

BEFORE THE

INDIANA UTILITY REGULATORY COMMISSION

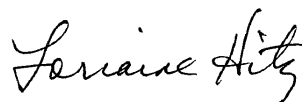
VERIFIED PETITION OF NORTHERN INDIANA PUBLIC)
SERVICE COMPANY LLC FOR (1) APPROVAL OF AND A)
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY)
FOR A FEDERALLY MANDATED ASH POND COMPLIANCE)
PROJECT; (2) AUTHORITY TO RECOVER FEDERALLY)
MANDATED COSTS INCURRED IN CONNECTION WITH THE)
AS POND COMPLIANCE PROJECT; (3) APPROVAL OF THE)
ESTIMATED FEDERALLY MANDATED COSTS ASSOCIATED)
WITH THE ASH POND COMPLIANCE PROJECT; (4))
AUTHORITY FOR THE TIMELY RECOVERY OF 80% OF THE)
FEDERALLY MANDATED COSTS THROUGH RIDER 887 –)
ADJUSTMENT OF FEDERALLY MANDATED COSTS AND)
APPENDIX I – FEDERALLY MANDATED COST ADJUSTMENT)
FACTOR (“FMCA MECHANISM”); (5) AUTHORITY TO DEFER)
20% OF THE FEDERALLY MANDATED COSTS FOR)
RECOVERY IN NIPSCO’S NEXT GENERAL RATE CASE; (6))
APPROVAL OF SPECIFIC RATEMAKING AND ACCOUNTING)
TREATMENT; (7) APPROVAL TO AMORTIZE THE ASH POND)
COMPLIANCE PROJECT COSTS THROUGH 2032; (8))
APPROVAL OF ONGOING REVIEW OF THE ASH POND)
COMPLIANCE PROJECT; ALL PURSUANT TO IND. CODE § 8-)
1-8.4-1 ET SEQ., § 8-1-2-19, § 8-1-2-23, AND § 8-1-2-42; AND, TO)
THE EXTENT NECESSARY, APPROVAL OF AN)
ALTERNATIVE REGULATORY PLAN PURSUANT TO IND.)
CODE § 8-1-2.5-6.)

CAUSE NO. 45700

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR’S
PUBLIC’S EXHIBIT NO. 3
TESTIMONY OF OUCW WITNESS
KALEB G. LANTRIP

September 7, 2022

Respectfully submitted,



Lorraine Hitz
Attorney No. 18006-29
Deputy Consumer Counselor

TESTIMONY OF OUCC WITNESS KALEB G. LANTRIP
CAUSE NO. 45700
NORTHERN INDIANA PUBLIC SERVICE COMPANY, LLC

I. INTRODUCTION

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

2 A: My name is Kaleb G. Lantrip, and my business address is 115 W. Washington St.,
3 Suite 1500 South, Indianapolis, Indiana 46204. I am employed as a Utility
4 Analyst in the Indiana Office of Utility Consumer Counselor's ("OUCC") Electric
5 Division. A summary of my educational background and experience is included in
6 Appendix A attached to my testimony.

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

8 A: The purpose of my testimony is to provide a review and analysis of Northern
9 Indiana Public Service Company, LLC's ("NIPSCO" or "Petitioner") request for
10 a Certificate of Public Convenience and Necessity ("CPCN") and approval of a
11 tariff rider to recover Federally Mandated Cost Adjustments ("FMCA") related to
12 its Michigan City Ash Pond Compliance Project ("Compliance Project").
13 Specifically, I address the ratemaking proposal for the recovery of these costs and
14 make recommendations to the Indiana Utility Regulatory Commission
15 ("Commission") on behalf of NIPSCO's ratepayers. Ultimately, I conclude
16 NIPSCO's proposed ratemaking treatment to recover \$40.044 million is
17 inappropriate and should be denied.

1 **Q: Please describe the review and analysis you conducted to prepare your**
2 **testimony.**

3 A: I reviewed NIPSCO's petition, testimonies, and attachments to its case-in-chief,
4 as well as NIPSCO's responses to data requests. I reviewed Petitioner's most
5 recent FMCA CPCN approval under Cause No. 44872,¹ its FMCA Rider cost
6 recovery filings under Cause No. 44340,² and its two most recently approved base
7 rate cases under Cause Nos. 45159 and 44688.³

8 **Q: Is the OUCC opposing NIPSCO's requested projects?**

9 A: No. As discussed in OUCC witnesses Cynthia M. Armstrong's and Brian
10 Wright's testimony, the OUCC acknowledges the projects are necessary.
11 However, the OUCC is opposing NIPSCO's requested Alternative Regulatory
12 Plan ("ARP") treatment and use of the Federal Mandate Statute (Ind. Code ch. 8-
13 1-8.4).

