
VERIFIED DIRECT TESTIMONY OF TIMOTHY R. CAISTER

1 **Introduction**

2 **Q1. Please state your name, business address and title.**

3 A1. My name is Timothy R. Caister. My business address is 150 W. Market
4 Street, Suite 600, Indianapolis, Indiana 46204. I am Vice President of
5 Regulatory Policy for Northern Indiana Public Service Company
6 ("NIPSCO").

7 **Q2. Please briefly describe your educational and business experience.**

8 A2. I am a graduate of Alma College in Alma, Michigan, with a Bachelor of Arts
9 degree. I received my Juris Doctor from Chicago-Kent College of Law at
10 the Illinois Institute of Technology in December 2004. I have also taken
11 courses towards a Masters of Business Administration at the Stuart
12 Graduate School of Business at the Illinois Institute of Technology. Upon
13 my graduation from Alma College, I was employed by NiSource Corporate
14 Services Company ("NCS") in various positions including Federal
15 Regulatory Policy Specialist and Manager of Regulatory Policy. After
16 graduating from Chicago-Kent, I was employed by NCS as an attorney

1 providing regulatory legal support to NIPSCO's gas and electric businesses
2 in proceedings before the Indiana Utility Regulatory Commission
3 ("Commission"). In June 2007, I accepted a position as Associate General
4 Counsel with Ameren Services Company ("Ameren") in St. Louis as part of
5 its Federal Regulatory Team. In that position, I handled a variety of legal
6 and regulatory issues including those associated with the Midcontinent
7 Independent System Operator, Inc. ("MISO"), of which Ameren Corp.'s
8 utility subsidiaries are members. Specifically, during my tenure at Ameren
9 I was responsible for advising on matters in front of the Federal Energy
10 Regulatory Commission ("FERC") and associated wholesale power and
11 transmission contracts. I returned to NCS in November 2008 as Director of
12 Regulatory Policy, which was transitioned to NIPSCO in January of 2009. I
13 was promoted to my current position of Vice President of Regulatory Policy
14 on September 1, 2016.

15 **Q3. Have you previously testified before this or any other regulatory**
16 **commission?**

17 **A3. Yes.** I have previously submitted testimony in requests for new
18 environmental projects in Cause No. 44311, new critical infrastructure

1 projects in Cause No. 44340, a spaceheating discount transition plan in
2 Cause No. 44436 as well as for approval of new and revised tariffs and
3 riders in Cause Nos. 42348, 42480 and 44520. I also previously submitted
4 testimony in Cause No. 43566 regarding the Commission's demand
5 response generic investigation, and in Cause No. 43426-S1 regarding MISO.
6 I also submitted testimony in support of settlement agreements in Cause
7 Nos. 38706-FAC80-S1 and 43674. I have submitted testimony regarding
8 demand side management in Cause No. 43912, testimony regarding feed-
9 in tariffs and net metering in Cause No. 43922 and testimony regarding an
10 asset sale in Cause No. 43989. I also submitted testimony regarding
11 NIPSCO's request for approval of a Green Power Rider pilot program in
12 Cause No. 44198 as well as NIPSCO's semi-annual adjustment filings
13 (Cause No. 44198-GPR-X) and modification of NIPSCO's Green Power
14 Rider in Cause No. 44520. Most recently I submitted testimony in
15 NIPSCO's electric and gas Transmission, Distribution, and Storage System
16 Improvement Charge tracker proceedings (Cause No. 44733-TDSIC-X and
17 Cause No. 44403-TDSIC-X).

1 **Q4. What is the purpose of your direct testimony in this proceeding?**

2 A4. The purpose of my testimony is to (1) describe NIPSCO's request for a
3 Certificate of Public Convenience and Necessity ("CPCN") for federally
4 mandated projects associated with NIPSCO's proposed Environmental
5 Compliance Project to comply with the (1) Coal Combustion Residuals rule
6 that became effective October 19, 2015 (the "CCR Rule") and (2) Effluent
7 Limitation Guidelines rule that became effective on January 4, 2016 (the
8 "ELG Rule"), collectively referred to herein as the "Environmental Rules,"
9 through NIPSCO's Rider 787 – Adjustment of Charges for Federally
10 Mandated Costs and Appendix I – Federally Mandated Cost Adjustment
11 Factor (the "FMCA Mechanism") and associated ratemaking and
12 accounting relief, (2) explain the statutory authority supporting NIPSCO's
13 requested relief, (3) explain why the Environmental Rules are federally
14 mandated requirements under Ind. Code § 8-1-8.4-5, (4) explain why
15 NIPSCO's requested relief is appropriate and will serve the public interest,
16 and (5) introduce NIPSCO's witnesses providing testimony in this
17 proceeding.

18

1 **Q5. Are you sponsoring any attachments to your direct testimony?**

2 A5. Yes. I am sponsoring Attachment 1-A, which is a copy of NIPSCO's
3 Verified Petition filed November 1, 2016 in this Cause.

