-R-B, OUCC Response to NIPSCO Discovery Request No. 1-5.

because NIPSCO performed the 2018 IRP, which was informed by and based on the results of the All-Source RFP. NIPSCO then not only conducted a second set of all-source RFPs, but also took the market-based results from the Phase II RFPs and incorporated them into the 2020 portfolio analysis to “double-check” its approach. Finally, he noted that NIPSCO’s Short-Term Action Plan, including the Green River Project, is largely focused on replacing the retiring Schahfer coal plant’s capacity. NIPSCO thus expects to retain its coal-fired Michigan City plant, its natural gas-fired Sugar Creek combined cycle units, and its natural gas-fired Schahfer gas peakers beyond 2023 and will continue to evaluate the best long-term course of action for the generation portfolio into the future. The Green River Project is one part of a modular, flexible resource acquisition strategy that will still allow for continued adjustment as the market continues to evolve and as NIPSCO performs its next IRPs in 2021 and beyond.

Mr. Augustine attached to his rebuttal testimony the OUCC’s response to NIPSCO DR 1-5, in which the OUCC provides additional evidence supporting Dr. Boerger’s testimony as to the other significant changes that have occurred since NIPSCO’s 2018 IRP modeling but were not modeled in NIPSCO’s 2020 revision, which lead Dr. Boerger to conclude that NIPSCO’s 2018 IRP and its 2020 revisions to the 2018 IRP modeling no longer serve as a valid foundation for making decisions about implementing NIPSCO’s Short-Term Action Plan. In that response, the OUCC identifies with specificity the reliability concerns being raised by MISO in its RIIA study that were not included in NIPSCO’s 2020 modeling revisions. Beyond reliability considerations, this DR response also explains that the market price effects related to increasing levels of intermittent resources are also important to evaluating the reasonableness of generating resources and must be considered in updated modeling. These specific reliability and market-related issues are in addition to the other matters that may have changed since NIPSCO’s 2018 IRP, including changes in load forecasts and updated insights into generation technology capabilities and costs.

## **8. Commission Discussion and Findings.**

A. NIPSCO’s 2018 IRP and 2020 Portfolio Analysis. 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.<sup>6</sup> Similarly, in determining the reasonableness and necessity for the Green River Project, we find it appropriate to include the application of principles reflected in the following Chapter 8.5 factors in our consideration: (1) the cost of the Green River Project; (2) the consistency of the Green River Project to NIPSCO’s IRP; (3) the need for the Green River Project; (4) and the reliability and the competitive solicitation of the Green River Project.

The OUCC argues that NIPSCO failed to meet their burden of proof that the proposed Green River Project is reasonable and necessary under Ind. Code § 8-1-8.8-11. Dr. Boerger stated the OUCC was unable to make a recommendation and concluded that NIPSCO “has not provided

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<sup>6</sup> See, *Rosewater Order* at 50-54; *Crossroads Order* at 27-30; *N. Ind. Pub. Serv. Co.*, Cause No. 45403, at 24-26 (IURC Jan. 27, 2021); *Ind. Mich. Power Co.*, Cause No. 44511, at 7-8 (IURC Feb. 4, 2015); and *N. Ind. Pub. Serv. Co.*, Cause No. 45195 (IURC Jun. 5, 2020) (Chapter 8.5 factors relevant for clean energy projects under Chapter 8.8); 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).

sufficient evidence to reach a conclusion as to the reasonableness and necessity of the project presented for approval.” NIPSCO provided a revision to its 2018 IRP, the “2020 portfolio analysis,” in this proceeding to support its proposal. This revision contains several significant changes to its 2018 IRP modeling assumptions. The OUCC states that presenting new IRP modeling in the context of an Ind. Code ch. 8-1-8.8 proceeding does not provide for sufficient time to review the new information presented. Additionally, the OUCC is concerned other significant changes have arisen since 2018 that were not made to NIPSCO’s modeling. Finally, it is the OUCC’s understanding that the underlying data was not submitted to the Commission and is therefore not part of the evidentiary record upon which a decision can be made.

To support its claim, the OUCC notes NIPSCO’s position that it is necessary to revise the 2018 IRP based on “new information received in the Phase II RFPs and to reflect changes to NIPSCO’s system and other market conditions.”<sup>7</sup> Based on this position, the OUCC argues that NIPSCO’s 2018 IRP is no longer a valid foundation for making decisions regarding implementation of the Short-Term Action Plan arising from the 2018 IRP. Dr. Boerger explains that the OUCC did not oppose two very recent projects in Cause No. 45403 (e.g., the Greensboro and Brickyard Projects with which NIPSCO executed PPAs) on economic grounds, but NIPSCO did not provide the revised IRP analysis in that proceeding. He states that while materiality was a consideration in Cause No. 45403, the concerns the OUCC expressed in that case regarding increased PPA prices are amplified by issues in this case regarding NIPSCO’s revised IRP modeling.

