

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE
COMPANY FOR AUTHORITY TO MODIFY ITS RATES
AND CHARGES FOR ELECTRIC UTILITY SERVICE
AND FOR APPROVAL OF: (1) CHANGES TO ITS
ELECTRIC SERVICE TARIFF INCLUDING A NEW
SCHEDULE OF RATES AND CHARGES AND
CHANGES TO THE GENERAL RULES AND
REGULATIONS AND CERTAIN RIDERS; (2) REVISED
DEPRECIATION ACCRUAL RATES; (3) INCLUSION IN
ITS BASIC RATES AND CHARGES OF THE COSTS
ASSOCIATED WITH CERTAIN PREVIOUSLY
APPROVED QUALIFIED POLLUTION CONTROL
PROPERTY, CLEAN COAL TECHNOLOGY, CLEAN
ENERGY PROJECTS AND FEDERALLY MANDATED
COMPLIANCE PROJECTS; AND (4) ACCOUNTING
RELIEF TO ALLOW NIPSCO TO DEFER, AS A
REGULATORY ASSET OR LIABILITY, CERTAIN
COSTS FOR RECOVERY IN A FUTURE PROCEEDING.

OFFICIAL
EXHIBITS

CAUSE NO. 44688

Direct Testimony and Exhibits of

Stephen M. Rackers

On behalf of

NIPSCO Industrial Group

IURC
INTERVENOR'S - *IF*
EXHIBIT NO. *3*
4-13-16
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January 22, 2016



BRUBAKER & ASSOCIATES, INC.

Project 10143

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Direct Testimony of Stephen M. Rackers

1 Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.

2 A Stephen M. Rackers. My business address is 16690 Swingley Ridge Road,
3 Suite 140, Chesterfield, MO 63017.

4 Q WHAT IS YOUR OCCUPATION?

5 A I am a consultant in the field of public utility regulation and an Associate of Brubaker
6 & Associates, Inc., energy, economic and regulatory consultants.

7 Q PLEASE DESCRIBE YOUR EDUCATIONAL BACKGROUND AND EXPERIENCE.

8 A This information is included in Appendix A to my testimony.

1 Q ON WHOSE BEHALF ARE YOU APPEARING IN THIS PROCEEDING?

2 A I am appearing on behalf of The NIPSCO Industrial Group ("Industrial Group").
3 Industrial Group members purchase substantial quantities of electricity from Northern
4 Indiana Public Service Company ("NIPSCO" or "Company").

5 Q WHAT IS THE SUBJECT MATTER OF YOUR DIRECT TESTIMONY?

6 A My testimony will address: (1) the inclusion of the prepaid pension asset in rate base;
7 (2) the amortization of the remaining balance of the Sugar Creek Plant deferred
8 depreciation and carrying cost; (3) the recovery of deferred transmission and
9 distribution costs; (4) the state income tax rate; and (5) excess deferred state income
10 taxes.

11 Q PLEASE SUMMARIZE YOUR CONCLUSIONS AND RECOMMENDATIONS.

12 A My conclusions and recommendations are summarized as follows:

- 13 1. The prepaid pension asset and associated accumulated deferred income taxes
14 ("ADIT") that NIPSCO has included in from rate base and the capital structure,
15 respectively, should be eliminated from the determination of the revenue
16 requirement;
- 17 2. The amortization of the remaining balance of the Sugar Creek Plant deferred
18 depreciation and carrying cost should be eliminated from the cost of service;
- 19 3. The deferred transmission and distribution costs should be amortized over a
20 longer period than proposed by NIPSCO, five years rather than two, and the
21 deferred cost should not be included in rate base;
- 22 4. The current effective Indiana state income tax of 6.5% should be used in the
23 determination of revenue requirement; and
- 24 5. The March 31, 2015 balance of excess deferred state income taxes should be
25 amortized over a five-year period rather than the remaining life of the associated
26 assets, as proposed by NIPSCO.

1 **Prepaid Pension Asset**

2 **Q HAS NIPSCO PROPOSED TO INCLUDE A PREPAID PENSION ASSET IN ITS**
3 **RATE BASE?**

4 **A** Yes. As shown on Mr. Derric J. Isensee's Attachment 6-C, the Company has
5 included a \$216.3 million prepaid pension asset in its Indiana electric jurisdictional
6 rate base. Including this asset in rate base, net of the associated accumulated
7 deferred income taxes ("ADIT") included in the capital structure, increases the
8 Company's claimed revenue deficiency by \$16.0 million.

9 **Q IS THE COMPANY'S PROPOSAL TO INCLUDE A PREPAID PENSION ASSET IN**
10 **RATE BASE REASONABLE?**

11 **A** No. The Company's proposal for customers to pay a return on this prepaid pension
12 asset is unreasonable for several reasons. First, this prepaid pension asset
13 represents the level of contributions to the pension trust, in excess of the historical
14 amounts charged to operating expense. As I will discuss later, the level of
15 contributions since 2007 has significantly exceeded the level of contributions that
16 NIPSCO was required to make. Ratepayers should not be required to provide a
17 return on excess contributions to the pension fund.

18 Second, at the date contributions to the pension fund are made, there is an
19 increase in the value of the assets held in the Pension Trust Fund. However, the
20 value of these assets will move based on market changes and investment results.
21 Assets can significantly increase or decrease in value. The returns received on
22 contributions are also based on the allocation of these funds among various
23 investment options. All investment options do not result in the same returns. As I will
24 discuss later in my testimony, it is too simplistic to say, as Mr. Isensee does on

1 page 45 of his testimony, that each additional dollar of pension fund contribution
2 reduces the amount of pension expense.

3 Finally, the Company has not justified or reconciled the significant increase in
4 the prepaid pension asset. During the period of this significant growth in the prepaid
5 pension asset, NIPSCO was involved in a utility merger, which resulted in significant
6 growth in the pension asset. The Commission had previously denied recover of that
7 prepaid pension asset. NIPSCO has not justified the inclusion of the prepaid pension
8 asset in rate base.

9 **Q HAS THE COMMISSION PREVIOUSLY DENIED NIPSCO'S REQUEST TO**
10 **INCLUDE A PREPAID PENSION ASSET IN RATE BASE?**

11 A Yes. In its Final Order on page 9 in Cause No. 43526 the Commission stated the
12 following. "A prepaid pension asset could be a voluntary payment by shareholders to
13 supplement the required pension expenses. NIPSCO has presented no justification for
14 including the prepaid pension asset in rate base, and without additional supporting
15 evidence, we decline to include it in NIPSCO's rate base."

16 **Q HAS THE COMPANY'S PREPAID PENSION ASSET INCREASED SIGNIFICANTLY**
17 **SINCE THE 2007 BALANCE PRESENTED IN CAUSE NO. 43526?**

18 A Yes. In Cause No. 43526, the amount of the prepaid pension asset requested by
19 NIPSCO was \$25.7 million. The prepaid pension asset included in rate base in the
20 current case is \$216.3 million. Mr. Isensee's testimony offers no justification and
21 reconciliation for this 742% increase in the prepaid pension asset since 2007. Using
22 NIPSCO's cost of capital in the current case, this change in the level of the prepaid
23 pension asset represents an almost \$20 million increase in the revenue requirement.

1 **Q HAVE YOU REQUESTED INFORMATION REGARDING THE BUILD-UP IN THE**
2 **LEVEL OF THE PREPAID PENSION ASSET?**

3 A Yes. In response to Industrial Group Data Request No 8-003¹, NIPSCO provided a
4 calculation showing its total company prepaid pension asset calculation since
5 December 31, 2007 through June 30, 2015. This response shows a \$157 million total
6 company prepaid pension asset at December 31, 2007 increasing to \$317 million by
7 6/30/2015. This reflects an increase of 102% since 2007. The increase is due
8 almost entirely to contributions to the pension fund that were approximately \$160
9 million in excess of pension cost.

10 **Q YOU STATED THAT THE RESPONSE TO INDUSTRIAL GROUP DATA REQUEST**
11 **NO. 8-003 ("IG 8-003") SHOWS A 2007 ENDING PREPAID PENSION ASSET**
12 **BALANCE OF \$157 MILLION. IS THAT CONSISTENT WITH THE DATA**
13 **PRESENTED BY THE COMPANY IN CAUSE NO. 43526?**

14 A No. In that case, NIPSCO witness Linda E. Miller, in Petitioner's Exhibit No. LEM-4,
15 provided the balance I previously cited of \$25.7 million for the Indiana electric prepaid
16 pension asset at December 31, 2007. Ms. Miller subsequently stated that due to
17 changes in market conditions, the balance of the prepaid pension asset was zero at
18 December 31, 2008 (Tr. at 56; Final Order in Cause No. 43526 at 9).

19 **Q WHY DOES THIS DIFFERENCE EXIST BETWEEN THE RESPONSE TO IG 8-003**
20 **AND MS. MILLERS TESTIMONY IN CAUSE NO. 43526?**

21 A The prepaid assets balances shown in response to IG 8-003 have been restated,
22 back to 2008, to include amounts attributable to NIPSCO's 2011 merger with

¹NIPSCO's response to Industrial Group Data Request No. 8-003 Supplemental, attached as Exhibit SMR-1.

1 Northern Indiana Fuel and Light Company ("NIFL") and Kokomo Gas and Fuel
2 Company ("Kokomo"). Therefore, its total company prepaid pension asset was zero
3 at the end of 2008, but NIPSCO acquired \$173 million of its \$317 million total
4 company prepaid pension asset simply as a result of its merger with NIFL and
5 Kokomo.

6 **Q DO YOU BELIEVE IT IS APPROPRIATE FOR RATEPAYERS TO BEAR THE**
7 **PRE-MERGER COST OF THE PREPAID PENSION ASSETS OF NIFL AND**
8 **KOKOMO?**

9 A No. NIPSCO ratepayers should not be required to bear the cost of prepaid pension
10 assets that existed solely because of the merger with NIFL and Kokomo. Over 50%
11 of NIPSCO's total company prepaid pension asset is attributable to the build-up of an
12 asset that existed prior to the merger with NIFL and Kokomo (\$173+317). At the date
13 of the merger, rate base inclusion of these assets had previously been denied to
14 NIPSCO.

15 **Q HAS NIPSCO MADE SIGNIFICANT VOLUNTARY CONTRIBUTIONS TO THE**
16 **PENSION FUND?**

17 A Yes. Based on NIPSCO's response to IG 8-003, NIPSCO has contributed \$321
18 million from 2008 through 2014.² In response to OUCC Data Request No. 10-018³,
19 the Company stated that it was not able to provide ERISA minimum required
20 payments on a NIPSCO-only basis, but did provide total NiSource ERISA minimum
21 required payments. From 2008 through 2014, total NiSource ERISA minimum
22 required payments were \$230 million. Therefore, even compared to the required

²This amount includes the restatement for NIFL and Kokomo.

³NIPSCO's response to OUCC Data Request No. 10-018, attached as Exhibit SMR-2.

1 contributions for all of NiSource, NIPSCO has made over \$91 million of voluntary
2 excess contributions to the pension fund.

3 **Q HAS THE COMMISSION ALLOWED ANY UTILITY COMPANY TO INCLUDE ITS**
4 **PREPAID PENSION ASSET IN RATE BASE?**

5 A Yes. In Cause No. 44075, the Commission allowed Indiana Michigan Power
6 Company ("I&M") to include a prepaid pension asset in rate base. In that case, the
7 Commission stated that it allowed the prepaid asset because the record reflected that
8 the asset was correctly recorded on I&M's books, reduced the pension cost reflected
9 in the revenue requirement, preserved the integrity of the pension fund and reduced
10 the liquidity risk of future payments.

