ORIGINAL

Commissioner	Yes	No	Not Participating
Swinger	√		
Bain	√		
Deig	√		
Jerrells			√
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC ("NIPSCO") AND NIPSCO GENERATION LLC ("GENCO") FOR APPROVAL OF A CAPACITY TRANSFER AGREEMENT AND AFFILIATE CAPACITY TRANSFERS PROCEDURES BETWEEN NIPSCO AND GENCO PURSUANT TO IND. CODE §§ 8-1-2-49 AND -83.	))))))))	**CAUSE NO. 46436** **APPROVED: OCT 14 2026**

ORDER OF THE COMMISSION

Presiding Officers:
Bob Deig, Commissioner
Kristin E. Kresge, Administrative Law Judge

On July 10, 2026, Northern Indiana Public Service Company LLC ("NIPSCO") and NiSource Generation Company LLC f/k/a NIPSCO Generation LLC ("GenCo") (collectively, "Joint Petitioners") filed their Verified Joint Petition with the Indiana Utility Regulatory Commission ("Commission") for approval of: (1) a Capacity Transfer Agreement dated May 18, 2026 by and between NIPSCO and GenCo (the "CTA"), and (2) an Affiliate Capacity Transfers Procedure effective July 1, 2026 outlining the affiliate arrangement between NIPSCO and GenCo related to (a) the CTA and (b) times when NIPSCO may have excess capacity and uses that to cover periods of GenCo shortfalls of capacity (the "Procedure"), pursuant to Ind. Code §§ 8-1-2-49 and 8-1-2-83. Also on July 10, 2026, Joint Petitioners filed their case-in-chief, including testimony and attachments of Karl E. Stanley, Vice President of Optimization for NiSource Inc.

On July 14, 2026, the Citizens Action Coalition of Indiana, Inc. filed its Petition to Intervene, which was granted on July 24, 2026. On August 21, 2026, NIPSCO Industrial Group ("Industrial Group") filed its Petition to Intervene, which was granted on September 2, 2026.

On August 25, 2026, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its case-in-chief, including the testimony of Kaleb G. Lantrip, Senior Utility Analyst in the OUCC's Electric Division. Also on August 25, 2026, the Industrial Group filed its case-in-chief, including the testimony of Michael P. Gorman, Managing Principal for Brubaker & Associates, Inc.

On September 1, 2026, Joint Petitioners filed the rebuttal testimony and attachments of Mr. Stanley.

The Commission held an evidentiary hearing on September 16, 2026, at 1:00 p.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Joint Petitioners, the OUCC, and Intervenors were present and participated through counsel. The testimony and exhibits of the participating parties were admitted into the record without objection.

Based upon the applicable law and the evidence of record, the Commission finds:

1. Jurisdiction and Notice. Notice of the hearing in this Cause was given and published by the Commission as required by law. Each Joint Petitioner is a "public utility" under Ind. Code § 8-1-2-1. Ind. Code § 8-1-2-83(a) requires that special contracts between public utilities at rates other than those previously approved by the Commission must be approved by the Commission. Therefore, the Commission has jurisdiction over Joint Petitioners and the subject matter of this proceeding.

2. Joint Petitioners' Characteristics and Businesses. NIPSCO is a limited liability company organized and existing under the laws of Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, Indiana. NIPSCO renders electric and gas public utility service in Indiana and owns, operates, manages and controls, among other things, plant and equipment within Indiana used for the generation, transmission, distribution and furnishing of such service to the public.

GenCo is a limited liability company with its principal place of business located at 801 East 86th Avenue, Merrillville, Indiana. GenCo will purchase, construct, own, and operate generation facilities and related assets. All sales by GenCo of electric energy produced by its generation facilities will be provided exclusively to NIPSCO through agreements that will be subject to Commission approval and if excess generation exists after satisfying contractual requirements with NIPSCO, electric energy produced by GenCo's generation facilities will be offered into the wholesale power market and not sold at retail.

3. Background and Relief Requested. On September 24, 2025, in Cause No. 46183, the Commission granted limited declination of jurisdiction over GenCo with the approval of a Stipulation and Settlement Agreement amongst GenCo, NIPSCO, and the Industrial Group ("GenCo Settlement"). The GenCo Settlement (at 17, Section 4(i)) states: "[a]ll affiliate contracts and agreements between NIPSCO and GenCo will be submitted for Commission approval using a procedure similar to the Commission's 30-day filing procedure, or as part of a regularly docketed proceeding. If such filing contains confidential information, it may still be filed with a request for approval within 30 days." Therefore, while Ind. Code § 8-1-2-49 generally only requires the submission of agreements between affiliated companies, Joint Petitioners are submitting the CTA for Commission review and approval. In addition, Ind. Code § 8-1-2-83(a) requires that special contracts between public utilities at rates other than those previously approved by the Commission must be approved by the Commission. *See*, *e.g.*, *In re Petition of Indianapolis Power & Light Co.*, Cause No. 38664, 1989 WL 418643, (IURC Apr. 28, 1989). Through this proceeding, Joint Petitioners request the Commission approve the CTA and Procedure as reasonable and in the public interest.

4. Overview of the Evidence.

A. Joint Petitioners' Case-in-Chief. In addition to Section 4(i) of the GenCo Settlement, Mr. Stanley testified that Section A.2.(a) of the GenCo Settlement provides that GenCo's operations will be limited to developing generation resources to support NIPSCO's expected megaload customer needs and that NIPSCO will be GenCo's only customer, and Section A.2.(b) of the GenCo Settlement provides that GenCo's capacity "will be planned to meet PPA obligations and resource adequacy requirements and planning reserve requirements, guided by NIPSCO's ongoing IRP process and informed by customer negotiations and Commission-approved special contract demand." He also testified that a related provision in Section 8.(b) of the settlement approved by the Commission's June 17, 2026 Order in Cause No. 46322 ("Amazon Settlement")[1] prohibits GenCo from "becom[ing] an independent power producer or leverag[ing] GenCo generation assets for long-term participation in the wholesale power markets." Additionally, Section A.2.(a)(i) of the GenCo Settlement, which is also cited at the end of the above Amazon Settlement term, explicitly provides that Section A.2.(a) of the GenCo Settlement "shall not prohibit GenCo from participating in the wholesale market using existing, non-committed capacity or energy, subject to such regulatory approvals as may be required."

