

FILED

OCT 31 2014

INDIANA UTILITY

REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY FOR DETERMINATION)
THAT CERTAIN INFORMATION)
CONTAINED IN ITS INTEGRATED)
RESOURCE PLAN IS CONFIDENTIAL AND)
EXEMPT FROM DISCLOSURE PURSUANT TO)
170 IAC 4-7-3(f), 170 IAC 1-1.1-4, IND. CODE § 8-)
1-2-29 AND IND. CODE § 5-14-3-4.)

CAUSE NO. 44554

VERIFIED PETITION

Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”), pursuant to 170 IAC 4-7-3(f) and 170 IAC 1-1.1-4, petitions the Indiana Utility Regulatory Commission (“Commission”) to find that certain information hereinafter described and contained in its 2014 biennial Integrated Resource Plan (“IRP”) to be submitted on or about October 31, 2014 is confidential, proprietary, competitively sensitive and/or trade secret, exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code § 5-14-3 and should be treated as confidential by all parties and the Commission and its Staff. Petitioner respectfully 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'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's Operations

3. 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, Stake, Steuben, Warren and White Counties in northern Indiana. Petitioner provides electric utility service to more than 468,000 residential, commercial, industrial, wholesale and other customers.

Petitioner's IRP

4. The Commission's rules for IRPs, 170 IAC 4-7, provide for the filing of information contained in a utility's IRP that the utility considers to be proprietary or otherwise confidential in a redacted and non-redacted form under seal. These rules also establish a procedure for determining that such information is confidential, and therefore should be protected. *See* 170 IAC 4-7-3(f). Petitioner is submitting a redacted version of its 2014 IRP concurrently with the filing of this petition. In accordance with 170 IAC 4-7-3(f), Petitioner has provided under seal to the Commission a non-redacted copy of its 2014 IRP that contains the information sought to be found confidential in this proceeding.

The Confidential Information

5. As affirmed by the Affidavit of Daniel L. Douglas, attached hereto as Exhibit A, the Confidential Information should be treated as confidential because (1) the Federal Energy Regulatory Commission's ("FERC") Final Rules on Critical Energy Infrastructure Information ("CEII") have designated parts of FERC Form 715 as CEII and have limited the public access to this information, (2) the Confidential Information is not available or ascertainable by third parties through normal or proper means, (3) Petitioner has maintained the confidentiality of the Confidential Information by taking all reasonable steps in order to protect the Confidential Information, including sharing such information internally on a need to know basis,

(4) the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by, persons who could obtain economic value from its disclosure or use; (5) public disclosure of the Confidential Information would cause substantial detriment to Petitioner and others, including the entities from who Petitioner purchased the information pursuant to an obligation to maintain the information as confidential and proprietary; (6) public disclosure of the forecasts and associated analysis could be harmful to Petitioner as it would provide third parties with insight into Petitioner's operational needs, strategic plans and expectations; (7) the information would be of economic value to independent power producers and other parties with whom Petitioner may be negotiating; (8) public disclosure of this information could also allow suppliers and competitors an unfair opportunity to analyze Petitioner's operations, make pricing decisions, and determine market entry; (9) the disclosure of such forecasts and other cost information would adversely affect Petitioner because it would permit such third parties to better determine how to price their services and products; and/or (10) the disclosure of Petitioner's resource costs would disincite the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what Petitioner's expectations are with respect to its resource and other costs; thus, these suppliers or vendors would have the advantage of knowing how to price their bids or renegotiate to provide resources. As a result,

resource and other costs may not be as low as they might have been had the parties not had unfair access to the information. Certain of the confidential, proprietary, competitively sensitive, and/or trade secret information for which protection is sought in this proceeding is the same type information that the Commission found to be exempt from public disclosure in Commission Orders dated January 11, 2006 in Cause No. 42945, January 30, 2008 in Cause No. 43381 and February 29, 2012 in Cause No. 44103.

