

Indiana’s Novel Approach to Paying for New Data Center-Driven Generation

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States across the country are grappling with how to build new power plants to serve data centers while protecting existing retail customers from increasing prices. Indiana’s Northern Indiana Public Service Company (“NIPSCO”) has proposed an innovative structure to “ringfence” existing customers from potential data center-driven price increases by creating a separate company to contract for new generation resources needed to serve new data center customers and passing 100% of the costs to large load customers seeking to connect to NIPSCO’s grid.⁴

NIPSCO announced its first data center deal under the new structure on November 7, 2025, with what was later revealed to be Amazon Web Services (“AWS”).⁵ The deal includes \$7 billion in new investment by AWS, paid over 15 years, in 3 gigawatts (“GW”) of new generation, 400 megawatts (“MW”) of energy storage and assorted transmission facilities.⁶ The new facilities are scheduled to be paid for entirely by AWS

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⁴ See Verified Petition of NIPSCO Generation LLC for Certain Determinations by the Commission with Respect to Its Jurisdiction Over Petitioner’s Activities as a Non-Retail Generator of Electric Power (“NIPSCO Petition”) Cause No. 46183, filed on January 10, 2025, available at:

https://iurc.portal.in.gov/entity/sharepointdocumentlocation/51832e3c-7dcf-ef11-b8e9-001dd803a96f/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=NIPSCO%20GenCo_Verified%20Petition_01102025.pdf.

⁵ See Verified Petition of NIPSCO and NIPSCO for Approval of a Special Contract, etc., (“Special Contract Petition”), Cause No. 46322 available at:

https://iurc.portal.in.gov/entity/sharepointdocumentlocation/8fd4ffe8-3ebe-f011-bbd3-001dd80846ac/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=GenCo_NIPSCO_Verified%20Petition_11072025.pdf.

⁶ See NIPSCO Press Release, “Powering Indiana’s Future: How NIPSCO, GenCo, and Amazon Keep Energy Reliable and Affordable,” available at: <https://www.nipsco.com/our-company/news-room/news-article/powering-indiana-s-future-how-nipsco-genco--and-amazon-keep-energy-reliable-and-affordable>.

and are expected to result in \$1 billion in additional savings for NIPSCO's existing retail customers.⁷

NIPSCO's proposal to have data centers pay their own ways comes at a critical period for market design in the U.S., with the U.S. Department of Energy and the Federal Energy Regulatory Commission ("FERC") grappling with who should pay for the gigawatts of new generation needed to keep our electric grid humming.⁸ These issues are playing out in real-time in the nation's largest electric grid, PJM Interconnection ("PJM"), which covers almost 70 million Americans in 13 Mid-Atlantic states, plus the District of Columbia. In one of the most highly anticipated energy events of the year, PJM's Board of Managers heard from stakeholders across PJM at an extraordinary all-day session on November 19, 2025 on whether to segregate out data center-driven generation costs — ala the NIPSCO proposal — or allow those costs to be passed through to all customers, as is the case today.⁹

As we await the decision of PJM's Board (and the subsequent FERC ruling), NIPSCO's proposal appears to achieve exactly what many policymakers in PJM say they want: a voluntary program that gives data center customers the speed-to-power they crave, while allowing data centers to directly fund the massive energy infrastructure investments they need. Whatever the PJM Board decides, State policymakers outside Indiana now have a blueprint for attracting data centers while protecting Mom & Pop retail customer.

Indiana as a Data Center Leader

In recent years, there has been a dramatic increase in energy demand to accommodate the construction of new data centers. The state of Indiana is particularly attractive for potential data centers because it offers cheap land, plentiful water resources, and tax

⁷ See Special Contract Petition at p. 2 ("...over the 15-year term of the Special Contract, NIPSCO's other retail electric customers are expected to see more than \$1 billion in direct savings which will be reflected as a credit on customers' monthly bills.")

⁸ Interconnection of Large Loads to the Interstate Transmission System, Advance Notice of Proposed Rulemaking, FERC Docket No. RM26-4-000.

⁹ See, generally, PJM's Critical Issue Fast Path on Large Load Interconnections, *available at*: <https://www.pjm.com/committees-and-groups/cifp-lla>.

breaks on equipment and energy. Indiana is also situated at the intersection of two major regional electrical grids: the PJM Interconnection and the Midcontinent Independent System Operator. Indiana utilities expect to add 7 – 12 GW of new load by 2030. NIPSCO is “facing an unprecedented level of interest” from data centers, totaling between 1.6 GW – 4.5 GW, as of June 2024.¹⁰ NIPSCO reports receiving additional requests since then.¹¹ This provides an opportunity for electric utilities to vastly expand their operations and acquire new customers—but also presents a risk that this additional electricity usage could increase costs to non-data center customers.

