

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC
SERVICE COMPANY FOR (1) APPROVAL OF AN ADJUSTMENT
TO ITS GAS SERVICE RATES THROUGH ITS TRANSMISSION,
DISTRIBUTION, AND STORAGE SYSTEM IMPROVEMENT
CHARGE ("TDSIC") RATE SCHEDULE; (2) AUTHORITY TO
DEFER 20% OF THE APPROVED CAPITAL EXPENDITURES
AND TDSIC COSTS FOR RECOVERY IN PETITIONER'S NEXT
GENERAL RATE CASE; AND (3) APPROVAL OF PETITIONER'S
UPDATED 7-YEAR GAS PLAN, INCLUDING ACTUAL AND
PROPOSED ESTIMATED CAPITAL EXPENDITURES AND
TDSIC COSTS THAT EXCEED THE APPROVED AMOUNTS,
ALL PURSUANT TO IND. CODE CH. 8-1-39 AND THE
COMMISSION'S ORDERS IN CAUSE NOS. 44403-
TDSIC-1.

CAUSE NO. 44403-
TDSIC-4 *On Remand*

OFFICIAL
EXHIBITS

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC
SERVICE COMPANY LLC FOR (1) APPROVAL OF AN
ADJUSTMENT TO ITS GAS SERVICE RATES THROUGH ITS
TRANSMISSION, DISTRIBUTION, AND STORAGE SYSTEM
IMPROVEMENT CHARGE ("TDSIC") RATE SCHEDULE; (2)
AUTHORITY TO DEFER 20% OF THE
APPROVED CAPITAL EXPENDITURES AND TDSIC COSTS FOR
RECOVERY IN PETITIONER'S NEXT GENERAL RATE CASE;
(3) APPROVAL OF PETITIONER'S UPDATED 7-YEAR GAS
PLAN, INCLUDING ACTUAL AND PROPOSED ESTIMATED
CAPITAL EXPENDITURES AND TDSIC COSTS THAT EXCEED
THE APPROVED AMOUNTS IN CAUSE NO. 44403-TDSIC-8, ALL
PURSUANT TO IND. CODE CH. 8-1-39-9, AND (4) APPROVAL OF
PETITIONER'S RETURN OF EXCESS INCOME TAX REVENUE
RECOVERED THROUGH ITS BASE RATES BETWEEN
JANUARY 1 AND APRIL 30, 2018 THROUGH ITS TDSIC
FACTOR.

AND IURC

INTERVENOR'S

EXHIBIT NO.

11-29-18

DATE

REPORTER

CAUSE NO. 44403-
TDSIC-9

VERIFIED DECLARATION OF TODD A. RICHARDSON

In connection with the Supplemental Settlement on Award of Attorney Fees and
Litigation Expenses ("Supplemental Settlement"), the undersigned Todd A. Richardson verifies
the following facts and information regarding the legal effort involved in achieving the ratepayer
benefits arising from Cause Nos. 44403-TDSIC-4 through TDSIC-9 and associated appeals.

Professional Background

1. I am an attorney licensed to practice law in the State of Indiana, and since 1992 have been employed by the law firm Lewis & Kappes, P.C., in Indianapolis. I am a competent adult of sound mind having personal knowledge of the matters set forth in this Verified Declaration. At all relevant times, I have served as lead counsel for the NIPSCO Industrial Group (“Industrial Group”) in the proceedings and appeals at issue.

2. A copy of my Curriculum Vitae is attached hereto as Exhibit A. The information presented in that exhibit is true and correct.

3. Since I joined Lewis & Kappes in 1992, I have regularly and routinely represented large volume consumers of energy services in Indiana, including members of the Industrial Group, in connection with utility matters, including proceedings before the Indiana Utility Regulatory Commission (“Commission”) and appellate courts. Lewis & Kappes has a longstanding and close professional relationship with industrial energy consumers in Indiana. For the past three decades, in addition to frequent and recurrent representation of industrial consumers in Commission proceedings, associated appeals, and other energy matters, Lewis & Kappes has represented and provided administrative support for Indiana Industrial Energy Consumers, Inc. (“INDIEC”), a trade association supporting sound energy policy on behalf of industrial energy consumers through the legislative process, education and engagement with other stakeholders. Throughout my time with Lewis & Kappes, I have been primarily engaged in the representation of industrial consumers on energy matters.

History of Proceedings

4. The Commission and appellate proceedings addressed in the Supplemental Settlement involved a series of interrelated proceedings in which the Industrial Group asserted

challenges to the inclusion of multiple unit projects in NIPSCO's 7-Year Gas Plan and opposed rate recovery for costs in excess of previously approved expenditures. Those proceedings spanned a period of 33 months, with six distinct Commission dockets, four fully briefed appeals, and one appeal decided on transfer by the Supreme Court. A timeline of the major milestones and submissions in those proceedings, from the stakeholder meeting for TDSIC-4 on February 2, 2016, through the Settlement reached on November 2, 2018, is attached as Exhibit B.

5. Along with Jennifer Terry (at the time an attorney with Lewis & Kappes), I represented the Industrial Group in Cause No. 44403, in which Northern Indiana Public Service Company ("NIPSCO") sought approval of a 7-Year Gas Plan pursuant to Section 10 of the Transmission, Distribution, and Storage System Improvement Charges and Deferrals Act (the "TDSIC Statute"), Ind. Code ch. 8-1-39. That proceeding concluded with a Commission order dated April 30, 2014. Since that time, NIPSCO has brought a series of petitions approximately every six months pursuant to Section 9 of the TDSIC Statute, seeking rate adjustments for capital investments and TDSIC costs relating to the 7-Year Gas Plan. Those proceedings have been designated as TDSIC-1, TDSIC-2, etc., and the latest pending petition is in TDSIC-9. In each of those Section 9 proceedings, I have represented the Industrial Group. Through TDSIC-6, I worked with Ms. Terry, and starting with TDSIC-7 I have worked with Aaron Schmoll, an attorney who joined Lewis & Kappes in 2017. In addition, in the appeals brought by the Industrial Group arising from TDSIC-4 through TDSIC-8, I have worked with Joseph Rompala, also an attorney with Lewis & Kappes.

