

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF WHITING CLEAN ENERGY, INC.,)
AND BP PRODUCTS NORTH AMERICA, INC.,)
SEEKING TERMINATION OF ALTERNATIVE)
REGULATORY TREATMENT PURSUANT TO)
IND. CODE 8-1-2.5 AND ESTABLISHMENT OF)
ASSOCIATED SERVICE TERMS, IN LIGHT OF) CAUSE NO. 45071
MATERIAL CHANGES IN CIRCUMSTANCES.)
_____)
)
RESPONDENT: NORTHERN INDIANA PUBLIC)
SERVICE COMPANY)
)

**JOINT MOTION OF WHITING CLEAN ENERGY, INC. , BP PRODUCTS NORTH
AMERICA, INC., AND NORTHERN INDIANA PUBLIC SERVICE COMPANY FOR
CONFIDENTIAL TREATMENT OF A CAPACITY TRANSACTION**

Petitioner Whiting Clean Energy, Inc. (“WCE”), BP Products North America, Inc. (“BP”), and Respondent Northern Indiana Public Service Company LLC (“NIPSCO”), jointly by counsel, pursuant to 170 IAC 1-1.1-4 and Indiana Code §§5-14-3 *et seq.*, 8-1-2-29 and 24-2-3 *et seq.* respectfully request that the Indiana Utility Regulatory Commission (“Commission”) issue an order finding that the agreement for the provision of capacity referenced as the “Transaction document” in WCE’s and NIPSCO’s “Joint Motion of Whiting Clean Energy, Inc. and Northern Indiana Public Service Company for Interim Approval of Capacity Transaction” (“Motion for Interim Approval”), filed contemporaneously with this Motion, be deemed confidential and that safeguards be adopted for its handling and treatment, including protecting it from disclosure outside the Commission. In support of this Motion, WCE and NIPSCO state as follows:

1. The Transaction document was entered into between NIPSCO and BP Energy Company, (“BP Energy”) an affiliate of BP Products North America, Inc. (“BP”) for the sale of

50 MW of Zone 6 capacity for the purposes of satisfying NIPSCO's Resource Adequacy obligations for MISO Planning Year 2018-2019.

2. As described in the Affidavit of Kevin Revees, BP Energy's Vice President of Power Origination, attached herewith as Exhibit A, and the Affidavit of Andrew S. Campbell of NIPSCO, attached herewith as Exhibit B, the Transaction was awarded at the conclusion of a confidential, competitive, bidding process that was conducted at arms-length. That process was initiated by NIPSCO's issuance of a Request for Proposals to which BP Energy was one of a number of responsive bidders. In its initial bid sheet, BP Energy identified WCE as a potential capacity resource for supplying the 50 MW of Zone 6 capacity.

3. Materials submitted in the course of the bidding process were treated as confidential both by those responding to the RFP, who are competitors in the marketplace, and NIPSCO.

4. The specific terms of the Transaction document, including the agreed upon price for the capacity, are not generally available to the public through proper means and are subject to reasonable to protect their dissemination.

5. In addition, the specific terms of the Transaction document, are competitively sensitive and, if disclosed to the public, could provide competitors an advantage in future bidding processes. The information contained therein would reveal information related to BP Energy's proprietary modeling and analysis of wholesale capacity markets, thus providing competitors and potential competitors of BP Energy a competitive advantage. In addition, public disclosure of the terms would reveal sensitive and protected information about NIPSCO's capacity position and bidding strategy into the MISO market.

6. Accordingly, public disclosure of the Transaction document would provide competitors an opportunity to achieve a competitive advantage and to secure actual or potential economic value against both BP Energy and NIPSCO.

7. The Transaction document, therefore, has independent economic value which is derived from not being generally available to the public through proper means, and which is subject to the reasonable efforts to protect the dissemination of the proprietary information which is not otherwise available in the public domain.

8. Based upon the above description WCE and NIPSCO request the Commission enter a preliminary determination that the Transaction document is “Confidential Information” and is confidential, proprietary, competitively sensitive and/or 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 WCE and NIPSCO to safely submit or otherwise make available the Confidential Information under seal for an in camera inspection by the presiding Administrative Law Judge and the Commission for a final determination of the appropriateness of the request for protection.

9. Once a preliminary determination of confidentiality has been made, WCE and NIPSCO will submit the Transaction document through the Commission’s online filing system using the Confidential Filing mechanism and an electronic copy on CD-ROM in a sealed envelope and designating that the contents are confidential and proprietary material submitted under a preliminary order of confidentiality. The submission of the Confidential Information is subject to and contingent upon the WCE’s and NISPCO’s separate and independent rights to retrieve the Confidential Information before it can be disclosed to any members of the public should the Commission make a final determination finding that the material submitted under seal should not be protected.

10. Upon a preliminary determination that the Confidential Information is confidential and/or trade secret, WCE and NIPSCO propose that the Commission issue a Docket Entry adopting the following procedures to assure the protection of the information provided by WCE and NIPSCO, which they believe 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 examination and 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.

11. BP, WCE and NIPSCO will make copies of the Confidential Workpapers available to all parties who have entered into a Confidentiality/Non-Disclosure Agreements with BP, WCE and NIPSCO.

Agreed and respectfully submitted,

LEWIS & KAPPES, P.C.

