

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NIPSCO GENERATION LLC)
FOR CERTAIN DETERMINATIONS BY THE)
COMMISSION WITH RESPECT TO ITS JURISDICTION) CAUSE NO. 46183
OVER PETITIONER’S ACTIVITIES AS A NON-RETAIL)
GENERATOR OF ELECTRIC POWER.)

**SUBMISSION OF DIRECT TESTIMONY OF KENNETH DAVIES ON BEHALF OF
INTERVENOR, TAKANOCK, INC. [PUBLIC VERSION]**

Attached please find the Direct Testimony of Kenneth Davies on behalf of Intervenor,
Takanock, Inc.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing testimony of Kenneth Davies on behalf of Takanock, Inc. has been served upon the following counsel electronically this 1st day of April, 2025:

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INTRODUCTION

Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND BRIEF JOB DESCRIPTION.

A. My name is Kenneth Davies. the founder and CEO of Takanock, Inc. ("Takanock"), a company that aims to develop mission-critical data centers and provide reliable and resilient power solutions for those facilities. My business address is 121 Rivers Edge Drive, Suite 3100, Traverse City, Michigan 49684.

Q. PLEASE STATE YOUR EDUCATIONAL BACKGROUND.

A. I hold advanced degrees in mechanical engineering (B.S.) and operations research (M.E.) from Cornell University, and energy and environmental studies (M.S.) from the University of Colorado at Boulder.

Q. PLEASE BRIEFLY DESCRIBE YOUR PROFESSIONAL EXPERIENCE.

A. I have over 20 years of experience in the data center and energy sectors, with a proven track record of creating and scaling innovative businesses that address the challenges and opportunities of the energy industry transition. Before launching Takanock, I co-founded Birch Infrastructure ("Birch"), which developed data centers and renewable energy projects. I successfully sold both platforms to leading investors and remained as a strategic advisor for Copia Power, the renewable energy arm of The Carlyle Group. The data center portion of Birch's business was sold to Quinbrook Infrastructure Partners and operates as Rowan Digital Infrastructure.

Before that I held leadership roles at Microsoft and Google, where I oversaw the wholesale renewable energy and portfolio management strategies for those companies'

1 respective data center infrastructure. I have helped pioneer the use of reinsurance-based
2 weather risk-transfer products in the renewable markets at Altenex, a brokerage house for
3 corporate renewable energy transactions. Finally, I am an investor and board member at
4 All Hazards Science & Innovation, a company that leverages science and technology to
5 enhance disaster preparedness and response.

6 **Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE INDIANA UTILITY**
7 **REGULATORY COMMISSION (“IURC” OR “COMMISSION”)?**

8 A. No.

9 **Q. PLEASE DESCRIBE TAKANOCK’S BUSINESS STRUCTURE AND PLANS.**

10 A. Takanock is in the final stages of raising a private equity investment, and to date has been
11 backed by a collective nine-figure investment from various venture capital investors. The
12 largest of those is an unregulated affiliate of an energy holding company whose other
13 principal business is one of the nation’s largest combination investor-owned utilities that
14 provides natural gas and electricity to millions of customers. Takanock specializes in
15 developing shovel-ready sites in various states across the United States that will be used as
16 future data centers, including obtaining applicable land-use, environmental and other
17 permits and ensuring sufficient energy will be available to power the data centers once they
18 are constructed and in operation. Takanock's management has significant experience
19 working with public utilities, electric cooperatives and other energy providers to supply the
20 necessary electricity to serve its ultimate data center customers. In addition, Takanock has
21 developed a patent-pending design for on-site generating facilities that serve multiple
22 purposes and enable it to speed up access to power, and unlock grid capacity in markets
23 where electricity availability is constrained due to lack of generation, transmission

1 capacity, high-voltage equipment, or other factors. Takanock is the indirect parent of
2 Takanock Beckham, LLC ("Takanock Beckham"), which is engaged in a particular data
3 center project being developed in Indiana.

