ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR (1) APPROVAL OF AN ADJUSTMENT TO ITS ELECTRIC SERVICE RATES THROUGH ITS TRANSMISSION, DISTRIBUTION, AND STORAGE SYSTEM IMPROVEMENT CHARGE ("TDSIC") RATE SCHEDULE; (2) AUTHORITY TO DEFER 20% OF THE APPROVED CAPITAL EXPENDITURES AND TDSIC COSTS FOR RECOVERY IN PETITIONER'S NEXT GENERAL RATE CASE; AND (3) APPROVAL OF PETITIONER'S UPDATED 7-YEAR ELECTRIC PLAN, INCLUDING ACTUAL AND PROPOSED ESTIMATED CAPITAL EXPENDITURES AND TDSIC COSTS THAT EXCEED THE APPROVED AMOUNTS IN CAUSE NO. 44733-TDSIC-5, ALL PURSUANT TO IND. CODE § 8-1-39-9.	)	**CAUSE NO. 44733 TDSIC 6** **APPROVED:** DEC 18 2019

ORDER OF THE COMMISSION

Presiding Officers:
Sarah E. Freeman, Commissioner
David E. Veleta, Senior Administrative Law Judge

On August 21, 2019, Northern Indiana Public Service Company LLC ("NIPSCO" or "Petitioner") filed its Verified Petition in this Cause requesting: (1) approval of an adjustment to its Transmission, Distribution, and Storage System Improvement Charge ("TDSIC") Rate Schedule to be applicable for bills rendered during the billing cycles of January 2020 through January 2021 ("TDSIC 6 Billing Period") to effectuate the timely recovery of 80% of approved capital expenditures and TDSIC costs incurred in connection with NIPSCO's eligible transmission, distribution, and storage system improvements; (2) authority to defer, as a regulatory asset, 20% of eligible and approved capital expenditures and TDSIC costs; (3) approval of NIPSCO's Updated 7-Year Electric Plan ("Plan Update-6"), including actual and proposed estimated capital expenditures and TDSIC costs that exceed the amounts approved in Cause No. 44733 TDSIC 5; (4) approval to defer and recover 80% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6 through the TDSIC and to defer 20% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6, for recovery in its next general rate case, all pursuant to Ind. Code § 8-1-39-9, all pursuant to Ind. Code ch. 8-1-39 and the Commission's TDSIC Orders.[1]

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[1] The Commission's 44733 Order, TDSIC 1 Order, TDSIC 1 S1 Order, TDSIC 2 Order, TDSIC 3 Order, TDSIC 4 Order, and TDSIC 5 Order, are herein referred to as the "TDSIC Orders."

On August 21, 2019, NIPSCO prefiled direct testimony and attachments of the following: Alison M. Becker, Manager of Regulatory Policy; Kevin J. Blissmer, Manager of Regulatory for NiSource Corporate Services Company; Charles A. Vamos, Director, Electric Transmission and Distribution ("T&D") Engineering; and Kristi L. Figg, Director of TDSIC Support.

On October 10, 2019, the OUCC filed a *Notice of Intent Not to File Testimony*.

The NIPSCO Industrial Group ("Industrial Group")[2] filed a petition to intervene on October 18, 2019, which was granted on October 30, 2019.

On October 21, 2019, Industrial Group filed a *Motion for Administrative Notice*. On October 24, 2019, NIPSCO filed a *Motion Opposing NIPSCO Industrial Group's Motion for Administrative Notice*. On October 25, 2019, Industrial filed a *Reply of NIPSCO Industrial Group in Support of Motion for Administrative Notice*. By docket entry dated November 1, 2019, the Commission granted Industrial Group's request to take administrative notice of the Orders of the Commission in Cause Nos. 44733, 44733 TDSIC 4, and 44403 TDSIC 10 but declined to take administrative notice of the Verified Direct Testimony of Donald L. Bull in Cause No. 44403 TDSIC 10.

On October 31, 2019, NIPSCO filed a *Motion for Administrative Notice*.

An evidentiary hearing was held on November 12, 2019, at 9:30 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. NIPSCO, the OUCC, and Industrial Group appeared and participated in the hearing. At the hearing, the prefiled evidence of NIPSCO was admitted into the record without objection. At the hearing, NIPSCO's *Motion for Administrative Notice* was also granted.

Having considered the evidence presented and being duly advised, 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. NIPSCO is a public utility as that term is defined in Ind. Code §§ 8-1-2-1(a) and 8-1-39-4. Under Ind. Code ch. 8-1-39,[3] the Commission has jurisdiction over a public utility's petition to approve rate schedules establishing a TDSIC that will allow the periodic automatic adjustment of the public utility's basic rates and charges to provide for timely recovery of 80% of approved capital expenditures and TDSIC costs. Therefore, the Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

2. **NIPSCO's Characteristics.** NIPSCO is a public utility organized and existing under the laws of the State of Indiana and having its principal office at 801 E. 86th Avenue, Merrillville, Indiana 46410. NIPSCO 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

[2] The members of the Industrial Group in this proceeding are ArcelorMittal USA, BP Products North America, Inc., Praxair, Inc., USG Corporation, and United States Steel Corporation.

[3] On April 24, 2019, Governor Eric Holcomb signed HEA 1470 into law, which became effective immediately. This law amended many of the subsections of Ind. Code ch. 8-1-39, and this Order will refer to the statute as amended. We note that the statutory changes do not affect our analysis of Petitioner's request in this Cause.

equipment within the State of Indiana used for the generation, transmission, distribution, and furnishing of such service to the public. NIPSCO provides electric utility service to approximately 473,000 residential, commercial and industrial, and wholesale and other customers.

3. **Background and Relief Requested.** On July 12, 2016, the Commission issued its Order in Cause No. 44733 (the "44733 Order") approving a 7-Year Plan and TDSIC Settlement Agreement (the "44733 Settlement") entered into March 24, 2016 by and among NIPSCO, the OUCC, Indiana Municipal Utilities Group ("IMUG"), LaPorte County Board of Commissioners, the Industrial Group, and United States Steel Corporation (collectively the "Settling Parties"), and (a) approved NIPSCO's proposed 7-Year Electric TDSIC Plan and designated the eligible transmission, distribution and storage system improvements included in the Plan as eligible for TDSIC treatment in accordance with Ind. Code ch. 8-1-39, subject to the provisions of the 44733 Settlement (the "7-Year Plan" or "TDSIC Plan"); (b) granted NIPSCO's request for authority to defer any costs associated with the Plan that are incurred beginning January 1, 2016 until such amounts are recovered through rates; (c) approved NIPSCO's proposed process for updating the 7-Year Electric TDSIC Plan in future TDSIC adjustment proceedings; and (d) approved the ratemaking treatment set forth in the 44733 Settlement including authority to (i) apply construction work in progress ("CWIP") ratemaking treatment, (ii) continue the statutory 80/20 percent recovery and deferral of approved TDSIC costs through current Rider 688 or its successor, (iii) defer ongoing carrying charges associated with TDSIC projects as a regulatory asset based on NIPSCO's weighted cost of capital, until the deferred TDSIC Costs are included for recovery in rates, and (iv) adjust NIPSCO's authorized net operating income to reflect TDSIC earnings.

