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STATE OF INDIANA
 INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED
 PETITION OF NORTHERN INDIANA PUBLIC)
 SERVICE COMPANY, LLC FOR (1))
 APPROVAL OF AND A CERTIFICATE OF)
 PUBLIC CONVENIENCE AND NECESSITY)
 FOR A FEDERALLY-MANDATED ASH POND)
 COMPLIANCE PROJECT, (2) AUTHORITY)
 TO RECOVER FEDERALLY-MANDATED COSTS)
 INCURRED IN CONNECTION WITH THE ASH)
 POND COMPLIANCE PROJECT, (3))
 APPROVAL OF THE ESTIMATED)
 FEDERALLY-MANDATED COSTS ASSOCIATED)
 WITH THE ASH POND COMPLIANCE)
 PROJECT, (4) AUTHORITY FOR THE)
 TIMELY RECOVERY OF 80% OF THE)
 FEDERALLY-MANDATED COSTS THROUGH)
 RIDER 887 - ADJUSTMENT OF) CAUSE NO.
 FEDERALLY-MANDATED COSTS AND) 45700
 APPENDIX I - FEDERALLY-MANDATED)
 COST ADJUSTMENT FACTOR ("FMCA)
 MECHANISM"), (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 AMORTIZE)
 THE ASH POND COMPLIANCE PROJECT)
 COSTS THROUGH 2032, (8) APPROVAL OF)
 ONGOING REVIEW OF THE ASH POND)
 COMPLIANCE PROJECT, ALL PURSUANT TO)
 INDIANA CODE SECTION 8-1-8.4-1 ET)
 SEQ., SECTION 8-1-2-19, SECTION)
 8-1-2-23, AND SECTION 8-1-2-42,)
 AND, TO THE EXTENT NECESSARY,)
 APPROVAL OF AN ALTERNATIVE)
 REGULATORY PLAN PURSUANT TO INDIANA)
 CODE SECTION 8-1-2.5-6)

TRANSCRIPT OF FIELD HEARING

Field Hearing continued to be heard on August 1, 2022 at 7:30 P.M. (CDT) at City Hall Chamber, 100 East Michigan Boulevard, Michigan City, Indiana, before Chairman James F. Huston and Chief Administrative Law Judge Loraine L. Seyfried (Presiding)

Reporter: Amy L. Tokash

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1 Michigan City, Indiana
2 August 1, 2022
3 7:30 P.M. (CDT)
4

5 THE COURT: We're going to go back on the record.

6 I understand that there have been people who have
7 indicated that they would like to speak tonight, so would
8 those individuals stand, please, and raise your right hand
9 so that you can be sworn in.

10

11 (OATH DULY ADMINISTERED TO FIVE PEOPLE)

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13 THE COURT: Ms. Hitz?

14 MS. HITZ: Thank you, Your Honor.

15 Joseph Conn?
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17 **JOSEPH CONN**, a witness appearing on behalf of the Public,
18 having been first duly sworn, testified as
19 follows:
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21 A Hello. I'd like to welcome you to northwest Indiana.

22 Oh, excuse me. My name, yes. My name is Joseph Conn.

23 It's J-o-s-e-p-h, and the last name is C-o-n-n like the

24 band instruments, and I would like to welcome you to

25 northwest Indiana. It's been my home all my life. I'm 70

1 years old.

2 I'm the Chairman of the Northwest Indiana Green Party,
3 and I'm also a sailor. I own a small sail boat that I keep
4 here in Michigan City; I live in Hobart, but I keep a sail
5 boat here up Trail Creek and restored it. It's 50 years
6 old, and I was actually out on it last night with my
7 daughter, and we sailed out past the NIPSCO plant on west
8 and went up to the foot of a big sand dune there called
9 Mount Baldy, and I don't know if you know about the history
10 of this site, NIPSCO's site, but there was an even bigger
11 dune there called the Hoosier Slide.

12 It was the largest sand dune in Indiana, and people
13 would come there, and it had a high enough slope that you
14 could literally slide down it; it was 200 feet high, and in
15 the 1920s -- late 1800s. By 1920, it was gone. It was
16 carted off and made into Mason jars by Ball company, and
17 then another company made them into those little blue glass
18 things you saw that were resistors that were on the top of
19 poles mostly on railroad tracks. You could see that they
20 were blue glass, gorgeous. You can still find the glass at
21 antique shops and stuff.

22 I bring that up because we had an industrial
23 development there. We basically gave up what was then
24 called Indiana's best landmark; I think that was the
25 phrase. People came from all over just to go climb that

1 dune and see the views and slide, and we let it slip.
2 Instead of protecting it like Sleeping Bear Dunes or Dune
3 State Park or now the National Lakeshore, we let that go,
4 and that was not any fault of NIPSCO; they bought the
5 property after the thing had been mined down, but I bring
6 that up because I was trying to think about what to say
7 here today to this, and so many people have given great
8 testimony, but what I want to talk about is your own
9 responsibility here as human beings.

10 How many have you seen the Ken Burns' series on the
11 national parks? See them? Remember? The whole framing of
12 it was America's best idea, not the Mackinac Bridge or the
13 Panama Canal or the Interstate Highway System or any other
14 great accomplishments that have been made by people in this
15 country and people in authority like yourselves, but the
16 national parks. We're going to save something of value for
17 our grandchildren and their grandchildren forever, and to
18 get this national park here has been a 100-year long
19 struggle, mostly against industrial developers like NIPSCO,
20 and the way Ken Burns positioned that series if you saw it,
21 each one was a morality play. Each park was just this
22 brawl between people who wanted to save something and
23 protect something -- our natural heritage, our legacy
24 and people who just wanted to despoil it and make money off
25 of it like the Hoosier Slide, cart it off and make Ball

1 jars out of it.

2 So we were out last night, my daughter and I, and I've
3 sailed past Michigan City's -- the NIPSCO plant a number of
4 times, and I've gotten up close to the revetment that
5 people have been talking about. It's not just weak;
6 there -- if you go to the west end of it, there are holes
7 in it, holes in it that can you put your arms, your whole
8 body through, and I invite you to come back up here, come
9 with me, we'll get on my sail boat -- I can only take three
10 of you at a time because it's not -- it's a 24-foot boat,
11 but I'll sail you right past there and get a look at that
12 revetment.

13 There was a guy who actually wanted to dam up the
14 Grand Canyon, if you remember seeing that in the series,
15 because he had mining interests in there and mining claims,
16 and he needed electrical power so he could go and mine the
17 Grand Canyon. So Burns set that up as sort of like good
18 versus evil, good versus evil, and everywhere you went,
19 there was always somebody who wanted to ruin it to make
20 money, and there was always some group of people like these
21 people who wanted to do the right thing and keep a little
22 bit of it, okay?

23 So what we've got here is we've got -- I can boil this
24 down to I think real simple. We have a class war here
25 going on in this country, and we've always had one; it's

1 not new. We have a group of people who've got money and
2 think that they can control everything and they're entitled
3 to control everything and they're entitled to extract
4 wealth from working class people and put it in their
5 pocket.

6 Now you have a decision to make whether or not the
7 stockholders of NIPSCO or the ratepayers of NIPSCO should
8 pay for this mess that's sitting out there, but I'm telling
9 you that steel is not going to last much longer. 70 years
10 on a piece of steel -- you know, that's -- -- it has a
11 life; maybe it's got another 20 years, maybe 30. Maybe we
12 won't live so long to see that collapse, but I guarantee
13 you it's going to collapse.

14 Go that way about, oh, 15 or 20 miles, and you'll see
15 Gary Works at U.S. Steel. It has an enormous breakwater
16 out in front of it because it brings in ore boats, you
17 know, ships really. They're called boats on Lake Michigan;
18 they don't have ships on Lake Michigan or the Great Lakes.
19 They're all called boats even if they're 400 feet long. Go
20 figure, but they have a break wall out there, and they had
21 a storm come up, and it took a 40-foot wide section of the
22 break wall and wiped it out. Can you imagine such a wave?
23 I don't know if you've ever been up here and you go out on
24 Michigan City pier when a storm comes in, and it's
25 electrifying because, one, you're seeing the power and the

1 majesty of that lake, and then you're thinking am I going
2 to be able to get back off of this pier in time before it
3 washes me away.