4 **Q. WHAT CONCERNS SHOULD REGULATORS HAVE ABOUT DATA CENTER**
5 **DEVELOPMENT?**

6 A. Given the significant amount of power being requested and the related investment, there
7 are reasonable regulatory concerns with potential cost-shifting related to electric service
8 for data centers and other megaload customers. Takanock understands that cost-shifting to
9 other utility customers is a non-starter, and is willing to bear the *reasonable* costs to extend
10 service to its future data center developments. We also believe there are reasonable
11 regulatory methods to protect consumers and balance the interests of the significant
12 economic development these projects will bring to Indiana. Allowing Northern Indiana
13 Public Service Company ("NIPSCO") to create an unregulated generation affiliate that
14 competes with other generation providers when NIPSCO keeps a strangle-hold on its
15 monopoly service territory is not the answer.

16 Data centers are the "backbone" of America's high-tech economy, since nearly
17 every business, school and citizen has a need for internet-based services and other
18 technology resources in their daily lives. It is also important to understand that data centers
19 and megaload customers also bring tremendous opportunity for huge profits to utilities,
20 and the potential to significantly increase load which should *benefit* all customers by
21 lowering rates through traditional ratemaking, *unless* those profits are siphoned off directly
22 to NiSource as NIPSCO Generation LLC ("NIPSCO GenCo") proposes in this Cause.

23 **Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

1 A. I am bothered by NIPSCO GenCo's attempt to position itself as a deregulated competitive
2 electric generation provider to NIPSCO, given NIPSCO's obligation to serve in its
3 monopoly retail service territory. It is important for the Commission to hear the difficult
4 experience that Takanock has had in dealing with NIPSCO in obtaining electric service at
5 our data center site. Despite its obligation to provide service throughout its monopoly
6 service territory, I believe NIPSCO is "picking and choosing" which data center projects it
7 cooperates with, and I am concerned (a concern that I understand other parties to this case
8 share) that NIPSCO GenCo's proposal is anticompetitive. However, I will let these other
9 parties make those arguments and instead focus my testimony on Takanock's direct
10 experience with NIPSCO on data center development in Indiana. The purpose of my
11 testimony is to: 1) explain Takanock's difficult experience with NIPSCO; 2) share
12 successful approaches from other states to the challenge of providing generation to data
13 center developers and other megausers; and 3) recommend that the Commission deny
14 NIPSCO GenCo's requested relief in this cause as against the public interest.

15 **Q. HAVE YOU REVIEWED THE PETITION AND TESTIMONY OFFERED BY**
16 **NIPSCO GENCO IN THIS PROCEEDING?**

17 A. Yes.
18

19 **TAKANOCK'S EXPERIENCE WITH TRYING TO OBTAIN ELECTRIC SERVICE**
20 **FROM NIPSCO FOR ITS DATA CENTER DEVELOPMENT IN INDIANA**

21 **Q. PLEASE DESCRIBE TAKANOCK'S PLANS FOR DATA CENTER**
22 **DEVELOPMENT IN INDIANA.**

23 A. Through Takanock Beckham, Takanock is developing a data center project in Elkhart
24 County, Indiana. Due to demand from its potential data center customers, and given

1 Indiana's availability of applicable land, electric-transmission facilities, natural gas
2 infrastructure and fiber capacity, and proximity to major urban centers, Takanock may
3 pursue additional projects in Indiana.

4 **Q. PLEASE DESCRIBE YOUR FAMILIARITY WITH NIPSCO'S PROCESS FOR**
5 **DATA CENTERS INTERESTED IN LOCATING IN ITS ELECTRIC SERVICE**
6 **TERRITORY IN INDIANA.**

7 A. Takanock first approached NIPSCO in May 2024 about serving its Project Beckham data
8 center site. Due to the population density, there are many bulk transmission lines owned
9 by companies other than NIPSCO in Northern Indiana, including American Electric Power
10 ("AEP") and Commonwealth Edison ("ComEd"). Takanock's data center parcel is crossed
11 by the 345 kV Hiple-East Elkhart Line that is reportedly owned by AEP.¹ Takanock's
12 modeling indicated 1350 MW of capacity today on the Hiple-East Elkhart line, with less
13 than \$10 million of network upgrade costs necessary to serve the full load request for
14 Project Beckham.

