STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED JOINT PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC AND ELLIOTT SOLAR GENERATION LLC (THE "JOINT VENTURE") FOR (1) ISSUANCE TO NIPSCO OF A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE PURCHASE AND ACQUISITION OF A 200 MW SOLAR PROJECT (THE "ELLIOTT PROJECT"); (2) APPROVAL OF THE ELLIOTT PROJECT AS A CLEAN ENERGY PROJECT UNDER IND. CODE § 8-1-8.8-11; (3) APPROVAL OF RATEMAKING AND ACCOUNTING TREATMENT ASSOCIATED WITH THE ELLIOTT PROJECT; (4) AUTHORITY TO ESTABLISH AMORTIZATION RATES FOR NIPSCO'S INVESTMENT IN THE JOINT VENTURE; (5) APPROVAL PURSUANT TO IND. CODE § 8-1-2.5-6 OF AN ALTERNATIVE REGULATORY PLAN INCLUDING ESTABLISHMENT OF JOINT VENTURE THROUGH WHICH THE ELLIOTT PROJECT WILL SUPPORT NIPSCO'S GENERATION FLEET AND THE REFLECTION IN NIPSCO'S NET ORIGINAL COST RATE BASE OF ITS INVESTMENT IN JOINT VENTURE; (6) APPROVAL OF PURCHASED POWER AGREEMENTS AND CONTRACT FOR DIFFERENCES THROUGH WHICH NIPSCO WILL PAY FOR THE ENERGY GENERATED BY THE ELLIOTT PROJECT, INCLUDING TIMELY COST RECOVERY PURSUANT TO IND. CODE § 8-1-8.8-11 THROUGH NIPSCO'S FUEL ADJUSTMENT CLAUSE; (7) AUTHORITY TO DEFER AMORTIZATION AND TO ACCRUE POST-IN SERVICE CARRYING CHARGES ON NIPSCO'S INVESTMENT IN JOINT VENTURE; (8) TO THE EXTENT GENERALLY ACCEPTED ACCOUNTING PRINCIPLES WOULD TREAT ANY ASPECT OF JOINT VENTURE AS DEBT ON NIPSCO'S FINANCIAL STATEMENTS, APPROVAL OF FINANCING; (9) APPROVAL OF AN ALTERNATIVE REGULATORY PLAN FOR NIPSCO IN ORDER TO FACILITATE THE IMPLEMENTATION OF THE ELLIOTT PROJECT; AND (10) TO THE EXTENT NECESSARY, ISSUANCE OF AN ORDER PURSUANT TO IND. CODE § 8-1-2.5-5 DECLINING TO EXERCISE JURISDICTION OVER THE JOINT VENTURE AS A PUBLIC UTILITY.	)	FILED May 24, 2021 INDIANA UTILITY REGULATORY COMMISSION **CAUSE NO. 45529**

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR
PUBLIC'S EXHIBIT NO. 2
REDACTED TESTIMONY OF OUCC WITNESS
CALEB R. LOVEMAN

MAY 24, 2021

Respectfully submitted,

T. Jason Haas
Attorney No. 34983-29
Deputy Consumer Counselor

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

TESTIMONY OF OUCC WITNESS CALEB R. LOVEMAN
CAUSE NO. 45529
NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC ("NIPSCO") AND ELLIOTT SOLAR GENERATION LLC (COLLECTIVELY "JOINT PETITIONERS")

I. INTRODUCTION

Q: Please state your name and business address.

A: My name is Caleb R. Loveman, and my business address is 115 W. Washington St., Suite 1500 South, Indianapolis, Indiana 46204.

Q: By whom are you employed and in what capacity?

A: I am employed as a Utility Analyst in the Indiana Office of Utility Consumer Counselor's ("OUCC") Electric Division. A summary of my educational background and experience is included in Appendix A attached to my testimony.

Q: What is the purpose of your testimony?

A: I provide my analysis and make recommendations regarding Joint Petitioners' request the Indiana Utility Regulatory Commission ("Commission") issue NIPSCO a certificate of public convenience and necessity ("CPCN") to purchase and acquire indirectly through a joint venture agreement, the Elliott Solar Project. Capital Dynamics, the developer, formed Elliott Solar, LLC ("Project Company"), which will build and own the Elliott Solar Project. NIPSCO and a tax equity partner(s) ("TEP") will form a limited liability company ("LLC"), to own the Elliott Solar Project ("Joint Venture"). Specifically, I address the proposed accounting and ratemaking treatment described in Joint Petitioners' witness Christopher Cubenas' testimony.