11 **Q HAS NIPSCO MET THE COMMISSION'S CRITERIA FOR ALLOWING A PREPAID**
12 **ASSET IN RATE BASE AS DISCUSSED ABOVE FROM THE I&M CASE?**

13 A. No. While this asset may be correctly stated on NIPSCO's books, over half of the
14 asset exists as the sole result of a merger in 2011. In 2008, only three years prior to
15 the merger, NIPSCO's prepaid pension asset was zero.

16 Mr. Isensee justifies the inclusion of the prepaid pension asset in rate base by
17 saying that the investment return of 8.3% on the additional contributions has reduced
18 pension expense by approximately \$18 million.⁴ However, I do not believe this
19 provides proof that the additional contributions have reduced pension expense. As I
20 previously stated, the value of pension trust fund assets will change based on market
21 conditions and investment results, and the value of these additional contributions can
22 significantly increase or decrease in value. Also the 8.3% return is an "expected"

⁴Petitioner's Exhibit 6, p. 45

1 rather than actual return on assets. The difference between expected and annual
2 returns are reflected over several years in the calculation of pension expense. Mr.
3 Isensee's approach reflects a snapshot comparison between the expected earnings
4 on pension fund assets and pension expense. As previously stated, pension fund
5 assets and the returns associated with contributions fluctuate over time based on
6 market conditions. Mr. Isensee has not shown that the actual return on these
7 additional contributions, which reflect a build-up over time has benefitted ratepayers
8 by more than the cost of including the prepaid pension asset in rate base.

9 NIPSCO has not asserted or proved that it would have eventually been
10 required to make the additional contributions to protect the integrity of the pension
11 fund. Nor has NIPSCO stated that its additional contributions were driven by any
12 concerns with liquidity risks associated with making payments in the future.

13 **Q WHAT IS YOUR RECOMMENDATION WITH REGARD TO INCLUDING THIS**
14 **PREPAID PENSION ASSET IN NIPSCO'S RATE BASE?**

15 **A I** recommend that the Company's proposal to include a \$216.3 million prepaid
16 pension asset in its rate base be rejected. This prepaid pension asset should be
17 removed from rate base and the associated \$82.6 million of ADIT should be
18 eliminated from the capital structure as discussed in Appendix B to the direct
19 testimony of my colleague Mr. Gorman. Removal of these amounts will reduce
20 NIPSCO's claimed revenue deficiency by \$16.0 million.

1 **Amortization Expense**

2 **Q PLEASE EXPLAIN THE ISSUES YOU HAVE WITH NIPSCO'S DETERMINATION**
3 **OF AMORTIZATION EXPENSE.**

4 A I am proposing two adjustments that will lower NIPSCO's proposed amortization
5 expense by \$4.1 million. The two amortizations I am proposing to adjust are the
6 Sugar Creek Plant deferral and the Transmission and Distribution deferral. I am also
7 opposed to NIPSCO's request to include the Transmission and Distribution deferral in
8 rate base, which reduces revenue requirement by approximately (\$300,000).

9 **Q PLEASE DESCRIBE YOUR FIRST ADJUSTMENT TO THE LEVEL OF**
10 **AMORTIZATION EXPENSE NIPSCO HAS INCLUDED IN THE COST OF**
11 **SERVICE?**

12 A As shown on page 48 of Mr. Isensee's Attachment 6-B, NIPSCO is proposing a
13 two-year amortization of the \$5,965,662 remaining balance of the deferred
14 depreciation and carrying cost for the Sugar Creek Plant. I believe NIPSCO has
15 already recovered approximately all of this balance.

16 **Q WHY DO YOU BELIEVE THIS BALANCE HAS BEEN RECOVERED?**

17 A NIPSCO's current rates include recovery of deferred depreciation and carrying
18 charges associated with Unit 18, as a result of an amortization through
19 September 30, 2014. Since rates were not adjusted at the end of the amortization
20 period, NIPSCO's revenues continue to collect \$3,171,684 annually. From the end of
21 the September 30, 2014 recovery date through August 1, 2016, NIPSCO will have
22 collected additional revenue of \$5.8 million, which is approximately all of the
23 remaining Sugar Creek Plant deferred depreciation and carrying charges.

1 **Q WHY WERE RATES NOT ADJUSTED WHEN THE UNIT 18 AMORTIZATION**
2 **EXPIRED?**

3 A In response to Industrial Group Data Request No. 8-001⁵, NIPSCO stated that it did
4 not make a filing to reduce rates since it was not required by the Final Order in Cause
5 No. 38045.

6 **Q WHY IS IT APPROPRIATE TO USE THIS OVER-RECOVERY OF THE DEFERRED**
7 **UNIT 18 COSTS TO OFFSET THE REMAINING BALANCE OF THE SUGAR**
8 **CREEK PLANT DEFERRED COSTS?**

9 A An amortization is a regulatory tool that allows for the recovery of specific costs. This
10 tool should be established to recover, as close as possible, the exact amount of any
11 deferred expenses. That is why amortizations that NIPSCO is seeking to establish in
12 this case have specific end dates and require a filing to reduce rates at the end of the
13 amortization period. This provision is discussed at lines 9-11 on page 29 of Mr.
14 Isensee's testimony.

15 **Q WHAT IS YOUR PROPOSED ADJUSTMENT TO AMORTIZATION EXPENSE?**

16 A I am proposing to eliminate the expense associated with the two year amortization of
17 the August 1, 2016 remaining balance of the Sugar Creek Plant deferred depreciation
18 and carrying charges (\$5,965,662). This reduces NIPSCO's revenue requirement by
19 approximately \$3 million. If there is an ADIT balance associated with the remaining
20 balance of the Sugar Creek Plant deferred depreciation and carrying charges, it
21 should also be removed from the capital structure.

⁵NIPSCO's response to Industrial Group Data Request No. 8-001, attached as Exhibit SMR-3.

1 **Transmission and Distribution Deferral**

2 Q HAS NIPSCO INCLUDED DEFERRED COSTS ASSOCIATED WITH
3 TRANSMISSION AND DISTRIBUTION PLANT ADDITIONS IN THE
4 DETERMINATION OF REVENUE REQUIREMENT?

5 A Yes. NIPSCO has included deferred costs (i.e., deferred depreciation and carrying
6 cost) associated with certain transmission and distribution ("T&D") plant placed in
7 service through June 30, 2015 in its rate base, and is proposing a two-year
8 amortization of these costs. As shown on page 54 of Mr. Isensee's Attachment 6-A,
9 expense has been increased by \$1,771,802 to reflect a two-year amortization of the
10 \$3,543,604, deferred through June 30, 2015.

11 Q WHAT IS NIPSCO'S BASIS FOR THE T&D DEFERRAL?

12 A Pursuant to the Settlement Agreement and Commission Order in consolidated Cause
13 Nos. 44370 and 44371, NIPSCO is authorized to defer as a regulated asset certain
14 TDSIC costs, and recover those costs as part of this rate case. This is the
15 Commission's first opportunity to consider the appropriate rate case treatment for
16 deferrals under Indiana Code § 8-1-39.

17 Q DO YOU AGREE WITH NIPSCO'S PROPOSAL?

18 A No. Indiana Code § 8-1-39 is silent as to how TDSIC deferrals are to be recovered in
19 the subsequent rate case. I believe the amortization period should be significantly
20 longer than what NIPSCO has proposed. Since these costs are related to long-lived
21 assets, I believe an amortization period much longer than two years could be justified
22 for these costs. Transmission and distribution plant can have lives in excess of 25
23 years. However, a shorter amortization period would be acceptable if the deferred

1 ~~costs~~ are not also included in rate base. For example, in Cause No. 43526, a five-
2 year amortization period was established for the deferred depreciation and carrying
3 charges associated with the Sugar Creek Plant. The Sugar Creek Plant deferred
4 costs, which are very similar to the T&D deferred costs, were not included in rate
5 base during the amortization period.

6 **Q WHAT IS YOUR RECOMMENDATION WITH REGARD TO INCLUDING THE**
7 **DEFERRED T&D COSTS IN THE DETERMINATION OF REVENUE**
8 **REQUIREMENT?**

9 **A** Based on the regulatory treatment previously afforded similar costs, I recommend a
10 five-year amortization period and no rate base inclusion of the deferred costs.

11 **Q WHAT EFFECT DOES YOUR RECOMMENDATION HAVE ON THE REVENUE**
12 **REQUIREMENT IN THIS CASE?**

13 **A** My recommendation eliminates the T&D deferred cost rate base component of
14 \$3,543,604, as shown on Mr. Isensee's Attachment 6-C. In addition the amount of
15 the amortization expense shown on page 54 of Mr. Isensee's Attachment 6-A is
16 reduced from \$1,771,802 to \$708,721 ($\$3,543,604 \div 5$) as a result of my
17 recommendation. The total reduction to the revenue requirement is approximately
18 \$1.4 million.

1 Q IF THE COMMISSION DETERMINES THAT A RATE BASE INCLUSION OF THE
2 T&D DEFERRED COSTS IS APPROPRIATE, HOW WOULD YOU PROPOSE TO
3 DETERMINE THE RATE BASE AMOUNT?

4 A The deferred balance will be declining monthly due to the recovery of the amortization
5 expense in rates. The full balance will exist only at the beginning of the amortization
6 period and will be zero by the end. As a result, only the average balance during the
7 amortization period should be included in rate base. For example, only half of the
8 deferred T&D costs, $(3,543,604 \div 2)$, or \$1,771,802 should be included in the rate
9 base, regardless of the length of the amortization period. After the full amortization
10 period has been reflected in rates, NIPSCO should make a compliance filing to
11 reduce its rates to reflect the roll-off of the amortization.

12 **State Income Tax Rate**

13 Q WHAT STATE INCOME TAX RATE HAS NIPSCO REFLECTED IN THE
14 DETERMINATION OF REVENUE REQUIREMENT?

15 A NIPSCO has used a state income tax rate of 7.125%.

16 Q IS THIS RATE APPROPRIATE?

17 A No. I recommend using the current state income tax rate in effect. On July 1, 2015
18 the state income tax rate declined to 6.5%. This is a fixed, known and measurable
19 change that occurred within one year of the test year cutoff of March 31, 2015.

20 Q WHAT IS THE EFFECT ON REVENUE REQUIREMENT OF USING THE
21 CURRENTLY EFFECTIVE STATE INCOME TAX RATE?

22 A Using the current rate reduces revenue requirement by approximately \$1 million.

1 **Excess Deferred State Income Tax**

2 **Q PLEASE EXPLAIN THIS ISSUE.**

3 A Starting in 2012, a phased-in reduction began for the Indiana corporate income tax
4 from a rate of 8.5% culminating in a rate of 4.9% in 2022.

5 **Q WHAT IS THE EFFECT OF THIS TAX RATE REDUCTION?**

6 A In addition to lowering current income taxes, this reduction in the corporate income
7 tax rate will create an excess balance of accumulated deferred state income taxes
8 ("ADIT"). This is the result of deferring taxes at higher historical tax rates while
9 eventually paying the taxes at lower future rates. Through March 31, 2015, NIPSCO
10 has identified \$28,593,600⁶ of state ADIT.

11 **Q HOW DID NIPSCO CALCULATE THE \$28.6 MILLION OF EXCESS STATE ADIT?**

12 A The \$28.6 million is comprised of all excess deferred taxes through March 2015 at
13 the lowest (terminal) state income tax rate of 4.9%, which will become effective in
14 2021. The excess state ADIT increased to \$29,064,282 as of December 1, 2015,⁷
15 and will continue to rise until 2021 unless the General Assembly increases the
16 corporate income tax rate.