Under the terms of the 44733 Settlement, NIPSCO agreed to limit recovery of capital costs at $1.25 billion, which was an $80 million reduction from NIPSCO's originally proposed cost. 44733 Settlement at par. 4(a). NIPSCO was also authorized "to use any project included in its [] T&D Plan to comprise the up to $1.25 billion in total plan capital expenditures over the 7-year period." *Id.* at par. 4(b). NIPSCO's expectation "to complete substantially all of the projects within the scope of the T&D Plan within the 7-year plan period" was also expressly acknowledged. *Id.* at par. 5(a). Paragraph 5(a) also explicitly stated that "[n]othing in [the 44733] Settlement nor in the T&D Plan obligates NIPSCO to implement the entirety of the T&D Plan over the 7-year period nor to recover the revenue requirement associated with the full $1.25 billion capital cost cap amount over the 7-year period. Rather, NIPSCO shall be authorized to implement components of the T&D Plan in good faith up to the $1.25 billion cap over a 7-year period, as outlined herein, but shall have the flexibility to adjust the T&D Plan as circumstances dictate, consistent with Paragraph 5(b) below."[4] The "circumstances" referred to in this paragraph that would allow NIPSCO flexibility to adjust the Plan were stated to include, but not be limited to, system changes, reliability issues, or reasonable and prudent cost changes. *Id.*

On January 25, 2017, the Commission issued its Order in Cause No. 44733 TDSIC 1 (the "TDSIC 1 Order") approving, among other things, NIPSCO's updated Plan (Plan Update-1) and designated the projects included in Year 2 as eligible improvements under Ind. Code § 8-1-39-2. The Commission authorized NIPSCO's deferral and recovery of 80% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-1 through the TDSIC and

[4] Paragraph 5(b) discusses situations where a given project, in whole or in part, is rescheduled to a different year and allows the annual cost recovery caps to be adjusted accordingly.

deferral of 20% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-1 for recovery in its next general rate case.

On April 19, 2017, the Commission issued its Order in Cause No. 44733 TDSIC 1 S1 (the "TDSIC 1 S1 Order") approving a Settlement Agreement dated February 15, 2017 by and among NIPSCO, IMUG, and the OUCC, and approved, among other things, the addition of NIPSCO-owned TDSIC installed rates relating to the TDSIC LED (light emitting diode) Street Lighting Project,[5] with 50% of the revenue requirement on a per lamp basis associated with the installed costs to be included in a LED street light lamp rate applicable to each fixture and all variances being recovered as TDSIC costs.

On October 31, 2017, the Commission issued its Order in Cause No. 44733 TDSIC 2 (the "TDSIC 2 Order") approving, among other things, NIPSCO's updated Plan (Plan Update-2) and designated the projects eligible improvements under Ind. Code § 8-1-39-2. The Commission authorized NIPSCO's deferral and recovery of 80% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-2 through the TDSIC and deferral of 20% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-2 for recovery in its next general rate case.[6]

On May 30, 2018, the Commission issued its Order in Cause No. 44733 TDSIC 3 (the "TDSIC 3 Order") approving, among other things, NIPSCO's updated Plan (Plan Update-3) and designated the projects eligible improvements under Ind. Code § 8-1-39-2. The Commission authorized NIPSCO's deferral and recovery of 80% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-3 through the TDSIC and deferral of 20% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-3 for recovery in its next general rate case.[7]

On November 28, 2018, the Commission issued its Order in Cause No. 44733 TDSIC 4 (the "TDSIC 4 Order") approving, among other things, NIPSCO's updated Plan (Plan Update-4) and designated the projects eligible improvements under Ind. Code § 8-1-39-2. The Commission authorized NIPSCO's deferral and recovery of 80% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-4 through the TDSIC and deferral of 20% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan

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[5] In the Settlement approved by the 44733 Order, the settling parties agreed to the implementation of a mass retrofit LED streetlight project for NIPSCO-owned streetlights ("TDSIC LED Street Lighting Project").

[6] The Commission's TDSIC 2 Order was appealed by the NIPSCO Industrial Group in Case No. 93A02-1711-EX-02735. NIPSCO Industrial Group petitioned to transfer to the Indiana Supreme Court, which was granted on September 27, 2018 and docketed as Case No. 18S-EX-475. On June 27, 2019, the Indiana Supreme Court issued its opinion upholding the Commission's decision. On July 26, 2019, NIPSCO Industrial Group sought rehearing, which was denied by the Indiana Supreme Court on September 13, 2019.

[7] The Commission's TDSIC 3 Order was also appealed by the NIPSCO Industrial Group in Case No. 18A-EX-1502. NIPSCO Industrial Group filed a Verified Unopposed Voluntary Motion to Dismiss Appeal with Prejudice, which was granted by Order dated September 25, 2019.

Update-4 for recovery in its next general rate case.[8] The Commission also approved a Stipulation and Settlement Agreement between NIPSCO and the OUCC (the "TDSIC 4 Settlement").

The TDSIC 4 Settlement was entered into between NIPSCO and the OUCC as a result of the June 20, 2018 opinion issued by the Indiana Supreme Court in *NIPSCO Industrial Group v. NIPSCO*, Case No. 18S-EX-334, which was modified on rehearing on September 25, 2018. TDSIC 4 Settlement at par. 1 (the "Supreme Court Opinion"). Under the terms of the TDSIC 4 Settlement, as approved by the Commission, NIPSCO agreed to remove the Circuit Performance Improvement Projects – Distribution [DLCP1] and Pole Replacement Projects – Distribution [DLWP1] and the associated costs from its TDSIC Plan on a going forward basis. NIPSCO further agreed to reduce the $1.25 billion cost cap from the 44733 Settlement by approximately $60 million, to become $1.19 billion. *Id.* at par. 2(e).

