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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR APPROVAL OF ITS PROPOSED 2019-2021 ENERGY EFFICIENCY PLAN FOR GAS SERVICE (OR ITS ALTERNATIVE PLAN) AND ASSOCIATED RATEMAKING AND ACCOUNTING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH NIPSCO'S GDSM ADJUSTMENT MECHANISM OF ASSOCIATED COSTS (INCLUDING PROGRAM COSTS AND LOST REVENUES), FOR AUTHORITY TO DEFER PROGRAM COSTS, AND MODIFICATION OF RIDER 472 – GAS DEMAND SIDE MANAGEMENT ("GDSM") RIDER.	)	**CAUSE NO. 45012** **APPROVED:** NOV 21 2018

ORDER OF THE COMMISSION

Presiding Officers:
James F. Huston, Chairman
Carol Sparks Drake, Administrative Law Judge

On November 22, 2017, Northern Indiana Public Service Company LLC ("NIPSCO" or "Petitioner") filed a verified petition in the above-captioned Cause with the Indiana Utility Regulatory Commission ("Commission"). In its petition, NIPSCO requests approval of Petitioner's proposed gas energy efficiency ("EE") programs for the period January 1, 2019, through December 31, 2021, (the "2019-2021 EE Plan" or "Plan"), including NIPSCO's proposed EE goals; the programs NIPSCO proposes to achieve these goals; the program budgets and costs; the evaluation, measurement, and verification ("EM&V") procedures for the programs; associated ratemaking and accounting treatment for the Plan; and modification of Rider 472 – Gas Demand Side Management ("GDSM") Rider. NIPSCO also prefiled its case-in-chief on November 22, 2017, consisting of the testimony and exhibits of the following witnesses:

- Alison M. Becker, Manager of Regulatory Policy at NIPSCO;
- Victoria A. Vrab, Director of Demand Side Management Programs at NIPSCO;
- David Joseph Mays, Manager of Regulatory at NiSource Corporate Services Company; and
- Richard A. Morgan, President of Morgan Marketing Partners, LLC.

On December 6, 2017, Citizens Action Coalition of Indiana, Inc. ("CAC") petitioned to intervene in this Cause, and CAC's petition was granted on December 18, 2017.

On April 24, 2018, NIPSCO filed a motion requesting leave, pursuant to 170 IAC 1-1.1-8(b), to file an amended petition because NIPSCO had determined the amount of Lost Revenues and Total Program Costs included in its petition were incorrect. A Docket Entry was issued on

April 26, 2018, authorizing NIPSCO to file an amended petition. NIPSCO made this filing on April 27, 2018.

On May 2, 2018, the Indiana Office of Utility Consumer Counselor ("OUCC") prefiled the testimony of the following witnesses from its Natural Gas Division:

- Edward T. Rutter, Chief Technical Advisor, and
- Isabelle L. Gordon, Utility Analyst.

Also on May 2, 2018, CAC prefiled the testimony and exhibits of its witness, Kerwin L. Olson, CAC's Executive Director.

On June 1, 2018, NIPSCO prefiled the rebuttal testimony of Ms. Becker.

On June 6, 2018, Thermo-Cycler Industries, Inc. ("Thermo-Cycler") petitioned to intervene in this Cause. On June 13, 2018, NIPSCO filed a response to this petition in which NIPSCO, while not objecting to the requested intervention, conveyed concern about whether Thermo-Cycler planned to broaden the issues in contravention of 170 IAC 1-1.1-11(d). Thermo-Cycler filed a reply to NIPSCO's response on June 15, 2018, stating that it accepted the requirement under 170 IAC 1-1.1-11(e) to be bound by the record as it stands at the time its intervention is granted. On June 19, 2018, a Docket Entry was issued granting Thermo-Cycler's intervention and recognizing Thermo-Cycler will be bound by the existing record and will not be permitted to unduly broaden the issues or delay this proceeding consistent with the Docket Entry issued on December 19, 2017,[1] and with 170 IAC 1-1.1-11(e).

On June 29, 2018, all the parties of record, including Thermo-Cycler, filed a motion requesting that the hearing schedule be vacated and a new hearing date be established because NIPSCO, the OUCC, and CAC had reached a settlement in principle and related discussions with Thermo-Cycler were continuing. This motion was granted in a Docket Entry issued on June 29, 2018, rescheduling the evidentiary hearing to August 23, 2018. Dates were also established for prefiling the anticipated settlement agreement and supportive testimony, and non-settling parties were afforded to July 23, 2018, to prefile testimony and exhibits. Ultimately, Thermo-Cycler did not join the settlement. Thermo-Cycler also did not prefile testimony responding to the Settlement Agreement or to the settlement testimony prefiled with the Commission.

On July 9, 2018, NIPSCO, the OUCC, and CAC (collectively, the "Settling Parties") filed a Stipulation and Settlement Agreement ("Settlement Agreement"). That same date, the Settling Parties prefiled their respective testimony in support of the Settlement Agreement. This included settlement testimony by NIPSCO witness Becker, OUCC witness Rutter, and CAC witness Olson. On July 23, 2018, Thermo-Cycler filed a verified response to the Settlement Agreement in which Thermo-Cycler stated, "Thermo-Cycler does not challenge the Settlement Agreement itself," Thermo-Cycler Response at ¶ 3, but Thermo-Cycler asked the Commission to hold the NIPSCO GDSM commercial and industrial ("C&I") Custom Program incentive process in abeyance

[1] The Docket Entry issued on December 19, 2017, established the procedural schedule for this Cause, including prefiling dates, and addressed related matters. Under Paragraph 12 of this Docket Entry, any party permitted to become an intervenor shall be bound by the record when its petition to intervene is granted consistent with 170 IAC 1-1.1-11.

pending the conclusion of a sub-docket that Thermo-Cycler requested the Commission to open to review how NIPSCO's program administrator evaluates and incentivizes GDSM customers or, in the alternative, allow Thermo-Cycler to pursue these issues in a separate complaint. On July 30, 2018, the Settling Parties filed a verified response to Thermo-Cycler's filing. In a Docket Entry dated August 7, 2018, the sub-docket Thermo-Cycler requested was denied, with the Presiding Officers noting that NIPSCO initiated this proceeding on November 22, 2017, and the program offerings, including the NIPSCO GDSM C&I program and its administration, are before the Commission by means of the Settlement Agreement, to which Thermo-Cycler was afforded the opportunity to prefile testimony and, instead, raised no challenge.

The Commission held an evidentiary hearing in this Cause at 1:00 p.m. on August 23, 2018, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. NIPSCO, the OUCC, CAC, and Thermo-Cycler each appeared by counsel and participated in the hearing.

Based upon the applicable law and the evidence presented, the Commission finds:

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. NIPSCO is a public utility as defined in Ind. Code § 8-1-2-1(a). Under Ind. Code §§ 8-1-2-4, 8-1-2-12, and 8-1-2-42, the Commission has jurisdiction over NIPSCO's EE programs and associated accounting and ratemaking treatment; therefore, the Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

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

3. Background and Relief Requested. The Commission previously approved NIPSCO's gas EE programs, associated accounting treatment and cost recovery through an EE Rider (now Rider 472 and Appendix C), its EM&V plans, and the NIPSCO Oversight Board ("OSB") in Cause Nos. 43051 (May 9, 2007), 43894 (Nov. 4, 2010), 44001 (Dec. 28, 2011), 44501 (Oct. 29, 2014), and 44637 (Dec. 30, 2015). NIPSCO's current gas EE programs are set to expire on December 31, 2018.

In this Cause, consistent with the Settlement Agreement, NIPSCO, the OUCC, and CAC request the Commission take the following actions:

1. Approve the proposed 2019-2021 EE Plan, effective for the period January 1, 2019, through December 31, 2021, including its EE goals, programs to achieve those goals, program budgets and costs, EM&V procedures (including independent EM&V), allocation and recovery of program costs (including vendor implementation costs, NIPSCO administrative costs, and EM&V costs) on a timely basis through a periodic rate adjustment mechanism (Rider 472), allocation and recovery of certain lost revenues on a timely basis through Rider 472, and authority to defer

and recover over- and under-recoveries of projected costs associated with the Plan;

2. Authorize NIPSCO to begin implementing the Plan as of January 1, 2019;

3. Authorize NIPSCO to continue to utilize its existing OSB to assist in administration of the Plan, including granting the OSB certain program and budget flexibility;

4. Authorize NIPSCO to modify its tariff (Rider 472) to effectuate approval of the 2019-2021 EE Plan and associated ratemaking and accounting treatment; and

5. Approve NIPSCO's proposal to file annual EM&V results within 30 days of approval of the final EM&V report by NIPSCO's OSB (but no later than July 1 of each year) and to quarterly file scorecards with the Commission.

