

OFFICIAL EXHIBITS

Petitioner's Exhibit No. 4-R
Northern Indiana Public Service Company LLC
Cause No. 45700
Page 1

IURC
PETITIONER'S
EXHIBIT NO. 4-R
11-10-22 AT
DATE REPORTER

VERIFIED REBUTTAL TESTIMONY OF GUNNAR J. GODE

1 **Q1. Please state your name, business address and title.**

2 A1. My name is Gunnar J. Gode. My business address is 240 W Nationwide Blvd,
3 Columbus, Ohio 43215. I am Vice President and Chief Accounting Officer for
4 NiSource Corporate Services Company ("NCSC"), a wholly-owned subsidiary of
5 NiSource Inc. ("NiSource").

6 **Q2. On whose behalf are you submitting this direct testimony?**

7 A2. I am submitting this testimony on behalf of Northern Indiana Public Service
8 Company LLC ("NIPSCO")

9 **Q3. Are you the same Gunnar J. Gode who prefiled direct testimony in this**
10 **proceeding?**

11 A3. Yes.

12 **Q4. What is the purpose of your rebuttal testimony in this proceeding?**

13 A4. The purpose of my rebuttal testimony is to respond to certain accounting concerns
14 raised in the direct testimonies of Indiana Office of Utility Consumer Counselor
15 ("OUCC") witnesses Cynthia Armstrong and Kaleb Lantrip, NIPSCO Industrial

1 Group ("Industrial Group") witness Brian Collins, and Citizens Action Coalition
2 of Indiana ("CAC") witness Ben Inskeep (collectively, the "Intervenors").
3 Specifically, I respond to the following:

- 4 • The Intervenors' common concern that the costs associated with NIPSCO's
5 proposed Ash Pond Compliance Project at Michigan City ("Compliance
6 Project") are not incremental to any pond closure costs already included in
7 NIPSCO's base rates. I describe how NIPSCO will account for the
8 Compliance Project costs and clarify that, except for approximately \$2.9
9 million (as of December 31, 2021) of estimated closure costs embedded in
10 and collected through depreciation commencing with NIPSCO's Cause No.
11 43969 rate case, NIPSCO's base rates do not include recovery for any of the
12 Compliance Project costs. As a result, NIPSCO will reduce the Compliance
13 Project costs by \$2.9 million to reflect this estimated amount. This estimated
14 collection amount will be updated at the time the project is completed and
15 collection begins in the tracker. As I will explain later, this offset will grow
16 by \$45,000 per month from December 2021 until approval of new
17 depreciation rates.
- 18 • Regarding concerns raised about retroactive ratemaking, I explain that

1 NIPSCO has not recorded any of these remediation costs as a regulatory
2 asset and has followed the historical approach to recovery of costs of
3 removal ("COR"). As such, these costs are not "unforeseen past losses" as
4 was deemed the case in the Indiana Supreme Court decision involving
5 Duke Energy Indiana.

6 • I support NIPSCO's proposed ratemaking treatment as reasonable and
7 appropriate and refute the Intervenor's assertion that the Compliance
8 Project costs recovered through the FMCA should not include indirect,
9 owner's, engineering, or design costs. I also respond to the Intervenor's
10 arguments regarding a return "on" component for the Compliance Project.

11 • Finally, I reiterate why the FMCA mechanism is appropriate for recovery
12 of costs for the Compliance Project and is consistent with NIPSCO's
13 treatment of these costs in its last rate case, where it was proposed and
14 accepted that the costs would not be included in the calculation of
15 depreciation rates at that time and instead would be presented to the
16 Commission for approval in a future case.

1 My rebuttal testimony is limited to a discussion of the issues set out below, and
2 the failure to address each and every issue in each piece of testimony does not
3 imply agreement with the positions taken by any party with respect to other
4 issues.¹

5 **Q5. Are you sponsoring any attachments to your rebuttal testimony?**

6 A5. Yes. I am sponsoring Attachment 4-R-A, NIPSCO's response to Industrial Group
7 Requests 2-009, 3-010-S (including attachment A thereto), and 4-001.

8 **NIPSCO's Compliance Project Costs are Incremental to Costs in Base Rates**

9 **Q6. Has NIPSCO recovered any amounts in current or previous rates associated with**
10 **compliance with the CCR Rule?**

11 A6. No. This was explicitly stated in response to Industrial Group Request 2-009,
12 included in Attachment 4-R-A.

13 **Q7. Please describe any costs previously recovered associated with closure of the**
14 **ash ponds at Michigan City?**

15 A7. NIPSCO's response to Industrial Group Request 3-008 (attached to Industrial
16 Group Witness Collins' testimony as Attachment BCC-4) describes all amounts

¹ The capitalized terms used herein are as defined in my direct testimony.

1 that have been incorporated in historical depreciation rates. It is also necessary to
2 review NIPSCO's response to Industrial Group Request 3-010-S, included in
3 Attachment 4-R-A.