6. Commencing in TDSIC-4, and in each of the successive proceedings through TDSIC-9, the Industrial Group has asserted challenges to two elements of the rate relief sought by NIPSCO: (1) the inclusion of "multiple unit project" categories in the 7-Year Gas Plan, in

which specific projects have been identified periodically in Section 9 proceedings using ascertainable criteria; and (2) rate recovery of capital expenditures and TDSIC costs in excess of previously approved amounts.

7. In the final orders in TDSIC-4 through TDSIC-7, the Commission rejected the challenges asserted by the Industrial Group, both with respect to multiple unit projects and cost increases. With the exception of a portion of the cost increases challenged in TDSIC-4, the Commission in each proceeding granted the rate relief sought by NIPSCO over the Industrial Group's objections. In each instance, the Industrial Group sought judicial review. Those appeals were docketed at the Court of Appeals as, respectively, Case Nos. 93A02-1607-EX-1644, 93A02-1701-EX-177, 93A02-1707-EX-1632, and 18A-EX-146.

8. On June 20, 2017, the Court of Appeals issued its opinion in the TDSIC-4 appeal. In a 2-1 decision, the Court affirmed the Commission order, ruling against the Industrial Group with respect to the challenges to the treatment of multiple unit projects and associated cost increases. See NIPSCO Industrial Group v. Northern Indiana Public Service Co., 78 N.E.3d 730 (Ind. App. 2017), vacated 100 N.E.3d 234 (Ind. 2018). A dissenting opinion supported the Industrial Group's position. See 78 N.E.3d at 740.

9. The Industrial Group then petitioned for transfer of the TDSIC-4 appeal to the Indiana Supreme Court. The Supreme Court granted that petition, held oral argument in the case on November 21, 2017, and issued its opinion on June 20, 2018, ruling in favor of the Industrial Group with respect to the challenge to multiple unit projects and an associated \$20 million cost increase. See NIPSCO Industrial Group v. Northern Indiana Public Service Co., 100 N.E.3d 234 (Ind. 2018). NIPSCO sought rehearing, which the Court granted in part with the issuance of a

revised opinion on September 25, 2018. The revisions to the opinion did not alter the holdings with respect to multiple unit projects or the \$20 million cost increase.

10. At the time the Supreme Court decision in the TDSIC-4 appeal was issued on June 20, 2018, the TDSIC-8 proceeding was pending and nearing completion. The hearing had been held, the post-hearing filings were complete, and the Industrial Group had asserted its legal challenges to the inclusion of multiple unit project categories in the 7-Year Gas Plan and to cost increases for which NIPSCO was seeking approval. In response to the Supreme Court decision, NIPSCO sought leave to reopen the record in order to revise the requested relief. In particular, NIPSCO amended its latest Plan Update to remove what it determined to be “multiple unit projects” pursuant to the appellate rulings. NIPSCO further reduced the associated revenue requirements that it sought to include for recovery through the TDSIC rider in the amount of \$1,000,934, and correspondingly reduced the amount deferred for collection in the next rate case by an additional \$218,554. The Industrial Group and the Office of Utility Consumer Counselor (“OUCC”) did not stipulate that the plan and rate revisions fully complied with the Supreme Court decision, but did agree to the implementation of the revised rate adjustments on an interim basis subject to refund based on the outcome of the remand from the TDSIC-4 appeal. The Commission issued an order on that basis in TDSIC-8 on August 22, 2018. In order to preserve the legal challenges, the Industrial Group commenced an appeal from that order, which was docketed at the Court of Appeals as Case No. 18A-EX-2281. On agreement of the parties, that appeal was stayed by the Court prior to record preparation or briefing.

11. The appeals from the orders in TDSIC-5, TDSIC-6 and TDSIC-7 have all been fully briefed. Through the present time, no decision has been rendered in those three cases by the Court of Appeals.

12. On September 19, 2018, subsequent to the Supreme Court decision in the TDSIC-4 appeal, the Commission issued its final order in Cause No. 44988, a general rate proceeding concerning NIPSCO's base rates and charges for retail gas services. That order provided for implementation of the approved rate relief in two steps, with Step One reflecting rate base, capital structure and depreciation expense as of June 30, 2018, and Step Two reflecting changes through the end of 2018. That order included authorization for recovery in base rates of amounts deferred in prior TDSIC proceedings pursuant to Sections 9(b) and 14(b) of the TDSIC Statute. In connection with the Step One compliance filing, NIPSCO reflected a write-off in the amount of \$1,149,851 associated with the multiple unit projects that had been removed from the 7-Year Gas Plan in TDSIC-8.

13. NIPSCO filed its petition in TDSIC-9 on August 28, 2018. The Plan Update submitted with that filing did not include the multiple unit projects that had been removed in TDSIC-8 in response to the Supreme Court decision. Consequently, the computation of revenue requirements for purposes of both recovery through the TDSIC rider and deferral to the next rate case did not include costs associated with the removed multiple unit projects, although the dollar amounts associated with those removals were not quantified or recited in the filing insofar as NIPSCO was not seeking rate recovery in TDSIC-9 for the previously removed portions of the 7-Year Gas Plan. NIPSCO did propose to provide refunds relating to the previously removed multiple unit projects, in the form of credits against the revenue requirements in TDSIC-9.