15 **Q. WHAT WAS NIPSCO'S RESPONSE TO TAKANOCK'S LOAD REQUEST?**

16 A. Despite that existing transmission infrastructure on site, NIPSCO's immediate response to
17 our initial inquiry was that to serve an estimated 1.5 GW of data center load at the site,
18 Takanock would be responsible for paying NIPSCO to build more than fifteen (15) miles
19 of two (2) new 345kV lines from its Hiple substation at a "substantial cost" (likely hundreds
20 of millions of dollars). NIPSCO refused to discuss interconnecting with the existing Hiple-
21 East Elkhart transmission line on site because AEP is in PJM and NIPSCO is in MISO.
22 However, as an experienced energy industry participant, I am aware that there are multiple

¹ Some publicly available sources Takanock has reviewed indicate that NIPSCO owns this facility.

1 *and necessary* existing interconnections between MISO and PJM along the “seams” of the
2 two transmission operators. These are necessary for the daily exchange of power between
3 MISO and PJM, as well as an important means of ensuring grid reliability. While I
4 understand that there are regulatory and operational requirements associated with a MISO-
5 PJM interconnection point, those issues are hardly insurmountable and likely cost far less
6 than building 15 miles of dual-circuit 345-kv lines. Rather than studying this potential
7 least-cost alternative, NIPSCO insisted that Takanock pay for an interconnection study for
8 the 15-mile dual 345-kv lines, which it seems to have concluded is the only transmission
9 alternative it will consider.

10 **Q. WHAT WERE TAKANOCK’S NEXT STEPS IN TRYING TO OBTAIN**
11 **ELECTRIC SERVICE TO ITS DATA CENTER SITE?**

12 A. When Takanock responded with concerns about NIPSCO’s unwillingness to explore all
13 transmission alternatives, NIPSCO vaguely stated that its engineering department would
14 have to “look at options.” Then, in late summer of 2024, NIPSCO informed us that it had
15 developed a new application process for data centers (which is not included in the
16 Company’s tariff). On September 12, 2024, Takanock submitted NIPSCO’s “Data Center
17 Intake Form”, along with several other documents explaining the needs at the Project
18 Beckham, including an estimated load ramp timeline.

19 NIPSCO noted that NIPSCO was working with “5 or 6” major data center
20 developers who were looking at projects from 200 MW to multiple GW, and some of whom
21 are looking at the same transmission lines for capacity. NIPSCO indicated that no party
22 has officially “inked” a deal with NIPSCO yet—although Microsoft did just publicly
23 announce its intent to build a data center in NIPSCO’s territory. While I believe it is true

1 that NIPSCO has not inked these deals, I suspect that those “5 or 6” projects are simply
2 “waiting in the wings” with ready-to-sign service agreements while NIPSCO waits on a
3 resolution in this case. NIPSCO indicated that it is treating these projects as a “first in, first
4 out” and the ones that sign a contract first will get “claim” to that capacity.

5 **Q. HOW DID NIPSCO DESCRIBE ITS NEW DATA CENTER APPLICATION**
6 **PROCESS?**

7 A. NIPSCO indicated it had recently established a data center “team” that described the steps
8 in the data center application process as:

- 9 • Step 1 – Complete the new application form. NIPSCO indicated it is getting
10 approached by so many parties about data center development, it wished to take a
11 preliminary “look” at the likely transmission solution.
- 12 • Step 2 – NIPSCO performs a “credit and risk analysis” of the applicant. NIPSCO
13 indicated this step is intended to “weed out” those that are not willing to put up the
14 financial assurances necessary to protect other rate classes and/or have no
15 experience/ability to make a data center a reality. While I understand the
16 Commission has adopted administrative rules governing customer creditworthiness
17 determinations, Takanock was not provided any explanation of what criteria
18 NIPSCO used to determine whether a data center applicant was “creditworthy.”
- 19 • Step 3 – Negotiate a facilities study agreement (“FSA”) that includes engineering
20 study scope and compensation to NIPSCO for the study.
- 21 • Step 4 – Once the transmission pathway is agreed upon, NIPSCO will begin
22 negotiating the service contract. NIPSCO described the key elements that it wants
23 in any data center service agreement:

- 1 ▪ Protecting existing customers by ensuring the data center pays for a “slice of
- 2 system” cost and takes on the risk of a stranded asset.
- 3 ▪ The agreement meets Indiana’s regulatory requirements
- 4 ▪ The project’s return on investment must be “worth it” for NIPSCO (example:
- 5 length of the contract, how much capital investment is paid for by the customer
- 6 up front).