Mr. Stanley explained that although Section A.2.(e) of the GenCo Settlement specifically relates to asset transfers between NIPSCO and GenCo (such as the sale of a generation asset, which is distinct from this type of contractual arrangement), it demonstrates the parties' expectation that the GenCo framework would guide Joint Petitioners' ongoing interactions. He stated this section contemplates a future arrangement between NIPSCO and GenCo (such as this CTA or a power purchase agreement ("PPA") that would be used by NIPSCO to provide service to its non-megaload retail customers, and provides that for such arrangements: (i) all affiliate guidelines must be adhered to, (ii) it must involve only existing assets, (iii) it is approved in a regularly docketed proceeding,[2] and (v) such agreement needs to be demonstrated to be a cost-effective resource decision and be subject to review by a third party evaluator. Finally, he stated that while the scenario of offering GenCo capacity directly to a NIPSCO non-megaload retail customer is not implicated here, Section A.2.(e)(vii) explicitly contemplates a scenario where "GenCo has planned capacity after meeting its obligations to NIPSCO to serve NIPSCO's megaload customers and any other retail customers through an approved PPA" and offers "such excess capacity" to NIPSCO or a NIPSCO non-megaload retail customer.

Mr. Stanley testified that, in combination, these key provisions make clear that: (1) GenCo must tailor its generation to reasonably expected megaload customer needs and cannot intentionally overbuild with the intention to become an independent power producer or participate in the wholesale market in the long term; (2) these settlements explicitly contemplate scenarios where GenCo has excess capacity after selling under PPAs to NIPSCO to serve megaload customers, and GenCo (i) sells it into the wholesale market, such as through the Midcontinent Independent System Operator ("MISO") Planning Resource Auction ("PRA"), and/or (ii) enters into a contract with NIPSCO for this excess capacity; and (3) if GenCo and NIPSCO avail

[1] Stipulation and Settlement Agreement by and among NIPSCO, GenCo, the Indiana Office of Utility Consumer Counselor, and NIPSCO Industrial Group in Cause No. 46322.

[2] Sub-section (iv) is intentionally excluded, as it applies to a transfer of assets from NIPSCO to GenCo, which is not applicable here.

themselves to these options, (i) certain requirements must be adhered to and (ii) Commission approval is required.

Mr. Stanley testified that the CTA and Procedure are fully consistent with the GenCo Settlement and the Amazon Settlement, as well as the implemention processes and concepts contemplated by the settling parties. He testified the CTA and Procedure do not change the Commission's role or alter existing regulatory requirements; rather, they operationalize an additional mechanism within the bounds of the framework of the Settlements.

Mr. Stanley stated the Commission is being asked to approve a framework and procedural mechanism (the CTA and Procedure), not any specific transaction, contract, or pricing outcome. He explained that approval would authorize the structure under which future opportunities for capacity transfers would be evaluated but would not approve or prejudge any resulting specific transaction, which would be reviewed in NIPSCO's existing Resource Adequacy Tracker ("RA Tracker") filings.

Mr. Stanley stated Section 1 of the CTA provides definitions, rules of interpretation, and similar information; Section 2 provides that the term of the CTA is from the Effective Date through May 30, 2031 and provides that it will not be effective until receipt of the Commission and Federal Energy Regulatory Commission ("FERC") Approvals; Section 3 addresses the sale, purchase, and delivery of capacity (called Zonal Resource Credits); Section 4 outlines the invoicing process; and Section 5 addresses confidentiality.

Mr. Stanley testified the overarching purposes of the CTA and Procedure is: (1) to find the most economical, efficient way for NIPSCO to serve retail and megaload customers and (2) to avoid materially overbuilding NIPSCO owned and operated generation (which is intended to directly serve NIPSCO's other retail customers) or GenCo-owned and operated generation (which is intended to be used by NIPSCO to serve megaload customers through PPAs between NIPSCO and GenCo). He stated that in combination, the CTA and Procedure will allow NIPSCO to economically and efficiently plan to meet its load obligations for all its retail customers and will prevent the development of excess generation capacity, thereby reducing unnecessary investment in potentially duplicative infrastructure.

Mr. Stanley testified that, on the other hand, without approval of the CTA, NIPSCO will need to evaluate the capacity it has available to serve NIPSCO's other retail customers (*e.g.*, non-megaload customers) and ensure it is resource adequate in all MISO Planning Seasons and separately evaluate the capacity it has available to serve NIPSCO's megaload customers. He testified this would have the effect of the overall NIPSCO portfolio being materially long on capacity in certain seasons, with those long positions likely being sold into the MISO PRA for the benefit of the broader market—as opposed to being used first by NIPSCO and GenCo for the benefit of NIPSCO's customers. He stated that, importantly, it would also lead to NIPSCO needing to build or purchase new, incremental generation resources to cover expected open positions in future years, when such additional resources may be avoided if the CTA is allowed to be utilized.

Mr. Stanley testified that ultimately, NIPSCO is responsible for ensuring it has sufficient capacity to serve all customers, whether that be the traditional customer base or the emerging megaload customer base. He stated that while NIPSCO has enacted the GenCo structure to ensure appropriate protection of its other retail customers from the risks from serving megaload customers, based on the reality that there are going to be seasons when GenCo has capacity length, there is an opportunity presented here to bring more cost-effective resources to NIPSCO's other retail customers. He stated that while GenCo could just offer any excess capacity into the MISO PRA, and NIPSCO could take short positions into the MISO PRA and purchase needed capacity based on the MISO PRA's clearing price, the CTA and Procedure will provide NIPSCO another option to fill any capacity shortfall in a cost-effective and flexible manner. He stated there would be at least two downsides if GenCo offered its excess capacity into the MISO PRA, instead of offering it to NIPSCO. First, it would allow the benefit of cost-effective capacity to be realized by the broader MISO market, as opposed to being offered to NIPSCO and allowing NIPSCO to decide if it needs such capacity. Second, it would create potential uncertainty for NIPSCO in terms of pricing in future MISO PRAs where NIPSCO would need to purchase. He testified the optionality and flexibility are good for NIPSCO and its other retail customers.

After explaining that currently NIPSCO may meet its capacity needs through bilateral PPAs, purchasing an asset being built by a developer (*e.g.*, a build transfer agreement ("BTA")), utility-driven resource development (such as the NIPSCO Schahfer Gas Peaker), or market purchases from the MISO PRA, Mr. Stanley testified the CTA and Procedure would provide an additional option that can provide additional flexibility in how capacity can be evaluated and procured.

Mr. Stanley testified the CTA provides additional flexibility in capacity procurement. He explained that bilateral capacity offers are typically structured for full planning years or multiple years and are often set at a fixed MW quantity, which can limit the ability to align procurement precisely with seasonal needs and may result in over-procurement that is not fully aligned with actual load. He stated utility-owned resource development and BTAs are often constrained by supply chain limitations, development timelines, and capital intensity, and these are large capital investments with 15-, 20-, and even 30-year lives. He stated that market purchases through the MISO PRA provide some flexibility but expose NIPSCO to price volatility and uncertainty, and are also statutorily limited in scope under House Enrolled Act 1520 (2021), with no more than 15 percent of capacity needs permitted to be met through that mechanism.

