

STATE OF INDIANA
INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE)
COMPANY LLC PURSUANT TO IND. CODE §§ 8-1-2-42.7,)
8-1-2-61, AND, 8-1-2.5-6 FOR (1) AUTHORITY TO MODIFY)
ITS RETAIL RATES AND CHARGES FOR ELECTRIC)
UTILITY SERVICE THROUGH A PHASE IN OF RATES;)
(2) APPROVAL OF NEW SCHEDULES OF RATES AND)
CHARGES, GENERAL RULES AND REGULATIONS, AND)
RIDERS (BOTH EXISTING AND NEW); (3) APPROVAL)
OF A NEW RIDER FOR VARIABLE NONLABOR O&M)
EXPENSES ASSOCIATED WITH COALFIRED)
GENERATION; (4) MODIFICATION OF THE FUEL COST)
ADJUSTMENT TO PASS BACK 100% OF OFF-SYSTEM)
SALES REVENUES NET OF EXPENSES; (5) APPROVAL)
OF REVISED COMMON AND ELECTRIC)
DEPRECIATION RATES APPLICABLE TO ITS)
ELECTRIC PLANT IN SERVICE; (6) APPROVAL OF)
NECESSARY AND APPROPRIATE ACCOUNTING)
RELIEF, INCLUDING BUT NOT LIMITED TO)
APPROVAL OF (A) CERTAIN DEFERRAL MECHANISMS)
FOR PENSION AND OTHER POSTRETIREMENT)
BENEFITS EXPENSES; (B) APPROVAL OF)
REGULATORY ACCOUNTING FOR ACTUAL COSTS OF)
REMOVAL ASSOCIATED WITH COAL UNITS)
FOLLOWING THE RETIREMENT OF MICHIGAN CITY)
UNIT 12, AND (C) A MODIFICATION OF JOINT)
VENTURE ACCOUNTING AUTHORITY TO COMBINE)
RESERVE ACCOUNTS FOR PURPOSES OF PASSING)
BACK JOINT VENTURE CASH, (7) APPROVAL OF)
ALTERNATIVE REGULATORY PLANS FOR THE (A))
MODIFICATION OF ITS INDUSTRIAL SERVICE)
STRUCTURE, AND (B) IMPLEMENTATION OF A LOW)
INCOME PROGRAM; AND (8) REVIEW AND)
DETERMINATION OF NIPSCO'S EARNINGS BANK FOR)
PURPOSES OF IND. CODE § 8-1-2-42.3.)

CAUSE NO. 45772

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PUBLIC'S EXHIBIT NO. 8

TESTIMONY OF WITNESS BRIAN LATHAM

JANUARY 20, 2023

Respectfully submitted,

A rectangular box containing a handwritten signature in black ink. The signature appears to be 'K. Earls' written in a cursive style.

Kelly Earls, Attorney No. 29653-49
Deputy Consumer Counselor
OFFICE OF UTILITY CONSUMER COUNSELOR
115 W. Washington St. Suite 1500 South
Indianapolis, IN 46204
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infomgt@oucc.in.gov

**TESTIMONY OF OUCC WITNESS BRIAN R. LATHAM
CAUSE NO. 45772
NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC**

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is Brian R. Latham, and my business address is 115 West Washington
3 Street, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed as a Utility Analyst in the Indiana Office of Utility Consumer
6 Counselor's ("OUCC") Electric Division. A summary of my educational
7 background and experience is included in Appendix A attached to my testimony.

8 **Q: What is the purpose of your testimony?**

9 A: **The purpose of my testimony is to present the OUCC's position on Northern
10 Indiana Public Service Company LLC's ("NIPSCO" or "Petitioner")
11 proposed variable cost tracker, and its proposed Pension and Postretirement
12 Benefits Other than Pensions ("OPEB") balancing account. Q: Please
13 describe the review and analysis you conducted in order to prepare your
14 testimony.**

15 A: I reviewed Petitioner's testimony, schedules, and workpapers. I reviewed the final
16 order from NIPSCO's last rate case (Cause No. 45159). I prepared discovery
17 questions and reviewed Petitioner's responses.