II. NIPSCO'S REQUESTED RECOVERY

14 **Q: What did NIPSCO request in its petition?**

15 A: As described in NIPSCO witness Alison Becker's testimony, five ash ponds at
16 NIPSCO's Michigan City Generating Station ("Michigan City") are subject to an
17 Indiana Department of Environmental Management ("IDEM") Agreed Order
18 based on the Resource Conservation and Recovery Act ("RCRA"). Under the
19 Agreed Order, NIPSCO was required to submit closure and post-closure plans to
20 IDEM for the three RCRA ash ponds no later than December 31, 2018.⁴ On
21 March 10, 2021, IDEM approved NIPSCO's closure application with the

¹ Commission Order in Cause No. 44872, approved December 17, 2017.

² Cause No. 44340 is an inactive FMCA rider which was effective through January 31, 2021.

³ Commission approved base rate case orders issued on July 18, 2016, and December 4, 2019, respectively.

⁴ See Direct Testimony of Alison M. Becker, p. 11, l. 15 through p. 12, l. 6.

1 requirement to close all five ponds at Michigan City.⁵ Ms. Armstrong and Mr.
2 Wright discuss NIPSCO's obligations under the Agreed Order.

3 **Q: What is NIPSCO's proposed cost recovery treatment for this approximately**
4 **\$40 million Compliance Project?**

5 A: NIPSCO requests approval to recover 80% of any approved federally mandated
6 costs incurred in connection with the Compliance Project through NIPSCO's
7 FMCA mechanism pursuant to I.C. § 8-1-8.4-7. NIPSCO requests authority to
8 defer 20% of any federally mandated costs and ongoing expenses incurred in
9 connection with the Compliance Project for recovery to NIPSCO's next general
10 rate case, where the deferred balance will be subject to a carrying charge based on
11 the effective weighted average cost of capital ("WACC") on an interim basis until
12 such costs are recognized for ratemaking purposes. Whether incurred prior to or
13 after Final Order approval in this proceeding, both the 80% requested for recovery
14 through the FMCA mechanism's updates and the 20% deferral are requested for
15 recovery, to the extent such costs are reasonable and consistent with the scope of
16 the Ash Pond Compliance Project, as described in NIPSCO's evidence in this
17 Cause.⁶ Finally, NIPSCO requests the rate class allocation factors from its most
18 recently approved rate case be used to determine revenue requirement recovery.

19 **Q: How does NIPSCO propose to collect its FMCA revenue requirement in**
20 **future filings?**

21 A: NIPSCO seeks authorization for recovery of a return "on" and "of" the
22 Compliance Project. NIPSCO witness Kevin J. Blissmer indicates that as the
23 project involves the federally mandated closure of a capital asset, the federally
24 mandated costs associated with the project will be accounted for through

⁵ See Becker, p. 12, ll. 6-14.

⁶ Direct Testimony of Kevin Blissmer, p. 6, l. 6 - p. 7, l. 4.

1 retirement work orders and recorded as a reduction to accumulated depreciation.
2 Rather than amortizing the federally mandated costs associated with the ash ponds
3 over the 12-month period in which they are projected to be incurred, upon project
4 completion, NIPSCO proposes to amortize the costs associated with the
5 Compliance Project through 2032.⁷

6 **Q: How did NIPSCO explain its request for Compliance Project recovery**
7 **through the FMCA Statute?**

8 A: Ms. Becker states that under I.C. § 8-1-8.4-2, a “compliance project” is defined as
9 one undertaken by an energy utility to comply with a “federally mandated
10 requirement.” NIPSCO asserts its Compliance Project is related to the “direct or
11 indirect compliance by the energy utility with one (1) or more federally mandated
12 requirements,” specifically regarding I.C. § 8-1-8.4-5, “(3) The federal Resource
13 Conservation and Recovery Act.”⁸

14 **Q: Did NIPSCO explain why it is requesting this treatment?**

15 A: Yes. The Indiana Supreme Court decision on Duke Energy Indiana’s (“DEI”)
16 most recent rate order⁹ created uncertainty for NIPSCO. Thus, it requested an
17 ARP for its proposed accounting treatment through 2032 to account for the costs
18 of removal. Ms. Becker testified:

⁷ Blissmer, p. 7, ll. 5-17.

⁸ See Becker, p. 13.

⁹ *Ind. Off. of Util. Consumer Couns. v. Duke Energy Ind., LLC*, 183 N.E.3d 266 (Ind. 2022), *reh'g den.*

1 Just prior to the filing of this Verified Petition, the Indiana
2 Supreme Court issued a decision related to Duke Energy Indiana
3 which reversed the Commission and found that Duke should have
4 obtained pre-approval from the Commission before recording
5 certain environmental remediation costs as a regulatory asset on its
6 books. While this proceeding involves a request for the recovery of
7 federally mandated compliance costs pursuant to Indiana statute
8 [sic] providing for such recovery, and is therefore different in
9 terms of the applicable law and the timely nature of NIPSCO's
10 request for cost recovery, given the potential uncertainty related to
11 the interpretation of this recent court decision, NIPSCO has
12 included this request for approval of an alternative regulatory plan
13 to confirm that its federally mandated costs, which include costs
14 that must be incurred throughout most of 2022 related to
15 compliance requirement, are authorized to be recovered.¹⁰

