

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY LLC PURSUANT TO IND. )  
CODE §§ 8-1-2-42, 8-1-2-42.7 AND 8-1-2-61 FOR (1) )  
AUTHORITY TO MODIFY ITS RETAIL RATES )  
AND CHARGES FOR GAS 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 SALES )  
RECONCILIATION ADJUSTMENT MECHANISM; )  
(4) APPROVAL OF REVISED GAS )  
DEPRECIATION RATES APPLICABLE TO ITS )  
GAS PLANT IN SERVICE; (5) APPROVAL OF )  
NECESSARY AND APPROPRIATE ACCOUNTING )  
RELIEF, INCLUDING BUT NOT LIMITED TO )  
APPROVAL OF CERTAIN DEFERRAL )  
MECHANISMS FOR PENSION, OTHER POST- )  
RETIREMENT BENEFITS, AND LINE LOCATE )  
EXPENSES; AND (6) TO THE EXTENT )  
NECESSARY, APPROVAL OF ANY OF THE )  
RELIEF REQUESTED HEREIN PURSUANT TO )  
IND. CODE CH. 8-1-2.5.**

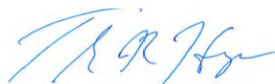
**CAUSE NO. 45967**

**INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR'S**

**PUBLIC'S EXHIBIT NO. 2 – TESTIMONY OF OUCC WITNESS  
HEATHER R. POOLE**

**January 31, 2024**

Respectfully submitted,



\_\_\_\_\_  
Thomas R. Harper  
Attorney No 16735-53  
Deputy Consumer Counselor

**NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC  
CAUSE NO. 45967  
TESTIMONY OF OUCC WITNESS HEATHER R. POOLE**

**I. INTRODUCTION**

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

2 A: My name is Heather R. Poole, and my business address is 115 W. 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 by the Indiana Office of Utility Consumer Counselor ("OUCC") as  
6 the Director of the Natural Gas Division. I have worked as a member of the OUCC's  
7 Natural Gas Division since December 2010. For a summary of my educational and  
8 professional experience, as well as my preparation for this case, please see the  
9 Appendix attached to my testimony.

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

11 A: The purpose of my testimony is to explain why Northern Indiana Public Service  
12 Company LLC's ("NIPSCO" or "Petitioner") requested deferred accounting  
13 authority for Pension and Other Post Employment Benefit ("OPEB") Expenses, as  
14 well as Line Locates Expense, should be denied.

15 **Q: Are you sponsoring any attachments in this proceeding?**

16 A: Yes. I am sponsoring Attachment HRP-1 related to NIPSCO's proposed deferred  
17 accounting authority for Pension and OPEB expenses.

1 **Q: To the extent you do not address a specific issue, item, or adjustment in this**  
2 **Cause, should that be construed to mean you agree with Petitioner's proposal?**

3 A: No. Not addressing a specific issue, item, or adjustment NIPSCO proposes does not  
4 indicate my agreement or approval. Rather, the scope of my testimony is limited to  
5 the specific items addressed herein.

**II. DEFERRED ACCOUNTING AUTHORITY FOR PENSION AND OPEB**  
**EXPENSES**

6 **Q: What is NIPSCO's proposal relating to deferred accounting authority for**  
7 **Pension and OPEB expenses?**

8 A: NIPSCO witness Richard Weatherford discusses Petitioner's proposal as:

9 NIPSCO is requesting to defer under- or over-recovery in  
10 Pension/OPEB expenses as a regulatory asset or liability for future  
11 recovery or pass-back to customers. ... The resulting regulatory  
12 asset or liability would be considered in NIPSCO's next base rate  
13 case. At that time, the amounts deferred would then be amortized  
14 and recovered from, or passed back to, ratepayers over the period of  
15 months between the date the order is issued in this proceeding and  
16 the date the order is issued in that proceeding.

17 (Petitioner's Exhibit No. 3, page 80, line 16 to page 81, line 6.)

18 **Q: What annual amount of Pension and OPEB expense does NIPSCO include for**  
19 **recovery from its customers in this base rate case?**

20 A: NIPSCO has included an annual amount of \$3,829,030 for pension expense and  
21 \$3,755,233 for OPEB expense in this case. (Petitioner's Exhibit No. 3, page 80,  
22 lines 18-19.)