Q: To the extent you do not address a specific item in your testimony, should it be construed to mean you agree with Joint Petitioners' proposals?

A: No. Exclusions of any topics, issues, or items Joint Petitioners propose does not indicate my approval of these topics, issues, or items. Rather, the scope of my testimony is limited to the specific topics discussed herein.

Q: Please describe the review and analysis you conducted in order to prepare your testimony.

A: I reviewed Joint Petitioners' petition, testimonies and exhibits, and workpapers. I reviewed Joint Petitioner NIPSCO's responses to formal data requests. I reviewed Cause Nos. 45310 and 45462 filings, including the Commission's Final Orders. Additionally, I reviewed the petition, testimonies and exhibits, workpapers, and submitted testimony in Cause No. 45511, which is still pending before the Commission.

II. <u>STRUCTURE OF THE JOINT VENTURE</u>

Q: Please briefly explain the structure of, and NIPSCO's interest in, the Joint Venture in this case.

A: Through a joint venture agreement, NIPSCO will purchase and indirectly own the Elliott Solar Project. Prior to the purchase, one or more TEPs will purchase interests in the Joint Venture. The TEP and NIPSCO will both own an interest in the Joint Venture.[1] Capital Dynamics will not be a member of the Joint Venture. Capital Dynamics will sell the Elliott Solar Project to the Joint Venture at Mechanical Completion, making the Joint Venture the Elliott Solar Project's owner and operator. The TEP will not be responsible for project operations. NIPSCO will operate and manage the Elliott Solar Project at the transaction's closing under the Build Transfer

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[1] Joint Petitioner's Exhibit No. 7, Direct Testimony of Christopher G. Cubenas, p. 3, line 15, to p. 4, line 6.

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Agreement ("BTA"). The TEP will invest a percentage of the total project cost into the Joint Venture, per the BTA, and NIPSCO will invest the remainder. Under the terms of the BTA, NIPSCO has the option to buy the TEP's remaining ownership interest at fair market value once the TEP has achieved its negotiated internal rate of return.[2]

III. JOINT VENTURE ACCOUNTING AND RATEMAKING TREATMENT

Q: Please describe the accounting and ratemaking treatment and cost recovery NIPSCO requests.

A: NIPSCO will not directly own the generating assets making up the Elliott Solar Project. NIPSCO will own an interest in the Joint Venture, which will own the Project Company. The Project Company owns the generating assets. NIPSCO requests its interest in the Joint Venture be recorded as a regulatory asset in Account 182.3 for inclusion in rate base in a future base rate case. NIPSCO also requests accruing post-in-service carrying charges ("PISCC") calculated at NIPSCO's weighted average cost of capital ("WACC") with respect to each capital investment it makes to the Joint Venture, and deferred amortization also be recorded in Account 182.3. This requested treatment will allow NIPSCO a return of and return on its investment and PISCC. In a future base rate case, NIPSCO can request including the Joint Venture's regulatory asset balance in net original cost rate base as the value of its utility property per Ind. Code § 8-1-2-6 for ratemaking purposes. NIPSCO could also include any later potential cash infusion into the Joint Venture for the Elliott Solar Project. NIPSCO also requests the regulatory asset be amortized over the life of the Elliott Solar Project, estimated to

[2] Joint Petitioner's Confidential Exhibit No. 2, Direct Testimony of Andrew S. Campbell, p. 25, line 1, to p. 27, line 4.

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

be 30 years. Amortizing the regulatory asset would begin once the Elliott Solar Project goes into service. This will occur after the BTA related to the Elliott Solar Project closes.[3]

Q: Is it important NIPSCO's investment in the Joint Venture remain a regulatory asset?

A: Yes. If NIPSCO's investment is transferred to plant accounts, it will be depreciated. The depreciation expense will then be included as a deduction in NIPSCO's tax returns. NIPSCO should not be permitted to transfer the Joint Venture investment to plant investment because depreciation on the Elliott Solar Project will already be included as a deduction on the TEP's tax returns. If NIPSCO includes depreciation for tax purposes, it would be double counting the depreciation expense. Due to this risk, the OUCC recommends the investment in the Joint Venture remain a regulatory asset and NIPSCO book amortization instead of depreciation. Amortization is not deductible on federal income taxes.

