

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta			√
Ziegner	√		

CONSENT AGREEMENT OF NORTHERN)
INDIANA PUBLIC SERVICE COMPANY LLC) CAUSE NO. 45912
AND THE PIPELINE SAFETY DIVISION OF)
THE INDIANA UTILITY REGULATORY)
COMMISSION FOR APPROVAL OF) APPROVED: JUL 05 2023
MONETARY CIVIL PENALTIES UNDER)
IND. CODE CH. 8-1-22.5 FOR VIOLATIONS)
OF MINIMUM PIPELINE SAFETY)
STANDARDS)

ORDER OF THE COMMISSION

Presiding Officers:

James F. Huston, Chairman

Kristin Kresge, Administrative Law Judge

Based upon a letter received from the General Counsel Division of the Indiana Utility Regulatory Commission (“Commission”) and pursuant to Ind. Code Ch. 8-1-22.5, the Commission commences this Cause to consider a Stipulation, Consent Agreement, and Waiver of Evidentiary Hearing (“Consent Agreement”) entered into between the Commission’s Pipeline Safety Division (“Division”) and Northern Indiana Public Service Company LLC (“NIPSCO”) regarding alleged pipeline safety violations and provides notice of the Commission’s intent to approve the Consent Agreement.

1. Commission Jurisdiction. Under Ind. Code § 8-1-22.5-7(b), the Commission may, after notice and opportunity to be heard, impose a civil penalty against a person that violates Ind. Code Ch. 8-1-22.5 or any rules issued under that chapter. NIPSCO are persons as defined under Ind. Code §8-1-22.5-1(e). Therefore, the Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

2. Background and Procedural History. On May 6, 2021, the Division issued a Pipeline Safety Division Advisory Penalty Matrix for Locate Violations. The Division provided a letter to local operators, including NIPSCO, which outlined the penalties associated with Locate Violations beginning July 1, 2021.

On September 7, 2022, the Division issued a Notice of Probable Violations to NIPSCO alleging 147 violations that occurred between July 1, 2021 and December 31, 2021. These violations consisted of failing to follow its own procedures to timely or accurately locate its facilities in response to an 811 notice.

On May 31, 2023, the Division entered into the Consent Agreement that resolves the 147 violations that occurred between July 1, 2021 and December 31, 2021. Letter from Jeremy

Comeau, Assistant General Counsel, Commission, to Loraine Seyfried, Chief Administrative Law Judge, Commission (June 14, 2023) and Consent Agreement (attached).

For the violations, NIPSCO has agreed to pay a reduced penalty of \$348,040.00. The Division agreed to reduce the calculated penalty based on the Advisory Penalty Matrix of \$452,000.00 by 23% due to factors listed in the Consent Agreement. These factors include increasing staff, quality assurance audits, and education outreach. NIPSCO has also agreed to enhance its software and programs. None of the penalty to be paid is recoverable in the utility's rates. NIPSCO also waves its right to a public hearing pursuant to Ind. Code §§ 8-1-22.5-7(b) and 8-1-22.5-10.

3. Notice of Intent to Approve Consent Agreement. Based upon the information submitted by the Commission's Assistant General Counsel, the Commission provides notice that it intends to approve the May 31, 2023 Consent Agreement unless it receives an objection or request for hearing filed under this Cause within 20 days from the date of this Order.

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

1. After review of the Consent Agreement and based upon information from the Commission's General Counsel Division, the Commission provides notice of its intent to approve the May 31, 2023 Consent Agreement.

2. Any objection to the Commission's proposed approval of the Consent Agreement shall be filed under this Cause within 20 days from the date of this Order.