14. The Supreme Court decision in the TDSIC-4 appeal, as modified on rehearing, was certified on October 15, 2018. At that point, the cause returned to the Commission for the purpose of carrying out the remand instructions. The remand was docketed under the existing cause number, 44403-TDSIC-4.

Settlement Negotiations

15. The Industrial Group, NIPSCO and the OUCC then engaged in negotiations in an effort to resolve the outstanding issues arising from the Supreme Court decision, the pending appeals in TDSIC-5, TDSIC-6, TDSIC-7 and TDSIC-8, and the pending TDSIC-9 proceeding. Those efforts culminated in an agreement in principle reached on November 2, 2018. On that date, the parties moved to consolidate the TDSIC-4 remand with TDSIC-9, in order to allow for Commission consideration and approval of the Stipulation and Settlement Agreement (the “Settlement”) within the existing procedural schedule for TDSIC-9. The Industrial Group and NIPSCO also jointly moved the Court of Appeals to stay the appeals in TDSIC-5, TDSIC-6 and TDSIC-7 pending a Commission determination on the Settlement.

16. The Settlement was negotiated at arm’s length by experienced counsel familiar with the issues and the history of the litigation. The settling parties had access to all relevant information, were fully informed as to the matters being resolved and the risks of continued litigation, and were supported where appropriate by subject matter experts and specialists.

17. The Supplemental Settlement was negotiated with the OUCC separately from and subsequent to the Settlement. NIPSCO did not participate in that negotiation, and the terms reached in the Settlement were not dependent on or impacted by the determination of the common fund fee award under the Supplemental Settlement. Like the Settlement, the Supplemental Settlement was negotiated at arm’s length and in good faith by experienced counsel familiar with the issues and the litigation. The OUCC was fully informed, was provided copies of the time records attached as Confidential Exhibits C through I, and had access to all relevant information in connection with that negotiation.

Attorney Time, Rates and Expenses

18. For the proceedings in TDSIC-4 through TDSIC-9 at the Commission level, Lewis & Kappes was compensated by members of the Industrial Group at standard hourly rates. For all of the appellate work, Lewis & Kappes performed services on a contingent fee basis, without charging clients for attorney time, instead relying on the potential for a common fund fee award or a negotiated settlement for any compensation. Absent success in the appeals, Lewis & Kappes was at risk of receiving no compensation at all for the appellate work. Over two thirds of the time and effort devoted by Lewis & Kappes relating to TDSIC-4 through TDSIC-9 was handled on a contingency, with any potential compensation being dependent on achieving success in the appeals. Less than one third of that time and effort was paid for by clients as the work was being performed.

19. Throughout the litigation, Lewis & Kappes maintained contemporaneous time records of the attorney time and litigation expenses incurred in representing the Industrial Group, including time devoted to the appeals on a contingent fee basis as well as time devoted to the Commission proceedings on an hourly rate basis. Our internal files at all relevant points have been organized by each successive TDSIC proceeding, with the Commission and appellate phases included in the same file. In addition, we opened a separate "Settlement" file relating to efforts to negotiate a resolution to TDSIC-4 specifically in 2016 and 2017. At the standard hourly rates for the particular Lewis & Kappes attorneys who worked on the litigation, the recorded time on each of the files through October 2018 results in the following base lodestar computation:

TDSIC-4:	\$195,670
Settlement:	\$ 15,468
TDSIC-5:	\$ 92,251
TDSIC-6:	\$ 69,913
TDSIC-7:	\$ 59,675
TDSIC-8:	\$ 35,097
TDSIC-9:	<u>\$ 5,175</u>

Total: \$473,249

True and correct copies of the time records supporting the foregoing computation are submitted herewith as Confidential Exhibits C through I.

20. In addition to the attorney time reflected in the base lodestar computation, the Industrial Group incurred litigation expenses for expert fees, filing fees, record preparation costs, and other itemized expenses of a type that that Lewis & Kappes regularly and routinely charges to clients. Except for expert fees paid directly by clients to the expert consulting firm, those litigation expenses are also detailed in Confidential Exhibits C through I. The total amount of expenses over all of the proceedings at issue amount to \$20,639, including expert fees. Nearly all of those expenses were billed to clients.

21. The foregoing computations and Confidential Exhibits C through I reflect time and expenses directly relating to the Commission and appellate proceedings in TDSIC-4 through TDSIC-9. The time and expenses do not include efforts relating to other NIPSCO proceedings in which Gas TDSIC issues were raised, such as NIPSCO's recent gas rate case (Cause No. 44988), the petition to establish a Federal Mandate tracker (Cause No. 45007), the investigation relating to changes in federal taxes (Cause No. 45032), or NIPSCO's petition for approval of a new 7-Year Gas Plan (Cause No. 45074). Also excluded are earlier proceedings relating to the 7-Year Gas Plan, specifically Cause No. 44403 and TDSIC-1 through TDSIC-3. All of the included

proceedings directly relate to efforts by the Industrial Group to achieve the ratepayer benefits arising from the Supreme Court decision and the Settlement.

22. The hourly rates reflected in the lodestar computations are the market rates customarily charged by the particular Lewis & Kappes attorneys for services to industrial consumers on energy matters. Those rates are in effect currently and did not change during the time period at issue. Based on my experience representing industrial consumers in proceedings involving energy utilities, I believe those hourly rates are reasonable and reflect the market value of the professional services being rendered. They are the actual rates paid by Lewis & Kappes clients for such services on a regular basis.

