

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF INDIANAPOLIS)
POWER & LIGHT COMPANY (“IPL”), AN)
INDIANA CORPORATION, FOR (1))
CERTIFICATES THAT PUBLIC CONVENIENCE)
AND NECESSITY (“CPCN”) WILL BE SERVED)
BY COMPLIANCE PROJECTS TO ALLOW IPL)
TO COMPLY WITH FEDERALLY MANDATED)
REQUIREMENTS AT PETERSBURG)
GENERATING STATION; (2) APPROVAL OF)
ASSOCIATED ACCOUNTING AND) CAUSE NO. 44794
RATEMAKING TREATMENT, INCLUDING)
COST RECOVERY IN ACCORDANCE WITH)
IND. CODE § 8-1-8.4-7 AND AUTHORITY TO)
DEFER COSTS UNTIL SUCH COSTS ARE)
REFLECTED IN RATES; AND 3) TO THE)
EXTENT NECESSARY OR APPROPRIATE)
ISSUANCE OR MODIFICATION OF CPCN FOR)
THE USE OF CLEAN COAL TECHNOLOGY)
PURSUANT TO IND. CODE CH. § 8-1-8.7)

VERIFIED PETITION

Indianapolis Power & Light Company (“Petitioner”, “IPL” or the “Company”) respectfully petitions the Indiana Utility Regulatory Commission (“Commission”) for approval of Compliance Projects and issuance of certificates that public convenience and necessity (“CPCN”) will be served by the projects to comply with Federally Mandated Requirements at IPL’s Petersburg Generating Station. As stated below, the Compliance Projects are reasonably necessary for compliance with the federal National Ambient Air Quality Standards (“NAAQS”) for sulfur dioxide (“SO₂”) and the Disposal of Coal Combustion Residuals (“CCR”) From Electric Utilities rule. IPL also requests approval of associated accounting and ratemaking treatment, including cost recovery in accordance with Ind. Code § 8-1-8.4-7 and authority to defer costs until such costs are reflected in rates. To the extent necessary or appropriate, IPL requests the Commission to modify IPL’s CPCN for use of clean coal technology to reduce

emissions of sulfur at the Petersburg units or to issue a new CPCN pursuant to Ind. Code ch. 8-1-8.7. IPL also proposes the Commission conduct ongoing review to the extent necessary or appropriate. In support of this Petition, IPL provides the following information:

Petitioner’s Corporate and Regulated Statute

1. IPL 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 One Monument Circle, Indianapolis, Indiana 46204. Petitioner is engaged in rendering electric utility service in the State of Indiana.

2. IPL renders retail electric utility service to approximately 480,000 retail customers located principally in and near the City of Indianapolis, Indiana, and in portions of the following Indiana counties: Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan, Owen, Putnam and Shelby Counties. IPL owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities, which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy, heat, light and power.

Petitioner’s “Public Utility” Status

3. IPL is a “public utility” under Ind. Code §§ 8-1-2-1 and 8-1-8.7-2, and an “energy utility” under Ind. Code § 8-1-8.4-3. IPL 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.

4. IPL is also subject to the jurisdiction of the Federal Energy Regulatory Commission (“FERC”).

5. IPL is a member of the Midcontinent Independent System Operator, Inc. (“MISO”), a regional transmission organization (“RTO”) operated under the authority of FERC which controls the use of IPL’s transmission system and the dispatching of IPL’s generating units.

Petersburg Generating Station

6. IPL owns, operates, manages and controls electric generating, transmission and distribution plant, property and equipment and related facilities (collectively referred to as “Utility Property”), which are used and useful for the convenience of the public in the production, transmission, delivery and furnishing of electric energy, heat, light and power. IPL’s Utility Property is classified in accordance with the Uniform System of Accounts as prescribed by the FERC and approved and adopted by this Commission.