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

HUSTON, BENNETT, FREEMAN, AND ZIEGNER CONCUR; VELETA ABSENT:

APPROVED: JUL 05 2023

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

**Dana Kosco
Secretary of the Commission**

STATE of INDIANA

INDIANA UTILITY REGULATORY COMMISSION
101 WEST WASHINGTON STREET, SUITE 1500 EAST
INDIANAPOLIS, INDIANA 46204-3419



www.in.gov/iurc
Office: (317) 232-2701
Facsimile: (317) 232-6758

June 14, 2023

Lorraine Seyfried
Chief Administrative Law Judge
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 East
Indianapolis, IN 46204

Re: Submission for Commission Determination of Consent Agreement between NIPSCO and the Pipeline Safety Division

Judge Seyfried:

I hereby request that the Indiana Utility Regulatory Commission (“Commission”) open a proceeding to determine approval of the attached Consent Agreement between Northern Indiana Public Service Company LLC (“NIPSCO”) and the Commission’s Pipeline Safety Division (“Division”).

The Consent Agreement resolves 147 violations occurring between July 1, 2021, and December 31, 2021, each consisting of an instance when NIPSCO failed to follow its own procedures by failing to timely or accurately locate its facilities in response to an 811 notice. For the violations, NIPSCO has agreed to pay a total penalty of \$348,040.

The violations and resultant penalties follow from an “Advisory Penalty Matrix” transmitted by the Commission to the natural gas operators in the state on May 2, 2021. The total penalty based on the Advisory Penalty Matrix of \$452,000 was reduced by 23% to arrive at the agreed penalty based on the factors listed in the Consent Agreement, including NIPSCO’s agreement to increase its staff count, increase its quality assurance audits and educational outreach, and other enhancements to its software and programs. The Consent Agreement, the applicable Notice of Probable Violation letter from the Division, NIPSCO’s response, and the Advisory Penalty Matrix are attached to this letter.

The Division suggests that the Commission use the abbreviated approval procedures it has previously used to approve other consent agreements. That process calls for the Commission to circulate this cover letter and the Consent Agreement (with attachments) to the Commissioners. If the Commission determines that it desires a public hearing, Director Miranda Erich should be designated as Testimonial Staff. If the Commission intends to approve the Consent Agreement without a hearing, it may issue an initial order notifying the public of the Commission's intent to approve the Consent Agreement and allow a period for any objections or requests for hearing. I recommend a 20-day period for objections. If no other party objects or requests a hearing within the specified time period, the Commission may then issue an order approving the Consent Agreement. The Division does not anticipate any objections or requests for a hearing.

Please let me know if you have any questions.

Sincerely,



Jeremy Comeau
Assistant General Counsel

cc: Ryan Heater, Chief of Staff
Beth Heline, General Counsel
Miranda Erich, Director, Pipeline Safety Division

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

CONSENT AGREEMENT OF NORTHERN
INDIANA PUBLIC SERVICE COMPANY LLC
AND THE PIPELINE SAFETY DIVISION OF
THE INDIANA UTILITY REGULATORY
COMMISSION FOR APPROVAL OF MONETARY
CIVIL PENALTIES UNDER IND. CODE CH. 8-1-
22.5 FOR VIOLATIONS OF MINIMUM
PIPELINE SAFETY STANDARDS

CAUSE NO.

**STIPULATION, CONSENT AGREEMENT,
AND WAIVER OF EVIDENTIARY HEARING**

Northern Indiana Public Service Company LLC ("NIPSCO") and the Pipeline Safety Division ("Division") of the Indiana Utility Regulatory Commission ("Commission") voluntarily enter into this Stipulation, Consent Agreement, and Waiver of Evidentiary Hearing ("Agreement") pertaining to the violations and penalties described herein.

A. Jurisdiction and Procedural Posture

1. The Division is responsible for the administration and enforcement of compliance with pipeline safety standards applicable to transportation and related pipeline facilities established under the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.) (the "PHMSA Standards") and under Indiana Code ch. 8-1-22.5. The Division is also responsible for the administration and enforcement of compliance with the pipeline safety standards adopted by the Commission for the State of Indiana in 170 IAC 5-3, which adopts and adds to the federal safety standards.