Mr. Stanley testified the CTA and Procedure introduce an additional, optional framework that allows NIPSCO to evaluate capacity opportunities in smaller, more targeted MW blocks that can be better aligned with seasonal (or otherwise time-specific) needs. He stated this improves the ability to match procurement more precisely to when capacity is needed, rather than being constrained to large full-year or long-term commitments. Importantly, he stated that any use of the CTA or Procedure is discretionary by NIPSCO and GenCo and remains subject to Commission review in NIPSCO's RA Tracker filings, ensuring it is only used when economically justified.

Mr. Stanley testified the optional nature of this arrangement is important because it does not allow GenCo to put capacity to NIPSCO when it has excess, thereby potentially making NIPSCO long on capacity; instead, NIPSCO can continue to evaluate the capacity needs of its

other retail customers (*e.g.*, non-megaload customers) just as it does today. However, he stated that if GenCo has excess capacity, NIPSCO will now have an additional option to evaluate and compare to its current options as it looks at closing any open positions, which is beneficial since the capacity market is relatively illiquid and the options that may be available when NIPSCO needs to close an open position may be limited.

Mr. Stanley testified that GenCo's offers of capacity under the CTA will be much more flexible than the capacity offers NIPSCO has recently experienced in the bilateral market. He explained that because MISO's planning reserve margin and its resource accreditation for generation resources vary between and among each of the four MISO seasons in a single Planning Year,[3] NIPSCO's capacity position (short, long, or resource adequate) also changes each season—even if its generation portfolio and customer demand has not changed. He stated that as MISO moved to a seasonal resource adequacy construct, he was hopeful that NIPSCO would begin to see seasonal capacity offers in the bilateral market, which would allow NIPSCO and other utilities to purchase capacity in only the seasons where they may have a need, but this has generally not occurred. Instead, he stated bilateral capacity offers are typically for a set number of MWs and must be purchased for the entirety of a Planning Year—and sometimes for more than one Planning Year. This can lead to NIPSCO making a purchase to close an open position in one season and at the same time become materially long on capacity in another season—because it needed to purchase the entire amount of MWs offered and for all four seasons. He testified this is where the CTA can provide much needed flexibility, as when GenCo makes a written offer to NIPSCO, it will include the number of MWs being offered for each season. He described that NIPSCO will then have the choice to take none, some, or all the MWs being offered, and it will have this choice season-by-season, it will not be an "all or nothing" proposition. Mr. Stanley provided a numerical example to demonstrate how this kind of additional GenCo capacity offer can lead to both planning efficiency and financial savings for NIPSCO's other retail customers.

In describing how NIPSCO would evaluate this additional option as it considers the most appropriate means to close an open capacity position, Mr. Stanley explained that when NIPSCO receives a written offer from GenCo, NIPSCO will first determine whether it has a need for capacity in any of the Planning Seasons that GenCo is offering. He stated that if it does not reasonably expect to have a need (an open capacity position), NIPSCO would decline the GenCo offer in its entirety; on the other hand, assuming NIPSCO has a need in one or more of the Planning Seasons that GenCo is offering, NIPSCO will then compare the pricing and number of MWs to any other capacity offers that may be available, such as those NIPSCO typically receives from brokers in the capacity market. He testified that since GenCo's offer will have a set price for each season (based on the most recent MISO Zone 6 clearing price for that season), it will allow NIPSCO to compare the GenCo offer to alternatives available in the market.

Mr. Stanley testified the purchase price for each seasonal capacity offer will be based on the most recent MISO clearing price for the Indiana zone (MISO Zone 6) for the applicable season. As an example, if GenCo made a written offer to sell 25 MW of Summer 2028 capacity

[3] MISO's four Planning Seasons are Summer (June-August), Fall (September-November), Winter (December-February), and Spring (March-May).

to NIPSCO in July 2026, the price would be based on the Summer 2026 MISO Zone 6 clearing price, as that is the most recent summer price available. On the other hand, if GenCo made a written offer to sell 25 MW of Fall 2028 capacity to NIPSCO in June 2027, the price would be based on the Fall 2027 MISO Zone 6 clearing price, as there would be a new MISO PRA run in the Spring of 2027 that establishes new clearing prices for each season during the Planning Year of June 2027 to May 2028.

Mr. Stanley explained that a reasonable and objective pricing mechanism is needed since NIPSCO and GenCo are not allowed to negotiate pricing for each capacity transaction at arms-length as NIPSCO would ordinarily do with an unaffiliated third party. He described the two different pricing mechanisms considered by NIPSCO and GenCo, both of which were tied to the MISO PRA.

Mr. Stanley stated that first, the future MISO auction clearing price for MISO Zone 6 for the applicable season was considered. He noted that while the price would not be known when the decision is made, this pricing would mirror the future price NIPSCO would pay if it remained short on capacity and bought capacity in the MISO auction in the future as a price taker; however, the downside is that NIPSCO would not have a known price in a GenCo offer to compare to other available alternatives.

Mr. Stanley stated that second, the most recent historical MISO auction clearing price for MISO Zone 6 for the applicable season was also considered. He noted that while this option does not mirror the future MISO PRA price, it is a fair indicator of current market pricing, and it allows NIPSCO to compare GenCo offers to other alternatives in real time.

Mr. Stanley testified that ultimately, NIPSCO and GenCo agreed to use the historical price so it is a known price that can be fairly compared with other offers in real time. He stated that while the capacity market continues to be somewhat of an illiquid market, meaning that by definition it is challenging to determine the current market price, using the most recent MISO seasonal clearing price is a reasonable market indicator. Mr. Stanley provided some numerical examples to demonstrate how a capacity transaction for even a single MISO Planning Year could be economically beneficial to NIPSCO's existing retail customers.

Mr. Stanley stated that approval of the CTA and Procedure would approve a construct that allows for the future exchange of capacity between NIPSCO and GenCo, but it would not be a prejudgment of any particular transaction or lead to automatic recovery. Instead, he explained that future purchases by NIPSCO from GenCo under the CTA (or allocations of cost responsibility from NIPSCO to GenCo under the Procedure) will be evaluated by the Commission through NIPSCO's RA Tracker, where other bilateral capacity transactions are recovered and PRA revenues are credited. Mr. Stanley testified NIPSCO commits to reporting each transaction under the CTA in each semiannual RA Tracker and proposed that review of each transaction occur at the time it is reported in the RA Tracker, to allow a somewhat real-time review based on the information available at the time the decision was made.

