

**ORIGINAL**

Commissioner	Yes	No	Not Participating
Huston	√		
Freeman	√		
Krevda	√		
Ober	√		
Ziegner	√		

**STATE OF INDIANA**

**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 PIPELINE SAFETY II COMPLIANCE PLAN; (2) AUTHORITY TO RECOVER FEDERALLY MANDATED COSTS INCURRED IN CONNECTION WITH THE PIPELINE SAFETY II COMPLIANCE PLAN; (3) APPROVAL OF THE ESTIMATED FEDERALLY MANDATED COSTS ASSOCIATED WITH THE PIPELINE SAFETY II COMPLIANCE PLAN; (4) AUTHORITY FOR THE TIMELY RECOVERY OF 80% OF THE FEDERALLY MANDATED COSTS THROUGH RIDER 190 – FEDERALLY MANDATED COST ADJUSTMENT RIDER (“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; AND (7) APPROVAL OF ONGOING REVIEW OF THE PIPELINE SAFETY II COMPLIANCE PLAN; 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.**

**CAUSE NO. 45560**

**APPROVED: DEC 01 2021**

**ORDER OF THE COMMISSION**

**Presiding Officers:**  
**Sarah E. Freeman, Commissioner**  
**Brad J. Pope, Administrative Law Judge**

On June 7, 2021, Northern Indiana Public Service Company LLC (“Petitioner” or “NIPSCO”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”). In support of its Petition, NIPSCO prefiled the direct testimony and attachments of Alison M. Becker, Manager of Regulatory Policy of NIPSCO; Steven W. Sylvester, Vice President and General Manager of NIPSCO; Joseph C. Craycraft, Manager of the Integrity Management Program of NiSource Corporate Services Company (“NCSC”); and Elizabeth A. Dousias, Manager of Regulatory for NCSC.

On June 23, 2021, NIPSCO filed corrections to Mr. Sylvester’s and Mr. Craycraft’s direct testimony. On August 6, 2021, NIPSCO filed corrections to Ms. Becker’s, Mr. Craycraft’s, and Ms. Dousias’ direct testimony.

On July 27, 2021, NIPSCO Industrial Group (“Industrial Group”) filed its Petition to Intervene, which the Presiding Officers granted by docket entry dated August 10, 2021.<sup>1</sup>

On August 23, 2021, the Indiana Office of Utility Consumer Counselor (“OUCC”) filed testimony of Mark H. Grosskopf, Senior Utility Analyst.<sup>2</sup>

On August 23, 2021, the Industrial Group filed a Motion for Administrative Notice (“Motion”) requesting the Commission take administrative notice of: (1) Petitioner’s Ex. 5, filed in Cause No. 45007 on June 14, 2018 (including attachments to Pet. Ex. 5 originally filed on November 8, 2017); (2) Order of the Commission in Cause No. 45007 (including attached Settlement Agreement form Cause No. 44988), dated September 19, 2008; (3) Order of the Commission in Cause No. 45183, dated September 4, 2019; (4) Petitioner’s Ex. 1, filed in Cause No. 45007 FMCA 3 on November 26, 2019; and (5) Order of the Commission in Cause No. 45007 FMCA 3, dated March 31, 2020. On September 1, 2021, the Presiding Officers denied the Motion with respect to the request for administrative notice of prior Commission Orders as unnecessary under the Commission’s rules and requested that the Industrial Group clarify the facts and the purpose for which administrative notice of testimony in other proceedings was being requested. On September 3, 2021, the Industrial Group filed its Clarification in Support of its Motion for Administrative Notice (“Clarification”). On September 15, 2021, the Presiding Officers granted the Motion with respect to the specific facts described in the Industrial Group’s Clarification.

On September 7, 2021, NIPSCO filed an Unopposed Motion for an Extension of Procedural Schedule and Request for Expedited Action requesting an approximate three-week extension of the procedural schedule. On September 14, 2021, an attorney’s conference was held to discuss the requested extension. In a docket entry dated September 15, 2021, the Presiding Officers granted the motion and modified the procedural schedule as requested.

On September 24, 2021, NIPSCO filed the Verified Supplemental Direct Testimony of Alison M. Becker. On September 24, 2021, NIPSCO also filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information, which the Presiding Officers granted on a preliminary basis by docket entry dated October 5, 2021.

On September 29, 2021, the OUCC filed the testimony of Brien R. Krieger, Utility Analyst in the Natural Gas Division.

On October 13, 2021, NIPSCO, the OUCC, and the Industrial Group filed a Stipulation on Allocation. In the Stipulation on Allocation, the parties advised the Commission that they had reached an agreement on allocation factors for the rate codes applicable to the allocation of costs of the Pipeline Safety II Compliance Plan proposed in this Cause.

---

<sup>1</sup> The companies that comprise the Industrial Group for purposes of this proceeding include: BP Products North America Inc., Cargill, Inc., Cleveland-Cliffs Inc., General Motors, LLC, Linde, NLMK Indiana, United States Steel Corporation, and USG Corporation.

<sup>2</sup> On August 23, 2021, the OUCC filed testimony and exhibits of Brien W. Krieger. On September 15, 2021, the OUCC filed a motion requesting permission to withdraw the testimony of Mr. Krieger, which the Presiding Officers granted by docket entry dated September 16, 2021.

The Commission set this matter for an Evidentiary Hearing to be held on October 15, 2021, at 1:30 p.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, counsel for Petitioner, the Industrial Group, and the OUCC appeared and participated, and the prefiled evidence of NIPSCO, the Industrial Group, and the OUCC, along with the Stipulation on Allocation, were admitted into the record without objection.

Based upon the applicable law and evidence presented, the Commission now finds:

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Petitioner is a “public utility” within the meaning of Ind. Code § 8-1-2-1 and an “energy utility” within the meaning of Ind. Code §§ 8-1-2.5-2 and 8-1-8.4-3. Under Ind. Code § 8-1-8.4-6 and -7, the Commission has authority to issue a certificate of public convenience and necessity (“CPCN”) and to approve cost recovery for projects necessary to comply with federally mandated requirements. In addition, under Ind. Code § 8-1-2-42, the Commission has authority over Petitioner’s rates and charges. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding.

**2. Petitioner’s Characteristics.** Petitioner is a public utility organized and existing under the laws of the State of Indiana and having its principal office at 801 East 86th Avenue, Merrillville, Indiana. Petitioner is engaged in rendering electric and gas public utility service in the State of Indiana and owns, operates, manages, and controls, among other things, plant and equipment within Indiana used for the generation, transmission, distribution, and furnishing of such services to the public.

**3. Requested Relief.** Pursuant to Ind. Code ch. 8-1-8.4, § 8-1-2-19, § 8-1-2-23, and § 8-1-2-42, NIPSCO is requesting: (1) approval of and a CPCN for a federally mandated Pipeline Safety II Compliance Plan (the “Compliance Project”); (2) authority to recover federally mandated costs incurred in connection with the Compliance Project; (3) approval of the estimated federally mandated costs associated with the Compliance Project; (4) authority for the timely recovery of 80% of the federally mandated costs through Rider 190 – Federally Mandated Cost Adjustment Rider and Appendix G – FMCA Factors (the “FMCA Mechanism”); (5) authority to defer 20% of the federally mandated costs incurred in connection with the Compliance Project for recovery in NIPSCO’s next general rate case; (6) approval of the specific ratemaking and accounting treatment described herein; and (7) approval of ongoing review of the Compliance Project.

**4. Summary of Evidence.**

**A. Petitioner’s Direct Testimony.** NIPSCO witness Alison Becker described NIPSCO’s requested relief, the statutory basis for it, and why that relief is in the public interest. She explained that the Compliance Project is a set of 11 projects that together will enable NIPSCO to comply with federally mandated pipeline safety requirements.