23. I believe all the attorney time reflected in Confidential Exhibits C through I was reasonably expended on the litigation in light of the high financial stakes, the complexity and importance of the issues, the vigor of the opposition, and the procedural demands arising from the multiplicity of proceedings. At all points, Lewis & Kappes was oriented on achieving the ratepayer benefits as effectively and efficiently as feasible. The work was performed largely on a contingent fee basis, leaving Lewis & Kappes at risk of receiving no compensation at all for extensive work and thereby placing a premium on achieving success while minimizing unnecessary effort.

Rate Benefits Achieved

24. The legal effort culminating in the Supreme Court decision and the Settlement yielded outstanding rate benefits for NIPSCO ratepayers. Those direct benefits include:

- a. As a direct result of the Supreme Court decision, NIPSCO removed the undisputed multiple unit projects from the 7-Year Gas Plan in TDSIC-8, reducing the revenue requirements for both tracker and deferral purposes;

- b. Those same multiple unit projects were still removed going into TDSIC-9, again reducing the revenue requirements that NIPSCO sought to track and defer;
- c. NIPSCO also reflected a write-off associated with those same multiple unit projects in its Step One compliance filing in the recent rate case, when the amounts deferred in prior TDSIC proceedings were being recovered in base rates;
- d. Under the Settlement, NIPSCO will provide refunds with interest for charges since TDSIC-4 relating to the removed multiple unit projects, in the form of credits against the TDSIC-9 revenue requirements;
- e. NIPSCO has also agreed to remove, from TDSIC-4 forward, the bare steel replacement and Kokomo low pressure system portions of the 7-Year Gas Plan, and to refund amounts collected since TDSIC-4 with interest through credits against the TDSIC-9 revenue requirements, subject to agreed eligibility for prospective treatment of those projects under the Federal Mandate tracker;
- f. NIPSCO will further reduce the direct and indirect capital included in the 7-Year Gas Plan by one half of the amount still in dispute in the pending appeals and proceedings in TDSIC-5 through TDSIC-9, net of amounts already addressed in connection with the treatment of multiple unit projects, and will correspondingly refund one half of the amounts collected since TDSIC-5 through credits against the TDSIC-9 revenue requirements, without interest;
- g. NIPSCO will write off amounts associated with bare steel replacement since TDSIC-4 and one half of the cost increases still in dispute since TDSIC-5 for purposes of the 20% deferral account under Section 9(b) of the TDSIC Statute, and will reflect those write-offs in the Step Two compliance filing in the rate case;

- h. By agreement, NIPSCO will submit a new Plan Update reflecting the terms of the Settlement; and
- i. For the remaining two years under the 7-Year Gas Plan, 2019 and 2020, NIPSCO will be subject to annual and 7-year caps on investments subject to TDSIC treatment, with a 5% flexibility factor for the annual caps but not the 7-year cap, subject to continued applicability of Section 9(f) of the TDSIC Statute with respect to rate recovery of costs in excess of authorized expenditures.

25. The quantifiable financial benefits to NIPSCO ratepayers arising from the Supreme Court decision and the Settlement include the following:

TDSIC-8 reduction in revenue requirements:	\$ 1,000,934
TDSIC-8 reduction in deferral account:	\$ 218,554
Step One write-off after TDSIC-8:	\$ 1,149,851
Multiple unit project refunds with interest:	\$ 2,668,629
Bare steel refunds with interest:	\$ 1,921,806
Bare steel write-off in Step Two deferral:	\$ 508,284
Credits for half of cost overruns:	\$ 2,385,372
Cost overruns write-off in Step Two deferral:	<u>\$ 596,344</u>
Total:	\$10,449,774

The lower revenue requirements and deferral sought in TDSIC-9 associated with the multiple unit projects removed in TDSIC-8 are not included in this computation because NIPSCO did not seek recovery for previously removed investments and hence the amounts were not explicitly stated in the TDSIC-9 filing.

26. NIPSCO ratepayers can expect additional rate benefits in the future, beyond the amounts calculated above. As of NIPSCO's initially filed position in TDSIC-8, the total direct and indirect capital included in the 7-Year Gas Plan was \$849,563,985. Following the revisions resulting from the Supreme Court decision and the Settlement, the total direct and indirect capital has become \$679,768,863, an overall reduction of \$169,765,122. Although some of the costs

will be recovered through other rate mechanisms and therefore the net increments cannot be projected with specificity, future Section 9 filings for the remaining duration of the 7-Year Gas Plan will involve reduced revenue requirements and smaller deferral amounts as a result of the Supreme Court decision and the Settlement. In addition, the caps established by the Settlement will provide protection to ratepayers against material cost increases for the remainder of the 7-Year Gas Plan, limiting the excess costs recoverable through the TDSIC mechanism.

27. The rulings by the Supreme Court in the TDSIC-4 appeal have already resulted in substantial ratepayer benefits outside the immediate effects on NIPSCO's existing 7-Year Gas Plan, including:

- a. At the time the Supreme Court decision was rendered, NIPSCO was seeking approval for a new 7-Year Gas Plan in Cause No. 45074. The new Plan was scheduled to commence at the beginning of 2019, replacing the last two years of the existing Plan. The new Plan involved a much higher level of investment and would have involved substantially greater revenue requirements than the existing Plan. Subsequent to the Supreme Court decision, however, NIPSCO agreed to the dismissal of that cause. Consequently, NIPSCO ratepayers will pay rates supporting the existing Plan for an additional period of time, as much as two more years, at a lower level of revenue requirements.
- b. Vectren North and Vectren South agreed to remove portions of their respective 7-year gas plans in response to the Supreme Court rulings, reducing the capital investments flowing through their TDSIC trackers by \$5,239,610 and \$836,169, respectively.