4 In 1986, NIPSCO filed a general rate case in Cause No. 38045, when portions of
5 Schahfer Generating Station were still under construction. New depreciation rates
6 were approved in that case, and it appears that a decommissioning study may not
7 even have been done as a part of that work. *Northern Ind. Pub. Serv. Co.*, Cause No.
8 38045 (IURC 7/15/1987), p. 53. This was before there was any environmental
9 regulation of coal ash, and so those depreciation rates would not have included
10 any costs associated with environmental clean-up. Those depreciation rates
11 continued in place following the rate investigation case in Cause No. 41746 (IURC
12 9/23/2002), p. 25.

13 The first record of any estimated costs associated with the remediation of Michigan
14 City ash ponds being studied in conjunction with depreciation rates was a
15 demolition study included in Cause No. 43526. This estimate was limited to
16 installing a liner covered by soil and vegetation only. While these depreciation
17 rates were approved, they were never implemented.

1 In Cause No. 43969, the same demolition study (from Cause No. 43526) was used,
2 approved, and the associated depreciation rates became effective on December 21,
3 2011. This marked the first occasion that there was any recovery through
4 depreciation rates of anything associated with the closure of ash ponds, and it was
5 not the closure that is today required to comply with the CCR Rule.

6 In Cause No. 44688, the demolition study was updated to include the installation
7 of a liner and a cover for the ash ponds at Michigan City. Again, this was not to
8 address the requirements of the CCR Rule.

9 Then, in the depreciation rates set by the Commission in Cause No. 45159,
10 estimates were included for the closure of NIPSCO's three non-CCR (RCRA)
11 ponds (including groundwater monitoring).

12 In Cause No. 45159, NIPSCO provided preliminary estimates of the cost to comply
13 with the new CCR Rule. Referring back to my direct testimony at page 9, in light
14 of NIPSCO's pending 2018 Integrated Resource Plan ("IRP") and uncertainty
15 regarding the evolving CCR regulations coming from the EPA, NIPSCO proposed
16 not to include CCR ash pond removal costs in its Cause No. 45159 depreciation
17 rates because the estimates were so preliminary and IDEM had not yet approved

1 the closure plan. Instead, NIPSCO proposed to address recovery of these costs in
2 a subsequent proceeding, which NIPSCO Witness Carmichael testified would
3 either be a base rate case or a federal mandate case. NIPSCO Witness Shikany did
4 include an alternative revenue requirement in case the proposal to address CCR
5 Rule costs in a subsequent proceeding was not acceptable. No party objected to
6 NIPSCO's proposal to address the CCR costs in a subsequent proceeding, and the
7 OUCC specifically recommended that the costs be addressed in a future base rate
8 case. The demolition study (and associated depreciation rates) for Cause No.
9 45159 did not include any estimated cost of removal for future CCR ash pond
10 closure.

11 **Q8. OUCC Witness Armstrong (p. 15) testifies that "NIPSCO could have also**
12 **included the estimated costs of closure in Cause No. 45159, but it chose not to**
13 **include these costs and recover them through traditional ratemaking means." Is**
14 **this a fair characterization of what occurred?**

15 **A8.** No, NIPSCO presented alternative requests. As just described, one alternative
16 (which produced lower rates) excluded the preliminary estimate of this work so
17 that it could be the subject of a subsequent proceeding (either FMCA or
18 subsequent base rate case). But as was explained by Witness Shikany, "should the

1 Commission reject NIPSCO's proposal to exclude costs to comply with the Asset
2 Retirement Obligations from the demolition study," an alternative revenue
3 requirement with different depreciation rates would need to be used. (Shikany, p.
4 142.). To imply that this was solely NIPSCO's choice is inaccurate. Rather,
5 NIPSCO's filed position that was based on waiting for IDEM approval of closure
6 plans and better cost estimates and having lower depreciation rates until a future
7 case was embraced by the OUCC and not objected to by any other party.

8 **Q9. Have you calculated the total recovery through depreciation expense associated**
9 **with the Michigan City ash ponds?**

10 A9. Yes. Through the successive depreciation studies described above, NIPSCO
11 estimates that it has collected \$2.9 million associated with general ash pond closure
12 costs at Michigan City as of December, 2021. This amount will grow by \$45,722
13 per month until new depreciation accrual rates are approved in NIPSCO's
14 pending general rate case, Cause No. 45772, as set forth in the Company's response
15 to Industrial Group Request 3-010-S (included in Attachment 4-R-A). NIPSCO has
16 not previously recovered through rates any of the specific Ash Pond Compliance
17 Project costs proposed in this case—be it removing ash from the ash ponds or
18 otherwise closing the ash ponds in compliance with the CCR federal regulations.