4 **Q6. Please summarize the relief NIPSCO is requesting in this proceeding.**

5 A6. Pursuant to Ind. Code ch. 8-1-8.4, NIPSCO is requesting a CPCN for its
6 Environmental Compliance Project necessary to comply with the
7 Environmental Rules. In conjunction with its request for a CPCN, NIPSCO
8 is also requesting (1) authority to recover all federally mandated costs
9 incurred in connection with the Environmental Compliance Project; (2)
10 approval of the estimated federally mandated costs associated with the
11 Environmental Compliance Project; (3) authority for the timely recovery of
12 80% of the federally mandated costs incurred in connection with the
13 Environmental Compliance Project through NIPSCO's FMCA Mechanism;
14 (4) authority to defer 20% of the federally mandated costs incurred in
15 connection with the Environmental Compliance Project for recovery in
16 NIPSCO's next general rate case; (5) approval of specific ratemaking and
17 accounting treatment; (6) approval to depreciate the Environmental
18 Compliance Project according to the depreciation rates approved in

1 NIPSCO's most recent electric base rate case in Cause No. 44688; and (7)
2 approval of ongoing review of the Environmental Compliance Project; all
3 pursuant to Ind. Code §§ 8-1-8.4-1 *et seq.*, 8-1-2-19, 8-1-2-23, and 8-1-2-42.

4 **Q7. Please provide an overview of the statutory authority supporting**
5 **NIPSCO's request for relief in this proceeding.**

6 A7. Indiana Code ch. 8-1-8.4 (Federally Mandated Requirements for Energy
7 Utilities) was enacted in 2011 as part of Senate Bill 251. Generally speaking,
8 it provides the ability for an energy utility such as NIPSCO to request a
9 CPCN for a compliance project undertaken by the energy utility related to
10 the direct or indirect compliance with one or more federally mandated
11 requirements. A compliance project includes an addition or an integrity,
12 enhancement, or a replacement project. In order to qualify, the energy
13 utility must also demonstrate that the compliance project is undertaken for
14 a federally mandated requirement in connection with, among other items,
15 various federal statutes and including any other law, order, or regulation
16 administered by the U.S. Environmental Protection Agency ("EPA"), U.S.
17 Department of Transportation, FERC, or U.S. Department of Energy. The
18 statute also provides direction in terms of how an application for a CPCN

1 should be reviewed; specifically, the following factors must be provided in
2 the application by the energy utility: (i) a description of the federally
3 mandated requirements, (ii) a description of the projected federally
4 mandated costs associated with the proposed compliance project, including
5 costs that are allocated to the energy utility: (a) in connection with regional
6 transmission expansion planning and construction; or (b) under a FERC-
7 approved tariff, rate schedule, or agreement, (iii) a description of how the
8 proposed compliance project allows the energy utility to comply with the
9 federally mandated requirements, (iv) alternative plans that demonstrate
10 that the proposed compliance project is reasonable and necessary, and (v)
11 information as to whether the proposed compliance project will extend the
12 useful life of an existing energy utility facility, and, if so, the value of that
13 extension. The Commission may also examine any other factors it considers
14 relevant.

15 In regard to the recovery of costs, the statute provides that if the energy
16 utility has supported a finding of the Commission that the public
17 convenience and necessity will be served by the proposed compliance
18 project and the Commission has approved the projected federally

1 mandated costs associated with the proposed compliance project and made
2 a finding on each of the factors described above, then the following
3 treatment applies:

4 (i) Eighty percent (80%) of the approved federally
5 mandated costs shall be recovered by the energy utility through a
6 periodic retail rate adjustment mechanism that allows the timely
7 recovery of the approved federally mandated costs. The
8 Commission shall adjust the energy utility's authorized net
9 operating income to reflect any approved earnings for purposes of
10 IC §§ 8-1-2-42(d)(3) and 8-1-2-42(g)(3).

11 (ii) Twenty percent (20%) of the approved federally
12 mandated costs, including depreciation, allowance for funds used
13 during construction ("AFUDC"), and post in service carrying costs,
14 based on the overall cost of capital most recently approved by the
15 commission, shall be deferred and recovered by the energy utility as
16 part of the next general rate case filed by the energy utility with the
17 Commission.

(iii) Actual costs that exceed the projected federally mandated costs of the approved compliance project by more than twenty-five percent (25%) shall require specific justification by the energy utility and specific approval by the Commission before being authorized in the next general rate case filed by the energy utility with the Commission.

Q8. Please provide an overview of the Environmental Rules.

A8. The EPA finalized a rule regulating the disposal of Coal Combustion Residuals ("CCR") which became effective on October 19, 2015.¹ The CCR Rule focuses on CCR storage, treatment, and disposal units and mandates that each unit be evaluated for structural integrity. It also requires that regulated entities, including NIPSCO, provide proof that it is not contaminating groundwater, as well as other compliance criteria. The CCR Rule applies nationally to electric utilities and independent power producers, including each of NIPSCO's three active coal-fired electric generating units: (1) Bailly Generating Station ("Bailly"), (2) Michigan City

¹ 40 CFR Parts 257 and 261, Published in the Federal Register on April 17, 2015.