Q: Will NIPSCO potentially request recovery of the cost related to the TEP buyout in a future base rate case?

A: Yes. If NIPSCO requests cost recovery related to the TEP buyout, NIPSCO should include only the net original cost of the regulatory assets in rate base when calculating rates. As NIPSCO agreed in its Cause No. 45310 rebuttal testimony, "the fair value of that investment will equal the balance of the regulatory asset which will equal NIPSCO's net investment."[4] Therefore, the OUCC recommends only the net original cost of the regulatory assets relating to the Elliott Solar Project be included in a future

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[3] Cubenas Direct, p. 6, line 13, to p. 10, line 17.
[4] *See* Final Order in Cause No. 45310, dated February 19, 2020, p. 27.

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

rate base case, and no fair value estimate be applied in a future ratemaking calculation. This was the OUCC's position regarding this issue in Cause No. 45462, which NIPSCO agreed to in that Cause.

IV. POST-IN-SERVICE CARRYING COSTS

Q: How does NIPSCO propose calculating PISCC on its proposed Elliott Solar Project Joint Venture?

A: NIPSCO requests accruing PISCC calculated at NIPSCO's WACC with respect to each capital investment it makes in the Joint Venture. It also requests deferred amortization be recorded in Account 182.3 and be included in NIPSCO's rate base for ratemaking purposes and amortized over the Elliott Solar Project's remaining life.[5] NIPSCO's current effective WACC rate is 6.47%.[6]

Q: Does NIPSCO's request to accrue PISCC at its WACC rate on the proposed Elliott Solar Project Joint Venture concern you?

A: Yes. The WACC rate is more accurately applied when calculating the return on investments in base rates or Construction Work in Progress ("CWIP") as done in the Transmission Distribution System Improvement Charge ("TDSIC") tracker or the federally mandated tracker. The statute governing the TDSIC tracker, Ind. Code ch. 8-1-39, and the federally mandated tracker, Ind. Code ch. 8-1-8.4, both indicate carrying costs for the 20% deferral should be based on the overall cost of capital the Commission most recently approved. NIPSCO is not requesting CWIP ratemaking treatment and is not seeking treatment under Ind. Code chs. 8-1-8.4 or 8-1-39. The Allowance for Funds

[5] Cubenas Direct, p. 10, lines 10 to 17.
[6] *See* OUCC Attachment CRL-1.

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

Used During Construction ("AFUDC") method of capitalizing the costs raised to finance the project is more appropriate for the treatment requested in this cause.

Q: Please explain AFUDC and how it is applied.

A: AFUDC is the cost of funds (both debt and equity) used to finance construction projects. These funds accrue during the construction period and are capitalized as part of the total cost of utility plant during construction and, if the Commission permits, post construction in the form of post-in-service AFUDC. Capitalization of AFUDC is performed to reflect that one of the components of construction is the cost of capital used to construct the asset.

Q: What are the AFUDC cost components?

A: AFUDC is a formula the Federal Energy Regulatory Commission approved and includes funding sources from common equity, preferred stock, long-term debt, and short-term debt. Of these elements, short-term debt is estimated for the current year and adjusted when actual data becomes known. Short-term debt is an important part of the formula, as it usually includes a significant portion of a construction project's financing. Additionally, short-term debt's cost rate is usually much lower than long-term debt's cost rate, and significantly lower than the common equity cost rate. For these reasons, the AFUDC rate is usually lower than the WACC rate.

Q: What is NIPSCO's current AFUDC rate?

A: As of my testimony filing in this case, NIPSCO's AFUDC rate is [redacted][7]

[7] *See* OUCC Attachment CRL-2 Confidential.

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

Q: Is NIPSCO's proposal to use the WACC rate to record PISCC in this Cause supported by Indiana Statute?