4 There's a reason that there's a catwalk out there on
5 that pier all the way to the lighthouse because it used to
6 have to staff that lighthouse, and you wanted to get people
7 out of there or get supplies into them when there was a
8 storm, and, you know, that thing is like 30 feet up in the
9 air. That's because if you tried to walk out on that pier
10 in a storm, the waves would sweep you away. So what you
11 have there is a revetment that's getting every year
12 pounded, pounded, pounded, and I'm telling you it's already
13 broken.

14 This rate case is premature. What you need to do is
15 tell NIPSCO no and come back with a real plan that's going
16 to protect the people of northwest Indiana or protect the
17 people of Indiana, protect the people of the United States
18 because all kinds of people drink water out of that lake,
19 and you're going to have an environmental disaster on your
20 hands if it's not cleaned up. We've been dodging this
21 bullet now for a long, long time, and already that
22 revetment is starting to fail; it's starting to leak.

23 So I'll close with this: You're all human beings here
24 like me. We all have our little time on this earth, and
25 then we're done and then history judges us. What did you

1 do when you were here when you had an opportunity? Were
2 you going to be in Ken Burns' movie as one of the bad guys
3 or one of the good guys? It's just as simple as that. You
4 have an opportunity here; this is a pivotal time in the
5 history of northwest Indiana. Join the Dorothy Buells;
6 don't join the despoilers that want to dam up the Grand
7 Canyon. It's just that simple.

8 Thank you for your time.

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(WITNESS JOSEPH CONN EXCUSED)

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1 MS. HITZ: Anthony Lewis? Or not.

2 Nora McDonald?

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4 **NORA McDONALD**, a witness appearing on behalf of the Public,

5 having been first duly sworn, testified as

6 follows:

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8 A Good evening, council members. My name is Nora

9 McDonald, N-o-r-a M-c-D-o-n-a-l-d.

10 Man, I don't really want to follow that. How do

11 I follow that? That was such a powerful testament.

12 So I'm going go a little bit off book here. I
13 want to begin that I did not grow up here in Michigan City.

14 I grew up in Beverly, which is southwest Chicago. My mom

15 is one of eight, so I have lots of cousins and aunts and

16 uncles, and I was thinking about -- Susan was saying to

17 tell your story, and I'm thinking about all of these

18 childhood -- these wonderful childhood memories of, you

19 know, going into the city, and I can't think of a memory

20 that doesn't include the beautiful and infamous Lake

21 Michigan whether it was Taste of Chicago, the Children's

22 Museum at Navy Pier, the awesome air and water show with

23 the Blue Angels in the city, and I would often go into the

24 city. Now I don't really remember it because I was young.

25 There are a lot of my community members here that

1 have mentioned about people here becoming sick because of
2 what they're drinking in the water and everything, all of
3 the environmental pollution and the toxic coal ash that has
4 happened to the City. I did not have anything
5 environmental happen to me personally, but I was diagnosed
6 with leukemia when I was 22 months old, so thinking about
7 all of the patients that my fellow community member had to
8 treat, it -- it really affects me especially when it's
9 children that are being diagnosed with cancer that it is
10 something preventable; God forbid their parents and their
11 grandparents who are already suffering. It sounds like
12 it's been going on for quite some time, and listening to
13 all of my community members speak about this, I wanted to
14 make sure that I brought it up having gone through that
15 experience with my family. It is an awful, terrible
16 experience.

17 Now I was extremely fortunate that I had support
18 from my loving parents and my sisters and my family and
19 their loved ones. There are lots of people who don't have
20 that support.

21 We were also very privileged to have the means to
22 pay for cancer treatment, and we never had to worry about
23 that, but there are lots of families, lots of children
24 that, you know -- that cannot provide those bills, and it
25 frightens me; it frustrates me that if something like this

1 spill that he just mentioned happens, how many people are
2 going to get sick from this?

3 It's something that we can do now. It is
4 something that is a simple solution by denying NIPSCO's
5 request to clean up only 10 percent of what they are
6 responsible for. It's just like he was saying, it's
7 where are you going to be on the side of history? Where
8 are you going to be? I was thinking about -- Pastor Erica
9 was speaking about morale in her speech in the rally before
10 we came in, and it reminded me of one of my favorite
11 superheroes, and when he was talking about where are you
12 going to be on the good side and on the -- you know, the
13 bad side, I'm thinking like, oh, gosh, this is my mind
14 going to Star Wars. Are you going to be on the dark side,
15 or are you going to be on the light side? Are you going to
16 be a Jedi, or are you going to be you know, are you
17 going to be on the Sith side, and it really is. I mean,
18 Lucas makes it very black and white that it's the good guys
19 versus the bad guys, but what's great about the fight of
20 the rebellion is that they never lose -- they never lose
21 hope; they never lose spirit; they have losses; they have
22 casualties. You know, things go wrong, and they lose
23 people that they love almost constantly throughout those
24 movies, favorite characters.

25 Here, you know, I may not have grown up here, but

1 my aunt and uncle have had a cottage here in Sheridan Beach
2 for, oh, gosh, probably 20 years, and so although I didn't
3 grow up here, I visited very, very often here, and again,
4 lots of fond memories with me and my cousins in the lake,
5 on the beach with my mom. You know, all of those wonderful
6 memories that I will always remember, and it's great now
7 being back here, but

8 I mean, I live here; I'm a social worker. I care
9 about the lake; we care about the lake. I know it affects
10 thousands. You know, it's not just here in northwest
11 Indiana that if something -- if a spill happens, it's going
12 to affect Indiana, Michigan, Wisconsin, all of these
13 surrounding states. It's going to spread. It's going to
14 spread, and knowing that we can do something about it now,
15 that they can do something about it while cleaning up their
16 own mess, by being responsible, just like we teach our
17 children, just like we expect from each other.

18 You know, I love the -- like, there are signs
19 often in like employee or staff lounges like your mom
20 doesn't work here; clean up your own mess, and that's what
21 I'm thinking about right now too.

22 So I will close that I am a part of this
23 community; I care about this community; I care about the
24 children that will be growing up on these shores, and it's
25 not just about the children now -- of course it is and the

1 people who are here now -- but generations to come, and in
2 the words of my favorite superhero, I can -- I'm going to
3 amend it a little bit. I can do this, and I will fight
4 this all day.

5 Thank you very much.

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(WITNESS NORA McDONALD EXCUSED)

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1 MS. HITZ: I'm going to try and pronounce this
2 correctly.

3 Bob Uryga?

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5 **BOB URYGA**, a witness appearing on behalf of the Public,
6 having been first duly sworn, testified as
7 follows:

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9 **DIRECT EXAMINATION,**

10 **QUESTION BY MS. HITZ:**

11 Q You have to make sure you spell it for my Court
12 Reporter.

13 A I sure will. My last name's U-r-y-g-a, Uryga. You
14 did fantastic.

15 I'm a volunteer firefighter of 54 years. I have
16 to come here and tell you people this says the utility is
17 proposing complete removal of coal ash. That says
18 complete; that doesn't say 10 percent. That's in black and
19 white right here.

20 They have poisoned my brothers and sisters in the
21 Pines. They have no right to bury this coal ash here in
22 Michigan City and poison the rest of the lake. That poison
23 in the Pines is leaking into Lake Michigan right now. They
24 dumped the coal ash in the swamp and then to seal it, they
25 put clay on top of this, but it's still leaking. It

1 poisoned their groundwater; they're going to poison our
2 lake. They're poisoning it for all the years they've been
3 here. I ask you not to give them a rate increase. They do
4 not deserve it.

5 They brought that coal in from Wyoming. Put the
6 coal ash in the cars and send it back to Wyoming. Put it
7 back where you got it. It's not right for us to pay for
8 that. It's part of doing business; that's what it's all
9 about. You bought that crap; put it back where you found
10 it.

11 You know, I can't say it any plainer than that,
12 but I hope you people do not allow them to have a rate
13 increase, and I realize we have to go to the EPA and get
14 these people to do the right thing, and maybe you guys can
15 help us get the EPA here, and maybe we can get something
16 done with it, okay?