Ms. Becker summarized the statutory basis for the requested relief as codified in Ind. Code ch. 8-1-8.4 (the “FMCA Statute”). She testified that rules have been promulgated by the U.S. Department of Transportation’s Pipeline and Hazardous Materials Safety Administration (“PHMSA”) and are imposed on NIPSCO and other operators of underground pipelines including

utility companies. As such, the PHMSA Rules are federally mandated requirements under Ind. Code § 8-1-8.4-5. She noted that the Commission had previously found that the PHMSA Rules are federally mandated requirements and authorized NIPSCO's recovery of federally mandated costs associated with compliance through NIPSCO's FMCA Mechanism in the Commission's September 19, 2018 Order in Cause No. 45007 (the "45007 Order") and September 4, 2019 Order in Cause No. 45183. She testified that the Compliance Project represents a reasonable balance of costs, risks, and policy based upon consideration of all the factors impacting the decision, and noted that, while the Compliance Project is proposed to extend through 2026, overall compliance with the PHMSA Rules is an ongoing and iterative responsibility. As such, NIPSCO will monitor its compliance projects and will seek further regulatory relief if and when the need arises. She stated that NIPSCO's Compliance Project includes projects required for compliance with PHMSA's Transmission Integrity Management Program ("TIMP"), Distribution Integrity Management Program ("DIMP"), Underground Storage Integrity, Farm Tap Remediation, and other projects related to pipeline safety compliance. She stated that these projects are necessary to comply with the PHMSA Rules and are therefore related to the direct or indirect compliance by NIPSCO with one or more federally mandated requirements.

Ms. Becker testified that the total operation and maintenance ("O&M") costs associated with the Compliance Project totals \$76,039,837 for the period of 2021 through 2026, exclusive of depreciation expense, property tax expense, and other taxes. She explained that the Commission approved NIPSCO's FMCA Mechanism on September 19, 2018 in Cause No. 45007, and that pursuant to Ind. Code § 8-1-8.4-7, NIPSCO is requesting approval for the timely recovery of 80% of the Compliance Project costs approved by the Commission in this proceeding and future proceedings through the approved FMCA Mechanism. She provided an overview of the types of costs to be included for recovery as well as an overview of the calculation of the revenue requirement along with the type of information to be provided by NIPSCO in support of each semi-annual FMCA proceeding.

Ms. Becker testified that the public convenience and necessity will be served by NIPSCO's compliance with the PHMSA Rules and that the O&M expenses incurred as part of the Compliance Project will be directly related to the provision of gas service to NIPSCO's gas customers. She explained that the Compliance Project is in the public interest since it will enable Petitioner to comply with the federally mandated PHMSA Rules in an appropriate manner, is consistent with industry best practices, and is within the bounds provided by the General Assembly in the enabling statute.

Mr. Sylvester provided an overview of NIPSCO's gas system, described NIPSCO's O&M, Storage, and Damage Prevention Teams in the Gas Operations Organization, provided an overview of the federal pipeline safety regulation, and explained the Underground Storage Rule. As part of his overview, Mr. Sylvester explained the TIMP and DIMP regulations and detailed the history and statuses of NIPSCO's TIMP and DIMP Plans that underly certain projects incorporated into the Compliance Project. He stated the Commission has previously determined that compliance with DIMP and TIMP are federally mandated and has authorized recovery of associated costs as part of a compliance project similar to the one NIPSCO is proposing in this Cause.<sup>3</sup> He also

---

<sup>3</sup> See *In Re Verified Petitions of N. Ind. Pub. Serv. Co.*, Cause No. 45007.

detailed the requirements of the Underground Storage Rule that underly the well logging projects incorporated into the Compliance Project.<sup>4</sup>

Mr. Sylvester testified that each of the projects was developed in an effort to comply with one or more provisions of 49 CFR § 192,<sup>5</sup> and completion of each would satisfy a mandatory obligation thereunder. He explained that while successful completion of each project would comply with one or more of those obligations, overall compliance with all of 49 CFR § 192's provisions is an ongoing and iterative responsibility to be evaluated by the Pipeline Safety Division in accordance with its regulatory oversight responsibility. He stated that pipeline safety is not simply a compliance obligation, but rather it is the responsibility of all operators to provide a safe and reliable service with a proactive eye toward public safety, notwithstanding whether or not the specific activities required to achieve that overarching objective are memorialized in Federal Code.

Mr. Sylvester provided detailed support for the following eight federally mandated projects of the 11 total projects included in the Compliance Project. Specifically, he sponsored and supported the following projects (the "Gas Operations Projects"):

<b>Project No.</b>	<b>Project Name</b>
PSCP1	Trenton Well Logging Project
PSCP2	Mt. Simon Well Logging Project
PSCP3	Test Station Casings Project
PSCP4	DIMP/TIMP Administration / Data Verification Project
PSCP5	Fiberglass Riser Replacement Project
PSCP6	Legacy Cross Bore Remediation Project
PSCP7	Legacy Cross Bore Inspection
PSCP8	MAOP - Distribution Project (PS23)

For each project, he described in detail the work to be performed, how that work would enable compliance with one or more specific provisions of a federal mandate, development of the estimated costs associated with the project, the project alternatives that had been considered to demonstrate the project is reasonable and necessary, and whether each project extended the useful life of an existing facility and the value of any such extension.

---

<sup>4</sup> The Storage Field Final Rule became effective on March 13, 2020 (the "Underground Storage Rule"), and enacts the mandated statements within the American Petroleum Institute Recommended Practices 1170 and 1171: Design and Operation of Solution-mined Salt Caverns Used for Natural Gas Storage and Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs, respectively ("API RP 1170" and "API RP 1171"). The Underground Storage Rule made compliance with those standards mandatory and requires operators of underground natural gas storage facilities to perform additional actions to ensure the safety and integrity of their storage facilities and operations is the most recent in a series of PHMSA requirements for pipeline operators.

<sup>5</sup> In 1970, minimum pipeline safety standards were published in the Code of Federal Regulations – Title 49 Part 192. These rules, as amended, define the minimum standards for the safe construction, operation, and maintenance of natural gas systems.

### **Project No. PSCP1 – Trenton Well Logging Project**

Mr. Sylvester stated that the Trenton Well Logging Project is a continuation of the Underground Storage Integrity Project (Project No. PS10) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that the project is intended to comply with the Underground Storage Rule to address critical safety issues related to downhole facilities, including wells, wellbore tubing, and casing, at underground gas storage facilities. He stated that for NIPSCO, each well that down-hole testing determines to be non-compliant will require retirement or other appropriate remediation if it is to remain in service. In addition, NIPSCO plans to install protective bollards at each well lot to protect each well head valve from damage by vehicles and equipment. He stated the Underground Storage Rule requires the performance of baseline assessment for all 97 wells that are part of NIPSCO's underground storage facilities for Trenton formation by March 13, 2027. He stated that as of December 31, 2021, NIPSCO will have completed 21 wells logs, and NIPSCO will complete the remaining 76 well logs over the next five-year period from January 2022 to December 2026.

Mr. Sylvester testified the projected federally mandated incremental O&M expenses associated with the Trenton Well Logging Project will be \$10,963,412. He explained that NIPSCO completed a preliminary assessment of the wells and concluded that remediation was the only appropriate course of action under the Underground Storage Rule, as the only alternative approach would have entailed more significant well construction, replacement, or adaption at a higher cost. He stated the impact on the useful lives of the 76 wells at Trenton through the Trenton Well Logging Project is unknown and that the primary benefit will be increased safety and integrity safety related to the wells, rather than extending the useful life of the facility. Mr. Sylvester concluded that the work is being undertaken in compliance with PHMSA's revisions to portions of 49 CFR § 192 applicable to underground storage facilities such as NIPSCO's Trenton facility.

### **Project No. PSCP2 – Mt. Simon Well Logging Project**

Mr. Sylvester stated that the Mt. Simon Well Logging Project is intended to comply with the Underground Storage Rule to address critical safety issues related to downhole facilities, including wells, wellbore tubing, and casing, at underground gas storage facilities. He testified that for NIPSCO, each well that down-hole testing determines to be non-compliant will require retirement or other appropriate remediation if it is to remain in service. In addition, NIPSCO plans to install protective bollards at each well lot to protect each well head valve from damage by vehicles and equipment. He stated the Underground Storage Rule requires the performance of baseline assessments for all 46 wells at Mt. Simon by March 13, 2027. He stated that NIPSCO will complete all well logs over the period June 2021 through December 2026.