1 **Q10. OUCC Witness Armstrong raises concerns about the prospects for double**
2 **recovery. How do utilities account for the collection of costs of removal through**
3 **depreciation rates and the incurrence of actual costs incurred for removal**
4 **activities?**

5 **A10.** The FERC Uniform System of Accounts does not precisely assign COR reserves
6 for specific removal tasks, specific projects, or specific assets. Depreciation rates
7 are set to collect estimated cost of removal for overall asset classes. Given the
8 generally long life of utility assets, cost of removal estimates are typically
9 established up front and collected over time to spread the eventual removal costs
10 across all customers who benefit from the underlying asset classes. As a result,
11 early estimates of cost of removal often times vary significantly from the actual
12 eventual costs incurred to remove – for many of the reasons we are seeing in this
13 proceeding – inflation, new regulations, new accepted practices, new defined legal
14 obligations, etc.

15 As depreciation rates are set, amounts associated with estimated COR are
16 recorded separately as a liability for the future work to be performed. When actual
17 costs are spent to remove or remediate upon pending or actual asset retirement,
18 these actual amounts incurred are recorded as a reduction to the cost of removal

1 liability using specific work orders documenting the removal and remediation of
2 the asset. Through the date of filing this proceeding, NIPSCO has not applied any
3 completed retirement work orders against previously filed depreciation reserves
4 for ash pond removal or remediation.

5 NIPSCO is effectively asking for the same treatment for the Compliance Project,
6 save that the costs would be tracked and recovered through a tracker instead of
7 depreciation included in base rates.

8 **Q11. Has NIPSCO incurred any costs before submitting this CPCN request?**

9 A11. NIPSCO has incurred preliminary planning costs associated with the Compliance
10 Plan prior to submitting this CPCN. These preliminary planning costs are
11 common for large projects including engineering and scoping and have been
12 captured in a specific retirement work order and recorded to Account 108.X,
13 Retirement Work in Progress. In order to present a viable project that meets
14 applicable environmental requirements and achieves compliance with the
15 underlying federally mandated requirements and to have the cost estimates
16 necessary to present a case to the Commission that meets statutory requirements,
17 these costs must be incurred and are essential to development of the Compliance
18 Project. This approach is consistent with NIPSCO's other cost of removal projects.

1 To the extent the project meets the requirements of the Federal Mandate Statute
2 and is approved by the Commission, these costs should be authorized for
3 recovery. This is also discussed in NIPSCO Witness Becker's rebuttal testimony.

4 **Q12. Industrial Group Witness Collins (p. 11) testifies that NIPSCO has not**
5 **identified a Commission Order authorizing deferred accounting for these costs.**
6 **Has NIPSCO recorded any of these costs to a regulatory asset or otherwise used**
7 **deferred accounting?**

8 A12. No. Industrial Group Witness Collins seems to presume this is the case, but
9 NIPSCO has not recorded these costs as a regulatory asset and, instead, will record
10 the amounts to FERC Account 108 (accumulated depreciation) consistent with
11 NIPSCO's recovery of COR costs through a base rate proceeding.

12 Unlike the factual circumstances in the Duke proceeding (where accumulated
13 costs were incurred over a period of many years to a regulatory asset on Duke's
14 books and recovery was sought after doing so), NIPSCO is following proper
15 accounting practices and has recognized its future estimated liability as it
16 interpreted the federal regulations (both RCRA and the CCR Rule) that it would
17 be required to comply with as set forth in this case.

1 To clarify, the recognition of that liability does *not* constitute the capture of
2 incurred costs in a regulatory asset. Should NIPSCO's petition be denied and
3 NIPSCO not be permitted to recover the federally mandated Compliance Project
4 through the FMCA tracker, the amounts recorded to Account 108 will continue to
5 be held there and will be factored into the calculation of depreciation rates when
6 those rates are studied and revised in future base rate proceedings.

7 **Q13. You stated previously and in Industrial Group Request 3-010-S that NIPSCO**
8 **clarified it had collected an approximate \$2.9 million related to Michigan City**
9 **coal ash pond remediation. How does this relate to standard depreciation and**
10 **cost of removal accounting and the amounts being sought for recovery in this**
11 **proceeding?**

12 A13. In normal course, NIPSCO would update its depreciation rates to include the
13 revised estimate for coal ash pond removal in light of final environmental
14 regulations. However, this Compliance Project is unique in three respects.

15 First, the Compliance Project is specifically mandated by the EPA, a federal
16 regulatory agency. The Federal Mandate Statute provides a mechanism to allow
17 utilities to recover costs associated with federally required work through the
18 FMCA. As noted above, IDEM's approval of Michigan City's Closure Plan came

1 after NIPSCO's last base rate; therefore, the extent of the related compliance work
2 was not known with precision at that time and the scope of the Compliance Project
3 changed drastically from previously accepted closure actions.

4 Second, the EPA CCR Rule regulations include a deadline by which the mandated
5 activities must be completed. NIPSCO cannot determine on its own when to
6 ultimately satisfy these regulations. NIPSCO has acted reasonably and
7 expeditiously to bring a comprehensive proposal to the Commission for approval
8 on a schedule that will allow for timely compliance.