16 Ms. Armstrong addresses the appropriateness of NIPSCO's request for an ARP.

17 **Q: How does NIPSCO propose to recover the cost of removal of the Coal Ash**
18 **Pond Closure Compliance Projects?**

19 A: Petitioner's witness Gunnar J. Gode explains that under NIPSCO's proposed
20 accounting treatment, the Compliance Project costs will be recorded as a
21 retirement work order, which reduces NIPSCO's Accumulated Depreciation
22 balance. This entry would increase net original cost rate base just as much as if
23 NIPSCO had made the same investment in Utility Plant in Service ("UPIS"), due
24 to how net original cost rate base is derived by UPIS less Accumulated
25 Depreciation. Therefore, under NIPSCO's proposed treatment, the retirement
26 costs of the Ash Pond Compliance Project would have a capital effect and be
27 eligible to receive financing costs using NIPSCO's WACC.¹¹

28 **Q: What is the normal accounting and ratemaking treatment for projects such**
29 **as the coal ash removal costs incurred for NIPSCO's ash ponds?**

30 A: The costs incurred for the Compliance Project are for the removal of coal ash
31 from NIPSCO's ash ponds. As removal costs are incurred, they are charged to the

¹⁰ See Becker, p. 21, line 4 through p. 22, line 1.

¹¹ See Direct Testimony of Gunnar J. Gode, p. 6, ll. 6-15.

1 Accumulated Depreciation account. This has the effect of increasing overall
2 company rate base, less any salvage costs, plus the effects on the Accumulated
3 Depreciation account, which leads to increases in depreciation rates to cover
4 future removal costs. The effects of these accounting entries for cost of removal
5 are captured in a base rate case where they impact rate base and depreciation
6 rates, not just for this removal cost, but for all removal costs incurred between the
7 last rate case to the next.

8 **Q Is NIPSCO's requested cost recovery for this type of cost appropriate?**

9 A: No. Since NIPSCO did not account for coal ash pond closure costs in its last rate
10 case (Cause No. 45159), it is requesting to recover the effect of the ash pond
11 removal cost with a charge to Accumulated Depreciation ("Account 108"), and
12 then include this cost effect in rate base in the FMCA mechanism to earn a return
13 "on" and a return "of" as if this cost was an investment in plant or asset. As
14 discussed further below, this is not the appropriate cost recovery mechanism
15 under the circumstances.

III. COST RECOVERY

16 **Q: Do you have concerns regarding NIPSCO's proposed method of cost**
17 **recovery?**

18 A: Yes. NIPSCO's current request creates a risk of double recovery at the time of its
19 next rate case because its Accumulated Depreciation account must be adjusted to
20 remove ash pond removal costs from rate base and depreciation rate calculations.
21 Failing to do so would result in NIPSCO double-charging these costs in base rates
22 and in the FMCA.

1 **Q: Did NIPSCO admit its proposal and the use of Account 108: Accumulated**
2 **Depreciation would create a need for this adjustment?**

3 A: Yes. NIPSCO admits it will have to adjust depreciation rate calculations to
4 prevent the FMCA cost recovery of removal from impacting base rate assessment
5 of depreciation rates.¹²

6 **Q: Could NIPSCO account for these costs of removal in its next base rate case's**
7 **depreciation study?**

8 A: Yes. NIPSCO admits it could seek recovery of these costs in its next base rate
9 case.¹³

10 **Q: Is NIPSCO proposing to account for these costs of removal through an**
11 **FMCA Rider because it is not anticipating a need to file an electric base rate**
12 **case?**

13 A: No. NIPSCO filed a letter of intent to file a base rate case with the Commission
14 on or after September 15, 2022.¹⁴

15 **Q: Did NIPSCO include Compliance Project closure costs in its last base rate**
16 **case (Cause No. 45159)?**

17 A: No. However, NIPSCO provided an initial estimate of the Compliance Project
18 costs as part of its total coal combustion residuals ("CCR") compliance costs.
19 These were included in a filed demolition study in Cause No. 45159, but NIPSCO
20 chose not to seek rate recovery due to uncertainty regarding the final version of
21 CCR requirements.¹⁵

22 **Q: Did the Petitioner request recovery of \$40,044,000¹⁶ in estimated costs as a**
23 **regulatory asset?**

24 A: No. Ms. Becker's testimony mentions DEI was denied regulatory asset treatment
25 in the recent Indiana Supreme Court decision because it did not seek the

¹² See Gode, p. 6, ll. 11-17.

¹³ See Gode, p. 10, ll. 10-14.

¹⁴ See Attachment KGL-1: NIPSCO's Notice of Intent to File, dated August 15, 2022.

¹⁵ See Gode, p. 7, ll. 1-10.

¹⁶ See NIPSCO Attachment 3-A total column.