In 2023, the Indiana Legislature established “Five Pillars” to guide future Indiana Utility Regulatory Commission (“Commission”) review of utility procurement plans.¹² The five pillars are Reliability, Affordability, Resiliency, Stability, and Environmental Sustainability. Going forward, the IURC will have to “take each of these attributes into account” when evaluating an IRP, issuance of a CPCN (Certificate of Public Convenience and Necessity), or upon construction, purchase, or lease of a new power plant. The new statute has created a wave of new IRP proposals to comply with the new legislation.

NIPSCO is a large utility operating in northern Indiana in the Midcontinent Independent System Operator (“MISO”), serving approximately 1.4 million customers. NIPSCO is part of the NiSource holding company, which provides natural gas and electricity to customers across six states.

NIPSCO’s Filing to Cabin Data Center Generation Costs

The NIPSCO petition explained that they are receiving a record number of requests from “megaload” data centers of hundreds or even thousands of megawatts. NIPSCO proposes to define a “megaload” customer as a retail customer that purchases a minimum of 50 MW of electricity. When a utility takes on megaload customers, the

¹⁰ See NIPSCO 2024 Integrated Resource Plan, *available at*: <https://www.nipSCO.com/docs/librariesprovider11/rates-and-tariffs/irp/2024-irp-stakeholder-advisory-meeting-2-final.pdf?sfvrsn=3131e151>.

¹¹ See Testimony of Erin Whitehead, Petitioner’s Exhibit 1, at pp. 4-5, Jan. 10, 2025.

¹² General Administrative Order of the Indiana Utility Regulatory Commission, July 2023, *available at*: https://www.in.gov/iurc/files/GAO-2023-04_ORDER_06-28-2023.pdf.

utility must expand its facilities and increase generation to accommodate these new customers. Without proper protective measures, these increased operational costs may result in increased electricity prices for non-megaload or even result in “stranded” costs being borne by existing ratepayers.¹³

NIPSCO’s novel solution to this problem is to create a new lightly regulated affiliate, NIPSCO Generating Company (“GenCo”), which would procure new generation supplies. GenCo would sell 100% of its output to NIPSCO, which would then enter into a “special contract” with new megaload customers. Special contracts are bespoke negotiated agreements between NIPSCO and new customers, which remain subject to approval by the Commission. While certain details of NIPSCO’s proposal remain murky, the goal is to ensure that new megaload customers bear 100% of the costs and risks of the new generation built or purchased by GenCo. Under NIPSCO’s proposal:

- NIPSCO and GenCo will enter into a power purchase agreement (“PPA”) for all the energy and capacity from GenCo’s generation assets;
- NIPSCO will serve megaload customers, who can enter into “special contracts” to receive service from NIPSCO, while bearing the capital and operations & maintenance costs and risks associated with GenCo’s operations;
- GenCo will exclusively generate energy for megaload customers;
- GenCo’s assets will be “ringfenced” from assets used to serve existing retail customers; and
- NIPSCO asserts that even if a megaload customer terminates its special contract, non-megaload customers will not be exposed.

“NIPSCO can differentiate itself from other electric utilities by using GenCo to serve megaload customers as early as possible...a Commission order denying GenCo’s requests for relief in this proceeding could inhibit NIPSCO’s ability to serve these megaload customers quickly.”

¹³ If utilities invest in infrastructure, such as transmission and generation to serve megaloads and the loads do not materialize as projected, then the investments may not be fully recoverable through rates, thus resulting in what are considered stranded assets. For a discussion of stranded cost risk, please see “A State Playbook for Managing Data Center-Driven Load Growth,” Silverman. *et al.*, available at: <https://energyinstitute.jhu.edu/a-state-playbook-for-managing-data-center-driven-load-growth/>.

- Vincent Parisi, NIPSCO President and Chief Operating Officer

The major issue before the Commission was the extent to which GenCo would be subject to regulatory oversight. Key issues included whether a lightly-regulated affiliate would sufficiently protect existing native load customers from the costs and risks associated with GenCo's purchases on behalf of megaload customers, whether GenCo would be required to use a competitive solicitation process, as well as whether megaload customers would have just and reasonable access to electric service.

