

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA)
PUBLIC SERVICE COMPANY FOR (1) APPROVAL OF)
AND A CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY FOR A FEDERALLY MANDATED)
ENVIRONMENTAL COMPLIANCE PROJECT; (2))
AUTHORITY TO RECOVER FEDERALLY)
MANDATED COSTS INCURRED IN CONNECTION)
WITH THE ENVIRONMENTAL COMPLIANCE)
PROJECT; (3) APPROVAL OF THE ESTIMATED)
FEDERALLY MANDATED COSTS ASSOCIATED)
WITH THE ENVIRONMENTAL COMPLIANCE)
PROJECT; (4) AUTHORITY FOR THE TIMELY)
RECOVERY OF 80% OF THE FEDERALLY)
MANDATED COSTS THROUGH RIDER 787 –)
ADJUSTMENT OF FEDERALLY MANDATED COSTS)
AND APPENDIX I – FEDERALLY MANDATED COST)
ADJUSTMENT FACTOR; (5) AUTHORITY TO DEFER)
20% OF THE FEDERALLY MANDATED COSTS FOR)
RECOVERY IN NIPSCO’S NEXT GENERAL RATE)
CASE; (6) APPROVAL OF SPECIFIC RATEMAKING)
AND ACCOUNTING TREATMENT; (7) APPROVAL)
TO DEPRECIATE THE ENVIRONMENTAL)
COMPLIANCE PROJECT ACCORDING TO)
PREVIOUSLY APPROVED DEPRECIATION RATES;)
AND (8) APPROVAL OF ONGOING REVIEW OF THE)
ENVIRONMENTAL COMPLIANCE PROJECT; ALL)
PURSUANT TO IND. CODE § 8-1-8.4-1 *ET SEQ.*, § 8-1-)
2-19, § 8-1-2-23, AND § 8-1-2-42.)

CAUSE NO. **44872**

VERIFIED PETITION

Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”)
petitions the Indiana Utility Regulatory Commission (“Commission”) for (1)

approval of and a certificate of public convenience and necessity (“CPCN”) for a federally mandated Environmental Compliance Project; (2) authority to recover federally mandated costs incurred in connection with the Environmental Compliance Project; (3) approval of the estimated federally mandated costs associated with the Environmental Compliance Project; (4) authority for the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through Rider 787 – Adjustment of Charges for Federally Mandated Costs and Appendix I – Federally Mandated Cost Adjustment Factor (the “FMCA Mechanism”); (5) authority to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project for recovery in NIPSCO’s next general rate case; (6) approval of the specific ratemaking and accounting treatment described herein; (7) approval to depreciate the Environmental Compliance Project according to the depreciation rates approved by the Commission in Cause No. 44688; and (8) approval of ongoing review of the Environmental Compliance Project; all pursuant to Ind. Code § 8-1-8.4-1 *et seq.*, § 8-1-2-19, § 8-1-2-23 and § 8-1-2-42. In accordance with 170 IAC 1-1.1-8 and 1-1.1-9 of the Commission’s Rules of Practice and Procedure, Petitioner submits the following information in support of this petition.

Petitioner's Corporate Status

1. Petitioner is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, Indiana. Petitioner renders electric and gas public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the generation, transmission, distribution and furnishing of such service to the public. Petitioner is a wholly-owned subsidiary of NiSource Inc., an energy holding company whose stock is listed on the New York Stock Exchange.

Petitioner's Regulated Status

2. Petitioner is a "public utility" within the meaning of Ind. Code § 8-1-2-1 and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Petitioner is also an "energy utility" within the meaning of Ind. Code §§ 8-1-8.4-3.

3. Petitioner is also subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") and the Environmental Protection Agency ("EPA").

4. Petitioner is a member of the Midcontinent Independent System Operator, Inc. ("MISO"), a regional transmission organization operated under the

authority of FERC which controls the use of Petitioner's transmission system and the dispatching of its generating units.