**II. VARIABLE COST & PENSION/POSTRETIRMENT BENEFITS OTHER
THAN PENSIONS TRACKERS**

18 **Q: Do you support Petitioner's proposed Variable Cost Tracker or
19 Pension/Postretirement Benefit Tracker?**

20 A: No.

A. Variable Cost Tracker

1 **Q: What is Petitioner requesting as it pertains to its variable cost tracker?**

2 A: Petitioner is requesting a "Variable Cost Tracker," that is more appropriately
 3 described as a "Plant Retirement Variable Cost Tracker," ("PRVCT") as the only
 4 variable costs included are those related to plant retirements. In short, Petitioner
 5 is proposing to remove six categories of O&M expenses related to its retirement
 6 of its coal-fired generation facilities from base rates to be trued up after the actual
 7 costs are incurred. These true ups increase NIPSCO's requested rate increase from
 8 19 percent to 25.7 percent (see Table 1 below) or by an additional \$101,675,971
 9 (Blissmer direct page 35, lines 13 and 14).

Table 1

<u>Line</u>		
1	Operating revenues subject to increase at present rates ¹	\$ 1,528,339,678
2	Proposed gross revenue increase required ²	291,780,191
3	Proposed percentage increase over revenues subject to increase at present rates: (Line 2/Line 1)	<u>19.09%</u>
4	PRVCT estimated costs ³	\$ 101,675,971
5	Increase rejecting PRVCT (Line 2+Line 4)	393,456,162
6	Recommended percentage increase over revenues subject to increase at present rates: (Line 5/Line 1)	<u>25.7%</u>

¹(Petition, Attachment A, Sch 1, Line 8)

²(Petition Attachment A Sch 1, Line 7)

³(Blissmer page 35)

10

11 The coal-fired generation facilities variable costs which Petitioner proposes to
 12 track are for Shahfer Units 17 and 18, and Michigan City Unit 12. The Shahfer

1 units' scheduled retirement date is the end of 2025, and Michigan City Unit 12 is
2 scheduled for retirement in 2028.

3 NIPSCO is "limiting" its proposed recovery to the following six expense
4 line items: (1) generation maintenance activity (\$34M); (2) planned
5 outages(\$12M); (3) forced outages (\$5M); (4) variable chemicals (\$21M); (5) non-
6 trackable fuel handling (\$20M); and (6) nitrogen oxide emissions allowances
7 (\$10M) (Blissmer pages 34-35).

8 **Q: Is Petitioner's PRVCT request in its ratepayers' best interests?**

9 A: No. Petitioner is essentially requesting that its customers bear the risk for cost
10 variances associated with its proposed plant retirement. The increased cost risk
11 outweighs the potential for cost decreases. NIPSCO is not incentivized to engage
12 in activities that may lower O&M costs if the Company can simply recover these
13 costs through a tracker.

14 **Q: Would the PRVCT alter the timing of retirements?**

15 A: Potentially. The urgency to retire the coal-fired generation facilities is diminished
16 if the utility has guaranteed cost recovery. By not allowing the PRVCT, Petitioner
17 is incentivized to move forward with expediting the coal-fired generation facility
18 retirement as the associated costs will be recovered in rates. After the project is
19 complete, the costs will be included in rates and increase its net income
20 Petitioner's increased net income will benefit ratepayers by potentially delaying
21 Petitioner's next rate case and expediting its planned transition to cleaner energy.

1 **Q: Has the Indiana Commission ever opined on a similar issue in a previous rate**
2 **case?**

3 A: Yes. In Cause Number 43839 Vectren Energy Delivery of Indiana, Inc., (“Vectren”)
4 requested to track the differences between its actual Variable Production Costs
5 (“VPC”) and its incurred VPCs associated with the operation of its generating units.
6 In its April 27, 2011, order (pages 94-95), the commission stated:

7 “Revenue or cost trackers tend to make utilities less accountable for
8 their actions because they are less incented to streamline costs or
9 operations. We are also concerned that the proliferation of trackers
10 in the electric industry may result in utilities unreasonably extending
11 the time between rate cases. If they can recover the majority of their
12 variable costs through trackers, they have no incentive to come
13 before the Commission and account for other, non-tracked,
14 decreasing costs or increasing revenues.”

15 **Q: If approved, should the proposed PRVCT’s lower risk affect NIPSCO’s rate**
16 **of return?**

17 A: Yes. Risk is a major factor in determining investors’ required rate return as risk
18 and rate of return are directly correlated.