9 Third, NIPSCO's coal generation fleet is nearing its end of life, as supported by its
10 2018 and 2021 IRPs and Cause No. 45159. As a result, NIPSCO will not in the
11 normal course be able to fully recover the significant costs mandated by the final
12 CCR regulations through future depreciation rates.

13 As noted, NIPSCO has not completed or closed out any costs related to the
14 Compliance Project. NIPSCO knows that none of the costs of CCR compliance
15 have been included in and recovered through past depreciation rates and that
16 approximately \$2.9 million associated with the three non-CCR ponds has been
17 included and that the work assumed to be done that was projected in these prior

1 studies will no longer be necessary as a result of NIPSCO's Compliance Project. It
2 is reasonable to reduce the projected Compliance Project costs that are the subject
3 of this case by the estimated \$2.9 million that was collected in previous
4 depreciation rates associated with limited coal ash pond closures, and NIPSCO
5 has revised its estimate requested in this proceeding accordingly. This balance
6 will be updated at the time NIPSCO seeks recovery for the project through the
7 FMCA for any subsequent recoveries of pond remediation through depreciation
8 rates. This eliminates the risk of double recovery.

9 **Q14. OUCC Witness Armstrong argues it is difficult to separate closure costs tracked**
10 **in a federally mandated compliance from demolition costs factored into**
11 **previous Commission base rate case decisions. Do you agree?**

12 A14. No, this assertion confuses two different issues. As the Commission knows,
13 NIPSCO is required to track any capital project individually (or in some specific
14 cases, grouped similar projects). This also applies to cost of removal projects to
15 support future depreciation studies. As a matter of standard practice, NIPSCO's
16 systems maintain unique project IDs within its books and records. NIPSCO will
17 do so for the Compliance Project in order to separately track costs for the FMCA
18 mechanism.

1 The Compliance Project is a discrete project that will be recorded and individually
2 identified in NIPSCO's Fixed Assets subledger. As discussed in Industrial Group
3 Request 4-001 (attached to my testimony as Attachment 4-R-A), the Major Projects
4 department will be providing the internal resources related to the Compliance
5 Project. The Major Projects team consistently capitalizes more than 80% of its time
6 to specific capital projects. Accordingly, their labor and benefits has not been
7 included in the cost of service requested in prior rate cases. Their time spent on
8 the remediation effort will be recorded to the specific Compliance Project
9 retirement work order and is not duplicative to costs being recovered through
10 current or past rates. When NIPSCO files its next rate case, the project costs
11 associated with the Compliance Project will be identified and all associated costs
12 excluded from the base rate proceeding.

13 **NIPSCO's Request is Not Retroactive Ratemaking**

14 **Q15. OUCC Witness Armstrong and CAC Witness Inskeep both cite to *Indiana Off.***
15 ***Of Util. Cons. Couns. V. Duke Energy Indiana*, 183 N.E.3d 266 (Ind. 2022). Are the**
16 **costs NIPSCO is seeking recovery of in this proceeding the type of unforeseen**
17 **past losses that were at issue in that proceeding?**

18 **A15. No. NIPSCO is aware of the recent Supreme Court decision involving Duke**

1 Energy Indiana and the Intervenor's arguments about its applicability to the
2 present case. However, NIPSCO's facts and circumstances are quite different than
3 that of the Duke Energy Indiana proceeding. As just described above, NIPSCO
4 filed multiple depreciation studies that included the estimated cost of removal,
5 both legal and non-legal, for all of its used and useful assets, including the then-
6 current cost estimates for the RCRA coal ash ponds remediation based on existing
7 requirements. These future costs were estimated during the course of each rate
8 case, as with all estimated costs of removal.

9 As noted above, NIPSCO excluded CCR costs from its proposed depreciation rates
10 in Cause No. 45159 because IDEM had not approved the Michigan City Closure
11 Plan and NIPSCO did not want to file the costs for recovery from customers until
12 the Closure Plan had been approved by IDEM and NIPSCO further refined
13 estimates of the work required to comply with the Closure Plan. This was done
14 without the objection of any other party. Because of this, there is no prior
15 Commission order governing the CCR-related costs, nor did NIPSCO initiate any
16 work related to this Compliance Project (or similar projects at other sites).

17 NIPSCO did identify the upcoming CCR costs in Cause No. 45159 and noted it
18 intended to seek recovery through a proceeding in the future. The parties, having

1 already accepted and benefited from the advantages of the lower rates produced
2 by NIPSCO's proposed treatment, now want to deny NIPSCO the opportunity to
3 obtain approval of the costs even though everyone understood that this present
4 case was the foundation of the proposal for lower depreciation rates adopted in
5 Cause No. 45159. No party expressed the position, until now, that following
6 through with this approach would somehow constitute retroactive ratemaking.