On June 12, 2019, the Commission issued its Order in Cause No. 44733 TDSIC 5 (the "TDSIC 5 Order") approving, among other things, NIPSCO's updated Plan (Plan Update-5) and designated the projects eligible improvements under Ind. Code § 8-1-39-2. The Commission authorized NIPSCO's deferral and recovery of 80% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-5 through the TDSIC and deferral of 20% of its eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-5 for recovery in its next general rate case.[9]

In its Petition filed in this proceeding, in accordance with Ind. Code § 8-1-39-9(a), NIPSCO seeks an Order: Authorizing and approving the TDSIC factors as set forth in Attachment 1, Schedule 8 to its Petition to become effective for bills rendered by NIPSCO during the TDSIC 6 Billing Period or until replaced by different factors approved in a subsequent filing; Approving Petitioner's revised Appendix J – Transmission, Distribution and Storage System Improvement Charge set forth in Attachment 3 to its Petition, which contains the TDSIC factors to become effective for bills rendered by NIPSCO during the TDSIC 6 Billing Period, which begins January 2, 2020; Authorizing Petitioner to defer, as a regulatory asset, 20% of the eligible and approved capital expenditures and TDSIC costs incurred in connection with its Commission-approved 7-Year Plan and record ongoing carrying charges based on the current overall weighted average cost of capital on all deferred TDSIC costs until such costs are included for recovery in NIPSCO's next general rate case pursuant to Ind. Code § 8-1-39-9(b); Approving Petitioner's updated 7-Year Plan set forth in Confidential Exhibit Electric Plan Update-6, including actual and proposed estimated capital expenditures and TDSIC costs that exceed the amounts approved in Cause No. 44733 TDSIC 5; Approving Petitioner's request to defer and recover 80% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6 through the TDSIC and authorizing Petitioner to defer, as a regulatory asset, 20% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6, for recovery in its next general rate case; Issuing an Order in this Cause by December 23, 2019, so the factors can become effective for bills rendered by NIPSCO during the TDSIC 6 Billing Period, which begins January 2, 2020;

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[8] The Commission's TDSIC 4 Order was also appealed by the NIPSCO Industrial Group in Case No. 18A-EX-3116. NIPSCO Industrial Group filed a Verified Unopposed Voluntary Motion to Dismiss Appeal with Prejudice, which was granted by Order dated September 25, 2019.

[9] The Commission's TDSIC 5 Order was also appealed by the NIPSCO Industrial Group in Case No. 19A-EX-01591. NIPSCO Industrial Group filed a Verified Unopposed Voluntary Motion to Dismiss Appeal with Prejudice, which was granted by Order dated September 25, 2019.

and granting to Petitioner such additional and further relief as may be deemed necessary or appropriate.

4. Commission Discussion and Findings Regarding TDSIC-6. NIPSCO submitted its Verified Petition and supporting testimony and attachments to demonstrate compliance with the requirements of Ind. Code § 8-1-39-9, the 44733 Settlement approved by the Commission in the 44733 Order, and the TDSIC 4 Settlement approved by the Commission in the TDSIC 4 Order.

(a) Past and Future Rate Case Timing and TDSIC Timing. Ind. Code § 8-1-39-9(d) states that "[e]xcept as provided in section 15 of this chapter, a public utility may not file a petition under subsection (a) within nine (9) months after the date on which the commission issues an order changing the public utility's basic rates and charges with respect to the same type of utility service." NIPSCO's most recent retail electric base rate order changing NIPSCO's basic rates and charges was issued July 18, 2016 in Cause No. 44688. Therefore, we find that NIPSCO's request in this Cause was filed more than nine months after NIPSCO's last general rate case in accordance with Ind. Code § 8-1-39-9(c).

Ind. Code § 8-1-39-9(e) states that "[a] public utility that implements a TDSIC under this chapter shall, before the expiration of the public utility's approved TDSIC plan, petition the commission for review and approval of the public utility's basic rates and charges with respect to the same type of utility service." In its Verified Petition, NIPSCO affirms that it will petition the Commission for review and approval of its electric basic rates and charges before the expiration of its TDSIC Plan and has done so, as reflected in NIPSCO's October 31, 2018 filing in Cause No. 45159. We find that NIPSCO has satisfied its obligation to petition the Commission for review and approval of its basic electric rates and charges prior to the expiration of its TDSIC Plan, as required by Ind. Code § 8-1-39-9(e).

Ind. Code § 8-1-39-9(f) states that "[a] public utility may file a petition under this section not more than one (1) time every six (6) months." NIPSCO filed its petition under the terms of the 44733 Settlement approved by the 44733 Order, and not within six months of a previous filing. Therefore, we find that NIPSCO's proposed timeline for its TDSIC filings is consistent with Ind. Code § 8-1-39-9(f).

(b) NIPSCO's Current TDSIC Plan Under Ind. Code § 8-1-39-9(a)(2). As part of its case-in-chief, NIPSCO attached its currently approved TDSIC Plan approved by the TDSIC 5 Order as Confidential Exhibit Electric Plan Update-5 as well as its Plan Update-6 as Confidential Exhibit Electric Plan Update-6. Therefore, we find that NIPSCO has satisfied the requirement set forth in Ind. Code § 8-1-39-9(a)(2). We note that in each semi-annual TDSIC filing, NIPSCO must update its TDSIC Plan pursuant to Ind. Code § 8-1-39-9(a) and in accordance with the specific parameters set forth in our 44733 Order.

(c) NIPSCO's Updated TDSIC Plan. Ind. Code § 8-1-39-9(a) requires a utility to update its TDSIC Plan with each TDSIC petition the utility files. NIPSCO Witness Vamos explained that NIPSCO's proposed updated TDSIC Plan is contained in Confidential Exhibit Electric Plan Update-6. Mr. Vamos further explained the appendices supporting Plan Update-6.

Pursuant to the 44733 Order, in each fall tracker filing, NIPSCO will provide a detailed list of projects for the upcoming year, with best estimate of project costs. Under the terms of the 44733 Settlement, NIPSCO retains the ability to move projects between years as appropriate. In the event that a given project, in whole or in part, is rescheduled to a different year, the annual cost recovery caps for the affected years will be adjusted by that project's whole or partial approved cost estimate to reflect the change. Ms. Figg testified that each of the moves discussed *infra* is shown on Petitioner's Exhibit No. 4, Confidential Attachment 4-A.