19 **Q: Should Petitioner reduce its proposed rate of return to reflect its decrease in**
20 **risk, and if so, has it reduced its rate of return?**

21 A: It would be expected that if Petitioner wants to lessen its business risk by passing
22 its risks to its customers, it should reflect a decrease in its proposed rate of return.
23 There is no evidence that Petitioner has reduced its rate of return to reflect its risk
24 decrease.

25 **Q: Do you have any recommendations with regards to Petitioner’s proposed**
26 **PRVCT?**

27 A: I recommend that the Commission reject Petitioner’s proposed PRVCT.

B. Pensions and Postretirement Benefits Other than Pensions

1 **Q: What is Petitioner requesting with regards to its Pension and Postretirement**
2 **Benefits Other than Pensions (“OPEB”) expenses?**

3 A: Petitioner is requesting to defer under- or over-recovery of its Pension and OPEB
4 expenses as a regulatory asset or liability for future recovery or pass-back to
5 customers. Petitioner is requesting recovery of \$4,202,213 and \$6,294,368, for
6 pensions and OPEB respectively.

7 **Q: Do you have any timing concerns related to Petitioner’s proposed deferral**
8 **mechanism for Pensions and OPEB?**

9 A: Petitioner’s request is occurring in the midst of a struggling stock market¹ and a
10 bearish bond market². These markets result in increased customer pension and
11 OPEB liabilities. One concern is that we could not go back (due to retroactive
12 ratemaking rules) to previous periods when both the stock and bond markets were
13 strong and Petitioner may have been over-collecting. While no one knows the
14 future direction of these markets it is concerning that this request is occurring in
15 these financially uncertain times. It appears that NIPSCO is seeking to capitalize
16 on that fact to the detriment of its ratepayers. Petitioner’s last base rate case was
17 adjudicated four years ago, and it did not request a pension/OPEB deferral
18 mechanism at that time, when such a request may have benefited ratepayers.

¹ Per Yahoo Finance the S&P 500 was down 18.2% (4,766.18 on January 1, 2022, 3,898.89 on September 19, 2022) from beginning of the year to filing date (please see Attachment BRL-1).

² Per Macrotrends.net, the ten-year treasury yield was 1.47% on September 20, 2021, 1.63% on January 3, 2022, and 3.49% on September 19, 2022 (please see Attachment BRL-2).

1 Q: **Do you have any concerns regarding plan funding?**

2 A: Yes. A major concern is that revenues collected from ratepayers to fund these plans
3 are not necessarily used to fund the plan. If federal rules limit the funding in one
4 year to less than the expense recovered by the utility, the over collected expenses
5 will end up in the utility's coffers. If, several years later there is a financial crash,
6 the pension and OPEB expenses will increase, but any previous years' over-
7 collected cash intended to fund the plans would not offset the previous years over
8 collections.

9 Q: **Do you have any further concerns?**

10 A: A final concern is the inherent risk that ratepayers would bear with the funding of
11 Pension/OPEB accounts. If Petitioner wants to pass its business risk down to its
12 ratepayers, it should reflect the risk decrease with a decrease in its requested rate
13 of return. There is no evidence that Petitioner has proposed to reduce its rate of
14 return to reflect any risk decrease associated with this proposal.

15 Q: **Has Indiana's Commission opined on this issue in a previous rate case?**

16 A: Yes, in Indiana American, Cause Number 43680 (order dated April 30, 2010,
17 pages 111-112), the Commission denied Indiana American's request stating that:

18 "If the Commission were to grant Petitioner's request, the
19 ratepayers, not Petitioner, would bear the risk inherently involved
20 with the funding of Pension/OPEB accounts, such as market
21 fluctuations, Company decisions, and funding requirements. Since
22 the ratepayers bear these risks, it is possible that decisions
23 concerning Pension/OPEB funding would not be carefully made."

1 And,

2 "Utilities that choose to properly diversify investments should not
3 need the creation of a Pension/OPEB balancing account, which
4 avoids inappropriately shifting the risk of investment decisions to
5 ratepayers."

6 **Q: Do you have any recommendations with regards to Petitioner's**
7 **proposed Pension/OPEB balancing account?**

8 A: To be consistent with its previous order, I recommend that the Commission reject
9 Petitioner's proposed Pension/OPEB balancing account.