17 **Q ARE THERE ANY RESTRICTIONS ON THE RATEMAKING TREATMENT FOR**
18 **THE EXCESS STATE ADIT?**

19 A No. Excess Federal accumulated deferred income taxes related to accelerated
20 depreciation deductions must be amortized over the remaining life of the related

⁶The Direct Testimony of M. D. McCuen, Petitioner's Exhibit 11, p. 10, indicates that this amount is \$28,652,435, but in discovery NIPSCO indicated that the correct amount is \$28,593,600.

⁷NIPSCO's response to Industrial Group Data Request No. 7-007, attached as Exhibit SMR-4.

1 investment, when book depreciation exceeds accelerated tax depreciation. This
2 method is referred to as the Average Rate Assumption Method ("ARAM"). The
3 Internal Revenue Code ("IRC") specifies this restriction for using accelerated
4 depreciation with regard to the calculation of federal income taxes. However, it does
5 not appear that such restriction exists for excess state ADIT.

6 **Q PLEASE EXPLAIN YOUR UNDERSTANDING OF NIPSCO'S POSITION**
7 **REGARDING THE RETURN OF EXCESS DEFERRED STATE INCOME TAXES**
8 **AND YOUR RESPONSE.**

9 A In response to Industrial Group Data Requests Nos. 7-006 and 10-001,⁸ Company
10 witness Michael D. McCuen states that the Indiana Code is in conformity with the IRC
11 and therefore NIPSCO is restricted to the use of ARAM with regard to the excess
12 deferred state income taxes. I do not agree with this interpretation. NIPSCO relies
13 on I.C. § 6-3-1-11,⁹ which establishes the definition of "Internal Revenue Code" as
14 this term is used within Title 6, Article 3, of the Indiana Code. This statute
15 incorporates the IRC rules whenever the term "Internal Revenue Code" is used in that
16 Article. However, the relevant statute that establishes the corporate income tax rate,
17 I.C. § 6-3-2-1, does not use the term "Internal Revenue Code" or otherwise invoke its
18 rules.

19 NIPSCO relies instead on an Indiana Income Tax Information Bulletin that
20 refers to the IRC. This Bulletin is not a statute or rule, it is simply an information
21 document that by its own terms is "intended to provide nontechnical assistance to the
22 general public" and "should serve only as a foundation for further investigation and

⁸NIPSCO's response to Industrial Group Data Request Nos. 7-006 and 10-001, attached as Exhibits SMR-5 and SMR-6, respectively.

⁹Exhibit SMR-7.

1 study of the current law and procedures related to the subject matter covered."¹⁰ It is
2 not designed to answer the technical question of how quickly a utility can amortize
3 excess state ADIT; it is designed to help the general public calculate the corporate
4 income tax rate under normal circumstances. The bulletin simply explains that the
5 taxable income calculated according to the IRC is the starting point for calculating
6 Indiana income tax. From this starting point, numerous adjustments are made to
7 determine Indiana taxable income. I do not believe these references project full
8 conformity between the IRC and the Indiana Code.

9 **Q HOW HAS NIPSCO PROPOSED TO REFLECT THE EXCESS STATE ADIT FOR**
10 **REGULATORY PURPOSES?**

11 A NIPSCO is proposing to return the dollars to customers using the ARAM method.
12 NIPSCO's proposal results in waiting, potentially decades, for the return of all the
13 deferred state income taxes collected from ratepayers that have already been
14 identified as excess.

15 **Q DO YOU AGREE WITH THIS PROPOSAL?**

16 A No. I do not agree with using the ARAM method to return the excess deferred state
17 income taxes to ratepayers. Since the return of these excess state taxes is not
18 restricted, I think it is appropriate to return these taxes to ratepayers over a
19 reasonable period, beginning with this rate case. The rates from this case will go into
20 effect at approximately August 1, 2016. The final reduction in the state income tax
21 rate occurs on July 1, 2021, approximately five years following the implementation of
22 rates from this case.

¹⁰NIPSCO's response to IG 10-001, Attachment A, attached as Exhibit SMR-6.

1 Therefore, I would propose a five-year amortization of the excess state ADIT
2 which have been identified as of March 31, 2015. My recommendation allows
3 NIPSCO to return these excess funds, which the Company has enjoyed as a source
4 of zero cost capital, gradually over a five-year period. However, my recommendation
5 also returns these funds to ratepayers over a more reasonable period, rather than
6 requiring customers to wait decades for the return of amounts that have already been
7 determined to be excess. My recommendation provides a balanced approach
8 between the interests of the Company and its ratepayers.

9 **Q ARE YOU PROPOSING ANY SPECIAL REGULATORY TREATMENT FOR**
10 **ADDITIONAL EXCESS STATE ADIT IDENTIFIED AFTER MARCH 31, 2015?**

11 A Yes. I recommend that any additional excess state ADIT identified after March 31,
12 2015, be accumulated in a regulatory liability. The amortization of these additional
13 deferrals can be addressed in a future general NIPSCO rate proceeding.

14 **Q WHAT EFFECT DOES YOUR RECOMMENDATION HAVE ON THE REVENUE**
15 **REQUIREMENT IN THIS CASE?**

16 A As noted previously, NIPSCO has identified \$28,593,600 of excess state ADIT
17 through March 31, 2015. A five-year amortization of this amount will decrease
18 deferred state income taxes by \$5.7 million annually. Since this is a tax expense, the
19 revenue requirement effect reflects a tax gross-up to \$9.4 million annually.

1 **Q HAS NIPSCO IDENTIFIED ANY FEDERAL INCOME TAX OFFSETS ASSOCIATED**
2 **WITH THIS AMOUNT?**

3 A No. Based on the IG data request responses, I am not aware of any federal income
4 tax offsets to the amount NIPSCO has identified as excess state ADIT. However, if
5 federal offsets exist, these amounts should be considered in the amortization I
6 recommend.

7 **Q ARE YOU AWARE OF HOW UTILITY COMMISSIONS IN ANY OTHER STATE**
8 **JURISDICTIONS HAVE DEALT WITH REDUCTIONS IN THE STATE INCOME TAX**
9 **RATES?**

10 A Yes. Though I am not aware of any Indiana case directly on point, I am aware of a
11 couple of examples of how Commissions in other states have handled it. In a case
12 regarding the Connecticut Valley Electric Company (DR 93-093, Order No.20,887),
13 the New Hampshire Public Utilities Commission approved a stipulation that reflected
14 an amortization period of five years for the write-down of New Hampshire
15 accumulated deferred income taxes. Also in a case regarding the Consolidated
16 Edison Company (2008 WL 151311), the New York Public Service Commission
17 ordered a three-year amortization of excess deferred state income taxes resulting
18 from a reduction in the New York state corporate income tax rate.¹¹

¹¹This issue is also currently being litigated before the New Mexico Commission as Case No. 15-00261-UT.

1 **Q IF THE COMMISSION IS CONCERNED THAT ALLOWING A MORE RAPID**
2 **RETURN OF THESE FUNDS THAN WOULD OCCUR USING THE ARAM METHOD**
3 **MAY BE A VIOLATION OF EITHER THE IRC OR THE INDIANA CODE, WHAT**
4 **ALTERNATIVE TO YOUR FIVE-YEAR AMORTIZATION DO YOU RECOMMEND?**

5 **A** As explained above, I do not believe that any state or federal law prohibits NIPSCO
6 from returning the state ADIT to ratepayers within five years, rather than waiting
7 decades until the end of the useful life of the assets to refund the overpayment to
8 ratepayers. However, if the Commission disagrees or is unsure whether my five-year
9 amortization proposal is permissible, then as an alternative to beginning a five-year
10 amortization in this case, I recommend that the Commission require NIPSCO to
11 request a ruling from appropriate taxing authorities to determine if my
12 recommendation results in any code violations. Specifically, I recommend that the
13 Commission direct NIPSCO to request a Private Letter Ruling from the IRS and a
14 Revenue Ruling from the Indiana Department of State Revenue. Interested parties to
15 this case should be given an opportunity to review and comment on the language
16 prior to NIPSCO submitting the requests. Under this alternative, the entire \$28.6
17 million identified as of March 31, 2015 and any additional excess state ADIT identified
18 following that date, should be accumulated in the regulatory asset. These funds can
19 be distributed based on the taxing authorities' response to the letter rulings.

20 **Q DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

21 **A** Yes, it does.

Qualifications of Stephen M. Rackers

1 **Q PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

2 A Stephen M. Rackers. My business address is 16690 Swingley Ridge Road,
3 Suite 140, Chesterfield, MO 63017.

4 **Q PLEASE STATE YOUR OCCUPATION.**

5 A I am a consultant in the field of public utility regulation and an Associate of Brubaker
6 & Associates, Inc., energy, economic and regulatory consultants.

7 **Q PLEASE STATE YOUR EDUCATIONAL BACKGROUND AND PROFESSIONAL**
8 **EMPLOYMENT EXPERIENCE.**

9 A I graduated from the University of Missouri in 1978 with a Bachelor of Science Degree
10 in Business Administration, with a major in Accounting. Subsequent to graduation I
11 was employed by the Missouri Public Service Commission. I was employed with the
12 Commission from June 1, 1978 until February 29, 2012.

13 I began my employment at the Missouri Public Service Commission as a
14 Junior Auditor. During my employment at the Commission, I was promoted to higher
15 auditing classifications. My final position at the Commission was an Auditor V, which I
16 held for approximately 15 years.

17 As an Auditor V, I conducted audits and examinations of the accounts, books,
18 records and reports of jurisdictional utilities. I also aided in the planning of audits and
19 investigations, including staffing decisions, and in the development of staff positions in
20 which the Auditing Department was assigned. I served as Lead Auditor and/or Case

1 Supervisor on various projects as assigned. I also assisted in the supervision and
2 technical training of other auditors assigned to these projects.

3 During my career at the Missouri Public Service Commission, I presented
4 testimony in numerous electric, gas, telephone and water and sewer rate cases. In
5 addition, I was involved in cases regarding service territory transfers. In the context of
6 those cases listed above, I presented testimony on all conventional ratemaking
7 principles related to a utility's revenue requirement.

8 In March of 2012, I joined the firm of BAI as a Consultant. BAI provides
9 consulting services in the field of energy procurement and public utility regulation to
10 many clients including industrial and institutional customers, some utilities and, on
11 occasion, state regulatory agencies.

12 More specifically, we provide analysis of energy procurement options based
13 on consideration of prices and reliability as related to the needs of the client; prepare
14 rate, feasibility, economic, and cost of service studies relating to energy and utility
15 services; prepare depreciation and feasibility studies relating to utility service; assist
16 in contract negotiations for utility services, and provide technical support to legislative
17 activities.

18 In addition to our main office in St. Louis, the firm also has branch offices in
19 Phoenix, Arizona and Corpus Christi, Texas.

20 Q PLEASE DESCRIBE ANY PROFESSIONAL REGISTRATIONS OR
21 ORGANIZATIONS TO WHICH YOU BELONG.

22 A I am a licensed Certified Public Accountant ("CPA") in the state of Missouri.

Cause No. 44688

Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 8

Industrials Request 8-003:

Please provide a calculation showing the build-up of the prepaid pension asset based on the difference between the pension expense included in rates and the contributions to the pension trust fund.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request solicits an analysis, calculation or compilation which has not already been performed and which NIPSCO objects to performing.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

NIPSCO is currently compiling the requested information and will supplement the response when this compilation effort is complete.