7 **Q. HOW FAR DID TAKANOCK GET IN THE FOUR-STEP DATA CENTER**
8 **APPLICATION PROCESS?**

9 A. NIPSCO and Takanock entered into a non-disclosure agreement so that the companies
10 could share confidential, competitively sensitive information about the data center project
11 and NIPSCO’s transmission and energy capacity availability. It took several weeks of
12 “back and forth” for Takanock to satisfy NIPSCO’s financial disclosure requirements to
13 be determined “worthy” of a transmission study.

14 **Q. WHAT DID TAKANOCK BELIEVE WOULD HAPPEN IN STEP 3 OF THE**
15 **APPLICATION PROCESS?**

16 A. Since Takanock had already been informed that NIPSCO was only interested in the 15-
17 mile dual-circuit 345-kv line transmission “solution” for the site, Takanock was concerned
18 about “jumping through more of NIPSCO’s hoops” just to receive the same answer as
19 before. However, we were assured that when we reached Step 3, NIPSCO’s transmission
20 engineering study would show *all* transmission options and that the 15-mile transmission
21 lines option was not meant intended to limit the scope or results of an engineering study.

1 Q. IS TAKANOCK'S EXPERIENCE WITH NIPSCO'S DATA CENTER
2 APPLICATION PROCESS CONSISTENT WITH THE DATA REQUEST
3 RESPONSES IN THIS PROCEEDING?

4 A. No. NIPSCO's CONFIDENTIAL Attachment C to its response to Citizens Action
5 Coalition Data Request #3-002 (see Confidential Attachment KD-1) includes [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] In fact, NIPSCO asked

19 Takanock if it would move its data center site closer to the Hiple Substation.

20 [REDACTED]

[REDACTED]

² Takanock reserves its right to challenge whether this slide deck truly qualifies as a confidential record under Indiana's Access to Public Records Act, given that it was apparently presented to, and discussed with, IURC Commissioners and staff.

1 [REDACTED] Takanock was not
2 offered a draft FSA, but instead was told that we would be required to pay for
3 NIPSCO to perform transmission studies.

4 [REDACTED]

5 [REDACTED]

6 **Q. HOW FAR DID TAKANOCK GET IN THE NIPSCO APPLICATION PROCESS?**

7 A. Takanock submitted application forms to NIPSCO in September 2024, and again when
8 NIPSCO changed to a new megaload application form in October 2024. Takanock
9 submitted that second form at NIPSCO's request on November 15, 2024. On November
10 22, 2024, NIPSCO notified Takanock that its application as "incomplete". After working
11 with NIPSCO on the application's alleged deficiencies, on December 18, 2024, Takanock
12 received a "credit review process notice" from NIPSCO which required us to prefund
13 transmission studies.

14 NIPSCO also indicated that "no end user is identified" on Takanock's application.
15 This suggested Project Beckham was somehow *required* to have an end-user, and that
16 without an end user the "value" of our project was being discounted by NIPSCO. This is
17 completely inconsistent with how large construction projects are often developed for
18 residential subdivisions (which do not yet have "owners" for the homes) and commercial
19 projects (which often don't have spaces leased when the facilities are built by the
20 developer). These developers bear the burden of the costs of the electric infrastructure.

21 Takanock is willing to take on those same financial burdens of development, *so*
22 *long as NIPSCO fairly explores all transmission options*. Therefore, on December 19,
23 2024, Takanock again asked NIPSCO if still considering studying *all transmission options*,

1 as it had previously indicated it would. On December 31, 2024, NIPSCO indicated that it
2 was only offering to study the 15-mile 345-kv dual transmission line option, and no other.
3 Thus, we are at an impasse.