1 Commission's pre-approval.¹⁷ As a result, NIPSCO did not seek to use regulatory
2 asset accounting. The OUCC issued a discovery request asking if NIPSCO
3 considered regulatory asset treatment. NIPSCO responded that it was considered
4 by the Commission in Cause No. 43526,¹⁸ which directed NIPSCO to use
5 accumulated depreciation rather than recording individual regulatory assets and
6 liabilities.¹⁹

7 **Q: How does the OUCC recommend NIPSCO pay for the projects, if not**
8 **through the Federal Mandate statute?**

9 A: NIPSCO could include these costs of removal as part of its depreciation study in
10 its upcoming base rate case. NIPSCO's response to Industrial Group ("IG") data
11 request 3-008 indicated NIPSCO has accounted for coal ash closure costs in
12 setting depreciation rates in previous rate cases (Cause Nos. 43526, 43969, and
13 44688) prior to the currently approved base rates.²⁰ Therefore, NIPSCO should
14 offset its \$40.044 million estimated request using previously collected ash pond
15 closure costs from prior rate cases. NIPSCO's initial response to IG DR 3-010
16 committed to supplementing IG 3-008's response for estimated dollar value
17 recovered through depreciation rates related to ash pond closures.²¹ The
18 supplemental response estimated a depreciation accrual of \$2,971,428 related to
19 the general closure of coal ash ponds at the Michigan City site.²²

¹⁷ See Becker, p. 21, ll. 4-8.

¹⁸ See Attachment KGL-2: NIPSCO's response to OUCC DR-2, p. 1.

¹⁹ See Attachment KGL-3: IURC Cause No. 43526 Reconsideration Order, dated January 18, 2012.

²⁰ See Attachment KGL-4: NIPSCO's Response to IG DR-3, p. 1.

²¹ See Attachment KGL-4, p. 3.

²² See Attachment KGL-5: NIPSCO's Supplemental Response to IG DR-3-010, p. 1.

IV. OTHER COST-RELATED CONCERNS

1 **Q: Did NIPSCO demonstrate that its request to recover costs of CCR removal**
2 **has been reduced for any previously collected accumulated depreciation?**

3 A: No.

4 **Q: Does NIPSCO's Ash Pond Compliance Project request account for the coal**
5 **ash it currently transports from the Michigan City plant to R.M. Schahfer's**
6 **CCR-Compliant landfill?**

7 A: No. According to NIPSCO's website, NIPSCO transports 50,000 tons of coal ash
8 each year from the Michigan City Generating Station to the R.M. Schahfer
9 Generating Station's lined landfill.²³

10 **Q: If NIPSCO did not account for any previous depreciation reserves and coal**
11 **ash transportation in base rates when calculating the cost requested in this**
12 **case, could NIPSCO double recover these costs?**

13 A: Yes.

14 **Q: Did NIPSCO include indirect costs in the Compliance Project estimate?**

15 A: Yes. NIPSCO's use of internal resources in its estimate of the Owner's Costs
16 (\$3.488 million) and Indirect Costs (\$3.932 million) portions of the Compliance
17 Project should be reduced by the amounts already included in base rates for these
18 functions. In response to discovery, NIPSCO defined its indirect costs as
19 including overhead, stores, freight, and handling, and Allowance for Funds Used
20 During Construction ("AFUDC").²⁴ The "overhead" category includes vacation
21 and holiday pay, charges for outside services that support NIPSCO's capital
22 project process, and portions of payroll for NIPSCO employees involved in
23 supporting capital projects or administrative and general functions. The "stores,

²³ See NIPSCO's website link, accessed August 22, 2022: "How does NIPSCO remove coal ash today and where is it stored." <https://www.nipSCO.com/our-company/about-us/our-environment/mcgs-coal-ash-pond-cleanup>

²⁴ NIPSCO has stated that it is not seeking AFUDC in this case. Becker, p. 6, fn. 3, which continues to the bottom of p. 4.

1 freight, and handling” category encompasses costs NIPSCO incurs to procure
2 materials and equipment in the supply chain process.²⁵

3 **Q: Is it the OUCC’s position that indirect costs of removal do not qualify as**
4 **capital costs?**

5 A: Yes. Indirect costs should not be capitalized.

V. OUCC RECOMMENDATIONS

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

7 A: I recommend that the Commission:

8 1) Dismiss NIPSCO’s petition for an ARP approval for recovery through an
9 FMCA Rider, as this recovery can be addressed as part of its anticipated base
10 rate case filing on or after September 15, 2022;²⁶

11 2) If the Commission grants Petitioner’s request for recovery of these
12 Compliance Project costs, the Commission should order NIPSCO to:

13 a. Make compliance Project Costs net of any recovered coal ash pond
14 closure costs through depreciation rates accrued through the effective
15 period of base rate cases prior to the current rates, which have omitted
16 CCR-based recovery;²⁷

17 b. Make Compliance Project costs recovered under the FMCA
18 mechanism limited to “return of”;

19 c. Exclude double recovery of indirect overhead and internal labor; and

²⁵ See Attachment KGL-6: NIPSCO’s Supplemental Response to OUCC 1-011.