7. IPL’s largest generating station is the four unit, coal-fired, 1697 megawatt (“MW”) Petersburg Plant in Petersburg, Indiana:

<u>Unit</u>	<u>In-Service year</u>	<u>2017 Rating¹</u> (MW)
Petersburg 1	1967	227
Petersburg 2	1969	410
Petersburg 3	1977	534
Petersburg 4	1986	526

8. Each of the four Petersburg units is equipped with FGD systems. FGD systems (also called “scrubbers”) are utilized to reduce certain regulated emissions that would otherwise be discharged into the atmosphere. Petersburg Units 3 and 4 operate with wet limestone FGDs that were installed as part of the original equipment which, as noted above, was placed in service

¹ This reflects the nominal summer ratings used for planning and modeling beginning in 2017 once controls installed to comply with the federal Mercury and Air Toxics Standards (“MATS”) Rule are operational.

in 1977 and 1986 respectively. The FGD technology installed at Petersburg Units 1 and 2 was similar to the existing FGD systems on Petersburg Units 3 and 4. While these FGD systems are air pollution control property, these original systems do not constitute “clean coal technology” as defined in Ind. Code §§ 8-1-2-6.6, 8-1-8.7-1 or 8-1-8.8-3 because the FGD technology deployed at these units was in general commercial use prior to the enactment of the federal Clean Air Act Amendments of 1990 (“CAAA”).

9. In its November 30, 2004 Order in Cause No. 42700 and its April 2, 2008 Order in Cause No. 43403, the Commission authorized the installation and use of certain enhancements consistent with an advanced FGD system at Petersburg Units 3 and 4 respectively, which enhancements the Commission found to constitute clean coal technology and qualified pollution control property. *Indianapolis Power & Light Co.*, Cause No. 42700 (IURC 11/30/2004) Order at 13; *Indianapolis Power & Light Co.*, Cause No. 43403 (IURC 4/2/2008) Order, at 18. More specifically, the advanced FGD systems were an innovation designed to capture ionic mercury from the flue gas; this was neither the purpose nor intent of FGD systems deployed prior to the 1990 CAAA. Cause No. 42700 Order at 5; Cause No. 43403 Order, at 15.

10. The Petersburg units have a variety of other environmental controls that are either already installed or under construction to allow Petersburg Generating Station to comply with all applicable regulations.

11. IPL procures its coal supply from mines located in the geological formation known as the Illinois Basin.

Description of the Federally Mandated Requirements

12. IPL and the electric utility industry are subject to federal environmental laws and federal and state rules promulgated by, among others, the United States Environmental Protection Agency (“EPA”). These laws and regulations establish environmental compliance standards applicable to IPL’s generating stations and facilities. This regulatory framework includes the National Ambient Air Quality Standards (“NAAQS”) for criteria pollutants adopted by the EPA pursuant to section 109 of the federal Clean Air Act (“CAA”). 42 U.S.C. § 7409. The NAAQS criteria pollutants include carbon monoxide, lead, nitrogen dioxide, ozone, particle pollution, and SO₂.

13. On June 22, 2010, EPA revised the NAAQS for SO₂ from 140 parts per billion (“ppb”) on a 24-hour basis to 75 ppb on a one-hour basis. On September 30, 2015, IDEM published revisions to 326 IAC 7 in the Indiana Register to address the 2010 SO₂ NAAQS by establishing new and more stringent emission limits for the Petersburg generating units.²

14. IPL is required to comply with the new and more stringent emission limits to address the revised NAAQS for SO₂ beginning on January 1, 2017. Specifically, the 30-day rolling average emission limits will be significantly decreased.

15. In addition, EPA regulates Coal Combustion Residuals (“CCR”) as non-hazardous waste under Subtitle D of the Resource Conservation and Recovery Act (“RCRA”). On April 17, 2015, EPA published the final CCR Rule, which regulates CCR as non-hazardous waste under Subtitle D of the Resource Conservation and Recovery Act (“RCRA”). The CCR

² Each State is required by section 110 of the CAA to develop a State Implementation Plan (“SIP”) for implementation, maintenance and enforcement of the NAAQS within the State. 42 U.S.C. § 7410. In Indiana, the SIP is administered by the Indiana Department of Environmental Management (“IDEM”).