A: No. Ind. Code ch. 8-1-8.8 is the Utility Generation and Clean Coal Technology Statute, which provides for recovering renewable energy investment. There is no mention or description of post-in-service recovery including the AFUDC rate or the WACC rate. Ind. Code ch. 8-1-8.8-11 covers certain financial incentives afforded to clean energy projects. The incentives are:

> (1) The timely recovery of costs and expenses incurred during construction and operation of projects described in section 2(1) or 2(2) of this chapter.
>
> (2) The authorization of up to three (3) percentage points on the return on shareholder equity that would otherwise be allowed to be earned on projects described in subdivision (1).
>
> (3) Financial incentives for the purchase of fuels or energy produced by a coal gasification facility or by a nuclear energy production or generating facility, including cost recovery and the incentive available under subdivision (2).
>
> (4) Financial incentives for projects to develop alternative energy sources, including renewable energy projects or coal gasification facilities.
>
> (5) Other financial incentives the commission considers appropriate.

The first four incentives are specific, with the fifth being broader. When considering other financial incentives outside of a specific incentive, a traditional ratemaking approach should be followed. Without specific language leaving no doubt how certain costs are to be recovered, fundamental ratemaking principles should govern cost recovery. Permitting traditional ratemaking treatment on investments outside a base rate case is a tremendous financial incentive. NIPSCO's request for PISCC at the WACC rate is not a specific incentive addressed in Ind. Code ch. 8-1-8.8-11 but could be considered under subsection (5) relating to "other" incentives. As I stated earlier in

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

my testimony, WACC is permitted and specifically address in Ind. Code chs. 8-1-8.4 and 8-1-39. These are 80% /20% trackers with only 20% of costs being deferred using the WACC rate, not as a financing cost of construction but as a revenue requirement for the earnings component. These are unusual recovery mechanisms that have clearly specified statutory language. AFUDC is the fundamental rate used to recognize financing costs using the cost of capital for equity as well as both long- and short-term debt during (1) the construction of a project, (2) a project's post-in-service period, which the Commission must approve, or (3) after a construction project's purchase, which the Commission must also approve. On the contrary, the WACC rate is applied to plant investment to create the return on those plant investments at the time of a base rate case or in an investment tracker. WACC should not be used to reflect the cost of financing a construction project. The WACC rate does not even recognize one of the most important elements of construction financing, and that is short-term debt.

Q: Has the WACC rate been proposed and approved as a carrying charge in previous joint venture cases?

A: Yes, it was proposed and approved in previous joint venture cases, but the OUCC did not address this issue in those cases.[8]

Q: If the Commission approves NIPSCO's proposed Elliott Solar Project, why should it be required to use the AFUDC rate to calculate PISCC?

A: AFUDC is used to capitalize construction costs, both during and after construction, until investment expenditures are included in rates. The AFUDC rate, and not the WACC rate, is more appropriate to capitalize the cash contributions NIPSCO will make

[8] *See, e.g.*, Cause Nos. 45194, 45310, and 46462.

"CONFIDENTIAL HIGHLIGHTED IN [redacted]"

to the Joint Venture in this Cause because NIPSCO will be the managing member of the Joint Venture and ultimately responsible for the Elliott Solar Project. Therefore, if the Commission approves NIPSCO's request, I recommend NIPSCO be required to calculate PISCC at its AFUDC rate, and not its WACC rate, until the regulatory asset is reflected in NIPSCO's rate base.

V. RECOMMENDATIONS

Q: What does the OUCC recommend?

A: In addition to the recommendations OUCC Witness Cynthia Armstrong presents, the OUCC recommends the Commission:

1) Require all Joint Venture assets be treated as a regulatory asset – booking amortization instead of depreciation;
2) Allow NIPSCO to include in any future rate case, only the amount of net original cost it has invested in the Solar Project after it purchases the TEP's interest in the Joint Venture;
3) Require NIPSCO recognize post-in-service financing costs after purchasing the Elliott Solar Project at the [redacted] AFUDC rate; and
4) Require NIPSCO to accrue PISCC at its AFUDC rate until the regulatory asset related to the Elliott Solar Project is reflected in NIPSCO's rate base.

Q: Does this conclude your testimony?

A: Yes.

APPENDIX A – Qualifications of Caleb R. Loveman

Q: Please summarize your educational background and experiences.