23 **Q: How are pension plans and OPEB plans funded?**

24 A: Pension plans and OPEB plans are ultimately funded by ratepayers but the  
25 employer contributes to a pool of funds set aside for a worker's future benefit. The  
26 employer is liable for pension payments and OPEB payments to the retiree in a  
27 dollar amount typically determined by a formula based on earnings and years of

1 service. All risk is placed on the employer to guarantee and manage the funds.  
2 Employers have control over the investments within the pension and OPEB funds,  
3 and therefore have a say in how the funds within the plans are invested in various  
4 bonds, stocks, etc. If the fair value of the plan's assets is less than the projected  
5 benefit obligation, the funded status will be listed as "underfunded." The same is  
6 true in the opposite – if the fair value of the plan's assets are more than the projected  
7 benefit obligation, the funded status will be listed as "overfunded."

8 In addition to the employer's control over which investments to include, the  
9 employer controls the timing of such investments, and controls the selection of any  
10 fiduciaries or actuarial professionals.

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

12 A: Yes. Revenues collected from NIPSCO's customers to fund these plans are not  
13 necessarily required to be used to fund the plan. If federal rules limit the funding in  
14 one year to less than the expense recovered by the utility, the over-collected  
15 expenses will end up as pure profit to NIPSCO. If a market downturn occurs several  
16 years later, the pension and OPEB expenses will increase, but any previous year's  
17 over-collected cash intended to fund the plan would not offset the previous year's  
18 over-collections.

19 **Q: Do you have further concerns?**

20 A: Yes. Another concern is the inherent risk that customers bear with the funding of  
21 the Pension/OPEB accounts. Petitioner can invest its pension and OPEB funds in  
22 any manner it chooses. NIPSCO's customers have no say in how those funds are  
23 invested. If Petitioner wants to pass its business risk to its customers, it should

1 reflect the risk decrease with a decrease in its requested rate of return. There is no  
2 evidence that Petitioner has proposed to reduce its rate of return to reflect any risk  
3 decrease associated with this proposal.

4 In addition, if NIPSCO's customers are required to bear the risks of  
5 NIPSCO's or NiSource's decisions and selection of fiduciaries and actuarial  
6 professionals, NIPSCO's or NiSource's prudence is dis-incented, and NIPSCO or  
7 NiSource is dis-incented from seeking recovery in the event of any breach of  
8 fiduciary duty or errors and omissions in the provision of such fiduciary or actuarial  
9 services. With respect to NiSource's decisions and attendant risk, there is the  
10 additional concern that NiSource is not directly subject to the Indiana Utility  
11 Regulatory Commission's ("IURC" or "Commission") jurisdiction.

12 **Q: Do other utilities utilize deferred accounting treatment for Pension and OPEB**  
13 **expenses?**

14 A: Petitioner's witness Weatherford indicates the Public Utilities Commission of Ohio  
15 ("PUCO") has granted this relief to Columbia Gas of Ohio. (Petitioner's Exhibit  
16 No. 3, page 81, line 8-9.) In this cited 2009 proceeding, the PUCO noted market  
17 events that contributed to the extraordinary change in pension and OPEB costs  
18 occurred from 2008 to 2009, and noted the application seeking authority for deferral  
19 was for booking purposes only, and did not address or affect ratemaking treatment  
20 of the deferrals. *In Re Columbia Gas of Ohio*, Case No. 09-371-GA-AAM, 2009  
21 WL 2138506 (Ohio Pub. Util. Comm'n Jul. 8, 2009).

1 **Q: Do you know of any Indiana utilities that have received approval to implement**  
2 **deferred accounting authority for Pension/OPEB expenses?**

3 A: No. In response to an OUCC Data Request ("DR"), NIPSCO indicated it is not  
4 aware of any instances where the Commission has granted a proposed balancing  
5 account for pension and OPEB expenses like the request NIPSCO is making in this  
6 proceeding. (Attachment HRP-1, NIPSCO's Response to OUCC DR 12-003.)