4. The Settlement and Evidence Supporting the Settlement. The Settling Parties agree the Commission should approve NIPSCO's 2019-2021 EE Plan for gas service, along with associated accounting and ratemaking treatment. The Settlement Agreement specifically addresses the programs, savings goals, program budgets, budget flexibility, EM&V, the OSB, program cost recovery, recovery of lost revenues, allocation of program costs, including administration, EM&V, and marketing costs, and lost revenues, accounting authorizations, the GDSM Mechanism, and reporting requirements. The Settlement Agreement also provides that all other aspects of NIPSCO's proposal (including program implementation, marketing, EM&V procedures, EM&V costs, and program design) should be approved as NIPSCO originally proposed.

A. Programs and Program Budgets. The Settlement Agreement provides that NIPSCO should be authorized to implement the following gas EE programs in conjunction with its electric EE programs during the 2019-2021 Plan period:

RESIDENTIAL PROGRAMS:

- Heating, Ventilation, and Air Conditioning ("HVAC") Energy Efficient Rebates Program. The HVAC EE Rebates Program is designed to provide incentives to residential customers to replace inefficient HVAC equipment with energy efficient alternatives. These measures are paid per-unit installed, reimbursing the customer for a portion of the cost. The program is designed to help remove the financial barrier associated with the initial cost of these energy efficient alternatives. The gas program promotes high efficiency gas boilers and furnaces and smart Wi-Fi thermostats.

- Home Energy Assessment Program. The Home Energy Assessment Program is designed to help eligible customers improve the efficiency and comfort of their homes, as well as deliver an immediate reduction in gas (therm) consumption and promote additional efficiency work. This program is unique in that it provides a fairly intense assessment leading to easy to achieve therm savings opportunities.

- School Education Program. The School Education Program is designed to produce cost-effective gas savings by influencing fifth grade students and their families to focus on efficiently using gas. It provides classroom instruction, posters, and activities aligned with national and state learning standards and energy education kits filled with energy-saving products and advice. Students participate in an energy education presentation at school, learning about basic energy concepts through class lessons and activities. Students also receive an energy education kit of quality, high-efficiency products, and students are instructed to install the energy efficient products included at home with their families as well as complete a worksheet. The experience at home completes the learning cycle started at school.

- Multifamily Direct Install Program. The Multifamily Direct Install Program is designed as a one-stop shop to multifamily building owners, managers, and tenants of multifamily units containing three or more residences receiving service from NIPSCO. With flexible and affordable options, the program generates immediate energy savings and improvements in two distinct program phases. Phase I is a walkthrough assessment of each property which is conducted to determine eligibility for direct installation services provided by the Multifamily Direct Install Program, along with complementary incentive offers available through other NIPSCO programs. Property managers are presented with an Energy Improvement Plan that prioritizes recommendations along with a proposal to provide the direct installation services outlined in Phase II. Phase II is an in-unit direct installation of energy efficient devices at no-cost or low-cost to the tenant or landlord, such as low-flow showerheads, faucet aerators, pipe wrap, and Wi-Fi or smart thermostats. Educational materials about home operation, maintenance, and behavior factors that may reduce energy consumption are provided to the tenants in each living unit.

- Home Energy Report Program. The Home Energy Report Program is designed to encourage energy savings through behavioral modification. The program provides customers with home energy reports that contain personalized information about their energy use and provides ongoing recommendations to make their homes more efficient. Customers are randomly chosen to participate in the program but may opt-out if they do not wish to participate. The reports engage customers and drive them to take action to bring their energy usage in line with similar homes. The program empowers customers to understand their energy usage better and uses competition through neighbor comparisons to influence customers to act on this knowledge, resulting in changed behavior.

- Residential New Construction Program. The Residential New Construction Program is designed to increase awareness and understanding by home builders of the benefits of energy efficient building practices, with a focus on capturing EE opportunities during the design and construction of single family homes. This program is designed to produce long-term, cost-effective savings as a result of the training builders receive to achieve the various Home Energy Rating System tiers,

along with strategies for incorporating the Silver, Gold, and Platinum approaches and for creating EE messages into their marketing efforts to home buyers.

- HomeLife EE Calculator Program. The HomeLife EE Calculator Program is designed to offer NIPSCO residential customers an online do-it-yourself audit and an energy savings kit for carrying out this audit, at no cost to the customer. The audit tool effectively: (1) identifies low-cost/no-cost measures that a NIPSCO residential customer can easily implement to manage their gas consumption; (2) allows eligible customers to request a free home energy kit; (3) educates customers about the variety of programs available to them through the residential EE portfolio; and (4) assists customers in finding qualified and experienced contractors through NIPSCO's trade ally network.

- Employee Education Program. The Employee Education Program is designed to offer valuable information to employees of NIPSCO C&I customers by providing residential EE training seminars at their place of employment. At these seminars, educational materials will be provided to inform residential customers of energy savings opportunities and methods to proactively manage their energy consumption. These materials also direct NIPSCO's customers to navigate to a web portal to request a free EE kit by entering their account information to confirm eligibility.

- Income Qualified Weatherization ("IQW") Program. The IQW Program is designed to provide EE services to qualifying low-income households. For a household to be eligible to participate in the IQW Program, the customer must be a NIPSCO residential customer with active service and must not have received weatherization services in the past 10 years from the date of application. If the household meets these initial criteria, they automatically qualify for services regardless of income if the household receives Low-Income Home Energy Assistance, Temporary Assistance for Needy Families, Supplemental Security Income, or Supplemental Security Disability Income. Qualifying participants receive the direct installation of no-cost EE measures and a Comprehensive Home Assessment to identify areas of the home where additional energy savings can be achieved to make the home more comfortable and reduce energy costs.

C&I PROGRAMS:

- Prescriptive Program. The C&I Prescriptive Program is designed to provide incentives for a set list of energy efficient measures. The incentives are paid based on per unit installed, reimbursing the customer for a portion of their cost. The Prescriptive Program offers incentives to NIPSCO's C&I customers that are making gas EE improvements in existing buildings.

- Custom Program. The Custom Program is available to qualifying C&I customers for installing new energy-saving equipment. Custom Program incentives are designed for more complicated projects or those that incorporate alternative

technologies. Project pre-approval is required for all Custom Program incentives to ensure that only cost-effective projects are approved. Qualifying measures must have a Total Resource Cost ("TRC") test score greater than 1.0, have a simple payback greater than 12 months, and not be included as an EE measure in the Prescriptive Program. It is expected that projects will need to be implemented within short timeframes as dictated by conditions specific to the customer's operations.

- C&I New Construction Program. The C&I New Construction Program is designed to encourage construction of energy efficient C&I facilities within NIPSCO's service territory. This program offers financial incentives to encourage building owners, designers, and architects to exceed standard building practices and achieve efficiency above and beyond the 2010 Indiana Energy Conservation Code. The goal of the New Construction Program is to produce newly constructed and expanded buildings that are efficient from the start. New construction projects that may be eligible for incentives under the New Construction Program may include any of the following: (1) new building projects where no structure or site footprint presently exists; (2) addition to or expansion of an existing building or site footprint; and (3) a gut rehab for a change of purpose requiring replacement of all mechanical systems and equipment.

- Small Business Direct Install ("SBDI") Program. The SBDI Program is designed to facilitate participation in NIPSCO's business EE program for small businesses that do not possess the in-house expertise or capital budget to develop and implement an EE plan. The SBDI Program offers a variety of ways for small businesses to improve the efficiency of their existing facilities. Measures are paid out on a per unit basis much the same way as the Prescriptive Program but with slightly higher incentive rates in an effort to encourage energy efficient investment from these smaller commercial customers. Incentive payments to the approved trade allies will occur following measure implementation and submission of all required paperwork. If additional incentives are available through other programs, customers are directed to the appropriate application.

- Retro Commissioning ("RCx") Program. The RCx Program is designed to help NIPSCO C&I customers determine the energy performance of their facilities and identify energy-saving opportunities by optimizing their existing systems. RCx projects examine energy consuming systems for cost-effective savings opportunities. The RCx process identifies operational inefficiencies that can be removed or reduced to yield energy savings. Qualifying measures must have a TRC test score greater than 1.0, have a simple payback of less than 12 months, and not be included as an EE measure in the Prescriptive Program.