III. OUCC RECOMMENDATIONS

10 **Q: Please summarize your recommendations to the Commission in this cause.**

11 A: Both Petitioner's proposed PRVCT and Pension/OPEB balancing accounts are
12 designed to shift risk from Petitioner to its ratepayers without a corresponding
13 reduction to Petitioner's requested return on equity. The Commission should
14 reject both of these requests.

15 **Q: Does this conclude your testimony?**

16 A: Yes.

APPENDIX A
QUALIFICATIONS OF BRIAN R. LATHAM

1 **Q: Please describe your educational background and experience.**

2 A: I graduated from Northern Illinois University in DeKalb, Illinois, with a bachelor's
3 degree in accounting. I then attended Illinois State University in Normal, Illinois,
4 and obtained a master's degree in accounting. In addition, I have participated in
5 various continuing education programs sponsored by my current and former
6 employers.

7 I began my employment in 1992 as a Staff Accountant with OSI Industries
8 (Aurora, 15 Illinois). In 1995, I was hired as a cost accountant at Rexnord in
9 Milwaukee, Wisconsin. In 1998, I was hired as a cost accounting manager at
10 Morton Metalcraft (Morton, Illinois) eventually promoted to a Controller role at
11 Illinois Machine and Tool Works. In 2001, was hired at Hamernik Associates,
12 where I was a work-out and bankruptcy consultant. I was an independent financial
13 recruiter in 2007 and 2008. In March 2008, I was hired as Vice President of
14 Finance for Junior Achievement of Central Indiana. In 2009, I was hired as a
15 Utility Analyst for the Indiana Utility Regulatory Commission ("Commission"),
16 where I worked as a member of the Water Division Staff, reviewing water and
17 wastewater utility filings and making recommendations based on witness
18 testimony and Indiana law. In 2018, I was hired as Controller for Aqua Indiana,
19 where I was responsible for Aqua Indiana's financial operations, and my roles
20 included the oversight and accountability of the monthly, quarterly, and annual
21 financial closings and reporting, SOX and audit compliance, budget, forecasting,

1 and five-year planning, regulatory petitions, acquisitions, and other strategic
2 projects. After a short stint as Controller at Senior Home Companions, I was hired
3 at the OUCC as a Utility Analyst in October 2022.

4 **Q: Have you previously testified before the Indiana Utility Regulatory**
5 **Commission?**

6 **A: I provided written testimony in Aqua Indiana's Cause No. 45675.**

S&P 500 (^GSPC)

SNP - SNP Real Time Price. Currency in USD

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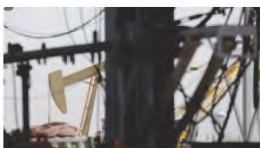
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S&P 500 (^GSPC)

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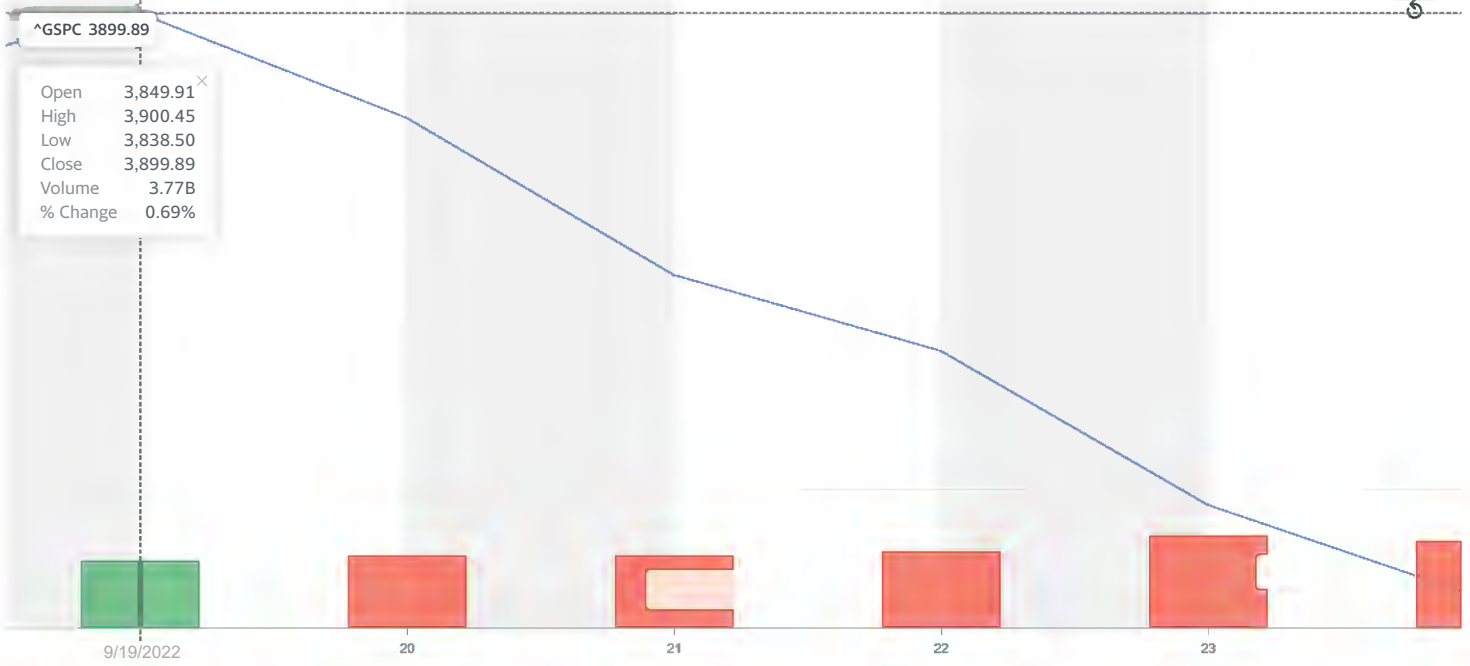
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3,912.77 +20.68 (+0.53%)