2. NIPSCO is a "public utility" as that term is defined in Ind. Code § 8-1-2-1, and is a "person who engages in transportation or who owns, operates, or leases pipeline facilities" within the meaning of Ind. Code § 8-1-22.5-6 and subject to the pipeline safety standards and the jurisdiction of the Commission.

3. Division staff perform inspections and other activities to verify compliance with the pipeline safety standards and issues Notices of Probable Violation ("NOPVs") and Notices of Proposed Penalties ("NOPPs") to pipeline operators subject to the Commission's jurisdiction in instances where non-compliance with the PHMSA Standards is alleged.

B. Specific Violations

4. On September 7, 2022, the Division issued NOPV No. 11856-20220606 to NIPSCO. The NOPV alleged 147 violations occurring between July 1, 2021, and December 31, 2021, each consisting of an instance when NIPSCO failed to follow its own procedures by failing to timely or accurately locate its facilities in response to a notice of excavation submitted through what is commonly known as Indiana 811.

5. NIPSCO's own procedures require it to timely and accurately locate its facilities in accord with the Indiana 811 law found at Ind. Code § 8-1-2-26.

6. By failing to follow its own procedures, NIPSCO violated 192 C.F.R. 605(a), which is incorporated in state law by 170 IAC 5-3-0.6.

7. A copy of the NOPV is attached hereto as Attachment 1.

C. Advisory Penalty Matrix

8. On May 3, 2021, the Commission transmitted by letter an Advisory Penalty Matrix to natural gas operators setting forth advisory penalties for the failure to timely or accurately locate a gas operator's pipeline and facilities, effective after July 1, 2021.

9. The Advisory Penalty Matrix notes that the listed penalties are intended as a starting point:

"It's important to note that the Advisory Penalty Matrix is considered a starting point. Actual penalties may reflect mitigating and aggravating circumstances or factors, and the penalties in the Matrix would not apply if a violation resulted in an incident or accident, consistent with the Commission's rules. See 170 Ind. Admin. Code 5-3-0.6-6 and -2. Ultimately, the Commission will approve the final penalty amounts based on the evidence presented in each case, including the Advisory Penalty Matrix."

10. The Advisory Penalty Matrix includes a graduated penalty schedule for assessing increasing penalties depending on the number of violations committed by a gas operator.

11. Based on the 147 violations in the NOPV, application of the Advisory Penalty Matrix would result in the following penalty:

Penalty Level	Number of violations in level	Per violation in level	Penalty total in each level
1	0 – 3	0	0
2	4 – 20	\$1,000	\$17,000
3	21-100	\$2,500	\$200,000
4	101-147	\$5,000	\$235,000
Total			<u>\$452,000</u>

12. The Advisory Penalty Matrix is attached hereto as Attachment 2.

D. Agreed Civil Penalty

13. NIPSCO provided a response to the NOPV on January 6, 2023. In NIPSCO's response, it provided 10 initiatives demonstrating NIPSCO's investments in improving its damage rate over time. The investments include: (1) increases to its damage prevention team, (2) increased watch and protect activities, (3) increased audits, (4) enhanced emergency responder outreach, (5) additional educational sessions performed, (6) additional data mining, (7) improved service line viewing software, (8) investments in its damage prevention model, (9) enhanced positive response, and (10) investments in cross-bore awareness programs. NIPSCO's response is attached hereto as Attachment 3.

14. Based on these investments, the Division and NIPSCO agreed to a reduction of 23% to the total penalties under the Advisory Penalty Matrix. The resulting total penalty is therefore **\$348,040.00**.

15. The Commission may impose penalties against NIPSCO for violations of the pipeline safety standards of up to \$25,000.00 for each violation for each day that the violation persisted, up to a maximum of \$1,000,000.00 for a related series of violations. In total the Division discovered 147 violations committed by NIPSCO. All are subject to a maximum \$25,000 fine for each violation, for each day the violation persisted. See Ind. Code § 8-1-22.5-7.