1 Generating Station ("Michigan City"), and (3) R.M. Schahfer Generating
2 Station ("Schahfer").

3 The CCR Rule is federally mandated and self-implementing. Enforcement
4 is driven by citizen suits or states acting as citizens. The CCR Rule
5 compliance requirements are phased in over time and may be based on
6 findings and results from earlier phases of data collection. The CCR Rule
7 requires documentation and results of compliance-related activities be
8 posted on a publicly-accessible internet site to provide external
9 stakeholders full access to CCR-related activities and determinations. The
10 CCR Rule is closely tied to the Effluent Limitation Guidelines ("ELG") Rule,
11 based on regulation of the liquid and solid portions of the same waste
12 streams by the ELG and CCR Rules, respectively.

13 The EPA issued an ELG final rule regulating wastewater stream processes
14 and byproducts associated with steam electric power generation. This
15 complex rule, which had last been updated in 1982, was revised with an
16 effective date of January 4, 2016 to update the ELG requirements based on
17 industry and technological advancement. NIPSCO Witness Kelly R.

1 Carmichael describes the requirements of the CCR and ELG Rules in
2 greater detail.

3 The ELG Rule addresses seven different wastewater streams from electric
4 generating units—including ash handling water, Flue Gas Desulfurization
5 (“FGD”) wastewater, and non-chemical metal cleaning waste at NIPSCO’s
6 facilities. The ELG Rule requires compliance no sooner than November 1,
7 2018 and no later than December 31, 2023. Specific applicability dates for
8 complying with the rule requirements vary by waste stream and location
9 and are established in the renewals of the National Pollution Discharge
10 Elimination System (“NPDES”) permits for each of the generating stations,
11 as well as the technologies chosen to address each applicable waste stream.
12 The units at NIPSCO’s three (3) coal-fired generating stations and its Sugar
13 Creek Generating Station are regulated by the ELG Rule.

14 **Q9. Are the Environmental Rules “federally mandated requirements” under**
15 **Ind. Code § 8-1-8.4-5?**

16 A9. Yes. The Environmental Rules are developed and approved by the EPA
17 and are imposed on NIPSCO and other electric utility companies. As such,

1 the Environmental Rules are federally mandated requirements under Ind.
2 Code § 8-1-8.4-5.

3 **Q10. Please provide an overview of NIPSCO's Environmental Compliance**
4 **Project.**

5 A10. NIPSCO's Environmental Compliance Project includes distinct projects at
6 each of NIPSCO's three (3) active coal-fired generating stations: Bailly,
7 Michigan City, and Schahfer. These projects are necessary to comply with
8 the Environmental Rules and are therefore related to the direct or indirect
9 compliance by NIPSCO with one or more federally mandated
10 requirements. NIPSCO Witness Kurt W. Sangster describes the
11 Environmental Compliance Project in detail. Mr. Sangster also describes
12 how the Environmental Compliance Project benefits NIPSCO's customers
13 and serves the public interest by enabling the Company to comply with the
14 Environmental Rules and do so in the most appropriate manner. The
15 Environmental Compliance Project presents the solution with the
16 reasonable balance of costs, risks, and policy based upon consideration of
17 all the factors impacting the decision.

1 **Q11. Please provide an overview of the Environmental Compliance Project**
2 **costs for which NIPSCO seeks approval in this proceeding.**

3 A11. As discussed in greater detail by Mr. Sangster, NIPSCO's total capital cost
4 estimate for the Environmental Compliance Project is \$385.8 million (not
5 including AFUDC or ongoing carrying charges). Furthermore, NIPSCO
6 estimates that when all of the projects included in the Environmental
7 Compliance Project are in service, the operation and maintenance ("O&M")
8 expenses for the Environmental Compliance Project will be approximately
9 \$9.2 million per year (not including taxes or other expenses such as
10 depreciation).²

11 **Q12. Please provide an overview of NIPSCO's FMCA Mechanism.**

12 A12. The Commission initially approved NIPSCO's Rider 687 – Adjustment of
13 Charges for Federally Mandated Costs and Appendix I – Federally
14 Mandated Cost Adjustment Factor on January 29, 2014 in Cause No. 44340
15 for the timely and periodic recovery of 80% of NIPSCO's approved
16 federally mandated costs. The Commission approved NIPSCO's Rider 787

² This figure is in 2016 dollars.

1 – Adjustment of Charges for Federally Mandated Costs and Appendix I –
2 Federally Mandated Cost Adjustment Factor, both without any
3 modifications, on July 18, 2016 in Cause No. 44688 (“44688 Order”). The
4 FMCA Mechanism is described in further detail by NIPSCO Witness Derric
5 J. Isensee.