Mr. Vamos sponsored Confidential Attachment 3-B showing plan variances (moves and costs) by year, by project, specifically showing the amount of the project move, the project cost variance, and the percent of project cost variance to further break down the plan variances into project moves and project cost variances. He testified that the following 19 projects were moved into Year 2018 from other years: Battery & Charger Equipment Projects – Transmission [Project ID TSB1], Relay & Breaker Upgrade – Monticello 13832 & 13847 W (Breaker Only) and 69kV Trsfrmr & Line (Relay and Breaker) [Project ID TSRU27], Relay & Breaker Upgrade – RMS to Thayer, Stark 13874 [Project ID TSRU34], Breaker Replacement – Burns Ditch – 13810-37, 13838-#1, 13810-#1 [Project ID TSBRU7], Circuit 3465 Rebuilt – 69kV Laporte JCT to Tee Lake [Project ID TLNRL6], Circuit 3465 Rebuild – New Carlisle to Olive [Project ID TLNRL9], Line Pre-construction – Transmission [Project ID TLPC1], Underground Cable Replacement Projects [Project ID DUG1], 4kV Line Pre-construction [Project ID D4KVLPC1], Power Transformer Projects – Distribution [Project ID DSTU1], Breaker Upgrade – Fisher Switchgear #1 and #2 [Project ID DSBRU9], Breaker Upgrade – Merrillville Switchgear [Project ID DSBRU12], Breaker Upgrade – Model Switchgear [Project ID DSBRU13], Replace Transformer – Flint Lake #7 69/12kV [Project ID DSTU7], Rebuild Substation – Indiana Harbor #1 XFMR and #1 Switchgear [Project ID DSNRS19], Rebuild Substation – Warsaw #3 & #4 Transformer and Recloser Upgrade [Project ID DSNRS20], Substation Pre-construction – Distribution [Project ID DSPC1], Switches to Clear Incoming Lines Projects – Distribution [Project ID DLSW1], and Circuit 3433 Rebuild – Grandview to Bendix West Side [Project ID DLNRL24].

Mr. Vamos noted that the following 40 projects were moved into Year 2019 from other years: Battery & Charger Equipment Projects – Transmission [Project ID TSB1], Fiber Optic - Green Acres to St. John – 13888 [Project ID TSRU29], Fiber Optic & Relay Upgrade - Miller to Burns Ditch – 13810 [Project ID TSRU30], Fiber Optic - Munster to Taney – 13895 [Project ID TSRU31], Relay & Breaker Upgrade - Dune Acres to Aetna, Praxair #5 – 13805 [Project ID TSRU32], Relay Upgrade – Tower Road to Babcock – 13898 [Project ID TSRU35], Relay Upgrade - Barton Lake to Kinderhook (METC) – 13802 [Project ID TSRU38], Fiber Optic - Leesburg to Kosciusko – 13881 [Project ID TSRU44], New/Rebuild Substation - Luchtman #1 Transformer, Relay & Breaker Upgrades 138kV & 69kV, Line Exit 69kV [Project ID TSNRS6], New/Rebuild Substation - Hartsdale #1 & #2 138/69kV Transformers; Relay & Breaker Upgrades (69kV) [Project ID TSNRS9], East Chicago Substation [Project ID TSNRS14], New/Rebuild Substation - Munster 345/138kV Transformer Upgrade; 34504-22 BKR; #2 XFR 138kV & 13894-#2 XFR [Project ID TSNRS15], Substation Pre-construction - Transmission [Project ID TSPC1], Substation Engineering – Transmission [Project ID TSE1], Line Switch Projects – Transmission [Project ID TLSW1], Circuit 3465 Rebuild - New Carlisle to Olive [Project ID TLNRL9], Circuit 6934 Rebuild - Green Acres Phase 2 [Project ID TLNRL13], Line Pre-construction – Transmission [Project ID TLPC1], Underground Cable Replacement Projects [Project ID DUG1], 4kV Conversion - Hobart Road – 21242 [Project ID D4KVL12], 4kV Conversion - Hobart Road -

21343 [Project ID D4KVL14], 4kV Line Pre-construction [Project ID D4KVLPC1], Arrester Projects – Distribution [Project ID DSA1], Replace Breaker - Schererville - Switch Gear [Project ID DSBRU6], Breaker Upgrade - Fisher Switchgear #1 and #2 [Project ID DSBRU9], Breaker Upgrades - Monticello – Switchgear [Project ID DSBRU33], O'Leary Substation [Project ID DSNRS15], New Valparaiso Substation - Silhavy Substation [Project ID DSNRS25], Substation Pre-construction - Distribution [Project ID DSPC1], Substation Engineering – Distribution [Project ID DSE1], Circuit Rebuild - Deer Run - 12-274 [Project ID DLNRL30], Circuit Rebuild - Virginia - 12-412 [Project ID DLNRL31], Circuit Rebuild - Wawasee - 12-441 [Project ID DLNRL34], Circuit Rebuild - Roxana - 12-316 [Project ID DLNRL35], Circuit Rebuild - Waterloo – 1299 [Project ID DLNRL36], Circuit Rebuild - Highland - 12-444 [Project ID DLNRL38], Circuit Rebuild - Hyde Park - 12-291 [Project ID DLNRL40], Circuit Rebuild - South Hammond - 12-720 [Project ID DLNRL42], Circuit Rebuild - Tilden - 12-650 [Project ID DLNRL43], Line Pre-construction - Distribution [Project ID DLPC1].

Mr. Vamos identified the following 20 projects which were moved into Year 2020 from other years: Arrester Projects – Transmission [Project ID TSA1], Fiber Optic - Munster to Taney – 13895 [Project ID TSRU31], Rebuild Substation – Leesburg Transformer, Breaker, & Relay Upgrade [Project ID TSNRS11], Substation Pre-construction - Transmission [Project ID TSPC1], Substation Engineering – Transmission [Project ID TSE1], Steel Structure Life Extension Projects - Transmission [Project ID TLST1], Circuit 3465 Rebuild - 69kV Laporte JCT to Tee Lake [Project ID TLNRL6], Line Pre-construction – Transmission [Project ID TLPC1], Underground Cable Replacement Projects [Project ID DUG1], 4kV Conversion - Central – 5443 [Project ID D4KVL17], Relay & Breaker Upgrade - Lake George 34kV [Project ID DSRU8], Breaker Upgrade – Highland - #4 Switchgear [Project ID DSBRU21], Rebuild Substation - Nappanee [Project ID DSNRS37], Substation Pre-construction - Distribution [Project ID DSPC1], Substation Engineering – Distribution [Project ID DSE1], Circuit 3433 Rebuild - Grandview to Bendix West Side [Project ID DLNRL24], Circuit Rebuild - Waterloo – 1299 [Project ID DLNRL36], Circuit Rebuild - Greenway - 12-404 [Project ID DLNRL47], Circuit Rebuild - Greenway - 12-542 Reconductor [Project ID DLNRL55], Line Pre-construction - Distribution [Project ID DLPC1].

Mr. Vamos testified that the following 8 projects were moved into Year 2021 from other years: Arrester Projects – Transmission [Project ID TSA1], Potential Transformer Projects – Transmission [Project ID TSPT1], Relay Upgrades - Green Acres to St John - 13888 [Project ID TSRU61], Breaker Upgrade - Northeast Upgrades (138kV & 69kV) [Project ID TSBRU13], Breaker Upgrade – St. John Upgrades (325kV & 138kV) [Project ID TSBRU19], Breaker Upgrade - Northport Upgrades (138kV & 69kV) [Project ID TSBRU24], Line Switch Projects – Transmission [Project ID TLSW1], Circuit Rebuild - Madison 12-625 [Project ID DLNRL61].