16. NIPSCO admits to the violations alleged in the NOPV and agrees to payment of a total monetary civil penalty of **\$348,040.00**, in accord with the Advisory Penalty Matrix and the reduction noted in this consent agreement. The payment shall be made to the general fund of the State of Indiana for the foregoing identified violations.

17. Payment of this civil penalty will be made within 30 days of approval by the Commission, and the civil penalty shall not be recoverable by NIPSCO through its Commission-authorized rates and charges.

E. Waiver of Public Hearing

18. Given its admission of the violations alleged in the NOPV and its agreement to pay a statutory civil penalty for those violations, and in the interest of administrative efficiency, NIPSCO waives its right to a public hearing pursuant to Ind. Code §§ 8-1-22.5-7(b) and 8-1-22.5-10 on the matters alleged in the NOPV and the associated penalties. The Parties agree that the facts above together with the attachments hereto constitute an adequate evidentiary record upon which the Commission may base an Order approving this Agreement, including payment of the agreed monetary civil penalty.

F. Public Record

19. This agreement is a public record subject to disclosure upon request under the Indiana Access to Public Records Act, Ind. Code ch. 5-14-3.

G. Stipulation

20. It is so stipulated and agreed this 31 day of May, 2023.



Printed Name: Michael W. Hooper
Title: NIPSCO President & COO



Miranda Erich
Director
Pipeline Safety Division

Attachment 1

Notice of Probable Violations Letter to NIPSCO

STATE OF INDIANA



INDIANA UTILITY REGULATORY COMMISSION
101 W. WASHINGTON STREET, SUITE 1500E
INDIANAPOLIS, INDIANA 46204-3407

<http://www.in.gov/iurc>
Office: (317) 232-2701
Facsimile: (317) 232-6758

Northern Indiana Public Service Company
Steve Sylvester, VP & GM Gas Operations
801 E 86th Ave.
Merrillville, IN 46410

7 September 2022

RE: Notice of Probable Violation: 11856-20220606

The Pipeline Safety Division ("Division") of the Indiana Utility Regulatory Commission ("Commission") hereby provides you notice of the probable violation(s) listed below, pursuant to the Division's authority under Indiana Code chapter 8-1-22.5, the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. § 60101 et seq.), and the Commission's minimum pipeline safety rules and standards for transportation and related pipeline facilities, Title 170 Indiana Administrative Code Rule 5-3, incorporating 49 CFR Parts 40, 191, 192, 193, 194, 195, 198, and 199. Under Ind. Code § 8-1-22.5-7, the Commission, after notice and opportunity for public hearing, may issue civil penalties not to exceed twenty-five thousand dollars (\$25,000) for each violation for each day that the violation persists and not to exceed one million dollars (\$1,000,000) for any related series of violations.

A. Probable Violation(s)

On one or more days including 6/6/2022, a Damage Prevention Inspection was conducted at NIPSCO Corporate, 801 E 86th Ave., Merrillville, IN 46410. Probable violation(s) found during this inspection include:

1. 49 CFR 192.605 – Procedural manual for operations, maintenance and emergencies.

In Quarters 3 and 4 of calendar year 2021, the Northern Indiana Public Service Company ("NIPSCO") violated their procedures regarding damage prevention activities as required by 49 CFR 192.605 and 49 CFR 192.614, which requires the operator to properly locate their underground facilities through accurate maps, records, and temporary markings. During the aforementioned time period, NIPSCO violated these procedures 147 times, each resulting in a pipeline facility damage. Please respond to this violation with your plans or actions taken to resolve this issue.

You are required to review the listed probable violation and provide a written response to this office with the following information:

- A detailed description of steps that have been or will be completed to correct non-compliance with the above cited rules, including dates such steps were or are anticipated to be taken.
- Steps that you intend to take to prevent a recurrence of the above probable violation(s),

including dates such steps were or are anticipated to be taken.

- Copies of any new or existing written procedures that support the steps taken to correct and further prevent a recurrence of these violations.