The Settlement Agreement also provides for NIPSCO to be authorized to implement the EE programs according to the following program budgets, subject to the budget flexibility discussed below:

Projected Energy Efficiency Budget ($)					
Residential Programs	2019	2020	2021	Lost Revenue	Total 2019-2021
HVAC EE Rebates	2,222,046	2,218,772	2,214,389	$795,882	$7,451,089
Home Energy Assessment	456,168	455,630	455,094	$113,242	$1,480,134
School Education	379,013	378,566	378,119	$134,691	$1,270,389
Multifamily Direct Install	194,286	194,057	193,829	$103,091	$685,263
Home Energy Report	102,601	102,480	102,359	$184,229	$491,669
New Construction	44,700	44,700	44,700	$16,290	$150,390
HomeLife EE Calculator	267,110	266,795	266,481	$107,756	$908,142
Employee Education	149,476	149,302	149,125	$52,529	$500,432
IQW	482,842	482,271	481,703	$103,757	$1,550,573
Total Residential	**4,298,242**	**4,292,573**	**4,285,799**	**$1,611,467**	**$14,488,081**
C&I Programs	2019	2020	2021	Lost Revenue	Total 2019-2021
Prescriptive	347,133	385,251	423,364	$183,620	$1,339,368
Custom	828,337	919,297	1,010,243	$313,878	$3,071,755
New Construction	240,596	267,015	293,431	$82,179	$883,221
SBDI	193,051	214,249	235,445	$89,150	$731,895
RCx	85,927	95,362	104,798	$42,190	$328,277
Total C&I Programs	**1,695,044**	**1,881,174**	**2,067,281**	**$711,017**	**$6,354,516**
Total Gas Plan	**5,993,286**	**6,173,747**	**6,353,080**	**$2,322,484**	**$20,842,597**

The program budgets are broken down by program cost type and by year in Joint Exhibit A to the Settlement Agreement. (Petitioner's Ex. 1-S)

The Settlement Agreement reflects the Settling Parties' agreement that the gas EE programs identified and the associated savings goals are reasonable and cost-effective. In support of the reasonableness and cost-effectiveness of the programs included in the 2019-2021 EE Plan, NIPSCO offered the case-in-chief (revised) testimony of Ms. Becker, Ms. Vrab, and Mr. Morgan; the rebuttal testimony of Ms. Becker; and Ms. Becker's settlement testimony.

Ms. Vrab testified the proposed EE programs represent a continuation of NIPSCO's existing successful gas EE programs. (Petitioner's Ex. 2 at pp. 6-9) Ms. Becker stated the programs as a whole provide offerings for each major customer segment and constitute a robust portfolio of EE programs. (Petitioner's Ex. 1 at p. 38; Petitioner's Ex. 1-S at p. 8) She and Ms. Vrab testified that the program costs and savings goals were developed in conjunction with the program implementer through a request for proposal ("RFP") process and include vendor implementation costs, NIPSCO administrative costs, marketing costs, and EM&V costs. (Petitioner's Ex. 1 at pp. 11-12; Petitioner's Ex. 2 at pp. 24-27) Ms. Becker testified that, at the end of the Plan's three-year period, the estimated monthly bill impact for a typical residential customer (using 68.67 therms per month) will be $0.64. (Petitioner's Ex. 1 at pp. 36-37) Ms. Vrab and Mr. Morgan described the inputs to and the cost-effectiveness analyses of the EE programs, respectively. (Petitioner's Ex. 2 at p. 31; Petitioner's Ex. 3 at pp. 5-14) Mr. Morgan testified that he modeled the goals NIPSCO utilized to develop the Plan, and all of the programs, as well as the Residential and C&I portfolios, are projected to be cost-effective under three standard industry cost-effectiveness tests:

the Participant test[2], the Utility Cost test, and the Total Resource Cost test. Mr. Morgan also presented the cost-effectiveness results of the programs under a more restrictive test, the Ratepayer Impact Measure test. (Petitioner's Ex. 3 at pp. 8-9) He testified that based on the cost-benefit analysis results, the past success of NIPSCO's programs, and his understanding and observations of other successful utility programs, he believes NIPSCO's proposed Plan is cost effective and achievable. (Petitioner's Ex. 3 at p. 14)

In his case-in-chief testimony, Mr. Olson stated that NIPSCO's gas EE programs remain the least-cost thermal resource for NIPSCO's ratepayers. He testified that for this case, NIPSCO estimated the Utility Cost Test scores at 3.13 for total residential programs and 3.63 for total C&I programs. In other words, for every $1 spent on residential programs, ratepayers received $3.13 in benefits, and for every $1 spent on C&I programs, ratepayers received $3.63 in benefits. (CAC Ex. 1 at p. 5; *see also* Petitioner's Ex. 3 at p. 9)

B. Savings Goals. The Settlement Agreement provides that the savings goals targeted for achievement by the EE programs are as follows:[3]

Projected Energy Efficiency Savings Goals (Therms)				
Residential Programs	2019	2020	2021	Total 2019-2021
HVAC EE Rebates	1,572,094	1,569,783	1,566,773	4,708,650
Home Energy Assessment	135,831	135,671	135,511	407,013
School Education	174,400	174,194	173,989	522,583
Multifamily Direct Install	129,093	128,941	128,789	386,823
Home Energy Report	364,802	364,372	363,943	1,093,117
New Construction	29,432	29,432	29,432	88,296
HomeLife EE Calculator	139,520	139,355	139,191	418,066
Employee Education	68,016	67,936	67,856	203,808
IQW	130,962	130,808	130,653	392,423
Total Residential	**2,744,150**	**2,740,492**	**2,736,137**	**8,220,779**

C&I Programs	2019	2020	2021	Total 2019-2021
Prescriptive	265,174	294,292	323,406	882,872
Custom	580,971	644,767	708,554	1,934,292
New Construction	168,747	187,277	205,804	561,828
SBDI	130,176	144,471	158,763	433,410
RCx	60,267	66,885	73,501	200,653
Total C&I Programs	**1,205,335**	**1,337,692**	**1,470,028**	**4,013,055**
Total Gas Plan	**3,949,485**	**4,078,184**	**4,206,165**	**12,233,834**

[2] The Participant test is not applicable to some programs. *See* Petitioner's Ex. 3 at pp. 9-10.

[3] NIPSCO initially proposed these savings goals, as well as an alternative proposed plan containing alternative EE goals ("Alternative Goals") in the event the Commission approved a lower set of EE goals for NIPSCO's 2019-2021 Energy Efficiency Plan proposed in Cause No. 45011 (NIPSCO's electric EE proceeding). The Settlement Agreement reflects the higher savings goals, not the Alternative Goals.

In her direct testimony, Ms. Becker testified in support of these savings goals. She testified the savings goals were determined, after review and discussion with the OSB, based on the amount the program implementer indicated could be achieved with NIPSCO's electric EE programs. (Petitioner's Ex. 1 at p. 8) Additionally, she stated that NIPSCO and Mr. Morgan performed an independent cost-effectiveness analysis that indicates the goals are achievable in a cost-effective manner. (Petitioner's Ex. 1 at p. 8)

In his settlement testimony, Mr. Rutter also supports approval of the savings goals. He testified the OUCC's work with NIPSCO's OSB and the program implementer in developing the EE goals provides the OUCC with confidence that the goals are reasonable and reasonably achievable. (Public's Ex. 1-S at p. 2)

The agreed-upon savings goals were also supported by CAC. Although Mr. Olson initially urged NIPSCO to raise the goals stated in its case-in-chief, he stated in his settlement testimony that because NIPSCO agreed to increase its level of flexibility funding to 10%, NIPSCO's vendor and OSB can respond to market conditions and procure additional cost-effective savings. (CAC Ex. 1-S at p. 4)

C. Budget Flexibility. In lieu of the ability to use historical funds as NIPSCO proposed in its amended petition and case-in-chief testimony, the Settlement Agreement supports authorizing NIPSCO, if cost effective and with OSB approval, to increase any individual program funding by up to 10% of the annual total program budget, even if this exceeds the overall 2019-2021 EE Plan budget, provided the overall revised annual portfolio budget is not increased by more than 10% of the original annual portfolio budget. The Settlement Agreement also provides that NIPSCO may roll over unspent budget amounts from one program year to the next within the 2019-2021 EE Plan period, with a corresponding increase to the savings goal. In addition, to the extent that NIPSCO has unspent budget amounts available at the conclusion of the 2018 program year, NIPSCO may utilize those unspent budget amounts in the 2019 program year to pay program expenses related to the 2018 program year. The savings goal for the 2019 program year will be increased correspondingly. Under the Settlement Agreement, NIPSCO will continue to work with the OSB and its vendors to use the flex funding to increase savings as available and appropriate.