17 Thank you, guys.

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(WITNESS BOB URYGA EXCUSED)

1 MS. HITZ: Richard Gersch?

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3 **RICHARD GERSCH**, a witness appearing on behalf of the
4 Public, having been first duly sworn,
5 testified as follows:

6

7 A My name is Richard Gersch, and I'm here representing
8 Richard Gersch, and that's spelled G-e-r-s-c-h. Thank you
9 for the opportunity to speak here today.

10 The observation that I would like to make is that
11 it seems to me that there's actually two issues going on
12 here, two distinct issues.

13 One is the clean-up of the coal ash from the
14 Michigan City power plant, and the second issue is who is
15 going to pay for that clean-up, and it saddens me that we
16 do not have any representatives here from either the
17 Indiana Department of Environmental Management nor from the
18 EPA, and it seems that without that here, we really
19 don't you guys from the Indiana Regulatory Commission
20 don't have the authority to force anyone to do clean-up
21 efforts. That's not in your jurisdiction. The only thing
22 that you have authority over is the rate case that's before
23 you.

24 In regards to that, it seems to me that we need
25 to have -- the one thing that you could do is delay the

1 schedule until there is a fair opportunity for either the
2 EPA or the IDEM to force NIPSCO to clean up not just
3 10 percent of the coal ash but 100 percent of the coal ash
4 as everyone here has commented on already.

5 What I would urge you to do is forward the
6 information of the testimonies that's been provided here to
7 the -- at least to the Indiana Department of Environmental
8 Management.

9 Secondly, I would like to point out that rate
10 cases from utilities are extremely complex cases, and it's
11 thousands of pages of testimony that come from the --
12 NIPSCO or whatever utility it is, and for normal citizens
13 to try to work through the details of these is nearly
14 impossible without specialized education.

15 I realize that most of you are here from
16 Indianapolis, including the Office of Utility Consumer
17 Counselor, and that happens to be the capitol of our State,
18 and I don't know how many people remember a group called
19 the Globetrotters, but when they were playing, they would
20 always play against a team called the Capitals, and it
21 turned out that whenever the Globetrotters played against
22 them, they would always win, and it wasn't just a minor
23 win; they would destroy this team called the Capitals. Now
24 they would let them get a basket every now and then, but as
25 far as winning the game, there was absolutely no chance

1 that the Harlem Globetrotters were not going to win and
2 make it a lot of fun in doing that.

3 NIPSCO, being a utility, a public utility, is in
4 a different business from normal businesses. The method
5 that NIPSCO gets its revenue from is in this game of
6 bringing rate cases before the Indiana Regulatory
7 Commission.

8 A normal business has two objectives: One, to
9 increase their revenue through greater sales or for higher
10 prices, and, two, to lower their costs, and if they succeed
11 in that, they're going to increase their profits.

12 For NIPSCO, that does not apply. It's all about
13 the game before the rate cases, and it's my observation
14 that NIPSCO is very well prepared in doing their rate
15 cases, and I'm afraid to say that the office that's
16 representing us, the citizens, is not so well prepared.

17 It seems like we are on the losing side, and
18 they're going to go and claim, oh, we saved you so many
19 millions of dollars, but we still lose because the rates
20 are always going up, and in the case before us today, I'm
21 pretty sure that NIPSCO's going to get their way, and
22 they're going to -- the rates are going to increase. We,
23 the citizens, are going to be stuck paying for this
24 clean-up of, what, 10 percent of the coal ash. That is a
25 tragedy.

1 So again, I would like to urge the Indiana
2 Regulatory Commission to delay this process and give the
3 authorities the opportunity to force NIPSCO to do the
4 correct clean-up effort.

5 Thank you.

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(WITNESS RICHARD GERSCH EXCUSED)

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1 **ANTHONY EDWARD LEWIS**, a witness appearing on behalf of the
2 Public, having been first duly sworn,
3 testified as follows:

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5 **DIRECT EXAMINATION,**

6 **QUESTION BY MS. HITZ:**

7 Q Sir, if you can state your name so I can find your
8 sheet.

9 A My name is Sargent Anthony Edward Lewis, United States
10 Army Infantry, retired. I'm a resident of Michigan City.
11 I'm also the Democratic Precinct Chairman of Cool Spring
12 [inaudible].

13 I rise tonight in opposition to any proposition
14 for a raise hike -- rate hike and must insist and demand
15 that NIPSCO/NiSource do the right thing for the right
16 reasons.

17 100 percent clean-up of the mess that has been
18 made in Michigan City is the only acceptable, practical
19 result of this gathering tonight.

20 These people that you see here with me, what we
21 have in common is a commitment to not being exploited
22 anymore.

23 What you see here is a group of people that
24 oppose the idea of paying a company to poison us. I really
25 don't even need to say anything more than that except that,

1 you know, I don't like being here to have to have this
2 conversation. It's condescending; it is contemptuous; it's
3 insulting; it's an embarrassment, but even if I would not
4 ask for such a fight, I will not run from it. That's what
5 you see right here in front of you, a group of people who
6 will not fight -- who will not quit, will only fight for
7 the right reasons for their lives.

8 Thank you.

9 Oh, Anthony Edward Lewis; Lewis is spelled Las
10 in lima, E as in echo, Was in whiskey, I as in India; Sas
11 in sierra.

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(WITNESS ANTHONY EDWARD LEWIS EXCUSED)

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1 MS. HITZ: Forgive me; I want to catch up with my
2 notes here and make sure I have the right people up.

3 Ashley Williams?

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5 **ASHLEY WILLIAMS**, a witness appearing on behalf of the
6 Public, having been first duly sworn,
7 testified as follows:

8

9 A Ashley Williams, A-s-h-l-e-y W-i-l-l-i-a-m-s.

10 Good evening. I wanted to thank the IURC for
11 holding this hearing in Michigan City. Thank you to the
12 OUCC for presiding over comments, and I want to thank each
13 and every one of you in this room tonight, all the
14 beautiful people that have been pouring out their hearts
15 and their souls before the IURC tonight. You are my
16 heroes; you're so brave and so courageous.

17 I'm here to state my opposition to NIPSCO's
18 proposal, Cause No. 45700, and to share my reasoning to
19 urge you to reject this hike.

20 Again, my name is Ashley, and I'm the Executive
21 Director of Just Transition Northwest Indiana, a grassroots
22 organization working to ensure justice for NWI communities
23 most impacted by pollution and NIPSCO's energy transition.
24 We organized many of the folks that you heard from tonight
25 that are speaking against this hike.

1 I am a proud resident of Michigan City where I
2 have lived now for five years. I love our community, and
3 I'm here tonight to fight for it.

4 I've been no stranger to pollution all my life.
5 I grew up next to a cluster of 16 superfund sites. In my
6 hometown of Ottawa, Illinois, much like the Town of Pines,
7 industry knowingly poisoned workers in our community, in
8 this case with radium, contaminating our drinking water and
9 soil, but the injustice did not end there. I later saw my
10 community overtaken before my eyes by the local mining
11 industry that blanketed our air with crystalline silica.
12 When exposed, it cuts the lungs like fine glass.

13 This was everyday life for me, but as I matured
14 and understood the nature of environmental injustice, I
15 realized what was happening around me. I often recall at
16 hearings just like this one people regarding I'm just a
17 housewife; what do I know? I'm just a farmer; what do I
18 know? I am just a child; what do I know?

19 We sell ourselves short and participate in our
20 own marginalization, but we who live here and breathe this
21 air and drink this water every single day, we know. We
22 know the difference between what's right and what is
23 terribly, terribly wrong.

24 Now living in Michigan City, it's like deja vu.
25 Touting a complete clean-up of toxic coal ash waste while

1 leaving it to sit on the shores of Lake Michigan and our
2 backyards behind an aging, leaking sealed sorry, seawall
3 is not misleading -- not only misleading, it is morally
4 wrong. Leaving behind 2 million tons of coal ash waste in
5 a neighborhood of low income residents of color is textbook
6 environmental racism.

7 For nearly 100 years, Michigan City has lived in
8 the shadow of the NIPSCO coal burning plant, inhaling
9 carcinogens on a daily basis, cleaning black dust off of
10 our porches, children's play sets, and boats only to be
11 left with an impending pollution disaster.

12 What have we learned from the coal ash tragedy in
13 Kingston, Tennessee that left 50 workers dead and hundreds
14 ailing? What have we learned from the other Lake Michigan
15 disasters like Oak Creek, Wisconsin that cascaded 120 yards
16 of toxic coal ash and debris into our lake? History has
17 shown us when we don't address a ticking time bomb, this is
18 what happens.