6. The Confidential Information consists of (1) Appendix H – confidential information from Petitioner’s FERC Form 715 Annual Transmission Planning and Evaluation Report that is considered to be CEII following the events of September 11, 2001, (2) Appendix I – confidential pricing and other information which Petitioner received from third parties to which Petitioner is required to maintain as confidential information, (3) Appendix J – Strategist® modeling input and output of the foregoing, disclosure of which would have the effect of disclosing the forecast and operational data and Petitioner’s confidential assessment and analysis of this information, and (4) Appendix K – the Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report, which includes various generation technologies, and assesses transmission, infrastructure, fuel and supply procurement, environmental, labor and other sensitive issues.

7. Under 170 IAC 4-7-4(10), (11), (12), (13) and (14), certain portions of the Commission's Rule 7 providing Guidelines for Integrated Resource Planning by an Electric Utility allow for satisfaction of the information requirements through a filing of FERC Form 715. FERC has held that certain parts of FERC Form 715 contain CEII and has established procedures to protect and limit the availability of such information to the public. See FERC Order 630, Final Rule on Critical Energy Infrastructure Information, 102 FERC ¶61,190 (3002); see also, FERC Form Letter dated August 1, 2002, attached hereto as Exhibit B. This information is provided confidential treatment by FERC and Petitioner takes all reasonable steps to protect this information from public disclosure.

8. In its order in Cause No. 44103 (IURC 2/29/2012), the Commission found that the CEII in Petitioner's 2011 IRP was entitled to confidential treatment and therefore exempt from the public access requirements. As this Commission has noted, "Ind. Code § 5-14-3-4(b)(19)(I) specifically authorizes the Commission to exempt such data from public disclosure." *Ind. Util. Reg. Comm'n.*, Cause No. 42531 (IURC 3/16/05), p. 7, Cause No. 42534 (IURC 3/16/05), p. 10, and Cause No. 42946 (IURC 1/11/06), p. 3.

9. Appendix I includes emission allowance price forecasts (Figure I-2). NIPSCO is required to maintain the confidentiality of these forecasts. Additionally, if publicly disclosed, emissions forecasts would be of value to NIPSCO's competitors and other parties who may use such data to determine NIPSCO's position in the allowance markets. Such disclosure would adversely affect NIPSCO because it would permit competitors and other third parties to better determine how to price their products and would also adversely affect the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what NIPSCO's expectations are with respect to emission allowance trading. In its order in Cause No. 44103 (IURC 2/29/2012), the Commission found that the emission allowance price forecasts in Petitioner's 2011 IRP was entitled to confidential treatment and therefore exempt from the public access requirements. The Commission has previously found forecasts of emission allowance pricing and other emissions related data to be confidential and exempt from public disclosure. *Re PSI Energy*, Cause No. 43097 (IURC 12/6/06); *Re Indiana Michigan Power Company*, Cause No. 42534 (IURC 3/16/05) and Cause No. 42944 (IURC 1/11/06).

10. Appendix I also includes coal and external market price (i.e. future MISO pricing) forecasts. The forecasts are set forth in: Figure I-1 (Delivered Fuel Prices); Figure I-3 (Load Growth Sensitivities - Peak); and Figure I-5 (Delivered Natural Gas Prices). Such information is competitively sensitive and a trade secret

because competitors, suppliers and other parties may use such data to determine NIPSCO's projected resource costs. The disclosure of such costs would adversely affect NIPSCO because it would permit such third parties to better determine how to price their services and products. Further, the disclosure of the Company's resource costs would disincent the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what the Company's expectations are with respect to its resource costs. Thus, these suppliers or vendors would have the advantage of knowing how to price their bids or negotiate to provide resources. As a result, resource costs may not be as low as they might have been had the parties not had unfair access to the information. The Commission has previously found coal price and resource cost forecasts to be confidential and exempt from public disclosure. *Re Indiana Michigan Power Company*, Cause No. 42534 (3/16/05); *Re Hoosier Energy*, Cause No. 42581 (IURC 3/16/05); *see also Re Southern Indiana Gas and Electric Company*, Cause No. 38708-FAC-45 (IURC 1/19/00) and Cause No. 41190 (IURC 9/16/98); *Re Commonwealth Edison*, Cause No. 40575 (IURC 6/10/98).