Mr. Rutter, Mr. Olson, and Ms. Becker testified in support of the budget flexibility provisions of the Settlement Agreement. Mr. Rutter testified the budget flexibility provisions bring the NIPSCO OSB more in line with the spending flexibility other OSBs enjoy. (Public's Ex. 1-S at p. 2) Mr. Olson testified the Settlement Agreement's budget flexibility provisions represent a reasonable compromise that will allow NIPSCO's program implementer and OSB to respond to market conditions. (CAC Ex. 1-S at p. 4) Ms. Becker testified the 10% total program budget flexibility is an increase of 5% over what the Commission previously allowed and in line with what other utilities have. She also testified the roll-over provisions are generally consistent with NIPSCO's practice in previous plans. (Petitioner's Ex. 1-S at p. 3)

D. EM&V. Consistent with NIPSCO's proposal in its amended petition and its case-in-chief testimony, the Settling Parties agree that NIPSCO's proposed independent EM&V procedures should be implemented, as summarized in Petitioner's Exhibit 2, Attachment 2-E. Ms. Becker and Ms. Vrab testified the proposed EM&V procedures are the same as those NIPSCO

currently utilizes and the Commission approved in Cause No. 44637. (Petitioner's Ex. 1 at p. 13) Ms. Becker testified that NIPSCO currently uses the statewide EM&V framework as the basis for its evaluation activities, working with its OSB to complete an RFP for its EM&V vendor, with the OSB making the selection. She testified a statement of work which details the specific activities of the vendor is developed in consultation with the OSB, and the OSB participates in ongoing meetings with the vendor as the evaluation is completed. The EM&V results are presented to and reviewed by the OSB. Ms. Becker further testified that once the final EM&V report is received, NIPSCO reviews the report recommendations with the program implementer and provides an update to the OSB on each recommendation. She stated that NIPSCO will work with its OSB to select a vendor and anticipates having an EM&V vendor in place by the time the Plan is implemented in 2019. (Petitioner's Ex. 1 at p. 13)

In her direct testimony, Ms. Vrab provided a detailed description of NIPSCO's proposed EM&V processes. (Petitioner's Ex. 2 at p. 34 and Attachment 2-E)

E. OSB. The Settlement Agreement provides that NIPSCO's OSB will continue functioning as is. The OSB will continue to have authority and flexibility to shift costs within a program budget as needed, shift funds among programs (pursuant to the budget flexibility described above), and design and implement new programs so long as they are cost-effective and the overall 2019-2021 EE Plan budget is not exceeded. Ms. Becker testified that the current OSB structure and process approved in Cause No. 44637 has been beneficial to NIPSCO and its stakeholders (Petitioner's Ex. 1, at p. 33); therefore, NIPSCO proposes to maintain its OSB as approved in Cause No. 44637 on December 30, 2015 (the "44637 Order").

F. Program Cost Recovery. Consistent with NIPSCO's amended petition and case-in-chief testimony, the Settlement Agreement provides that NIPSCO should be authorized to recover its EE program operating costs, including EM&V, administrative, and marketing costs, on a timely basis through NIPSCO's existing GDSM Mechanism. With her direct testimony, Ms. Becker included the proposed GDSM-Rider tariff pages. *See* Petitioner's Ex. 1, Attachment 1-F.

G. Recovery of Lost Revenues. The Settlement Agreement provides for NIPSCO to be authorized to recover lost revenues associated with its 2019-2021 EE Plan on a timely basis through NIPSCO's GDSM Mechanism, subject to the following conditions:

1. The only lost revenues that shall be recovered pursuant to this Stipulation and Settlement Agreement are lost revenues that result from its 2019-2021 Plan and that accrue during the 2019-2021 Plan. Neither lost revenues resulting from measures installed under previous plans, nor lost revenues resulting from measures installed under the 2019-2021 Plan but accruing after the end of the Plan period, shall be recovered pursuant to this Stipulation and Settlement Agreement.

2. However, should NIPSCO's base rates be modified in such a manner that the lost revenues associated with measures installed pursuant to the relief granted in this Cause are considered when establishing the base rates, then

> NIPSCO's collection of lost revenues related to those specific measures will no longer be recovered through the GDSM Mechanism.

Petitioner's Ex. 1-S, Joint Ex. 1 at 4.

Ms. Becker in her case-in-chief testimony defined lost revenues as the difference between the revenues lost and the variable operating and maintenance costs saved by NIPSCO as a result of implementing an EE program – in other words, the lost component of fixed costs resulting from implementing the programs included in the Plan. (Petitioner's Ex. 1 at p. 14) She stated that recovery of lost revenues supports appropriate utility-customer alignment in terms of encouraging EE programs, keeps the utility whole from a fixed costs recovery perspective, and avoids imposing a penalty on the utility in exchange for the pursuit of energy policy goals. Ms. Becker testified that implementing EE programs causes the utility's recovery of its fixed costs to decline through reduced sales, so approval of lost revenue recovery makes the utility whole. According to Ms. Becker, without lost revenue recovery, a utility implementing EE programs for the benefit of its customers will be penalized through reduced recovery of its fixed costs. (Petitioner's Ex. 1 at p. 15) Ms. Becker testified that the most appropriate method to implement lost revenues is to allow for lost revenues to be forecasted and reconciled based on actual results, as determined through EM&V, thereby matching the accounting of the lost revenue recovery with the timeframe of the program associated usage reductions. She testified lost revenues are calculated on net therm savings, meaning they are calculated after adjusting for free riders, and these calculations will be performed by an independent EM&V vendor. (Petitioner's Ex. 1 at p. 18) Ms. Becker stated it is critical to address the utility's incentive to maximize throughput in order to increase net margins and to provide for recovery of lost revenues if the utility is to be actively involved in EE programs that have the potential to reduce sales. (Petitioner's Ex. 1 at p. 18)

Ms. Becker testified that the calculation of lost revenues must account for the impact of free riders and the change in the number of EE program participants between base rate changes and the revised estimate of a program specific load impact resulting from the utility's EM&V activities. (Petitioner's Ex. 1 at p. 16) Lost revenues will be forecasted and reconciled based on actual results, as determined through EM&V, thereby matching the accounting of the lost revenue recovery with the timeframe of the program associated usage reduction. (Petitioner's Ex. 1 at p. 17) Ms. Becker testified that the rates from NIPSCO's most recent gas base rate case are expected to go into effect prior to January 1, 2019, and reflect a test year of 2018. Thus, NIPSCO's rates will be reasonably reflective of current operating conditions. It is upon these rates that the lost revenues will be based. (Petitioner's Ex. 1 at pp. 19-20)

In his case-in-chief testimony, Mr. Mays detailed how lost revenues will be incorporated into the GDSM Mechanism. (Petitioner's Ex. 4 at pp. 3-6; *see also* Petitioner's Ex. 1, Attachment 1-D) He testified that the lost revenues will be projected annually and will be reconciled to actual lost revenues in a subsequent tracker filing. The projected lost revenues will be allocated by program to the individual customer classes based on the number of customers. According to Mr. Mays, once the program dollars have been allocated to the rate classes, along with lost revenues and the prior period reconciliation, the GDSM adjustment factors will then be calculated by dividing the cost per rate class by the respective forecasted usage. The resulting GDSM adjustment factors are then adjusted to reflect Utility Receipts Tax on Retail Sales. (Petitioner's Ex. 4 at p. 3)

In his settlement testimony, Mr. Rutter testified that in the context of this case only, the OUCC supports the limited lost revenue recovery agreed to in the Settlement Agreement. (Public's Ex. 1-S at p. 4) He testified the Settlement Agreement's limitations on lost revenue recovery ameliorated the OUCC's concerns in that NIPSCO's recovery of lost revenues from its proposed Plan is limited to the lost revenues resulting from measures that are installed during the 2019-2021 EE Plan period and the savings realized during 2019-2021, thus mitigating the rate impact. (Public's Ex. 1-S at p. 4) Mr. Rutter testified there will be no lost revenue recovery for measures installed under previous plans or lost revenue recovery resulting from measures installed under the 2019-2021 EE Plan and accruing after the Plan ends on December 31, 2021. The Settlement Agreement removes legacy lost revenues and life-of-measure recovery beyond the Plan which Mr. Rutter testified are the largest drivers of high DSM costs. (Public's Ex. 1-S at p. 4) Mr. Rutter testified that the limits on lost revenue recovery under the Settlement Agreement represent a savings of $6,869,455 or 74.73% less than NIPSCO's proposed life-of-measure recovery. (Public's Ex. 1-S at p. 4) Mr. Rutter opined that ratepayers save on lost revenues under the Settlement Agreement while the increased spending flexibility for the OSB provides a pathway to optimizing energy savings. (Public's Ex. 1-S at p. 5)

Mr. Olson testified the lost revenue recovery included in the Settlement Agreement is acceptable to CAC in the context of the overall compromise and settlement because it eliminates any potential for problems due to what he characterized as the pancake effect[4] since lost revenue recovery under the Settlement Agreement ceases at the end of the Plan, eliminating potential problems due to the pancake effect. (CAC Ex. 1-S at pp. 4-5)

H. <u>Allocation of Program Costs and Lost Revenues</u>. Consistent with NIPSCO's amended petition and case-in-chief testimony, the Settlement Agreement provides that NIPSCO should be authorized to allocate its 2019-2021 EE Plan program operating costs and lost revenues as follows:

1. Program operating costs (including EM&V, administrative, and marketing costs) will be allocated to either residential or non-transport only commercial and industrial customers; the costs will then be divided by the number of customers, on a forecasted and reconciled basis.