Mr. Stanley explained that approval of the Procedure would authorize NIPSCO to make a written offer to GenCo when NIPSCO has excess capacity and GenCo has a potential shortfall for the capacity it has contractually committed to providing to NIPSCO under a customer-specific

PPA. He noted that while the method for making offers and the pricing mechanism would be identical, under this scenario, NIPSCO would not make an actual transfer of capacity to GenCo. Instead, NIPSCO, as the entity responsible for ensuring resource adequacy and procuring sufficient capacity to cover non-megaload and megaload customer load (plus the planning reserve margin requirement), would retain the capacity but assign cost responsibility to GenCo for a set number of MWs at a set price. Mr. Stanley testified this would be documented in writing and executed by an officer of NIPSCO and GenCo, just as the formal contractual transfers under the CTA would be and would also be reported and reviewed in the RA Tracker.

Mr. Stanley also discussed a recent decision by FERC in *Cordova Energy Company, LLC*, 193 FERC ¶ 61,090 (2025), and *Cordova Energy Company, LLC*, 194 FERC ¶ 61,108 (2026), where FERC approved an arrangement between a retail electric company and unregulated affiliate that used a future MISO PRA clearing price, and he noted that the arrangement approved by FERC was very similar to what is proposed under the CTA.

Mr. Stanley testified Joint Petitioners were careful to craft the arrangements under the CTA and Procedure to be fully consistent with the terms of the GenCo Settlement and Amazon Settlement (jointly the "Settlements"), and this kind of arrangement was explicitly contemplated in those Settlements to allow for efficient and cost-effective use of GenCo and NIPSCO generation capacity and help them avoid the need to build or procure incremental capacity, as would likely be required without the CTA. He stated the written offer process and pricing defined in the CTA and Procedure ensure that agreed-to transactions are based on a reasonable price, and each transaction will remain subject to Commission approval in the future. For all these reasons, Mr. Stanley testified the CTA and Procedure are just and reasonable and in the public interest.

B. **OUCC Case-in-Chief.** Mr. Lantrip discussed concerns regarding whether NIPSCO and GenCo will use individual and separate teams to maintain each Joint Petitioner's respective capacity position. He stated that if Joint Petitioners have separate staff overseeing each one's forecasted capacity position, it allows for more of an arms-length evaluation of the proposed written offers. He noted that while this has a cost due to the duplication of staffing roles between Joint Petitioners, if both were instead using a common NiSource services staff to evaluate the proposals, it would allow for cost efficiencies at the expense of the separation of parties evaluating the written offer as acceptable. While Joint Petitioners have assured that lines between the two companies will be distinguished, Mr. Lantrip states there has not been enough time to evaluate a history of the distinct identities of the Joint Petitioners. He noted that GenCo's megaload customer base is a subset of the total NIPSCO customer base, the separate treatment of bilateral transaction for each Joint Petitioner's books is connected differently for a proposed GenCo offer, and the reclassification of NIPSCO's available capacity to serve megaload as opposed to non-megaload customers. He stated these bilateral capacity arrangements would be a more prudent step once GenCo matured as a company with an established generation portfolio and megaload customer base, but not now when both GenCo's generation development and the ramp-up of megaload customers are uncertain. Mr. Lantrip contended the timing of Joint Petitioners' request appears premature, with the benefits being theoretical given that GenCo stated it could only determine if it has an excess capacity position at a 0-6 month range before a MISO PRA. With these caveats in mind, he stated this arrangement additionally requires a third-party evaluator's review to determine the cost-effectiveness of these resource decisions.

Mr. Lantrip recommended that, if the Commission approves these arrangements, non-megaload ratepayers should benefit to the greatest extent possible. As such, GenCo's capacity sales to NIPSCO should be priced at the lower of its fully burdened incremental generation capacity cost or the MISO PRA clearing price in the appropriate period of the seasonal capacity sale. His recommendation is based on the need for GenCo to establish an excess capacity position earlier than 0-6 months before an auction, and it would be prudent to assess GenCo's actual generation costs before committing to a MISO PRA price point. Conversely, NIPSCO capacity sales needed to cover GenCo's forecasted shortfalls should be set at the higher of its fully burdened incremental generation capacity cost or the MISO PRA price to allow for the market-based cost of capacity at that time to determine the appropriate value of that capacity in the MISO season. He stated NIPSCO's RA Tracker will reconcile the actual effect of these bilateral transactions between Joint Petitioners before both the Commission and the OUCC's assessment of prudence and cost-effectiveness.

C. Industrial Group Case-in-Chief. Mr. Gorman stated that the CTA and Procedure are problematic and should not be approved. He stated that: (1) the GenCo model was approved by the Commission in the first place based substantially on the premise that the segregation of GenCo resources from NIPSCO resources will protect existing customers from the risks of NIPSCO service to megaload customers and thus the ringfence protection would be eroded by the proposal to intermingle GenCo resources and NIPSCO resources; (2) NIPSCO and GenCo are corporate affiliates and for-profit operations with NIPSCO operating as a regulated monopoly and GenCo operating under a substantial declination of Commission jurisdiction, which presents risks that affiliate incentives will affect resource management decisions; (3) the proposed pricing arrangement, based on historical MISO clearing prices, is unreasonable because GenCo's excess capacity will be subsidized in significant part by megaload customers, yet the proposed pricing is market-based rather than cost-based, with GenCo profits being recovered from existing customers through the RA Tracker and pricing by reference to historical MISO clearing prices instead of future pricing at the time the transferred capacity is utilized also shifts market risk to existing customers; (4) the proposed arrangement is at odds with provisions in the Settlements because the settlement terms reasonably cover the subject of resource transfers between NIPSCO and GenCo and the proposed arrangement attempts to redefine those terms and are unnecessary; and (5) the proposed review of particular transactions in the RA Tracker is not adequate to protect the interests of existing customers because under this proposal, the umbrella agreements authorizing this type of transaction would have already been approved and particular transfers would not be presented for review until the commitment has already been made, which unreasonably softens the burden on NIPSCO to justify cost recovery through the RA Tracker.

D. Joint Petitioners' Rebuttal. Mr. Stanley responded to the testimonies of Mr. Lantrip and Mr. Gorman and addressed: (1) the consistency of the CTA and Procedure with the applicable settlement agreements and GenCo structure; (2) the reasonableness of the proposed pricing mechanism; and (3) the sufficiency of the proposed process for Commission review of transactions under the CTA and Procedure.