Dr. Boerger’s opinion that the 2018 IRP no longer provides a valid foundation to support the implementation of the Short-Term Action Plan is based NIPSCO’s decision to revise the 2018 IRP and his understanding of significant changes occurring at MISO and in the electric utility industry generally. This opinion is not based on the mere passage of time since the 2018 IRP was filed, but on the fact that NIPSCO itself recognized that “the marketplace is dynamic and evolving.”<sup>8</sup> While we will not recite each update or modification Mr. Augustine explained in his rebuttal testimony, we note that the 2020 portfolio analysis, among other things, included: (1) an update to NIPSCO’s load forecast (including changes from NIPSCO’s implementation of Rate 831); (2) updated commodity price inputs (including power price forecasts reflective of recent views of the MISO market’s generation mix evolution); (3) changes to the assumed capacity credit for solar over time (based on ongoing developments at MISO); and (4) the introduction of stochastic renewable output variability. NIPSCO conducted the 2020 portfolio analysis to consider changes that had occurred since its 2018 IRP. While NIPSCO contends the 2020 portfolio analysis is not a full re-evaluation of the 2018 IRP, these revisions represent significant updates to the 2018 IRP. Mr. Augustine provides extensive discussion explaining the updates of the 2020 portfolio analysis and why these updates were needed.<sup>9</sup> Mr. Augustine then describes how NIPSCO developed and evaluated portfolio concepts in the 2020 portfolio analysis as it did for the 2018 IRP.<sup>10</sup> Although NIPSCO states that the 2020 portfolio analysis confirmed the direction of the 2018 IRP’s preferred portfolio, NIPSCO’s revised IRP modeling was, in effect, an acknowledgment that the modeling conducted during the 2018 IRP is no longer valid.

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<sup>7</sup> Petitioner’s Confidential Exh. 2, Augustine Direct, p. 16, ll. 7-8.

<sup>8</sup> Petitioner’s Confidential Exh. 2, Augustine Direct, p. 16, ll. 2-3.

<sup>9</sup> Petitioner’s Confidential Exh. 2, Augustine Direct, p. 16, l. 9 – p. 20, l. 13.

<sup>10</sup> Petitioner’s Confidential Exh. 2, Augustine Direct, p. 21, l. 1 – p. 24, l. 6.

Dr. Boerger raised additional factors that are changing in the “dynamic and evolving” marketplace and not modeled by NIPSCO in the 2020 portfolio analysis. Dr. Boerger’s additional issues include: (1) energy adequacy and operational reliability in MISO’s RIIA initiative; (2) developments in MISO’s ongoing Resource Availability and Need initiative; (3) the effects of increasing levels of intermittent resources on hourly market prices; (4) recent and expected advancements in technological capabilities of generation resources; and (5) changes in expected costs of new generation technologies, among other issues.<sup>11</sup> We agree with Dr. Boerger’s concerns. NIPSCO’s revised analysis, along with the additional factors not taken into account, present compelling issues.

The difficulty with presenting the revised IRP analysis in a proceeding under Ind. Code ch. 8-1-8.8 is the ability of the OUCC and other interested stakeholders to properly evaluate the analysis within the 120-day statutory timeframe. In a proceeding to evaluate an IRP presented under Ind. Code § 8-1-8.5-3(e)(1) and 170 IAC 4-7, interested parties are allowed to participate in meetings and interact with utility personnel over the months during which the analysis is prepared, and are allowed 90 days to submit comments once the utility has issued its IRP. After a draft report from the Director is issued within 150 days of IRP submission, interested stakeholders are then allowed 30 days after the draft report to submit supplemental responses, with the Director issuing a final report within 30 days of the supplemental response deadline. There is a substantial amount of time in which the OUCC and other stakeholders participate in the IRP process, up to and sometimes more than a year, as opposed to two months, at most, to evaluate the revised IRP as presented in this proceeding. While the Director issues a report evaluating the IRP, we do not approve or deny or make any findings or conclusions on the IRP. Under 170 IAC 4-7-2.2, the Director’s report is limited to commenting on the IRP’s compliance with the IRP requirements and listing areas where the Director believes the IRP fails to comply with the requirements of the rule.<sup>12</sup> The Director’s report may not comment on “the desirability of the utility’s preferred resource portfolio; or a proposed resource action in the IRP.”<sup>13</sup> NIPSCO should not interpret statements in the Director’s report as an endorsement from the Commission on the legitimacy of the IRP or use these statements as a basis to conclude the IRP or the preferred resource plan is correct or valid. Stakeholders may comment on the forecast and modeling used by the utility in the IRP, but the IRP is ultimately the responsibility of the utility when presented to the Commission.<sup>14</sup> This process, from the development of the IRP by the utility to the presentation to the Commission, including comments by stakeholders, draft report, supplemental comments, and the final report, may take a year or more. Indeed, as noted by NIPSCO, its 2018 IRP was submitted to the Commission on October 31, 2018, with the final report by the Director issued on February 10, 2020.<sup>15</sup> NIPSCO’s arguments that the OUCC participated in the 2018 IRP process or that the OUCC supported the 2018 IRP in Cause No. 45403 are not relevant in light of the revised IRP NIPSCO submitted in this proceeding. In Cause No. 45403, and earlier proceedings which relied on NIPSCO’s 2018 IRP, the OUCC did not challenge the sufficiency of the 2018 IRP. However, in those proceedings, NIPSCO did not present the revised 2020 portfolio analysis upon which it is seeking in this proceeding to support the sufficiency of its preferred portfolio. NIPSCO cannot