Mr. Sylvester testified the projected federally mandated incremental O&M expenses associated with the Mt. Simon Well Logging Project will be \$8,264,330. He explained that NIPSCO completed a preliminary assessment of the Mt. Simon wells and concluded that remediation was the only appropriate course of action under the Underground Storage Rule, as the only alternative approach would have entailed more significant well construction, replacement, or adaption at a higher cost. He stated the impact on the useful lives of the 46 wells at Mt. Simon

through the Mt. Simon Well Logging Project is unknown and that the primary benefit is to increase the safety and integrity safety related to the wells, rather than extending the useful life of the facility. Mr. Sylvester concluded that the work is being undertaken in compliance with PHMSA's revisions to portions of 49 CFR § 192 applicable to underground storage facilities such as NIPSCO's Mt. Simon facility.

### **Project No. PSCP3 – Test Station Casings Project**

Mr. Sylvester testified that the Test Station Casings Project is a continuation of the Test Station Casings Project (Project No. PS22) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He explained that carrier pipe casings are steel pipes that were historically used to protect distribution pipe when it was installed at a crossing site such as a bridge over a stream or other obstacle. Carrier pipe casings are no longer commonly used because they have proven over time to trap moisture inside and thereby pose an increased risk of corrosion on the enclosed steel pipe. Contemporary crossings are accomplished through the use of horizontal boring under the obstacle or through the wrapping of the distribution pipe with protective material. He stated the project includes installation of test stations on approximately 500 casings.

Mr. Sylvester stated that the projected federally mandated incremental O&M expenses associated with the Test Station Casings Project will be \$2,298,827. He explained that this project is undertaken in compliance with the provisions of 49 CFR § 192.467(c), which requires measures be taken to minimize corrosion of the pipeline inside of casings, and 49 CFR § 192.935, which mandates a continual evaluation and remediation of known system risks. This project will assist NIPSCO in monitoring casings as part of that process. NIPSCO determined that this project was the lowest cost option to monitor the casings, as the cost of installing test stations was far lower than the cost of either removing the steel casings themselves or replacing each crossing completely with a new bored crossing. He stated the Test Station Casings Project is intended as a means of monitoring casings to identify instances where corrosion risk exist to prevent premature failure and to maintain the expected useful life of the assets.

### **Project No. PSCP4 – DIMP/TIMP Administration / Data Verification Project**

Mr. Sylvester explained that the DIMP/TIMP Administration & Data Project is a continuation of the DIMP Administration / Leak Data Verification Project (Project No. PS6) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that this project is intended to enable the review of historic leak records, Regulator, Odorizer systems, Pipeline Heaters, Liquefied Natural Gas Storage inspection records, Underground Storage Inspection records, Excess Flow Valve data, Curb Valve inspections, Pressure Test as it pertains to Service and Mains, and Pipe Exposure forms for all of NIPSCO's input into a database system that can support a more accurate risk model while verifying that the data captured in NIPSCO's digital database is accurate and reliable. He explained that these records are a critical underpinning to a number of DIMP/TIMP progressive improvement initiatives. He stated that this project will fund three full time Compliance Specialists dedicated to the support and administration of NIPSCO's DIMP/TIMP program.

Mr. Sylvester testified the projected federally mandated incremental O&M costs associated with the DIMP/TIMP Administration & Data Verification Project will be \$1,940,760. He explained that while there are endless alternatives to any selected strategy to address specific risks, it is his view that the positions contemplated by this project are effective means to provide increasing oversight to increasingly complex integrity management program and allow for the rapid verification and assimilation of historical data appropriate to creating a thoroughly vetted baseline from which performance and remediation can be enhanced. He stated that data verification is a necessary pre-requisite to the advancement of NIPSCO's DIMP/TIMP plans, and dedicating employees to capture that data is the most efficient way to accomplish that. He testified that while there are no facilities directly addressed as part of this project, it is critical to the continued O&M of NIPSCO's facilities to have accurate and complete records that support the knowledge and risk assessment related to those facilities required for the maintenance of the useful life. Mr. Sylvester explained that under 49 CFR § 192, Subpart P, NIPSCO is required to undertake an ongoing and progressive assessment of its distribution system and the risks facing it based on a comprehensive evaluation of conditions identified and documented in appropriate records. 49 CFR § 192, Subpart O requires that NIPSCO undertake an ongoing and progressive assessment of its transmission system and the risks facing it based on a comprehensive evaluation of conditions identified and documented in appropriate records. He concluded that this project enables the establishment of a more accurate baseline through hiring Compliance Specialists dedicated to the systematic verification of historical data to enable a better and more complete assessment of remediation/inspection strategies in compliance with DIMP/TIMP.

#### **Project No. PSCP5 – Fiberglass Riser Replacement Project**

Mr. Sylvester stated that the Fiberglass Riser Replacement Project is a continuation of the Fiberglass Riser Replacement Project (Project No. PS8) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that this project is intended to replace fiberglass service risers on the NIPSCO distribution system. NIPSCO estimates that there are approximately 17,000 fiberglass risers across its distribution system that require replacement.

Mr. Sylvester testified the federally mandated incremental O&M expenses associated with the Fiberglass Riser Replacement Project will be \$2,755,818. He stated there are no other efficient and equally effective means for achieving compliance. He explained that the alternative to a fiberglass riser replacement program is to replace the risers as they fail and/or as leaks are reported, but the cost of replacing the fiberglass risers is very small compared to the cost of failure. He stated the programmatic approach is reasonable and necessary, and NIPSCO will be in a position to plan the work and procure the needed materials in an efficient way. He stated the project is an asset replacement project and as such is not intended to extend the life of the assets being replaced. Mr. Sylvester concluded that this project is being undertaken to comply with 49 CFR § 192.1007(d), which requires NIPSCO to determine and implement measures designed to reduce the risks from failure of its gas distribution pipeline, including an effective leak management program. By addressing the known risk of leaks from fiberglass risers, this project is intended to reduce the risks from failure associated with its system in compliance with DIMP.



### **Project No. PSCP6 – Legacy Cross Bore Remediation Project**

Mr. Sylvester explained that the Legacy Cross Bore Remediation Project is a continuation of the Legacy Cross Bore Remediation Project (Project No. PS9) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that this project is intended to remediate legacy cross bores identified across NIPSCO's distribution system. He stated that NIPSCO has increased to four sewer camera crews to inspect 30 to 50 miles of sewer lines each for a total yearly line inspection of between 120 to 200 miles. He noted that from 2018 to 2020, NIPSCO averaged 54 cross bores identified per year using one to two camera crews per year. With four sewer camera crews, NIPSCO estimates it may identify 216 total cross bores per year, with 108 gas related cross bores per year.

Mr. Sylvester testified the projected federally mandated incremental O&M expenses associated with the Legacy Cross Bore Remediation Project will be \$1,168,010. He explained there are no other efficient and equally effective means of achieving compliance. He explained the project addresses a known risk with high consequence of failure through its elimination, and the alternative to a proactive cross-bore remediation program is to remediate cross bores when they are identified. He stated the project results in an asset replacement project and as such is not intended to extend the life of the assets being replaced. He concluded that this project is being undertaken in compliance with DIMP, which requires Local Distribution Companies ("LDC") to evaluate their systems and identify risks based upon their relative threat. He explained the project addresses a known risk with high consequence of failure through its elimination, and the alternative to a proactive cross-bore remediation program is to remediate cross bores when they are identified.

### **Project No. PSCP7 – Legacy Cross Bore Inspection Project**

Mr. Sylvester explained that the Legacy Cross Bore Inspection Project is a continuation of the Legacy Cross Bore Inspection Project (Project No. PS21) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that this project is intended to facilitate the proactive investigation of sewer lines within NIPSCO's service territory to identify instances where gas lines have been cross-bored through them so that cross-bores that are identified can be remediated.

He testified the projected federally mandated incremental O&M expenses associated with the Legacy Cross Bore Inspection Project will be \$17,842,944. He explained that the only alternative to a proactive cross-bore remediation program is to remediate cross-bores when they are identified, because the risk associated with the ignition of gas within a building is so high, the programmatic approach is reasonable and necessary. This project results in asset replacement when cross-bores are detected and is not intended to extend the useful life of the assets being replaced. Mr. Sylvester concluded that the work is being undertaken in compliance with DIMP, which requires LDCs to evaluate their systems and identify risks based upon their relative threat.