- c. In Cause No. 44773-TDSIC-4, NIPSCO agreed to remove approximately \$60 million in capital investments from its separate 7-Year Electric Plan.

28. The Supreme Court's decision resolved "competing visions" of the TDSIC Statute with a comprehensive statutory interpretation that is strongly supportive of ratepayer protections. The Court recognized that the stakes went well beyond the \$20 million directly in dispute in the TDSIC-4 appeal, and stated the decision "will likely have enormous financial consequences for utilities and their customers." The rulings and determinations in that decision establish important precedent that will likely have a significant impact on TDSIC proceedings for years into the future, to the benefit of ratepayers.

Reasonableness Considerations

29. The legal effort that led to the Supreme Court decision and the Settlement involved nearly three years of vigorously contested litigation, with the overlapping demands of six separate Commission proceedings and four fully briefed appeals. By statute, the Commission proceedings were conducted on an accelerated procedural schedule, with the deadline for commencing an appeal from one docket coming only about a month before the stakeholder meeting for the next. The frequent deadlines and multiplicity of proceedings being litigated concurrently required a high degree of diligence and intensive effort over an extended period.

30. The litigation raised difficult and complex issues of law involving questions of first impression concerning the construction and operation of the TDSIC Statute. The difficulty was compounded by the circumstance that the Industrial Group had to overcome established Commission practice in TDSIC proceedings involving multiple utilities. As a result, success ultimately required reversing the trend in Commission proceedings and securing appellate relief despite the considerable deference typically accorded to administrative determinations on appeal.

31. The Industrial Group independently pursued the challenges to multiple unit projects and categorical opposition to cost increases, without the support of other litigants. There were no other active intervenors in the Commission proceedings or the appeals. The OUCC did assert objections to some cost increases, but did not endorse the statutory interpretation advanced by the Industrial Group in the challenges to multiple unit projects and cost increases. The OUCC did not file any briefs or take an active role in any of the appeals.

32. In my experience, this litigation was unique due to the frequent and recurrent rejections of the positions advanced by the Industrial Group. By the time the Supreme Court issued its decision, the Commission had rejected the Industrial Group's challenges four times in successive proceedings and the Court of Appeals had also issued a decision affirming the TDSIC-4 order. Each Section 9 filing started a distinct proceeding that required a fresh commitment to litigate the issues yet again, and each loss at the Commission required the initiation of another appeal to preserve the challenges. Maintaining the effort despite the repeated setbacks required considerable tenacity, commitment and resolve.

33. The course of the proceedings called for the effective exercise of a broad range of litigation skills. At the Commission level, the effort involved statutory analysis, the conduct of discovery, development of an evidentiary record, presentation of expert testimony, cross-examination of opposing witnesses, and preparation of post-hearing submissions. The appeals involved the preparation of twelve separate briefs on the merits, including on transfer and rehearing, and an oral argument at the Supreme Court. Reaching the Settlement, finally, required effective negotiation.

34. NIPSCO at all points was a determined adversary represented by skilled counsel with superior access to information and resources. NIPSCO supported its requested relief in

each proceeding with thousands of pages of detailed records, schedules and computations. The Industrial Group's challenges were consistently met with vigorous opposition. In addition to experienced legal counsel, NIPSCO was able to draw on the resources of an array of in-house subject matter experts.

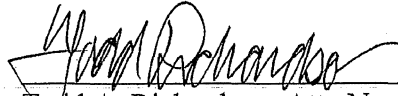
35. Utility regulation is a specialized practice area requiring distinct expertise. The Lewis & Kappes attorneys who performed the legal services at issue all have strong backgrounds in energy matters and stature within the utility bar. My experience includes over 25 years of participation in Commission proceedings and numerous appeals. Jennifer Terry represented industrial consumers in utility proceedings since 1998 and earned recognition on multiple occasions as a Rising Star and Super Lawyer in utility regulation. Joseph Rompala clerked for Chief Justice Randall Shepard at the Indiana Supreme Court before joining Lewis & Kappes, is the immediate Past-Chair of the Appellate Practice Section, and is the current Chair of the Utility Law Section of the Indiana State Bar Association. Aaron Schmoll served as a Senior Administrative Law Judge at the Commission for 12 years before joining Lewis & Kappes in 2017, and previously clerked for Judge Mark Bailey at the Indiana Court of Appeals.

Conclusion

36. In light of the foregoing circumstances and considerations, I believe the Supplemental Settlement is reasonable and appropriate, supported by the record, and in the public interest. In my opinion, the common fund fee award provided for in the Supplemental Settlement is commensurate with the stakes in the litigation, properly scaled to the ratepayer benefits achieved, an appropriate reflection of the level of effort expended and the risks associated with predominantly contingent fee litigation, consistent with common fund standards and Commission precedent, and in all respects reasonable and in the public interest.

Further affiant sayeth not.

I affirm under the penalties of perjury that the forgoing representation are true and correct to the best of my knowledge and understanding.

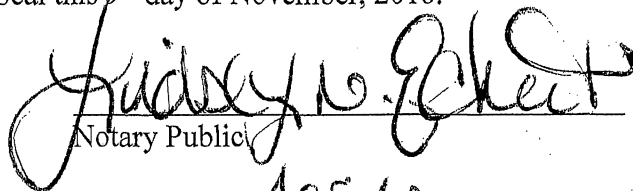
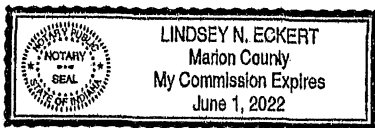


Todd A. Richardson, Atty No. 16620-49

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

Before me a Notary Public in and for said County and State, personally appeared Todd A. Richardson, an attorney in the law firm of Lewis & Kappes, P.C., who acknowledged the execution of the foregoing Verified Declaration of Todd A. Richardson and who, having been duly sworn, stated the representation contain therein are true.