Petitioner's Operations

5. Petitioner 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. Petitioner provides electric utility service to more than 461,000 residential, commercial, industrial, wholesale and other customers.

6. Petitioner operates the following electric generation facilities: (1) Bailly Generating Station, (2) Michigan City Generating Station, (3) R.M. Schahfer Generating Station, and (4) Sugar Creek Generating Station. The first three of these are coal-fired facilities, and the last is a natural gas-fired facility.

Relief Sought by Petitioner

7. In this proceeding, NIPSCO petitions the Commission for an order in this Cause:

- Finding that the public convenience and necessity will be served and issuing to Petitioner a CPCN for a federally mandated compliance project pursuant to Ind. Code §§ 8-1-8.4-6 and -7;

- Determining that the (1) Coal Combustion Residuals rule that became effective October 19, 2015 (the “CCR Rule”) and (2) Effluent Limitation Guidelines that became effective on January 4, 2016 (the “ELG Rule”), collectively referred to herein as the “Environmental Rules,” are federally mandated requirements as defined by Ind. Code § 8-1-8.4-5;
- Finding that NIPSCO is an energy utility as defined by Ind. Code § 8-1-8.4-3;
- Finding that the Environmental Compliance Project is a compliance project under Ind. Code § 8-1-8.4-2;
- Finding that the Environmental Compliance Project will allow NIPSCO to comply directly with the Environmental Rules;
- Authorizing Petitioner to recover federally mandated costs incurred in connection with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7 including capital, operation and maintenance (“O&M”), depreciation, taxes, financing and carrying costs, and Allowance for Funds Used During Construction (“AFUDC”);
- Finding that the costs incurred in connection with the Environmental Compliance Project are federally mandated costs under Ind. Code § 8-1-8.4-4;

- Approving the projected federally mandated costs associated with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing Petitioner to utilize construction work in progress (“CWIP”) ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism;
- Authorizing Petitioner to accrue AFUDC relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment;
- Authorizing NIPSCO to defer post-in service costs of the Environmental Compliance Project, including O&M, depreciation, taxes, financing and carrying costs, and AFUDC until such costs are recognized for ratemaking purposes through the FMCA Mechanism or included for recovery in NIPSCO’s base rates in its next general rate case pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing Petitioner to defer and recover through the FMCA Mechanism any federally mandated costs, including but not limited to, pre-construction

costs and all other costs incurred on or after the date of this Verified Petition to the extent that such costs are reasonable and consistent with the scope of the Environmental Compliance Project described in Petitioner's evidence;

- Authorizing Petitioner to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project and authorizing Petitioner to recover in Petitioner's next general rate case the deferred federally mandated costs pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing Petitioner to record ongoing carrying charges based on the current overall weighted average cost of capital ("WACC") on the deferred federally mandated costs until the deferred federally mandated costs are included for recovery in Petitioner's base rates in its next general rate case;
- Approving use of the depreciation rates approved by the Commission in Cause No. 44688 for the assets comprising the Environmental Compliance Project;
- Approval to adjust Petitioner's authorized net operating income to reflect any approved earnings associated with the Environmental Compliance Project for purposes of Ind. Code § 8-1-2-42(d)(3);
- Approval of ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings; and

- Granting to Petitioner such additional and further relief as may be deemed necessary or appropriate.

CPCN

8. Pursuant to Ind. Code Ch. 8-1-8.4, NIPSCO is requesting a CPCN for its Environmental Compliance Project which includes numerous capital projects and ongoing activities at three (3) different locations, Bailly Generating Station, Michigan City Generating Station and R. M. Schahfer Generating Station within NIPSCO's electric system (*i.e.*, its three coal-fired generation stations) necessary to comply with the Environmental Rules (the "Environmental Compliance Project"). The Environmental Compliance Project includes the following types of capital projects: Ground Water Monitoring Projects at all three coal stations; Landfill Projects as a result of pond closure at all three coal stations; Ash Handling Projects and New CCR Containment Area Projects at the R. M. Schahfer and Michigan City Generating Stations; and a New Process Water Pond Project and ELG Projects at R. M. Schahfer Generating Station. NIPSCO is also requesting approval of projected federally mandated ongoing O&M, depreciation, taxes, financing and carrying costs, and AFUDC, which are also part of the Environmental Compliance Project.