6 **Q13. Please describe the ratemaking authority NIPSCO is requesting in this**
7 **Cause.**

8 A13. As further described by Mr. Isensee, in this proceeding, NIPSCO requests
9 approval to (1) recover 80% of the approved federally mandated costs
10 incurred in connection with the Environmental Compliance Project through
11 the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7, including capital,
12 O&M, depreciation, taxes, financing, and carrying costs based on the
13 current overall weighted average cost of capital (“WACC”) and AFUDC,
14 (2) utilize construction work in progress (“CWIP”) ratemaking treatment
15 for the Environmental Compliance Project through the FMCA Mechanism,
16 (3) accrue AFUDC relating to the Environmental Compliance Project until
17 such time as each Environmental Compliance Project is placed into service
18 or receiving ratemaking treatment, (4) defer post-in service carrying costs

1 of the Environmental Compliance Project, including carrying costs based
2 on the current overall WACC, depreciation, taxes, and O&M expenses on
3 an interim basis until such costs are recognized for ratemaking purposes
4 through NIPSCO's FMCA Mechanism or otherwise included for recovery
5 in NIPSCO's base rates in its next general rate case, (5) defer and recover
6 through NIPSCO's FMCA Mechanism any federally mandated costs,
7 including but not limited to federally mandated costs incurred on or after
8 the filing of its Verified Petition in this proceeding to the extent such costs
9 are reasonable and consistent with the scope of the Environmental
10 Compliance Project as described in NIPSCO's evidence, and (6) utilize the
11 cost allocation factors set forth in the Commission's 44688 Order.

12 **Q14. Will the public convenience and necessity be served by Commission**
13 **approval of NIPSCO's request?**

14 A14. Yes. The public convenience and necessity are served by NIPSCO's
15 compliance with the Environmental Rules. The Environmental Compliance
16 Project will be used and useful as part of NIPSCO's provision of electric
17 service.

1 **Q15. Is NIPSCO's requested relief appropriate and in the public interest?**

2 A15. Yes. The Environmental Compliance Project is in the public interest since
3 it will enable the Company to comply with the Environmental Rules and
4 do so in the most appropriate manner. Additionally, Ind. Code ch. 8-1-8.4
5 defines eligible projects as those that are federally mandated, including
6 those mandated by EPA. NIPSCO seeks relief within the bounds provided
7 by the General Assembly in the enabling statute. This is consistent with
8 public policy and serves the public interest. As will be demonstrated by
9 NIPSCO's witnesses in this proceeding, the Company's approach is sound
10 and reasonable and the requested Environmental Compliance Project is
11 appropriate, and the relief should be granted.

12 **Q16. Does NIPSCO's case-in-chief include all of the evidence and information**
13 **necessary for the Commission to make the required findings for issuance**
14 **of a CPCN under Ind. Code ch. 8-1-8.4?**

15 A16. Yes. With that stated, as NIPSCO Witness Greg Baacke notes, NIPSCO is
16 working with an architectural engineering firm, equipment vendors, and
17 subject matter experts to evaluate potential engineer, procure, and
18 construct bidders for the project execution. To the extent NIPSCO learns of

1 further information from that exercise that impacts the evidence presented,
2 it will provide updates to the Commission and interested parties.

3 **Q17. Please introduce the other witnesses and the subject matter of their**
4 **testimony.**

5 A17. Kelly R. Carmichael (Vice President, Environmental) explains the
6 Environmental Rules and how the Environmental Rules apply to NIPSCO's
7 coal-fired electric generating units. Greg Baacke (Manager, Generation
8 Major Projects) discusses the technical aspects of how and why NIPSCO
9 chose Burns & McDonnell Engineering Company, Inc. ("Burns and
10 McDonnell") to conduct the analysis of the CCR Rule and CH2M Hill
11 Engineers, Inc. ("CH2M") to conduct the analysis of ELG Rule, as well as
12 how NIPSCO went about determining the solutions for compliance with
13 the Environmental Rules. Kurt W. Sangster (Vice President, Projects and
14 Construction Electric) discusses the Coal Combustion Residual (CCR) Rule
15 Compliance Plan Cost Analysis prepared by Burns & McDonnell (the "CCR
16 Study") and the Effluent Limitations Guidelines Rule Compliance Plan
17 Cost Analysis prepared by CH2M (the "ELG Study"), as well as the
18 alternatives available to NIPSCO to comply with the Environmental Rules

1 and the compliance plan that NIPSCO has determined to be reasonable and
2 necessary for compliance with these federal mandates. Daniel L. Douglas
3 (Vice President, Corporate Strategy and Development) presents the results
4 of the analysis undertaken to evaluate NIPSCO's options to comply with
5 the Environmental Rules. Derric J. Isensee (Executive Director, Rates and
6 Regulatory Finance) explains NIPSCO's accounting and proposed
7 ratemaking treatment to record and recover federally mandated costs
8 associated with NIPSCO's proposed Environmental Compliance Project
9 through the FMCA Mechanism.