Witness my hand and Notarial Seal this 9th day of November, 2018.


Notary Public

A resident of Marion County, Indiana

My commission expires:

6/1/2022

TODD A. RICHARDSON
CURRICULUM VITAE

Todd Richardson has practiced for more than twenty-five years at Lewis Kappes in the areas of energy and utility law, business litigation and appeals in state and federal courts. He has represented large volume energy consumers in a variety of regulatory and civil litigation contexts, and is a regular practitioner in the appellate courts on utility law and other issues. His litigation experience has concentrated on intellectual property and trade regulation matters, in particular patent and antitrust disputes. He has been recognized as a Super Lawyer and among the Best Lawyers in America in appellate practice, is a past recipient of the Trial Lawyer of the Year Award, and speaks regularly on subjects involving utility law, appellate practice and legal ethics. Before joining Lewis Kappes, he practiced in Boston with a firm handling complex litigation. He graduated with honors from the University of Michigan Law School, Harvard University and Bosse High School in Evansville, Indiana. While at Harvard, he wrote jokes for the Harvard Lampoon.

Education

University of Michigan, J.D., 1986, Cum Laude
University of Michigan Journal of Law Reform (1984-1986)
Harvard College, B.A., 1983, Cum Laude
Harvard Lampoon, Editorial Board (1981-1983)

Bar Admissions

State of Indiana (1992)
Commonwealth of Massachusetts (1986)
United States Supreme Court (1997)
U.S. Court of Appeals, D.C. Circuit (1998)
U.S. Court of Appeals, Seventh Circuit (1995)
U.S. Court of Appeals, Federal Circuit (1991)
U.S. District Court, Eastern District of Wisconsin (2002)
U.S. District Court, Northern District of Indiana (1994)
U.S. District Court, Southern District of Indiana (1992)
U.S. District Court, Massachusetts (1987)

Honors and Affiliations

Best Lawyers in America, Appellate Practice (2013-present)
Indiana Super Lawyer, Appellate (2004-2010)
Indiana Trial Lawyer of the Year, Co-Recipient (1994)
Storytelling Arts of Indiana, Board (2005-2011), Board President (2009-2011)
Indiana State Bar Association, District Council - Appellate Practice Section (1998-2000)
Indianapolis Bar Association, Grievance Committee (1996-2001)

Presentations

"Energy Policy and Private Generation," Indiana Chamber Energy Management Conference (2015)
"What Happens Before Your Energy Bill Hits Your Bottom Line," Indiana Chamber Energy Management Conference (2014)
"Getting a Utility Appeal Up and Running," Utility Law Section Fall Seminar (2013)
"Ethics in Administrative Proceedings: Headline News Ethics" (2011)
Breakout Session Instructor, Appellate Skills Institute (2009)
"Ethics in Administrative Proceedings: Confidence and Privilege with a Public Client" (2008)
"Administrative Appeals," Appellate Practice Survey (2007)
"Ethics in Administrative Proceedings: When to Be a Tattletale" (2006)
"Ethics in Administrative Proceedings: Keeping Toes Out of the Revolving Door" (2005)
"Ethics in Administrative Proceedings: Pro Se Litigants" (2002)
Breakout Session Instructor, Appellate Skills Seminar (2001)
"Ethics in Administrative Proceedings: Philosophy of Ethics and Grievance Process" (2000)
"New Appellate Rules," Utility Law Section Fall Seminar (2000)
"Anticompetitive Conduct and Market Power Issues," Indiana Energy Conference (1998)

Appellate Decisions

Submitted briefs on the merits in the following utility cases

NIPSCO Industrial Group v. Northern Indiana Public Service Co.,
100 N.E.3d 234 (Ind. 2018)

Indiana Gas Co. v. Indiana Finance Authority,
999 N.E.2d 63 (Ind. 2013)

United States Steel Corp. v. Northern Indiana Public Service Co.,
907 N.E.2d 1012 (Ind. 2009)

United States Gypsum, Inc. v. Indiana Gas Co.,
735 N.E.2d 790 (Ind. 2000)

Indiana Bell Telephone Co. v. Indiana Utility Regulatory Commission,
715 N.E.2d 351 (Ind. 1999)

United States Gypsum Co. v. Indiana Gas Co.,
350 F.3d 623 (7th Cir. 2003)

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Midwest Gas Services, Inc. v. Indiana Gas Co.,
317 F.3d 703 (7th Cir.),
cert. denied, 540 U.S. 817 (2003)

Midwestern Gas Transmission Co. v. McCarty,
270 F.3d 536 (7th Cir. 2001),
cert. denied, 535 U.S. 1053 (2002)

Southern Indiana Gas & Electric Co. v. Office of Utility Consumer Counselor,
81 N.E.3d 701, 2017 WL 899947 (Ind. App. 2017)

Indiana Gas Co. v. Indiana Utility Regulatory Commission,
75 N.E.3d 568 (Ind. App. 2017)

NIPSCO Industrial Group v. Northern Indiana Public Service Co.,
31 N.E.3d 1 (Ind. App. 2015)

Citizens Action Coalition v. Duke Energy Indiana, Inc.,
9 N.E.3d 260, 2014 WL 1092210 (Ind. App. 2014)

United States Steel Corp. v. Northern Indiana Public Service Co.,
951 N.E.2d 542 (Ind. App. 2011),
transfer denied, 963 N.E.2d 1119 (Ind. 2012)