Mr. Stanley testified Mr. Gorman and Mr. Lantrip did not disagree with the central premise of his direct testimony that the use of the CTA and Procedure will "allow NIPSCO to economically and efficiently plan to meet its load obligations for all its retail customers and will prevent development of excess generation capacity, thereby reducing unnecessary investment in

potentially duplicative infrastructure." He stated that no testimony was offered to contradict that these benefits would result from the CTA and Procedure. Mr. Stanley stated that neither Mr. Lantrip or Mr. Gorman disagreed with Joint Petitioners' contention that there is a potentially significant economic benefit to NIPSCO's customers from implementation of the CTA and Procedure.

Mr. Stanley explained that if the Commission does not approve the CTA and Procedure, it would effectively mean NIPSCO would operate as two separate systems, rather than as a single electric provider serving all its retail customers. He stated that because MISO requires NIPSCO to demonstrate resource adequacy seasonally and accredits resources differently across the four seasons, NIPSCO would need to evaluate every season in future Planning Years and solve for the binding season. To do this, NIPSCO would need to do so separately for its retail customers and megaload customers, thereby resulting in potential long capacity positions for both customer groups, the result being that: (a) NIPSCO and GenCo would need to separately plan their generation resources (knowing they do not have the option to utilize complimentary long and short positions that may exist); (b) both would be forced to fill short positions in every planning season through their own independent resource portfolios; and (c) compared to using the CTA and Procedure, additional capacity purchases and additional generation resources would need to be procured in order to close these short positions, resulting in the material overbuilding (or over-procuring) of generation capacity. Mr. Stanley stated this assumes that sufficient capacity and/or generation resources are even available to procure, which is not always the case given the current illiquid capacity market and supply constraints. He testified this would be inefficient and uneconomical, and NIPSCO's customers would directly bear the increased cost of the additional capacity and generation resources that would need to be procured. He stated the CTA and Procedure preserve the protections that the GenCo structure affords retail customers while avoiding the planning inefficiencies that would otherwise result.

Mr. Stanley noted that in Cause No. 43693, the Industrial Group raised and re-raised concerns about GenCo overbuilding capacity, but this is exactly what will occur (for NIPSCO and for GenCo) if NIPSCO must act as if it has two separate sets of retail customers that can only be served through separate and independent generation resource portfolios. He testified this would not be economically efficient and Joint Petitioners do not believe this is in the best interest of any of its customers—existing or megaload.

Mr. Stanley stated that ultimately, whether to approve or reject the CTA and Procedure is a decision for the Commission. He stated that if the Commission rejects them as the Industrial Group requests, NIPSCO and GenCo will take the necessary steps to independently evaluate and ensure resource adequacy, which will require the procurement of more resources and additional expense than if the CTA and Procedure are approved. He stated that while the cost of the GenCo-developed generation resources will be recovered from NIPSCO's megaload customers, the cost of new NIPSCO generation resources would be wholly borne by NIPSCO's existing retail customers.

a. <u>Consistency with the GenCo Structure and Settlements</u>. In response to Mr. Gorman's arguments that he does not believe the CTA and Procedure are consistent with the Settlements, Mr. Stanley stated that he offered direct testimony about the provisions of the Settlements that he believes are the most relevant and important, to explain how

and why the CTA and Procedure are consistent with the Settlements. He stated that whether the CTA and Procedure are just and reasonable and whether they are consistent with the Settlements are ultimately questions for the Commission to decide.

Mr. Stanley testified that the CTA and Procedure were operationalizing a mechanism that was within the bounds of the Settlements, that the Settlements address the subject of capacity transfers in sufficient detail already, and the new proposed arrangement seeks to revise those existing commitments and normalize a business model that departs from the representations and assurances on which approval of the GenCo structure was premised. Mr. Stanley stated that Section A.2.(e)(v) of the GenCo Settlement contemplates a future agreement between GenCo and NIPSCO where GenCo assets could be used to serve NIPSCO's non-megaload retail customers, which is exactly what the CTA is, and consistent with Section A.2.(e)(v)(iii), Joint Petitioners are presenting this to the Commission for review and approval. On this basis, he disagreed with Mr. Gorman's claim that Joint Petitioners seek to restate and revise the standards and procedures already established in the Commission-approved settlements.

Mr. Stanley responded to Mr. Gorman's claim that the CTA and Procedure are not consistent with the overall GenCo structure, including his testimony that this would institute a substantial deviation from the ringfence approach that NIPSCO and GenCo put forward as a key protection for existing customers. Mr. Stanley stated that he was uncertain what Mr. Gorman meant when he used the term segregation of resources model. Mr. Stanley stated that if he was inferring that there is a mandate of a complete and absolute separation of the GenCo and NIPSCO generation resources, Mr. Stanley disagrees. He testified that Joint Petitioners have emphasized that one of the benefits of the overall GenCo model is that it provides reasonable and appropriate protection for NIPSCO's existing retail customers from the financial risks associated with the development of the transmission and generation necessary to serve megaload customers, and in testimony and Commission orders, the term ringfencing has been used as shorthand to define that concept. Mr. Stanley testified that the CTA and Procedure do not undermine the ringfencing and financial protection of NIPSCO's existing retail customers. He noted that this specific question was asked by the OUCC in its third set of data requests in this Cause, citing Joint Petitioners' Response to OUCC Request 3-001, as follows:

> Use of the CTA and/or Procedure would not impact the ringfencing structure that has been approved by the Commission, as NIPSCO's current customers will not have cost responsibility for the cost of GenCo generation (depreciation, return on, O&M, etc.)—either now or at the end of a customer-specific contract with a data center. For example, assuming a transaction were made under the CTA whereby NIPSCO agreed to purchase a specified amount of capacity at a defined price, it would be presented to the Commission for approval, and if approved, NIPSCO and its current customers would be responsible only for the costs of that specific transaction—nothing more. This is the same kind of financial obligation NIPSCO undertakes today when entering a capacity transaction with an unaffiliated third party.

Mr. Stanley stated it would be nonsensical to argue that when NIPSCO enters a bilateral capacity deal with an unaffiliated third party that NIPSCO is somehow now financially responsible for the ongoing or long-term operations of that third party's generation resources and that same logic

would apply here. He explained that while NIPSCO would be taking on a defined financial obligation to pay GenCo for a defined amount of capacity, it would be after Commission approval of such transaction. He testified this does not defeat or undermine the ringfencing approach of the GenCo model and it would not make NIPSCO's existing retail customers financially responsible for anything other than the cost of the approved capacity transaction, whether in the short- or long-term.