7 **Q: Has the Commission ruled on this issue in a previous rate case?**

8 A: Yes. In Indiana American Water Co., Cause No. 43680, the Commission denied  
9 Indiana American's request, stating:

10 Factors such as stock market fluctuations, pension asset allocation  
11 decisions of the Company, or ERISA funding requirements for rate  
12 determination purposes can affect Pension/OPEB costs. If the  
13 Commission were to grant Petitioner's request, the ratepayers, not  
14 Petitioner, would bear the risk inherently involved with the funding  
15 of Pension/OPEB accounts, such as market fluctuations, Company  
16 decisions, and funding requirements. Since the ratepayers bear these  
17 risks, it is possible that decisions concerning Pension/OPEB funding  
18 would not be carefully made.

19 Prudent management of pension and OPEB funds is American  
20 Water's responsibility, and prudent investment decisions are a part  
21 of that responsibility. When deciding how to invest pension and  
22 OPEB funds, a utility may choose to invest aggressively or  
23 conservatively. Utilities that choose to properly diversify  
24 investments should not need the creation of a Pension/OPEB  
25 balancing account, which avoids inappropriately shifting the risk of  
26 investment decisions to ratepayers.

27 *In re Ind.-Amer. Water Co., Inc.*, Cause No. 43680, Final Order, p. 111 (Ind.  
28 Util. Regul. Comm'n Apr. 30, 2010).

29 **Q: What is your recommendation regarding Petitioner's proposed deferred**  
30 **accounting authority for Pension/OPEB expenses?**

31 A: For the reasons addressed above, and to be consistent with its previous order, I  
32 recommend the Commission reject Petitioner's proposed deferred accounting  
33 authority for Pension/OPEB expenses. This deferred accounting authority is

1 designed to shift risk from Petitioner to its customers without a corresponding  
2 reduction to Petitioner's requested return on equity. It is unreasonable and not in  
3 the public interest to require customers to bear this risk. In addition, NIPSCO failed  
4 to adequately explain how the creation of deferred accounting authority for  
5 Pension/OPEB accounts would benefit the provision and distribution of natural gas  
6 to its customers.

**III. DEFERRED ACCOUNTING AUTHORITY FOR LINE LOCATES  
EXPENSE**

7 **Q: What is NIPSCO's proposal relating to deferred accounting authority for Line**  
8 **Locates expense?**

9 A: Witness Weatherford discusses NIPSCO's proposal as its request:

10 to defer under- or over-recovery in Line Locates expense as a  
11 regulatory asset or liability for future recovery or pass-back to  
12 customers. ... The resulting regulatory asset or liability would be  
13 considered in NIPSCO's next base rate case. At that time, the  
14 amounts deferred would then be amortized and recovered from, or  
15 passed back to, ratepayers over the period of months between the  
16 date the order is issued in this proceeding and the date the order is  
17 issued in that proceeding.

18 (Petitioner's Exhibit No. 3, page 82, line 14 to page 83, line 3.)

19 Additionally:

20 Line locate expense is driven by the number of line locate requests.  
21 Locating utility facilities pursuant to the Call-Before-You-Dig  
22 program is an important public safety concern, and the Company  
23 should be permitted to recover its actual costs incurred in doing so.  
24 ... In this way, despite the fluctuations, the amount that NIPSCO  
25 ultimately recovers should be no more and no less than the actual  
26 cost.

27 (Petitioner's Exhibit No. 3, page 83, lines 10-18.)

1 **Q: What annual amount of Line Locates expense does NIPSCO seek to recover**  
2 **from customers in this base rate case?**

3 A: NIPSCO has included an annual amount of \$25,702,643 for line locates expense in  
4 this case. (Petitioner's Exhibit No. 3, page 82, lines 16-17.)

5 **Q: What does NIPSCO state as the reason it needs deferred accounting authority**  
6 **for Line Locates expense?**

7 A: NIPSCO witness Rick Smith states "[t]here are two primary components to  
8 underground facility locate expenses: (1) volume of underground facility locate  
9 requests and (2) the per ticket expense to locate the underground facilities."  
10 (Petitioner's Exhibit No. 9, page 17, line 16 to page 18, line 1.) He also stated that  
11 "NIPSCO has no control over inflation, producer price index of materials, project  
12 approvals at the state/federal level, and the public awareness of the Indiana Dig  
13 Law." (Petitioner's Exhibit No. 9, page 20, lines 1-3.)