19 No matter what way you spin it, we should not be
20 left to foot the bill. We also know that this number will
21 only increase in time as they recover the full 40 million
22 in costs. NIPSCO's industrial customers including BP,
23 Cleveland-Cliffs, and U.S. Steel are responsible for the
24 worst pollution in Indiana, and they also use the most
25 electricity in contrast to any other consumer.

1 Still, they continue to receive the deal of a
2 century by paying NIPSCO at a discount. How about asking
3 their billion dollar corporations to shoulder the burden of
4 this rate increase? How many in this room would agree?
5 Please raise your hands if you think these industrial
6 polluters should pay their fair share to clean up NIPSCO's
7 mess. Thank you. Amen.

8 Honorable members of the Commission, I know you
9 do not regulate coal ash; we have had this conversation.
10 We know you are not IDEM; you are not the EPA. Still, I am
11 asking you to consider the long-term implications of this
12 proposal that will only serve to fund the demise of our
13 communities and the Lake Michigan region.

14 NIPSCO has already committed three strikes. The
15 company poisoned the Town of Pines with coal ash, then they
16 poisoned them again and their families, and now they want
17 to leave their coal ash behind in our city and ask them to
18 fund their half-baked job. We say no. We cry justice for
19 Town of Pines to ensure this atrocity does not ever repeat
20 itself, but that's exactly what's at stake tonight, isn't
21 it?

22 I am sick and tired of paying NIPSCO to sicken us
23 while their shareholders profit off of our trauma. How
24 many people in this room are sick and tired? Please raise
25 your hands if you agree.

1 All of the coal ash in Michigan City including
2 the 2 million tons sitting on Lake Michigan in Trail Creek
3 should be accounted for, not just 10 percent.

4 Costs should be proportionately shifted to
5 NIPSCO's record-profiting billionaire industrial customers,
6 not disproportionately off the backs of you and I and every
7 struggling ratepayer in this room tonight.

8 Then lastly, NIPSCO's removal should be
9 rightfully characterized as maintenance and operations, not
10 falsely as capital costs.

11 In closing, I am asking that the IURC deny
12 NIPSCO's current proposal and that the OUCC stands with us
13 in our demands to alleviate us of the funding of an unjust
14 and incomplete coal ash clean-up.

15 I am not alone in this room tonight; I know that.
16 We stand as one united as Michigan City, as a regional
17 community against NIPSCO's proposal.

18 Please deny this hike.

19 Thank you.

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(WITNESS ASHLEY WILLIAMS EXCUSED)

1 MS. HITZ: Lou Donkle?

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3 **LOU DONKLE**, a witness appearing on behalf of the Public,

4 having been first duly sworn, testified as

5 follows:

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7 A I am Lou Donkle; that's D-o-n-k-l-e, and I would like
8 to thank you for the opportunity to speak to you tonight on
9 the NIPSCO rate increase, case 45700, and before I get
10 started on the rate case, I would like to just say a word
11 about NIPSCO that I'm very pleasantly surprised that NIPSCO
12 appears to be a leader in announcing their conversion of
13 power generation from fossil fuel to renewable energy by
14 2028, so I would like to congratulate -- give
15 congratulations where they're due, and thank you for your
16 leadership on this subject.

17 So to frame the context of us here talking to
18 you, NIPSCO is a monopoly, but it's a regulated monopoly,
19 and they agree -- so they've been given the opportunity to
20 produce electricity for our benefit without competition but
21 on the basis that they're regulated, and that's where you
22 come in to represent our interests as consumers, so we
23 thank you for your efforts in doing that.

24 I have several items here for you to consider as
25 you're doing your evaluation of whether to grant the rate

1 increase. My comments are also submitted in writing
2 separately so if you want to follow up, there's a little
3 more detail there.

4 So I'm just an interested customer of NIPSCO,
5 and, you know, these two articles certainly caught my
6 attention. Seawall is a ticking time bomb. That rings a
7 bell; I think I just heard somebody say that, and that was
8 quite interesting, of course, and I was not really aware of
9 the coal ash problem until reading that, so I was pretty
10 interested from then on, and then just yesterday, there was
11 this editorial by NIPSCO, coal ash clean-up is a sign of
12 progress in the region. This is by NIPSCO's Vice President
13 of Environmental Policy, and I'll cite from these two
14 articles a little bit as I go.

15 The -- so I've got four basic areas of concern
16 that I wish you would consider as you are vetting this
17 issue.

18 First is that there's unfair cost shifting that
19 the industry should pay their historical share of power
20 usage versus residential should pay their historical share
21 of power use.

22 Second is that the cost plus contract format is
23 unfair for consumers. It seems to be an incentive to
24 generate higher costs which generate higher profits.

25 Third is that the proposal of full recovery of

1 costs seems to reward prior bad management because coal ash
2 has been a known issue for a long time. It seems to go
3 back at least to 1976 according to EPA records that I'll
4 explain in a little bit, and the fourth one is that the
5 proposal does only cover the coal ash ponds; it doesn't
6 seem to cover the solid landfill at all or the main land,
7 and that just begs all kind of questions.

8 So to go into just a little more detail on the
9 first one, unfair cost shifting, that the industry should
10 pay their historical share of power use, so in 2019, there
11 was another rate case. It was rate case 45159; I testified
12 there too. That case had the end result of shifting the
13 percentage of billing from the big group of industrial
14 customers to residential customers.

15 I believe after the rate case hearings like this
16 that that shift was reduced a little bit so the
17 customers you did exercise some influence. I'm kind of
18 going off my head here. I'm not sure that's true, but
19 that's the way I kind of remember it back at the time, so
20 the improvement was good, but, nonetheless, there was a
21 substantial shift of the burden of power cost and the
22 formula from industry the big industry to residential
23 and small commercial, but historically here, this coal ash
24 has obviously been generated over decades and decades, and
25 so when you consider the cost reimbursement for the

1 clean-up here, you've got to consider that the majority of
2 the coal ash was made by -- when the major power
3 consumption customer in the area was big industry, so that
4 would bode towards -- I'm not quite sure how the proposal
5 is structured here, but for sure it should recognize that
6 the current formula of a little bit heavier payment by
7 residential should be -- go back to the historical formula
8 where the industrial was the major contributor. So the
9 solution here is the industrial customers should pay a
10 bigger share than what I presume they are lined up to be
11 paying here. That was my first area of concern.

12 The second one was the cost plus contract format
13 is basically unfair to all customers. Any cost plus format
14 has got a built-in incentive for higher costs, so you get a
15 bid to do -- you know, put a new roof on your house or
16 something; you don't say come and put on a roof and I'll
17 pay whatever it costs you plus 10 percent. You get a fixed
18 estimate.

19 So my understanding of this -- I mean, we're
20 talking about a number here, \$40 million or something, but
21 even that is a fixed price. You know, NIPSCO has come up
22 with an estimate, and they've got the cost built in for
23 their profit.

24 I would suggest that the solution here is
25 whatever reimbursement or whatever recovery NIPSCO is

1 awarded for the costs they incur during this clean-up,
2 there shouldn't be a profit component in there at all. Any
3 profit component just motivates them to somehow -- or it
4 has already motivated them to come up with a higher cost so
5 they get more profit. So that's just the nature of cost
6 plus estimates or contracts. So that's a concern.

7 My third concern, again, was providing the full
8 recovery of the clean-up costs and that -- and that that
9 rewards bad management because coal ash has been a known
10 historical problem for a long time as far back as 1976, so
11 that reflects on NIPSCO's bad management in the past, I
12 would say, and the concept of full recovery for bad
13 management doesn't seem quite fair.

14 So the current structure, as I understand it, is
15 they're applying for 80 percent of the cost of clean-up to
16 be recovered now or fairly soon, and then at some couple
17 years down the road after the clean-up's done, they get
18 recovery for the remaining 20 percent, but that's still
19 100 percent recovery, so is that fair if its cost is
20 responsible -- is caused by bad management on NIPSCO's
21 part?