## **Project No. PSCP8 – MAOP – Distribution Project**

Mr. Sylvester stated that the MAOP – Distribution Project is a continuation of the MAOP – Distribution Project (Project No. PS23) included in NIPSCO’s Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that this project entails the engagement of vendors to assist NIPSCO’s Engineering Department with the tracing and validation of documents and will also work in conjunction with NIPSCO’s ongoing efforts to verify and document compliance with system MAOP by individual pipeline attributes.

Mr. Sylvester testified the projected federally mandated incremental O&M expenses associated with the MAOP – Distribution Project will be \$22,918,135. He stated NIPSCO did evaluate other options for compliance, such as the use of external personnel to complete the work but determined that the length of the initiative required many of the positions to require very specific training and experience, so they would need to be trained internal employees. Positions with more general expertise will remain contracted resources. He stated the project could result in the continued service life of some assets as a byproduct of the work to be performed, but the project is a data validation and verification project. Mr. Sylvester concluded that the work is being undertaken to comply with DIMP, which requires that NIPSCO undertake an ongoing and progressive assessment of its distribution system and the risks facing it based on a comprehensive evaluation of conditions identified and documented in appropriate records. He noted that the ability to verify the accuracy and compliance of the distribution system with established maximum operating pressures is a critical component to that process.

Mr. Craycraft provided an overview of the federal pipeline safety regulatory scheme, including an explanation of how 49 CFR § 192 has evolved since its inception. He described the federal TIMP regulations, NIPSCO’s TIMP plan, and the Mega Rule included in the amendments to 49 CFR § 192 included in 84 FR 52180 Final Rule. He also provided a status of NIPSCO’s TIMP plan describing the assessments NIPSCO has performed on its pipelines.

Mr. Craycraft offered detailed support for the following three federally mandated projects included in the Compliance Project (the “T&D Projects”).

<b>Project No.</b>	<b>Project Name</b>
PSCP9	Preventative & Mitigative Measures Project
PSCP10	Annual Plan Improvements
PSCP11	MAOP Transmission

For each project, he described the work to be performed, how that work would enable compliance with one or more specific provisions of a federal mandate, development of the estimated costs associated with the project, the project alternatives considered to demonstrate the project is reasonable and necessary, and whether each project extended the useful life of an existing facility and the value of any such extension.

## **Project No. PSCP9 – Preventative & Mitigative Measures Project**

Mr. Craycraft stated that the Preventive and Mitigative Measures Project is a continuation of the Preventive and Mitigative Measures Project (Project No. PS3) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that under TIMP, NIPSCO must conduct preventive and mitigative ("P&M") measures to address risks from active threats on the gas transmission system within High Consequence Areas ("HCA"). He explained that in many circumstances, P&M studies must be conducted to improve the quality of data informing NIPSCO on the risk associated with different threats, or the risk posed from having inadequate data to properly quantify a specific threat. He said that such studies may include pipeline and/or station asset and equipment condition studies, girth weld coating studies, or data integration and data quality improvement studies. He stated that TIMP is focused on the identification of threats to pipeline and other transmission assets on a progressive basis, and the pursuit of appropriate mitigation based on the conditions discovered, so the studies contemplated by this project will enable those activities to take place.

Mr. Craycraft testified that the projected federally mandated incremental O&M expenses associated with the Preventive and Mitigative Measures Project will be \$2,654,568. He explained that this project is reasonable and necessary in that it allows NIPSCO to achieve compliance with the previously referenced sections of federal code, as well as to reduce risk, and gives NIPSCO the necessary capability to react when unique threats or risks are discovered that have not been previously contemplated as part of existing P&M measures. He stated that the Preventive and Mitigative Measures Project will not directly extend the useful life of an existing facility, but studies proposed under this project will result in remediation of conditions that might otherwise lead to the retirement of a specific asset, the life of the asset would be indirectly extended although the extension is impossible to project. Mr. Craycraft concluded that the work is being undertaken to comply with provisions of 49 CFR §§ 192.911(h) and 192.935, which require the implementation of preventive and mitigative measures in HCAs in response to the ongoing evaluations performed under TIMP.

## **Project No. PSCP10 – Annual Plan Improvements Project**

Mr. Craycraft explained that the Annual Plan Improvements Project is a continuation of the Annual Plan Improvements Project (Project No. PS24) included in NIPSCO's Pipeline Safety Compliance Plan approved in Cause No. 45007. He stated this project is incremental to NIPSCO's current O&M budget and funds the annual maintenance of the plans and procedures required by TIMP to ensure continued compliance by continuous improvement. He explained that the intention is to perform this activity at an annual cadence to evaluate and improve the TIMP Plan documents, programmatic documents, and process documents, which will optimize threat identification, assessment methodologies, processing data management improvements, and the corresponding processes that impact these interactions of these activities within the entire value stream of TIMP.

Mr. Craycraft testified the projected federally mandated incremental O&M expenses associated with the Annual Plan Improvements Projects will be \$104,000 in 2022 with a 3% escalator each year to recognize the inflation rates realized with these resources. He states that the

TIMP organization reviewed the option of adding resources to perform the technical writing function, and there was a recognition that the external consultants could provide a more rigorous and efficient review of best practices and crafting the necessary improvements to address the improvements identified in the annual review process. He stated the Annual Plan Improvements Project will not extend the useful life of any existing facility, as the project is designed to establish a disciplined, defined, and standardized process for effectively improving the TIMP programmatic procedures for improved pipeline safety, as well as fitting into the Pipeline Safety Management System methodology for managing ongoing system and operational risks. Mr. Craycraft concluded that the work is being undertaken to comply with the provisions of 49 CFR §§ 192.907, 192.911, and 192.937, which require operators to update TIMP plans based on experience in an effort to foster continuous improvement. He noted it will also be utilized to assist NIPSCO in developing plans, procedures, and processes to comply with rulemakings that are in progress such as the Valve Installation and Minimum Rupture Detection Standards and Phase II of the Safety of Gas Transmission and Gathering Pipelines notices of proposed rulemakings.<sup>6</sup>

### **Project No. PSCP11 – MAOP – Transmission Project**

Mr. Craycraft stated that the MAOP – Transmission Project is a continuation of the MAOP Transmission Project (Project No. PS24) included in NIPSCO’s Pipeline Safety Compliance Plan approved in Cause No. 45007. He testified that the purpose of this project is to verify the MAOP documentation for transmission pipeline assets is traceable, verifiable, and complete to systematically identify gaps due to data or process issues as stated in PHMSA’s Advisory Bulletin 11-01 and later put into a final rule as of October 1, 2019 (Phase 1 Rule). He explained that this project under the TIMP program is premised on continuous improvement through progressive remediation of known risks and will enable NIPSCO to capture and validate data consistent with the enactment of the PHMSA Transmission Rule.

Mr. Craycraft testified the projected federally mandated incremental O&M expenses associated with the MAOP – Transmission Project will be \$4,680,884. He explained that NIPSCO worked with a number of outside vendors to evaluate options for completion of this project including completing these efforts internally, and it was determined to be more time efficient and cost-effective to use outside vendors because of the relatively short-term nature of the projects. He stated that while the project may eventually result in the ability to extend the life of some assets, it is not the focus of the project, as the MAOP – Transmission Project is intended to quantify data related to existing facility and build or enhance the data structure and systems of record necessary to comply with the TVC requirements for both existing and future assets. Mr. Craycraft concluded that TIMP is premised on continuous improvement through progressive remediation of known risks and the MAOP – Transmission Project will enable NIPSCO to capture and validate data consistent with the enactment of the PHMSA Transmission Rule.

Ms. Dousias explained NIPSCO’s FMCA Mechanism, through which NIPSCO proposes to record and recover federally mandated costs associated with the Compliance Project. She provided a description of the cost recovery provided for under the FMCA Statute; an overview of the FMCA Mechanism; an overview of the ratemaking treatment related to the FMCA Mechanism; an explanation of how the FMCA Mechanism revenue requirement and the related factors are

---

<sup>6</sup> Docket Nos. PHMSA 2013-0255 and PHMSA 2011-0023.

calculated; an explanation of how the deferred federally mandated costs will be reflected in NIPSCO's FMCA Mechanism tracker filings; a description of the proposed allocators NIPSCO uses to allocate the various components of the FMCA Mechanism; and a description of the depreciation rates NIPSCO proposes for the federally mandated projects included in the Compliance Project.