14 NIPSCO has taken several steps to improve its accuracy and  
15 timeliness of underground locates. As noted above, NIPSCO's  
16 locate contractor(s) is required to complete an audit of 10% of the  
17 locate tickets to reduce operator at-fault damages.... Other increases  
18 result from improvement of documentation relating to the status of  
19 the ticket to comply with new reporting requirements, submission of  
20 enhanced positive response to excavators, increased wages for cost  
21 of living adjustments, upgraded locate equipment to recognize  
22 subsurface marker ball technology, and implementation of higher  
23 standards of accuracy in the field.

24 (Petitioner's Exhibit No. 9, page 20, line 6 to page 21, line 1.)

25 **Q: Does NIPSCO incur other types of expenses that increase in volume over time?**

26 A: Yes. As more employees are added, payroll expense, as well as all benefits, will  
27 increase. As more leaks are detected on NIPSCO's system, the leak remediation



1 expense will increase. As more pipelines are added to NIPSCO's system for rural  
2 extension expansions, the amount of maintenance on the system will increase.

3 **Q: Does NIPSCO incur other types of expenses that are subject to inflation over**  
4 **time?**

5 A: Yes. Other types of operation and maintenance expenses, such as payroll expense,  
6 gas operations expense, insurance expense, etc. all are subject to inflation.

7 **Q: What is your concern with creating deferred accounting authority for line**  
8 **locates expense?**

9 A: NIPSCO has tried to justify its request by stating this expense is different from  
10 other types of expenses. However, as noted above, other types of expenses have the  
11 same risk as line locates expense and are not tracked for future recovery or return  
12 to customers. This is also different than a commodity expense over which a utility  
13 would have no control (such as a chemical expense needed by a water utility).  
14 Approving deferred accounting authority on this type of expense is a slippery slope  
15 and could lead to deferred accounting on any type of O&M expense.

16 **Q: Do you have further concerns?**

17 A: Yes. Another issue is the inherent risk customers bear with the funding of the Line  
18 Locates expense. If this expense is tracked and recovered 100% from customers,  
19 NIPSCO has no incentive to control its costs. If NIPSCO wants to pass its business  
20 risk on to its customers, it should reflect the risk reduction by lowering its requested  
21 rate of return. There is no evidence that Petitioner has proposed to reduce its rate of  
22 return to reflect any risk reduction associated with this proposal. As noted above, if  
23 the Commission were to grant Petitioner's request, NIPSCO's customers, not  
24 NIPSCO, would bear the risk inherently involved with the funding of Line Locates  
25 expense, such as market fluctuations (an increase or decrease in the volume of

1 tickets), company decisions (to increase the audit of locate tickets to reduce  
2 operator at-fault damages from 5% to 10%), and funding requirements (any  
3 increase in contractor costs). NIPSCO selects its contractor or contractors who  
4 perform the services. Passing the risks on to customers while retaining control of  
5 the decision making dis-incentivizes prudence and dis-incentivizes NIPSCO from pursuing  
6 third-party recovery in the event of negligent performance.

7 **Q: Do you know of any Indiana utilities that have received approval to implement**  
8 **deferred accounting authority for Line Locates expense?**

9 A: No.

10 **Q: What is your recommendation regarding Petitioner's proposed deferred**  
11 **accounting authority for Line Locates expenses?**

12 A: I recommend the Commission reject Petitioner's proposed deferred accounting  
13 authority for Line Locates expense. This deferred accounting authority is designed  
14 to shift risk from Petitioner to its customers without a corresponding reduction to  
15 Petitioner's requested return on equity.

#### IV. RECOMMENDATIONS

16 **Q: What are your recommendations?**

17 A: I recommend the Commission deny NIPSCO's proposed deferred accounting  
18 authority for both Pension/OPEB expenses and Line Locates expense.