22 So in the article -- or in the opinion piece in
23 the paper by Kelly Charmichael he's NIPSCO's Vice
24 President of Environmental Policy -- he cited that the key
25 law involved here is the Coal Combustion Residuals Rule and

1 stated that the date for clean-up is -- the deadline for
2 total clean-up of the pond removal is 2023. So that
3 just -- you know, being kind of an analytical type of guy,
4 I go Coal Combustion Residuals Rule, I bet I can Google
5 that, and sure enough, you Google that, and it takes you to
6 the EPA website or, I mean, one of the -- it takes you a
7 lot of places, but the most interesting place was the EPA
8 website that gave a time line of this whole subject, and it
9 called -- the title of the website was "Legislative and
10 Regulatory Timeline for Fossil Fuel Combustion Wastes", so
11 that's pretty much the whole idea here. Coal Combustion
12 Residuals Rule or fossil fuel combustion wastes.

13 So that website lists -- has 39 entries going
14 back to 1976, and the very first one -- lest you think
15 there's just a lot of discussion and picking around bad
16 ideas in '76, the very first one was the Resource
17 Conservation and Recovery Act, which has to do with
18 which is -- which involves recovery of fossil fuel
19 combustion waste. So I've got the website in my
20 attachment -- or my source here that you can look up if you
21 like.

22 So that's how far back the history -- the legal
23 history with the EPA of this subject goes, and there's been
24 a lot of steps in between. Certainly by 2008 when
25 Kingston, Tennessee had their massive coal ash spill, all

1 utilities in the world would have been alerted to the fact
2 that coal ash is a real problem.

3 Then in the next article, the ticking -- or not
4 the next but actually the first article, the ticking time
5 bomb article, the Reporter there, Molly Devore, did a
6 really good -- a thorough job of investigating some legal
7 background on this subject, and she had two particular laws
8 related to this case that were of interest to me.

9 In 2015, the EPA ruled that in unlined coal ash
10 ponds, which is what we have here with the coal ash ponds,
11 2015, it says if there is detected groundwater
12 contamination, then the rule is you've got to stop
13 receiving coal ash and start a process to close the
14 landfill. In 2015, NIPSCO certainly would have been aware
15 that -- I don't know if they had detected groundwater
16 contamination then, but it kind of sounds like they
17 probably did; certainly they'd been on alert anyway.

18 Then the next one cited in the article is in
19 2020, the EPA rule -- they tightened the rule and said that
20 all unlined coal ash ponds must begin to close; no matter
21 what you detect, you've got to close starting in 2020.

22 So here we are two years later, and now it's a
23 problem? I just kind of wonder why this wasn't being dealt
24 with, you know, a decade or decades ago. It just seems
25 like there's room to criticize the management of our public

1 utility that is being regulated by us -- or by you for us,
2 and you should consider that when you decide how much you
3 want to allow NIPSCO to claim a cost recovery with profit.

4 And the fourth and last item I had is one that
5 I've heard many times here tonight which has to do with --
6 they're planning to recover and fix -- you know, reclaim
7 only the coal ash ponds, not the solid landfill. I've
8 heard people saying 10 percent. I'm kind of guessing maybe
9 10 percent of the waste is in the ponds and 90 percent is
10 in the landfill.

11 So the interesting point I found on this is in
12 the editorial by Kelly Charmichael, the vice president --
13 NIPSCO's Vice President of Environmental Policy, he's got
14 the quote in there that the primary source of the known
15 groundwater impacts is believed to be the ash ponds. The
16 primary source of the contamination is believed to be the
17 ash ponds. Well -- so that's why the program is nothing
18 but ash ponds? It sounds like they're just not as sure as
19 we all wish they were for something that is as hazardous to
20 us people that live right around these ash ponds.

21 So it begs the question: What if he's wrong?
22 What if the plan is not good enough? So the solution is
23 that we'd have a comprehensive plan to remove all of the
24 ash -- all of the coal ash, not just the ash ponds. It
25 should be the landfills too, and I know that's not

1 particularly a rate issue but certainly a concern.

2 If you have any influence in that regard, your
3 influence would be greatly appreciated, and that's all I've
4 got.

5 Thank you for the opportunity.

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(WITNESS LOU DONKLE EXCUSED)

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1 MS. HITZ: Sheila Brillson Matias?

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3 **SHEILA BRILLSON MATIAS**, a witness appearing on behalf of
4 the Public, having been first duly
5 sworn, testified as follows:

6

7 A Good evening. Sheila, S-h-e-i-l-a, Brillson,
8 B-r-i-l-l-s-o-n, Matias, M-a-t-i-a-s.

9 I know it's been a long evening, and so I'll try
10 to be brief.

11 My I'm here as a private citizen; I'm here as
12 a mother of six and a grandmother of 12; I am also the
13 former Mayor of Michigan City. I was Mayor for two terms
14 in 1996 to 2003, and I'm currently a LaPorte County
15 Commissioner, but I'm here as a private citizen because I'm
16 really proud of our community tonight. They spoke from the
17 heart. A lot of facts, a lot of feeling; we need you to
18 hear us. You have a huge responsibility to represent us
19 and be our voice.

20 I know that rates and removal of 100 percent coal
21 ash seem like two different things, but I've been in and
22 out of politics for a while, and I know that the rate
23 conversation can control the action plan. You can use that
24 as a pressure point on our behalf.

25 There is no way that the west side of Michigan

1 City, which is home to the Indiana State prison looming
2 over it and has the coal ash pile and the cooling tower
3 right there, can ever be the neighborhood our community
4 wants it to be. It is not fair to the people who live
5 there who have dust on their cars. If you work at the
6 Indiana State prison, you come out after your shift and
7 there's coal ash, a nice layer.

8 I worked at City Hall for eight years, always a
9 layer of coal ash. When the wind would blow, there was
10 coal ash on your car. That's in the lungs of our children;
11 that's in the lungs of our parents, our working families,
12 and our elders.

13 Lake Michigan provides drinking water for
14 13 million people in the watershed. 13 million people. It
15 is one of the largest fresh bodies of water in the United
16 States. People want our water.

17 I'm on the NIPRC Commission, and they had some
18 harebrained idea about piping water out of Lake Michigan to
19 areas of the country that don't have good water.

20 Our water is precious, and our responsibility is
21 to take care of it and to treat it like it's precious
22 because we have generations that long after we're all
23 gone long after everyone in this room is gone, there
24 will be people who will be thirsty who will want to drink
25 good water.

1 So on behalf of all those people, I beg you and I
2 urge you to use the power that you have to represent the
3 people of this county, the people of northwest Indiana,
4 those 13 million people I talked about who need safe
5 drinking water whose health has already been impacted in
6 many cases by our high cancer rates. That doesn't just
7 happen. We have superfund sites all over northwest
8 Indiana. This is not the -- the Pines is a terrible
9 tragedy and an omen of what could come. The Pines is a
10 superfund site, a town. It's on their playgrounds; it's on
11 their streets; it's in their garden beds. The grow a
12 tomato in coal ash. That's inexcusable.

13 So on our behalf, please do what you can to
14 represent; the people of northwest Indiana deserve good
15 health and good water.

16 Thank you.

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(WITNESS SHEILA BRILLSON MATIAS EXCUSED)

1 MS. HITZ: Andrew Kubik?

2 Donna Kavanagh?

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4 **DONNA KAVANAGH**, a witness appearing on behalf of the
5 Public, having been first duly sworn,
6 testified as follows:

7

8 A My pants are falling down.

9 Well, thank you, first of all, for coming all of
10 the way up from Indianapolis and sitting here all these
11 hours listening to us.

12 I'm honored to be here with my fellow citizens.
13 I guess I should be comic relief. I have some --

14 COURT REPORTER AMYL. TOKASH: Can you please
15 spell your name for me?

16 A Oh, I'm sorry. Donna Kavanagh, D-o-n-n-a-
17 K-a-v-a-n-a-g-h, and for historical reference, yes, my
18 cousin is Brett Kavanaugh; he never molested women, and
19 please leave him alone. Don't picket.

20 I grew up with John Roberts in Long Beach,
21 Indiana, and I just want to say that -- Well, for reference
22 for you, I live alone with my cousin who came to live with
23 me. She was supposed to live here two weeks; she's been
24 with me for four years. The family joke that is true, she
25 worked for one of the only governors in Illinois that

1 didn't go to prison, okay?