Your written response must be received no later than **11/07/2022** and sent to the Division as follows:

- Via email to pipelineinspections@urc.in.gov.
- Label the subject line: NOPV 11856-20220606 Response.
- You will receive a response that your email was received; if you do not receive a response, we did not receive your email.

If you must submit your response in hard copy, please send it to this address:

Attn: Pipeline Safety Division
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 E
Indianapolis, Indiana 46204

The Division will review your response and provide acknowledgement of receipt. After review of your response, the Division may:

- (1) provide acknowledgement of a satisfactory response;
- (2) request additional information and/or documentation;
- (3) request to meet with you;
- (4) send you a Notice of Proposed Penalties; and/or
- (5) request the Commission initiate an investigation on the matter.

Failure to respond will result in a Notice of Proposed Penalty and/or a request for a Commission investigation.

Thank you for the courtesy extended during our visit. Please contact the Division at pipelineinspections@urc.in.gov should you have any questions.

Respectfully,



Michael A. Neal, Director
Pipeline Safety Division

Attachment 2

Advisory Penalty Matrix letter



May 6, 2021

Re: Pipeline Safety Division Advisory Penalty Matrix for Locate Violations

Dear Operator:

I am writing to you to provide notice of the establishment of an Advisory Penalty Matrix by the Pipeline Safety Division (“Division”) of the Indiana Utility Regulatory Commission (“Commission”), as part of our obligation in enforcing gas safety regulations in accordance with federal and state law.

As you may know, the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) is the federal agency that oversees the Commission’s Division. PHMSA sets rules and standards for pipeline safety issues nationally. PHMSA evaluates the Division in annual audits to ensure objectives related to pipeline safety inspections and enforcement in Indiana are being met. These evaluations also determine the amount of federal funding the Division receives to continue its important work.

As part of the audit process, PHMSA has reviewed the Division’s work regarding the enforcement of locate violations under 49 Code of Federal Regulations 192.614. In addition, the Division, under authority provided by Indiana Code chapter 8-1-22.5, investigates possible violations of Indiana Code chapter 8-1-26. Although the settlement agreements with Northern Indiana Public Service Company (NIPSCO) and CenterPoint Energy Indiana (approved by the Commission in 2017 and 2018, respectively) were important steps towards improving safety and compliance, PHMSA has directed that enforcement of locate violations and penalties should apply to all jurisdictional gas operators.

To achieve this in an equitable and transparent manner, the Division developed the Advisory Penalty Matrix to set expectations and provide consistency across all Indiana gas operators. The goal of the Advisory Penalty Matrix is to encourage better compliance through progressive penalties that recognize the hazards involved in large numbers of locate violations while also recognizing the inherent differences between larger and smaller gas operators.

It’s important to note that the Advisory Penalty Matrix is considered a starting point. Actual penalties may reflect mitigating and aggravating circumstances or factors, and the penalties in the Matrix would not apply if a violation resulted in an incident or accident, consistent with the Commission’s rules. *See* 170 Ind. Admin. Code 5-3-0.6-6 and -2. Ultimately, the Commission will approve the final penalty amounts based on the evidence presented in each case, including the Advisory Penalty Matrix.

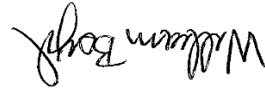
We recognize and appreciate the ongoing efforts by Indiana's gas operators to ensure the provision of safe and reliable service with an astute focus on safety. The Advisory Penalty Matrix was designed to reduce overall risk and emphasize the importance of safety. The Division is committed to developing tools that foster behavior changes, when needed, and incorporate feedback we hear from our PHSMA partners.

The Advisory Penalty Matrix will apply to "Locating Practices Not Sufficient" violations occurring on and after July 1, 2021, based on Part D.1.b of each gas operator's Gas Distribution Annual Report, commonly known as the F7100 Annual Report, due annually on March 15. It will not apply to any operator at fault locate violations that occurred in 2020 or in the first half of 2021. We are providing you this notice to allow you some time to improve your locate practices if necessary.