²⁶ See Attachment KGL-1.

²⁷ See Attachment KGL-4.

1 d. Eliminate the ash pond removal cost effect from the FMCA in the next
2 base rate case and credit any amortization of the removal costs in the
3 FMCA to accumulated depreciation.

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

5 **A: Yes.**

APPENDIX A

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

2 A: I graduated from the Kelley School of Business of Indianapolis in 2014 with a
3 Bachelor of Science in Business with majors in Accounting and Finance. I am
4 licensed in the State of Indiana as a Certified Public Accountant. I attended the
5 National Association of Regulatory Utility Commissioners ("NARUC") Spring
6 2018 Conference held by New Mexico State University and the Intermediate
7 Course Fall 2019 conference held by the Institute of Public Utilities at Michigan
8 State University. In September 2019, I attended the annual Society of
9 Depreciation Professionals conference held in Philadelphia and the Basics of
10 Depreciation course.

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

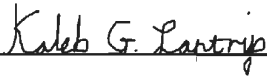
12 A: Yes.

13 **Q: Please describe your duties and responsibilities at the OUCC.**

14 A: I review Indiana utilities' requests for regulatory relief filed with the Indiana
15 Utility Regulatory Commission ("Commission"). My scope of review is typically
16 focused on accounting and utility ratemaking issues. This involves reading
17 testimonies of petitioners and intervenors, previous orders issued by the
18 Commission, and any appellate opinions to inform my analyses. I prepare and
19 present testimony based on these analyses and make recommendations to the
20 Commission on behalf of Indiana utility consumers.

AFFIRMATION

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

A handwritten signature in black ink that reads "Kaleb G. Lantrip". The signature is written in a cursive style and is positioned above a solid horizontal line.

Kaleb G. Lantrip
Utility Analyst II
Indiana Office of Utility Consumer Counselor

Cause No. 45700
NIPSCO, LLC

Date: September 7, 2022



Erin A. Whitehead
Phone: 317-965-8334
Email: ewhitehead@nisource.com

August 15, 2022

Via Hand Delivery

Dana Kosco
Secretary of the Commission
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500 East
Indianapolis, Indiana 46204

RECEIVED

AUG 15 2022

INDIANA UTILITY REGULATORY COMMISSION

RE: Notice of Intent to File Electric Rate Case

Dear Ms. Kosco:

In accordance with Indiana Utility Regulatory Commission General Administrative Order 2013-5, Northern Indiana Public Service Company LLC hereby provides notice of its intent to file an electric rate case pursuant to Ind. Code § 8-1-2-42.7 on or after September 15, 2022. Please let me know if you have any questions or concerns about this notice.

Sincerely,

A handwritten signature in black ink that reads "Erin E. Whitehead". The signature is written in a cursive style and is positioned above a horizontal line.

Erin E. Whitehead
Vice President, Regulatory and Major Accounts

cc: Via Email Transmission

William Fine (wfine@oucc.in.gov)
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Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Second Set of Data Requests

OUCC Request 2-001:

Testimony of NIPSCO witness Blissmer, p. 7, line 5-11,

NIPSCO seeks authorizations for recovery of a return on and of the Ash Pond Compliance Project. Because this project relates to the federally mandated closure of a capital asset, the federally mandated costs associated with the project will be captured on a retirement work order and recorded as a reduction to accumulated depreciation. NIPSCO therefore proposes recovery based upon the incremental effect of the Ash Pond Compliance Project costs on NIPSCO's net original cost rate base, with 80% of that total amount timely recovered through the FMCA Mechanism, with the other 20% being deferred to a future electric electric base rate case.

Why didn't NIPSCO request recovery of its Ash Pond Compliance removal costs as a regulatory asset, to receive a return on and of, over the same time period? Please explain in detail.

Objections:

Response:

The coal combustion residual (CCR) requirements were promulgated through the Environmental Protection Agency. The FMCA mechanism was put into place to address such instances where Indiana utilities became subject to federal mandates, allowing utilities to comply with the statutes and recover such costs in a timely manner. Additionally, the FMCA mechanism allows for such costs to be contemplated and approved between depreciation studies, where such cost estimates may evolve or change. Further, in Cause No. 43526, the Commission determined that NIPSCO should continue to account for cost of removal activities through accumulated depreciation Account 108 as opposed to recording as separate regulatory assets and liabilities.

Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Second Set of Data Requests

OUCG Request 2-002:

Testimony of NIPSCO witness Gode, p. 6, line 8-9 and line 15-16, referring to costs of the Ash Pond Compliance Project:

These costs will be recorded as a retirement work order which reduces NIPSCO's Accumulated Depreciation (Account 108) balance and increases rate base...As these costs will be omitted from the calculation of depreciation rates, the return on calculation will be included in this FMCA proceeding.

Please explain in detail the processes to safeguard against Ash Pond removal costs being included in the calculation of depreciation rates.