2 So I do have some information -- and, sorry, I
3 lost a little weight recently; I'll tell you why later. I
4 have some information and background for corruption and
5 pain and suffering, but you should know that normally for
6 the past X amount of years, my typical highest rate at
7 Christmastime with NIPSCO is about -- between 150 and \$225
8 a month. This Christmas, I opened the bill. Now I am on
9 some kind of payment plan because I'm behind \$525, and you
10 want to raise it again. Please have some sympathy for us,
11 okay?

12 Now I want to give you a little historical
13 perspective, and please bear with me because some of you
14 should know this. I was born in 1952 with Queen Elizabeth
15 who just celebrated her Platinum Jubilee, and so I came
16 here from New York City. My father was the first national
17 sales manager of Barnes & Noble, and Mr. Barnes and Mr.
18 Noble have been to my house. I live in Long Beach, Indiana
19 three miles from here. I am not a millionaire, and -- but
20 I was dragged here.

21 Now this wasn't here when I first moved here at
22 three years old. You could see all the way down Franklin
23 Street from the lake, all the way down -- Franklin Street
24 was a busy shopping area. It was a beautiful -- and I
25 remember saying to my parents when we drove through here

1 are we joining the circus because it was just so beautiful.

2 Now I've seen a lot of pollution and crazy things
3 come and go in my lifetime, but let me give you a little
4 perspective. We had protestors outside on the you are
5 beautiful -- I call it the plantation where they're going
6 to build -- they're going to build big condos. People are
7 coming here because of the double track. We're supposed to
8 be growing and prospering now, and now we're looking at
9 this.

10 So what happened was that when I was in high
11 school in 1970 -- I'm sorry, it's true -- we protested when
12 we were told that they were going to build the NIPSCO
13 cooling plant out here. We knew about the Hoosier Slide,
14 and I have to admit that as teenagers, we used to go out to
15 the NIPSCO area where the cooling tower is now, and I had
16 my first kiss out there; I have to admit it, okay? It was
17 just a beautiful area, all right, and so we went to the
18 Mayor, and Mayor Brillson is here; I'm going to talk about
19 her in a minute for good reasons. Stay put, okay? It's
20 good.

21 So I was brought on the Mayor's Commission --
22 Mayor [inaudible] was Mayor in 1970 -- along with high
23 school kids from Marquette High School where I went to,
24 the Catholic high school, and Elston which is no longer
25 there, and we were asked to talk with each other because

1 there was the civil rights going on and the black and white
2 fighting, and they thought if -- if -- if -- Mayor
3 [inaudible] thought if we kids could get together, there
4 would be no more protesting and fighting.

5 Well, one thing we did learn at that Mayor's
6 conference -- and we would meet in the Mayor's office once
7 a week as teenagers. When we found out about NIPSCO, we
8 protested, okay? We had signs coming down Franklin Street,
9 and we were on the site saying please don't do this.

10 So as a Commission member, I went to the Mayor,
11 and I said, Mayor, please don't do this. We don't want it;
12 we love that area. It's special to us, and you know what
13 he said to me, and I got it -- and we [inaudible] some
14 politicians [inaudible] here in the --

15 COURT REPORTER TOKASH: Excuse me, ma'am.

16 I can't hear you when you turn and face the
17 audience away from me.

18 A Oh, I'm sorry. Yes, okay. I'm just used to talking,
19 I'm sorry, on camera. I do radio and television; I
20 freelance.

21 So what the Mayor said to me was, Donna, NIPSCO
22 just gave us \$1 million to lay the foundation. Now if you
23 and your students can come up with \$1 million, I'll change
24 my mind. Otherwise, welcome to the real world. I'll never
25 forget that as long as I live. I can still see where I was

1 when he said that to me, and, hence, it was built.

2 Now I don't want to dump on NIPSCO completely,
3 and I'll tell you why. I was seeing what was going on with
4 trees in Michigan City and in my own community and my own
5 property, and so I went to then Mayor Brillson who was
6 Mayor at the time in 1995, and I said can we start a tree
7 board, so we started the tree board. I started it along
8 with several other people here in Michigan City, and we
9 were named Tree City USA, and then I was brought on to the
10 State Board. I went down to Indianapolis at least once a
11 week, and we taught people how to trim trees properly and
12 form state tree boards, and we taught NIPSCO how to trim
13 properly, and what they did for us here is they gave us a
14 lot of money to plant trees in Michigan City, and I'll tell
15 you that I appreciate NIPSCO for the things that they've
16 done like that, but not this.

17 And I will tell you that I went to church at St.
18 Ann's in Beverly Shores. It's about 10 miles that way.
19 The Pines is about maybe, what, 8 miles that way. I used
20 to ride my bike sometimes to church, or sometimes I would
21 just ride in my little convertible. I would see open air
22 trucks leaving the NIPSCO site with fly ash in the back.
23 It was like a pickup truck; it wasn't even covered, and you
24 could see the stuff flying. I didn't know what it was. It
25 was like Sunday or Saturday whenever I would see it. Well,

1 those people in the Pines have been tortured. It is now
2 2022, and they've been living with cancer and all sorts of
3 problems for decades. That whole area is still -- as you
4 brought up still horribly polluted, and I've seen my
5 friends that I grew up with that lived there die horrible
6 deaths. It's terrible. You want to do that to us again,
7 NIPSCO, and God bless NIPSCO; they've done some really good
8 things for our community, but this is not one of them.

9 Now I will also tell you in 2019 we started
10 losing our beach here. I know all the people behind me
11 know what I'm talking about. The whole coast up and
12 down -- this coast up into southwest Michigan, their houses
13 are still falling into the lake. Where I live in Long
14 Beach, I told our town council, please, the McMansions are
15 coming. Don't let them build on the lake side. Well, that
16 was 20, 30 years ago they let them build. You know, I
17 wouldn't wish this on my worst enemy. You have the money?
18 You can do it, but guess what? They're falling into the
19 lake because our lake level was so high we lost our beach.
20 You should have seen what was splashing up on the NIPSCO
21 cooling tower.

22 Whoever brought up the information about the wall
23 failing, that is true. The amount of destruction we have
24 and still have -- Where I live in Long Beach, I used to see
25 the couches going down the lake in 2019. The houses were

1 falling apart before my eyes. The street where I live, the
2 water and the NIPSCO lines are together. I had to call
3 Chicago. We have Mary Ann Ahern that grew up here on
4 Channel 5 and South Bend where I have a TV show on WNIT and
5 plead with them to come and cover it because the water was
6 coming underground. It was breaking up the lines, and my
7 whole community, especially the street where I lived, could
8 have gone up in -- been -- gone up in smoke. It was
9 terrifying. This can't happen to us again, please.

10 I'm pleading with you because what will happen is
11 we'll see that wall fail. We'll have the whole lake
12 polluted. This is not a joke, and, you know, they have
13 droughts out west. They've been asking Minnesota for help.
14 I know Las Vegas just had a big rain storm and so did
15 Kentucky, but the -- some of the big lakes -- Lake Powell,
16 et cetera -- they're dry. As a matter of fact, the mafia
17 that buried bodies there decades ago, they're starting to
18 come up. This is a crazy time, all right? So they're
19 going to be asking us for water. I already know that China
20 comes up up above in the upper peninsula and gets water
21 out of Lake Michigan, but, you know, if we are polluted, we
22 won't be able to swim there; we won't be able to go to the
23 beach there, nothing, and you can't come up and visit us at
24 the national park because it will be dead. It will be a
25 dead space, and we have a lot of those, so, please, I'm

1 pleading with you. Think about this when you go back and
2 talk to your people and you think about what you heard
3 here.

4 And the final thing I'm going to reveal to you
5 and to my fellow citizens is at 70, a year-and-a-half ago,
6 I was diagnosed with Stage 1 cancer, which is why my pants
7 keep falling down because I keep losing weight. I battled
8 it for a year-and-a-half. Thank God, knock on wood, I'm
9 okay. I wonder how did I get it? We don't know, okay, but
10 I do know that when NIPSCO opened the steam, which turns
11 black at night -- Why is it black all of a sudden? It
12 comes across the lake, and where I live right here in Long
13 Beach is the highest hill from here to there. It's called
14 Silvertip. It's gigantic. It goes straight down. Well,
15 that air hits right at the top of Silvertip, and I can tell
16 you -- I was in graduate school in New York City at the
17 time, and I did a lot of -- this is the last thing I'll
18 say. I did a lot of information hunting about that because
19 the same thing was happening on Long Island in New York
20 where I was born, but air that came down, it hit
21 Silvertip -- and I know how you feel because I'm getting
22 choked up just talking about it. The women on the top of
23 Silvertip and the houses all the way down including the
24 bottom where my family bought the house in 1961 where I
25 live now -- and by the way, there was black dust all over

1 the -- everything in our house from NIPSCO back then.
2 Still happening as people have brought up. All of the
3 women down Silvertip including the women at the bottom of
4 Silvertip where I live where my mother and father had just
5 bought the house, they all got cancer and died including my
6 mother who died in 1972 from cancer.