After your submission of the Gas Distribution Annual Report for CY 2021, due March 15, 2022, if you had more than three operator at fault locate violations occur from July 1, 2021, to December 31, 2021, you will receive a Notice of Probable Violation (NOPV), after which you will have the opportunity to provide your response including any mitigating circumstances before receiving a Notice of Proposed Penalty (NOPP) that will be based on the Advisory Penalty Matrix.

A copy of the Advisory Penalty Matrix is attached with this letter for reference. Please let me know if you have any questions. You can reach me at (317) 232-2718 (office) or (317) 460-8401 (mobile) or WBoyd@urc.IN.gov.

Sincerely,



William Boyd

Director

Pipeline Safety Division

Indiana Utility Regulatory Commission

PSD Advisory Penalty Matrix for Locate Violations for 2021-2022

Goals/Benefits:

Although the enforcement and penalties for locate violations under the settlement agreements with NIPSCO and Vectren (now CenterPoint Indiana) were important steps, the Pipeline and Hazardous Materials Safety Administration (“PHMSA”) has provided direction that enforcement of locate violations and penalties should apply to all gas operators.

The goal of the Advisory Penalty Matrix is to change behavior through progressive penalties that recognize the hazards involved in large numbers of locate violations and the limited risk by small gas operators with very low numbers of locate violations. Having a penalty matrix sets expectations and provides consistency across all Indiana gas operators.

It’s also important to note that the Advisory Penalty Matrix is a starting point and actual penalties may reflect mitigating and aggravating factors. In addition, the penalties in the Matrix do not apply to an operator violation if the violation results in an incident or accident, as defined in the Commission’s rules, specifically, 170 IAC 5-3-0.6-6 and -2, respectively (an example is the Camby incident in the Vectren settlement).

PSD Advisory Penalty Matrix:

Penalty Level	Number of violations in level	Per violation in level	Penalty total in each level
1	0 – 3	0	0
2	4 – 20	\$1,000	\$17,000
3	21-100	\$2,500	\$200,000
4	101-200	\$5,000	\$500,000
5	201 +	\$10,000	Max \$10,000 x #

Comparison Using 2017-2020 Locate Violations:

Utility / Year	# of Violations	Amounts Paid Under Settlements	PSD Advisory Penalties	Max per Statute
Citizens / 2017	20	n/a	\$17,000	\$500,000
Citizens / 2018	13	n/a	\$10,000	\$325,000
Citizens / 2019	14	n/a	\$11,000	\$350,000
Citizens / 2020	21	n/a	\$19,500	\$525,000
NIPSCO / 2017	296	(1) \$900,000 (2) \$765,000	\$1,677,000	\$7,400,000
NIPSCO / 2018	241	\$1,033,000	\$1,127,000	\$6,025,000
NIPSCO / 2019	231	\$1,138,000	\$1,027,000	\$5,850,000
NIPSCO / 2020	211	n/a	\$827,000	\$5,275,000
Vectren / 2017	242	\$736,000	\$1,137,000	\$5,700,000
Vectren / 2018	197	\$584,000	\$702,000	\$4,925,000
Vectren / 2019	205	\$894,000	\$767,000	\$5,875,000
Vectren / 2020	223	n/a	\$947,000	\$5,575,000

Note: only Citizens, NIPSCO, and Vectren/CenterPoint are shown on this comparison chart, as they are the only gas operators that would have had penalties under the Matrix if it had been in place during 2017-2020. No other gas operator had more than three violations in each of the last four calendar years.

Attachment 3

NIPSCO's response

January 6, 2023

Via Email Transmission – pipelineinspections@urc.in.gov

Mrs. Miranda Erich
Director, Pipeline Safety Division
Indiana Utility Regulatory Commission
PNC Center
101 West Washington Street, Suite 1500 East
Indianapolis, IN 46204

RE: Notice of Proposed Penalty Response: NOPP No. 11856-20220606

Dear Mrs. Erich:

Northern Indiana Public Service Company LLC ("NIPSCO") is in receipt of your letter dated December 7, 2022, setting forth the Pipeline Safety Division's ("PSD") Notice of Proposed Penalty 11856-20220606 (the "NOPP") identified in the letter.