7 Further, the Company has not recorded any of these remediation costs as a
8 regulatory asset and, instead, has followed the historical approach to NIPSCO's
9 recovery of COR. Costs incurred for remediation will be recorded to accumulated
10 depreciation Account 108, not to a regulatory asset. While NIPSCO is always
11 updating cost of removal estimates and depreciation rates at each rate case, as the
12 costs are inherently estimates being continually updated, NIPSCO would not need
13 a specific order to allow recovery of these costs of removal.

14 **Q16. Does recovery of these costs represent retroactive ratemaking as the Intervenor**
15 **allege?**

16 A16. No. By definition, depreciation rates are estimates and are updated with each base
17 rate proceeding. To omit these costs would be akin to ignoring the long-standing
18 application of how depreciation is calculated and is incorporated into utility

1 ratemaking. Updating prior estimates is not "retroactive" it serves to bring prior
2 cost estimates into the present by updating for current market conditions and any
3 changes to project scope. Not allowing a utility to recover its needed capital
4 investments to comply with federal mandates would be inconsistent with the
5 Federal Mandate Statute itself. NIPSCO, once it had an IDEM-approved Michigan
6 City Closure Plan and had prepared an estimate of required costs based on that
7 approved Closure Plan, appropriately requested approval to recover the
8 associated costs of the Compliance Project through this FMCA.

9 **NIPSCO's Proposed Compliance Project Ratemaking Treatment is Reasonable and**
10 **Appropriate**

11 **Q17. OUCC Witness Armstrong cites to *Duke Energy Indiana*, Cause No. 44367**
12 **FMCA-4 (IURC 9/18/2019) for the proposition that it is inappropriate to incur**
13 **costs before the Commission has authorized them because "the point of a CPCN**
14 **proceeding is to determine whether the project and its attendant costs are**
15 **prudent *before* the utility passes such costs to consumers." Has the OUCC raised**
16 **concerns about the project?**

17 **A17. No. In fact, OUCC Witness Wright testifies (pp. 4-6) specifically that the ash pond**
18 **closure is necessary, that it is a federally mandated project, that he agrees with the**
19 **closure alternative NIPSCO has selected, and that NIPSCO's cost estimates are**

1 reasonable. As previously discussed, the costs incurred to date prior to submitting
2 the CPCN were required and appropriate planning costs, remediation costs
3 incurred since filing the CPCN are driven to meet the timeline set by the EPA. In
4 any case, these costs are federally mandated and have been included as part of the
5 Michigan City Closure Plan that has been approved by IDEM.

6 **Q18. Are you aware of instances where the Commission has allowed recovery of pre-**
7 **petition costs?**

8 A18. Yes. The Commission has a long history of approving similar pre-petition costs
9 for complex capital projects (*See* Cause No. 44971 (Petitioner filed August 3, 2017
10 with compliance costs incurred beginning January 2017, received FMCA
11 approval), and Cause No. 45052 and Cause No. 44988.) The Commission has
12 continued to approve these costs even since the issuance of the *Duke* decision by
13 the Indiana Supreme Court, finding that pre-petition TDSIC plan development
14 costs were needed to "assist [Petitioner] in showing these requirements were met,
15 particularly the project benefits in relation to their costs" and that "similar project
16 development costs have been approved in other proceedings." (Cause No. 45647,
17 June 15, 2022, Final Order at 31.) Even if post-Duke decision there was a concern
18 that costs actually incurred prior to a Commission order arguably constituted a

1 past loss or costs governed by a prior rate order, given NIPSCO's history of not
2 recovering CCR costs in prior rates, that argument has no bearing on this case.

3 **Q19. OUCC Witness Armstrong testifies (p. 13) that CCR closure costs are not capital**
4 **expenditures and therefore no return "on" should be applied. Do you agree?**

5 A19. No. NIPSCO's proposal is consistent with how normal retirement accounting
6 would similarly treat the recovery of these costs. In normal COR ratemaking,
7 once the retirement project is complete, it is closed out to Account 108
8 (accumulated depreciation). The effect is an increase (a debit to plant in
9 accounting terminology) and therefore, has the effect of increasing total net book
10 value of plant included in rate base.

11 The FMCA Tracker allows for a similar recovery. In each case, the project costs
12 are subjected to the weighted average cost of capital, and, in each case, a return
13 "on" is earned. Similarly, the return "of" is recovered through either the tracked
14 amortization of project in the FMCA Tracker or depreciation recovery in a base
15 rate case proceeding. Further, as the costs are recovered, the net book value
16 ("NBV") of the Project will decline so customers will receive the benefit of the
17 decline in NBV more timely than waiting between rate cases.

1 **Q20. OUCC Witness Lantrip testifies that indirect costs of removal do not qualify as**
2 **capital costs. Do you agree?**

3 A20. No. Mr. Lantrip recommends (p. 10) that NIPSCO's owner's and indirect costs
4 should be "reduced by the amounts already included in base rates for these
5 functions." However, this recommendation confuses how these project-related
6 overhead costs are accounted for pursuant to FERC guidance:

7 (2) Labor includes the pay and expenses of employees of the utility
8 engaged on construction work, and related workmen's
9 compensation insurance, payroll taxes and similar items of expense.
10 It does not include the pay and expenses of employees which are
11 distributed to construction through clearing accounts nor the pay
12 and expenses included in other items hereunder.