Ms. Dousias testified that NIPSCO's books and records are generally kept in accordance with both the FERC Uniform System of Accounts and with Generally Accepted Accounting Principles. She explained that NIPSCO first sought authority to implement a periodic retail rate adjustment mechanism through which NIPSCO would recover federally mandated costs associated with federally mandated compliance projects for NIPSCO gas as defined by Ind. Code §§ 8-1-8.4-2 and 8-1-8.4-4 in Cause No. 45007, which was approved by the Commission in its 45007 Order. She explained that NIPSCO calculates a revenue requirement consisting of two components: (1) a return of capital costs including Allowance for Funds Used During Construction ("AFUDC") and Post In-Service Carrying Charges ("PISCC"); and (2) recovery of all federally mandated expenses associated with the projects. Then NIPSCO multiplies the total revenue requirement by 80% to establish the FMCA Mechanism revenue requirement. She also explained that Ind. Code §§ 8-1-8.4-4 and 8-1-8.4-7 provide that such costs include capital, O&M, depreciation, tax, and financing costs. She added that NIPSCO defers as a regulatory asset the remaining 20% of all federally mandated costs incurred in connection with the Compliance Project and also records carrying charges on such amounts based on NIPSCO's Commission-approved overall cost of capital until such amounts are recovered through rates.

Ms. Dousias detailed the ratemaking treatment approved in the 45007 Order, including Construction Work in Progress ("CWIP") ratemaking treatment whereby financing costs incurred during the construction period attributable to qualifying capital investments are recovered through an adjustment mechanism. She stated that in connection with CWIP ratemaking, AFUDC accrual ceases the earlier of the date in which such expenditures receive CWIP ratemaking treatment through the FMCA Mechanism or the date the project is placed in service, with any AFUDC recorded in accordance with Generally Accepted Accounting Principles. She added that NIPSCO recovers 80% of all PISCC incurred in connection with approved compliance projects through the FMCA Mechanism and are calculated by multiplying the net book value of completed project costs that have been placed in service, which are not receiving CWIP ratemaking, by NIPSCO's monthly effective weighted average cost of capital ("WACC") rate for the period in which the costs are in-service.

Ms. Dousias testified that the revenue requirement for capital costs included in the FMCA Mechanism is calculated by multiplying the net book value of the associated eligible projects by NIPSCO's monthly effective WACC, which incorporates the Commission-approved return on common equity and capital structure. These capital costs are grossed-up for all applicable taxes.

Ms. Dousias explained that NIPSCO's accounting practice related to all other federally mandated costs, including all capital, depreciation expenses, tax expenses, and financing costs associated with the Compliance Project, is to defer on the balance sheet, as a regulatory asset, all costs incurred until such amounts are included and recovered in rates through the FMCA Mechanism or a rate base proceeding. As amounts are recovered through rates, NIPSCO reduces

the regulatory asset and records expense in the income statement in order to appropriately match the revenues being recorded with the expenses.

Ms. Dousias testified that Ind. Code § 8-1-8.4-7 provides for the timely recovery of federally mandated costs as that term is defined in Ind. Code § 8-1-8.4-4. Therefore, NIPSCO will include all capital, depreciation, tax, or financing costs related to the Compliance Project in the FMCA semi-annual tracker filings in order to recover the associated expenses. These expenses are treated consistently with how the expenses approved in NIPSCO's Pipeline Safety Compliance Plan in Cause No. 45007 and PHMSA Compliance Plan in Cause No. 45183 are treated.

Ms. Dousias further testified that in accordance with Ind. Code § 8-1-8.4-7, NIPSCO defers as a regulatory asset 20% of all federally mandated costs incurred in connection with the Compliance Project. NIPSCO records carrying charges on such amounts based on NIPSCO's Commission-approved overall cost of capital until such amounts are recovered through rates.

Ms. Dousias explained that since the Compliance Project is basically a continuation of some of the projects included in the Pipeline Safety Compliance Plan approved in Cause No. 45007, NIPSCO proposes to allocate the federally mandated costs associated with the Compliance Project based on NIPSCO's Commission-approved allocators for the Pipeline Safety Compliance Plan approved in Cause No. 45007. She explained that NIPSCO proposes to continue to adjust its allocation percentages to reflect the significant migration of customers amongst the various rates to prevent any unintended consequences of the migration of customers between rates and to properly allocate their share of the revenue requirements in its FMCA Tracker Filing.

Ms. Dousias stated that NIPSCO is proposing to record, defer, and recover depreciation expense related to the Compliance Project according to NIPSCO's Commission-approved depreciation rates.

Ms. Dousias concluded that in accordance with Ind. Code § 8-1-8.4-7(c)(1), NIPSCO will include the operating income associated with the Compliance Project in the total gas Comparison of Gas Operating Income for purposes of the Ind. Code § 8-1-2-42(g) earnings test. She noted this is consistent with the treatment of earnings associated with both NIPSCO's transmission, distribution, and storage system improvement charges in Cause Nos. 44403 and 45330, NIPSCO's Pipeline Safety Compliance Plan charges in Cause No. 45007, and NIPSCO's PHMSA Compliance Plan charges in Cause No. 45183.

**B. NIPSCO's Supplemental Direct Testimony.** Ms. Becker provided supplemental direct testimony to introduce further detail and explanation of the federally mandated projects included in the Compliance Project and provided the work papers (Confidential Attachment 1-S-A) supporting the estimated federally mandated costs associated with the Compliance Project. She explained that she participated in detailed discussions with the OUCC related to the projects and work papers to respond to questions related to certain projects and to address the OUCC's concerns. She stated that NIPSCO and the OUCC were able to resolve all issues related to the projects and came to agreement on the additional information that NIPSCO should include in its case-in-chief to support the estimated costs. That additional support is included in the work papers (Confidential Attachment 1-S-A).

Ms. Becker also provided additional information relating to Project No. PSCP 7 – Cross Bore Inspection. She stated that NIPSCO and the OUCC had lengthy discussions regarding the work paper and the addition of sewer cleaning costs to the project. She explained that previously, NIPSCO depended on the assistance of municipalities for sewer cleaning, which meant NIPSCO was only able to address cross bores at the convenience of the municipality, which hampered the ability to perform work in some situations. She stated that the work paper does not provide the level of detail as to the underlying reason for the addition of sewer cleaning. She explained that NIPSCO also provided detail to the OUCC regarding the use of camera crews for sewer mains and laterals and why additional traffic control was needed due to the location of the cross bores being addressed in this plan. She testified that this level of detail was provided during the discussions but is not immediately clear when looking at the supporting work paper. She indicated that the OUCC was now able to support the cost estimate based on this additional information.

**C. The OUCC’s Direct Testimony.** Mr. Grosskopf testified regarding the accounting relief requested by NIPSCO related to federally mandated pipeline safety compliance plans and how the associated costs will be reflected as recoverable costs within the FMCA Mechanism.

Mr. Grosskopf explained what costs are included for recovery in the FMCA Mechanism under the FMCA Statute. He also stated that NIPSCO’s cost recovery model is consistent with the FMCA Statute and has been used in subsequent filings for Cause No. 45007 FMCA 1 through FMCA 6. He explained how NIPSCO proposes to allocate costs to be recovered through the FMCA Mechanism and testified that NIPSCO’s FMCA cost allocation proposal is appropriate for this Cause, as well as NIPSCO’s proposal to adjust allocation percentages to reflect significant migration of customers among the various rate classes. Mr. Grosskopf concluded that he had no concerns with NIPSCO’s proposed FMCA cost recovery mechanism but did recommend future tracker filings be made in Cause No. 45560 FMCA X.

Mr. Krieger testified that his analysis included a review to determine if NIPSCO has met the requirements for a finding that public convenience and necessity will be served by NIPSCO receiving a CPCN for a federally mandated compliance project. He stated that his analysis also reviewed whether the Compliance Project is a compliance project under Ind. Code § 8-1-8.4-2 and whether the Compliance Project will allow NIPSCO to comply directly or indirectly with the PHMSA Rules. He also considered in his review and analysis if the costs incurred in connection with the Compliance Project are federally mandated costs under Ind. Code § 8-1-8.4-4.

Mr. Krieger provided his review and analysis for the 11 specific projects contained within the Compliance Project. He noted ten of the 11 projects are continued from Cause No. 45007, all with the same PHMSA criteria for each project. He testified that NIPSCO expands its underground storage PHMSA discussion based upon the PHMSA Storage Final Rule.