/s/ Joseph P. Rompala

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing has been served via electronic mail, this 18th day of May, 2018, upon the following:

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EXHIBIT A

Affidavit of Kevin Reeves

Affidavit of Kevin Reeves

Kevin Reeves, upon his oath, deposes and states as follows:

1. I am the Vice President of Power Origination for BP Energy Company ("BP Energy"), a subsidiary of BP Products North America Inc., and an affiliate of Whiting Clean Energy ("WCE").
2. I am over the age of eighteen (18) and have personal knowledge of the statements made herein.
3. Among other activities, BP Energy is engaged in the buying and selling of energy on the wholesale market from a variety of energy resources, including the provision of marketing services for various entities.
4. There exist numerous entities in the marketplace who provide such services and who are competitors, or potential competitors, of BP Energy.
5. BP Energy is under contract with WCE to provide marketing services related to the sale of capacity from the facility. As part of that agreement, BP Energy acquires zonal resource credits from WCE and then markets those credits.
6. In that role, in July, 2017, BP Energy entered into a bi-lateral agreement with NIPSCO to provide 50 MW of Zone 6 capacity to NIPSCO for MISO Planning Year 2018-19.
7. That agreement was the result of an arms-length, competitive, bidding process in response to an RFP issued by NIPSCO.
8. The bidding process was conducted in a confidential manner with reasonable safeguards put in place to shield disclosure of the responses and proprietary information from competitors and potential competitors. In my experience this is consistent with how such processes are regularly conducted.
9. The final terms of the bi-lateral agreement are likewise confidential. Those terms, particularly the price and related provisions, reflect the bid submitted by BP Energy.
10. That bid was the result of proprietary modeling and analysis of wholesale markets undertaken by BP Energy. Such modeling and analysis includes evaluation of the wholesale market forecasts and the relative value of entering into a bilateral agreement versus direct participation in the MISO capacity auction. As a consequence, disclosure of those terms would provide competitors, potential competitors, and potential purchasers of capacity from BP Energy insight into the proprietary modeling and analysis conducted by BP Energy and provide those parties a competitive advantage over BP Energy.
11. The proprietary modeling and analytics conducted by BP Energy are subject to reasonable safeguards to protect their disclosure to third-parties, and are not generally available to the public through proper means.

Further Affiant Sayeth Not

I, Kevin Reeves, swear and affirm under the penalties of perjury that the foregoing statements and representations are true and correct to the best of my knowledge and information.



Kevin Reeves,
VP of Power Origination BP Energy Company

EXHIBIT B

Affidavit of Andrew Campbell

STATE OF INDIANA)
)
COUNTY OF LAKE)

AFFIDAVIT OF ANDREW S. CAMPBELL

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

1. I am the Director of Regulatory Support & Planning for Northern Indiana Public Service Company LLC ("NIPSCO" or "Company"). My business address is 1500 165th Street, Hammond, Indiana 46324.

2. I am responsible for leading the regulatory support and financial planning functions for the Energy Supply & Optimization ("ES&O") department within NIPSCO, whereby my team supports NIPSCO's operations within the electric and natural gas markets.

3. I am supplying this Affidavit to support the Joint Motion of Whiting Clean Energy, Inc., BP Products North America, Inc. ("BP") and Northern Indiana Public Service Company LLC for Confidential Treatment of a Capacity Transaction ("Joint Motion") between NIPSCO and BP Energy Company ("BPEC") for a determination that certain information that contains trade secrets is confidential and exempt from public disclosure, pursuant to 170 IAC 1-1.1-4, Ind. Code § 5-14-3 and Ind. Code § 8-1-229 ("Confidential Information").

4. The Confidential Information specifically includes in an agreement entered into between NIPSCO and BPEC for the sale of 50 MW of Zone 6 capacity for MISO Planning Year 2018-2019 (the "Transaction document").

5. The Transaction document is the result of the conclusion of a competitive bidding process that was conducted at arms-length initiated by NIPSCO's issuance of a Request for Proposals to which the BP affiliate was one of a number of responsive bidders.

6. Materials submitted in the course of the bidding process, including information underlying the terms relating to WCE as a potential resource to supply the 50 MW of Zone 6 capacity, were treated as confidential both by BPEC and NIPSCO. Moreover, NIPSCO extended the same confidential treatment to all bidders which were in competition with BPEC.

7. The specific terms of the Transaction document and the information provided during the bid submittal process related to WCE, including the agreed upon price for the capacity, if disclosed to the public could provide competitors an advantage in future bidding processes, and reveal sensitive and protected information about NIPSCO's capacity position and bidding strategy into the MISO market.

8. As set forth in the Joint Motion, information regarding the Transaction, including but not limited to the terms of the Transaction document is confidential and competitively sensitive and public disclosure of this information would cause economic harm to both BP and NIPSCO by providing competitors an opportunity to achieve a competitive advantage and to secure actual or potential economic value against both BP and NIPSCO.

9. The Confidential Information is not available or ascertainable by third parties through normal or proper means. NIPSCO 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 NIPSCO.

10. As described in detail 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.

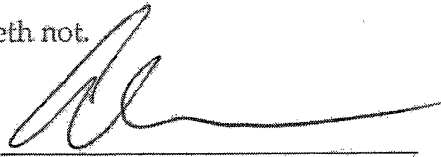
11. As described in detail above, public disclosure of the Confidential Information would cause substantial detriment to NIPSCO.

12. For all the foregoing reasons, the Confidential Information should be

protected from public disclosure.

Handwritten signature or initials in the bottom right corner of the page.

13. Further, Affiant sayeth not.



Andrew S. Campbell

The preceding Affidavit of Andrew S. Campbell was subscribed and sworn
before me this 26 day of April, 2018.


Notary Public

Anita L. Warren

My Commission Expires: March 1, 2023

My County of Residence: Lake