4 **OTHER OPTIONS TAKANOCK PURSUED TO OBTAIN SERVICE**

5 **Q. WHAT OTHER OPTIONS DID TAKANOCK CONSIDER?**

6 A. We considered several other solutions. Takanock was interested in NIPSCO's Rate 531
7 tariff, which allows customers with load above 10MW to purchase energy and capacity in
8 the competitive power markets. NIPSCO explained that the Rate 531 only applies to
9 existing high-load industrial/manufacturing customers. NIPSCO did not seem interested in
10 creating a data center tariff, and mentioned the other applicants were working on special
11 contracts. I understand these special contracts are always confidential and not publicly
12 available, so Takanock has no means of determining whether it has been treated fairly by
13 what NIPSCO has offered, nor does it have means of knowing which projects have taken
14 up existing transmission capacity.

15 **Q. IN YOUR EXPERIENCE, HAVE OTHER STATES USED DATA CENTER**
16 **TARIFFS TO PROVIDE A TRANSPARENT AND FAIR OPTION FOR ALL DATA**
17 **CENTER PROJECTS TO OBTAIN POWER?**

18 A. Yes. While I understand that megaload customers are new to Indiana, they are not new in
19 other states. These states have found a way to regulate data center development fairly and
20 equitably, without harming other customers. In 2016, while serving as Microsoft's Director
21 of Renewable Energy Strategy and Research, I worked with Black Hills Energy ("Black

Hills”) on a (then) new tariff offering for data centers.³ The Public Service Commission of Wyoming (“PSCW”), approved Black Hills’ new Large Power Contract Service (LPCS) (PSCW Record Number 14242), which saved Black Hills money, saved the Black Hills’ customers on their electricity bills, and delivered the power Microsoft wanted at its data center in Cheyenne. Data center developers have historically built a megawatt of onsite backup generation for every megawatt of grid-supplied electricity consumed at their data centers. The new Black Hills tariff gave Microsoft access to Black Hill’s backup generation to meet Microsoft’s capacity needs, and allowed Black Hills to purchase power from the market on Microsoft’s behalf at a firm price to meet Microsoft’s energy needs. This could be a template for utility-customer partnerships in Indiana and other states.

Q. WHAT OTHER STATES HAVE APPROVED NEW REGULATORY SOLUTIONS FOR DATA CENTERS?

A. On January 23, 2025, the Georgia Public Service Commission (“GPSC”) unanimously approved a new rule in GPSC Docket #55378 addressing service to large-load customers, particularly data centers. Like Indiana, Georgia is a state with monopoly retail service territories. Under Georgia law, customers with connected loads of less than 900kW (about the size of a modern grocery store) must take electricity from the franchised supplier. However, if any customer with a load of *900kW or more* locates within the corridors of an electric supplier’s lines, *that customer may have a choice of suppliers*. Once a customer chooses a supplier, the large customer’s chosen electric supplier has the exclusive right to serve that customer for the life of the premises.⁴ Of course, a similar

³ <https://www.utilitydive.com/news/how-microsoft-and-a-wyoming-utility-designed-a-data-center-tariff-that-work/430807/>

⁴ O.C.G.A. § 46-3-1, Allocation of Territorial Rights to Electric Suppliers.

1 change in Indiana would require a legislative change to the Electric Service Territory Act
2 (Ind. Code ch. 8-1-2.3). However, as has already been done with NIPSCO's Rate 531,
3 NIPSCO could use the Alternative Regulatory Act (Ind. Code ch. 8-1-2.5) to provide a
4 similar tariff option permitting data centers and megausers access to other energy suppliers.