Mr. Krieger testified that NIPSCO’s associated PHMSA designation justifies each individual project included in the Compliance Project. He concluded the Compliance Project meets the Code of Federal Regulations and PHMSA Rules, ultimately fulfilling both the TIMP and DIMP requirements. He recommended approval of the Compliance Project and noted that his approval is

predicated on NIPSCO striving for continuous improvement for project implementation and cost reduction based upon its experience in Cause No. 45007. He confirmed that the PHMSA Rules are federally mandated requirements, the Compliance Project meets FMCA Statute requirements for a compliance project, and NIPSCO will carry out the federal mandates with specific plan projects. His analysis indicated the projects comply directly or indirectly with the PHMSA Rules, and the associated costs are federally mandated costs. He stated that per his understanding, NIPSCO will file a semi-annual update for ongoing review and potential Commission approval. After analyzing the Compliance Project, Mr. Krieger recommended that the Commission issue a CPCN to NIPSCO for its federally mandated compliance project (*i.e.*, the Pipeline Safety II Compliance Plan).

**D. The Industrial Group's Motion for Administrative Notice.** On September 15, 2021, the Presiding Officers granted the Industrial Group's Motion for Administrative Notice, as clarified by the Industrial Group on September 3, 2021. Attachment 1 to the Motion consists of the Verified Direct Testimony of Ms. Dousias, filed by NIPSCO in Cause No. 45007. Ms. Dousias' testimony in that Cause included the allocation factors that were based on NIPSCO's Cost of Service Study in Cause No. 44988. Those cost of service allocation factors were used to derive the allocation factors included in the Stipulation on Allocation.

Attachment 4 to the Motion consists of Ms. Dousias' Verified Direct Testimony filed by NIPSCO in Cause No. 45007 FMCA 3. Ms. Dousias' testimony in that Cause supported using NIPSCO's cost of service allocators for the two distribution projects that had been approved in Cause No. 45183. Consistent with Ms. Dousias' testimony in the FMCA 3 proceeding, the Stipulation on Allocation used NIPSCO's cost of service allocators for each individual project, based on whether NIPSCO's project designation was transmission, distribution, or storage.

## **5. Commission Discussion and Findings.**

**A. CPCN.** Before granting a CPCN under Ind. Code ch. 8-1-8.4, we must: (1) find that public convenience and necessity will be served by the proposed compliance project; (2) approve the costs associated with the project; and (3) make a finding on each of the factors in Ind. Code § 8-1-8.4-6(b). Those factors are:

- (A) A description of the federally mandated requirements . . . that the energy utility seeks to comply with through the proposed compliance project.
- (B) A description of the projected federally mandated costs associated with the proposed compliance project ....
- (C) A description of how the proposed compliance project allows the energy utility to comply with the federally mandated requirements described by the energy utility under Clause (A).
- (D) Alternative plans that demonstrate that the proposed compliance project is reasonable and necessary.
- (E) Information as to whether the proposed compliance project will extend the useful life of an existing energy utility facility and, if so, the value of that extension.



Ind. Code § 8-1-8.4-6(b); *See also Northern Ind. Pub. Serv. Co.*, Cause No. 45183, at 17 (IURC 09/04/2019) (consideration of PHMSA Compliance Project); *Northern Ind. Pub. Serv. Co.*, Cause No. 45007, at 11 (IURC 09/19/2018) (consideration of Pipeline Safety Compliance Plan); *Northern Ind. Pub. Serv. Co.*, Cause No. 44340, at 5 (IURC 01/29/2014) (consideration of CIP Compliance Plan); *Northern Ind. Pub. Serv. Co.*, Cause No. 44889, at 5 (IURC 07/12/2017) (consideration of NERC Compliance Project); and *Northern Ind. Pub. Serv. Co.*, Cause No. 44872, at 31 (IURC 12/13/2017) (consideration of Environmental Compliance Project).

(i) Federally Mandated Requirements. The term “federally mandated requirement” is defined as “a requirement that the commission determines is imposed on an energy utility by the federal government in connection with any of the following: . . . (5) Standards or regulations concerning the integrity, safety, or reliable operation of: (A) transmission; or (B) distribution; pipeline facilities[ ]” as well as “(7) [a]ny other law, order, or regulation administered or issued by the United States Environmental Protection Agency, the United States Department of Transportation, the Federal Energy Regulatory Commission, or the United States Department of Energy.” Ind. Code § 8-1-8.4-5.

As stated above, NIPSCO is an “energy utility” as defined by Ind. Code § 8-1-8.4-3. Mr. Sylvester and Mr. Craycraft provided a detailed and comprehensive explanation of both the history of pipeline safety regulation and the origin and intent of the current federal regulatory scheme including the introduction of proactive, risk-based regulatory initiatives such as DIMP and TIMP embodied in the provisions of the performance standards promulgated by PHMSA, a branch of the U.S. Department of Transportation, pursuant to their statutory authority.

No party has disputed that the PHMSA Rules are a federally mandated requirement as defined in the FMCA Statute. Based on our review of the evidence, the applicable federal pipeline safety performance standards codified generally under 49 CFR § 192 and consistent with previous determinations of the Commission, we find that federal pipeline safety performance standards promulgated by PHMSA are federally mandated requirements under Ind. Code § 8-1-8.4-5 and NIPSCO has satisfied the requirement of Ind. Code § 8-1-8.4-6(b)(1)(A). *See Northern Ind. Pub. Serv. Co.*, Cause No. 45183, at 18 (IURC 09/04/2019); *Northern Ind. Pub. Serv. Co.*, Cause No. 45007, at 12 (IURC 07/12/2017) and *Southern Indiana Gas & Elec. Co.*, Cause No. 44429, at 14 (IURC 08/27/17).

(ii) Projected Federally Mandated Costs. Ms. Becker testified that NIPSCO’s total projected cost estimate for the Compliance Project is \$76,039,837 (exclusive of depreciation expense, property tax expense, and other taxes) should be eligible for ratemaking treatment and tracker recovery according to the provisions of the FMCA Statute. NIPSCO provided detailed information about the process used to develop cost projections for each project included in the Compliance Project and provided year-by-year estimated expenditures by project in its testimony and exhibits.

The evidence presented describes the projected federally mandated costs associated with the Compliance Project and demonstrates that the cost estimates are based on multiple sources of information. It is particularly significant that the OUCC and NIPSCO engaged in a cooperative process to review and modify project work papers to reflect agreed upon cost estimates. Based on

our review of the evidence, we find that NIPSCO's cost estimates for the Compliance Project, as depicted in Petitioner's Exhibit No. 1, Attachment 1-A, Attachment A, are reasonable. Therefore, we approve the projected federally mandated costs associated with the Compliance Project as required by Ind. Code § 8-1-8.4-7(b)(2). In addition, we find NIPSCO has satisfied the requirement of Ind. Code § 8-1-8.4-6(b)(1)(B) that a petitioning utility include a description of the projected federally mandated costs associated with a proposed compliance project in its application.

(iii) Compliance Project. Mr. Sylvester and Mr. Craycraft testified that each of the projects included in the Compliance Project are each driven by federal pipeline safety standards and explained how each is intended to permit NIPSCO to comply directly or indirectly with those standards.

No party disputes that the Compliance Project will allow NIPSCO to achieve compliance with a federally mandated requirement (*i.e.*, the PHMSA Rules). Based on our review of the evidence, we find that the Compliance Project constitutes a federally mandated "compliance project" under Ind. Code § 8-1-8.4-2 because each component project will be undertaken by an energy utility (NIPSCO) and is related to the direct or indirect compliance with federal pipeline safety standards – federally mandated requirements. Therefore, we find that NIPSCO has satisfied the requirement of Ind. Code § 8-1-8.4-6(b)(1)(C).

(iv) Alternative Plans. Mr. Sylvester and Mr. Craycraft provided testimony about the availability of alternative approaches for compliance with respect to the Compliance Project. The record demonstrates how the proposed projects were considered against other approaches but that the other approaches would not address the risks associated as effectively as would the Compliance Project. Based on our review of the evidence, we find that NIPSCO considered alternative plans for compliance with the PHMSA Rules. The evidence shows that the Compliance Project is reasonable and necessary. Therefore, we find that NIPSCO has satisfied the requirements of Ind. Code § 8-1-8.4-6(b)(1)(D).