Objections:

Response:

The process begins with the preparation of the demolition study for each rate case. The Company engages a specialist to prepare a demolition study to support depreciation rates submitted with each rate case. The Company directs the work of the specialist, providing and validating the study inputs and results. The demolition study evaluates each facility individually and breaks down the demolition into areas or processes. In preparing for the 45159 proceeding, the Company explicitly asked the demolition specialist to omit all Ash Pond removal costs from its analysis and demolition study. As part of the Company's review of the specialist's final demolition study results and testimony, the Company confirmed that the filed demolition study excluded any costs associated with Ash Pond removal costs. For rate proceedings prior to Cause No. 45159, the Coal Combustion Residual (CCR) rules had not yet been promulgated, so no potential costs were incorporated in those rates.

As part of its rate case preparation process, the Company hosts recurring calls with its depreciation specialist as the depreciation and demolition studies are being created, reviewed and finalized. In the last rate case, the team met with the demolition study team on a regular basis to ensure the appropriate strategy was implemented and specifically to exclude the Ash Pond removal costs from consideration, as they were evolving estimates. The demolition study is reviewed by the regulatory and environmental teams.

**Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Second Set of Data Requests**

In future rate proceedings, the Company will need to specifically exclude the CCR related expense that is recorded to an Account 108 retirement work order and recovered through the FMCA tracker so it is not included in rate base. These retirement work orders are only included in rate base once the project is complete. In the future, all FMCA tracked Account 108 work orders will have a unique identifier and will be manually adjusted out of the Account 108 balances included in rate base.

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE)
COMPANY ("NIPSCO") FOR (1) AUTHORITY TO MODIFY)
ITS RATES AND CHARGES FOR ELECTRIC UTILITY)
SERVICE; (2) APPROVAL OF NEW SCHEDULES OF RATES)
AND CHARGES APPLICABLE THERETO; (3) APPROVAL)
OF REVISED DEPRECIATION ACCRUAL RATES; (4))
INCLUSION IN ITS BASIC RATES AND CHARGES OF THE)
COSTS ASSOCIATED WITH CERTAIN PREVIOUSLY)
APPROVED QUALIFIED POLLUTION CONTROL)
PROPERTY PROJECTS; (5) AUTHORITY TO IMPLEMENT)
A RATE ADJUSTMENT MECHANISM PURSUANT TO IND.)
CODE § 8-1-2-42(a) TO (A) TIMELY RECOVER CHARGES)
AND CREDITS FROM REGIONAL TRANSMISSION)
ORGANIZATIONS AND NIPSCO'S TRANSMISSION)
REVENUE REQUIREMENTS; (B) TIMELY RECOVER)
NIPSCO'S PURCHASED POWER COSTS; AND (C))
ALLOCATE NIPSCO'S OFF SYSTEM SALES REVENUES; (6))
APPROVAL OF VARIOUS CHANGES TO NIPSCO'S)
ELECTRIC SERVICE TARIFF INCLUDING WITH RESPECT)
TO THE GENERAL RULES AND REGULATIONS, THE)
ENVIRONMENTAL COST RECOVERY MECHANISM AND)
THE ENVIRONMENTAL EXPENSE MECHANISM; (7))
APPROVAL OF THE CLASSIFICATION OF NIPSCO'S)
FACILITIES AS TRANSMISSION OR DISTRIBUTION IN)
ACCORDANCE WITH THE FEDERAL ENERGY)
REGULATORY COMMISSION'S SEVEN-FACTOR TEST;)
AND (8) APPROVAL OF AN ALTERNATIVE REGULATORY)
PLAN PURSUANT TO IND. CODE § 8-1-2.5-1 *ET SEQ.* TO)
THE EXTENT SUCH RELIEF IS NECESSARY TO EFFECT)
THE RATEMAKING MECHANISMS PROPOSED BY)
NIPSCO.)

CAUSE NO. 43526

APPROVED:

JAN 18 2012

ORDER ON RECONSIDERATION

Presiding Officers:
David E. Ziegner, Commissioner
Aaron A. Schmoll, Senior Administrative Law Judge
Angela Weber, Administrative Law Judge

On June 27, 2008, Northern Indiana Public Service Company ("NIPSCO" or "Petitioner") filed its Verified Petition to modify its rates and charges for electric utility service, for approval of new schedules of rates and charges applicable thereto, and making certain other requests. On August 25, 2010, the Commission issued its Order in this Cause. On September 14, 2010, NIPSCO Industrial Group filed its *Petition for Reconsideration*, and NIPSCO filed its *Petition for Reconsideration, Rehearing, and/or Clarification* (collectively, "Petitions for Reconsideration"). Several parties also filed Notices of Appeal with the Indiana Court of Appeals.

Our August 25, 2010 Order ordered NIPSCO to revise its rates and charges and file a revised Cost of Service Study to correspond to the revenue requirement determined to be appropriate in the Order ("Compliance Filing"). A majority of the parties that appeared in this Cause contested NIPSCO's Compliance Filing, and the Commission established a schedule to allow the parties to challenge the Compliance Filing. On November 8, 2010, the Indiana Court of Appeals stayed the appeal in order to provide the Commission the limited jurisdiction to consider the Petitions for Reconsideration and to review the Compliance Filing.