NIPSCO emphasized GenCo's need for rapid customer service and argued that declining to exercise jurisdiction would enable speed-to-market and make the generation procurement process as efficient as possible. To balance these interests, GenCo's initial petition requested that the Commission maintain authority over the marketing of energy, including sales, transfers, assignments, etc., as well as explicitly requiring Commission approval of any special contracts negotiated between NIPSCO and megaload customers.

The GenCo proposal was initially opposed by the majority of parties, including: Indiana Office of Utility Consumer Counselor ("OUCC"), Citizens Action Coalition of Indiana ("CAC"), Board of County Commissioners of LaPorte County, Indiana ("LaPorte"), NIPSCO Industrial Group ("Industrial Group"), and Clean Grid Alliance ("CGA"), as well as data center developers Takanock Beckham ("Takanock") and DX Hammond. On May 8, 2025, the NIPSCO Industrial Group reached a settlement with NIPSCO and GenCo, which was contested by the non-settling parties.

Concerns About the GenCo Proposal:

The primary argument against the NIPSCO proposal was that GenCo had not provided sufficient information to allow the Commission to conclude that existing ratepayers were insulated from cross-subsidization, including in the event of a bankruptcy or other economic downturn, and that, traditionally, Commission approvals are made for specific generation projects, not the entirety of a generation company's operations. Protesters specifically argued that:

1. **Cross-Collateralization:** Opponents suggested that GenCo's debt could be cross-collateralized with NIPSCO's existing utility assets, exposing regulated retail ratepayers to unregulated generation risk. For example, if the GenCo entity were to go bankrupt, parties argued, NIPSCO customers might see increased rates. Because the financial structure of GenCo is undefined, opponents claimed that there was not sufficient evidence that NIPSCO customers are truly ringfenced from GenCo's operations.
2. **Lack of Financial Oversight:** The Commission has no guaranteed oversight over future projects, and GenCo will not be required to obtain a certificate of public convenience and necessity ("CPCN"), eliminating critical public oversight of its operations. Opponents also argued that GenCo would not be subject to cost scrutiny, as the Commission will not have access to books, records, or contracts, and there will be no way for either regulators or NIPSCO to assess GenCo's financial status. Again, opponents warned, this could lead to unmonitored risk transfer from GenCo to NIPSCO.
3. **Unfair Market Advantage:** Several opponents suggested that lightened regulation could give NIPSCO and GenCo an unfair market advantage over other Indiana utilities and Independent Power Producers ("IPPs"), disrupting the competitive landscape. GenCo would not have to obtain a CPCN or enter the competitive bidding process to which other utility companies are subject.
4. **Operational Uncertainty:** Protesters objected that GenCo has not provided information on key elements of its proposal, including construction, financing, and operations of new generation resources. GenCo responded that it is in the preliminary stages and does not yet have assets, staff, or financing, but that its corporate structure was sufficient to protect existing customers. Additionally, GenCo noted, if it cannot deliver power to its megaload customers, NIPSCO would be unable to meet its load obligations and could be forced to procure emergency energy at high cost.

The Commission's Ruling:

On September 24, 2025, the Commission issued an order authorizing the GenCo concept.¹⁴ The Commission concluded that granting a “limited declination of jurisdiction will enable NIPSCO to support Indiana’s efforts to compete with other states to attract this economic development by providing a vehicle for speed-to-market, which is critical to megaload customers. It is important that NIPSCO be able to insulate current NIPSCO customers from any attendant risks while still attracting new customers.”

“The Commission is highly aware of and sensitive to customer concerns surrounding the potential of new megaload customers. The GenCo structure is designed to optimize the insulation of NIPSCO’s broader customer base from the financial risks associated with serving megaload customers. By ringfencing the generation assets dedicated to these high demand users, GenCo will offer the opportunity to ensure that electric service costs tied to data center development and operation do not result in costs to other ratepayers.”

- Indiana Utility Regulatory Commission
Order in Cause No. 46183, at p. 52.

The Commission ruled that the opposing parties’ concerns regarding cost recovery and discriminatory treatment are “hypothetical and premature at this time,”¹⁵ on the grounds that each special contract and PPA that NIPSCO proposes will be reviewed independently by the Commission, at which time specific concerns will be better addressed. The Commission also rejects the notion that the creation of GenCo will disrupt fair market competition, stating that GenCo is not being created to compete with IPPs but rather to sell electricity directly to NIPSCO. Without GenCo, NIPSCO could self-build generation projects rather than procuring electricity from IPPs, so GenCo’s creation does not represent a loss of business.