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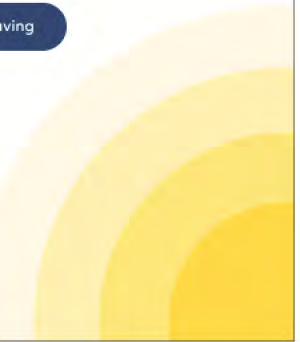
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Analyst Report: Five Below, Inc. Morningstar Research



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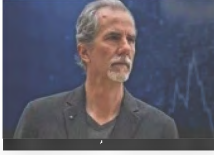
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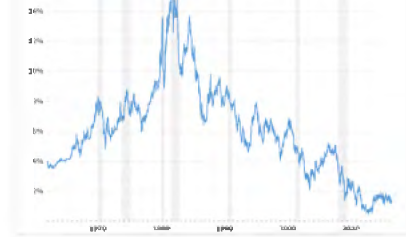
Year	Average Yield	Year Open	Year High	Year Low	Year Close	Annual % Change
2023	3.69%	3.79%	3.79%	3.55%	3.55%	-8.51%
2022	2.95%	1.63%	4.25%	1.63%	3.88%	155.26%
2021	1.45%	0.93%	1.74%	0.93%	1.52%	63.44%
2020	0.89%	1.88%	1.88%	0.52%	0.93%	-51.56%
2019	2.14%	2.66%	2.79%	1.47%	1.92%	-28.62%
2018	2.91%	2.46%	3.24%	2.44%	2.69%	11.83%
2017	2.33%	2.44%	2.63%	2.04%	2.41%	-1.59%
2016	1.84%	2.24%	2.60%	1.37%	2.44%	7.68%
2015	2.14%	2.12%	2.50%	1.68%	2.27%	4.61%