(v) Useful Life of Facilities. NIPSCO's witnesses described how each project within the proposed Compliance Project could impact the useful lives of facilities on its system. The record of evidence shows that the Compliance Project is intended to either replace NIPSCO assets, not extend their useful lives, or will have no impact on the useful life of a facility but will provide a benefit by increasing safety and reducing risk. Based on the evidence presented, we find that NIPSCO has satisfied the requirements of Ind. Code § 8-1-8.4-6(b)(1)(E).<sup>7</sup>

(vi) Conclusion. The evidence presented demonstrates that the Compliance Project will allow NIPSCO to comply directly or indirectly with the PHMSA Rules – a federally mandated requirement. We have made a finding on each of the factors described in Ind. Code § 8-1-8.4-6(b) and approved the projected federally mandated costs associated with the Compliance Project. Therefore, we approve the Compliance Project and issue NIPSCO a CPCN for the project under Ind. Code 8-1-8.4-7(b).

---

<sup>7</sup> This section of the FMCA Statute only requires that the utility provide "[i]nformation as to whether the proposed compliance project will extend the useful life of an existing energy utility facility and, if so, the value of that extension."

**B. Cost Recovery.** Ind. Code § 8-1-8.4-7(c) states:

If the commission approves under subsection (b) a proposed compliance project and the projected federally mandated costs associated with the proposed compliance project, the following apply:

- (1) Eighty percent (80%) of the approved federally mandated costs shall be recovered by the energy utility through a periodic retail rate adjustment mechanism that allows the timely recovery of the approved federally mandated costs. The commission shall adjust the energy utility's authorized net operating income to reflect any approved earnings for purposes of IC 8-1-2-42(d)(3) and IC 8-1-2-42(g)(3).
- (2) Twenty percent (20%) of the approved federally mandated costs, including depreciation, allowance for funds used during construction, and post in service carrying costs, based on the overall cost of capital most recently approved by the commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the commission.
- (3) Actual costs that exceed the projected federally mandated costs of the approved compliance project by more than twenty-five percent (25%) shall require specific justification by the energy utility and specific approval by the commission before being authorized in the next general rate case filed by the energy utility with the commission.

(i) FMCA Mechanism. NIPSCO requested authority to utilize its existing FMCA Mechanism, for the timely and periodic recovery of 80% of the federally mandated costs. Ind. Code § 8-1-8.4-7 provides that an energy utility may, in a timely manner, recover 80% of all federally mandated cost through a periodic rate adjustment mechanism. Ind. Code §§ 8-1-8.4-4 and 8-1-8.4-7 provide that such costs include capital, O&M, depreciation, tax, and financing costs through a periodic rate adjustment mechanism.

Ms. Dousias described how capital costs are incorporated into the FMCA Mechanism. She testified the revenue requirement for capital costs included in the FMCA Mechanism are calculated by multiplying the net book value of the eligible projects by NIPSCO's WACC, which incorporates the Commission-approved return on common equity and capital structure, grossed-up for all applicable taxes.

Ms. Dousias explained how all other federally mandated costs (including O&M, depreciation expenses, tax expenses, and financing costs) are incorporated into the FMCA Mechanism. She testified that NIPSCO's accounting practice related to these costs is to defer on the balance sheet, as a regulatory asset, all costs incurred until such amounts are included and recovered in rates through the FMCA Mechanism or a rate base proceeding. As amounts are recovered through rates, NIPSCO reduces the regulatory asset and records expense in the income statement in order to appropriately match the revenues being recorded with the expenses. These expenses would be treated consistently with how the expenses approved as part of the Pipeline Safety Compliance Plan in the 45007 Order and the PHMSA Compliance Plan in the 45183 Order.

Ms. Dousias described how the FMCA Mechanism revenue requirement is calculated. She stated that, in each semi-annual filing, NIPSCO calculates a revenue requirement that consists of two components: (1) a return of capital costs including AFUDC and PISCC; and (2) recovery of all federally mandated expenses associated with the projects. Then NIPSCO multiplies the total revenue requirement by 80% to establish the FMCA Mechanism revenue requirement.

NIPSCO's request for authority for the timely recovery of 80% of the federally mandated costs incurred in connection with the Compliance Project through its currently approved FMCA Mechanism is approved.

(ii) Rate-making and Accounting Treatment for the FMCA. Ms. Dousias provided an overview of the ratemaking treatment under the FMCA Mechanism that the Commission approved in its 45007 Order.

With respect to the treatment of operating income, Ms. Dousias testified that, in accordance with Ind. Code § 8-1-8.4-7(c)(1), NIPSCO will include the operating income associated with the Compliance Project in the total gas Comparison of Gas Operating Income for purposes of the Ind. Code § 8-1-2-42(g) earnings test. She stated this is consistent with the treatment of earnings associated with both NIPSCO's transmission, distribution, and storage system improvement charges in Cause Nos. 44403 and 45330, NIPSCO's Pipeline Safety Compliance Plan charges in Cause No. 45007, and NIPSCO's PHMSA Compliance Plan charges and Cause No. 45183.

Ms. Dousias testified that NIPSCO seeks authority to: (1) implement CWIP ratemaking treatment associated with the Compliance Project until such costs receive either CWIP ratemaking treatment through the FMCA Mechanism, are placed in service, or are otherwise reflected in NIPSCO's base rates; and (2) recover through the FMCA Mechanism 80% of all PISCC incurred in connection with approved compliance projects. We address this further below.

Ms. Dousias testified that in addition to the recovery of these capital costs, NIPSCO requests the timely recovery through the FMCA Mechanism of reasonably incurred O&M, depreciation expenses, tax expenses, and financing costs associated with each approved project included in the Compliance Project. She stated this ratemaking treatment is consistent with the ratemaking treatment authorized by the Commission in its 45007 Order.

With respect to cost allocation, pursuant to the Stipulation on Allocation, the parties have agreed that all federally mandated costs associated with the Compliance Project will be based on the allocators set forth in the Cost of Service Study submitted by NIPSCO in Cause No. 44988 as shown below. As a result of the Stipulation, the allocators set forth below are to be used instead of the allocators NIPSCO had proposed in its case-in-chief. The Stipulation of Allocation states that the stipulated allocation factors shall be used in NIPSCO's ongoing FMCA tracker proceedings associated with the Compliance Project approved in this proceeding, unless and until such factors are modified by order of the Commission establishing new gas base rates for NIPSCO's gas utility. Further, the stipulated allocation factors are applicable solely to the 11 projects proposed in this Cause and shall not be applied to any projects in a subsequent or additional federally mandated compliance plan that NIPSCO may propose in the future. Evidentiary support for these factors was

included in Attachments 1 and 4 to the Industrial Group’s Motion, as described in the Industrial Group’s Clarification.<sup>8</sup>

<b>Rate Code</b>	<b>Compliance Plan II Allocation %</b>
111	64.9%
115	0.6%
121	20.8%
125	4.0%
128	8.9%
138	0.8%

Ms. Dousias testified that NIPSCO proposes to continue to adjust its allocation percentages to reflect the significant migration of customers amongst the various rates to prevent any unintended consequences of the migration of customers between rates and to properly allocate their share of the revenue requirement in its FMCA Tracker Filing.

Based on the evidence presented, the Commission finds that NIPSCO is authorized to defer (until captured within the FMCA Mechanism) and recover 80% of the approved federally mandated costs incurred in connection with the Compliance Project through the FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7, including O&M, capital, depreciation, taxes, financing, and AFUDC based on the current month overall WACC. NIPSCO is authorized to utilize CWIP ratemaking treatment for the Compliance Project through its the FMCA Mechanism. NIPSCO is authorized to accrue AFUDC and PISCC relating to the Compliance Project until such time as all of the projects included in the Compliance Project are placed into service or receive ratemaking treatment. NIPSCO is authorized to defer and recover through the FMCA Mechanism any federally mandated costs, including but not limited to federally mandated costs incurred prior to and after approval of a final order in this proceeding to the extent that such costs are reasonable and consistent with the scope of the Compliance Project described in NIPSCO’s evidence.