The Commission maintains that the approval of the declination request is in the public interest, stating, “[t]he Commission’s public interest concerns are focused on protecting the interests of existing retail customers while meeting the demand of new retail

¹⁴ Order of the Commission, in Cause No. 46183, Sept. 24, 2025, *available at*: https://iurc.portal.in.gov/entity/sharepointdocumentlocation/29a36df8-5799-f011-b4cc-001dd8084fd9/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=ord_46183_092425.pdf.

¹⁵ See footnote 4, pg. 1.

megaload customers. The GenCo structure was created to serve this focus.”¹⁶ The Commission emphasizes that the declination of jurisdiction can be altered if a significant concern arises. The emphasis remains on ensuring speed-to-market and serving data centers as efficiently as possible.

Cause No. 46183 does not lay out specific terms for PPAs or special contracts, which the Commission will review on a case-by-case basis. The Commission chose to refrain from developing affiliate guidelines at this time. GenCo and NIPSCO must submit affiliate guidelines by the date on which the first GenCo-NIPSCO PPA is proposed for Commission approval. NIPSCO does not currently intend to offer a specific tariff for megaload customers, but it testifies that such a tariff may be appropriate in the future.

The Commission devotes a section of the Settlement Agreement to limiting the scope of GenCo’s operations to address concerns about GenCo overbuilding its generation portfolio. This section is intended to ensure that GenCo’s planning and construction will be directly informed by NIPSCO’s expected energy and capacity needs. GenCo is only authorized to provide NIPSCO with energy to serve megaload customers; however, after it satisfies its contractual requirements to NIPSCO, it may sell any excess energy it generates on the wholesale power market after obtaining the necessary approval from FERC. The settlement does not authorize the transfer of assets between NIPSCO and GenCo, although it preserves the optionality to do so if certain conditions are met, which would be reviewed in a separate docket. The Commission states that “leaving this option open is preferred because, under the right circumstances, customer benefits might be achieved.”¹⁷

Conclusion:

NIPSCO’s GenCo model provides a model for how a utility can successfully ringfence existing retail customers from bearing the costs of new data centers, while also streamlining the generation process for megaload customers. The data center industry has been largely hostile to similar efforts to insulate existing customers from data center-driven rate increases as part of the recent PJM Critical Issue Fast Path process,

¹⁶ See footnote 4, pg. 1.

¹⁷ See footnote 4, pg. 1.

instead preferring program designs that spread costs over both data center and non-data center customers.¹⁸

Based on the recent Special Contract announcement by NIPSCO and Amazon, it appears that data centers are open to paying for energy infrastructure if it guarantees them a path forward. NIPSCO is moving forward with its operations since receiving Commission approval, with plans to build up to 3 MW of gas-fired power plants and battery storage to serve Amazon data centers, costing around \$7 billion. The project is funded entirely by Amazon, and NIPSCO's 15-year deal with Amazon is expected to produce about \$1 billion in savings for its ratepayers.¹⁹ We will have to see whether NIPSCO's innovative program for balancing these competing objectives remains sufficiently attractive to the data center industry, or whether new large loads will look elsewhere.

¹⁸ See, e.g., proposals from Amazon, Calpine, Constellation, Google, Microsoft, and Talen (available at: <https://www.pjm.com/-/media/DotCom/committees-groups/cifp-lla/2025/20251119/20251119-item-02c---joint-stakeholder-package---executive-summary.pdf>) and a coalition proposal from the Data Center Coalition and Governors Shapiro, Moore, Murphy and Youngkin, and two utilities, Exelon and PPL (available at: <https://www.pjm.com/-/media/DotCom/committees-groups/cifp-lla/2025/20251119/20251119-item-02d---data-center-coalition-governors-exelon-and-ppl-package---executive-summary.pdf>).

¹⁹ NIPSCO to Supply 3 GW to Amazon Data Centers in Northern Indiana, 25 Nov 2025, available at: https://www.utilitydive.com/news/nisource-nipSCO-amazon-data-centers-indiana/806396/?utm_source=Sailthru&utm_medium=email&utm_campaign=Issue:%202025-11-25%20Utility%20Dive%20Newsletter%20%5Bissue:79246%5D&utm_term=Utility%20Dive