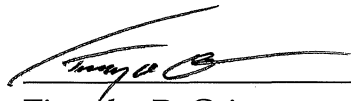
10 **Q18. Does this conclude your prefiled direct testimony?**

11 A18. Yes.

VERIFICATION

I, Timothy R. Caister, Vice President, Regulatory Policy for Northern Indiana Public Service Company, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

Timothy R. Caister



Timothy R. Caister

Date: November 23, 2016

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA)	
PUBLIC SERVICE COMPANY FOR (1) APPROVAL OF)	
AND A CERTIFICATE OF PUBLIC CONVENIENCE)	
AND NECESSITY FOR A FEDERALLY MANDATED)	
ENVIRONMENTAL COMPLIANCE PROJECT; (2))	
AUTHORITY TO RECOVER FEDERALLY)	
MANDATED COSTS INCURRED IN CONNECTION)	
WITH THE ENVIRONMENTAL COMPLIANCE)	
PROJECT; (3) APPROVAL OF THE ESTIMATED)	
FEDERALLY MANDATED COSTS ASSOCIATED)	CAUSE NO.
WITH THE ENVIRONMENTAL COMPLIANCE)	
PROJECT; (4) AUTHORITY FOR THE TIMELY)	
RECOVERY OF 80% OF THE FEDERALLY)	
MANDATED COSTS THROUGH RIDER 787 –)	
ADJUSTMENT OF FEDERALLY MANDATED COSTS)	
AND APPENDIX I – FEDERALLY MANDATED COST)	
ADJUSTMENT FACTOR; (5) AUTHORITY TO DEFER)	
20% OF THE FEDERALLY MANDATED COSTS FOR)	
RECOVERY IN NIPSCO’S NEXT GENERAL RATE)	
CASE; (6) APPROVAL OF SPECIFIC RATEMAKING)	
AND ACCOUNTING TREATMENT; (7) APPROVAL)	
TO DEPRECIATE THE ENVIRONMENTAL)	
COMPLIANCE PROJECT ACCORDING TO)	
PREVIOUSLY APPROVED DEPRECIATION RATES;)	
AND (8) APPROVAL OF ONGOING REVIEW OF THE)	
ENVIRONMENTAL COMPLIANCE PROJECT; ALL)	
PURSUANT TO IND. CODE § 8-1-8.4-1 <i>ET SEQ.</i> , § 8-1-)	
2-19, § 8-1-2-23, AND § 8-1-2-42.)	

VERIFIED PETITION

Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”)
petitions the Indiana Utility Regulatory Commission (“Commission”) for (1)

approval of and a certificate of public convenience and necessity (“CPCN”) for a federally mandated Environmental Compliance Project; (2) authority to recover federally mandated costs incurred in connection with the Environmental Compliance Project; (3) approval of the estimated federally mandated costs associated with the Environmental Compliance Project; (4) authority for the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through Rider 787 – Adjustment of Charges for Federally Mandated Costs and Appendix I – Federally Mandated Cost Adjustment Factor (the “FMCA Mechanism”); (5) authority to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project for recovery in NIPSCO’s next general rate case; (6) approval of the specific ratemaking and accounting treatment described herein; (7) approval to depreciate the Environmental Compliance Project according to the depreciation rates approved by the Commission in Cause No. 44688; and (8) approval of ongoing review of the Environmental Compliance Project; all pursuant to Ind. Code § 8-1-8.4-1 *et seq.*, § 8-1-2-19, § 8-1-2-23 and § 8-1-2-42. In accordance with 170 IAC 1-1.1-8 and 1-1.1-9 of the Commission’s Rules of Practice and Procedure, Petitioner submits the following information in support of this petition.

Petitioner's Corporate Status

1. Petitioner is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, Indiana. Petitioner renders electric and gas public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the generation, transmission, distribution and furnishing of such service to the public. Petitioner is a wholly-owned subsidiary of NiSource Inc., an energy holding company whose stock is listed on the New York Stock Exchange.

Petitioner's Regulated Status

2. Petitioner is a "public utility" within the meaning of Ind. Code § 8-1-2-1 and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana. Petitioner is also an "energy utility" within the meaning of Ind. Code §§ 8-1-8.4-3.

3. Petitioner is also subject to the jurisdiction of the Federal Energy Regulatory Commission ("FERC") and the Environmental Protection Agency ("EPA").

4. Petitioner is a member of the Midcontinent Independent System Operator, Inc. ("MISO"), a regional transmission organization operated under the

authority of FERC which controls the use of Petitioner's transmission system and the dispatching of its generating units.

Petitioner's Operations

5. Petitioner is authorized by the Commission to provide electric utility service to the public in all or part of Benton, Carroll, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, Saint Joseph, Starke, Steuben, Warren and White Counties in northern Indiana. Petitioner provides electric utility service to more than 461,000 residential, commercial, industrial, wholesale and other customers.

6. Petitioner operates the following electric generation facilities: (1) Bailly Generating Station, (2) Michigan City Generating Station, (3) R.M. Schahfer Generating Station, and (4) Sugar Creek Generating Station. The first three of these are coal-fired facilities, and the last is a natural gas-fired facility.