Supplemental Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

Please see the file attached hereto as Industrials Set 8-003 Supplemental Attachment A for a calculation showing the build-up of the prepaid pension asset, which is primarily made up of the pension trust fund contributions in excess of historical amounts charged to operating expense. All of the years presented are for total NIPSCO and include balances and activity for Northern Indiana Fuel and Light Company (NIFL) and Kokomo Gas and Fuel Company (Kokomo), which merged with NIPSCO on July 1, 2011.

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Northern Indiana Public Service Company
Prepaid Pension Asset Rollforward

Line No.	Prepaid Pension Asset Rollforward	2008	2009	2010	2011*	2012	2013	2014	Through 6/30/2015
1	Prepaid pension asset beginning balance	\$ 157,132,253	172,742,067	187,064,209	217,164,360	349,346,406	319,215,634	301,424,013	320,837,317
2	Pension plan contributions	1,602,842	74,528,549	72,354,170	151,343,847	810,000	279,528	20,485,398	-
3	Net pension periodic benefit (cost)/income	15,538,394	(61,702,838)	(39,354,524)	(19,220,528)	(30,940,772)	(18,070,825)	(1,072,094)	(3,770,048)
4	Employee transfers and other activity	(1,531,422)	1,496,431	(2,899,495)	58,727	-	(324)	-	-
5	Prepaid Pension Asset Ending Balance	\$ 172,742,067	\$ 187,064,209	\$ 217,164,360	\$ 349,346,406	\$ 319,215,634	\$ 301,424,013	\$ 320,837,317	\$ 317,067,269

* Note that on July 1, 2011, Northern Indiana Fuel and Light Company (NIFL) and Kokomo Gas and Fuel Company (Kokomo) were merged with NIPSCO

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Cause No. 44688

**Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Data Request Set No. 10**

OUCR Request 10-018:

Please state Petitioner's portion of NiSource minimum ERISA contributions required in each of the years during the period 1990 through 2014.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks documents or information that are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that this Request is overbroad and unduly burdensome and calls for the compilation and production of materials not readily available.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

It was only fairly recently (2009) that NIPSCO began to provide full NIPSCO specific pension and OPEB disclosures in the FERC form detailing funded status, benefits paid, contributions, return, expense components, key assumptions, etc. This information is not readily available prior to 2007; whereby, NIPSCO would have to involve former actuaries and attempt to locate in its archives. There were also changes in actuaries over the years. In addition, the information is not relevant and becomes less comparable in those prior years. The organization has consolidated or restructured benefit plans over the years (Union, Non-union, NIFL, and Kokomo plans have been consolidated for NIPSCO), changed benefits, funding regulations have evolved, and accounting rules have changed. By January 1, 2007, NIPSCO adopted all of the provisions of Statement of Financial Accounting Standards No. 158, "Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans" which is the first period that comparable information is available for pension and OPEB related balances.

NIPSCO participates in the NiSource Plan for pension benefits. As such, NIPSCO shares in meeting the ERISA minimum contributions for the NiSource Plan, under which NiSource Corporate Services employees and retirees are also provided pension benefits. ERISA minimum required contributions are determined at the plan level, so provided below are the ERISA minimum required contribution amounts for the

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Cause No. 44688

Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Data Request Set No. 10

NiSource Plan by plan year; they do not represent solely NIPSCO's portion in each of those years. Note that contributions are often made in the subsequent calendar year to meet minimum plan year requirements. The NiSource Plan ERISA minimum required contribution amounts were as follows for the Plan years 2007 through 2014:

2014 - \$18,108,572

2013 - \$37,669,935

2012 - \$36,756,598

2011 - \$62,415,772

2010 - \$32,769,015

2009 - \$24,807,004

2008 - \$17,625,405

2007 - \$0

For information prior to 2007, please see objections.

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Cause No. 44688

Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 8

Industrials Request 8-001:

Please reference NIPSCO's response to Industrial Group Data Request 3-0001-Attachment A and provide the following:

- a. Were base rates reduced, as a result of the ending of the amortization periods for the following items:
 - i. Amortization Expense (Reg Assets) – MISO (4 year amortization) of \$15,504,071;
 - ii. Amortization Expense (Reg Assets) – MISO Cause No. 43526 (4 year amortization) of \$22,928,565;
 - iii. Amortization Expense (Reg Assets) – Rate Case (3 year amortization) of \$2,310,486;
 - iv. Unit 18 Def Depr & carrying Chg Removal of \$13,409,677; and
- b. If the response to any of the listed amortizations in subpart (a) is not yes, please explain why rates were not adjusted, and verify that the associated annual amortization is reflected in the current approved rates.

Objections:

Response:

- a.
 - i. Compliance filing was made on December 7, 2015 to reduce base rates by \$3,876,018 for the annual Amortization Expense (Reg Assets) – MISO (4 year amortization). Pending IURC approval, the reduced rates will be effective on or about December 30, 2015.
 - ii. Compliance filing was made on December 7, 2015 to reduce base rates by \$5,732,141 for the annual Amortization Expense (Reg Assets) – MISO Cause No. 43526 (4 year amortization). Pending IURC approval, the

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Cause No. 44688

Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 8

reduced rates will be effective on or about December 30, 2015.

- iii. Compliance filing was made on October 17, 2014 to reduce base rates by \$770,162 for the annual Amortization Expense (Reg Assets). The reduced rates were effective December 29, 2014.
- iv. No.
- b. Upon completion of this amortization in September of 2014, NIPSCO did not reduce rates for Unit 18 Def Depr & carrying Chg Removal as this was not required in the Order in Cause No. 38045.

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Cause No. 44688

Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 7

<u>Industrials Request 7-007:</u>
Please refer to Mr. McCuen's Direct testimony at page 10, lines 10-12. What is the Company's balance in excess state deferred income tax as of December 1, 2015?
<u>Objections:</u>
<u>Response:</u>
State excess deferred income taxes at 12/1/2015: \$29,064,282. Please see the file attached hereto as IG Set 7-007 Attachment A for the calculations for that total.

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Cause 44688
Northern Indiana Public Service Company
Response to IG Set 7-007

Twelve Months Ended March 31, 2015

Line No.	<u>2014 Accrual - PTax Rpt 257 Electric Case 709</u>				<u>2015 Plan - PTax Rpt 257 Electric Case 715 - Activity</u>					
	Gross Differences	APB11 Tax	State Tax at 4.9%	Excess/(Deficiency) ADIT	Gross Differences	APB11 Tax	State Tax at 4.9%	Excess/(Deficiency) ADIT	Monthly Amount	11 Months Activity
<u>Excess & Deficient Deferred Taxes</u>										
1 <u>State</u>										
2 Method, Basis and Life Differences	1,226,800,750	90,584,252	60,113,237	30,471,015	17,583,342	1,397,794	861,584	536,210	44,684	491,526
3 Flow Through and AFUDC Equity	41,916,749	-	2,053,921	(2,053,921)	(3,465,584)	-	(169,814)	169,814	14,151	155,662
Total	1,268,717,500	90,584,252	62,167,157	28,417,094 a	14,117,758	1,397,794	691,770	706,023	58,835	647,188 b
4 Ending 2014 Excess State ADIT	28,417,094			a						
5 Jan-Nov 2015 Change	647,188			b						
6 State Excess ADIT at 12/1/2015	29,064,282									

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Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 7

Industrials Request 7-006:

Please refer to Mr. McCuen's Direct testimony at page 10.

- a. Please provide the schedule for periodic state income tax rate reductions, by year, beginning in 2011.
- b. Please provide a detailed explanation and the calculations, in working Excel format, supporting the \$28,652,435 of excess deferred state income taxes identified on line 11.
- c. Please identify the portion of the \$28,652,435 that NIPSCO has recognized in the calculation of income taxes, annually, since 2011.
- d. Please provide a detailed explanation and the calculations, in working excel format, supporting the change in revenue requirement in the current rate case that would result from an amortization of the excess deferred state income taxes in subpart (b) evenly over a five-year period.
- e. Is it NIPSCO's position that NIPSCO is restricted from flowing back the \$28,652,435 of excess deferred state income taxes identified on line 11? If so, please provide a detailed explanation of any restrictions that NIPSCO believes applies, including restrictions on timing and amount, and cite to the relevant law.

Objections:

NIPSCO objects to subpart (d) of this Request on the grounds and to the extent that it solicits an analysis, calculation or compilation which has not already been performed and which NIPSCO objects to performing as it relates to amortizing the excess deferred state income taxes in subpart (b) evenly over a five-year period.

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following responses:

Part a: Please see the file attached hereto as IG Set 7-006 Attachment A for Indiana DOR Bulletin #12 listing the changes to the corporate income tax rate beginning on page 3.

Parts b and c: Please see the file attached hereto as IG Set 7-006 Attachment B.

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Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 7

Part d: Please see objection above.

Part e: NIPSCO is required to return the \$28,652,435 of excess deferred state income taxes over the remaining life of the underlying property. This requirement comes from a combination of Sections 167 and 168 of the Internal Revenue Code ("IRC") and IC 6-3-1-11, which defines "Internal Revenue Code" for purposes of the Indiana Adjusted Gross Income Tax Act.

Excess deferred income taxes are derived from differences in depreciation methods, asset basis, tax rates and asset life. The majority of the difference is related to accelerated depreciation which relates to the depreciation method used for income tax purposes that reflects more depreciation in the early years of an assets' useful life than straight line depreciation of an asset.

Congress has established specific preconditions for a utility to use accelerated depreciation for federal income tax purposes, which is called the normalization method of accounting. A utility can only use accelerated depreciation for federal income tax purposes if the normalization method of accounting is used to calculate federal tax expense in setting regulated rates. The source of these normalization requirements are set forth in IRC §168(f)(2) and §168(i)(9). A utility must use regulatory depreciation in the computation of tax expense for rate making and must use deferred tax accounting for depreciation timing differences. More specific regulations are set forth in Regulations §1.167(l)-1.

State income tax conformity to the federal income tax treatment of a transaction or item is more the rule rather than the exception. Some states define "state taxable income" as federal taxable income plus or minus certain additions or subtractions. There are a few types of conformity including "rolling," which means states automatically adopt provisions of the IRC as enacted. Indiana uses the "fixed date" conformity method, which means deliberate legislative action is required to update the state income tax laws to conform to the IRC as of a specific date. Indiana HEA 1472 amended IC 6-3-1-11 effective retroactively to January 1, 2015, and updated corporate income tax statutory references to the IRC to refer to the IRC in effect on January 1, 2015 (previously, January 1, 2013).

Based on Indiana's conformity with the federal IRC and no decoupling for accelerated depreciation, NIPSCO is required to return the \$28,652,435 of excess deferred state income taxes over the remaining life of the underlying property. Any other method would create a normalization violation and subject both NIPSCO and rate payers to a severe detriment.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 7

From a historical and consistency standpoint, NIPSCO has treated both excess and deficient/unprovided state taxes in the same manner. In 2002, the Indiana General Assembly increased the Adjusted Gross Income tax rate from 4.5% to 8.5%. Based on accelerated tax deductions in excess of book expense, NIPSCO had approximately \$1.5 billion in accelerated deductions for the electric business. The deferred tax requirement thus changed from 4.5% of \$1.5 billion (\$67.5 million) to 8.5% of \$1.5 billion (\$127.5 million), or \$60 million. Starting in 2003, when the new tax rate went into effect, the \$60 million in unprovided deferred taxes has been amortized as the underlying accelerated tax deductions have turned around. It should also be noted that as a general rule state deferred taxes are included in the cost of capital analysis similar to federal deferred taxes as zero cost capital in the WACC. Under GAAP, the excess state deferred taxes were removed from the deferred tax accounts and are now recorded in Account 254 - Regulatory Liability. In reviewing MSFR 1-5.8(a)(33) this portion of Account 254 has been included in the calculation of the WACC as zero cost of capital.