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<sup>11</sup> Petitioner’s Exh. 2-R, Augustine Rebuttal, Attachment 2-R-B.

<sup>12</sup> 170 IAC 4-7-2.2(g).

<sup>13</sup> *Id.*

<sup>14</sup> 170 IAC § 4-7-2.6(d).

<sup>15</sup> Petitioner’s Confidential Exh. 1-R, Campbell Rebuttal, p. 11, ll. 4-6.



present the 2020 portfolio analysis, with the extensive revisions described, and then attempt to diminish its impact by stating it merely confirms the direction of the 2018 IRP preferred portfolio. Rather, the 2020 portfolio analysis provides a broad update of the 2018 IRP, which NIPSCO then uses to support this proposal.

NIPSCO also complains it is “unreasonable” for the OUC to raise issues in Cause No. 45403 and then when those issues are addressed in the 2020 portfolio analysis, “to argue that NIPSCO has not provided sufficient evidence and that the OUC does not have enough time to evaluate the additional evidence it asked for.”<sup>16</sup> However, the OUC does need an appropriate amount of time to evaluate the changes presented in this proceeding. We agree it is not feasible for the OUC to fully evaluate the revised IRP within the constrained timeframe. Finally, we note the underlying information for the 2020 portfolio analysis was not presented as part of the evidentiary record in this proceeding. The only evidence regarding the 2020 portfolio analysis is the descriptive testimony submitted by NIPSCO. While NIPSCO provided what it considers to be its underlying workpapers to the OUC, these workpapers are not before the Commission, and therefore, we cannot evaluate any underlying support for the description or use it as a basis for granting the relief requested. The testimony provides a descriptive analysis of the changes made in the 2020 portfolio analysis; however, there is no quantifiable evidence before us that shows the source of these descriptions, nor can we evaluate whether the revisions are appropriate. The workpapers provide the specific basis for the descriptive testimony, and without this information in the record before us, we cannot completely assess the 2020 portfolio analysis. However, even if we had before us sufficient evidence to allow us to evaluate the descriptive testimony, we must consider whether it is reasonable for a utility to change its modeling in Ind. Code ch. 8-1-8.8 filings.

But, importantly, the OUC concerns are not grounded solely in the inadequate time provided in a proceeding under Ind. Code ch. 8-1-8.8 for evaluating new IRP modeling. Dr. Boerger’s testimony and the OUC discovery response attached to Mr. Augustine’s testimony show that MISO is taking seriously in its RIIA study the challenges involved in incorporating high levels of intermittent sources into its system. While NIPSCO’s 2018 IRP was based on the established MISO rules at that time, we agree with Dr. Boerger that the work MISO is doing under its RIIA study and its RAN initiative provide reasons for caution at this time. A Short-Term Action Plan established under MISO’s 2018 requirements are now being called into question. NIPSCO even acknowledges changes in the industry require revision of the 2018 IRP. The evidence presented raises concerns regarding the adequacy of generation capacity in the future. The Indiana General Assembly addressed this concern in Ind. Code § 8-1-8.8-1(b), which notably states:

The purpose of this chapter is to enhance Indiana's energy security and reliability by ensuring all of the following:

- (1) Indiana's and the region's energy production or generating capacity continues to be adequate to provide for Indiana's current and future energy needs, including the support of the state's economic development efforts.