11. Appendix I, Table I-1 Self-Build Supply Side is confidential, with summary and proprietary generator characteristics supplied by Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report (Appendix K). This comment applied to Table I-2 as well.

12. Appendix I also includes the confidential suite of forecast information to build the High and Low Case Sensitivity Analyses, which included load growth and general market conditions (coal, natural gas, and electric markets). This confidential information is set forth in Figure I-3 (Load Growth Sensitivities - Peak). This combination of forecasts has the potential to reveal "decision-trigger" levels to the market and business partners, which may diminish NIPSCO's future negotiating leverage for contracts and asset acquisitions. Additionally, as stated above, Figures I-1, I-3 and I-5 were developed using proprietary forecast data from commodity forecasts as well as assumptions to adapt this data to NIPSCO specifically when appropriate.

13. Public disclosure of the forecasts, analysis and other information set forth in the Confidential Information would be harmful to NIPSCO as it would provide third parties with insight into NIPSCO's operational needs, strategic plans and expectations. This information would be of economic value to independent power producers and other parties with whom NIPSCO may be negotiating. Public disclosure of the information could also allow suppliers and competitors an unfair opportunity to analysis NIPSCO's operations, make pricing decisions, and determine market entry.

14. Appendix J - Strategist Base Case and Sensitivity Reports - is provided to the Commission on a CD-Rom. This Appendix includes the inputs and output from the Strategist Model used to evaluate resource options for the plan. The analysis and data included in Appendix J includes the confidential information discussed above which NIPSCO received from third party consultants. NIPSCO is required to maintain this information as confidential. As discussed above, disclosure of the information in Appendix J could adversely affect NIPSCO, including its implementation of its IRP, and other third parties.

15. Appendix K - The Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report assesses generation technologies, transmission, infrastructure, fuel and supply procurement, environmental, labor and other sensitive issues. As such, the analysis is confidential, proprietary, competitively sensitive and trade secret.

16. In accordance with 170 IAC 4-7-3(f), NIPSCO has provided under seal to the Commission a non-redacted copy of NIPSCO's 2014 IRP that contains the information sought to be found confidential¹. The Commission's rule, 170 IAC 4-7-3(f), specifically provides that the non-redacted version shall be treated as confidential pending completion of this proceeding. NIPSCO considers this specific rule to constitute a preliminary determination of confidentiality and that the non-

redacted information shall not be available to the public under 170 IAC 1-1.1-4(e). If this understanding is not correct, NIPSCO requests that the non-redacted information be returned prior to public disclosure in accordance with 170 IAC 1-1.1-4(d).

17. Petitioner is providing the Indiana Office of Utility Consumer Counselor ("OUCC") with a non-redacted copy of its 2014 IRP pursuant to a Standard Form Nondisclosure Agreement between NIPSCO and the OUCC dated August 6, 2006.

Applicable Law

18. Petitioner considers the provisions of the Public Service Commission Act, as amended, including Ind. Code §§ 5-14-3 and 8-1-2-29 and 170 IAC 4-7-3(f) and 1-1.1-4, 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

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

Counsel of Record:

Claudia J. Earls (No. 8468-49)
NiSource Corporate Services - Legal
150 West Market Street, Suite 600
Indianapolis, Indiana 46204
Phone: (317) 684-4923
Fax: (317) 684-4918
Email: cjearls@nisource.com

With a copy to:

Frank A. Shambo
NORTHERN INDIANA PUBLIC SERVICE COMPANY
150 W. Market Street, Suite 600
Indianapolis, Indiana 46204
Phone: (317) 684-4905
Fax: (317) 684-4918
Email: fshamb@nisource.com

WHEREFORE, Northern Indiana Public Service Company respectfully requests that the Commission:

(a) Following such investigation as the Commission deems necessary, find that Petitioner's 2014 IRP contains information that is confidential, proprietary, competitively sensitive and/or trade secret and is thereby exempted from the access to public records provisions, as set forth in Ind. Code § 5-14-3-4; and

(b) Granting to NIPSCO such additional and further relief as the Commission may be deemed necessary or appropriate.

Dated this 31st day of October, 2014.