7 So I'm just saying there's a lot more to the
8 story when you look deeper into what's happening, and that
9 wall is going to fail. I've looked at it myself. With my
10 camera, I went out and did a lot of filming with a friend
11 of mine that had a boat right after the water started
12 coming down and we started getting our beach back, which we
13 kind of have now. That wall is ready to fall apart, and
14 you're going to let all of that fly ash in Lake Michigan.

15 I just want to plead with you from the bottom of
16 my heart to listen to what everybody has said here, and as
17 they said, the young people after all the mass murders and
18 they went to Washington, they said do something. So that's
19 what I'm asking and pleading from you.

20 Thank you for your time. Thank you for coming up
21 here. God bless.

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(WITNESS DONNA KAVANAGH EXCUSED)

1 MS. HITZ: Tina Mahone?

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3 **TINA MAHONE**, a witness appearing on behalf of the Public,
4 having been first duly sworn, testified as
5 follows:

6

7 A Hi, and thank you for having this forum here in
8 Michigan City.

9 My name is Tina Mahone, T-i-n-a M-a-h-o-n-e, and
10 unlike most of the people who spoke today, I am from
11 Michigan City, born and raised -- thank you, Ms.
12 Brillson on the west side. I only heard one person
13 mention the west side of Michigan City, but I was raised
14 there. I attended Park Elementary School, which is now
15 closed and has been for some years. I graduated from
16 Rogers High School. I went on to go to Purdue University
17 and became an engineer, lived in Atlanta for a number of
18 years, and then brought my family back to Michigan City
19 because my parents are here because I wanted them to see
20 their grandkids grow up but because I love the lake. I
21 love Michigan City. When my nieces and nephews come in
22 town, the first place we go is Mount Baldy. I take my kids
23 to Mount Baldy. I -- we spend Memorial Days and Labor Days
24 at Michigan City Washington Park. In the pictures, people
25 think we're on vacation somewhere, and it's right here in

1 Michigan City.

2 So my concern is the three kids and believe it or
3 not the two grandkids -- three grandkids that I now have.
4 We enjoy Michigan City, but it's also my parents who still
5 live on the west side in the house I grew up in who walk
6 out of their front door, and the first thing they see is
7 the huge tower that I grew up under wondering why when it
8 wasn't raining on the east side it was raining on the west
9 side and asking my teachers at Park Elementary School: Are
10 those towers dangerous? Is that really where clouds come
11 from? I really thought for a while that we in Michigan
12 City made our own clouds. Little did I know how dangerous
13 those clouds were.

14 My brothers -- one is here -- both had asthma
15 their entire life. My mother is a cancer survivor, had
16 thyroid disease. Many of my friends who also attended Park
17 School and lived on the west side their entire life, their
18 mothers -- who are my mother's age -- died of thyroid
19 disease.

20 I asked NIPSCO to do what they said they would
21 do. My first knowledge of this was when I saw at Pullman
22 Field -- which is a neighborhood park that I grew up
23 playing at. Some years ago, I was very upset when they
24 were going to rebuild -- put money into Pullman Field Park,
25 but they were only putting money into this very small

1 corner of the skating park. Well, I grew up on that park
2 playing there my entire life. As a matter of fact, at the
3 time, the same playground equipment was there as when I
4 played their 45 years before. So I worked with a group; we
5 did a petition, and we got the playground equipment totally
6 renovated. We got a small walking track. We made
7 improvements to that park, but now I feel guilty because
8 the very kids I wanted to have a better park, I feel like I
9 am playing a part in their -- in the risk of them playing
10 on contaminated soil because of the coal ash because we
11 know it's under the ground. It's not stopping just leaving
12 the lake. It's actually under the ground at the very
13 playground that we just renovated for those same low income
14 kids on the west side, kids who look just like me. Kids
15 who I wanted to come back.

16 After completing a degree in engineering, 20
17 years of work experience at that time, now over 30, I now
18 work for a polluter. I did not know at the time. I now
19 work -- I'm now an engineer for Cleveland-Cliffs Steel
20 Company. Little did I know the history of coal ash, but
21 the more I learned, the more guilty I felt, but it's not
22 our fault. We didn't do it; we shouldn't pay for it, and
23 NIPSCO should be held responsible for the damage that they
24 put into this community.

25 So I came back to the City, one, because I love

1 Michigan City. I didn't bring personal pictures, but if
2 you I don't know if you're -- if you all are familiar,
3 but if you look at our Michigan City LaPorte magazine which
4 shows all the water sports -- Are you all familiar with
5 this? So we proudly boast the lake that we're polluting,
6 and then ironically, I looked at the last page of this
7 particular one, and who has a full page ad? NIPSCO with a
8 little girl who looks just like me at Park Elementary
9 School with a future to do anything I wanted to do. So I.
10 went to school; I pursued engineering; not a lot of us do.
11 There's not a lot of brown girls in engineering.

12 This article says NIPSCO will complete 14
13 renewable energy projects by the time she starts high
14 school. That could have been me. I don't know how old
15 this little girl is, but should we pay for NIPSCO's 14 new
16 renewable energy projects while they still kill the
17 residents who are here now? It's not fair; it's not right.

18 I ask that you not approve this hike. I didn't
19 understand it, and I almost didn't come today because I saw
20 the article on Friday saying a rate hike was approved.
21 Well, I didn't understand how the game was played, that
22 there's several rate hikes, and that's just another one.
23 That's -- and then there's another one after that, so we're
24 really going to pay for all of the polluting that they do,
25 and it just doesn't seem right. It seems like the polluter

1 wins and not the citizens.

2 So I ask you on my behalf, on my parents' behalf,
3 and on all the little girls that NIPSCO say they support --
4 And I just want to read what they say. Your energy, your
5 future. If we are informed consumers, I don't think we
6 asked to pay for this. We're not paying for their solar
7 energy by having them kill us and leaving coal ash in our
8 communities. It's not right, and their statement is
9 NIPSCO, the future will be here before you know it; that's
10 why we're making swift and steady progress on a number of
11 initiatives within the plan we call your energy, your
12 future and are on track to achieve our goals in the areas
13 of economic growth, social responsibility, and
14 environmental stewardship.

15 So I ask them to be held accountable for false
16 advertisement. I ask that they not be allowed to pursue
17 this rate hike and that you consider us in your final
18 decision.

19 Thank you.

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(WITNESS TINA MAHONE EXCUSED)

1 MS. HITZ: Brian Gross?

2

3 **BRIAN GROSS**, a witness appearing on behalf of the Public,
4 having been first duly sworn, testified as
5 follows:

6

7 A Hello. My name is Brian Gross, B-r-i-a-n G-r-o-s-s.

8 I lived in Fort Wayne for several years before I
9 moved here. Fort Wayne is part of Indiana Michigan Power
10 which gets a lot of their power from -- it was Palisades
11 and Donald C. Cook nuclear plants. Moved here in LaPorte
12 County, and my rates basically quadrupled. I think I was
13 paying almost four times as much per kilowatt hour once I
14 moved into NIPSCO's territory.

15 They didn't have any nuclear plants seeing that
16 they had abandoned the Bailly plant at about 2 percent of
17 construction because it was going over budget. I don't
18 know who their management was then or what happened, but I
19 think they tried to recover those rates too on a plant that
20 never went into production from the ratepayers. They were
21 trying to petition your Commission -- this is going back
22 decades -- to have us, the ratepayers, pay for something
23 that we were never even able to use.