Although it is not ideal to deny proposals that have been negotiated with developers, the uncertainty caused by significant changes not known at the time the plan was established justifies

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<sup>16</sup> Petitioner’s Exh. 2-R, Augustine Rebuttal, p. 14, ll. 5-7.

this decision. While we are concerned that our inability to approve NIPSCO's proposal in this proceeding results in the non-recovery of some costs, the immediacy of NIPSCO's 2021 IRP, along with the federal government's recent approval of extension to investment tax credit provisions significantly mitigates those costs.

B. NIPSCO's Evidence Is Insufficient. In this proceeding, in order to encourage clean energy projects under Ind. Code ch. 8-1-8-8, we must find that a clean energy project is "reasonable and necessary."<sup>17</sup> NIPSCO provided evidence in this proceeding in the form of the 2020 portfolio analysis. This analysis provides revised modeling to NIPSCO's 2018 IRP and is used as the basis for NIPSCO's request in this proceeding. As set forth above, we are unable to make a reasonable and necessary determination based on the revised IRP submitted by NIPSCO in this petition. The acknowledgement by NIPSCO that sufficient changes in the electric industry warrant revision of the 2018 IRP, the evidence that the OUCC is unable to make an informed analysis of the revised IRP in the time frame established in this proceeding, and the fact that the data underlying the 2020 portfolio analysis is absent from the record before us all contribute to NIPSCO's failure to support its assertion that the 2020 portfolio analysis forms a reasonable basis for the relief requested. Therefore, the evidence presented is insufficient to support NIPSCO's request that the Green River PPA is "reasonable and necessary" under Ind. Cod § 8-1-8.8-11(a).

C. Conclusion. We find the evidence of record in this proceeding does not support approval of the Green River Project. NIPSCO has the burden to present evidence in its case in chief to support its new IRP modeling, regardless of the analysis the OUCC did or did not perform in this case. NIPSCO must present in its case in chief sufficient evidence to support the new IRP modeling that it wants this Commission to accept, and the fact that it did not file any workpapers to support its testimony is telling. We are further convinced that modeling beyond what NIPSCO performed for this proceeding is necessary. Both the OUCC and NIPSCO admit MISO is studying and raising serious concerns about the reliability effects of increasing levels of intermittent resources. NIPSCO only incorporated some of the changes identified by Dr. Boerger into its updated modeling. While we are not sending a message to project developers that this Commission is opposed to NIPSCO's plans for high levels of intermittent resources on its system, it is clear, however, the assumptions used in NIPSCO's 2018 IRP are being addressed by MISO and should be adequately considered prior to the kind of major investment proposed in this proceeding is undertaken. While we in this order only make judgments on this case based on the facts presented, we note that utilities presenting new IRP modeling have the burden to ensure that the Commission, the OUCC and other stakeholders have sufficient opportunity to verify the new modeling, and that it is a sufficient basis to determine that a clean energy project is reasonable and necessary. Requesting approval under Ind. Code ch. 8-1-8.8, as NIPSCO, as is its right, has done in this case requires transparent and complete information filed as part of a utility's case in chief, which NIPSCO has not done. In situations where new modeling is required and new developments, such as at MISO, have occurred, utilities would be well advised to consider whether they are providing adequate opportunity for review under Ind. Code ch. 8-1-8.8. Ultimately, we are unable to determine the solar projects are reasonable and necessary under Ind. Cod § 8.1.8.8-11(a) based on the lack of adequate support in the record for the 2020 portfolio analysis.

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<sup>17</sup> Indiana Code § 8-1-8.8-11(a).

**9. Confidential Information.** On December 23, 2020, NIPSCO filed a motion for protective order, which was supported by affidavit showing documents to be submitted to the Commission were trade secret information within the scope of Indiana Code §§ 5-14-3-4(a)(4) and (9) and Indiana Code § 24-2-3-2. On January 14, 2021, 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 pursuant to Indiana Code § 5-14-3-4 and Indiana 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 Indiana Code Ch. 5-14-3 and Indiana Code § 8-1-2-29, and held confidential and protected from public disclosure by this Commission.

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

1. NIPSCO has not provided sufficient evidence to support its request in this proceeding, therefore NIPSCO's petition is denied.

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

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

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

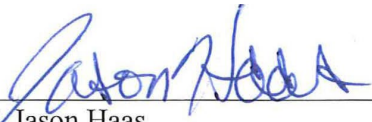
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Dana Kosko  
Secretary of the Commission

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing *Indiana Office of Utility Consumer Counselor's Proposed Order* has been served upon the following counsel of record in the captioned proceeding by electronic service on March 19, 2021.

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