Over the course of several months, during which the Commission conducted a technical conference and received substantial filings concerning NIPSCO's Compliance Filing, the parties raised numerous concerns with the Compliance Filing. During the pendency of the Compliance Filing schedule, NIPSCO filed a second rate case in Cause No. 43969 in which it proposed rates to take effect in lieu of the rates proposed in the Compliance Filing. Accordingly, on April 25, 2011, the Presiding Officers stayed the Compliance Filing schedule in this Cause pending a Commission determination in Cause No. 43969. The time period for ruling on the Petitions for Reconsideration was also stayed pending our review of Cause No. 43969. On December 21, 2011, the Commission issued its Order in that Cause, and the Electricity Division has approved the rate schedules implementing that Order.

In our December 21, 2011 Order in Cause No. 43969, the Commission specifically noted that the Compliance Filing schedule in this Cause was moot due to the approval of rates in Cause No. 43969. With NIPSCO's Compliance Filing now moot, the Petitions for Reconsideration, which challenged the now-moot rate structure, shall be deemed denied. Moreover, any appeals to the full Commission not previously addressed are denied.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Compliance Filing submitted in this Cause is moot, and the Petitions for Reconsideration are denied.
2. The Secretary of the Commission shall provide a copy of this Order to the Indiana Court of Appeals.
3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: JAN 18 2012

I hereby certify that the above is a true and correct copy of the Order as approved.



Brenda A. Howe
Secretary to the Commission

**Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Third Set of Data Requests**

Industrials Request 3-008:

Please describe how coal ash pond costs have been historically recovered from NIPSCO's customers. What costs are included in the proposed coal ash pond project that have not been recovered from customers in the past?

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks documents or information that are beyond the scope of this proceeding and are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence. To the extent this Request is asking about NIPSCO facilities other than the Michigan City Generating Station or costs beyond costs attributable to the coal combustion residual rule "CCR Rule" and RCRA, NIPSCO objects to this Request as beyond the scope of this proceeding. NIPSCO's response below is in reference to Michigan City and costs attributable to the CCR Rule and RCRA, which is the only facility at issue in this proceeding.

NIPSCO further objects to this Request on the separate and independent grounds and to the extent that "coal ash pond costs" is undefined and subject to multiple interpretations and is therefore vague and ambiguous.

Response:

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

In Cause No. 43526, a demolition study was conducted for purposes of seeking approval of new depreciation accrual rates. That study included \$2,059,000 in estimated closure costs for Michigan City ash ponds. The costs were limited to installing a liner to be covered by soil and vegetation as a part of closing the ash pond. See Industrials Request 3-008 Attachment A. The proposed depreciation accrual rates were approved but were never implemented due to post-hearing relief that was sought. In Cause No. 43969, approval of new depreciation rates was sought, using the same demolition studies from Cause No. 43526. Those depreciation rates were approved and became effective on December 21, 2011.

In Cause No. 44688, approval of new depreciation accrual rates was sought, which included another demolition study which merely updated the estimates for the work assumed in the study from Cause No. 43526. Those depreciation rates were approved

**Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Third Set of Data Requests**

and became effective October 1, 2016. These depreciation rates included \$2,173,956 for closure in place, installation of a liner and a cover. See Industrials Request 3-008 Attachment B.

In Cause No. 45159, new depreciation rates were approved which did not include recovery of CCR Rule costs to close the ash pond because while the CCR Rule had been adopted but the total cost of compliance was still being determined. See Response to Industrials Request 2-009. The most recent depreciation rates (Cause No. 45159, approved December 4, 2019) are calculated to recover the cost of closure by removal for the three non-CCR Rule ponds, but not the CCR Rule ponds. The cost of closure estimated for the non-CCR Rule Ponds was estimated at \$9,480,125, but this amount included groundwater monitoring, which NIPSCO has not included in its current request. See Industrials Request 3-008 Attachment C.

Other than as stated in this response, NIPSCO has not previously recovered through rates any costs of the coal ash pond projects proposed in this case, removing ash from the ash ponds or otherwise closing the ash ponds in compliance with the CCR Rule.

Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Third Set of Data Requests

Industrials Request 3-010:

Please quantify the amount of depreciation cost, fuel expense, or variable O&M expense related to expected coal ash pond closure (cost of removal) that has been collected by NIPSCO in rates charged to customers.

Objections:

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Response:

NIPSCO has not collected any depreciation, fuel expense or variable O&M expense related to compliance with coal combustion residual rule ("CCR Rule"). As to the history of depreciation rates with respect to closure of the ash pond, see NIPSCO's Responses to Industrials Requests 2-009 and 3-008.