9. The EPA finalized a rule regulating the disposal of Coal Combustion

Residuals (“CCR”) which became effective on October 19, 2015.¹ The CCR Rule focuses on CCR storage, treatment, and disposal units and mandates that each unit be evaluated for structural integrity. It also requires that regulated entities, including the Petitioner, provide proof that they are not contaminating groundwater, as well as other compliance criteria. The CCR Rule applies nationally to electric utilities and independent power producers, including each of NIPSCO’s three active coal-fired electric generating units: (1) Bailly Generating Station, (2) Michigan City Generating Station, and (3) R.M. Schahfer Generating Station. Each of NIPSCO’s stations will require capital investments and O&M costs to meet the CCR Rule requirements. The level of investment will be dependent on site specific conditions and the operational status of each of the units at the time CCR milestones are met.

10. The CCR Rule is federally mandated and self-implementing. Enforcement is driven by citizen suits or states acting as citizens. The CCR Rule compliance requirements are phased in over time and may be based on findings and results from earlier phases of data collection. The CCR Rule requires documentation and results of compliance related activities be posted on a publicly accessible internet site to provide external stakeholders full access to CCR-related

¹ 40 CFR Parts 257 and 261, Published in the Federal Register on April 17, 2015.

activities and determinations. The CCR Rule is closely tied to the Effluent Limitation Guidelines (“ELG”) Rule, based on regulation of the liquid and solid portions of the same waste streams by the ELG and CCR Rules, respectively.

11. The EPA issued an ELG final rule regulating wastewater stream processes and byproducts associated with steam electric power generation. This complex rule, which had last been updated in 1982, was revised with an effective date of January 4, 2016 to update the ELG requirements based on industry and technological advancement.

12. The ELG Rule addresses seven different wastewater streams from electric generating units—including ash handling water, Flue Gas Desulfurization (“FGD”) wastewater, and non-chemical metal cleaning waste at NIPSCO’s facilities. The ELG Rule requires compliance no sooner than November 1, 2018 and no later than December 31, 2023. Specific applicability dates for complying with the rule requirements vary by waste stream and location and are established in the renewals of the National Pollution Discharge Elimination (“NPDES”) permits for each of the generating stations, as well as the technologies chosen to address each applicable waste stream. The units at NIPSCO’s three (3) coal-fired generating stations are regulated by the ELG Rule. The Indiana Department of Environmental Management has verified that under the ELG Rule, regulated units scheduled for retirement by December 31, 2023 will meet the Zero Discharge

standards of the ELG Rule (a/k/a Zero Liquid Discharge or “ZLD”) and therefore will not require additional pollution control technology to comply with the rule.

13. Penalties for noncompliance with the Environmental Rules are severe. All of the Environmental Compliance Projects are identified as necessary for the NIPSCO facilities to operate under and comply with the Environmental Rules. Therefore, NIPSCO would need to undertake all of the projects included in NIPSCO’s Environmental Compliance Project to comply with the Environmental Rules.

14. As noted above, the Environmental Compliance Project concerns measures required at Petitioner’s Bailly Generating Station, Michigan City Generating Station, and R.M. Schahfer Generating Station to address compliance with the federally mandated requirements of the Environmental Rules.

15. NIPSCO’s Environmental Compliance Project is a project related to the direct compliance by NIPSCO with the federally mandated requirements of the Environmental Rules and is therefore a “compliance project” under Ind. Code § 8-1-8.4-2.