13 A. All overhead construction costs, such as engineering,
14 supervision, general office salaries and expenses,
15 construction engineering and supervision by others than the
16 accounting utility, law expenses, insurance, injuries and
17 damages, relief and pensions, taxes and interest, **shall be**
18 **charged to particular jobs or units on the basis of the**
19 **amounts of such overheads reasonably applicable thereto,**
20 to the end that each job or unit shall bear its equitable
21 proportion of such costs and that the entire cost of the unit,
22 both direct and overhead, shall be deducted from the plant
23 accounts at the time the property is retired.² (emphasis
24 added)

² 18 C.F.R pt. 101, Electric Plant Instructions, § 3(A)(2) (Component of Construction Costs) and § 4(A) (Overhead Construction Costs) (<https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>).

1 Consistent with this guidance, it is proper to include indirect labor costs within
2 capitalized project costs. These costs are allocated to all capital projects as part of
3 standard plant accounting; as such, there would not be double recovery of costs
4 included in base rates.

5 In fact, both of NIPSCO's current TDSIC plans (gas and electric) include an amount
6 of capitalized indirect costs, which the Commission has found to be reasonable.
7 (Cause No. 45330, Final Order at 24 and Cause No. 45557, Final Order at 56, 58.)

8 **Q21. Should NIPSCO be permitted to recover the engineering fees and owner's costs**
9 **it incurs to complete the Compliance Project?**

10 A21. Yes. Industrial Group Witness Collins argues (p. 9) that NIPSCO should be denied
11 recovery of these costs because "the Company incurred engineering and owner's
12 costs related to the Ash Pond Compliance Project in the years predating this case
13 without seeking prior approval or alternative recovery of such costs." However,
14 owners and engineering costs are necessary to design and scope a project and to
15 secure necessary permits and licenses. NIPSCO cannot complete a project as
16 complex and significant as the Compliance Project without incurring these types
17 of costs. Indeed, NIPSCO must incur such costs *just to be able to present the evidence*
18 *that is required in a FMCA case*, and the Commission distinguished recovery of the

1 “pre-petition analysis, preparation, and plan development activities” when it
2 rejected the projects that had been completed before the filing of the petition in
3 *Duke Energy Indiana, LLC*, Cause No. 44367 FMCA 4 (IURC 12/4/2019) (Order on
4 Reconsideration), pp. 2-3. Recovery of engineering fees and owner’s costs is also
5 consistent with FERC’s capitalization guidance:

6 (11) Engineering and supervision includes the portion of the pay and
7 expenses of engineers, surveyors, draftsmen, inspectors,
8 superintendents and their assistants applicable to construction work.

9 (13) Engineering services includes amounts paid to other companies,
10 firms, or individuals engaged by the utility to plan, design, prepare
11 estimates, supervise, inspect, or give general advice and assistance
12 in connection with construction work.³

13 Further, as discussed in the immediately preceding question, direct labor costs
14 spent on the project, be it contracted or internal, should be recorded to the project.
15 While this project is a retirement project, not new construction, the same FERC
16 accounting guidance applies. As such, these engineering fees and owner’s costs
17 should indeed be included in the project costs.

18 **The FMCA is the Appropriate Mechanism for Recovery of Compliance Project Costs**

19 **Q22. Is the FMCA an appropriate mechanism to recover cost of removal costs?**

³ 18 C.F.R pt. 101, Electric Plant Instructions, § 3(A)(11) and (13) (Component of Construction Costs)
(<https://www.ecfr.gov/current/title-18/chapter-I/subchapter-C/part-101>).

1 A22. Yes. To be clear, recovery through depreciation expense as part of a base rate case
2 proceeding is one appropriate method of recovery of these kinds of cost of
3 removal; however, it is not the only method that is appropriate. Because the
4 activities and costs included within the Compliance Project are all required under
5 the CCR and/or RCRA regulations, issued by the EPA, the Compliance Project
6 meets every requirement of the Federal Mandate Statute. And as noted above,
7 given the near-term retirement of NIPSCO's coal generation assets, the FMCA
8 supports a balanced recovery of the required costs to be incurred by NIPSCO. As
9 noted above, if the recovery of the Compliance Project is not allowed through an
10 FMCA tracker, then NIPSCO would seek full recovery as through revised
11 depreciation expense included in the next base rate case.

12 **Q23. Would the Company be harmed if it were not allowed to recover the estimated**
13 **\$40 million project?**

14 A23. Yes. If the Commission does not allow NIPSCO recovery of these federally
15 mandated costs, NIPSCO would be disadvantaged and required to bear the actual
16 cost of removal, which has been mandated by the EPA, for its used and useful
17 assets that benefited customers in a safe and reliable manner for several decades.
18 Further, NIPSCO would have to forego other needed capital investments to

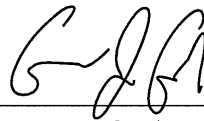
1 complete the Compliance Project without the incremental funding it is requesting
2 in this Cause.

