

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

<b>VERIFIED PETITION OF NORTHERN</b>	<b>)</b>	
<b>INDIANA PUBLIC SERVICE COMPANY LLC</b>	<b>)</b>	
<b>FOR (1) APPROVAL OF AN ADJUSTMENT</b>	<b>)</b>	
<b>TO ITS ELECTRIC SERVICE RATES</b>	<b>)</b>	
<b>THROUGH ITS TRANSMISSION,</b>	<b>)</b>	
<b>DISTRIBUTION, AND STORAGE SYSTEM</b>	<b>)</b>	
<b>IMPROVEMENT CHARGE ("TDSIC") RATE</b>	<b>)</b>	
<b>SCHEDULE; (2) AUTHORITY TO DEFER 20%</b>	<b>)</b>	<b>CAUSE NO. 44733-TDSIC-4</b>
<b>OF THE APPROVED CAPITAL</b>	<b>)</b>	
<b>EXPENDITURES AND TDSIC COSTS FOR</b>	<b>)</b>	
<b>RECOVERY IN PETITIONER'S NEXT</b>	<b>)</b>	
<b>GENERAL RATE CASE; (3) APPROVAL OF</b>	<b>)</b>	
<b>PETITIONER'S UPDATED 7-YEAR</b>	<b>)</b>	
<b>ELECTRIC PLAN, INCLUDING ACTUAL</b>	<b>)</b>	
<b>AND PROPOSED ESTIMATED CAPITAL</b>	<b>)</b>	
<b>EXPENDITURES AND TDSIC COSTS THAT</b>	<b>)</b>	
<b>EXCEED THE APPROVED AMOUNTS IN</b>	<b>)</b>	
<b>CAUSE NO. 44733-TDSIC-3, ALL PURSUANT</b>	<b>)</b>	
<b>TO IND. CODE § 8-1-39-9; AND (4)</b>	<b>)</b>	
<b>APPROVAL OF PETITIONER'S RETURN OF</b>	<b>)</b>	
<b>EXCESS INCOME TAX REVENUE</b>	<b>)</b>	
<b>RECOVERED THROUGH ITS BASE RATES</b>	<b>)</b>	
<b>BETWEEN JANUARY 1 AND APRIL 30, 2018</b>	<b>)</b>	
<b>THROUGH ITS TDSIC FACTOR.</b>	<b>)</b>	

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**PETITIONER'S MOTION FOR PROTECTION AND NONDISCLOSURE OF  
CONFIDENTIAL AND PROPRIETARY INFORMATION**

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Petitioner Northern Indiana Public Service Company LLC ("NIPSCO" or "Petitioner"), pursuant to 170 IAC 1-1.1-4, Ind. Code § 5-14-3 and Ind. Code § 8-1-2-29, respectfully requests that the Indiana Utility Regulatory Commission

(“Commission”) enter a Protective Order prohibiting dissemination outside of the Commission and adopting safeguards for the handling of certain document(s) to be submitted under seal to the Commission by Petitioner containing information that contains trade secrets and which NIPSCO deems confidential, proprietary, and competitively sensitive (the “Confidential Information”). In support of this motion, Petitioner represents the following:

1. Petitioner proposes to include the Confidential Information in its Verified Direct Testimony filed in this Cause on July 31, 2018. The Confidential Information may also be used as part of Verified Rebuttal Testimony, at the Evidentiary Hearing and/or discussed in the post-hearing pleadings to be made in this Cause. A Commission protective order will allow Petitioner to safely submit the Confidential Information to the Commission.

2. The Confidential Information specifically includes: (1) portions of the cost estimates provided in NIPSCO’s 7-Year Electric Plan Update-3 (Confidential Exhibit Electric Plan Update-3 (Confidential)) inclusive of portions of Appendices 1 through 8 thereto; (2) portions of the cost estimates provided in NIPSCO’s 7-Year Electric Plan Update-4 (Confidential Exhibit Electric Plan Update-4) inclusive of portions of Appendices 1 through 8 thereto; (3) portions of the Verified Direct Testimony of James E. Zucal (Petitioner’s Confidential Exhibit No. 3) inclusive of Confidential Attachment 3-A and Confidential Attachment 3-B thereto; (4) portions

of Petitioner's Exhibit No. 1, Confidential Attachment 1-B; and (5) portions of Petitioner's Exhibit No. 4, Confidential Attachment 4-A. The Confidential Information contains trade secrets and is therefore confidential information in accordance with Ind. Code § 8-1-2-29. In support of this motion, NIPSCO represents the following:

3. The Confidential Information consists of sensitive and detailed cost information for prospective transmission and distribution projects and proprietary testing results that required significant time and resources to produce.