BP Products North America, Inc. v. Office of Utility Consumer Counselor,
947 N.E.2d 471 (Ind. App.),
mod'd on rehearing, 964 N.E.2d 234 (2011),
transfer dismissed, 963 N.E.2d 1120 (Ind. 2012)

Int'l Brotherhood of Electrical Workers v. Indianapolis Power & Light Co.,
920 N.E.3d 721 (Ind. App.),
transfer denied, 940 N.E.2d 822 (Ind. 2010)

Northern Indiana Public Service Co. v. Jupiter Aluminum Corp.,
858 N.E.2d 1075, 2006 WL 3759210 (Ind. App. 2006)

Northern Indiana Public Service Co. v. Office of Utility Consumer Counselor,
826 N.E.2d 112 (Ind. App. 2005)

Citizens Action Coalition v. Northern Indiana Public Service Co.,
812 N.E.2d 814 (Ind. App. 2004)

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Citizens Action Coalition v. Northern Indiana Public Service Co.,
796 N.E.2d 1264 (Ind. App. 2003),
transfer denied, 812 N.E.2d 799 (Ind. 2004)

Citizens Action Coalition v. Statewide Association of RECs,
693 N.E.2d 1324 (Ind. App. 1998)

Citizens Action Coalition v. PSI Energy, Inc.,
681 N.E.2d 785 (Ind. App. 1997) (Table)

Office of Utility Consumer Counselor v. Southern Indiana Gas & Electric Co.,
676 N.E.2d 34 (Ind. App. 1997) (Table)

Indiana Gas Co. v. Office of Utility Consumer Counselor,
675 N.E.2d 739 (Ind. App.),
transfer denied, 690 N.E.2d 1180 (Ind. 1997)

Mapleturn Utilities, Inc. v. Foxcliff South Associates, Inc.,
673 N.E.2d 5 (Ind. App. 1996),
transfer denied, 690 N.E.2d 1181 (Ind. 1997)

Citizens Action Coalition v. PSI Energy, Inc.,
664 N.E.2d 401 (Ind. App. 1996)

Knox County REMC v. PSI Energy, Inc.,
663 N.E.2d 182 (Ind. App. 1996),
transfer denied

General Motors Corp. v. Indianapolis Power & Light Co.,
654 N.E.2d 752 (Ind. App. 1995)

Airco Industrial Gases v. Indiana Michigan Power Co.,
614 N.E.2d 951 (Ind. App. 1993)

Indiana Utility Regulatory Commission v. Gary Joint Venture,
609 N.E.2d 7 (Ind. App. 1993),
transfer denied

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Non-utility appeals

State ex rel Indiana State Bar Association v. Diaz,
838 N.E.2d 433 (Ind. 2005)

Fraley v. Minger,
829 N.E.2d 476 (Ind. 2005)

Bayh v. Indiana State Building and Construction Trades Council,
674 N.E.2d 176 (Ind. 1996)

Mañez v. Bridgestone Firestone North American Tire, LLC,
533 F.3d 578 (7th Cir. 2008)

Gorka v. Sullivan,
82 F.3d 772 (7th Cir. 1996)

Proportion-Air, Inc. v. Buzmatics, Inc.,
57 F.3d 1085, 1995 WL 360549 (Fed. Cir. 1995)

Wang Laboratories, Inc. v. Applied Computer Sciences, Inc.,
958 F.2d 355 (Fed. Cir. 1992)

Estate of Huffman v. Dexter Axle Co.,
990 N.E.2d 947 (Ind. App. 2013)

Board of Commissioners v. Northeastern Indiana Building Trades Council,
954 N.E.2d 937 (Ind. App.)
transfer denied, 962 N.E.2d 651 (Ind. 2011)

Dreibelbiss Title Co. v. MorEquity, Inc.,
861 N.E.2d 1218 (Ind. App.),
transfer denied, 869 N.E.2d 461 (Ind. 2007)

Dewart v. Haab,
849 N.E.2d 693 (Ind. App. 2006)

Scottish Rite of Indianapolis Foundation, Inc. v. Adams,
834 N.E.2d 1024 (Ind. App. 2005)

Burgess v. E.L.C. Electric, Inc.,
825 N.E.2d 1 (Ind. App.),
transfer denied, 841 N.E.2d 180 (Ind. 2005)

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Garec Ltd. Partnership I v. American Specialty Properties, Inc.,
754 N.E.2d 49 (Ind. App. 2001) (Table)

Candlelight Properties, LLC v. MHC Operating Ltd. Partnership,
750 N.E.2d 1 (Ind. App.),
transfer dismissed, 761 N.E.2d 420 (Ind. 2001)

Woodall v. Berns Construction Co.,
733 N.E.2d 544 (Ind. App. 2000) (Table)

Commission Proceedings

In addition to the Commission proceedings leading to listed appellate decisions, participated actively in the following proceedings

NIPSCO Gas TDSIC Plan (Cause No. 45074)

Tax Investigation (Cause No. 45032)

Vectren Electric Trackers (Cause Nos. 43405-DSMA15, 43354-MCRA21, 43406-RCRA15)

NIPSCO Gas Rate Case 2018 (Cause No. 44988)

Vectren Electric TDSIC Plan (Cause No. 44910)

NIPSCO Electric TDSIC Plan 2016 (Cause No. 44733)

NIPSCO Electric Rate Case 2016 (Cause No. 44688)

Duke Customer Deposit (Cause No. 44219)

NIPSCO ARP 2012 (Cause No. 44081)

Citizens Gas Rate Case 2011 (Cause No. 43975)

ProLiance Arrangement (Cause No. 43963)