Rule became effective on October 19, 2015. The CCR Rule establishes national minimum criteria for existing CCR surface impoundments (ash ponds), including location restrictions, structural integrity, design and operating criteria, groundwater monitoring and corrective action, closure requirements and post closure care. Failure to demonstrate compliance with the national minimum criteria results in the requirement to close existing active ponds within five years, with some potential for extensions, as needed.

16. This Petition and IPL's proposed Compliance Projects concern measures required at IPL's Petersburg Generating Station to address compliance with the SO₂ NAAQS and the above-referenced CCR requirements applicable to bottom ash at IPL's Petersburg Generating Station.

17. EPA published the final revisions to the Effluent Limitation Guidelines ("ELG") for Steam Electric Generating Stations on November 3, 2015. The revised ELG regulations require dry fly ash handling, dry or closed loop bottom ash handling, and apply numerical limits on FGD Wastewater. IPL will comply with the dry fly ash handling and limits on FGD Wastewater as a result of the NPDES Wastewater treatment project approved in Cause No. 44540. In addition, the ELG will require dry bottom ash handling at Petersburg with compliance required as soon as possible beginning November 1, 2018, but no later than December 31, 2023. Petersburg will comply with this ELG requirement as a result of the CCR Compliance Project for which approval is sought in this Petition.

Proposed SO₂ NAAQS Compliance Project

18. IPL proposes to undertake the NAAQS Compliance Project to comply with emission limits addressing the SO₂ NAAQS at the Petersburg Generating Station.

19. The NAAQS Compliance Project includes the construction, installation and use of control measures and the implementation of changes to the operation and maintenance of the Petersburg units, to enhance the integrity and reliability of the existing FGD systems. More specifically, the NAAQS Compliance Project, which will be further described in the testimony to be presented by IPL in this proceeding, includes the following control measures:

- Units 1-4 dibasic acid (“DBA”) System
- Units 1&2 Recycle Pump Vibration Monitors
- Unit 3 Backup Recycle Pumps
- Unit 2 Switchgear
- Emergency Limestone Conveyance
- Emergency Ball Mill
- Limestone Conveyor Fire Suppression
- Unit 4 Backup Dewatering Filter
- DBA Impact on NPDES

20. The NAAQS Compliance Project will allow IPL to comply with Federally Mandated Requirements, including the NAAQS reduced limits for the emissions of SO₂ that are created and released through the combustion of coal at the Petersburg Generating Station.

CCR Compliance Project

21. To comply with the above referenced CCR bottom ash requirement, IPL proposes to construct, install and commission a closed loop bottom ash dewatering system at Petersburg.

Federally Mandated Costs

22. IPL’s projected Federally Mandated Costs, including plan development, engineering and other costs incurred prior to the commencement of construction, are reasonable and will be described in the evidence to be filed by IPL in this proceeding.

23. IPL requests the Commission approve the projected Federally Mandated Costs.

Governing Statutes

24. IPL considers the provisions of the Public Service Commission Act, as amended, including Ind. Code § 8-1-8.4-1 *et seq.* and Ind. Code § 8-1-8.7-1 *et seq.* are or may be applicable to this proceeding. While IPL requests ratemaking in accordance with Ind. Code § 8-1-8.4-7 (c), the approval, accounting and ratemaking treatment IPL seeks is also consistent with the Commission's authority under Ind. Code §§ 8-1-2-6.7, 6.8, 10, 14, 23 and 42.

Chapter 8.4.