Relief Sought by Petitioner

7. In this proceeding, NIPSCO petitions the Commission for an order in this Cause:

- Finding that the public convenience and necessity will be served and issuing to Petitioner a CPCN for a federally mandated compliance project pursuant to Ind. Code §§ 8-1-8.4-6 and -7;

- Determining that the (1) Coal Combustion Residuals rule that became effective October 19, 2015 (the “CCR Rule”) and (2) Effluent Limitation Guidelines that became effective on January 4, 2016 (the “ELG Rule”), collectively referred to herein as the “Environmental Rules,” are federally mandated requirements as defined by Ind. Code § 8-1-8.4-5;
- Finding that NIPSCO is an energy utility as defined by Ind. Code § 8-1-8.4-3;
- Finding that the Environmental Compliance Project is a compliance project under Ind. Code § 8-1-8.4-2;
- Finding that the Environmental Compliance Project will allow NIPSCO to comply directly with the Environmental Rules;
- Authorizing Petitioner to recover federally mandated costs incurred in connection with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7 including capital, operation and maintenance (“O&M”), depreciation, taxes, financing and carrying costs, and Allowance for Funds Used During Construction (“AFUDC”);
- Finding that the costs incurred in connection with the Environmental Compliance Project are federally mandated costs under Ind. Code § 8-1-8.4-4;

- Approving the projected federally mandated costs associated with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing Petitioner to utilize construction work in progress (“CWIP”) ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism;
- Authorizing Petitioner to accrue AFUDC relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment;
- Authorizing NIPSCO to defer post-in service costs of the Environmental Compliance Project, including O&M, depreciation, taxes, financing and carrying costs, and AFUDC until such costs are recognized for ratemaking purposes through the FMCA Mechanism or included for recovery in NIPSCO’s base rates in its next general rate case pursuant to Ind. Code § 8-1-8.4-7;
- Authorizing Petitioner to defer and recover through the FMCA Mechanism any federally mandated costs, including but not limited to, pre-construction

- costs and all other costs incurred on or after the date of this Verified Petition to the extent that such costs are reasonable and consistent with the scope of the Environmental Compliance Project described in Petitioner's evidence;
- Authorizing Petitioner to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project and authorizing Petitioner to recover in Petitioner's next general rate case the deferred federally mandated costs pursuant to Ind. Code § 8-1-8.4-7;
 - Authorizing Petitioner to record ongoing carrying charges based on the current overall weighted average cost of capital ("WACC") on the deferred federally mandated costs until the deferred federally mandated costs are included for recovery in Petitioner's base rates in its next general rate case;
 - Approving use of the depreciation rates approved by the Commission in Cause No. 44688 for the assets comprising the Environmental Compliance Project;
 - Approval to adjust Petitioner's authorized net operating income to reflect any approved earnings associated with the Environmental Compliance Project for purposes of Ind. Code § 8-1-2-42(d)(3);
 - Approval of ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings; and

- Granting to Petitioner such additional and further relief as may be deemed necessary or appropriate.

CPCN

8. Pursuant to Ind. Code Ch. 8-1-8.4, NIPSCO is requesting a CPCN for its Environmental Compliance Project which includes numerous capital projects and ongoing activities at three (3) different locations, Bailly Generating Station, Michigan City Generating Station and R. M. Schahfer Generating Station within NIPSCO's electric system (*i.e.*, its three coal-fired generation stations) necessary to comply with the Environmental Rules (the "Environmental Compliance Project"). The Environmental Compliance Project includes the following types of capital projects: Ground Water Monitoring Projects at all three coal stations; Landfill Projects as a result of pond closure at all three coal stations; Ash Handling Projects and New CCR Containment Area Projects at the R. M. Schahfer and Michigan City Generating Stations; and a New Process Water Pond Project and ELG Projects at R. M. Schahfer Generating Station. NIPSCO is also requesting approval of projected federally mandated ongoing O&M, depreciation, taxes, financing and carrying costs, and AFUDC, which are also part of the Environmental Compliance Project.

9. The EPA finalized a rule regulating the disposal of Coal Combustion

Residuals (“CCR”) which became effective on October 19, 2015.¹ The CCR Rule focuses on CCR storage, treatment, and disposal units and mandates that each unit be evaluated for structural integrity. It also requires that regulated entities, including the Petitioner, provide proof that they are not contaminating groundwater, as well as other compliance criteria. The CCR Rule applies nationally to electric utilities and independent power producers, including each of NIPSCO’s three active coal-fired electric generating units: (1) Bailly Generating Station, (2) Michigan City Generating Station, and (3) R.M. Schahfer Generating Station. Each of NIPSCO’s stations will require capital investments and O&M costs to meet the CCR Rule requirements. The level of investment will be dependent on site specific conditions and the operational status of each of the units at the time CCR milestones are met.

10. The CCR Rule is federally mandated and self-implementing. Enforcement is driven by citizen suits or states acting as citizens. The CCR Rule compliance requirements are phased in over time and may be based on findings and results from earlier phases of data collection. The CCR Rule requires documentation and results of compliance related activities be posted on a publicly accessible internet site to provide external stakeholders full access to CCR-related

¹ 40 CFR Parts 257 and 261, Published in the Federal Register on April 17, 2015.

activities and determinations. The CCR Rule is closely tied to the Effluent Limitation Guidelines (“ELG”) Rule, based on regulation of the liquid and solid portions of the same waste streams by the ELG and CCR Rules, respectively.

11. The EPA issued an ELG final rule regulating wastewater stream processes and byproducts associated with steam electric power generation. This complex rule, which had last been updated in 1982, was revised with an effective date of January 4, 2016 to update the ELG requirements based on industry and technological advancement.