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

20 A: Yes.

**APPENDIX TO TESTIMONY OF**  
**OUCC WITNESS HEATHER R. POOLE**

1 **Q: Describe your educational background and experience.**

2 A: I graduated from the School of Business at Ball State University in Muncie, Indiana  
3 with a Bachelor of Science Degree in Accounting in May 2001, and a Master of  
4 Science Degree in Accounting in May 2002. From September 2002 through  
5 September 2010, I worked for London Witte Group, LLC, a CPA firm in  
6 Indianapolis, Indiana, as a Senior Staff Accountant. I prepared and reviewed  
7 individual, corporate, not-for-profit, property and payroll tax returns; prepared  
8 compilations, reviews, and audit reports in compliance with GAAP for a variety of  
9 utility companies and not-for-profit organizations; prepared depreciation  
10 schedules; and guided clients through year-end accounting processes, including  
11 preparation and review of adjusting entries. I prepared and reviewed Gas Cost  
12 Adjustment (“GCA”) petitions, as well as annual reports filed with the Commission  
13 for natural gas companies within the State of Indiana. I also prepared rate case  
14 exhibits and schedules filed with the Commission on behalf of various gas utility  
15 clients.

16 In December 2010, I began my employment with the OUCC as a Utility  
17 Analyst II. In October 2012, I was promoted to Senior Utility Analyst. In February  
18 2017, I was promoted to Assistant Director of the Natural Gas Division. In  
19 December 2021, I was promoted to Director of the Natural Gas Division. My  
20 current responsibilities include reviewing and analyzing rate cases filed by Indiana  
21 natural gas, electric and water utilities with the Commission. I also review GCAs,

1 special contracts, tariff, financing, certificate of public necessity, pipeline safety  
2 adjustment, gas demand side management, alternative regulatory plan, Federal  
3 Mandated Cost Adjustment Tracker, and Transmission, Distribution and Storage  
4 System Improvement Charge (“TDSIC”) Plan and Tracker cases for natural gas  
5 utilities.

6 In May 2016, I passed the Certified Public Accountant (“CPA”) Exam and  
7 obtained my CPA license in June 2016. While employed at the OUCC, I completed  
8 NARUC’s Utility Rate School hosted by the Institute of Public Utilities at Michigan  
9 State University and the Institute of Public Utilities Advanced Regulatory Studies  
10 Program at Michigan State University. I am also a member of the Indiana CPA  
11 Society.

12 **Q: Have you previously testified before the Commission?**

13 A: Yes. I have testified in GCAs, rate cases, TDSIC Plan and tracker cases; tariff; gas  
14 demand side management; decoupling; and special contract cases involving gas and  
15 water utilities. I also provided extensive testimony in the Commission’s  
16 investigation into the existing GCA procedures and schedules.

17 **Q: What review and analysis have you conducted to prepare your testimony?**

18 A: I reviewed the petition, Petitioner’s testimony, exhibits, and supporting  
19 documentation submitted in this Cause, as well as the final order in Cause No.  
20 43680. I analyzed Petitioner’s responses to discovery requests from the OUCC and  
21 Intervenors. I participated in a pre-filing meeting with Petitioner’s representatives  
22 to discuss this case and participated in numerous subsequent meetings with  
23 Petitioner to discuss various aspects of this case.

Cause No. 45967

Northern Indiana Public Service Company LLC's

Objections and Responses to

Indiana Office of Utility Consumer Counselor's Twelfth Set of Data Requests

**OUCR Request 12-003:**

Referring to the Direct Testimony of Richard D. Weatherford, on page 81, lines 8-9, he states: "Relief has been granted in other states, such as by the Ohio Public Utilities Commission to Columbia Gas of Ohio." Please provide any known instances, including Cause Nos., where the Indiana Utility Regulatory Commission has granted a proposed balancing account for pension and OPEB expense similar to the request NIPSCO is making in this proceeding.

**Objections:****Response:**

NIPSCO is not aware of any instances where the Indiana Utility Regulatory Commission has granted a proposed balancing account for pension and OPEB expense similar to the request NIPSCO is making in this proceeding.

**AFFIRMATION**

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

*Heather R. Poole*

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Heather R. Poole  
Director-Natural Gas Division  
Indiana Office of  
Utility Consumer Counselor  
Cause No. 45967  
Northern Indiana Public Service Co.

01/31/2024

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Date

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing has been served upon the following counsel of record in the captioned proceeding by electronic service on January 31, 2024.

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**[ Signature Page Follows ]**



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