In 2011, the Indiana General Assembly passed periodic decreases to the Adjusted Gross Income tax rates from 8.5% to 6.5%. In 2014, the Indiana General Assembly again passed periodic decreases to the Adjusted Gross Income tax rates from 6.5% to 4.9%. NIPSCO has been consistent in its treatment of both the deficient state income taxes created in 2002 and the excess state income taxes created in both 2011 and 2014. This consistent treatment is the recovery of the excess deferred state income taxes over the remaining life of the underlying property.

STATE of INDIANA

DEPARTMENT OF REVENUE
INDIANA GOVERNMENT CENTER NORTH
100 N. SENATE AVE



INDIANAPOLIS, IN 46204-2253

**INFORMATION BULLETIN #12
INCOME TAX
OCTOBER 2015
Effective Date: Jan. 2016
(Replaces Bulletin #12 dated July 2014)**

SUBJECT: Corporate Income Tax Rate

REFERENCE: IC 6-2.3; C 6-3-2; IC 6-3-3; IC 6-3-4; IC 6-3.1; IC 6-5.5-1-17;
IC 27-1-18-2

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information or guidance not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

This bulletin has been changed from the previous version to eliminate adjustments to adjusted gross income. Clarifies that an entity subject to the utility receipts tax also is subject to the adjusted gross income tax. Lists the annual tax rate decline that is in effect for the adjusted gross income tax and the financial institutions tax. Adds the alternative method of paying estimated tax to include the annualized income installment calculation. Eliminates the option for a S corporation nonresident shareholder to opt out of the composite filing requirement. Changes the definition of business income to include all income that is apportionable to the state under the Constitution of the United States. Eliminates the throwback provision contained in IC 6-3-2-2 which required income to be apportioned to Indiana if the taxpayer is not taxable in the state of the purchaser.

GENERAL STATEMENT

A corporation doing business or an entity subject to the Indiana utility receipts tax under IC 6-2.3 is subject to the adjusted gross income tax. A corporation defined as a taxpayer under IC 6-5.5-1-17 is not subject to the adjusted gross income tax.

I. S CORPORATIONS

A corporation is exempt from the corporate adjusted gross income tax if it is a corporation that is exempt from the federal income tax under Section 1363 of the Internal Revenue Code (IRC). However, the income of an S corporation that is subject to income tax under the IRC, such as

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excess net passive income and capital gains, will be subject to the Indiana corporate adjusted gross income tax.

The S corporation must comply with the requirements of IC 6-3-4-13 by withholding the amounts prescribed by the department at the time it pays or credits amounts to a nonresident shareholder as dividends or as a share of the corporation's undistributed taxable income. Failure to withhold and pay the amount required will subject the corporation to a 20% penalty of the tax required under IC 6-3-4-13 and IC 6-8.1-10-2.1(h).

A qualified S corporation is required to file an annual information return on Form IT-20S. The return is due on the 15th day of the 4th month following the close of its taxable year.

Beginning Jan. 1, 2008, an S corporation is required to file a composite adjusted gross income tax return on behalf of all its shareholders who are not residents of Indiana. The nonresident shareholders participating in the composite return will be relieved of the obligation to file an individual adjusted gross income tax return. The S corporation shall take credit for all withholding amounts attributed to nonresidents included in the composite return. Any overpayment or underpayment of tax shall be reconciled on Form IT-20S.

II. NONPROFIT ORGANIZATIONS

A nonprofit organization is subject to the adjusted gross income tax, unless the income is specifically exempted from taxation under the provisions of IC 6-3-2-2.8 and IC 6-3-2-3.1. A nonprofit organization will be subject to tax on income derived from an unrelated trade or business as defined in Section 513(a) of the IRC. Political organizations and homeowners organizations are not considered nonprofit organizations and therefore must file as regular corporations on Form IT-20.

III. INSURANCE COMPANIES

A foreign insurance company (one organized under the laws of a state other than Indiana) is required by IC 27-1-18-2 to pay the insurance premium tax to the department. Paying the premium tax exempts a foreign corporation from the adjusted gross income tax. A domestic insurance company is exempt from the adjusted gross income tax if it elects to pay the premium tax. A captive insurer subject to tax under IC 27-1-2-2.3 is exempt from the adjusted gross income tax.

IV. FINANCIAL INSTITUTIONS

Financial institutions are subject to a franchise tax under IC 6-5.5 at the following declining rates:

CY 2014	8.0%	CY 2019	6.25%
CY 2015	7.5%	CY 2020	6.0%
CY 2016	7.0%	CY 2021	5.5%
CY 2017	6.5%	CY 2022	5.0%
CY 2018	6.5%	After CY 2022	4.9%

The franchise tax extends to both resident and nonresident financial institutions and to all other corporate entities when 80% of their gross income is derived from activities that encompass the

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business of a financial institution. The business of a financial institution is defined as activities authorized by the Federal Reserve Board; the making, acquiring, selling, or servicing of loans or extensions of credit; or operating a credit, debit card, or charge card business. Entities subject to this tax must file Form FIT-20. (For more information, see Commissioner's Directive #14.)

V. UTILITY RECEIPTS TAX

The utility receipts tax is an income tax imposed on the gross receipts from the retail sale of utility services. The tax rate is 1.4%. Utility services include electrical energy, natural gas, water, steam, sewage, and telecommunication services. Entities subject to the utility receipts tax also are subject to the corporate adjusted gross income tax unless the entity is exempt from the adjusted gross income tax under IC 6-3. (For further information concerning the utility receipts tax, see Commissioner's Directive #18.)

VI. CORPORATE ADJUSTED GROSS INCOME TAX

A. Decrease in Tax Rate

Beginning July 1, 2012, the adjusted gross income tax rate is being reduced. More specifically, the following rates apply during the periods listed below:

Before July 1, 2012	8.5%
After June 30, 2012, and before July 1, 2013	8.0%
After June 30, 2013, and before July 1, 2014	7.5%
After June 30, 2014, and before July 1, 2015	7.0%
After June 30, 2015, and before July 1, 2016	6.5%
After June 30, 2016, and before July 1, 2017	6.25%
After June 30, 2017, and before July 1, 2018	6.0%
After June 30, 2018, and before July 1, 2019	5.75%
After June 30, 2019, and before July 1, 2020	5.5%
After June 30, 2020, and before July 1, 2021	5.25%
After June 30, 2021	4.9%

B. How to Determine the Tax Rate for Calendar-Year Filers and Fiscal-Year Filers Whose Tax Year Endings Are Not June 30

Pursuant to IC 6-3-2-1(c), the following steps must be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the rate in effect before the rate change by the number of months in the taxpayer's taxable year that precede the month the rate changed.

STEP TWO: Multiply the rate in effect after the rate change by the number of months in the taxpayer's taxable year that follow the month before the rate changed.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by 12.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

C. How to Determine the Tax Rate for Short Periods and 52/53-Week Filers

For taxpayers who file on a short period or 52/53-week period basis, for whom the steps outlined previously are not appropriate, the following steps should be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the tax rate in effect on June 30 of the taxable period by the number of days in the taxpayer's taxable period that occurred before July 1 of the taxable year.

STEP TWO: Multiply the tax rate in effect on July 1 of the taxable period by the number of days in the taxpayer's taxable period that occurred after June 30 of the taxable year.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by the total number of days in the taxpayer's taxable year.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

D. Computation of Indiana Adjusted Gross Income

Indiana adjusted gross income is computed by using net federal taxable income from the federal Form 1120 with the following adjustments:

- (1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.
- (2) Add an amount equal to any charitable contribution deduction allowed pursuant to Section 170 of the IRC.
- (3) Add an amount equal to any deduction or deductions allowed pursuant to Section 63 of the IRC for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the IRC for dividends received from foreign corporations by domestic corporations choosing foreign tax credit.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the IRC to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the IRC for a net operating loss deduction.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the IRC) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the IRC in a total amount exceeding \$25,000.

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- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the IRC for federal income tax purposes.
- (9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the IRC) for federal income tax purposes.
- (10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the IRC) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).
- (11) Subtract income that is:
 - (A) exempt from taxation under IC 6-3-2-21.7; and
 - (B) included in the corporation's taxable income under the IRC.
- (12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC.
- (13) Add the amount deducted from gross income under Section 198 of the IRC for the expensing of environmental remediation costs.
- (14) Add the amount excluded from federal gross income under Section 103 of the IRC for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after Dec. 31, 2011.

E. Allocation of Nonbusiness Income

The nonbusiness income of a corporation is specifically allocated under IC 6-3-2-2(g) through (k). Nonbusiness income is only that income that is not considered business income. Business income is all income that is apportionable to the state under the Constitution of the United States. For further information concerning the classification of business and nonbusiness income, refer to the annual return, its filing instructions, and the department's regulations.

F. Apportionment of Business Income

A corporation, other than a domestic insurance company, that has business income from both within and outside Indiana must apportion its income by means of the single-factor receipts formula under IC 6-3-2-2. A domestic insurance company apportions its income based on Indiana premiums divided by premiums everywhere.

The apportionment factor to be applied to a corporation's business income to determine the amount taxable by Indiana is a single factor based on receipts.

The sales factor is determined by dividing the taxpayer's total Indiana sales by the taxpayer's total sales everywhere. The numerator of the sales factor includes all sales made in Indiana and

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sales made from Indiana to the U.S. Government. Destination sales by an Indiana seller with activities in the state of destination, other than mere solicitation, will not be included in the numerator of the sales factor regardless of whether the destination state levies a tax. For more information on the determination of Indiana source income, see IC 6-3-2-2. As used in this paragraph, the term everywhere does not include sales of a foreign corporation in a place that is outside the United States.

G. Doing Business in Indiana

For Indiana adjusted gross income tax purposes, the term doing business generally means the operation of any business enterprise or activity in Indiana including but not limited to the following:

- Maintenance of an office, a warehouse, a construction site, or another place of business in Indiana.
- Maintenance of an inventory of merchandise or material for sale, distribution, or manufacture.
- The sale or distribution of merchandise to customers in Indiana directly from company-owned or -operated vehicles when the title of merchandise is transferred from the seller or distributor to the customer at the time of sale or distribution.
- The rendering of a service to customers in Indiana.
- The ownership, rental, or operation of business or property (real or personal) in Indiana.
- Acceptance of orders in Indiana with no right of approval or rejection in another state.
- Interstate transportation.
- Maintenance of a public utility.

VII. FILING REQUIREMENTS

Annual tax returns (Form IT-20) are required under the Adjusted Gross Income Tax Act. The due date for the IT-20 return is the 15th day of the 4th month following the close of the taxable year.

The department accepts the federal extension of time applications (Form 7004). Taxpayers do not need to contact the department prior to filing the annual return. A copy of the federal extension of time must be attached to the return when it is filed. Check the box "yes" in the header of the return indicating an extension of time to file has been granted. When a corporation does not need a federal extension of time and one is necessary for filing the state return, the corporation must submit a letter to the department requesting an extension of time to file prior to the due date of the annual return.

An extension of time granted under IC 6-8.1-6-1 waives the late payment penalty for the extension period on the balance of tax due provided 90% of the current year's total tax liability is paid on or prior to the original due date. Interest on the balance of tax due must be included with the return when it is filed. Interest is computed from the original due date until the date of payment. In October of each year, the department establishes the interest rate for the next calendar year. See Departmental Notices #3 and #22 for interest rates.