Mr. Stanley responded to Mr. Gorman's hypothetical example of a megaload customer defaulting under the customer-specific contract it has with NIPSCO, resulting in GenCo having an unexpectedly large surplus of unused capacity, which could tempt NIPSCO to support its affiliate instead of pursuing market alternatives, and shift excess capacity cost risk to NIPSCO. He stated that the CTA is not intended to be a means of mitigating GenCo's risk if there is a material default by a megaload customer under a customer-specific contract with NIPSCO, as this would be inconsistent with the overall purpose of the GenCo model. He emphasized that it is NIPSCO's option whether to take any capacity GenCo may offer, and GenCo cannot put capacity to NIPSCO. He explained the NIPSCO officer who would be presented with any offer from GenCo is duty-bound to act in the best interest of NIPSCO and its customers. He further stated that if such a default occurred, NIPSCO and GenCo could not enter a confirmation and then unilaterally force NIPSCO's existing retail customers to take on cost responsibility for capacity that NIPSCO did not need. He testified that because the Commission independently approves each transaction under the CTA, if Joint Petitioners were to attempt such a maneuver in the future, they would not be able to meet their burden to prove the transaction was reasonable, nor would a third-party evaluator be willing to sign-off on such a transaction.

b. <u>Reasonableness of the Pricing Mechanism</u>. Mr. Stanley provided a brief reminder of the pricing mechanism proposed in the CTA and Procedure, stating that the purchase price for each seasonal capacity offer will be based on the most recent MISO clearing price for MISO Zone 6 for the applicable season and acknowledged that the use of the historical MISO PRA clearing price is a market-based, rather than a cost-based, pricing mechanism. However, if NIPSCO were to go into the MISO PRA short on capacity as a price taker, it would be paying a market-based price for capacity. He also stated that, while orders from FERC are not controlling for the Commission but are instructive, FERC has approved market-based capacity pricing for similarly situated affiliates, which were based on future MISO PRA clearing prices. Therefore, he stated the idea of using market-based pricing for capacity sales between affiliates is appropriate.

Mr. Stanley disagreed with Mr. Gorman's claim that the use of the historical clearing price shifts risk onto NIPSCO customers. He stated that under the CTA, NIPSCO would be committing to purchase GenCo capacity at a known, defined price to close an open capacity position and it would be doing so instead of going into the MISO PRA short and buying capacity at an unknown future price—which is where NIPSCO and its customers would actually have risk. He stated NIPSCO would have the option to purchase the capacity and would not have to execute on the offer if market conditions at the time of the GenCo offer did not favor NIPSCO customers. He noted that while the next MISO PRA could clear higher or lower than where the historical price cleared, in his opinion, when buying under the CTA, NIPSCO would be gaining price certainty and mitigating pricing risk if market conditions favored the transaction.

He also stated that under the Procedure, NIPSCO would be selling at a known, defined price rather than waiting until the PRA to sell its excess capacity, noting that the price in the future PRA could increase or decrease when compared to the historical price that would control. Thus, NIPSCO would be giving up potential economic upside, but it would also be mitigating potential economic downside.

In response to Mr. Lantrip's testimony, Mr. Stanley stated that if Mr. Lantrip was referring to some average capacity price across the entire current NIPSCO generation portfolio, he is not aware of a simple or reliable means of making this calculation, as it is dependent on a number of factors, and various pricing assumptions. Mr. Stanley stated that it would also change every time NIPSCO: (a) invested capital in a current generation resource, (b) retired an operational generation resource, (c) brought a new generation resource online, or (d) entered a bilateral capacity deal or purchase capacity in the MISO PRA. Mr. Stanley testified that while he can understand why the OUCC, as the statutory representative of all utility customers, would want non-megaload customers to benefit to the greatest extent possible, he does not believe that should be the controlling pricing standard under the CTA or Procedure. He testified that, instead, consistent with Section A(2)(e)(v) of the GenCo Settlement, the CTA and Procedure propose a mechanism whereby each transaction that is made requires a demonstration in the relevant RA Tracker that the decision was cost-effective, and subject to review by a third-party evaluator.

c. <u>Commission Review and Approval of Each Transaction</u>. In responding to Mr. Gorman that the Commission approval process required for each transaction would not provide reasonable protection to address concerns noted in Mr. Gorman's testimony, Mr. Stanley stated that Mr. Gorman did acknowledge that the approval of the CTA and Procedure sought by Joint Petitioners in this proceeding "is not specific approval for particular transactions" that would be required in the RA Tracker in the future. However, he disagreed with Mr. Gorman's conclusion that the proposed review process is not a fair opportunity for meaningful Commission oversight.

Mr. Stanley testified that the review process Joint Petitioners have proposed is like the process by which NIPSCO capacity confirmations with unaffiliated third parties are currently evaluated through an RA Tracker proceeding, and that there are two additional aspects that Mr. Gorman did not recognize. First, the transaction and its pricing must comply with the requirements of the CTA or Procedure, rather than being negotiated with a third party so the Commission and stakeholders will know where the MISO PRA has cleared and can easily verify that the pricing is correct, and NIPSCO will then need to demonstrate that the decision it made to purchase or sell capacity was reasonable at the time it was made. Second, a third-party evaluator will provide its opinion on the transaction, which is more rigorous than the current RA Tracker process for third-party capacity transactions. Mr. Stanley confirmed that a review by a third-party evaluator is required under Section A(2)(e)(v) of the GenCo Settlement.

Mr. Stanley concluded that the Commission should approve the CTA and Procedure because they are reasonable and consistent with the Settlement. He testified the CTA and Procedure will allow for efficient and cost-effective use of GenCo and NIPSCO generation capacity and help them avoid the need to build or procure incremental capacity, as would likely be required without them.

5. Commission Discussion and Findings. Joint Petitioners request that the Commission approve the CTA and Procedure, emphasizing the efficiency and potential cost savings for NIPSCO's existing retail customers from their use. The Commission is being asked to approve the framework and procedural mechanism under which future capacity transfer opportunities may be evaluated, not any specific capacity transaction or pricing outcome. Importantly, any specific transaction that Joint Petitioners agree to must be presented for Commission review in NIPSCO's RA Tracker.

The present filing is consistent with the regulatory oversight contemplated when the Commission approved the GenCo structure, and the kind of arrangement proposed in the CTA and Procedure for sales of capacity between NIPSCO and GenCo was explicitly contemplated in the Settlements. The GenCo Settlement provides that affiliate contracts and agreements between NIPSCO and GenCo will be submitted to the Commission for approval through a procedure similar to the Commission's 30-day filing procedure or as part of a regularly docketed proceeding. Joint Petitioners initially submitted the CTA and Procedure through the 30-day filing process but determined that a docketed proceeding was the more appropriate venue because it would allow further review by the Commission and stakeholders and further explanation of the need and purpose of the CTA.