As described in Industrials Request 2-009, Indiana statutes and regulatory practice do not specifically assign cost of removal ("COR") reserves for specific removal tasks when set as estimates within depreciation rates. For an asset class, actual asset retirement expenses incurred, along with any original cost retirements, are debited against the depreciation reserve using specific work orders accumulating the actual removal costs. When no actuals are incurred, then any associated reserves remain unchanged, with the collections all being applied to actual retirements. To date, there have been no actual CCR Rule or coal ash pond closure costs incurred that have been applied against previously filed depreciation reserves.

While depreciation rates are traditionally the mechanism used to recover cost of removal spend, the reserve does not represent collection for specific projects.

NIPSCO is working to determine the estimated dollar value recovery through depreciation accrual rates related to closure of the ash ponds through depreciation rates as described in Response to IG 3-008. This response will be supplemented.

Northern Indiana Public Service Company LLC's
Supplemental Response to
NIPSCO Industrial Group's Third Set of Data Requests, Request 3-010

Industrials Request 3-010:

Please quantify the amount of depreciation cost, fuel expense, or variable O&M expense related to expected coal ash pond closure (cost of removal) that has been collected by NIPSCO in rates charged to customers.

Objections:

Response:

NIPSCO has not collected any depreciation, fuel expense or variable O&M expense related to compliance with coal combustion residual rule ("CCR Rule"). As to the history of depreciation rates with respect to closure of the ash pond, see NIPSCO's Responses to Industrials Requests 2-009 and 3-008.

As described in Industrials Request 2-009, Indiana statutes and regulatory practice do not specifically assign cost of removal ("COR") reserves for specific removal tasks when set as estimates within depreciation rates. For an asset class, actual asset retirement expenses incurred, along with any original cost retirements, are debited against the depreciation reserve using specific work orders accumulating the actual removal costs. When no actuals are incurred, then any associated reserves remain unchanged, with the collections all being applied to actual retirements. To date, there have been no actual CCR Rule or coal ash pond closure costs incurred that have been applied against previously filed depreciation reserves.

While depreciation rates are traditionally the mechanism used to recover cost of removal spend, the reserve does not represent collection for specific projects.

NIPSCO is working to determine the estimated dollar value recovery through depreciation accrual rates related to closure of the ash ponds through depreciation rates as described in Response to IG 3-008. This response will be supplemented.

Supplemental Response:

The estimated dollar value recovery through depreciation accrual rates related to the general closure (does not include any estimates related to the current CCR Rule) of the coal ash ponds at Michigan City through depreciation rates for the period December 2011 through December 2021 was \$2,971,428. See Industrials Request 3-010-S Attachment A for a monthly breakdown of this amount.

Cause No. 45700
Northern Indiana Public Service Company LLC's
Supplemental Response to
Indiana Office of Utility Consumer Counselor's Request 1-011

OUCC Request 1-011:

Please provide a detailed cost breakdown of the figures presented in Petitioner's Attachment 3-A.

Objections:

NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary, and/or trade secret.

Response:

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

See OUCC Request 1-011 Confidential Attachment A for a further breakdown of costs for the Ash Pond Compliance Project.

Supplemental Response:

At the request of counsel for the CAC, NIPSCO is supplementing its response to include a public version of OUCC Request 1-011 Confidential Attachment A. This public version is attached hereto as OUCC Request 1-011 Attachment B. Additionally, below, NIPSCO is providing an explanation of the costs reflected in NIPSCO's indirect capital costs.

NIPSCO groups indirect capital costs into three categories: (1) overheads, (2) stores, freight and handling, and (3) AFUDC.

The overheads component of indirect capital includes items such as: (a) portions of benefits such as vacation and holiday pay; (b) portions of charges incurred for outside services that support NIPSCO's capital project processes; and (c) portions of payroll for NIPSCO employees involved in supporting capital projects in either a project management function (i.e., project engineering, operations) or an administrative and general function (i.e., fixed asset accounting, financial planning).

Stores, freight, and handling charges are also indirect capital costs that must be capitalized for GAAP purposes. This component of indirect capital represents costs that NIPSCO incurs to procure materials and equipment. Generally, this represents the payroll for NIPSCO's supply chain and procurement functions. It also includes labor

Cause No. 45700
Northern Indiana Public Service Company LLC's
Supplemental Response to
Indiana Office of Utility Consumer Counselor's Request 1-011

costs and other warehousing expenses associated with NIPSCO's warehousing function for inventoried materials and supplies.

The last component of NIPSCO's indirect capital is AFUDC. As reflected in footnote 3 of its Verified Petition in this Cause, NIPSCO has traditionally sought recovery of allowance for funds used during construction ("AFUDC") associated with federally mandated compliance projects. However, because the Ash Pond Compliance Project is a retirement project related to a capital asset, there will be no AFUDC.

CERTIFICATE OF SERVICE

This is to certify that a copy of ***OUCC Public’s Exhibit No. 3 Testimony of OUCC Witness Kaleb G. Lantrip*** has been served upon the following parties of record in the captioned proceeding by electronic serve on September 7, 2022.

Petitioner-NIPSCO

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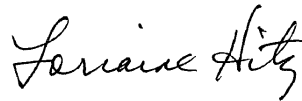
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