Due to NIPSCO's improving performance in this area and the extensive investments by NIPSCO demonstrating a clear commitment to compliance, NIPSCO believes that a penalty is not warranted, and, assuming a penalty is assessed, firmly believes that the proposed penalty amount of \$435,000 is excessive. However, in the spirit of collaboration and to avoid protracted litigation of the matter, NIPSCO is willing to accept a penalty of some amount and requests to engage in settlement discussions regarding a potential, reasonable penalty amount.

It is NIPSCO's desire to work with the Commission to discuss the violations and come to an agreement on the amount of the penalty. NIPSCO would like to meet to discuss the NOPP further, as NIPSCO has shown good faith in attempting to achieve compliance. NIPSCO's response to the NOPV (Attachment A hereto), outlines several of the important initiatives NIPSCO has undertaken to demonstrate its commitment to compliance and reach its 99.98% locate accuracy rate. These initiatives are intended to prevent facility damages as much as reasonably possible, while balancing costs to its customers.

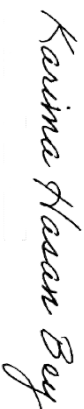
Mrs. Miranda Erich

January 6, 2023

Page 2

Finally, whether separately or as part of potential settlement discussions, NIPSCO requests the Commission provide guidance on corrective actions it may take to reduce potential violations in the future. We look forward to the continuation of our ongoing and productive dialog.

Sincerely,

A handwritten signature in cursive script, reading "Karima Hasan Bey".

Karima Hasan Bey

Vice President of Construction, Maintenance & Service

Response to NOPV:

NIPSCO agrees that there were 147 instances in which NIPSCO mislocated a gas facility that resulted in a facility damage. As an operator, these mislocates resulted in fines by UPPAC, which NIPSCO has paid. NIPSCO accurately completed 248,335 locates out of 248,482 requests (99.94% accuracy rate) in quarters 3 and 4 of 2021. NIPSCO takes each facility damage seriously, has demonstrated consistent performance improvement over time, and in 2022 has implemented several initiatives to continuously improve. Below are several examples of these initiatives.¹

1. Increased Damage Prevention Staffing. (Completed in Q2 2022)
 - a. Hired nine additional Damage Prevention Coordinators (DPCs).
 - b. Hired two additional Leaders of Field Damage Prevention.
 - c. Hired two additional Assigners.
2. Increased Watch & Protect Activities by sixteen full-time employees. (Completed in Q2 2022)
3. Increased QA/QC activities from a rate of 5% to 10% of the ticket volume. (Completed in Q3 2022)
4. Completed a multi-year Data Mining Project. (Started in Q3 2015 and completed in Q4 2022)
5. Improved our service line record viewing software. (Completed in Q4 2021)
6. Invested in a Damage Prevention Model. (Completed in Q3 2018)
7. Enhanced Positive Response. (Completed in Q2 2017)
8. Invested in a Cross-Bore Awareness / Investigation program. (Started in Q3 2017 and is ongoing)

In terms of time, effort, and funds invested, these activities demonstrate an acknowledgment of the importance of and an unequivocal commitment by NIPSCO to preventing facility damages as much as reasonably possible, while balancing the cost to our customers. NIPSCO also continues to partner with the

¹ See Appendix A for more information on several of these efforts.