Recovery of Federally Mandated Costs

16. In conjunction with its request for a CPCN, NIPSCO is also requesting approval to recover the costs incurred in connection with the

Environmental Compliance Project, including plan development, engineering, and other costs incurred prior to the commencement of construction. Specifically, NIPSCO is requesting the Commission to approve approximately \$385.8 million as the projected federally mandated project costs associated with the Environmental Compliance Project, which includes indirect costs but excludes AFUDC. However, NIPSCO also seeks approval to record and recover AFUDC associated with the actual Environmental Compliance Project costs based upon the amounts at time such costs or charges are incurred. Based upon current estimates of AFUDC at the time of this petition filing, the total estimated cost, including AFUDC, is approximately \$399 million. NIPSCO is also requesting the Commission to approve the recovery of ongoing federally mandated O&M costs associated with the Environmental Compliance Project totaling approximately \$9.2 million on an annual basis. NIPSCO also seeks approval to recover all depreciation, tax, and financing expenses incurred associated with these projects. With respect to the capital projects, NIPSCO is proposing to depreciate the Environmental Compliance Project according to depreciation rates approved in Cause No. 44688.

	CCR	ELG	Total
Direct & Indirect	\$221.8M	\$164.0M	\$385.8M
AFUDC	\$6.7M	\$6.4M	\$13.1M
Total	\$228.5M	\$170.4M	\$398.9M

17. The Commission first approved NIPSCO's Rider 687 – Adjustment of Charges for Federally Mandated Costs and Appendix I – Federally Mandated Cost Adjustment Factor on January 29, 2014 in Cause No. 44340 for the timely and periodic recovery of 80% of NIPSCO's approved federally mandated costs.

18. In this proceeding, NIPSCO requests approval to (1) recover 80% of the approved federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7, including capital, O&M, depreciation, taxes, financing and carrying costs, and AFUDC based on the current overall WACC and AFUDC, (2) utilize CWIP ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism, (3) accrue AFUDC relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment, (4) defer post-in service costs of the Environmental Compliance Project, including carrying costs based on the current overall WACC, depreciation, taxes, and O&M expenses on an interim basis until such costs are recognized for ratemaking purposes through NIPSCO's FMCA Mechanism or otherwise included for recovery in NIPSCO's base rates in its next general rate case, (5) defer and recover through NIPSCO's FMCA Mechanism any federally mandated costs, including but not limited to federally mandated costs incurred prior to and after approval of a Final Order in this proceeding to the

extent such costs are reasonable and consistent with the scope of the Environmental Compliance Project as described in NIPSCO's evidence, and (6) utilize the cost allocation factors set forth in Joint Exhibit B to the Stipulation and Settlement Agreement approved in the Commission's July 18, 2016 Order in Cause No. 44688.

19. Consistent with Ind. Code § 8-1-8.4-7, NIPSCO proposes to defer 20% of the federally mandated project costs and ongoing expenses incurred in connection with the Environmental Compliance Project for recovery in NIPSCO's next general rate case. NIPSCO further requests approval of the specific ratemaking and accounting treatment identified in Paragraph 7 above.

Filing of Environmental Compliance Project Plan and Testimony

20. In the instant petition, NIPSCO requests a CPCN and approval of recovery of costs associated with its Environmental Compliance Project. NIPSCO notes that supporting testimony, further description and discussion of its Environmental Compliance Project plan, and accompanying evidence will be submitted to the Commission in a forthcoming filing in this docket.

Ongoing Review

21. Going forward, NIPSCO requests ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings. The first such filing to include CCR and ELG compliance costs will be

made on or about November 1, 2017.

Applicable Law

22. Petitioner considers the provisions of the Public Service Commission Act, as amended, including Ind. Code §§ 8-1-1-8, 8-1-2-4, 8-1-2-19, 8-1-2-23, 8-1-2-38, 8-1-2-39, 8-1-2-42(a), and Ind. Code ch. 8-1-8.4 to be applicable to the subject matter of this Petition and believes that such traditional statutes provide the Commission authority to approve the requested relief.