12. The ELG Rule addresses seven different wastewater streams from electric generating units—including ash handling water, Flue Gas Desulfurization (“FGD”) wastewater, and non-chemical metal cleaning waste at NIPSCO’s facilities. The ELG Rule requires compliance no sooner than November 1, 2018 and no later than December 31, 2023. Specific applicability dates for complying with the rule requirements vary by waste stream and location and are established in the renewals of the National Pollution Discharge Elimination (“NPDES”) permits for each of the generating stations, as well as the technologies chosen to address each applicable waste stream. The units at NIPSCO’s three (3) coal-fired generating stations are regulated by the ELG Rule. The Indiana Department of Environmental Management has verified that under the ELG Rule, regulated units scheduled for retirement by December 31, 2023 will meet the Zero Discharge

standards of the ELG Rule (a/k/a Zero Liquid Discharge or “ZLD”) and therefore will not require additional pollution control technology to comply with the rule.

13. Penalties for noncompliance with the Environmental Rules are severe. All of the Environmental Compliance Projects are identified as necessary for the NIPSCO facilities to operate under and comply with the Environmental Rules. Therefore, NIPSCO would need to undertake all of the projects included in NIPSCO’s Environmental Compliance Project to comply with the Environmental Rules.

14. As noted above, the Environmental Compliance Project concerns measures required at Petitioner’s Bailly Generating Station, Michigan City Generating Station, and R.M. Schahfer Generating Station to address compliance with the federally mandated requirements of the Environmental Rules.

15. NIPSCO’s Environmental Compliance Project is a project related to the direct compliance by NIPSCO with the federally mandated requirements of the Environmental Rules and is therefore a “compliance project” under Ind. Code § 8-1-8.4-2.

Recovery of Federally Mandated Costs

16. In conjunction with its request for a CPCN, NIPSCO is also requesting approval to recover the costs incurred in connection with the

Environmental Compliance Project, including plan development, engineering, and other costs incurred prior to the commencement of construction. Specifically, NIPSCO is requesting the Commission to approve approximately \$385.8 million as the projected federally mandated project costs associated with the Environmental Compliance Project, which includes indirect costs but excludes AFUDC. However, NIPSCO also seeks approval to record and recover AFUDC associated with the actual Environmental Compliance Project costs based upon the amounts at time such costs or charges are incurred. Based upon current estimates of AFUDC at the time of this petition filing, the total estimated cost, including AFUDC, is approximately \$399 million. NIPSCO is also requesting the Commission to approve the recovery of ongoing federally mandated O&M costs associated with the Environmental Compliance Project totaling approximately \$9.2 million on an annual basis. NIPSCO also seeks approval to recover all depreciation, tax, and financing expenses incurred associated with these projects. With respect to the capital projects, NIPSCO is proposing to depreciate the Environmental Compliance Project according to depreciation rates approved in Cause No. 44688.

	CCR	ELG	Total
Direct & Indirect	\$221.8M	\$164.0M	\$385.8M
AFUDC	\$6.7M	\$6.4M	\$13.1M
Total	\$228.5M	\$170.4M	\$398.9M

17. The Commission first approved NIPSCO's Rider 687 – Adjustment of Charges for Federally Mandated Costs and Appendix I – Federally Mandated Cost Adjustment Factor on January 29, 2014 in Cause No. 44340 for the timely and periodic recovery of 80% of NIPSCO's approved federally mandated costs.

18. In this proceeding, NIPSCO requests approval to (1) recover 80% of the approved federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7, including capital, O&M, depreciation, taxes, financing and carrying costs, and AFUDC based on the current overall WACC and AFUDC, (2) utilize CWIP ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism, (3) accrue AFUDC relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment, (4) defer post-in service costs of the Environmental Compliance Project, including carrying costs based on the current overall WACC, depreciation, taxes, and O&M expenses on an interim basis until such costs are recognized for ratemaking purposes through NIPSCO's FMCA Mechanism or otherwise included for recovery in NIPSCO's base rates in its next general rate case, (5) defer and recover through NIPSCO's FMCA Mechanism any federally mandated costs, including but not limited to federally mandated costs incurred prior to and after approval of a Final Order in this proceeding to the

extent such costs are reasonable and consistent with the scope of the Environmental Compliance Project as described in NIPSCO's evidence, and (6) utilize the cost allocation factors set forth in Joint Exhibit B to the Stipulation and Settlement Agreement approved in the Commission's July 18, 2016 Order in Cause No. 44688.

19. Consistent with Ind. Code § 8-1-8.4-7, NIPSCO proposes to defer 20% of the federally mandated project costs and ongoing expenses incurred in connection with the Environmental Compliance Project for recovery in NIPSCO's next general rate case. NIPSCO further requests approval of the specific ratemaking and accounting treatment identified in Paragraph 7 above.

Filing of Environmental Compliance Project Plan and Testimony

20. In the instant petition, NIPSCO requests a CPCN and approval of recovery of costs associated with its Environmental Compliance Project. NIPSCO notes that supporting testimony, further description and discussion of its Environmental Compliance Project plan, and accompanying evidence will be submitted to the Commission in a forthcoming filing in this docket.

Ongoing Review

21. Going forward, NIPSCO requests ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings. The first such filing to include CCR and ELG compliance costs will be

made on or about November 1, 2017.