NIPSCO Merger 2011 (Cause Nos. 43941, 43942, 43943)

NIPSCO Gas Rate Case 2010 (Cause No. 43894)

NIPSCO ARP 2009 (Cause No. 43837)

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NIPSCO Gas Deposit (Cause No. 43685)

NIPSCO Cogeneration (Cause Nos. 43674, 43675)

NIPSCO Gas Complaint (Cause No. 43657)

Citizens Gas Rate Case 2008 (Cause No. 43463)

ProLiance Arrangement (Cause No. 42973)

Citizens Gas Rate Case 2004 (Cause No. 42767)

Indiana Gas Rate Case 2004 (Cause No. 42598)

NIPSCO Service Quality Complaint (Cause No. 42415)

Citizens Affiliate Enforcement (Cause No. 37399-GCA84-S1)

ProLiance Arrangement (Cause Nos. 42233 and GCA50-S1)

Citizens Gas Customer-Specific Charges (Cause No. 37399-GCA68)

NIPSCO Rate Investigation (Cause No. 41746)

SIGECO Gas Bypass (Cause No. 41633)

NIPSCO Customer Generation Complaint (Cause No. 41333)

PSI Marble Hill Refund (Cause Nos. 39498 and 39786)

Related Experience

FERC Order 888 and Appeal (FERC, D.C. Circuit, U.S. Supreme Court)

Utility Receipts Tax Rulemaking (Indiana Dept. of Revenue)

Jay County REMC (contract action in trial court)

Delta Faucet Split Site (declaratory judgment action)

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TDSIC-4 Timeline

February 2, 2016	TDSIC-4 stakeholder meeting
February 29, 2016	TDSIC-4 Petition filed
March 30, 2016	TDSIC-3 Order issued
April 29, 2016	TDSIC-4 OUCC/Intervenor evidence filed
May 16, 2016	TDSIC-4 hearing
June 22, 2016	TDSIC-4 Order issued
July 22, 2016	TDSIC-4 Notice of Appeal filed
August 2, 2016	TDSIC-5 stakeholder meeting
August 22, 2016	TDSIC-4 Clerk's Record filed
August 31, 2016	TDSIC-5 Petition filed
September 30, 2016	TDSIC-4 Brief of Appellant filed
October 31, 2016	TDSIC-5 OUCC/Intervenor evidence filed
November 22, 2016	TDSIC-5 hearing
December 15, 2016	TDSIC-4 Appeal Reply Brief filed
December 28, 2016	TDSIC-5 Order issued
January 27, 2017	TDSIC-5 Notice of Appeal filed
February 2, 2017	TDSIC-6 stakeholder meeting
February 27, 2017	TDSIC-5 Clerk's Record filed
February 28, 2017	TDSIC-6 Petition filed
April 28, 2017	TDSIC-6 OUCC/Intervenor evidence filed
May 15, 2017	TDSIC-5 Brief of Appellant filed
May 24, 2017	TDSIC-6 hearing

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June 20, 2017	TDSIC-4 Court of Appeals decision
June 28, 2017	TDSIC-6 Order issued
June 30, 2017	TDSIC-5 Appeal Reply Brief filed
July 20, 2017	TDSIC-4 Petition to Transfer filed
July 21, 2017	TDSIC-5 Supplemental Reply Brief filed
July 24, 2017	TDSIC-6 Notice of Appeal filed
August 3, 2017	TDSIC-7 stakeholder meeting
August 14, 2017	TDSIC-4 Transfer Reply filed
August 23, 2017	TDSIC-6 Clerk's Record filed
August 31, 2017	TDSIC-7 Petition filed
October 30, 2017	TDSIC-7 OUCC/Intervenor evidence filed
November 8, 2017	TDSIC-6 Brief of Appellant filed
November 21, 2017	TDSIC-4 Transfer Oral Argument
November 30, 2017	TDSIC-7 hearing
December 28, 2017	TDSIC-7 Order issued
January 26, 2018	TDSIC-7 Notice of Appeal filed
January 31, 2018	TDSIC-8 stakeholder meeting
February 26, 2018	TDSIC-7 Clerk's Record filed
February 27, 2018	TDSIC-8 Petition filed
April 30, 2018	TDSIC-8 OUCC/Intervenor evidence filed
June 8, 2018	TDSIC-8 hearing
June 20, 2018	TDSIC-4 Supreme Court decision
July 12, 2018	TDSIC-8 Motion to Reopen Record filed

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July 16, 2018	TDSIC-4 NIPSCO Petition for Rehearing
July 30, 2018	TDSIC-7 Brief of Appellant filed
July 31, 2018	TDSIC-4 Opposition to Rehearing filed
August 1, 2018	TDSIC-9 stakeholder meeting
August 22, 2018	TDSIC-8 Order issued
August 28, 2018	TDSIC-9 Petition filed
September 21, 2018	TDSIC-8 Notice of Appeal filed
September 25, 2018	TDSIC-4 Appeal Rehearing Order issued
October 15, 2018	TDSIC-6 Appeal Reply Brief filed
October 15, 2018	TDSIC-7 Appeal Reply Brief filed
October 15, 2018	TDSIC-4 Appeal Supreme Court decision certified
November 5, 2018	Settlement filed

Summary

33-month period, February 2016 through October 2018

TDSIC petitions: 6
Stakeholder meetings: 6
IG evidentiary filings: 5
Hearings and post-hearing filings: 5
Appeal briefs (including on transfer/rehearing): 12
Appellate oral arguments: 1

**Exhibits C through I to the Verified
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**(Confidential – To Be Filed Upon
Grant of Motion for Confidential
Treatment)**