Mr. Vamos noted that the following 11 projects were moved into 2022 from other years: Upgrade 138kV Circuit Protection Breakers & Relays [Project ID TSRU18], Breaker Replacement - Burns Ditch - 13810-37, 13838-#1, 13810-#1 [Project ID TSBRU7], Breaker Upgrade - Michigan City Upgrades (138kV) [Project ID TSBRU9], Breaker Upgrade - Northeast Upgrades (138kV & 69kV) [Project ID TSBRU13], Replace 69kV Breakers [Project ID TSBRU3], Rebuild Substation - Goshen Junction - #1 138/69kV Transformer and 69kV Relay and Breaker Upgrades [Project ID TSNRS12], Underground Cable Replacement Projects [Project ID DUG1], Replace 12kV Breakers [Project ID DSBRU3], Replace Transformer - Idaville #1 69/12kV [Project ID

DSTU9], Rebuild Substation - Lowell - #1 Transformer and #1 Switchgear & #2 Switchgear [Project ID DSNRS22], Line Switch Projects - Distribution [Project ID DLSW2].

Mr. Vamos noted that PCR forms were provided for the projects with cost increases greater than or equal to $30,000 or 15% that were included in Plan Update-6, each of which were supported by PCRs. Mr. Vamos also provided testimony that described the projects with cost increases greater than or equal to $100,000 or 20% that were included in Plan Update-6.

The Commission finds that each of the variances and moves between years were made pursuant to the terms of the Commission-approved 44733 Settlement and should be approved.

(d) **Cost Caps under NIPSCO's Updated TDSIC Plan.** The evidence in this proceeding, including Petitioner's Exhibit No. 3, Confidential Attachment 3-A, indicates that NIPSCO removed one project in Plan Update-6 and has reduced the cost estimates for several other projects based on an expectation that certain work associated with those projects will no longer be required.[10] In this proceeding, NIPSCO did not propose any reductions to the annual or the total cost recovery caps agreed to in the 44733 Settlement for the project that was removed or the project estimates that were reduced.

The cost recovery caps at issue in this proceeding were agreed to by the Settling Parties to the 44733 Settlement, including NIPSCO, the OUCC, and the Industrial Group. Whether the annual or total cost recovery caps should be adjusted based on the project that was removed and/or the project estimates that were reduced in Plan Update-6 is, therefore, dependent on the terms of that settlement. Paragraph 4(b) of the 44733 Settlement provides that NIPSCO will complete "substantially all" of the projects within the TDSIC Plan; it does not mandate that "all" of the projects listed in the plan be completed. This is expressly confirmed by Paragraph 5(a), which provides that "[n]othing in [the 44733] Settlement nor in the [TDSIC] Plan obligates NIPSCO to implement the entirety of the [TDSIC] Plan[.]" Furthermore, as Paragraph 5(a) of the 44733 Settlement provides, NIPSCO has "flexibility to adjust the [TDSIC] Plan as circumstances dictate . . . ." To the same effect, Paragraph 4(b) provides that NIPSCO may use "any" project in its plan to comprise its overall cap on plan expenditures.

When a project is removed from the Plan, or work associated with a project is otherwise no longer required, nothing in the 44733 Settlement requires NIPSCO to reduce the annual or total cost recovery caps. Rather, under Paragraph 4(c) of the 44733 Settlement, "annual spend" is subject to adjustments "in accordance with Paragraph 5(b)." And according to that paragraph, annual cost caps must be adjusted when a project is "rescheduled to a different year." This paragraph says nothing about making any such adjustment when NIPSCO no longer plans to complete a project, nor does any other provision of the 44733 Settlement.

NIPSCO's proposal in this proceeding is also consistent with past practice as evidenced by Petitioner's Confidential Exhibit No. 3, Confidential Attachment 3-A in TDSIC 2 through TDSIC

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[10] The project removed (Project ID TSBRU2, along with its engineering costs, Project ID TSE1) is reflected on Line Numbers 3 and 26 of Confidential Attachment 3-A in the section titled "Currently Not Required." The projects that have reduced project cost estimates associated with work that NIPSCO currently does not anticipate being needed are reflected on Line Numbers 1 through 58 (except Line Numbers 3 and 26) of the same section of Confidential Attachment 3-A.

5.[11] In each of these four prior proceedings, NIPSCO included a section in each Confidential Attachment 3-A titled "Currently Not Required," which set forth the projects that were removed from the TDSIC Plan and/or the project estimates that were reduced because NIPSCO deemed certain associated work to be no longer necessary. In each instance, NIPSCO did not propose to reduce the cost cap for any such occurrence, no party to the proceeding objected, and the Commission approved NIPSCO's updated plan petition for cost recovery.[12]

While it is true that Paragraph 2(e) of the TDSIC 4 Settlement reduces the annual and total cost recovery caps originally established in the 44733 Settlement, that settlement has no bearing on whether cost caps should be reduced here. First, by its express terms, the TDSIC 4 Settlement was intended to resolve issues arising out of Cause No. 44733 TDSIC 4 between the "Settling Parties," *i.e.*, NIPSCO and the OUCC, and in particular the issues arising out of the Supreme Court Opinion in *NIPSCO Industrial Group v. NIPSCO*, Case No. 18S-EX-334, TDSIC 4 Settlement, which addressed the requirements for "designating" so-called "multiple-unit projects" in TDSIC plans. Consistent with the Supreme Court Opinion, and "solely for purposes of compromise and settlement," NIPSCO agreed to remove from its Plan some of the projects that had been challenged in TDSIC 4, collectively referred to in the Settlement as the "Removed Projects." TDSIC 4 Settlement at par. 1, 2(a). All of the Removed Projects, and several others, had been challenged in TDSIC 4 as having been insufficiently "designated" in NIPSCO's original 7-Year Electric Plan. The Settling Parties in turn agreed to reduce the overall plan cap and annual caps established in the 44733 Settlement "by the amounts associated with the Removed Projects." TDSIC 4 Settlement at par. 2(e). Therefore, the Settling Parties' agreement in TDSIC 4 to reduce the caps had everything to do with a compromise reached between the Settling Parties to ensure the Plan conformed to the Supreme Court Opinion and nothing to do with the "flexibility" provided NIPSCO to adjust its Plan "as circumstances dictate," and as exercised by NIPSCO here, pursuant to the 44733 Settlement.