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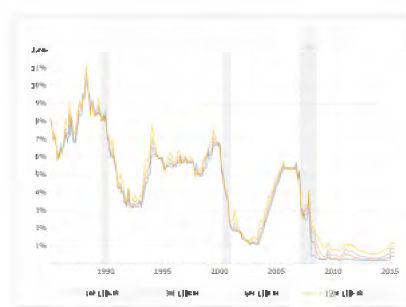
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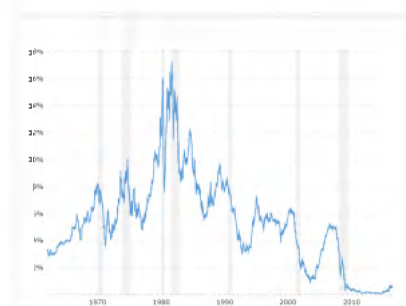
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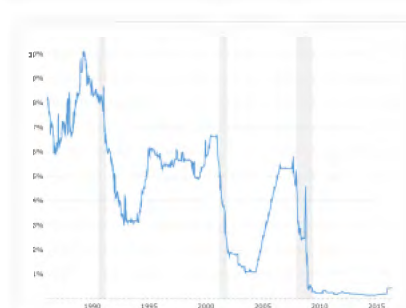
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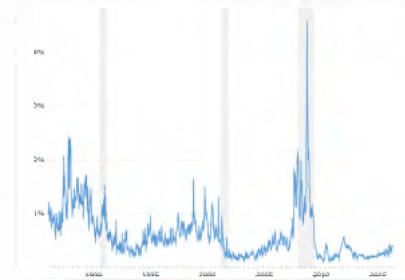
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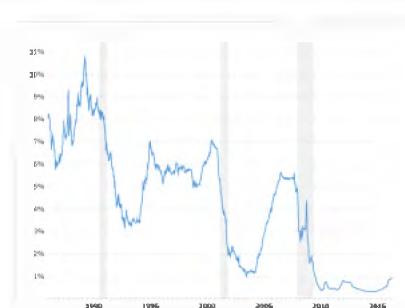
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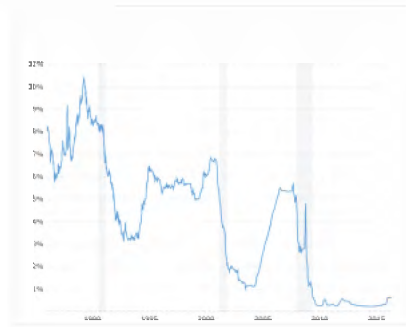
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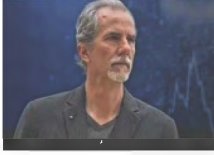
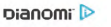
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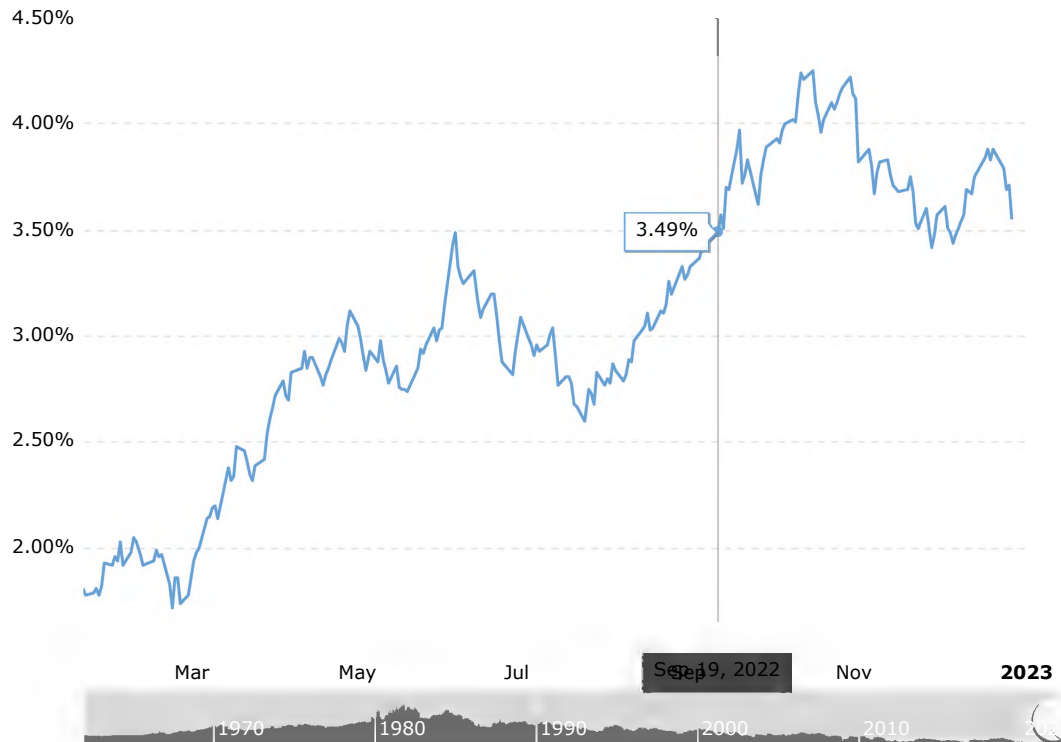
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Year	Average Yield	Year Open	Year High	Year Low	Year Close	Annual % Change
2023	3.69%	3.79%	3.79%	3.55%	3.55%	-8.51%
2022	2.95%	1.63%	4.25%	1.63%	3.88%	155.26%
2021	1.45%	0.93%	1.74%	0.93%	1.52%	63.44%
2020	0.89%	1.88%	1.88%	0.52%	0.93%	-51.56%
2019	2.14%	2.66%	2.79%	1.47%	1.92%	-28.62%
2018	2.91%	2.46%	3.24%	2.44%	2.69%	11.83%
2017	2.33%	2.44%	2.63%	2.04%	2.41%	-1.59%
2016	1.84%	2.24%	2.60%	1.37%	2.44%	7.68%