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VIII. CONSOLIDATED REPORTING

The Adjusted Gross Income Tax Act provides for an election to file a consolidated return for a qualified affiliated group under IC 6-3-4-14. To file a consolidated return for adjusted gross income tax purposes, the parent corporation must own at least 80% of the voting stock of each subsidiary. The affiliated group may not include any corporation that does not have taxable income or loss derived from Indiana sources. If such an election is made for Indiana tax purposes, the department should be notified by attaching a statement to the return that indicates those affiliated corporations electing to file a consolidated return. In addition, a worksheet must accompany the annual return supporting the consolidated adjusted gross income of the participating affiliates.

An election to file a consolidated return for Indiana purposes can be made by filing the consolidated return by the due date; if filed past the due date, a copy of the valid federal extension of time to file must be attached to the return. An election to file a consolidated return cannot be made on a retroactive basis. Once an affiliated group elects to file consolidated for Indiana purposes, the group must follow that election for all subsequent years of filing. If the group wishes to revoke the election in a subsequent tax year, the group must obtain written permission from the department at least 90 days prior to the due date of the return.

IX. SEPARATE ACCOUNTING

Indiana does not accept returns filed on a separate accounting basis without prior approval. If the apportionment provision does not fairly reflect the corporation's Indiana income, the corporation must petition the department for permission to use an alternative method.

X. COMBINED REPORTING

A taxpayer may petition the department for permission to file a combined income tax return for a tax year. However, the petition must be filed with the department on or before 30 days after the end of the tax year for which permission is sought. The petition should be sent to the Tax Policy Division, 100 North Senate Ave., Room N248, MS# 102, Indianapolis, IN 46204. A timely filed petition will be granted if combined reporting will more fairly reflect the unitary group's Indiana source income. However, combined reporting is limited to the "water's-edge" of the United States.

A unitary group that has petitioned and received permission from the department to file a combined return in Indiana may file one return for the unitary group, providing a schedule is attached showing the adjusted gross income tax due by member. In the alternative, the unitary group should file an Indiana return for each member doing business in Indiana. The taxpayer filing the combined return must petition the department within 30 days after the end of the tax year for permission to discontinue the filing of a combined return.

XI. ACCOUNTING PERIOD

The accounting period for the adjusted gross income tax must be the same as the accounting period adopted for federal income tax purposes.

XII. ACCOUNTING METHODS

The department requires use of the method of accounting used for federal income tax purposes.

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Cause No. 44688
IG Set 7-006
Attachment A
Page 8 of 8

XIII. ESTIMATED TAX REQUIREMENTS

A corporation whose estimated adjusted gross income tax liability exceeds \$2,500 for a taxable year must file quarterly estimated tax payments. The quarterly estimated tax payments are submitted with an appropriate Indiana voucher or by electronic funds transfer, depending on the amount of the payment due. The quarterly estimated payment must be equal to the lesser of 25% of the adjusted gross income tax liability for the taxable year, or the annualized income installment calculated by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

XIV. UNDERPAYMENT OF ESTIMATED TAX PENALTIES

To avoid the underpayment of estimated tax penalties, corporations are required to make quarterly payments equal to 20% of the final tax liability for the current year, or 25% of the corporation's liability for the previous tax year. A taxpayer may elect to use the annualized income installment calculation in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's adjusted gross income tax liability. The penalty on corporate adjusted gross income tax or utility receipts tax is assessed on the difference between the actual amount paid by the corporation for each quarter and 25% of the corporation's final adjusted gross income tax liability for the current year. For estimated payment dates, see Information Bulletin #11.

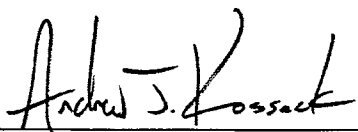
XV. TAX CREDITS

See Information Bulletin #59 for a complete list of available credits.

XVI. SUMMARY

A corporation operating in Indiana that is not certain of its tax status should promptly apply to the department for a determination of its status. Complete detailed information of the corporation's operation should be submitted. All correspondence concerning the matter should be addressed to the Indiana Department of Revenue, Tax Policy Division, 100 North Senate Ave., Room N248, MS# 102, Indianapolis, Indiana 46204-2253.

A corporation should ask for a determination of its tax status before commencing business in Indiana to avoid the possibility of costly penalties and interest charges for the delinquent filing of returns.



Andrew J. Kossack
Commissioner

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Cause 44688
Northern Indiana Public Service Company
Response to IG Set 7-006 part b

Twelve Months Ended March 31, 2015

Line No.	2014 Accrual - PTax Rpt 257 Electric Case 709				2015 Plan - PTax Rpt 257 Electric Case 715 - Activity				
	Gross Differences	APB11 Tax	State Tax at 4.9%	Excess/(Deficiency) ADIT	Gross Differences	APB11 Tax	State Tax at 4.9%	Excess/(Deficiency) ADIT	Quarterly Amount
<u>Excess & Deficient Deferred Taxes</u>									
1 <u>State</u>									
2 Method, Basis and Life Differences	1,226,800,750	90,584,252	60,113,237	30,471,015	17,583,342	1,397,794	861,584	536,210	134,052
3 Flow Through and AFUDC Equity	41,916,749	-	2,053,921	(2,053,921)	(3,465,584)	-	(169,814)	169,814	42,453
Total	1,268,717,500	90,584,252	62,167,157	28,417,094 a	14,117,758	1,397,794	691,770	706,023	176,506 b
4 Ending 2014 Excess	28,417,094			a					
5 Jan-Mar 2015 Change	176,506			b					
6 12-months ended 3/31/15	28,593,600								
7 Arithmetic Error	58,835								
8 Excess ADIT per Testimony	28,652,435								

The calculation of state excess deferred taxes is computed by taking the total state tax basis and depreciation differences multiplied by the state income tax rate of 4.9%. This is the terminal rate that will be in effect in Indiana after June 30, 2021. This tax amount is compared to the historical regulatory deferred taxes (APB 11 Tax) calculated each year. The difference between the APB 11 Tax and the tax at 4.9% is the Excess state deferred taxes on the books for NIPSCO.

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Cause 44688

Northern Indiana Public Service Company

Response to IG Set 7-006 part c

Twelve Months Ended March 31, 2015

Line
No.

	Year	2011	2012	2013	2014
State Flowthrough Type					
1	Method, Basis and Life Differences	2,216,646	2,208,283	1,369,195	703,052
2	Flow Through and AFUDC Equity	319,767	(253,754)	(720,136)	(322,280)
3	Total Tax Expense/(Benefit)	2,536,413	1,954,529	649,059	380,772

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
NIPSCO Industrial Group's Data Request Set No. 10

Industrials Request 10-001:

Please refer to Information Bulletin 12 and Indiana Code Sections 6-3-2-1 and 6-3-1-11, provided as attachments to NIPSCO's response to IG Set 7-006. Please identify, by underlining or highlighting, the specific language that restricts the flow back / amortization of the excess deferred state income taxes resulting from the reduction in tax rates to the remaining life of the underlying property according to NIPSCO's interpretation.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request has, in substance, been previously propounded. (See IG Set 7-006.)

Response:

Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response:

Please see the file attached hereto as IG Set 10-001 Attachment A for Information Bulletin 12 highlighted on Page 4, Section D. This Section states that Indiana is using net federal taxable income from the federal Form 1120. Indiana Code Sections 6-3-2-1 and 6-3-1-11 are also attached with highlights to applicable subsections.

Please see the file attached hereto as IG Set 10-001 Attachment B for IC 6-3-1-11 (a) and (b), which define the term "Internal Revenue Code" as used in the Indiana Adjusted Gross Income tax Act. These highlighted sections show that Indiana has adopted the Internal Revenue Code in its calculation of taxable income. This includes all particular provisions referred to, together with all the other provisions of the Internal Revenue Code. As a result, Indiana has adopted the same normalization rules that the Internal Revenue Code applies to federal taxable income.

Please see the file attached hereto as IG Set 10-001 Attachment C for Reg. §1.167(l)-1 Limitations on reasonable allowance in case of property of certain public utilities. Page 2 outlines that the rules provided in paragraph (h)(6) of this section are to insure that the same time period is used to determine the deferred tax reserve amount resulting from the use of an accelerated method of depreciation for cost of service purposes and the reserve amount that may be excluded from rate base or included in no-cost capital in determining such cost of service. Section (h) Normalization method of accounting starts on page 15 and goes to page 28. Section H)(6) Exclusion of normalization reserve from rate base starts on page 24 and outlines the specific rules that must be followed regarding excess deferred taxes.

STATE of INDIANA

DEPARTMENT OF REVENUE
INDIANA GOVERNMENT CENTER NORTH
100 N. SENATE AVE



INDIANAPOLIS, IN 46204-2253

INFORMATION BULLETIN #12
INCOME TAX
OCTOBER 2015
Effective Date: Jan. 2016
(Replaces Bulletin #12 dated July 2014)

SUBJECT: Corporate Income Tax Rate

REFERENCE: IC 6-2.3; C 6-3-2; IC 6-3-3; IC 6-3-4; IC 6-3.1; IC 6-5.5-1-17;
IC 27-1-18-2

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules, and court decisions. Any information or guidance not consistent with the law, regulations, or court decisions is not binding on either the department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUMMARY OF CHANGES

This bulletin has been changed from the previous version to eliminate adjustments to adjusted gross income. Clarifies that an entity subject to the utility receipts tax also is subject to the adjusted gross income tax. Lists the annual tax rate decline that is in effect for the adjusted gross income tax and the financial institutions tax. Adds the alternative method of paying estimated tax to include the annualized income installment calculation. Eliminates the option for a S corporation nonresident shareholder to opt out of the composite filing requirement. Changes the definition of business income to include all income that is apportionable to the state under the Constitution of the United States. Eliminates the throwback provision contained in IC 6-3-2-2 which required income to be apportioned to Indiana if the taxpayer is not taxable in the state of the purchaser.

GENERAL STATEMENT

A corporation doing business or an entity subject to the Indiana utility receipts tax under IC 6-2.3 is subject to the adjusted gross income tax. A corporation defined as a taxpayer under IC 6-5.5-1-17 is not subject to the adjusted gross income tax.

I. S CORPORATIONS

A corporation is exempt from the corporate adjusted gross income tax if it is a corporation that is exempt from the federal income tax under Section 1363 of the Internal Revenue Code (IRC). However, the income of an S corporation that is subject to income tax under the IRC, such as

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excess net passive income and capital gains, will be subject to the Indiana corporate adjusted gross income tax.

The S corporation must comply with the requirements of IC 6-3-4-13 by withholding the amounts prescribed by the department at the time it pays or credits amounts to a nonresident shareholder as dividends or as a share of the corporation's undistributed taxable income. Failure to withhold and pay the amount required will subject the corporation to a 20% penalty of the tax required under IC 6-3-4-13 and IC 6-8.1-10-2.1(h).

A qualified S corporation is required to file an annual information return on Form IT-20S. The return is due on the 15th day of the 4th month following the close of its taxable year.

Beginning Jan. 1, 2008, an S corporation is required to file a composite adjusted gross income tax return on behalf of all its shareholders who are not residents of Indiana. The nonresident shareholders participating in the composite return will be relieved of the obligation to file an individual adjusted gross income tax return. The S corporation shall take credit for all withholding amounts attributed to nonresidents included in the composite return. Any overpayment or underpayment of tax shall be reconciled on Form IT-20S.