Petitioner's Counsel

23. The names and addresses of persons authorized to accept service of papers in this proceeding are:

Counsel of Record:

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With a copy to:

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Request for Prehearing Conference and Preliminary Hearing

24. In accordance with 170 IAC 1-1.1-15(b) of the Commission's Rules of Practice and Procedure, Petitioner requests that the Commission schedule a prehearing conference and preliminary hearing for the purpose of fixing a procedural schedule in this proceeding and considering other procedural matters

as soon as possible and that an evidentiary hearing on this matter be set and noticed as required by law. In accordance with 170 IAC 1-1.1-15(e), Petitioner will seek to enter into a stipulation with the Indiana Office of Utility Consumer Counselor regarding a procedural schedule in lieu of a prehearing conference.

WHEREFORE, Northern Indiana Public Service Company respectfully requests that the Commission promptly publish notice, make such other investigation, and hold such hearings as are necessary or advisable and thereafter, make and enter appropriate orders in this Cause:

(a) Finding that the public convenience and necessity will be served and issuing to Petitioner a CPCN for a federally mandated compliance project pursuant to Ind. Code §§ 8-1-8.4-6 and -7;

(b) Determining that the Environmental Rules are federally mandated requirements as defined by Ind. Code § 8-1-8.4-5;

(c) Finding that NIPSCO is an energy utility as defined by Ind. Code § 8-1-8.4-3;

(d) Finding that the Environmental Compliance Project is a compliance project under Ind. Code § 8-1-8.4-2;

(e) Finding that the Environmental Compliance Project will

allow NIPSCO to comply directly with the Environmental Rules;

(f) Authorizing Petitioner to recover federally mandated costs incurred in connection with the Environmental Compliance Project pursuant to Ind. Code §8-1-8.4-7 including capital, O&M, depreciation, taxes, financing and carrying costs, and AFUDC;

(g) Finding that the costs incurred in connection with the Environmental Compliance Project are federally mandated costs under Ind. Code § 8-1-8.4-4;

(h) Approving the projected federally mandated costs associated with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7;

(i) Authorizing the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7;

(j) Authorizing Petitioner to utilize construction work in progress ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism;

(k) Authorizing Petitioner to accrue allowance for funds used during construction relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment;

(l) Authorizing NIPSCO to defer post-in service costs of the Environmental Compliance Project, including O&M, depreciation, taxes, financing and carrying costs, and AFUDC until such costs are recognized for ratemaking purposes through Petitioner's FMCA Mechanism or included for recovery in NIPSCO's base rates in its next general rate case pursuant to Ind. Code § 8-1-8.4-7;

(m) Authorizing Petitioner to defer and recover through Petitioner's FMCA Mechanism any federally mandated costs, including but not limited to, pre-construction costs and all other costs incurred on or after the date of this Verified Petition to the extent that such costs are reasonable and consistent with the scope of the Environmental Compliance Project described in Petitioner's evidence;

(n) Authorizing Petitioner to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project and authorizing Petitioner to recover in Petitioner's next general rate case

the deferred federally mandated costs pursuant to Ind. Code § 8-1-8.4-7;

(o) Authorizing Petitioner to record ongoing carrying charges based on the current overall weighted average cost of capital on the deferred federally mandated costs until the deferred federally mandated costs are included for recovery in Petitioner's base rates in its next general rate case;

(p) Approving usage of the depreciation rates approved by the Commission in Cause No. 44688 for the assets comprising the Environmental Compliance Project;

(q) Approval to adjust Petitioner's authorized net operating income to reflect any approved earnings associated with the Environmental Compliance Project for purposes of Ind. Code § 8-1-2-42(d)(3);

(r) Approval of ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings; and

(s) Granting to Petitioner such additional and further relief as may be deemed necessary or appropriate.

Dated this 1st day of November, 2016.

Northern Indiana Public Service Company



Timothy R. Caister
Vice President, Regulatory Policy

Verification

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Dated: November 1, 2016.



Timothy R. Caister
Vice President, Regulatory Policy

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CERTIFICATE OF SERVICE

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

A. David Stippler
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Dated this 1st day of November, 2016.



Bryan M. Likins