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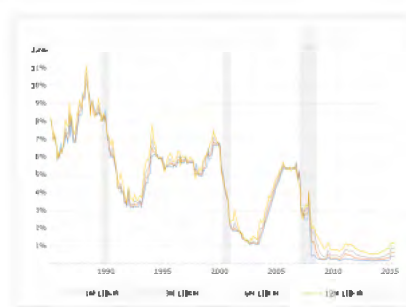
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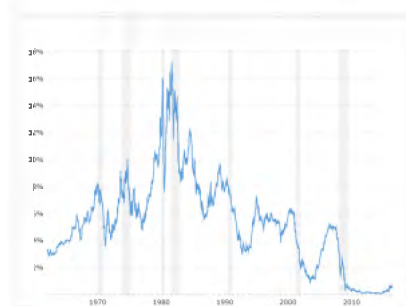
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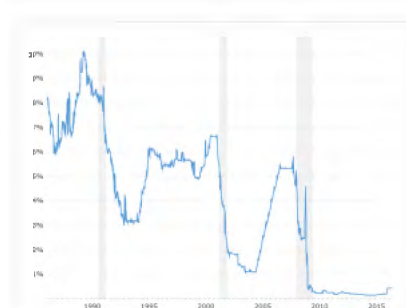
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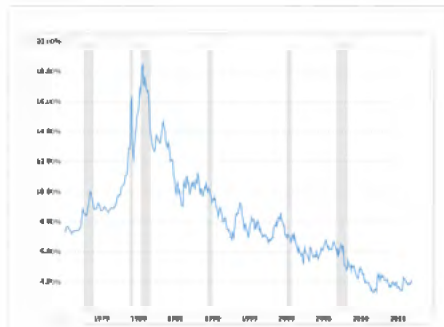
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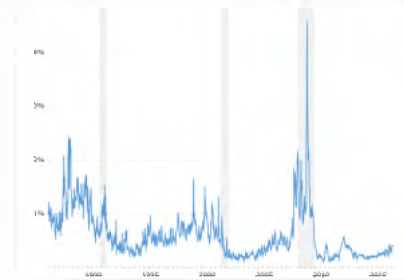
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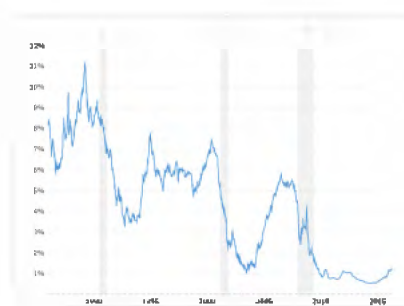
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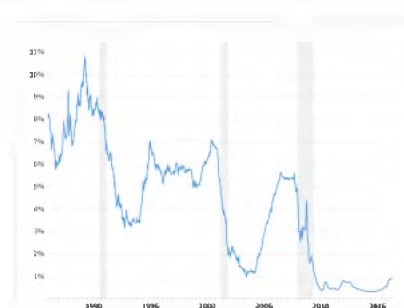
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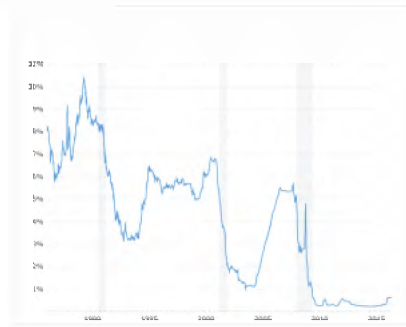
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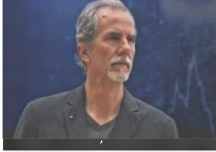
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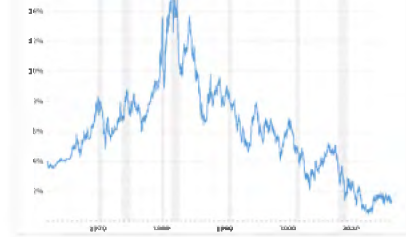
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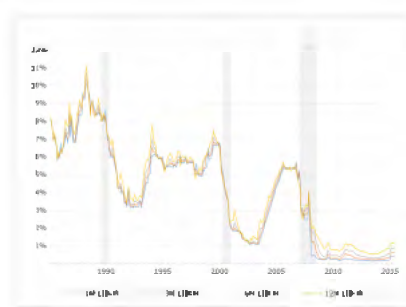
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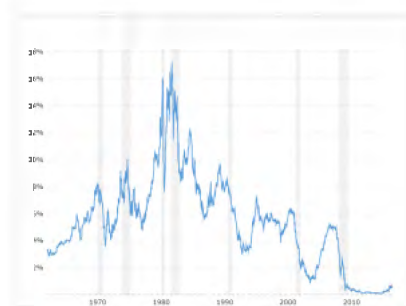
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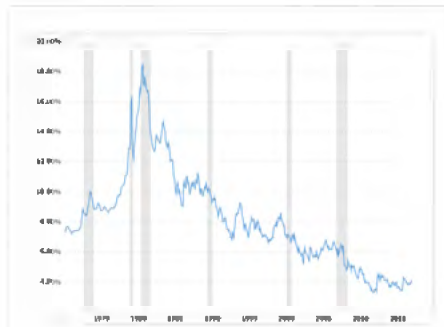