The Stipulation and Settlement Agreement dated November 5, 2018 by and between NIPSCO, the OUCC, and Industrial Group approved in the December 27, 2018 Order in Cause No. 44403 TDSIC 9 (the "Gas TDSIC Settlement"), like the TDSIC 4 Settlement, is not relevant to the issues in this proceeding or the interpretation of the 44733 Settlement. While it is true that in Cause No. 44403 TDSIC 10, NIPSCO decreased the total cap (agreed to in the Gas TDSIC Settlement) as a result of the removal of two projects from the Gas TDSIC Plan, the Gas TDSIC Settlement, like the 44733 Settlement, is silent as to the treatment of the removal of a project from the Plan. Moreover, and critically, unlike the 44733 Settlement, which requires NIPSCO to complete "substantially all" of the projects within the Electric TDSIC Plan (a phrase that presupposes that not all projects will necessarily be completed) and provides NIPSCO "flexibility" to adjust the Electric TDSIC Plan as circumstances may require, similar provisions are not included in the Gas TDSIC Settlement. Again, the Gas TDSIC Settlement is not instructive or even relevant (let alone precedential) when determining whether cost caps should be reduced here, as the language of the 44733 Settlement is controlling.

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[11] As noted above, either the Industrial Group or NIPSCO requested administrative notice of Confidential Attachment 3-A and the Commission's Orders in Cause Nos. 44733 TDSIC 2, TDSIC 3, TDSIC 4, and TDSIC 5, both of which were granted.

[12] The Industrial Group was a party to each of these proceedings.

NIPSCO's proposal in this proceeding—which removes some projects or work associated with certain projects from Plan Update-6 but does not reduce the annual or total cost recovery caps—is no different than its proposals in prior TDSIC tracker proceedings, which were all approved by the Commission. The Commission finds that NIPSCO's proposal is consistent with the terms of the 44733 Settlement and should therefore be approved.

(e) **Projects Included in Plan Update-6.** In his direct testimony, NIPSCO Witness Vamos explained Plan variances and proposed cost increases, as discussed above. Mr. Vamos also described why there were new Project IDs in Plan Update-6. He explained that when a project moves from a parametric estimate to having a detailed scope, NIPSCO establishes a Project ID and Project Name and includes that in the Plan update and that, in some cases, a project that was previously included in the TDSIC Plan as a grouped project is broken out into a specific asset or location and given its own Project ID, and in other cases, dollars move from a unit based project to one specific project.

(f) **Revenue Requirement for Approved Capital Expenditures and TDSIC Costs.** As supported by NIPSCO Witness Blissmer, NIPSCO requested authority to earn a return on \$500,864,670, as shown on Attachment 1, Schedule 1 (Page 3), which includes allowance for funds used during construction ("AFUDC") and other indirect costs, and is net of accumulated depreciation. Mr. Blissmer further testified that once the Commission approves the proposed ratemaking treatment for costs of eligible TDSIC assets incurred for the period ended June 30, 2019 ("TDSIC 6 Period"), as shown on Attachment 1, Schedule 1, NIPSCO will cease to accrue AFUDC for those costs, which will begin receiving CWIP ratemaking treatment.

Mr. Blissmer testified that NIPSCO calculated the depreciation expense related to TDSIC capital expenditures according to each asset's designated Federal Energy Regulatory Commission account classification. He also testified that pursuant to the 44733 Settlement, the annual revenue requirement for the return on investment is calculated by multiplying the June 30, 2019, net book value of all TDSIC projects by the debt and equity components of NIPSCO's weighted average cost of capital ("WACC"), as shown on Attachment 1, Schedule 2.

Finally, Mr. Blissmer testified that the revenue conversion factor used to compute NIPSCO's pre-tax revenue requirement is calculated for debt and equity in order to properly synchronize interest for the purpose of calculating the revenue requirement on Attachment 1, Schedule 2 and Schedule 3. He stated the federal income tax rate used in this computation is the 21% corporate rate that became effective with the passing of the Tax Cuts and Jobs Act of 2017 ("TCJA").

Based on a review of the evidence and finding that project costs variances should be approved, we find that NIPSCO's proposed revenue requirement has been calculated in compliance with the TDSIC tracker methodology outlined in Rider 788.

(g) **Depreciation and Property Tax Expenses.** NIPSCO Witness Blissmer testified that Attachment 1, Schedule 4 contains the depreciation expense and property taxes for the TDSIC 6 period. Mr. Blissmer explained how the total actual depreciation expense incurred is reduced by the amount of LED street lighting expenses that were billed through Rate 750 for the corresponding TDSIC 6 period to determine the adjusted expense revenue requirement, which is then reduced to 80% and multiplied by the Utility Receipts Tax rate factor to determine the proposed total depreciation and property tax expenses revenue component to be recovered for bills rendered during the TDSIC 6 Billing Period.[13]

The Commission finds that NIPSCO's total depreciation and property tax expense associated with eligible TDSIC projects should be approved.

(h) **Reconciliation.** NIPSCO Witness Blissmer testified this filing includes a reconciliation of the revenues billed in accordance with the Commission's TDSIC 4 Order. Mr. Blissmer stated that the reconciliation of the TDSIC 4 billing period resulted in a net under-collection primarily due to lower actual volumes than forecasted volumes for the billing period.

The Commission finds that NIPSCO has appropriately reconciled the revenues billed in accordance with the TDSIC 4 Order.

(i) **Cost Allocation.** NIPSCO Witness Blissmer testified that NIPSCO was including two sets of proposed TDSIC factors in this proceeding. According to Mr. Blissmer, this was necessary because of an opinion rendered by the Court of Appeals of Indiana, which resulted from an appeal filed by the NIPSCO Industrial Group of the Commission's Order in Cause No. 44733 TDSIC 2 ("TDSIC 2 Decision"), which reversed the Commission's approval of NIPSCO's allocation factors in TDSIC 2. NIPSCO's first set of proposed TDSIC factors, provided in Attachment 1-A, Attachment 1, use the customer class revenue allocation factors based on firm load approved for purposes of the TDSIC tracker in its most recent retail base rate case order. These allocation factors are provided in Attachment 1-A, Attachment 2, Schedule 4 and are used to allocate the related transmission and distribution revenue requirements in this proceeding, which are shown on Attachment 1-A, Attachment 1, Schedule 7.

NIPSCO's direct case offered a second, alternative set of allocation factors, provided in Attachment 2-A, Attachment 2, Schedule 4, which were utilized to allocate the related transmission and distribution revenue requirements, as shown on Attachment 2-A, Attachment 1, Schedule 7. These alternative allocation factors include an adjustment to the Joint Exhibit D factors approved in Cause No. 44688 to remove interruptible load, which was determined using later known interruptible load from participating industrial customers as a percentage of total load for the first effective billing periods of August 2016 through January 2017. Mr. Blissmer noted that the adjustment for subsequently known firm percentages of total load reduces the Transmission Revenue Requirement Allocation Factors for Rates 732, 733, and 734, while increasing the factors for the other rate classes.