2. Lost revenues will be allocated as follows: the projected period's cumulative net therm savings will be allocated to the individual rate classes eligible to participate in the program. The allocation will be based on the number of customers for those rate classes. For programs that are applicable only to a specific rate class, 100% of the savings will be assigned to that class. For programs that are applicable to more than

[4]In his case-in-chief testimony, Mr. Olson cited to the Commission's Order in Cause No. 44634 at pages 38-39 (Dec. 30, 2015) ("44634 Order") for a definition of "pancake effect." The consumer parties in that Cause were concerned with the pancake effect which a witness described as being caused when lost revenues caused by EE investments in different years aggregate. For example, if the average weighted measure life is 10 years for an EE measure then the utility company, assuming there is no rate case in the interim, would still be collecting lost revenues in 2025 for measures installed in 2016, along with lost revenues for measures installed during 2017-2025. (44634 Order at p. 38)

> one rate class, the percentage of therms allocated to each rate class will be based on the number of customers for those rate classes as a proportion of the total number of customers for the customer class.

Petitioner's Ex. 1-S, Joint Ex. 1 at p. 5.

Ms. Vrab's and Mr. Mays' testimony supported the proposed allocations. (Petitioner's Ex. 2 at p. 30; Petitioner's Ex. 4 at pp. 3-4) Ms. Vrab testified this is NIPSCO's current allocation methodology as approved in the 44637 Order.

I. Accounting Authorizations. The Settlement Agreement provides for NIPSCO to be authorized to defer and subsequently recover the over- and under-recoveries of projected EE program operating costs and lost revenues through the GDSM Mechanism pending reconciliation in subsequent periods and for NIPSCO to be authorized to defer any program operating costs incurred in implementing the 2019-2021 EE Plan prior to the date of the Commission's final Order in this Cause. Ms. Becker supported these requests for accounting authorizations. (Petitioner's Ex. 1 at pp. 14 and 32)

J. GDSM Mechanism. The Settlement Agreement provides that NIPSCO's existing GDSM Mechanism (Rider 472) will be utilized annually for the recovery of program operating costs and lost revenues associated with the 2019-2021 EE Plan, on a forecasted and reconciled basis. Petitioner's Exhibit 1, Attachment 1-D includes illustrative schedules to be included in the GDSM Mechanism. Ms. Becker's and Mr. Mays' testimony detailed how the GDSM will work to allow timely recovery of program costs (including administrative, EM&V, and marketing costs) and lost revenues, as well as the modifications needed to the GDSM to comport with the Settlement Agreement. (Petitioner's Ex. 1 at pp. 23-26, 30-34, and Attachments 1-D and 1-F; Petitioner's Ex. 4 at pp. 3-6) Ms. Gordon testified, and Mr. Rutter confirmed, that the design and mechanics of the GDSM are reasonable. Mr. Rutter testified that the OUCC has no objection to NIPSCO's continued use of the GDSM Mechanism. (Public's Ex. 2 at p. 2; Public's Ex. 1-S at p. 3) He stated that under the Settlement Agreement, the GDSM continues as the mechanism for deferral and subsequent recovery of any over- and under-recoveries of projected program operating costs and lost revenues and recovery of financial performance incentives pending reconciliation in subsequent periods. (Public's Ex. 1-S at p. 3)

K. Reporting Requirements. The Settlement Agreement provides that NIPSCO will file the following reports with the Commission:

> 1. Quarterly scorecards for its 2019-2021 EE Plan, as shown in Petitioner's Exhibit No. 1, Attachment 1-E; and
>
> 2. Annual EM&V results within 30 days of approval of the final EM&V report by the OSB (but no later than July 1 of each year).

5. Commission Discussion and Findings. The evidence demonstrates the Settlement Agreement is the product of arm's length negotiations and compromises by the Settling Parties. As the Commission has previously discussed, however, settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. Gas Co.,* 735 N.E.2d

790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coal. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coal.*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order, including approval of a settlement, must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coal. v. Public Service Co.,* 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's procedural rules require that settlement be supported by probative evidence. 170 IAC 1-1.1-17(d). Before the Commission can approve the Settlement Agreement, the Commission must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2 and that such agreement serves the public interest.

The Settlement Agreement resolves all the issues in this Cause. As discussed below, the Commission has before it substantial evidence from which to determine the reasonableness of its terms and that such agreement serves the public interest.

A. <u>NIPSCO's 2019-2021 EE Plan</u>. The Settling Parties request approval for a three-year term of January 1, 2019, through December 31, 2021, for NIPSCO's 2019-2021 EE Plan. The 2019-2021 EE Plan for gas service that the Settling Parties agreed upon includes continuing NIPSCO's existing gas EE programs, which are managed in conjunction with NIPSCO's electric EE programs, proposed program budgets for 2019-2021, and associated savings goals for the 2019-2021 EE Plan. The Settlement Agreement also provides for the OSB to exercise reasonable program and budget flexibility. The evidence demonstrates the proposed EE programs and portfolios are projected to be both reasonably achievable and cost-effective based on industry standard cost-benefit analyses and that the rate impact of the 2019-2021 EE Plan is projected to be reasonable. In recommending the Commission approve the Settlement Agreement, Mr. Rutter testified the resulting compromise balances stakeholder and utility interests while simultaneously benefitting the public interest. According to OUCC witness Rutter, the Settlement Agreement provides for continued EE/demand side management programs within NIPSCO's gas service territory, with ratepayers saving on lost revenues, while the increased spending flexibility for the OSB provides a pathway to optimizing energy savings. (Public-s Ex. 1-S at p. 5)

NIPSCO's gas EE programs remain a low-cost thermal resource for NIPSCO's ratepayers. For this case, NIPSCO estimated the Utility Cost Test scores at 3.13 for total residential programs and 3.63 for total C&I programs. In other words, for every $1 spent on residential programs, ratepayers received $3.13 in benefits, and for every $1 spent on C&I programs, ratepayers received $3.63 in benefits. (CAC Exhibit 1 at p. 5; Petitioners' Ex. 3 at p. 9) We find this supports the public interest benefit of the Settlement Agreement.

No party objected to the proposed EE programs, budgets, program and budget flexibility, or savings goals in the Settlement Agreement. While Thermo-Cycler cross-examined Ms. Vrab and Ms. Becker with regard to certain portions of the C&I Custom Program, including the process by which incentive savings are determined by the program administrator, NIPSCO's witnesses

testified the C&I Custom Program has been appropriately administered by Lockheed Martin in accordance with the Indiana Technical Resource Manual—Version 2.2 and other industry standards to determine incentive savings. Evidence to the contrary was not presented. Additionally, Ms. Becker testified that the C&I Customer Program is overseen by NIPSCO and the OSB, with a variety of reports provided to both that are ultimately filed with the Commission and that the annual Operating Plan includes a discussion of how incentives are determined and what the amount will be. Tr. at p. 27. Based on the evidence, the Commission finds the Settlement Agreement's proposed 2019-2021 EE Plan – including the programs, the program budgets, the program and budget flexibility, and the savings goals – is cost effective and reasonable. Accordingly, we approve NIPSCO's proposed 2019-2021 EE Plan for gas service.

B. Recovery of Program Costs and Lost Revenues. The Settlement Agreement projects a budget of $12,876,614 for the residential programs included in NIPSCO's 2019-2021 EE Plan, inclusive of program costs, EM&V, and NIPSCO administrative and marketing costs. The Settlement Agreement also projects a budget of $5,643,499 for NIPSCO's C&I programs included in its 2019-2021 EE Plan, inclusive of program costs, EM&V costs, and NIPSCO administrative and marketing costs. NIPSCO further estimates that the lost revenue recovery provisions of the Settlement Agreement will result in lost revenue recovery of $2,322,484 during the Plan period. The agreed lost revenue recovery methodology reflected in the Settlement Agreement is estimated to be $6,869,455 less than the originally requested life-of-measure lost revenue recovery which was estimated to be $9,191,939. No objection was timely raised to NIPSCO's recovery of program costs and lost revenues, or the allocation of such costs, as provided in the Settlement Agreement, via NIPSCO's GDSM Mechanism, and evidence refuting the propriety of this recovery was not presented.