25. As stated herein, the proposed Compliance Projects include both capital investments and operation and maintenance costs at the Petersburg units. The authority granted to the Commission under Ind. Code ch. 8-1-8.4 encompasses capital investments and operating and maintenance costs and provides for issuance of a CPCN and timely recovery of 80% of the Federally Mandated Costs and deferral of 20% of the Federally Mandated Costs for ratemaking recognition in a subsequent general rate case. Therefore, IPL considers it reasonable and efficient to us this ratemaking framework and requests the Commission to issue CPCNs and proceed with accounting and ratemaking treatment in accordance with Ind. Code § 8-1-8.4-1 *et seq.*³

Chapter 8.7 CPCN

26. As indicated in the above description of the FGD systems at Petersburg Station, the NAAQS Compliance Project proposed herein does not concern the first installation of an FGD system at a coal-fired electric generating unit. Nor does it concern the installation of an innovation to an FGD system to capture regulated emissions not previously within the design or

³ While IPL seeks a CPCN under Chapter 8.4, Ind. Code ch. 8-1-8.8, which applies to clean energy projects, would also allow the Commission to authorize timely cost recovery for the capital investments included in the proposed NAAQS Compliance Project as well as the operating costs associated with this project after in-service dates.

purpose of the existing technology. Rather, the NAAQS Compliance Project is addressed to specified system components reasonably necessary to enhance the integrity and reliability of the existing FGD systems at the Petersburg Generating Station. Collectively, these control measures are necessary to allow the advanced FGD systems to operate successfully and reliably at the lower emission limits. While the control measures are part of a “compliance project” as that term is defined in Ind. Code § 8-1-8.4-2, viewed in isolation, the control measures may not be considered “clean coal technology” because these types of individual components were in general commercial use prior to the adoption of the 1990 CAAA and they are being used in connection with existing FGD systems. If installed as part of an entire CCT system these components would be considered part of that CCT system.

27. The recent Indiana Court of Appeals decision in *Citizens Action Coalition of Indiana, Inc. v. Southern Ind. Gas & Electric Co.*, 45 N.E.3d 483 (Ind. Ct. App. 2015), addressed the need for the Commission to issue a CPCN under Ind. Code ch. 8-1-8.7 in order for a utility to use clean coal technology to reduce sulfur emissions from a coal-fired generating unit. In light of this decision, and to the extent necessary or appropriate, should the Commission determine the proposed control measures constitute clean coal technology, then IPL requests the Commission to modify IPL’s CPCN under Chapter 8.7 or issue a new CPCN authorizing the installation and use of the proposed NAAQS Compliance Project.

Accounting and Ratemaking

28. IPL requests approval of associated accounting and ratemaking treatment, including cost deferrals and timely cost recovery. As will be further explained in the Company’s testimony, IPL proposes the Commission authorize cost recovery pursuant to Ind. Code § 8-1-8.4-7(c), including the timely recovery of 80% of the capital, operating, maintenance,

depreciation, tax and financing costs (revenue requirement) incurred as a result of the Compliance Projects through IPL's Environmental Compliance Cost Recovery Adjustment ("ECCRA") and the associated accounting and ratemaking procedures, including reconciliation and over/under recovery accounting. IPL also requests approval to create a regulatory asset for the remaining twenty percent (20%) of the capital, operating, maintenance, depreciation, tax and financing costs (revenue requirement) for the Compliance Projects not timely recovered through the ECCRA, with carrying costs pursuant to Ind. Code § 8-1-8.4-7(c)(2), until such costs are reflected in the Company's retail electric rates.

29. As part of the cost recovery, IPL requests the Commission authorize IPL: to continue the accrual of Allowance For Funds Used During Construction ("AFUDC") (both debt and equity) and to defer the accrual of depreciation and O&M expense on the Compliance Projects from the in-service date(s) until the date of a Commission order authorizing recovery of a return and including depreciation and O&M expense in IPL's recoverable operating expenses; to record such post-in-service AFUDC (both debt and equity) and deferred depreciation and deferred O&M expense as regulatory assets in Account 182.3 Other Regulatory Assets; to amortize such regulatory assets as a recoverable expense for ratemaking purposes commencing on the date of the order authorizing recovery of a return on the Compliance Projects and including depreciation and O&M expense in IPL's recoverable operating expenses; and to include the unamortized portion of the regulatory assets in IPL's rate base upon which it is permitted to earn a return.