4. As affirmed by the Affidavit of James E. Zucal, attached hereto as Exhibit A, the Confidential Information should be treated confidentially because (1) the Confidential Information is not available or ascertainable by third parties through normal or proper means; (2) NIPSCO has taken reasonable steps to protect the Confidential Information, including sharing such information internally on a need to know basis and only providing the Confidential Information to external stakeholders who have executed protective agreements with NIPSCO; (3) the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by persons who could obtain economic value from its disclosure or use; and (4) public disclosure of the Confidential Information would cause substantial detriment to NIPSCO and its customers. Specifically, the Confidential Information would be of economic value to

vendors with whom NIPSCO may be negotiating currently or in the future. Knowledge of the cost estimates would provide suppliers and contractors with an unfair advantage in their negotiations with NIPSCO to the detriment of NIPSCO and its customers.

5. Based upon the above description of material for which NIPSCO seeks protection and the attached affidavit, NIPSCO requests the Commission enter a preliminary determination that the Confidential Information appears to be confidential and trade secret within the meaning of Ind. Code § 5-14-3-4(a) as defined by Ind. Code § 24-2-3-2, for the limited purpose of allowing Petitioner to safely submit or otherwise make available the Confidential Information under seal for an in camera inspection by the presiding Administrative Law Judge and Commission for a final determination of the appropriateness of NIPSCO's request for protection. Subject to Paragraph 8 below, once a preliminary determination is made that the Confidential Information is exempt from public disclosure, Petitioner will make available or submit a single copy of the material for which protection is sought to the Commission either via the Electronic Filing Database or in hard copy on light green paper and in a sealed envelope, designating that the contents are confidential and proprietary material submitted by Petitioner, under a preliminary order of confidentiality, and which is marked to the attention of the presiding Administrative Law Judge. NIPSCO will notify the Commission when, and if, the information is no

longer confidential.

6. Upon a preliminary determination that the Confidential Information is confidential and/or trade secret, NIPSCO proposes that the Commission issue a Docket Entry adopting the following procedures to assure the protection of the information provided by NIPSCO, which NIPSCO believes to be consistent with procedures followed by the Commission in similar situations:

a. That the Confidential Information will be made available solely for inspection by certain designated employees of the Commission and its Staff for the purposes of their analysis.

b. That the Confidential Information will be specifically filed, secured and under the control of a responsible person.

c. That any Commission employee or Staff member receiving access to such Confidential Information be under an obligation to secure and maintain exclusive control of documents, to refrain from directly or indirectly allowing public disclosure of such Confidential Information and to refrain and prohibit the copying and reproduction of the Confidential Information.

d. That any documents, materials or reports prepared by Commission employees or Staff members not have the effect of disclosing the

Confidential Information.

e. That no Commission employee or Staff member should have access to the Confidential Information without first acknowledging in writing prior to access, the existence of an order providing for confidential treatment, the need to treat the Confidential Information in accordance with the provisions thereof, and the sanctions which may be imposed for unauthorized disclosure of such Confidential Information.

7. NIPSCO will provide the Confidential Information to counsel for the Indiana Office of Utility Consumer Counselor pursuant to a protective agreement. Should a subsequently filed petition to intervene be granted, NIPSCO will provide the Confidential Information to any intervenor pursuant to an appropriate protective agreement that is acceptable to NIPSCO. If necessary, NIPSCO will request that the Commission enter a protective order safeguarding the dissemination of the Confidential Information.

8. Once a preliminary determination of confidentiality has been made, Petitioner will provide the Confidential Information subject to and contingent upon the right to retrieve the Confidential Information before it can be disclosed to any members of the public should the Commission upon a final determination find that the material submitted under seal should not be protected.

WHEREFORE, NIPSCO respectfully requests that the Commission make and enter appropriate orders in this Cause:

(i) Finding the Confidential Information to be preliminarily confidential for the limited purpose of allowing Petitioner to safely file the Confidential Information with the Commission under seal;

(ii) Thereafter make a final determination that the Confidential Information is exempt from public disclosure under Ind. Code § 8-1-2-29 and § 5-14-3-4;

(iii) Adopting the procedures set forth herein to insure that the Confidential Information is appropriately secured and made available only to the appropriate Commission employees of the Commission's Staff on a need-to-know basis, and who are under an obligation not to disclose such confidential information to any third party; and

(iv) Granting to NIPSCO such other relief as may be appropriate.