Ind. Code § 8-1-2-42(a) authorizes the Commission to allow recovery of costs and revenues outside of a base rate case. The Commission has previously employed Section 42(a) for purposes of authorizing recovery of electric demand-side management program costs and lost revenues. *See, e.g.*, *In re PSI Energy, Inc.*, Cause No. 38986 (IURC October 16, 1991) (Commission authorized PSI to defer and subsequently recover lost revenues pursuant to settlement agreement); *In re SIGECO*, Cause No. 39201 (IURC October 23, 1991) (Commission authorized SIGECO to recover lost revenues via a tracking mechanism pursuant to a settlement agreement); *In re Indianapolis Power & Light Co.*, Cause No. 39672 (IURC September 8, 1993) (Commission authorized IPL to defer lost revenues for subsequent recovery pursuant to settlement agreement). Notably, this use of Section 42(a) for the recovery of demand-side management program costs and lost revenues predates the more explicit EE recovery authorizations for electric utility demand-side management activities now found in Ind. Code ch. 8-1-8.5. After reviewing the evidence and applicable law, we find the proposed recovery of the 2019-2021 EE Plan costs via NIPSCO's GDSM Mechanism, including recovery of program costs and lost revenues as provided in the Settlement Agreement, is reasonable. Accordingly, NIPSCO is authorized to recover the costs associated with its gas 2019-2021 EE Plan, including recovery of program costs (including administrative, EM&V, and marketing costs) and lost revenues consistent with the Settlement Agreement.

C. OSB. The Settling Parties request approval to continue to utilize the existing NIPSCO OSB to assist in administration of the 2019-2021 EE Plan. The Commission has previously approved OSBs to oversee and monitor EE programs for both gas and electric utilities. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 44945 (IURC February 7, 2018); *Southern*

Indiana Gas and Elec. Co., Cause No. 44927 (IURC December 28, 2017); *Indiana Michigan Power Co.,* Cause No. 44841 (IURC September 20, 2017). No objection was voiced in this proceeding to the continuation of NIPSCO's approved OSB to administer NIPSCO's 2019-2021 EE Plan. Likewise, the proposed parameters for budget and program flexibility within that administration were supported by the settlement testimony. The OSB provides oversight and an opportunity for key stakeholders to have input in program delivery and EM&V. In this instance, OUCC witness Rutter testified that the increased spending flexibility for the OSB will provide a pathway to optimizing energy savings. (Public's Ex. 1-S at p. 5) Based upon the evidence, we approve the proposal in the Settlement Agreement to continue NIPSCO's currently approved OSB and its proposed parameters for flexible program and budget administration.

D. EM&V. The Settling Parties request approval to continue the same EM&V process for NIPSCO's 2019-2021 EE Plan as the Commission authorized in the 44637 Order. The evidence demonstrates that the proposed EM&V procedures are reasonable and call for process and impact evaluations pursuant to industry standards by an independent EM&V vendor selected by the OSB. No party to this proceeding opposed the continuation of NIPSCO's currently approved EM&V program for its 2019-2021 EE Plan. Based upon the record, the Commission finds the proposal in the Settlement Agreement to continue to utilize NIPSCO's current EM&V procedures is reasonable, and we approve the same.

E. Rider 472 Revisions. NIPSCO requested Commission approval to modify Rider 472 – GDSM Rider to reflect the recovery of lost revenues as outlined in the Settlement Agreement. No party objected to the proposed revisions. In his settlement testimony, Mr. Rutter stated the GDSM's design and mechanics are reasonable, and the OUCC has no objection to cost recovery taking place through NIPSCO's GDSM Mechanism. (Public's Ex. 1-S at p. 3) We approve NIPSCO's proposed changes to its tariff, consistent with the provisions of the Settlement Agreement.

F. Reporting Requirements. The Settlement Agreement calls for NIPSCO to file its annual EM&V results within 30 days of approval of the final EM&V report by its OSB, but no later than July 1 of each year. In addition, the Settlement Agreement calls for NIPSCO to file quarterly gas EE scorecards. We find this continued reporting requirement provides transparency and updates to the public and the Commission with regard to savings achievement and spending; therefore, we find that NIPSCO shall file its annual EM&V results within 30 days of approval of the final EM&V report by the OSB (but no later than July 1 of each year), and NIPSCO shall continue to file its quarterly scorecard as has been previously ordered, with all required reports to be filed under Cause No. 45012.

G. Other Matters—Thermo-Cycler. On June 29, 2018, the Presiding Officers issued a Docket Entry revising the procedural schedule. The June 29, 2018 Docket Entry directed the parties to any settlement agreement in this Cause to prefile the settlement agreement and their supporting testimony and exhibits by July 9, 2018, all non-settling parties to prefile testimony and exhibits responding to the settlement agreement and to the settlement testimony and exhibits by July 23, 2018, and then parties to the settlement to prefile reply testimony, if deemed necessary, by July 30, 2018. On July 9, 2018, the Settling Parties filed the Settlement Agreement, and each prefiled supporting testimony.

On July 23, 2018, Thermo-Cycler filed a verified response to the Settlement Agreement ("Response"), claiming that this Response was filed pursuant to the June 29, 2018 Docket Entry. Response at p. 1. In paragraph 3 of the Response, Thermo-Cycler stated, "Thermo-Cycler does not challenge the Settlement Agreement itself, but must respectfully challenge and preserve its right to raise concerns regarding underlying issues related to the actual implementation and operation" of NIPSCO's GDSM Program. Thermo-Cycler asked that the NIPSCO GDSM C&I Custom Program incentive process be held in abeyance pending the conclusion of a sub-docket that Thermo-Cycler first requested in the Response to review how NIPSCO's program administrator, Lockheed Martin, evaluates and incentivizes GDSM customers. In the alternative, Thermo-Cycler requested to be allowed to pursue issues regarding how Lockheed Martin evaluates and incentivizes GDSM customers in a separate complaint.

On July 30, 2018, the Settling Parties filed a verified reply to the Response contending that the June 29, 2018 Docket Entry authorized Thermo-Cycler to prefile testimony and exhibits responding to the Settlement Agreement, not the Response. The Settling Parties noted that in the Response, Thermo-Cycler did not challenge the Settlement Agreement; rather, it sought to raise issues Thermo-Cycler could have presented by intervening earlier in this Cause. The Settling Parties also asserted that Thermo-Cycler's request at this juncture for a sub-docket would delay this matter contrary to the June 19, 2018 Docket Entry granting Thermo-Cycler's intervention.

In a Docket Entry dated August 7, 2018, the Presiding Officers denied the relief requested in the Response, stating that paragraph 3 of the June 29, 2018 Docket Entry was straight-forward in affording Thermo-Cycler, as a non-settling party, the opportunity to prefile "testimony and exhibits responding to the settlement agreement and to the settlement testimony and exhibits" on or before July 23, 2018." But, Thermo-Cycler did not do so, "perhaps because Thermo-Cycler does not challenge the Settlement Agreement itself." The August 7, 2018 Docket Entry also noted that NIPSCO initiated this proceeding on November 22, 2017, and the program offerings, including the NIPSCO GDSM C&I Program and its administration, are before the Commission by means of the proposed Settlement Agreement. The Docket Entry noted that Thermo-Cycler did not petition to intervene until June 6, 2018, and after its intervention was granted, Thermo-Cycler was afforded the opportunity to file testimony responding to the Settlement Agreement but did not do so, instead requesting a sub-docket. The Presiding Officers found that opening a sub-docket at this juncture upon issues Thermo-Cycler did not timely raise is not appropriate and would unduly delay this matter.

In its post-hearing exceptions to the Settling Parties proposed order ("Exceptions"), Thermo-Cycler claims its intervention was timely but was not granted in sufficient time to allow Thermo-Cycler to prefile direct testimony and evidence. Thermo-Cycler also claims that although the Response did not take the strict form of testimony and exhibits, it was timely made, and Thermo-Cycler in the Exceptions challenges certain provisions of the Settlement Agreement, primarily the agreed lost revenue recovery.