3 **Q24. Does this conclude your rebuttal testimony?**

4 A24. Yes.

VERIFICATION

I, Gunnar J. Gode, Vice President and Chief Accounting Officer of NiSource Corporate Services Company, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

A handwritten signature in black ink, appearing to read 'GJG', is written over a horizontal line.

Gunnar J. Gode

Date: September 27, 2022

Cause No. 45700
Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Second Set of Data Requests

Industrials Request 2-009:

NIPSCO states that no costs associated with coal ash remediation were included in previously approved depreciation rates and expense for Michigan City, with respect to this assertion, please respond to the following:

- a. Did, at any time, have NIPSCO's depreciation rates/expense associated with Michigan City included recovery of costs associated with demolition and/or closure?
- b. If so, please provide the amounts recovered?
- c. If not, please explain why NIPSCO did not include closure and demolition costs related to a major generation asset in its depreciation rates/expense?
- d. Please explain why NIPSCO would not adjust its depreciation rates/expense to account for coal ash remediation associated with Michigan City?

Objections:

Response:

- a. NIPSCO has recovered costs related to the demolition and closure of Michigan City, but no costs have been recovered related to the coal combustion residual ("CCR") pond remediation. The costs for the CCR remediation were omitted. In previous demolition studies, NIPSCO has included estimates associated with Michigan City's ash pond remediations. However, following the promulgation of CCR regulations, NIPSCO intentionally omitted all CCR pond costs from the demolition study in NIPSCO's last electric base rate case proceeding in Cause No. 45159.

Indiana statutes and regulatory practice do not specifically assign cost of removal ("COR") reserves for specific removal tasks. For an asset class, once the depreciation begins and the COR reserve is established, any asset retirement expenses actually incurred along with any original cost retirements are debited against the depreciation reserve pursuant to work orders documenting the removal costs. To date, there have been no actual Michigan City CCR costs incurred that have been applied against previously filed depreciation reserves.

Cause No. 45700
Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Second Set of Data Requests

- b. See NIPSCO's response to sub-part a.
- c. As discussed in NIPSCO's last electric base rate case in Cause No. 45159, the CCR requirements were still evolving, creating wide ranges of potential cost estimates. As part of discussions held during the Cause No. 45159 proceeding, NIPSCO was clear about its intention to include the costs in a future FMCA or general rate case proceeding when the estimates and costs for the work were better understood.
- d. See NIPSCO's response to sub-part c.

Cause No. 45700

Northern Indiana Public Service Company LLC's

Supplemental Response to

NIPSCO Industrial Group's Third Set of Data Requests, Request 3-010

Industrials Request 3-010:

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

Objections:**Response:**

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

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

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

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

Supplemental Response:

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

MICHIGAN CITY		
TOTAL ASH POND ACCRUALS DEC 2011 TO DEC 2021	\$	2,971,428

\$

MONTH	YEAR	ACCRUAL DIFFERENCE	EFFECTIVE STUDY DATE
Dec	2011	17,232	2010
Jan	2012	17,232	2010
Feb	2012	17,232	2010
Mar	2012	17,232	2010
Apr	2012	17,232	2010
May	2012	17,232	2010
Jun	2012	17,232	2010
Jul	2012	17,232	2010
Aug	2012	17,232	2010
Sep	2012	17,232	2010
Oct	2012	17,232	2010
Nov	2012	17,232	2010
Dec	2012	17,232	2010
Jan	2013	17,232	2010
Feb	2013	17,232	2010
Mar	2013	17,232	2010
Apr	2013	17,232	2010
May	2013	17,232	2010
Jun	2013	17,232	2010
Jul	2013	17,232	2010
Aug	2013	17,232	2010
Sep	2013	17,232	2010
Oct	2013	17,232	2010
Nov	2013	17,232	2010
Dec	2013	17,232	2010
Jan	2014	17,232	2010
Feb	2014	17,232	2010
Mar	2014	17,232	2010
Apr	2014	17,232	2010
May	2014	17,232	2010
Jun	2014	17,232	2010
Jul	2014	17,232	2010
Aug	2014	17,232	2010
Sep	2014	17,232	2010
Oct	2014	17,232	2010
Nov	2014	17,232	2010
Dec	2014	17,232	2010
Jan	2015	17,232	2010
Feb	2015	17,232	2010
Mar	2015	17,232	2010
Apr	2015	17,232	2010
May	2015	17,232	2010
Jun	2015	17,232	2010
Jul	2015	17,232	2010
Aug	2015	17,232	2010
Sep	2015	17,232	2010
Oct	2015	17,232	2010
Nov	2015	17,232	2010
Dec	2015	17,232	2010