24 I also used to be a NiSource stockholder, which I
25 believe is still the parent company of NIPSCO. I haven't

1 been a NiSource stockholder now for about a decade or so.
2 I was for about 15 years, and I never recall in the annual
3 reports ever seeing anything about reserves for coal ash or
4 any expenses on that which definitely was -- had to be
5 known by then, and I understand, you know, as a stockholder
6 that they expect a return on their investments and all
7 that, but if you've looked at your 401k or IRAs this year
8 at all and you read the bottom that says past returns are
9 not guaranteed and all this other stuff, stocks go up and
10 down, and shareholders basically are gambling, okay?
11 Ratepayers should not be gambling. Ratepayers should know
12 what they're up against, and they should be paying for the
13 services they get.

14 Typically when they build a utility, the utility
15 is not allowed to charge the ratepayers for the building of
16 that utility; the stockholders bear that cost until the
17 utility goes on line. The same should probably be -- it
18 should probably be the same when they're decommissioning a
19 utility. The decommissioning should have been figured in
20 during the use of that utility, and the stockholder should
21 be bearing that cost, not the shareholders. The
22 stockholders are the ones that have been benefiting for
23 decades from the running of that plant. Why aren't they
24 the ones also responsible for shutting it down and cleaning
25 it up?

1 You know, I feel that as -- if NIPSCO is a good
2 neighbor, if they're a responsible corporate partner and
3 everything else, they should fully remediate this site and
4 bring it back to the condition it was in before they
5 occupied it, and I understand the EPA hasn't been around
6 forever and we didn't care about pollution 50, 60, 70 years
7 ago, but we do now, and we need to handle it.

8 40 years ago, if I drove up I-65 towards Chicago,
9 I could tell when I was in the region. The clouds -- the
10 sky just got hazy. It's not like that anymore. A lot of
11 industries have done a lot of stuff to clean up the air.
12 We also need to clean up this coal ash so that we aren't
13 facing the same problem.

14 I currently kayak on Michigan City. I come up
15 Trail Creek; I go past NIPSCO. Calm day, the water's
16 pristine. I can see 7 feet down. I stick my oar down
17 there and I know it's 7 feet because the oar is 6 feet and
18 I'm a foot under water. You start getting coal ash leaking
19 in there, it's not going to be the pristine water anymore.

20 I also live on the west side, so there's coal ash
21 and then there's coal dust. Got a big coal pile out there,
22 and they do water it. I'm sure the watering is partly to
23 keep the coal dust down, partly so that an errant spark
24 doesn't start the whole coal field on fire, but I still get
25 a lot of coal dust flying into my screens and all that. I

1 kind of understand that; I live near the coal field, you
2 know, but the coal ash really needs to be remediated, and
3 again, I don't see where the ratepayers should be paying
4 for this. This is something that NIPSCO over the years and
5 decades should have had reserves on the books to pay for
6 when they decommission the plant, and again, in my annual
7 reports, I have just never seen anything like that. It
8 needs to be remediated before this becomes another EPA
9 superfund site.

10 One other thing I would like to suggest is that
11 if you ever do have another hearing up here, I really
12 suggest we have it on the Lake Michigan lakefront at
13 Washington Park at the Sunset -- what is that? -- Grill.
14 Thank you. Much nicer environment.

15 Thank you.

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(WITNESS BRIAN GROSS EXCUSED)

1 MS. HITZ: That is all the speakers that I have.

2 I misspoke; we have an additional speaker.

3

4 **CHERYL CHAPMAN**, a witness appearing on behalf of the

5 Public, having been first duly sworn,

6 testified as follows:

7

8 A Hi. Cheryl Chapman, Cheryl with a C-h-e-r-y-1
9 Chapman, C-h-a-p-m-a-n, so thank you very much for coming
10 and doing this and staying with us all night long.

11 As a resident of Long Beach, also a grandmother,
12 a retired teacher, a community volunteer here, and as
13 someone who takes seriously everyone's obligation to be
14 good stewards of the environment, I'm here today of course
15 like everyone else to ask that NIPSCO reconsider this rate
16 hike and doesn't do it.

17 I know it doesn't sound like much, but I do
18 understand the rate hike is supposed to cover the coal ash
19 clean-up of the 10 percent. I've been studying the coal
20 ash problem in Michigan City and throughout Indiana for
21 several years now.

22 When our local coal-fired plant was first put
23 into service in the early 1930s, nobody probably then
24 thought about the toxic threat that coal ash would become,
25 nor did they consider the future rise in our lake levels or

1 the fact that the seawall was not going to last forever or
2 the different seawalls they put in. This has been really
3 educational for me tonight; I've been learning a lot.

4 In 1976, I guess -- I thought it was '79, but in
5 '76, the EPA not wishing to make the electric companies
6 responsible for the previous decades' unintentional bad
7 planning passed a law saying that all of the coal ash
8 generated from then onward and in a position to threaten
9 water supplies should be taken to safer locations upon the
10 plants' closures.

11 In the Michigan City case, this is the upper 10
12 percent of the coal ash ponds. NIPSCO's planning on
13 leaving the other 90 percent, as we know, to be cemented
14 over and still behind the seawall. Ideally, they should
15 remove 100 percent of the coal ash, and we all hope that
16 they do, so that the lakefront can be reclaimed for public
17 use because in Indiana, the lakeshore up to the ordinary
18 high water mark is designated for public use. NIPSCO, I
19 believe, only leases the Michigan City property; they don't
20 own it.

21 So I oppose this increase because whether NIPSCO
22 removes the 43 years' worth of coal ash deposited since '79
23 or the 91 years' worth of coal ash deposited since 1931, it
24 isn't fair to make the current residential customers pay
25 for decades and decades of accumulated coal ash removal.

1 This is a problem throughout Indiana. We're not
2 the only ones here in Michigan City, so you may hear from
3 other people. A lot of the coal ash ponds are near fresh
4 water and drinking water throughout Indiana', and NIPSCO
5 should work with the environmental organizations and IDEM
6 to be good stewards -- actual good stewards of the
7 environment and procure federal and state funding for these
8 efforts. They shouldn't take the easy way out by balancing
9 the budget on the backs of us consumers and by limiting
10 their stewardship to only 10 percent of cleaning up the
11 banks of Lake Michigan.

12 I'm hoping that everybody -- you, us, NIPSCO --
13 will all somehow be able to work together to procure the
14 clean water future that our children deserve. As a
15 grandma, it's all about the kids, so thank you very much
16 for listening.

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(WITNESS CHERYL CHAPMAN EXCUSED)

1 MS. HITZ: Is there anyone else who wants to
2 speak at this time?

3 Seeing none, Your Honor, I would submit what has
4 been marked as Public's Exhibit Field Hearing 1 into
5 evidence.

6 THE COURT: Thank you.

7 Any objections?

8 MR. LIKINS: No objections from the Petitioner,
9 Your Honor.

10 MS. WASHBURN: No objection from CAC.

11 THE COURT: Thank you.

12 Then Public's Exhibit Field Hearing 1 is admitted
13 into evidence.

14

15 (PUBLIC'S EXHIBIT NO. FH-1, BEING PUBLIC FIELD
16 HEARING QUESTIONNAIRES AND COMMENTS, ADMITTED
17 INTO EVIDENCE.)

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1 THE COURT: And, with that, we will continue this
2 hearing to the evidentiary hearing on September 27, 2022 at
3 9:30 A.M. in Room 222 of the PNC Center.

4 Thank you, everyone, for coming out tonight. We
5 appreciate it.

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(FIELD HEARING ADJOURNED)

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(AND CONTINUED TO SEPTEMBER 27, 2022 AT

24

9:30 A.M. (EDT) IN ROOM 222 OF THE PNC CENTER,

25

INDIANAPOLIS, INDIANA)

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2 million tons [2] 23/4 25/2 20 [5] 5/11 5/14 11/2 43/16 49/16 20 percent [1] 30/18 200 feet [1] 2/14 2003 [1] 35/14 2008 [1] 31/24 2015 [3] 32/9 32/11 32/14 2019 [3] 28/10 43/9 43/25 2020 [2] 32/19 32/21 2022 [4] 1/1 43/2 60/2 60/23 2023 [1] 31/2 2028 [1] 26/14 22 [1] 9/6 222 [2] 60/3 60/24 24-foot [1] 4/10 27 [2] 60/2 60/23		

<p>A</p> <p>appearing... 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