5 **Q. ARE YOU RECOMMENDING THAT THE COMMISSION REQUIRE NIPSCO**
6 **TO OFFER THE PRECISE TERMS OF SERVICE THAT OTHER UTILITIES**
7 **HAVE PROVIDED TO THEIR DATA CENTER CUSTOMERS?**

8 A. No, I understand that this case is not about creating a new NIPSCO data center tariff.
9 However, I believe the Commission could send a very strong signal about its intention to
10 balance the interests of utilities, customers, and data centers by denying the relief that
11 NIPSCO GenCo seeks in this Cause. Instead of creating a deregulated generation affiliate,
12 I recommend that NIPSCO offer a tariff for customers with defined eligibility
13 characteristics that includes a threshold of proposed power usage and significant
14 investment, and/or new job creation. The tariff offering would allow qualified customers
15 to access energy from any applicable market (including MISO and PJM) when NIPSCO is
16 unable or unwilling to supply the energy needed to serve the customer. The offering should
17 allow, but not require, the customer to be supplied using renewable energy and use a
18 construct that allows NIPSCO to recover its reasonable costs without burdening other
19 ratepayers for the costs of the arrangement.

20 **Q. WHY SHOULD THE COMMISSION CONSIDER REQUIRING NIPSCO TO**
21 **ALLOW MARKET ACCESS TO CUSTOMERS AND EXPEDITE**
22 **TRANSMISSION AND DISTRIBUTION IMPROVEMENT PROJECTS?**

1 A. Without Commission intervention, only modest load growth will occur in Indiana, as these
2 megaload projects will simply move on to other states. Large-scale economic development
3 projects such as data centers will be impossible due, in part, to NIPSCO's inadequate
4 transmission and distribution systems and generation. Indeed, I understand that in the
5 vicinity of Takanock's Project Beckham development a local municipality and prospective
6 industrial customers have been unable to obtain new load of 5 MW or less—much less than
7 that required by a modern data center—due to NIPSCO's unwillingness or inability to serve
8 this part of its monopoly service territory. If NIPSCO makes investments to improve its
9 transmission and distribution systems, it can quickly recover those investments through the
10 Transmission, Distribution, System Improvement Charge ("TDSIC") rider process. Given
11 this recovery mechanism, there is no excuse for NIPSCO to ignore its obligation to serve
12 new load.

13 **Q. WHY SHOULD NIPSCO MAKE MARKET ACCESS ARRANGEMENTS MORE**
14 **GENERALLY AVAILABLE TO MEGALOAD CUSTOMERS?**

15 A. First, it is most appropriate for NIPSCO to amend its tariff to allow the Commission and
16 other interested parties should consider what, if any, rate impacts will result from such a
17 tariff offering. Unlike a tariff offering, the proposed NIPSCO GenCo structure is a "black
18 box," and the rate impacts of that structure will not be known until perhaps it is too late.
19 Second, under a special contract structure, NIPSCO enjoys wide discretion to pick winners
20 and losers among those who apply for data center service. Third, unlike the publicly
21 available information tariffs that are open to all prospective (and eligible) customers, the
22 details of the special contracts are not publicly available. So, a general tariff offering that
23 allows a defined class of customers to access the energy market like Rate 531 puts all large

1 scale customers on more equal footing and creates public awareness of the market access
2 option. Ultimately, this tariff offering will create a tool that could help remedy the energy
3 crisis that utilities have created in Indiana.

4
5 **CONCLUSION**

6 **Q. WHAT DO YOU RECOMMEND?**

7 A. I recommend that the Commission:

- 8 1. Deny NIPSCO GenCo's request for declination of IURC jurisdiction.
9 2. Indicate that NIPSCO should instead file a general tariff offering with the Commission
10 for approval that allows a defined class of customers to access the energy market like
11 NIPSCO's existing Rate 531, and the flexible regulatory solutions I described in
12 Wyoming and Georgia that allow data centers and megausers access to other energy
13 suppliers.

14 **Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

15 A. Yes.

VERIFICATION

I, Kenneth Davies, affirm under penalties for perjury that the foregoing representations are true and correct to the best of my knowledge, information, and belief as of the date filed herein.

Date: April 1, 2025

Kenneth Davies

KENNETH DAVIES

4973328.1

REDACTED PENDING IURC CONFIDENTIALITY RULING

CONFIDENTIAL ATTACHMENT KD-1

[NIPSCO GenCo's Response to CAC Request 3-002, Confidential Attachment C]

Cause No. 46183