Applicable Law

22. Petitioner considers the provisions of the Public Service Commission Act, as amended, including Ind. Code §§ 8-1-1-8, 8-1-2-4, 8-1-2-19, 8-1-2-23, 8-1-2-38, 8-1-2-39, 8-1-2-42(a), and Ind. Code ch. 8-1-8.4 to be applicable to the subject matter of this Petition and believes that such traditional statutes provide the Commission authority to approve the requested relief.

Petitioner's Counsel

23. The names and addresses of persons authorized to accept service of papers in this proceeding are:

Counsel of Record:

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Request for Prehearing Conference and Preliminary Hearing

24. In accordance with 170 IAC 1-1.1-15(b) of the Commission's Rules of Practice and Procedure, Petitioner requests that the Commission schedule a prehearing conference and preliminary hearing for the purpose of fixing a procedural schedule in this proceeding and considering other procedural matters

as soon as possible and that an evidentiary hearing on this matter be set and noticed as required by law. In accordance with 170 IAC 1-1.1-15(e), Petitioner will seek to enter into a stipulation with the Indiana Office of Utility Consumer Counselor regarding a procedural schedule in lieu of a prehearing conference.

WHEREFORE, Northern Indiana Public Service Company respectfully requests that the Commission promptly publish notice, make such other investigation, and hold such hearings as are necessary or advisable and thereafter, make and enter appropriate orders in this Cause:

(a) Finding that the public convenience and necessity will be served and issuing to Petitioner a CPCN for a federally mandated compliance project pursuant to Ind. Code §§ 8-1-8.4-6 and -7;

(b) Determining that the Environmental Rules are federally mandated requirements as defined by Ind. Code § 8-1-8.4-5;

(c) Finding that NIPSCO is an energy utility as defined by Ind. Code § 8-1-8.4-3;

(d) Finding that the Environmental Compliance Project is a compliance project under Ind. Code § 8-1-8.4-2;

(e) Finding that the Environmental Compliance Project will

allow NIPSCO to comply directly with the Environmental Rules;

(f) Authorizing Petitioner to recover federally mandated costs incurred in connection with the Environmental Compliance Project pursuant to Ind. Code §8-1-8.4-7 including capital, O&M, depreciation, taxes, financing and carrying costs, and AFUDC;

(g) Finding that the costs incurred in connection with the Environmental Compliance Project are federally mandated costs under Ind. Code § 8-1-8.4-4;

(h) Approving the projected federally mandated costs associated with the Environmental Compliance Project pursuant to Ind. Code § 8-1-8.4-7;

(i) Authorizing the timely recovery of 80% of the federally mandated costs incurred in connection with the Environmental Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7;

(j) Authorizing Petitioner to utilize construction work in progress ratemaking treatment for the Environmental Compliance Project through the FMCA Mechanism;

(k) Authorizing Petitioner to accrue allowance for funds used during construction relating to the Environmental Compliance Project until such time as the Environmental Compliance Projects are placed into service or receive ratemaking treatment;

(l) Authorizing NIPSCO to defer post-in service costs of the Environmental Compliance Project, including O&M, depreciation, taxes, financing and carrying costs, and AFUDC until such costs are recognized for ratemaking purposes through Petitioner's FMCA Mechanism or included for recovery in NIPSCO's base rates in its next general rate case pursuant to Ind. Code § 8-1-8.4-7;

(m) Authorizing Petitioner to defer and recover through Petitioner's FMCA Mechanism any federally mandated costs, including but not limited to, pre-construction costs and all other costs incurred on or after the date of this Verified Petition to the extent that such costs are reasonable and consistent with the scope of the Environmental Compliance Project described in Petitioner's evidence;

(n) Authorizing Petitioner to defer 20% of the federally mandated costs incurred in connection with the Environmental Compliance Project and authorizing Petitioner to recover in Petitioner's next general rate case

the deferred federally mandated costs pursuant to Ind. Code § 8-1-8.4-7;

(o) Authorizing Petitioner to record ongoing carrying charges based on the current overall weighted average cost of capital on the deferred federally mandated costs until the deferred federally mandated costs are included for recovery in Petitioner's base rates in its next general rate case;

(p) Approving usage of the depreciation rates approved by the Commission in Cause No. 44688 for the assets comprising the Environmental Compliance Project;

(q) Approval to adjust Petitioner's authorized net operating income to reflect any approved earnings associated with the Environmental Compliance Project for purposes of Ind. Code § 8-1-2-42(d)(3);

(r) Approval of ongoing review of the Environmental Compliance Project as part of Petitioner's semi-annual FMCA filings; and

(s) Granting to Petitioner such additional and further relief as may be deemed necessary or appropriate.

Dated this 1st day of November, 2016.

Northern Indiana Public Service Company



Timothy R. Caister
Vice President, Regulatory Policy

Verification

I affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Dated: November 1, 2016.



Timothy R. Caister
Vice President, Regulatory Policy

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Northern Indiana Public Service Company

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by email
transmission upon the following:

A. David Stippler
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Dated this 1st day of November, 2016.



Bryan M. Likins