II. NONPROFIT ORGANIZATIONS

A nonprofit organization is subject to the adjusted gross income tax, unless the income is specifically exempted from taxation under the provisions of IC 6-3-2-2.8 and IC 6-3-2-3.1. A nonprofit organization will be subject to tax on income derived from an unrelated trade or business as defined in Section 513(a) of the IRC. Political organizations and homeowners organizations are not considered nonprofit organizations and therefore must file as regular corporations on Form IT-20.

III. INSURANCE COMPANIES

A foreign insurance company (one organized under the laws of a state other than Indiana) is required by IC 27-1-18-2 to pay the insurance premium tax to the department. Paying the premium tax exempts a foreign corporation from the adjusted gross income tax. A domestic insurance company is exempt from the adjusted gross income tax if it elects to pay the premium tax. A captive insurer subject to tax under IC 27-1-2-2.3 is exempt from the adjusted gross income tax.

IV. FINANCIAL INSTITUTIONS

Financial institutions are subject to a franchise tax under IC 6-5.5 at the following declining rates:

CY 2014	8.0%	CY 2019	6.25%
CY 2015	7.5%	CY 2020	6.0%
CY 2016	7.0%	CY 2021	5.5%
CY 2017	6.5%	CY 2022	5.0%
CY 2018	6.5%	After CY 2022	4.9%

The franchise tax extends to both resident and nonresident financial institutions and to all other corporate entities when 80% of their gross income is derived from activities that encompass the

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business of a financial institution. The business of a financial institution is defined as activities authorized by the Federal Reserve Board; the making, acquiring, selling, or servicing of loans or extensions of credit; or operating a credit, debit card, or charge card business. Entities subject to this tax must file Form FIT-20. (For more information, see Commissioner's Directive #14.)

V. UTILITY RECEIPTS TAX

The utility receipts tax is an income tax imposed on the gross receipts from the retail sale of utility services. The tax rate is 1.4%. Utility services include electrical energy, natural gas, water, steam, sewage, and telecommunication services. Entities subject to the utility receipts tax also are subject to the corporate adjusted gross income tax unless the entity is exempt from the adjusted gross income tax under IC 6-3. (For further information concerning the utility receipts tax, see Commissioner's Directive #18.)

VI. CORPORATE ADJUSTED GROSS INCOME TAX

A. Decrease in Tax Rate

Beginning July 1, 2012, the adjusted gross income tax rate is being reduced. More specifically, the following rates apply during the periods listed below:

Before July 1, 2012	8.5%
After June 30, 2012, and before July 1, 2013	8.0%
After June 30, 2013, and before July 1, 2014	7.5%
After June 30, 2014, and before July 1, 2015	7.0%
After June 30, 2015, and before July 1, 2016	6.5%
After June 30, 2016, and before July 1, 2017	6.25%
After June 30, 2017, and before July 1, 2018	6.0%
After June 30, 2018, and before July 1, 2019	5.75%
After June 30, 2019, and before July 1, 2020	5.5%
After June 30, 2020, and before July 1, 2021	5.25%
After June 30, 2021	4.9%

B. How to Determine the Tax Rate for Calendar-Year Filers and Fiscal-Year Filers Whose Tax Year Endings Are Not June 30

Pursuant to IC 6-3-2-1(c), the following steps must be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the rate in effect before the rate change by the number of months in the taxpayer's taxable year that precede the month the rate changed.

STEP TWO: Multiply the rate in effect after the rate change by the number of months in the taxpayer's taxable year that follow the month before the rate changed.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by 12.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

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C. How to Determine the Tax Rate for Short Periods and 52/53-Week Filers

For taxpayers who file on a short period or 52/53-week period basis, for whom the steps outlined previously are not appropriate, the following steps should be used to determine the tax rate if a taxpayer is subject to different tax rates for a taxable period:

STEP ONE: Multiply the tax rate in effect on June 30 of the taxable period by the number of days in the taxpayer's taxable period that occurred before July 1 of the taxable year.

STEP TWO: Multiply the tax rate in effect on July 1 of the taxable period by the number of days in the taxpayer's taxable period that occurred after June 30 of the taxable year.

STEP THREE: Add the amounts in STEP ONE and STEP TWO, and then divide the sum by the total number of days in the taxpayer's taxable year.

STEP FOUR: Round the rate determined under STEP THREE to the nearest 0.01%.

D. Computation of Indiana Adjusted Gross Income

Indiana adjusted gross income is computed by using net federal taxable income from the federal Form 1120 with the following adjustments:

- (1) Subtract income that is exempt from taxation under IC 6-3 by the Constitution and statutes of the United States.
- (2) Add an amount equal to any charitable contribution deduction allowed pursuant to Section 170 of the IRC.
- (3) Add an amount equal to any deduction or deductions allowed pursuant to Section 63 of the IRC for taxes based on or measured by income and levied at the state level by any state of the United States.
- (4) Subtract an amount equal to the amount included in the corporation's taxable income under Section 78 of the IRC for dividends received from foreign corporations by domestic corporations choosing foreign tax credit.
- (5) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that owns property for which bonus depreciation was allowed in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election not been made under Section 168(k) of the IRC to apply bonus depreciation to the property in the year that it was placed in service.
- (6) Add an amount equal to any deduction allowed under Section 172 of the IRC for a net operating loss deduction.
- (7) Add or subtract the amount necessary to make the adjusted gross income of any taxpayer that placed Section 179 property (as defined in Section 179 of the IRC) in service in the current taxable year or in an earlier taxable year equal to the amount of adjusted gross income that would have been computed had an election for federal income tax purposes not been made for the year in which the property was placed in service to take deductions under Section 179 of the IRC in a total amount exceeding \$25,000.

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- (8) Add an amount equal to the amount that a taxpayer claimed as a deduction for domestic production activities for the taxable year under Section 199 of the IRC for federal income tax purposes.
- (9) Add to the extent required by IC 6-3-2-20 the amount of intangible expenses (as defined in IC 6-3-2-20) and any directly related intangible interest expenses (as defined in IC 6-3-2-20) for the taxable year that reduced the corporation's taxable income (as defined in Section 63 of the IRC) for federal income tax purposes.
- (10) Add an amount equal to any deduction for dividends paid (as defined in Section 561 of the IRC) to shareholders of a captive real estate investment trust (as defined in section 34.5 of this chapter).
- (11) Subtract income that is:
 - (A) exempt from taxation under IC 6-3-2-21.7; and
 - (B) included in the corporation's taxable income under the IRC.
- (12) Add an amount equal to any income not included in gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC. Subtract from the adjusted gross income of any taxpayer that added an amount to adjusted gross income in a previous year the amount necessary to offset the amount included in federal gross income as a result of the deferral of income arising from business indebtedness discharged in connection with the reacquisition after Dec. 31, 2008, and before Jan. 1, 2011, of an applicable debt instrument, as provided in Section 108(i) of the IRC.
- (13) Add the amount deducted from gross income under Section 198 of the IRC for the expensing of environmental remediation costs.
- (14) Add the amount excluded from federal gross income under Section 103 of the IRC for interest received on an obligation of a state other than Indiana, or a political subdivision of such a state, that is acquired by the taxpayer after Dec. 31, 2011.

E. Allocation of Nonbusiness Income

The nonbusiness income of a corporation is specifically allocated under IC 6-3-2-2(g) through (k). Nonbusiness income is only that income that is not considered business income. Business income is all income that is apportionable to the state under the Constitution of the United States. For further information concerning the classification of business and nonbusiness income, refer to the annual return, its filing instructions, and the department's regulations.

F. Apportionment of Business Income

A corporation, other than a domestic insurance company, that has business income from both within and outside Indiana must apportion its income by means of the single-factor receipts formula under IC 6-3-2-2. A domestic insurance company apportions its income based on Indiana premiums divided by premiums everywhere.

The apportionment factor to be applied to a corporation's business income to determine the amount taxable by Indiana is a single factor based on receipts.

The sales factor is determined by dividing the taxpayer's total Indiana sales by the taxpayer's total sales everywhere. The numerator of the sales factor includes all sales made in Indiana and

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sales made from Indiana to the U.S. Government. Destination sales by an Indiana seller with activities in the state of destination, other than mere solicitation, will not be included in the numerator of the sales factor regardless of whether the destination state levies a tax. For more information on the determination of Indiana source income, see IC 6-3-2-2. As used in this paragraph, the term everywhere does not include sales of a foreign corporation in a place that is outside the United States.

G. Doing Business in Indiana

For Indiana adjusted gross income tax purposes, the term doing business generally means the operation of any business enterprise or activity in Indiana including but not limited to the following:

- Maintenance of an office, a warehouse, a construction site, or another place of business in Indiana.
- Maintenance of an inventory of merchandise or material for sale, distribution, or manufacture.
- The sale or distribution of merchandise to customers in Indiana directly from company-owned or -operated vehicles when the title of merchandise is transferred from the seller or distributor to the customer at the time of sale or distribution.
- The rendering of a service to customers in Indiana.
- The ownership, rental, or operation of business or property (real or personal) in Indiana.
- Acceptance of orders in Indiana with no right of approval or rejection in another state.
- Interstate transportation.
- Maintenance of a public utility.

VII. FILING REQUIREMENTS

Annual tax returns (Form IT-20) are required under the Adjusted Gross Income Tax Act. The due date for the IT-20 return is the 15th day of the 4th month following the close of the taxable year.

The department accepts the federal extension of time applications (Form 7004). Taxpayers do not need to contact the department prior to filing the annual return. A copy of the federal extension of time must be attached to the return when it is filed. Check the box "yes" in the header of the return indicating an extension of time to file has been granted. When a corporation does not need a federal extension of time and one is necessary for filing the state return, the corporation must submit a letter to the department requesting an extension of time to file prior to the due date of the annual return.

An extension of time granted under IC 6-8.1-6-1 waives the late payment penalty for the extension period on the balance of tax due provided 90% of the current year's total tax liability is paid on or prior to the original due date. Interest on the balance of tax due must be included with the return when it is filed. Interest is computed from the original due date until the date of payment. In October of each year, the department establishes the interest rate for the next calendar year. See Departmental Notices #3 and #22 for interest rates.

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VIII. CONSOLIDATED REPORTING

The Adjusted Gross Income Tax Act provides for an election to file a consolidated return for a qualified affiliated group under IC 6-3-4-14. To file a consolidated return for adjusted gross income tax purposes, the parent corporation must own at least 80% of the voting stock of each subsidiary. The affiliated group may not include any corporation that does not have taxable income or loss derived from Indiana sources. If such an election is made for Indiana tax purposes, the department should be notified by attaching a statement to the return that indicates those affiliated corporations electing to file a consolidated return. In addition, a worksheet must accompany the annual return supporting the consolidated adjusted gross income of the participating affiliates.

An election to file a consolidated return for Indiana purposes can be made by filing the consolidated return by the due date; if filed past the due date, a copy of the valid federal extension of time to file must be attached to the return. An election to file a consolidated return cannot be made on a retroactive basis. Once an affiliated group elects to file consolidated for Indiana purposes, the group must follow that election for all subsequent years of filing. If the group wishes to revoke the election in a subsequent tax year, the group must obtain written permission from the department at least 90 days prior to the due date of the return.

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Indiana does not accept returns filed on a separate accounting basis without prior approval. If the apportionment provision does not fairly reflect the corporation's Indiana income, the corporation must petition the department for permission to use an alternative method.