Northern Indiana Public Service Company

A handwritten signature in cursive script, reading "Frank A. Shambo", is written over a horizontal line.

Frank A. Shambo

Vice President, Regulatory and Legislative
Affairs

Verification

I, Frank A. Shambo, Vice President, Regulatory and Legislative Affairs of Northern Indiana Public Service Company, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Dated: October 31, 2014.


Frank A. Shambo

Claudia J. Earls (No. 8468-49)
NiSource Corporate Services - Legal
150 West Market Street, Suite 600
Indianapolis, Indiana 46204
Phone: (317) 684-4923
Fax: (317) 684-4918
Email: cjearls@nisource.com

Attorney for Petitioner
Northern Indiana Public Service Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that two copies of the foregoing were served via hand delivery upon the following:

A. David Stippler
Office of Utility Consumer Counselor
115 W. Washington Street,
Suite 1500 South
Indianapolis, Indiana 46204

Dated this 31st day of October, 2014.



Claudia J. Earls

STATE OF INDIANA)
) SS
COUNTY OF LAKE)

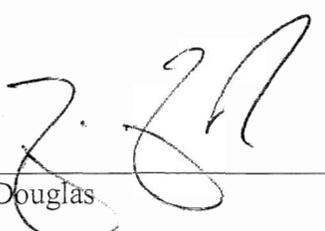
AFFIDAVIT OF DANIEL L. DOUGLAS

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

1. He is Executive Director Strategic Planning for Northern Indiana Public Service Company (“NIPSCO”);
2. He is responsible for Capacity Planning/Integrated Resource Planning (“IRP”) Development and NIPSCO Strategic Planning. He is responsible for the preparation of NIPSCO’s Electric Integrated Resource Plan 2014-2035 (“IRP”) and has personal knowledge of the matters addressed in this affidavit and in the Motion to which this affidavit is attached;
3. He is supplying this affidavit to the Indiana Utility Regulatory Commission (“Commission”) to support NIPSCO’s Motion for a Commission Finding of Confidential Information and Protection pursuant to 170 IAC 4-7-3(f), 170 IAC 1-1.1-4, IC § 8-1-2-29, IC, and § 5-14-3-4 (“Confidential Information”);
4. As discussed below and detailed in the Motion, the Confidential Information includes Appendices H, I, J, and K. These appendices set forth forecasts, including emission price forecasts, natural gas price forecasts, coal price forecasts and external market price forecasts which NIPSCO received from third parties and which NIPSCO is required to maintain as confidential. These appendices also set forth information related to forecasts, studies, operating plans, critical energy infrastructure, and analysis using this confidential data. Public disclosure of the analysis would disclose proprietary forecasts and studies, and operating plans.
5. Appendix H includes confidential information from the Company’s Federal Energy Regulatory Commission (“FERC”) Form 715, Annual Transmission Planning and Evaluation Report that is considered to be Critical Energy Infrastructure Information (“CEII”) following the events of September 11, 2001. This information is provided confidential treatment by the FERC, and NIPSCO takes all reasonable steps to protect this information from public disclosure.
6. Appendix I includes emission price forecasts, natural gas price forecasts, coal price forecasts and external market price forecasts which NIPSCO received from third parties and which NIPSCO is required to maintain as confidential.
7. Appendix J includes the Strategist[®] modeling input and output of the foregoing, disclosure of which would have the effect of disclosing the forecast, study and operating information and NIPSCO’s confidential assessment and analysis of this information.