EFFECTIVE
STUDY DATE

Dec	2011	17,232	2010
Jan	2012	17,232	2010
Feb	2012	17,232	2010
Mar	2012	17,232	2010
Apr	2012	17,232	2010
May	2012	17,232	2010
Jun	2012	17,232	2010
Jul	2012	17,232	2010
Aug	2012	17,232	2010
Sep	2012	17,232	2010
Oct	2012	17,232	2010
Nov	2012	17,232	2010
Dec	2012	17,232	2010
Jan	2013	17,232	2010
Feb	2013	17,232	2010
Mar	2013	17,232	2010
Apr	2013	17,232	2010
May	2013	17,232	2010
Jun	2013	17,232	2010
Jul	2013	17,232	2010
Aug	2013	17,232	2010
Sep	2013	17,232	2010
Oct	2013	17,232	2010
Nov	2013	17,232	2010
Dec	2013	17,232	2010
Jan	2014	17,232	2010
Feb	2014	17,232	2010
Mar	2014	17,232	2010
Apr	2014	17,232	2010
May	2014	17,232	2010
Jun	2014	17,232	2010
Jul	2014	17,232	2010
Aug	2014	17,232	2010
Sep	2014	17,232	2010
Oct	2014	17,232	2010
Nov	2014	17,232	2010
Dec	2014	17,232	2010
Jan	2015	17,232	2010
Feb	2015	17,232	2010
Mar	2015	17,232	2010
Apr	2015	17,232	2010
May	2015	17,232	2010
Jun	2015	17,232	2010
Jul	2015	17,232	2010
Aug	2015	17,232	2010
Sep	2015	17,232	2010
Oct	2015	17,232	2010
Nov	2015	17,232	2010
Dec	2015	17,232	2010

Jan	2016	17,232	2010
Feb	2016	17,232	2010
Mar	2016	17,232	2010
Apr	2016	17,232	2010
May	2016	17,232	2010
Jun	2016	17,232	2010
Jul	2016	17,232	2010
Aug	2016	17,232	2010
Sep	2016	17,232	2010
Oct	2016	22,396	2015
Nov	2016	22,396	2015
Dec	2016	22,396	2015
Jan	2017	22,396	2015
Feb	2017	22,396	2015
Mar	2017	22,396	2015
Apr	2017	22,396	2015
May	2017	22,396	2015
Jun	2017	22,396	2015
Jul	2017	22,396	2015
Aug	2017	22,396	2015
Sep	2017	22,396	2015
Oct	2017	22,396	2015
Nov	2017	22,396	2015
Dec	2017	22,396	2015
Jan	2018	22,396	2015
Feb	2018	22,396	2015
Mar	2018	22,396	2015
Apr	2018	22,396	2015
May	2018	22,396	2015
Jun	2018	22,396	2015
Jul	2018	22,396	2015
Aug	2018	22,396	2015
Sep	2018	22,396	2015
Oct	2018	22,396	2015
Nov	2018	22,396	2015
Dec	2018	22,396	2015
Jan	2019	22,396	2015
Feb	2019	22,396	2015
Mar	2019	22,396	2015
Apr	2019	22,396	2015
May	2019	22,396	2015
Jun	2019	22,396	2015
Jul	2019	22,396	2015
Aug	2019	22,396	2015
Sep	2019	22,396	2015
Oct	2019	22,396	2015
Nov	2019	22,396	2015
Dec	2019	22,396	2015
Jan	2020	45,772	2017
Feb	2020	45,772	2017
Mar	2020	45,772	2017
Apr	2020	45,772	2017
May	2020	45,772	2017
Jun	2020	45,772	2017
Jul	2020	45,772	2017

Attachment 4-R-A
Industrials Request 3-010-S Attachment A
Cause No. 45700
Cause No. 45700

Aug	2020	45,772	2017
Sep	2020	45,772	2017
Oct	2020	45,772	2017
Nov	2020	45,772	2017
Dec	2020	45,772	2017
Jan	2021	45,772	2017
Feb	2021	45,772	2017
Mar	2021	45,772	2017
Apr	2021	45,772	2017
May	2021	45,772	2017
Jun	2021	45,772	2017
Jul	2021	45,772	2017
Aug	2021	45,772	2017
Sep	2021	45,772	2017
Oct	2021	45,772	2017
Nov	2021	45,772	2017
Dec	2021	45,772	2017

Cause No. 45700
Northern Indiana Public Service Company LLC's
Objections and Responses to
NIPSCO Industrial Group's Fourth Set of Data Requests

<u>Industrials Request 4-010:</u>
How much of the labor costs for the Major Projects team is supported in rates set in the Company's last general rate case?
<u>Objections:</u>
<u>Response:</u>
Labor costs for the 2019 forecasted test period in Cause No. 45159 included the following: Electric Projects and Construction of which approximately 84% was forecasted to be capitalized to discrete projects. Electric Projects and Construction Administration of which approximately 95% was forecasted to be capitalized to discrete projects.