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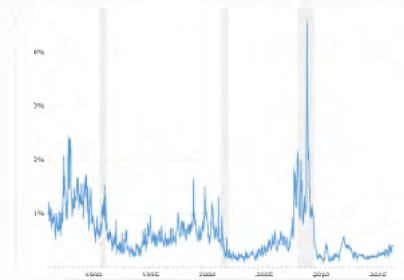
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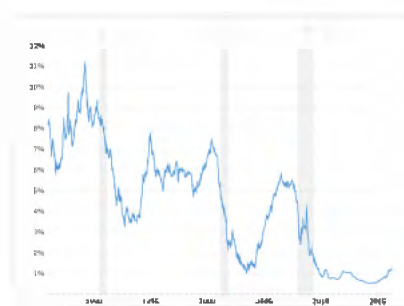
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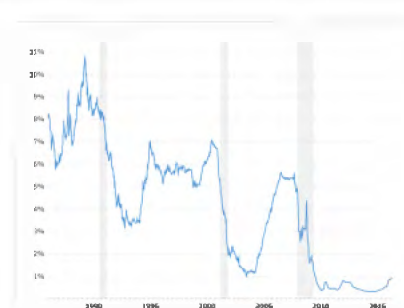
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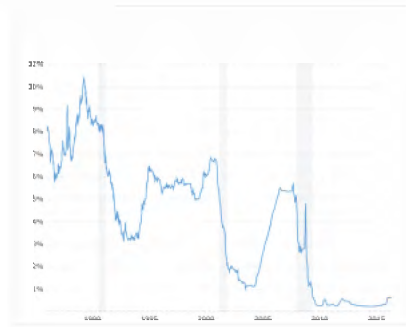
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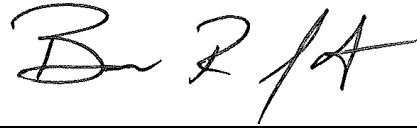
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AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

A handwritten signature in black ink, appearing to read "B R Latham". The signature is written in a cursive style with a horizontal line extending from the end of the name.

Brian R. Latham
Utility Analyst
Indiana Office of Utility Consumer Counsel

Cause No. 45772
NIPSCO

Date 1/20/2023

Certificate of Service

This is to certify that a copy of the Indiana Office of Utility Consumer Counselor's Testimony Filing has been served upon the following parties of record in the captioned proceeding by electronic service on January 20, 2023.

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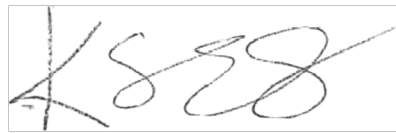
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