We find Thermo-Cycler's intervention petition was timely, in that it was filed more than five days before the evidentiary hearing was to be held. 170 IAC1-1.1-11(c). However, waiting over six months after this action was initiated on November 22, 2017, to petition to intervene resulted in the petition being filed too late to present case-in-chief testimony since the prefiling deadline for this testimony was May 2, 2018, and Thermo-Cycler did not seek to intervene until

June 6, 2018. To the extent Thermo-Cycler states its intervention was not granted in sufficient time to allow Thermo-Cycler to prefile direct testimony, the responsibility for this delay lies with Thermo-Cycler for not petitioning earlier as opposed to its intervention not being timely acted upon as inferred in the Exceptions.[5] In addition, Thermo-Cycler, as a non-settling party, had the opportunity to file testimony and exhibits in response to the Settlement Agreement and the testimony supporting the settlement, but Thermo-Cycler opted to not file such testimony, advising the Commission in the verified Response filed on July 23, 2018, as follows:

> **Thermo-Cycler does not challenge the Settlement Agreement itself**, but must respectfully challenge and preserve its right to raise concerns regarding underlying issues related to the actual implementation and operation of the GDSM Program processes as they relate and currently are being applied to the Commercial and Industrial Program ('C&I') custom industrial space heating segment ('C&I Custom'). (emphasis added)

Thermo-Cycler's Verified Response to Settlement Agreement, ¶ 2 at p. 2. Thermo-Cycler was also afforded the opportunity to cross-examine the witnesses at the public hearing. Based upon the record, we are not persuaded that Thermo-Cycler timely raised concerns about the lost revenue recovery agreed upon in the Settlement Agreement or demonstrated factually that the Settlement Agreement is not in the public interest and/or is contrary to law. We find otherwise as discussed above and decline to order a sub-docket upon issues Thermo-Cycler could have raised in testimony responding to the Settlement Agreement.

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

1. The Settlement Agreement among NIPSCO, the OUCC, and CAC, a copy of which is attached to this Order, is approved.

2. NIPSCO's gas 2019-2021 EE Plan to become effective January 1, 2019, (including proposed programs, program budgets, program and budget flexibility, savings goals, program cost recovery, and recovery of lost revenues) is approved, consistent with the provisions of the Settlement Agreement.

3. Consistent with the Settlement Agreement, NIPSCO may recover the program costs associated with its gas 2019-2021 EE Plan, including program implementation costs, administrative costs, marketing costs, and EM&V costs, through its GDSM Mechanism.

4. NIPSCO may recover lost revenues incurred during and resulting from the 2019-2021 EE Plan through the GDSM Mechanism, subject to the provisions and limitations set forth in the Settlement Agreement.

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[5] At page 3 of the Exception, Thermo-Cycler states, "The Presiding Officer and the parties, including Thermo-Cycler, recognized that the intervention was not granted in sufficient time to allow Thermo-Cycler to prefile direct testimony and evidence pursuant to the previously approved schedule." Intervention was granted on June 19, 2018, four days after Thermo-Cycler filed its reply to NIPSCO's response to Thermo-Cycler's intervention petition.

5. NIPSCO may defer and subsequently recover the over- and under-recoveries of projected EE program operating costs and lost revenues through the GDSM Mechanism pending reconciliation in subsequent periods and may also defer any program operating costs incurred in implementing the 2019-2021 EE Plan prior to the date of this Order, consistent with the Settlement Agreement.

6. NIPSCO may utilize its existing NIPSCO OSB to administer the 2019-2021 EE Plan for gas service.

7. NIPSCO may continue the approved EM&V process for its gas 2019-2021 EE Plan.

8. NIPSCO's proposed tariff changes in this Cause are approved.

9. NIPSCO shall comply with the reporting requirements set forth in Finding No. 6.F. above.

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

HUSTON, KREVDA, OBER, AND ZIEGNER CONCUR; FREEMAN ABSENT:

APPROVED: NOV 21 2018

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

Mary M. Becerra

Mary M. Becerra
Secretary of the Commission

FILED
July 9, 2018
INDIANA UTILITY
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR APPROVAL OF ITS PROPOSED 2019-2021 ENERGY EFFICIENCY PLAN FOR GAS SERVICE (OR ITS ALTERNATIVE PLAN) AND ASSOCIATED RATEMAKING AND ACCOUNTING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH NIPSCO'S GDSM ADJUSTMENT MECHANISM OF ASSOCIATED COSTS (INCLUDING PROGRAM COSTS AND LOST REVENUES), FOR AUTHORITY TO DEFER PROGRAM COSTS, AND MODIFICATION OF RIDER 472 – GAS DEMAND SIDE MANAGEMENT ("GDSM") RIDER.	)	**CAUSE NO. 45012**

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement is entered into as of the 9th day of July, 2018, by and among Northern Indiana Public Service Company LLC ("NIPSCO" or "Company"), the Indiana Office of Utility Consumer Counselor ("OUCC"), and Citizens Action Coalition of Indiana, Inc. ("CAC") (collectively, the "Settling Parties") (the "Agreement"), who stipulate and agree for purposes of settling the issues in Cause No. 45012 that the terms and conditions set forth below represent a fair and reasonable resolution of all issues subject to incorporation into a Final Order of the Indiana Utility Regulatory Commission ("Commission") without any modification or condition that is not acceptable to the Settling Parties.

I. Substantive Terms and Conditions

The Settling Parties agree to Commission approval of NIPSCO's proposed 2019-2021 Energy Efficiency Plan for gas service (the "2019-2021 Plan") and associated accounting and ratemaking treatment as follows:

A. Programs, Budgets, and Savings Goals

NIPSCO should be authorized to implement the gas energy efficiency programs shown on Joint Exhibit A during the 2019-2021 plan period,[1] up to the budget amounts set out therein (subject to the budget flexibility described in subsection B below). The Settling Parties agree and stipulate that these programs and the associated savings goals are reasonable and cost-effective. The savings goals to be achieved are as follows:

Projected Energy Efficiency Goals (Therms)				
Residential Programs	2019	2020	2021	2019-2021
HVAC Energy Efficient Rebates	1,572,094	1,569,783	1,566,773	4,708,650
Home Energy Assessment	135,831	135,671	135,511	407,013
School Education	174,400	174,194	173,989	522,583
Multifamily Direct Install	129,093	128,941	128,789	386,823
Home Energy Report	364,802	364,372	363,943	1,093,117
Residential New Construction	29,432	29,432	29,432	88,296
HomeLife EE Calculator	139,520	139,355	139,191	418,066
Employee Education	68,016	67,936	67,856	203,808
IQW	130,962	130,808	130,653	392,423
Total Residential Programs	**2,744,150**	**2,740,492**	**2,736,137**	**8,220,779**

C&I Programs	2019	2020	2021	2019-2021
Prescriptive	265,174	294,292	323,406	882,872
Custom	580,971	644,767	708,554	1,934,292
C&I New Construction	168,747	187,277	205,804	561,828
SBDI	130,176	144,471	158,763	433,410
RCx	60,267	66,885	73,501	200,653
Total C&I Programs	**1,205,335**	**1,337,692**	**1,470,028**	**4,013,055**
Total Gas Plan	**3,949,485**	**4,078,184**	**4,206,165**	**12,233,834**

B. Budget Flexibility

In lieu of the ability to use historical funds as proposed by NIPSCO in its Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO (with Oversight Board ("OSB") approval) should be authorized to increase any individual program funding by up

[1] For the period January 1, 2019 through December 31, 2021.

to 10% of the total program budget, even if this exceeds the overall 2019-2021 Plan budget approved by the Commission. NIPSCO may also roll over unspent budget amounts from one program year to the next within the three year 2019-2021 Plan period, with a corresponding increase to the savings goal. For purposes of this provision, "Total program budget" refers to the annual total budget for the whole portfolio (program), which is in accordance with NIPSCO's current governance document for the Northern Indiana Energy Efficiency Board Oversight Board ("NIEEB") adopted September 7, 2012. Specifically, Section VII A (iii) states "The NIEEB may also increase any individual program funding by up to 5% of the program total budget." Furthermore, Section IX designates the fiscal year as being January through December, which provides the basis for an annual budget being utilized. An individual program can be increased by up to 10% of the annual total portfolio budget, if cost effective, and with Oversight Board approval, but the annual total portfolio budget cannot be increased by more than 10%, regardless of whether the amount is all utilized for one program or for multiple programs within the portfolio.

In addition, to the extent NIPSCO has unspent budget amounts available at the conclusion of the 2018 program year, it may utilize those unspent budget amounts in the 2019 program year, for the purpose of paying program expenses related to the 2018 program year. The savings goal for the 2019 program year will be increased correspondingly. NIPSCO will continue to work with the OSB and its vendor(s) to use the flex funding to increase savings as available and appropriate (e.g., cost-effective).