30. These matters will be further detailed in the evidence to be presented by IPL in this Cause.

Public Convenience and Necessity

31. The public convenience and necessity will be served by the Compliance Projects.

32. The proposed Compliance Projects are reasonable and necessary for IPL to economically comply with federal environmental regulations, including those addressing the SO₂ NAAQS and the CCR bottom ash requirements. The construction, installation and use of the Compliance Projects will enable IPL to ensure the future use of the Petersburg Generating Station to provide reliable electric service while complying with environmental regulations. The proposed Compliance Projects fit appropriately from an operational standpoint within IPL's electric generating portfolio and allow IPL to comply with the Federally Mandated Requirements identified herein. IPL does not anticipate any change to the dispatching priority of the Petersburg units as a result of the proposed Compliance Projects. IPL has examined alternative plans and determined that the proposed Compliance Projects constitute the reasonable, least cost option available to IPL to comply with the Federally Mandated Requirements. IPL will provide information as to whether the proposed Compliance Projects extend the useful life of the Petersburg units and the value of any such extension.

Ongoing Review

33. IPL notes that while Ind. Code § 8-1-8.7-7 specifically provides for ongoing review, Ind. Code ch. 8-1-8.4 does not. So as to allow the Commission to keep itself informed of the progress of the proposed Compliance Projects (if approved), if the Projects are approved, IPL proposes to keep the Commission informed by submitting progress reports and any revisions in the cost estimates as part of the ECCRA proceedings.

Service

34. IPL’s duly authorized representatives to whom all correspondence and communications in this Cause should be sent are:

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Prehearing Conference

35. Timely Commission approval of the Compliance Projects is reasonable and necessary so that IPL may continue to meet its customers’ need for reliable, low-cost electricity.

36. To facilitate IPL’s ability to proceed with the Compliance Projects in a timely manner, IPL requests the Commission promptly conduct a prehearing conference to establish a procedural schedule in this Cause so as to permit an order to be issued in this Cause as soon as practicable. This request is made in accordance with 170 IAC 1-1.1-15(b). In accordance with 170 IAC 1-1.1-15(e), IPL 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.

Relief Requested

WHEREFORE, IPL respectfully requests that the Commission:

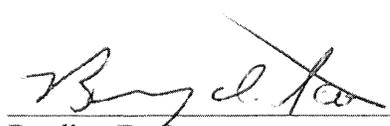
- (a) establish a procedural schedule in this Cause and hold a public evidentiary hearing in this matter; and

- (b) thereafter enter an order:
- i. making the findings required by Ind. Code ch. 8-1-8.4;
 - ii. granting certificates pursuant to Ind. Code ch. 8-1-8.4 that public convenience and necessity will be served by the proposed Compliance Projects;
 - iii. approving the projected Federally Mandated Costs;
 - iv. modifying or granting, to the extent necessary or appropriate, a CPCN for the use of clean coal technology pursuant to Ind. Code ch. 8-1-8.7;
 - v. approving the accounting and ratemaking treatment as stated herein and further detailed in IPL's case-in-chief;
 - vi. providing for ongoing review as necessary or appropriate; and
 - vii. granting to IPL such further relief as may be appropriate.

Respectfully submitted,

INDIANAPOLIS POWER & LIGHT COMPANY

By:



Bradley D. Scott
Senior Vice President, Power Supply



Teresa Morton Nyhart (Atty. No. 14044-49)
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VERIFICATION

I, Bradley D. Scott of Indianapolis Power & Light Company affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

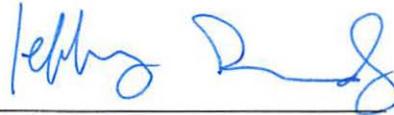
Date: May 27, 2016.

A handwritten signature in black ink, appearing to read 'Bradley D. Scott', written over a horizontal line.

Bradley D. Scott
Senior Vice President, Power Supply

CERTIFICATE OF SERVICE

The undersigned certifies that two copies of the foregoing Verified Petition were served this 31st day of May, 2016, via hand delivery, on the Indiana Office of Utility Consumer Counselor, PNC Center, Suite 1500 South, 115 W. Washington St., Indianapolis, Indiana 46204.



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