

Reliable Energy Inc.'s Comments on the IURC Director's Draft Report on the 2021 NIPSCO IRP

January 13, 2023

1. On December 2, 2022, the Director issued his Draft Report on the 2021 Northern Indiana Public Service Company (NIPSCO) Integrated Resource Plan (IRP) filed on November 15, 2021.¹ The Draft Report provides a review of the purpose of the IRP and specifically focuses on the following three areas: (1) load forecasting; (2) assessment of demand-side resources (broadly defined to include energy efficiency, demand response resources, electric vehicles, and other distributed energy resources (DERs)); and (3) portfolio analysis and the related consideration of risk and uncertainty on different resource portfolios.
2. The comments are mostly technical in nature. The Director's Report does not conclude that the preferred resource plan in the IRP is dispositive regarding how NIPSCO should proceed. Rather, the Director's Report concludes the following:

The resource portfolios emanating from the IRPs should not be regarded as being the definitive plan that a utility commits to undertake. Rather, IRPs should be regarded as illustrative or an ongoing effort that is based on the best information and judgment at the time the analysis is undertaken. The illustrative plan should provide off-ramps to give utilities maximum optionality to adjust to inevitable changing conditions (e.g., fuel prices, environmental regulations, public policy, technological changes that change the cost effectiveness of various resources, customer needs, etc.) and make appropriate and timely course corrections to alter their resource portfolios.

3. IURC IRP rules (170 IAC 4-7-2.5) require, when a utility takes a resource action, such as filing a Certificate of Public Convenience and Necessity (CPCN), that the action be consistent with the most recent IRP submitted by the utility. Any departure from the IRP must be fully explained and justified with supporting evidence, including an updated IRP analysis. The fatal flaw in this rule is that it *presumes that the IRP is the best result, even when stakeholders raise significant concerns regarding the process and substance of the IRP*. The rule also ignores the fact that IRPs could be 2-4 years old when a CPCN is filed, and the Commission's rule does not require it to be updated *unless the resource action changes*. Consequently, if the utility adheres to its existing IRP, however outdated and potentially flawed, it avoids any duty to address substantive concerns with the IRP. The Commission can, and should, establish enhanced expectations for the presentation of updated IRPs in formal proceedings, as it has done by requiring reliability and regional transmission organization (RTO) related evidence in electric generation CPCN proceedings under General Administrative Order No. 2022-1.² Evidence presented in support of a request for a CPCN should be evaluated not only for the purposes of the CPCN, but with an eye towards identifying necessary and corresponding

¹ <https://secure.in.gov/iurc/files/Draft-of-Directors-IRP-NIPSCO-Report-12-2-22.pdf>

² https://www.in.gov/iurc/files/ord_GAO2022-01_070622.pdf

revisions to the associated IRP in order to ensure consistency with *current forecasts, regulatory requirements, and the like*. Simply relying on the default assumption that the IRP is indefinitely valid is untenable. Therefore, Reliable Energy respectfully requests that the Director advocate for **requiring** an updated analyses in all requests for a CPCN to ensure that the CPCN reflects the appropriate decisions for ratepayers *at the time the CPCN application is filed*. The burden should be on the utility in a CPCN case to show *why its IRP results are still valid*. For example, if a CPCN is filed within just a few months of the IRP filing, perhaps that is true.

4. Five stakeholders submitted comments on the NIPSCO IRP.³ The Director summarized stakeholders' comments and NIPSCO's responses to those comments, and then provided his own responses. However, the constructive criticisms laid out in the many pages of stakeholders' comments regarding the process and substance of the utility IRPs are generally addressed in just a handful of paragraphs. The Director is well aware of the factors that have resulted in a number of utilities in the State of Indiana and elsewhere delaying coal plant retirements, including but not limited to the material rise in natural gas prices, plunging coal prices, the increased permitting challenges for new pipelines, the passage of the Inflation Reduction Act (which materially increased the credits for carbon capture), and ongoing supply chain delays. While the Director is certainly not obligated to agree with any particular comment, the Director should *directly and specifically address* the substantive concerns raised regarding the IRP process, including: assumption flaws in the model (i.e., fundamental flaws in the 30 year net present value (NPV) analysis); the absence of a requirement to update the IRP when CPCNs are filed; the lack of confirmed pricing in the presumed cost of resource additions; failure to consider the rapidly changing energy markets or how the actions of other load-serving entities will impact pricing and reliability (e.g., the increased reliance on capacity and energy purchases by many utilities operated in Zone 6 could exceed supply); overreliance on RFPs; and the impact of market changes on coal plant retirement decisions.

Reliable Energy understands that formal expectations on IRP development must come from the Commission rather than stakeholders. However, the Director and Staff undoubtedly play a critical and influential role in the development of IRPs. Reliable Energy appreciates the opportunity to comment on the Director's draft. While certainly the IRP process is much improved, and the Commission and Staff have driven those improvements, Reliable Energy encourages the Commission and Staff to develop additional IRP and CPCN requirements that balance the interests of utilities and their stakeholders, as well as recognizes the inherent advantage utilities have in the existing IRP process along with the impact of rapidly changing energy markets.

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³ Citizens Action Coalition, Earthjustice, and Vote Solar (Joint Commenters or JC), Indiana Advanced Energy Economy (Indiana AEE), Indiana Office of the Utility Consumer Counselor (OUCC), Reliable Energy, and Wartsila North America, Inc.