C. Evaluation, Measurement, and Verification

Consistent with NIPSCO's proposal in its Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO's proposed independent evaluation, measurement, and verification ("EM&V") procedures should be implemented, as summarized in Petitioner's Exhibit 2, Attachment 2-E.

D. Oversight Board

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that the OSB should continue functioning as is. The OSB would continue to have

authority and flexibility to shift costs within a program budget as needed, shift funds among programs so long as the overall 2019-2021 Plan budget is not exceeded including the budget flexibility as provided for in subsection B above, and design and implement new programs so long as they are cost-effective and the overall 2019-2021 Plan budget is not exceeded.

E. Program Operating Costs[2] Recovery

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO should be authorized to recover its energy efficiency program operating costs, including EM&V, administrative, and marketing costs, on a timely basis through NIPSCO's existing GDSM Mechanism.

F. Recovery of Lost Revenues

The Settling Parties agree that NIPSCO should be authorized to recover lost revenues[3] associated with its 2019-2021 Plan, on a timely basis through NIPSCO's GDSM Mechanism, subject to the following conditions:

1. The only lost revenues that shall be recovered pursuant to this Stipulation and Settlement Agreement are lost revenues that result from its 2019-2021 Plan and that accrue during the 2019-2021 Plan. Neither lost revenues resulting from measures installed under previous plans, nor lost revenues resulting from measures installed under the 2019-2021 Plan but accruing after the end of the Plan period, shall be recovered pursuant to this Stipulation and Settlement Agreement.

2. However, should NIPSCO's base rates be modified in such a manner that the lost revenues associated with measures installed pursuant to the relief granted in this Cause are considered when establishing the base rates, then NIPSCO's collection

[2] Note that the term "program operating costs" as used in this Settlement Agreement refers to all direct and indirect program-specific costs, including EM&V, administrative, and marketing costs.

[3] Lost revenues means the difference, if any, between revenues lost and the variable operating and maintenance costs saved by NIPSCO as a result of implementing energy efficiency programs.

of lost revenues related to those specific measures will no longer be recovered through the GDSM Mechanism.

The Settling Parties agree that recovery of lost revenues as described above is reasonable.

G. Allocation of Program Operating Costs and Lost Revenues

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO should be authorized to allocate its 2019-2021 Plan program operating costs and lost revenues as follows:

1. Program operating costs (including EM&V, administrative, and marketing costs) will be allocated to either residential or non-transport only commercial and industrial customers; the costs will then be divided by the number of customers, on a forecasted and reconciled basis.

2. Lost revenues will be allocated as follows: the projected period's cumulative net therm savings will be allocated to the individual rate classes eligible to participate in the program. The allocation will be based on the number of customers for those rate classes. For programs that are applicable only to a specific rate class, 100% of the savings will be assigned to that class. For programs that are applicable to more than one rate class, the percentage of therms allocated to each rate class will be based on the number of customers for those rate classes as a proportion of the total number of customers for the customer class.

H. Accounting Authorizations

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO should be authorized to defer and subsequently recover the over- and under-recoveries of projected program operating costs and lost revenues through the GDSM Mechanism pending reconciliation in subsequent periods; and NIPSCO should be authorized to defer any program operating costs incurred in implementing the 2019-2021 Plan prior to the date of the Commission's Final Order in this Cause.

I. GDSM Mechanism

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO's existing GDSM Mechanism should continue to be utilized on an annual basis for the recovery of program operating costs and lost revenues associated with the 2019-2021 Plan, on a forecasted and reconciled basis. Petitioner's Exhibit 1, Attachment 1-F includes illustrative Schedules to be included in the GDSM Mechanism.

J. Reporting Requirements

Consistent with NIPSCO's Amended Petition and Case-in-Chief Testimony, the Settling Parties agree that NIPSCO should file with the Commission:

1. Quarterly scorecards for its 2019-2021 Plan, as shown in Petitioner's Exhibit No. 1, Attachment 1-E; and

2. Annual EM&V results within 30 days of approval of the final EM&V report by the OSB (but no later than July 1 of each year).

K. Other

1. All other aspects of NIPSCO's Amended Petition and Case-in-Chief Testimony remain the same as proposed by NIPSCO, including but not limited to 2019-2021 Plan implementation, marketing, EM&V procedures, EM&V costs, and program design.

2. The Settling Parties agree to work in good faith to resolve any additional issues which may arise.

II. Procedural Aspects and Presentation of the Agreement.

A. The Settling Parties acknowledge that a significant motivation to enter into this Agreement is the expectation that, if the Commission finds this Agreement is reasonable and in the public interest, the Commission would issue an order authorizing the implementation of NIPSCO's 2019-2021 Plan in this Cause No.

45012, along with associated accounting and ratemaking treatment. The Settling Parties have spent valuable time reviewing data and negotiating this Agreement in an effort to eliminate time consuming and costly litigation. The Settling Parties agree to request that the Commission review the Agreement in a timely manner and, if it finds the Agreement is reasonable and in the public interest, approve this Agreement without any material changes no later than October 31, 2018.

B. The Settling Parties agree to jointly present this Agreement to the Commission for its approval in Cause No. 45012, and agree to assist and cooperate in the preparation and presentation of settlement supporting testimony as necessary.

C. If the Agreement is not approved in its entirety by the Commission, the Settling Parties agree that the terms herein shall not be admissible in evidence or discussed by any party in a subsequent proceeding. Moreover, the concurrence of the Settling Parties with the terms of this Agreement is expressly predicated upon the Commission's approval of the Agreement in its entirety without any material modification or any material condition deemed unacceptable by any Party. If the Commission does not approve the Agreement in its entirety, the Agreement shall be null and void and deemed withdrawn, upon notice in writing by any Settling Party within fifteen (15) business days after the date of the Final Order that any modifications made by the Commission are unacceptable to it. In the event the Agreement is withdrawn, the Settling Parties will request that an Attorneys' Conference be convened to establish a procedural schedule for the continued litigation of this proceeding.

D. The Settling Parties agree that this Agreement and each provision contained herein reflects a fair, just and reasonable resolution and compromise for the purpose of settlement, and is agreed upon without prejudice to the ability of any party to propose a different term, condition, amount, methodology or exclusion in future proceedings. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434, p. 10, the Settling Parties agree and ask the Commission to incorporate as part of its Final Order that this Agreement, or the Order

approving it, not be cited as precedent by any person or deemed an admission by any party in any other proceeding except as necessary to enforce its terms before the Commission, or any court of competent jurisdiction on these particular issues. This Agreement is solely the result of compromise in the settlement process. Each of the Settling Parties hereto has entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience, risk, and expenses.

E. The Settling Parties stipulate that the evidence of record presented in Cause No. 45012 constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Agreement, as filed. The Settling Parties agree to the admission into the evidentiary record of this Agreement, along with testimony supporting it (including NIPSCO's Case-in-Chief Testimony), without objection.

F. The issuance of a Final Order by the Commission approving this Agreement without any material modification or further condition shall terminate all proceedings in this Cause.

G. The undersigned represent and agree that they are fully authorized to execute this Agreement on behalf of their designated clients who will be bound thereby.

H. The Settling Parties shall not appeal the agreed Final Order or any subsequent Commission order as to any portion of such order that is specifically implementing, without modification, the provisions of this Agreement and the Settling Parties shall not support any appeal of the portion of such order by a person not a party to this Agreement. All Settling Parties shall support the Final Order if appealed by any party not a signatory to this Agreement.

I. The provisions of this Agreement shall be enforceable by any Settling Party before the Commission or in any court of competent jurisdiction.

J. The communications and discussions during the negotiations and conferences which produced this Agreement have been conducted on the explicit understanding that they are or relate to offers of settlement and shall therefore be privileged and confidential.

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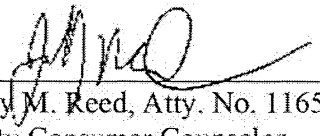
ACCEPTED AND AGREED this 9th day of July, 2018.

Northern Indiana Public Service Company LLC

Frank A. Shambo

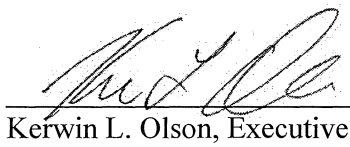
Frank A. Shambo, Senior Vice President, Regulatory and Legislative Affairs

Indiana Office of Utility Consumer Counselor



Jeffrey M. Reed, Atty. No. 11651-49
Deputy Consumer Counselor

Citizens Action Coalition of Indiana, Inc.



Kerwin L. Olson, Executive Director