Ind. Code § 8-1-2-49 allows, in pertinent part, that if it be found that any affiliate contract is not in the public interest, the Commission is authorized to disapprove such contract. Here, based on the Settlements, Joint Petitioners have submitted the CTA and Procedure for approval, as opposed to the traditional process where the Commission evaluates affiliate arrangements after-the-fact, but even with our approval, the Commission maintains ongoing oversight of these affiliate agreements. As noted above, we also will review any transaction under the CTA and Procedure in NIPSCO's RA Tracker before NIPSCO incurs a financial obligation related thereto.

The record also identifies several provisions of the Settlements that bear directly on the arrangements before us. GenCo's operations are limited to developing generation resources to support NIPSCO's expected megaload customer needs, and GenCo's capacity is to be planned to meet its PPA obligations and applicable resource adequacy and planning reserve requirements. The Amazon Settlement further provides that GenCo will not become an independent power producer or leverage its generation assets for long-term participation in wholesale power markets. Nothing in this order abrogates those settlement provisions. At the same time, the GenCo Settlement expressly recognizes that GenCo may participate in the wholesale market using existing, non-committed capacity or energy, subject to required regulatory approvals.

The GenCo Settlement also explicitly contemplates circumstances in which existing GenCo assets may be used by NIPSCO to serve non-megaload retail customers, subject to specified protections, including compliance with the affiliate guidelines, Commission approval in a regularly docketed proceeding, a demonstration that the arrangement constitutes a cost-effective resource decision, and review by a third-party evaluator. The settlement further contemplates that GenCo may have excess capacity after meeting its obligations to NIPSCO to serve megaload customers and other retail customers through an approved PPA. We, therefore, do not agree with the Industrial Group that the CTA and Procedure depart from the GenCo framework merely because they contemplate capacity being used across the two portfolios. Rather, the relevant question is whether the proposed framework is consistent with the protections and regulatory

requirements established in the prior settlements, and whether the framework is reasonable and in the public interest. On both accounts, we find they are.

The Joint Petition explains that the overarching purposes of the CTA and Procedure are twofold: (1) to find the most economical, efficient way for NIPSCO to serve retail and megaload customers and (2) to avoid materially overbuilding NIPSCO-owned and operated generation (which is intended to directly serve NIPSCO's other retail customers) or GenCo-owned and operated generation (which is intended to be used by NIPSCO to serve megaload customers through PPAs between NIPSCO and GenCo). In combination, the CTA and Procedure will allow NIPSCO to economically and efficiently plan to meet its load obligations and resource adequacy requirements for all its retail customers and will prevent the development of excess generation capacity, thereby reducing unnecessary investment in potentially duplicative infrastructure. These are important considerations for us to determine whether the CTA and Procedure are in the public interest. Importantly, Joint Petitioners' evidence demonstrates that both purposes will be directly served by the approvals sought, and no party to the proceeding offered evidence to the contrary.

Without the CTA and Procedure, NIPSCO and GenCo would effectively have to plan their capacity positions separately, notwithstanding that NIPSCO ultimately bears responsibility for ensuring sufficient capacity to serve all its retail load. Because MISO applies seasonal resource adequacy requirements and seasonal resource accreditation, separate planning could produce complementary long and short capacity positions that could not be utilized across the portfolios. This would likely require additional capacity purchases or generation resources and could result in overbuilding or over-procuring capacity.

The CTA and Procedure add an option to NIPSCO's existing capacity procurement alternatives; they do not require NIPSCO to transact with GenCo (or vice versa). NIPSCO currently may satisfy capacity needs through bilateral PPAs, BTAs, utility-developed resources, and purchases through the MISO PRA. Under the CTA, when GenCo has excess capacity, NIPSCO may evaluate that capacity against its needs and other available alternatives. NIPSCO may accept none, some, or all the capacity offered by GenCo on a seasonal basis. GenCo cannot require NIPSCO to purchase its excess capacity. This optionality is significant because it adds an additional tool to NIPSCO's resource planning toolbox and permits NIPSCO to use the CTA only when it has an identified capacity need and determines that the GenCo offer compares favorably with available alternatives.

The Procedure addresses the converse circumstance. When NIPSCO has excess capacity and GenCo has a potential capacity shortfall associated with capacity GenCo has contractually committed to provide under a customer-specific PPA, NIPSCO may make an offer to GenCo. In that circumstance, however, there is not an actual transfer of capacity from NIPSCO to GenCo. NIPSCO retains the capacity, while the cost responsibility for a specified amount of capacity is assigned to GenCo at the applicable price. The transaction is documented in writing and is likewise subject to review through the RA Tracker. It is, likewise, an option for GenCo and NIPSCO when it is determined to be a cost-effective alternative.

A. <u>Consistency with the GenCo Structure and Customer Protections</u>. The Industrial Group argued that the CTA and Procedure are inconsistent with the segregation of resources and ringfencing concepts underlying the GenCo structure. We do not find that the existence of the proposed capacity-transfer framework, standing alone, eliminates or erodes the financial protections previously established for NIPSCO's other retail customers. The evidence shows that NIPSCO's other retail customers will not become responsible for GenCo's underlying generation costs, including depreciation, return, and operation and maintenance expense, etc., merely because NIPSCO enters a capacity transaction with GenCo. Rather, under a CTA transaction, those customers would bear the cost of the specific capacity transaction, in the same manner that NIPSCO incurs a defined financial obligation when it purchases capacity from an unaffiliated third party. Mr. Stanley noted in his rebuttal testimony that when NIPSCO enters a bilateral capacity deal with a third party, it is not financially obligated to pay for the underlying generation resource, and the same is true here.

Likewise, the CTA is not intended to provide a mechanism for shifting the consequences of a material default by a megaload customer to NIPSCO's other retail customers. Mr. Stanley stated in rebuttal that NIPSCO retains discretion as to whether to accept capacity offered by GenCo; GenCo cannot put unwanted capacity to NIPSCO and a transaction must independently satisfy the applicable Commission review process. Thus, the framework does not authorize NIPSCO and GenCo to unilaterally assign to NIPSCO's other retail customers the cost of GenCo capacity that NIPSCO does not need.

The CTA and Procedure also do not transfer ownership of generation assets between NIPSCO and GenCo or authorize the inclusion of GenCo generation assets in NIPSCO's rate base. The ringfencing protections underlying the GenCo structure concern the financial risks associated with the generation and transmission investments necessary to serve megaload customers, and those remain in place. Based on the record evidence presented, we find that approval of a framework permitting Commission-reviewed capacity transactions does not, by itself, make NIPSCO's other retail customers financially responsible for GenCo's generation investments. We also emphasize that our approval of the CTA and Procedure do not modify the commitments and representations that Joint Petitioners made and that we approved in the Settlements, including Section A.2(a) of the Amazon Settlement, which provides that NIPSCO's other retail customers will not be financially responsible for NIPSCO's and/or GenCo's financial responsibilities under or as a result of the Special Contract or PPA or the related investments, expenses, and costs.