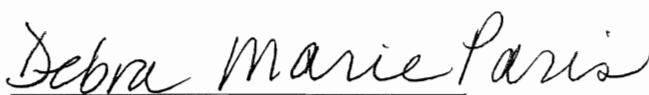
8. Appendix K includes the Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report, which includes various generation technologies, and assesses transmission, infrastructure, siting, fuel and supply procurement, environmental, labor and other sensitive issues.
9. The 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 reasonable steps in order to protect the Confidential Information, including sharing such information internally on a need to know basis.
10. The Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by, persons who could obtain economic value from its disclosure or use. Public disclosure of the Confidential Information would cause substantial detriment to NIPSCO and others, including the entities from who NIPSCO purchased the information pursuant to an obligation to maintain the information as confidential and proprietary.
11. Public disclosure of these forecasts and associated analysis could be harmful to NIPSCO as it would provide third parties with insight into NIPSCO's operational needs, strategic plans and expectations. This information would be of economic value to independent power producers and other parties with whom NIPSCO may be negotiating. Public disclosure of this information could also allow suppliers and competitors an unfair opportunity to analyze NIPSCO's operations, make pricing decisions, and determine market entry.
12. The disclosure of such forecasts and other cost information would adversely affect NIPSCO because it would permit such third parties to better determine how to price their services and products. Further, the disclosure of the Company's resource costs would disincite the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what the Company's expectations are with respect to its resource and other costs. Thus, these suppliers or vendors would have the advantage of knowing how to price their bids or negotiate to provide resources. As a result, resource and other costs may not be as low as they might have been had the parties not had unfair access to the information.

Further, Affiant sayeth not.



Daniel L. Douglas

The preceding Affidavit of Daniel L. Douglas was subscribed and sworn before me this
30th day of October, 2014.



Notary Public

My Commission Expires

July 5, 2019

My County of Residence

Lake



FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

AUG - 1 2002

Re: FOIA Nos. FY02-20, 23, 28, 33, 37,
38, 41, 46, 47, 53, 55, 56, 59, 72, 77, 82,
89, 91, 92, 121, 122, 124, 135, 136, 137,
139, 143, 144, 145, 146, 150, 151, 152,
155, 157, 162, 165, 166, 172, 174, 176,
308, 309, 310, and 311

Dear Sir or Madam:

This letter responds to your request for documents pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552 (1994), and the Federal Energy Regulatory Commission's (Commission's) FOIA regulations, specifically 18 C.F.R. § 388.108 (2002). You requested copies of either or both of the 2001 and 2002 FERC Form No. 715, Annual Transmission Planning and Evaluation Report, from certain or all utilities or organizations submitting such forms. These documents contain critical energy infrastructure information, which, in the aftermath of the horrific events of the September 11 terrorist attacks, has been determined not to be appropriate for inclusion in our public files.

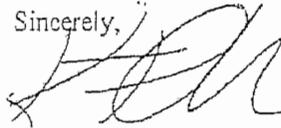
A search of the Commission's non-public files has located approximately one hundred and seventeen (117) submissions of Form No. 715 filed in each 2001 and 2002. After an exhaustive review, it has been determined that a portion of each of these forms is exempt from disclosure under FOIA Exemption 7. This particular exemption precludes from disclosure "records or information compiled for law enforcement purposes" to the extent that production of such records or information "could reasonably be expected to endanger the life or physical safety of any individual." 5 U.S.C. § 552(b)(7) (1994). At this time, the nature of the information contained in Form No. 715 could, if mis-used, reasonably be expected to endanger life or physical safety. Accordingly, those portions of each Form No. 715 deemed exempt from disclosure has been redacted. Specifically, Parts 2, 3, and 6 of all Form No. 715s have been redacted, while Part 4 or 5 has only been redacted in limited instances where the information contained in those sections implicates FOIA Exemption 7. The remainder non-redacted portion of the forms is available on the Commission's website at <http://www.ferc.gov/foia/far.htm>.¹

¹ The placement of the released information on the website is in accord with the Electronic Freedom of Information Act Amendments of 1996, Pub.L.No. 104-231, 110 Stat. 3048, which provides that the Commission must post electronically any records

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As provided by FOIA and 18 C.F.R. § 388.110 of the Commission's regulations, any appeal from this determination must be filed within 45 days of the date of this letter. The appeal must be in writing, addressed to Cynthia A. Marlette, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and clearly marked "Freedom of Information Act Appeal." I would appreciate it if you would send a copy to Susan Court, Lead Counsel of General and Administrative Law at the same address.

Sincerely,



Kevin F. Cadden
Director
Office of External Affairs

cc: Submitters of Form No. 715

processed and disclosed in response to a FOIA request that have become or are likely to become the subject of subsequent requests for substantially the same records.

Exhibit B