Respectfully submitted,



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Claudia J. Earls (No. 8468-49)

Bryan M. Likins (No. 29996-49)

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Attorneys for Northern Indiana Public Service  
Company LLC



## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the public version of the Verified Petition was served by email transmission upon the following:

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A courtesy copy has also been provided by email transmission upon the following:

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Dated this 31<sup>st</sup> day of July, 2018.



Bryan M. Likins

STATE OF INDIANA     )  
                                      )  
COUNTY OF LAKE        )

**AFFIDAVIT OF JAMES E. ZUCAL**

Affiant, upon being first duly sworn, subject to the penalties for perjury, states that:

1.       He is Vice President, Projects & Construction Electric of Northern Indiana Public Service Company LLC ("NIPSCO").

2.       He is responsible for management of electric capital projects through NIPSCO, including the Environmental Compliance Project, Generation, Electric Transmission, Distribution, and Storage System Improvement Charge projects, and the Multi-Value Projects, which consist of 765 kV and 345 kV transmission lines, and has personal knowledge of the matters addressed in this affidavit and in Petitioner's Motion for Protection and Nondisclosure of Confidential and Proprietary Information, to which this Affidavit is attached.

3.       He is supplying this Affidavit to support Petitioner's Motion for Protection and Nondisclosure of Confidential and Proprietary Information for determination that certain information that contains trade secrets is confidential and exempt from public disclosure, pursuant to 170 IAC 1-1.1-4, Ind. Code § 5-14-3 and Ind. Code § 8-1-2-29 ("Confidential Information");

4. The Confidential Information specifically includes: (1) portions of the cost estimates provided in NIPSCO's 7-Year Electric Plan Update-3 (Confidential Exhibit Electric Plan Update-3 (Confidential)) inclusive of portions of Appendices 1 through 8 thereto; (1) portions of the cost estimates provided in NIPSCO's 7-Year Electric Plan Update-4 (Confidential Exhibit Electric Plan Update-4) inclusive of portions of Appendices 1 through 8 thereto; (3) portions of the Verified Direct Testimony of James E. Zucal (Petitioner's Confidential Exhibit No. 3) inclusive of Confidential Attachment 3-A and Confidential Attachment 3-B thereto; (4) portions of Petitioner's Exhibit No. 1, Confidential Attachment 1-B; and (5) portions of Petitioner's Exhibit No. 4, Confidential Attachment 4-A. The Confidential Information contains trade secrets and is therefore confidential in accordance with Ind. Code § 8-1-2-29.

5. As discussed below and detailed in Petitioner's Motion for Protection and Nondisclosure of Confidential and Proprietary Information, the Confidential Information consists of sensitive and detailed cost information for prospective transmission and distribution projects and proprietary testing results that required significant time and resources to produce.

6. The Confidential Information is not available or ascertainable by third parties through normal or proper means. NIPSCO has taken reasonable steps to protect the Confidential Information, including sharing such information internally on a need to

know basis and only providing the Confidential Information to external stakeholders who have executed protective agreements with NIPSCO.

7. The Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by persons who could obtain economic value from its disclosure or use. Public disclosure of the Confidential Information would cause substantial detriment to NIPSCO and its customers.

8. Specifically, the Confidential Information would be of economic value to vendors with whom NIPSCO may be negotiating currently or in the future. Knowledge of the cost estimates would provide suppliers and contractors with an unfair advantage in their negotiations with NIPSCO to the detriment of NIPSCO and its customers. For example, if a contractor knew NIPSCO's cost estimate for the provision of a mile of underground cable, the contractor's bid could be influenced by the knowledge to the detriment of NIPSCO and ultimately its customers.

9. For all the foregoing reasons, the Confidential Information should be protected from public disclosure.

10. Further, Affiant sayeth not.

James E. Zucal  
James E. Zucal

The preceding Affidavit of James E. Zucal was subscribed and sworn before me  
this 31<sup>st</sup> day of July, 2018.

Laura Blythe  
Notary Public

My Commission Expires: 08.17.2023

My County of Residence: Porter