NIPSCO’s proposed ratemaking and accounting treatment is approved. Finally, the parties’ Stipulation on Allocation is also approved, and the Compliance Project costs shall be allocated pursuant to the allocation factors set forth in the Stipulation on Allocation.

(iii) Accounting and Ratemaking Treatment for Deferred Costs. Ind. Code § 8-1-8.4-7 provides that 20% of the approved federally mandated costs, including depreciation, AFUDC, and PISCC, based on the overall cost of capital most recently approved by the Commission, shall be deferred and recovered by the energy utility as part of the next general rate case filed by the energy utility with the Commission. Ms. Dousias testified NIPSCO proposes to defer as a regulatory asset 20% of all federally mandated costs incurred in connection with the Compliance Project. She testified that NIPSCO proposes to record carrying charges on such amounts based on NIPSCO’s overall cost of capital until such amounts are recovered through rates.

---

<sup>8</sup> The Industrial Group also offered IG CX-1 and CX-2, NIPSCO’s Responses to IG DR 2-1 and 2-2, which were admitted without objection. NIPSCO’s responses to those discovery requests demonstrate how NIPSCO designated each project in terms of transmission, distribution, or storage.

Based on the evidence presented, the Commission finds that NIPSCO is authorized to defer 20% of the federally mandated costs incurred in connection with the Compliance Project, and NIPSCO may recover the deferred costs in its next general rate case as allowed by Ind. Code § 8-1-8.4-7(c)(2). NIPSCO is authorized to record ongoing carrying charges based on NIPSCO's overall cost of capital most recently approved by the Commission, on all deferred federally mandated costs, including deferred depreciation and O&M expenses, until the deferred federally mandated costs are included for recovery in NIPSCO's base rates in its next general rate case. Consistent with NIPSCO's Deferred Revenue Requirement schedule in Cause No. 45007 FMCA X, for ratemaking purposes NIPSCO will not gross up for taxes any amounts associated with the 20% deferral but will gross up for taxes the 20% deferral in the revenue requirements of its next base rate case.

NIPSCO's request for authority to defer 20% of the federally mandated costs incurred in connection with the Compliance Project for recovery in NIPSCO's next general rate case, and to record carrying charges on such amounts based on NIPSCO's overall cost of capital until such amounts are recovered through rates, is approved.

(iv) Depreciation Treatment. NIPSCO requests authority to record, defer, and recover depreciation expense related to the Compliance Project according to the depreciation rates approved in its most recent base rate Order. Based on the evidence presented, we find that NIPSCO's proposal to record, defer, and recover depreciation expense related to the Compliance Project according to NIPSCO's depreciation rates is reasonable and is approved.

**C. Ongoing Review**. NIPSCO requests ongoing review of the Compliance Project as part of its FMCA Mechanism semi-annual filings. NIPSCO proposes to include: (1) information supporting proposed revised FMCA Mechanism factors including actual capital expenditures and forecast expenses during the relevant period, and a reconciliation of prior period revenues and costs; and (2) updated information regarding project list or scope, schedules, and costs for the individual projects, for purposes of explaining the progress of its Compliance Project.

The CPCN approved herein provides for the execution of projects necessary to comply with the PHMSA Rules. We believe the Commission and stakeholders should be kept informed regarding the status of the Compliance Project. While the FMCA Statute does not contain an explicit provision for ongoing review, we find that the ongoing review regarding NIPSCO's existing gas FMCA approved in Cause Nos. 45007 and 45183 is reasonable and will provide useful information to the Commission and the OUCC. We find that NIPSCO should include updated information regarding list, scope, schedules, and costs for the individual projects included in the Compliance Project in its FMCA Mechanism semi-annual filings. NIPSCO should make all future semi-annual filings in Cause No. 45560 FMCA X.

**D. Confidentiality**. NIPSCO filed a Motion for Protection and Nondisclosure of Confidential and Proprietary Information on September 24, 2021, which was supported by the affidavit of Ms. Becker showing that certain information to be submitted to the Commission were trade secrets under Ind. Code § 24-2-3-2. The Presiding Officers issued a Docket Entry on October 5, 2021, finding such information to be preliminarily confidential, after which such information

was submitted under seal. After reviewing the information, we find this information qualifies as confidential trade secret information pursuant to Ind. Code §§ 5-14-3-4 and 24-2-3-2. This information shall be held as confidential and protected from public access and disclosure by the Commission and is exempted from the public access requirements contained in Ind. Code §§ 8-1-2-29 and 5-14-3-4.

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

1. Petitioner is issued a Certificate of Public Convenience and Necessity for the Compliance Project pursuant to Ind. Code ch. 8-1-8.4. This Order constitutes the Certificate.

2. The provisions of federal pipeline safety standards promulgated by PHMSA and codified as 49 CFR § 192 are determined to constitute federally mandated requirements as defined by Ind. Code § 8-1-8.4-5.

3. The Compliance Project is determined to constitute “federally mandated compliance projects,” and the costs incurred in connection with the Compliance Project are determined to be “federally mandated costs” under Ind. Code ch. 8-1-8.4, and are therefore eligible for the ratemaking treatment described in Ind. Code § 8-1-8.4-7.

4. The cost estimates for the Compliance Project set forth in Section 5.A.(ii) above are approved.

5. Petitioner is authorized to implement its FMCA Mechanism pursuant to Ind. Code §§ 8-1-8.4-7 and 8-1-2-42 to effectuate the timely and periodic recovery of 80% of the federally mandated costs.

6. Petitioner is authorized to recover 80% of the approved federally mandated costs incurred in connection with the Compliance Project through the proposed FMCA Mechanism pursuant to Ind. Code § 8-1-8.4-7 including capital, O&M, depreciation, taxes, financing, and carrying costs based on its current month overall WACC and AFUDC as described herein.

7. Petitioner is authorized to utilize construction work in progress ratemaking treatment for the Compliance Project through the proposed FMCA Mechanism.

8. Petitioner is authorized to accrue AFUDC relating to the Compliance Project until such time as the Compliance Project is placed into service or receive ratemaking treatment.

9. Petitioner is authorized to defer post-in service costs of the Compliance Project, including carrying costs based on its current month overall WACC, depreciation, and tax expenses on an interim basis until such costs are recognized for ratemaking purposes through Petitioner’s proposed FMCA Mechanism or otherwise included for recovery in NIPSCO’s base rates in its next general rate case.

10. Petitioner is authorized to defer and recover through Petitioner's proposed FMCA Mechanism any federally mandated costs, including but not limited to federally mandated costs incurred prior to and after approval of a final Order in this proceeding to the extent that such costs are reasonable and consistent with the scope of the Compliance Project described in Petitioner's evidence.

11. Petitioner is authorized to adjust its authorized net operating income to reflect any approved earnings associated with the Compliance Project for purposes of Ind. Code § 8-1-2-42(g)(3) pursuant to Ind. Code § 8-1-8.4-7.

12. Petitioner is authorized to allocate the costs of the Compliance Project based on the cost allocation factors set forth in the Stipulation on Allocation, based on the Cost of Service Study in Cause No. 44988, as set forth in Section 5.B.(ii) above.

13. Petitioner is authorized to defer 20% of the federally mandated costs incurred in connection with the Compliance Project and is authorized to recover in NIPSCO's next general rate case the deferred federally mandated costs pursuant to Ind. Code § 8-1-8.4-7.

14. Petitioner is authorized to record ongoing carrying charges based on NIPSCO's overall cost of capital, on all deferred federally mandated costs including deferred depreciation and tax expenses until the deferred federally mandated costs are included for recovery in NIPSCO's base rates in its next general rate case.

15. Petitioner's request for ongoing review of the Compliance Project as part of Petitioner's proposed FMCA Mechanism semi-annual filings is approved. As set forth in Section 5.C., future filings shall be made under Cause No. 45560 FMCA X

16. The information filed by Petitioner in this Cause pursuant to its Motion for Protective Order is deemed confidential pursuant to Ind. Code § 5-14-3-4 and Ind. Code § 24-2-3-2, is exempt from public access and disclosure by Indiana law, and shall be held confidential and protected from public access and disclosure by the Commission.

17. This Order shall be effective on and after the date of its approval.

**HUSTON, FREEMAN, KREVDA, OBER, AND ZIEGNER CONCUR:**

**APPROVED: DEC 01 2021**

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

---

**Dana Kosco  
Secretary of the Commission**