X. COMBINED REPORTING

A taxpayer may petition the department for permission to file a combined income tax return for a tax year. However, the petition must be filed with the department on or before 30 days after the end of the tax year for which permission is sought. The petition should be sent to the Tax Policy Division, 100 North Senate Ave., Room N248, MS# 102, Indianapolis, IN 46204. A timely filed petition will be granted if combined reporting will more fairly reflect the unitary group's Indiana source income. However, combined reporting is limited to the "water's-edge" of the United States.

A unitary group that has petitioned and received permission from the department to file a combined return in Indiana may file one return for the unitary group, providing a schedule is attached showing the adjusted gross income tax due by member. In the alternative, the unitary group should file an Indiana return for each member doing business in Indiana. The taxpayer filing the combined return must petition the department within 30 days after the end of the tax year for permission to discontinue the filing of a combined return.

XI. ACCOUNTING PERIOD

The accounting period for the adjusted gross income tax must be the same as the accounting period adopted for federal income tax purposes.

XII. ACCOUNTING METHODS

The department requires use of the method of accounting used for federal income tax purposes.

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XIII. ESTIMATED TAX REQUIREMENTS

A corporation whose estimated adjusted gross income tax liability exceeds \$2,500 for a taxable year must file quarterly estimated tax payments. The quarterly estimated tax payments are submitted with an appropriate Indiana voucher or by electronic funds transfer, depending on the amount of the payment due. The quarterly estimated payment must be equal to the lesser of 25% of the adjusted gross income tax liability for the taxable year, or the annualized income installment calculated by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

XIV. UNDERPAYMENT OF ESTIMATED TAX PENALTIES

To avoid the underpayment of estimated tax penalties, corporations are required to make quarterly payments equal to 20% of the final tax liability for the current year, or 25% of the corporation's liability for the previous tax year. A taxpayer may elect to use the annualized income installment calculation in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's adjusted gross income tax liability. The penalty on corporate adjusted gross income tax or utility receipts tax is assessed on the difference between the actual amount paid by the corporation for each quarter and 25% of the corporation's final adjusted gross income tax liability for the current year. For estimated payment dates, see Information Bulletin #11.

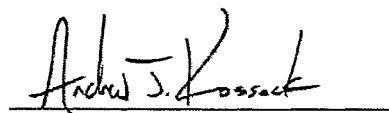
XV. TAX CREDITS

See Information Bulletin #59 for a complete list of available credits.

XVI. SUMMARY

A corporation operating in Indiana that is not certain of its tax status should promptly apply to the department for a determination of its status. Complete detailed information of the corporation's operation should be submitted. All correspondence concerning the matter should be addressed to the Indiana Department of Revenue, Tax Policy Division, 100 North Senate Ave., Room N248, MS# 102, Indianapolis, Indiana 46204-2253.

A corporation should ask for a determination of its tax status before commencing business in Indiana to avoid the possibility of costly penalties and interest charges for the delinquent filing of returns.



Andrew J. Kossack
Commissioner

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Sec. 6. The term "employee" means "employee" as defined in section 3401(c) of the Internal Revenue Code.
(Formerly: Acts 1963(ss), c.32, s.106.)

IC 6-3-1-7
"Fiduciary"

Sec. 7. "Fiduciary" means any guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporate, acting in any fiduciary capacity for any individual, trust, guardian, or estate.
(Formerly: Acts 1963(ss), c.32, s.107.) As amended by P.L.33-1989, SEC.4.

IC 6-3-1-8
"Gross income"

Sec. 8. The term "gross income" shall mean gross income as defined by section 61(a) of the Internal Revenue Code.
(Formerly: Acts 1963(ss), c.32, s.108.)

IC 6-3-1-9
"Individual"

Sec. 9. The term "individual" means a natural person, whether married or unmarried, adult or minor.
(Formerly: Acts 1963(ss), c.32, s.109.)

IC 6-3-1-10
"Corporation"

Sec. 10. As used in this article, "corporation" includes all corporations, associations, real estate investment trusts (as defined in the Internal Revenue Code), joint stock companies, whether organized for profit or not-for-profit, any receiver, trustee or conservator thereof, business trusts, Massachusetts trusts, any proprietorship or partnership taxable under Section 1361 of the Internal Revenue Code, and any publicly traded partnership that is treated as a corporation for federal income tax purposes under Section 7704 of the Internal Revenue Code. The term includes life insurance companies (as defined in Section 816(a) of the Internal Revenue Code) and insurance companies subject to tax under Section 831 of the Internal Revenue Code.
(Formerly: Acts 1963(ss), c.32, s.110; Acts 1965, c.233, s.2; Acts 1973, P.L.49, SEC.2.) As amended by P.L.2-1987, SEC.16; P.L.63-1988, SEC.4; P.L.192-2002(ss), SEC.68.

IC 6-3-1-11
"Internal Revenue Code"

Sec. 11. (a) The term "Internal Revenue Code" means the Internal Revenue Code of 1986 of the United States as amended and in effect on January 1, 2015.

(b) Whenever the Internal Revenue Code is mentioned in this

article, the particular provisions that are referred to, together with all the other provisions of the Internal Revenue Code in effect on January 1, 2015, that pertain to the provisions specifically mentioned, shall be regarded as incorporated in this article by reference and have the same force and effect as though fully set forth in this article. To the extent the provisions apply to this article, regulations adopted under Section 7805(a) of the Internal Revenue Code and in effect on January 1, 2015, shall be regarded as rules adopted by the department under this article, unless the department adopts specific rules that supersede the regulation.

(c) An amendment to the Internal Revenue Code made by an act passed by Congress before January 1, 2015, that is effective for any taxable year that began before January 1, 2015, and that affects:

- (1) individual adjusted gross income (as defined in Section 62 of the Internal Revenue Code);
- (2) corporate taxable income (as defined in Section 63 of the Internal Revenue Code);
- (3) trust and estate taxable income (as defined in Section 641(b) of the Internal Revenue Code);
- (4) life insurance company taxable income (as defined in Section 801(b) of the Internal Revenue Code);
- (5) mutual insurance company taxable income (as defined in Section 821(b) of the Internal Revenue Code); or
- (6) taxable income (as defined in Section 832 of the Internal Revenue Code);

is also effective for that same taxable year for purposes of determining adjusted gross income under section 3.5 of this chapter.

(d) This subsection applies to a taxable year ending before January 1, 2013. The following provisions of the Internal Revenue Code that were amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312) are treated as though they were not amended by the Tax Relief Act, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (P.L. 111-312):

- (1) Section 1367(a)(2) of the Internal Revenue Code pertaining to an adjustment of basis of the stock of shareholders.
- (2) Section 871(k)(1)(C) and 871(k)(2)(C) of the Internal Revenue Code pertaining to the treatment of certain dividends of regulated investment companies.
- (3) Section 897(h)(4)(A)(ii) of the Internal Revenue Code pertaining to regulated investment companies qualified entity treatment.
- (4) Section 512(b)(13)(E)(iv) of the Internal Revenue Code pertaining to the modification of tax treatment of certain payments to controlling exempt organizations.
- (5) Section 613A(c)(6)(H)(ii) of the Internal Revenue Code pertaining to the limitations on percentage depletion in the case of oil and gas wells.
- (6) Section 451(i)(3) of the Internal Revenue Code pertaining to

special rule for sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy for qualified electric utilities.

(7) Section 954(c)(6) of the Internal Revenue Code pertaining to the look-through treatment of payments between related controlled foreign corporation under foreign personal holding company rules.

The department shall develop forms and adopt any necessary rules under IC 4-22-2 to implement this subsection.

(Formerly: Acts 1963(ss), c.32, s.111; Acts 1965, c.233, s.3; Acts 1967, c.345, s.2; Acts 1969, c.326, s.2; Acts 1971, P.L.64, SEC.2; Acts 1973, P.L.49, SEC.3; Acts 1975, P.L.60, SEC.1.) As amended by Acts 1977, P.L.78, SEC.1; Acts 1978, P.L.44, SEC.1; Acts 1979, P.L.67, SEC.1; Acts 1980, P.L.55, SEC.1; Acts 1981, P.L.82, SEC.2; Acts 1982, P.L.52, SEC.2; P.L.82-1983, SEC.2; P.L.49-1984, SEC.2; P.L.74-1985, SEC.1; P.L.71-1986, SEC.1; P.L.2-1987, SEC.17; P.L.63-1988, SEC.5; P.L.89-1989, SEC.1; P.L.35-1990, SEC.11; P.L.64-1991, SEC.1; P.L.43-1992, SEC.9; P.L.74-1993, SEC.1; P.L.19-1994, SEC.7; P.L.85-1995, SEC.9; P.L.60-1997, SEC.2; P.L.119-1998, SEC.4; P.L.2-2000, SEC.1; P.L.9-2001, SEC.1; P.L.177-2002, SEC.11; P.L.192-2002(ss), SEC.69; P.L.105-2003, SEC.2; P.L.246-2005, SEC.70; P.L.184-2006, SEC.4; P.L.234-2007, SEC.41; P.L.131-2008, SEC.12; P.L.182-2009(ss), SEC.188; P.L.113-2010, SEC.54; P.L.229-2011, SEC.84; P.L.137-2012, SEC.53; P.L.205-2013, SEC.81; P.L.242-2015, SEC.15.

IC 6-3-1-12

"Resident"

Sec. 12. The term "resident" includes (a) any individual who was domiciled in this state during the taxable year, or (b) any individual who maintains a permanent place of residence in this state and spends more than one hundred eighty-three (183) days of the taxable year within this state, or (c) any estate of a deceased person defined in (a) or (b), or (d) any trust which has a situs within this state.

(Formerly: Acts 1963(ss), c.32, s.112.)

IC 6-3-1-13

"Nonresident"

Sec. 13. The term "nonresident" means any person who is not a resident of Indiana.

(Formerly: Acts 1963(ss), c.32, s.113.)

IC 6-3-1-14

"Person"

Sec. 14. The term "person" means an individual, trust or estate: Provided, That no corporation shall be considered to be a person.

(Formerly: Acts 1963(ss), c.32, s.114.)

IC 6-3-1-15

STATE OF INDIANA

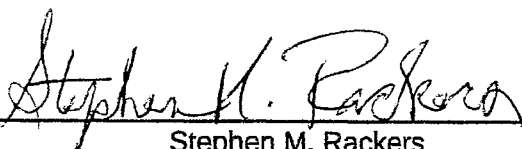
INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE
COMPANY FOR AUTHORITY TO MODIFY ITS RATES
AND CHARGES FOR ELECTRIC UTILITY SERVICE
AND FOR APPROVAL OF: (1) CHANGES TO ITS
ELECTRIC SERVICE TARIFF INCLUDING A NEW
SCHEDULE OF RATES AND CHARGES AND
CHANGES TO THE GENERAL RULES AND
REGULATIONS AND CERTAIN RIDERS; (2) REVISED
DEPRECIATION ACCRUAL RATES; (3) INCLUSION IN
ITS BASIC RATES AND CHARGES OF THE COSTS
ASSOCIATED WITH CERTAIN PREVIOUSLY
APPROVED QUALIFIED POLLUTION CONTROL
PROPERTY, CLEAN COAL TECHNOLOGY, CLEAN
ENERGY PROJECTS AND FEDERALLY MANDATED
COMPLIANCE PROJECTS; AND (4) ACCOUNTING
RELIEF TO ALLOW NIPSCO TO DEFER, AS A
REGULATORY ASSET OR LIABILITY, CERTAIN
COSTS FOR RECOVERY IN A FUTURE PROCEEDING.

CAUSE NO. 44688

Verification

I, Stephen M. Rackers, Associate of Brubaker & Associates, Inc. affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.



Stephen M. Rackers
1/22/2016