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[13] Mr. Blissmer explained that NIPSCO proposed a billing period of 13 months because it expects to receive a final Order in Cause No. 45159 in December 2019. He stated that once a final Order is received in Cause No. 45159, NIPSCO will be prohibited from filing a petition seeking recovery of TDSIC costs for a period of 9 months from the date of the final Order. He explained that because of the 120-day procedural schedule for TDSIC trackers, NIPSCO will not be able to implement new factors for approximately one year from the date the final Order is received in Cause No. 45159.

NIPSCO's rate factors in TDSIC 2, TDSIC 3, TDSIC 4, and TDSIC 5 were based on firm load and billed based on firm load in conformance with the Commission's TDSIC 2 Order. In the TDSIC 2 Order, the Commission found that:

> Ind. Code Section 8-l-39-9(a)(l) states that the Petition must use the customer class revenue allocation factor based on firm load approved in the public utility's most recent retail base rate case order. Specific to the evidence of this proceeding, the Parties explicitly agreed to and the Commission approved the allocation factors established in the Rate Case Settlement and the Settlement. Those agreements leave no question as to what factors would be applied and made no allowance for subsequent adjustments for migrations. Thus, we find that the allocation factors reflected in Joint Exhibit D to the Rate Case Settlement are to be used to calculate NIPSCO's TDSIC-2 customer class specific revenue requirement. Further, we find that the derivation of the customer class specific rate factors to collect the class allocated revenue should use the firm load within that class as proposed by Mr. Westerhausen. (Footnote deleted).

This finding to use allocation factors based on firm load from TDSIC 2 was appealed by the NIPSCO Industrial Group and addressed by the Court of Appeals in Case No. 93A02-1711-EX-02735. NIPSCO Industrial Group petitioned to transfer to the Indiana Supreme Court, which was granted on September 27, 2018 and docketed as Case No. 18S-EX-475. On June 27, 2019, the Indiana Supreme Court issued its opinion upholding the Commission's decision. On July 26, 2019, NIPSCO Industrial Group sought rehearing, which was denied by the Indiana Supreme Court on September 13, 2019.[14]

The Commission finds that NIPSCO has properly allocated its approved capital expenditures and TDSIC costs to the various customer classes in accordance with Ind. Code § 8-1-39-9(a)(1) and our prior orders in Cause Nos. 44733, TDSIC 2, TDSIC 3, TDSIC 4, and TDSIC 5 and that the allocators reflected in Attachment 1-A, Attachment 2, Schedule 4 should be approved.

(j) <u>Calculation of TDSIC Factors</u>. NIPSCO Witness Blissmer testified that Attachment 1, Schedule 8 shows the calculation of the TDSIC factors by rate code based on the previously calculated revenue requirements. He explained the factors are calculated by combining the various components of the allocated revenue requirement and dividing those components by forecasted firm volumes to compute a billing factor for bills rendered by NIPSCO for the TDSIC 6 Billing Period.

The Commission finds that the proposed TDSIC factors set forth in Attachment 1, Schedule 8 were correctly calculated, and such factors should be approved.

(k) <u>Projected Effect on Retail Rates and Charges as Required by Ind. Code § 8-1-39-9(a)(3)</u>. Ind. Code § 8-1-39-9(a)(3) requires NIPSCO to identify the projected effects of

[14] A similar finding from TDSIC 3, TDSIC 4, and TDSIC 5 was also under appeal by the NIPSCO Industrial Group at the time NIPSCO filed its case-in-chief in this proceeding. NIPSCO Industrial Group filed a Verified Unopposed Voluntary Motion to Dismiss Appeal with Prejudice in each of these appeals, all of which were granted by Order dated September 25, 2019.

the plan on retail rates and charges. The projected effects of the TDSIC factors on retail rates and charges are shown on Attachment 2, Schedule 5.

The Commission finds that NIPSCO identified the projected effects of the TDSIC Plan on retail rates and charges as required by Ind. Code § 8-1-39-9(a)(3).

(l) **Average Aggregate Increase in Total Retail Revenues under Ind. Code § 8-1-39-14.** Section 14(a) states as follows:

> The commission may not approve a TDSIC that would result in an average aggregate increase in a public utility's total retail revenues of more than two percent (2%) in a twelve (12) month period. For purposes of this subsection, a public utility's total retail revenues do not include TDSIC revenues associated with a target economic development project.

Mr. Blissmer testified that Attachment 1, Schedule 9 shows that there is no amount in excess of 2% of retail revenues for the past 12 months. NIPSCO has calculated the 2% cap by comparing the increase in TDSIC revenues in a given year with the total retail revenues for the past 12 months. The retail revenues used in this calculation represent the revenues related to the 12 months ending June 30, 2019.

The Commission finds that NIPSCO's proposed TDSIC 6 factors will not result in an average aggregate increase in NIPSCO's total retail revenues of more than 2% in a 12 month period.

(m) **Deferred TDSIC Costs.** Mr. Blissmer testified that NIPSCO requests to defer and recover 80% of the post-in service costs, including carrying costs and pretax returns, depreciation, and taxes associated with the approved TDSIC projects through the TDSIC adjustment factor. He explained that NIPSCO proposes to defer these costs as a regulatory asset until such costs are recognized for ratemaking purposes through NIPSCO's proposed TDSIC adjustment factor or included for recovery in NIPSCO's base rates and charges in NIPSCO's next general rate case. Mr. Blissmer also testified that pursuant to Ind. Code § 8-1-39-9(b), NIPSCO proposes that 20% of the approved capital expenditures and TDSIC costs, including depreciation, pretax returns, AFUDC, post in service carrying costs, and property taxes be deferred and recovered in NIPSCO's next general rate case. Attachment 1, Schedule 10 is an illustrative ratemaking schedule that accumulates deferred costs, as well as the ongoing carrying charges, on all deferred costs until such time as the costs can be recovered in a future general rate case. He further testified that these amounts exclude tax gross up, which would otherwise be included for recovery at the prevailing tax rates when NIPSCO files a future general rate case, and that this calculation has no impact on current or proposed rates in this proceeding.

The Commission approves NIPSCO's proposal to defer these costs as a regulatory asset until such costs are recognized for ratemaking purposes through NIPSCO's proposed TDSIC adjustment factor or included for recovery in NIPSCO's basic rates and charges.