A: I graduated from Franklin University in 2015 with a Bachelor of Science in Accounting. From 2016 to 2019, I owned and operated an E-commerce business. In this role I was responsible for all the accounting, finance, and tax related functions of the business. During this time, I also worked as a Staff Accountant for Legacy Administration Services, LLC and as a Financial Analyst for Cummins, Inc. I began my career with the OUCC in July 2019 as a Utility Analyst in the Electric Division. I review Indiana utilities' requests for regulatory relief filed with the Commission. I also prepare and present testimony based on my analyses and make recommendations to the Commission on behalf of Indiana utility consumers. Since joining the OUCC, I have attended "The Basics" Practical Regulatory Training for the Electric Industry, sponsored by the National Association of Regulatory Utility Commissioners ("NARUC") and the New Mexico State University Center for Public Utilities, in Albuquerque, New Mexico. I have also attended the 2019 Indiana Energy Association ("IEA") Energy Conference and the 2019 Indiana Energy Conference presented by the Indiana Industrial Energy Consumers, Inc. ("INDIEC").

Q: Have you previously filed testimony in other Commission proceedings?

A: Yes.

AFFIRMATION

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

Caleb R. Loveman

Caleb R. Loveman
Utility Analyst I
Indiana Office of Utility Consumer Counsel

Cause No. 45529
NIPSCO, LLC/Elliott Solar Generation, LLC
"The "Joint Venture"

Date: May 24, 2021

Cause No. 45529
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Office of Utility Consumer Counselor Data Request Set No. 1

OUCC Request 1-001:
Please refer to page 10, lines 10-17, of Christopher G. Cubenas's direct testimony. Mr. Cubenas proposes to apply post-in-service carrying charges on each capital investment in the Joint Venture at NIPSCO's weighted average cost of capital ("WACC") until the investments can be captured in NIPSCOs basic rates and charges in a future rate case. a. What is NIPSCO's current WACC rate? b. Please provide NIPSCO's WACC calculation in Excel format with all cells, sheets, formulas etc. unlocked. Please provide all additional supporting documentation.
Objections:
Response:
See OUCC Request 1-001 Attachment A for NIPSCO's current WACC rate and calculation.

Cause No. 45529
Northern Indiana Public Service Company LLC's
Objections and Responses to
Indiana Office of Utility Consumer Counselor Data Request Set No. 1

OUCC Request 1-002:
Please provide NIPSCO's current Allowance for Funds Used During Construction ("AFUDC") rate. Include the AFUDC calculation in Excel format with all cells, sheets, formulas etc. unlocked. Please provide all additional supporting documentation.
Objections:
NIPSCO objects to this Request on the grounds and to the extent that this Request seeks documents or information that are not relevant to the subject matter of this proceeding and are therefore not reasonably calculated to lead to the discovery of admissible evidence, as NIPSCO's AFUDC rate is not relevant to this proceeding, because NIPSCO will be purchasing a completed generation project. NIPSCO further objects to this Request on the separate and independent 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 1-002 Confidential Attachment A for the AFUDC calculation and methodology for NIPSCO electric's current AFUDC rate. Note, however, that no AFUDC or Interest During Construction ("IDC") will be recorded by NIPSCO when purchasing the solar project from the developer. NIPSCO is purchasing a completed project, and while the developer may have recorded AFUDC or IDC on the project (and these costs may be included in the purchase price), NIPSCO will record the solar project at the purchase price without any additional NIPSCO AFUDC or IDC accrued into the cost.

OUCC Request 1-001 Attachment A
Cause No. 45529

NIPSCO

Capital Structure

February 28, 2021

Electric OC as used in TDSIC (as adjusted)

Line No.	Description	Total Company Capitalization	Percent of Total	Cost		Weighted Average Cost
	A	B	C	D		E
1	Common Equity	$ 3,285,914,861	49.16%	9.75%	(a)	4.79%
2	Long-Term Debt	2,323,904,704	34.77%	4.71%		1.64%
3	Customer Deposits	63,488,420	0.95%	4.64%		0.04%
4	Deferred Income Taxes	1,380,270,770	20.65%	0.00%		0.00%
5	Post-Retirement Liability	50,923,415	0.76%	0.00%		0.00%
6	Prepaid Pension Asset	(422,259,919) (a)	-6.32%	0.00%		0.00%
7	Post-1970 ITC	1,534,508	0.02%	7.66%		0.00%
8	**Totals**	**$ 6,683,776,759**	**100.00%**			**6.47%**

CERTIFICATE OF SERVICE

This is to certify that a copy of the foregoing ***Indiana Office of Utility Consumer Counselor Public's Exhibit No. 2 Redacted Testimony of OUCC Witness Caleb R. Loveman*** has been served upon the following counsel of record in the captioned proceeding by electronic service on May 24, 2021.

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