Commission on reviewing data and discussing ways to improve and reduce risk. In addition to NIPSCO's internal continuous improvement journey to reduce "at-fault" damages, NIPSCO is committed to helping excavators reduce their damages. Excavators are responsible for 73% of NIPSCO's damages. Each damage, regardless of fault, is a public safety issue and is important to NIPSCO as it engages in efforts to eliminate damages. Given NIPSCO accurately locates over 99.94% of the locates it receives, is actively attempting to further reduce its mislocates, and is seeing ongoing improvement in performance, NIPSCO is continuing to focus on the mitigation of other damages causes. With this high level of performance even as locate requests have increased and now approach 500,000 per year, NIPSCO respectfully requests that the Division consider the appropriateness of incremental fines. NIPSCO has undertaken significant efforts both internally and working with its locate contractors to reduce damages. Considering the high degree of accuracy achieved in 2022 and the newly implemented initiatives, NIPSCO does not believe that penalties will drive incremental improvement to safety, if levied. Moreover, the stigma of being publicly penalized can have an adverse impact on employees and the perception of the company. NIPSCO appreciates the Commission's safety concerns and consideration of NIPSCO's efforts, and NIPSCO looks forward to further discussion of this matter.

APPENDIX A:

NIPSCO Locating Performance Improvement Initiatives:

1. Damage Prevention Team Additions
 - a. 9 Damage Prevention Coordinators (DPCs): Perform audits on locators, provide excavator assistance, perform audits on 3rd party excavators, complete root cause analysis on all damages, assist excavators on “difficult to locate” gas lines.
 - b. 2 Leaders of Field Damage Prevention: Provide oversight of DPCs, interact with high-risk excavators, and provide oversight of “difficult to locate” tickets if turned back to NIPSCO.
 - c. 2 Assigners: Evaluate locate request by their assigned risk score, assign tickets to the DPCs to be audited, and monitor large projects to proactively identify potential records issues based on historical records issues.
2. Watch and Protect:
 - a. 16 additional Watch and Protect contract employees: Participate in excavator pre-job briefings to understand scope and goals for the day, complete an audit of the completed locates, complete research of any abandoned facilities, and remain onsite for the duration of the excavation to ensure excavator compliance.
3. Additional QA/QC Audits:
 - a. Increased contractual requirement for QA/QC from 5% to 10% of the locate volume: The added quality control fosters a quality conscious employee, drives process improvements, builds credibility with the excavator community, and proactively identifies internal issues.
4. Enhanced Emergency Responder Outreach:
 - a. 2 Public Safety Trainers: Prepare the communities for appropriate reaction to emergency pipeline situations, educate emergency responders on natural gas properties, explain NIPSCO’s emergency response protocols, and explain public officials’ role if unsafe excavation is observed.
5. Additional Natural Gas Safety Education Sessions at Local Elementary Schools:
 - a. 40 Additional education sessions for a total of 140 sessions: Delivers innovative educational experiences for students about natural gas safety and safe digging best practices. Schools are selected based on their proximity to High Consequence Areas (HCAs). Homework to complete with family members is assigned aimed to educate the entire household.
6. Completed a multi-year Data Mining Project.
 - a. Detailed review of legacy paper records to ensure mainline assets were accurately mapped in GIS.
 - b. Any discrepancies from the legacy prints were investigated and GIS was adjusted accordingly.
7. Improved our service line record viewing software.
 - a. Enhanced search function.
 - b. Created service cards for any accounts that were missing.
8. Invested in a Damage Prevention Model.
 - a. Model assigns a score indicating the likelihood of a damage to each ticket

- b. Score is a function of the excavator's damage history, excavation work type, confidence of our records, and type of gas facility
- 9. Enhanced Positive Response.
 - a. Submitting a sketch of the locates and all post locate photos to the excavator for reference.
 - b. Intent is for the excavator to compare site conditions when they arrive. Helps let the excavator know that we are complete, and gives them an indication of the locates have been removed from weather, or children/lawn mowers moving flags
- 10. Invested in a Cross-Bore Awareness / Investigation program.
 - a. Comprehensive program to camera sewer mains and laterals in places where we records show that NIPSCO used boring to install gas main.
 - b. New installation procedures require pre and post cameras in all sewer lateral/mains when NIPSCO uses boring as the installation method.
 - c. Plummer incentive program for discovery/reporting any cross bore.