(n) **Compliance with the 44733 Order.** NIPSCO Witness Figg explained how NIPSCO tracks and complies with the various provisions of the 44733 Settlement approved in the 44733 Order. The 44733 Settlement requires that in the event that a project is rescheduled, in whole or in part, to a different year, the annual cost recovery caps for the affected years will be adjusted by that project's whole or partial approved cost estimate to reflect the change. Ms. Figg sponsored Confidential Attachment 4-A (7-Year Electric Plan Cap Movement) and explained how the project moves are tracked and how the original project estimate is subtracted from the year the project moves from and added to the year the project moves to. She also explained that the overall 7-Year Cap amount of the project move will be zero and that the total 7-Year Cap will remain at $1,191,565,539.[15] Ms. Figg also explained the annual cap amounts for direct capital costs, indirect capital costs, and AFUDC included in Plan Update-6. Ms. Figg testified that since the actual amount for Year 2018 of $137,380,657 in Plan Update-6 does not exceed the $140,711,494 annual cap for 2018, NIPSCO is in compliance with the 44733 Order and Settlement. This calculation is illustrated in Attachment 4-B, which shows $0 in excess of the 2018 limits on line 25.

The 44733 Order set the cap on total capital costs eligible for TDSIC ratemaking treatment at $1.25 billion and required NIPSCO to remove $80 million of capital expenditures from the TDSIC ratemaking treatment. Ms. Figg sponsored Attachment 4-B (7-Year Electric Plan: Cap vs Plan), showing how Plan Update-6 compares to the Cap and confirmed that the tracker eligible amounts, as adjusted by the TDSIC 4 Settlement, do not exceed the revised $1.19 billion cap.

The 44733 Order allows NIPSCO to deviate above each annual cost recovery cap by no more than 5% in a rolling historical three-year period. Ms. Figg sponsored Attachment 4-B computing the maximum allowed recovery based on the annual cap plus 5% in the historical three-year period. Ms. Figg confirmed that the amounts included in the Annual TDSIC Tracker Eligible line, as shown on line 22 of Attachment 4-B, are the amounts allowed to be recovered through TDSIC, and are compliant with the 44733 Settlement, as revised by the TDSIC 4 Settlement.

The 44733 Order requires TDSIC investments to be split (+/- 1%) between transmission (39%) and distribution (61%). Mr. Vamos testified that, by the end of the Plan, the overall composition of the projects included in the Plan will be comprised of 61% distribution and 39% transmission, +/- 1%. He explained that the previous removal of Multiple Unit Projects, which included only distribution projects, impacts the distribution/transmission split beginning in 2019 and through the end of the Plan but that NIPSCO is committed to be in compliance with the terms of the 44733 Order and, in future TDSIC Plan updates, will keep interested parties and Commission apprised of efforts to achieve the required distribution/transmission split by the time its Plan is completed.

The 44733 Order approved up to $3.5 million for an Economic Development project for the LaPorte County Kingsbury Industrial Park ("Kingsbury Projects") including a $2.5 million project for substation upgrades as provided for in the Commission's July 18, 2016, Order in Cause No. 44688 and up to $1.0 million for other distribution infrastructure upgrades. NIPSCO Witness Vamos stated that no capital expenditures for the Kingsbury Project had yet been made, but any capital expenditures related to the Kingsbury Project will be included in future tracker filings by NIPSCO.

[15] The 7-Year Cap was reduced to $1.19 billion as part of the TDSIC 4 Settlement.

The Commission finds that NIPSCO has complied with the 44733 Settlement terms approved in the 44733 Order.

(o) <u>Compliance with the TDSIC 1 S1 Order</u>. Ms. Becker explained that NIPSCO included in its presentation at its electric TDSIC stakeholder meeting an update on the number of mast arm rotation and power supply cable replacements associated with the TDSIC LED Street Lighting Project, along with the associated cost, as required by the TDSIC 1 S1 Order.

The Commission finds that NIPSCO has complied with the requirement to provide an update on the number of mast arm rotation and power supply cable replacements associated with the TDSIC LED Street Lighting Project, along with the associated costs, as required by the TDSIC 1 S1 Order.

5. <u>Confidential Information</u>. On August 21, 2019, NIPSCO filed a motion for protective order which was supported by affidavit showing documents to be submitted to the Commission were trade secret information as defined by Ind. Code § 24-2-3-2 and within the scope of Ind. Code § 5-14-3-4(a)(4) and (9). On September 3, 2019, the Presiding Officers issued a Docket Entry finding such information to be preliminarily confidential, after which such information was submitted under seal. We find all such information is confidential pursuant to Ind. Code § 5-14-3-4, 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.

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

1. NIPSCO's proposed adjustment to its TDSIC Rate Schedule to be applicable for bills beginning with the first billing cycle in January 2020 and until another factor is approved to effectuate the timely recovery of 80% of approved capital expenditures and TDSIC costs incurred in connection with NIPSCO's eligible transmission, distribution, and storage system improvements is approved.

2. NIPSCO is authorized to defer, as a regulatory asset, 20% of eligible and approved capital expenditures and TDSIC costs and record ongoing carrying charges based on the current overall weighted cost of capital on all deferred TDSIC costs until such costs are included for recovery in NIPSCO's next general rate case.

3. NIPSCO's Plan Update-6, including actual and proposed estimated capital expenditures and TDSIC costs that exceed the amounts approved in Cause No. 44733 TDSIC 5 and its proposal to remove one project and work associated with certain projects from Plan Update-6 but not to reduce the annual or total cost recovery caps, is approved.

4. NIPSCO is authorized to allocate transmission and distribution revenue requirements by using the allocation percentages contained on Joint Exhibit D as previously approved in Cause No. 44688. For the derivation of the customer class specific rates, NIPSCO shall use the firm load within each rate class.

5. NIPSCO is authorized to adjust its authorized net operating income to reflect any approved earnings associated with the TDSIC for purposes of Ind. Code § 8-1-2-42(d)(3) pursuant to Ind. Code § 8-1-39-13(b).

6. NIPSCO is authorized to defer and recover 80% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6 through the TDSIC and to defer 20% of eligible and approved capital expenditures and TDSIC costs in connection with Plan Update-6, for recovery in its next general rate case.

7. NIPSCO is authorized to record ongoing carrying charges based on the current overall WACC on all deferred TDSIC costs until such costs are recovered in NIPSCO's base rates as a result of its next general rate case.

8. Prior to implementing the authorized TDSIC factors, NIPSCO shall file the applicable rate schedules under this Cause for approval by the Commission's Energy Division.

9. 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, 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.

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

HUSTON, FREEMAN, OBER, AND ZIEGNER CONCUR; KREVDA ABSENT:

APPROVED: DEC 18 2019

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

Mary M. Becerra

Mary M. Becerra
Secretary of the Commission