B. <u>Pricing</u>. Ind. Code § 8-1-2-83(a) requires that special contracts between public utilities at rates other than those previously approved by the Commission must be approved by the Commission. The CTA and Procedure establish an objective pricing mechanism for the affiliate capacity transactions. The price applicable to a seasonal capacity offer is based upon the most recent MISO PRA Zone 6 clearing price for the applicable season. Joint Petitioners selected this mechanism because NIPSCO and GenCo, as affiliates, cannot negotiate each transaction at arm's length in the manner NIPSCO would with an unaffiliated counterparty and therefore this is an objective pricing mechanism. Use of the most recent MISO seasonal clearing price also provides a known price at the time NIPSCO evaluates the transaction against other available alternatives, which is essential to enable NIPSCO to make an at-the-time determination of whether the GenCo capacity is cost-effective for its existing retail customers.

OUCC witness Lantrip recommended, instead, that GenCo capacity sales be priced at the lesser of generation cost or the applicable MISO PRA clearing price and that transactions involving NIPSCO capacity use the greater of those measures. Industrial Group witness Gorman objected more generally to the use of a market-based, rather than cost-based, price and contended that the use of historical clearing prices shifts price risk to NIPSCO customers.

We find the proposed pricing mechanism reasonable for the purposes of establishing the framework. The use of the most recent seasonal MISO Zone 6 clearing price provides a transparent and objectively verifiable price at the time the transaction is evaluated given that a subsequent PRA may clear either above or below the historical price used for a transaction. Thus, as Mr. Stanley explained, use of the historical price may forgo potential upside or avoid potential downside depending upon subsequent market results. However, NIPSCO is not obligated to accept a GenCo offer. This pricing mechanism provides a defined price that NIPSCO will know before committing and can compare that price with other alternatives available at the time of its decision. When buying under the CTA, NIPSCO is gaining price certainty and mitigating pricing risk (from future PRA clearing prices) if market conditions favor executing a transaction with GenCo.

Moreover, approval of the pricing formula does not establish that every future transaction made at that price is necessarily reasonable. Each transaction must still be demonstrated in the relevant RA Tracker to constitute a cost-effective resource decision at the time it was made and is subject to third-party evaluation and Commission review. This transaction-specific review provides the appropriate forum to determine whether use of the CTA or Procedure is reasonable in light of the capacity need and alternatives available when the decision is made.

C. <u>Commission Review of Individual Transactions</u>. Joint Petitioners emphasized that approval of the CTA and Procedure are not a prejudgment that any particular future transaction is a prudent, cost-effective decision, as each transaction will be presented in NIPSCO's RA Tracker for Commission review, but the Industrial Group questioned whether review of transactions through the RA Tracker would provide sufficient Commission oversight. We find the proposed process will provide meaningful review while preserving the Commission's authority over each individual transaction. The RA Tracker is already the mechanism through which NIPSCO's capacity confirmations with unaffiliated third parties are reviewed. Transactions under the CTA and Procedure will be subject to additional requirements: the transaction and its pricing must comply with the approved CTA or Procedure; the MISO PRA price underlying the transaction can be independently verified; NIPSCO must demonstrate that its decision was reasonable when made; and a third-party evaluator will provide an opinion concerning the transaction.

Mr. Stanley confirmed in rebuttal that third-party evaluation will apply to each transaction consistent with Section A.2.(e)(v) of the GenCo Settlement. Although that requirement is not expressly stated in the CTA or Procedure, Joint Petitioners represented that it would apply to each transaction and indicated their willingness to clarify the CTA or Procedure through a compliance filing if the Commission so requires. We find that the third-party evaluation requirement is an important component of the framework and shall apply to each transaction under the CTA and Procedure, but we will not mandate revision to the CTA or Procedure, as this order is clear that such obligation applies.

Importantly, therefore, our approval today does not prejudge the reasonableness or recoverability of any particular transaction. For each transaction presented in NIPSCO's RA Tracker proceeding, Joint Petitioners retain the burden to demonstrate that the transaction complies with the CTA or Procedure, is a cost-effective resource decision, and is reasonable based upon the circumstances and alternatives existing when the decision is made. The Commission retains authority to reject a transaction that does not satisfy those requirements. The record confirms, for example, that NIPSCO would not undertake a Procedure transaction unless it expected the transaction to benefit or provide cost savings to its non-megaload customers and that the Commission could reject the transaction if the evidence did not support that determination.

D. Conclusion. Based on the evidence presented, we find that the CTA and Procedure are reasonable and in the public interest. They establish a reasonable, additional framework through which NIPSCO and GenCo may evaluate complementary capacity positions while preserving the Commission's review of individual transactions. The framework is consistent with the controlling statutes and the provisions of the Settlements contemplating the use of existing GenCo assets to serve NIPSCO's non-megaload customers, subject to affiliate requirements, a cost-effectiveness demonstration, third-party evaluation, and Commission approval. It also preserves NIPSCO's discretion to reject GenCo capacity when NIPSCO does not need the capacity or when other alternatives are preferable.

The evidence further demonstrates that the CTA and Procedure may facilitate more efficient and cost-effective use of NIPSCO and GenCo generation capacity and reduce the need to build or procure incremental capacity that otherwise could be necessary if the two portfolios were planned independently. At the same time, the CTA and Procedure do not transfer ownership of generation assets, do not make NIPSCO's other retail customers responsible for GenCo's underlying generation costs, do not guarantee NIPSCO a purchase for excess capacity, or predetermine Commission approval of any future transaction.

Accordingly, we find the CTA and Procedure are reasonable and in the public interest and should be approved, subject to the requirement that each transaction thereunder be presented for Commission review in a future RA Tracker proceeding. Our approval of the CTA and Procedure does not constitute approval of any particular future transaction or a finding that costs associated with any such transaction are necessarily reasonable or recoverable. Those determinations remain for the Commission based upon the evidence presented concerning each transaction.

With respect to the CTA specifically, it is a wholesale agreement between affiliated entities and is also subject to FERC approval. The CTA provides that it will not become effective until the required regulatory approvals have been received.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Capacity Transfer Agreement is approved.

2. The Affiliate Capacity Transfer Procedure is approved as set forth herein.

3. This Order shall be effective on and after the date of its approval.

SWINGER, BAIN, DEIG, AND ZIEGNER CONCUR; JERRELLS ABSENT:

APPROVED: OCT 14 2026

I hereby certify that the above is a true and correct copy of the Order as approved.

Regina K Joyner Digitally signed by Regina K Joyner Date: 2026.10.14 14:12:54 -04'00' on behalf of

Dana Kosco
Secretary of the Commission