VERIFIED REBUTTAL TESTIMONY OF KEVIN A. KIRKHAM

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

A1. My name is Kevin A. Kirkham. My business address is 801 E. 86th Avenue, Merrillville, Indiana 46410. I am employed by NiSource Corporate Services Company as Strategy and Risk Integration Manager.

Q2. Are you the same Kevin A. Kirkham who prefiled direct testimony in this proceeding?

A2. Yes.

Q3. What is the purpose of your testimony?

A3. My testimony is offered on behalf of Northern Indiana Public Service Company LLC ("NIPSCO") and the "Utility Group," which consists of AES Indiana, CenterPoint, Duke Energy Indiana, Indiana Michigan Power Company, and NIPSCO. The purpose of my rebuttal testimony is to provide an overview of the Utility Group's rebuttal testimony and to respond to certain positions advanced by the Indiana Office of Utility Consumer Counselor ("OUCC") and other intervenors, on issues involving

utility planning for electric vehicles ("EVs"), metering, utility ownership of EV charging equipment, and ensuring underserved communities have access to EV charging.

OVERVIEW OF UTILITY GROUP'S REBUTTAL TESTIMONY

Q4. Please provide a brief overview of the Utility Group's rebuttal testimony.

A4. As mentioned above, my rebuttal testimony addresses utility planning for EVs, metering, utility ownership of EV charging equipment, demand charges, and ensuring underserved communities have access to EV charging. Zac Elliot's rebuttal testimony addresses issues related to contributions in aid of construction ("CIAC") and make-ready infrastructure investments, as well as state and federal funding issues. Adriane E. Jaynes' rebuttal testimony addresses rate and program design issues. Cormack C. Gordon's rebuttal testimony addresses grid readiness for electrified commercial fleets and utility staffing for support of EV charging installations.

Q5. From your review of the intervenors' testimony, does there appear to be broad-based agreement on a need for flexibility in establishing rate structures to promote EV charging?

A5. Yes. Walmart witness Lisa V. Perry mentions in her testimony that "the ratemaking framework in Indiana can be supportive of make-ready investments" (Perry Direct, p. 5) and she mentions one example of recovery of costs through a rider mechanism. ChargePoint witness Matthew J. Deal recommends utilities develop and propose make-ready programs to cover all or a portion of utility and customer side infrastructure costs. (Deal Direct, p. 4). Although CAC witness Inskeep has concerns on the magnitude of make-ready investments, he states the CAC is "more open to utilities pursuing more targeted and limited make-ready investments to benefit public schools transitioning to electric school buses, EVSE for public transit (e.g. bus depots), EVSE located in and designed to benefit low-income communities and communities of color and EVSE at affordable multi-family housing." (Inskeep Direct, pp. 6-7).

I take the testimony of these witnesses as acknowledgement that utility EV ratemaking is needed to advance and encourage transportation electrification for the benefit of all.

Q6. Do any of the intervenor witnesses acknowledge the relationship between demand charges and efficient EV charging?

A6. Yes. Walmart witness Perry states while the EV industry is still in its growth phase, there will be a ramp up to a level of EV adoption to support an extensive public EV charging network. Ms. Perry further states that for under-utilized chargers, a demand charge assessment negatively impacts the economics of the unit and may have a chilling effect on third-party investment in public EV chargers. (Perry Direct, p. 13). In addition, ChargePoint witness Deal states that traditional demand-based rates can significantly challenge the deployment of EV charging (Deal Direct, p. 36) and CAC witness Inskeep states that demand charges can create a substantial barrier for direct current fast chargers, which often have very high demand, but low utilization (Inskeep Direct, pp. 13-14).

While these witnesses acknowledge that reducing or eliminating demand charges may be necessary to order to foster transportation electrification, as I stated in my direct testimony, any reduction to or elimination of demand fees impacts a utility's approved recovery and ratemaking adjustments to make a utility "whole" for those unrecovered demand costs would need to be considered. Such an adjustment would necessarily result in shifting costs to other rate classes and would need to be studied and addressed,

likely through the rate case process.

Q7. Do any of the intervenor witnesses discuss how utilities should manage distribution system upgrades that might be necessary when evaluating fleet conversion to EVs?

A7. Yes. Walmart witness Ms. Perry details how utilities can proactively encourage investment in electric fleet vehicles and charging equipment needed to power those vehicles. She mentions that, for areas of high concentration of electric fleet charging needs, the utility "will need to identify these areas as part of its forecasted planning for future growth and the necessary investments to support that growth." She further recommends that, in order to remove barriers to installing EV charging equipment, the Commission "may need to adapt the regulatory process in a way that allows utilities to not only proactively plan for future EV charging growth as discussed above, but to also allow utilities to install this needed infrastructure in areas of anticipated growth prior to immediate customer need." (Perry Direct, p. 8)

Using anticipated growth in an area to determine the scope of needed infrastructure upgrades, a utility can implement a more cost-effective,

overall solution for the promotion of electrification to avoid costly and unnecessary system upgrades. It is also important to keep in mind that the benefits of system upgrades will inure to both participating and non-participating customers. The Commission's line extension rules may not allow for utilities to economically introduce EV upgrades for all customers; therefore, flexibility is needed to allow for such work to be done. Utilizing rate recovery such as the targeted economic development projects in a TDSIC for these upgrades allows the utility to recover its incurred capital costs in a timely manner.

Q8. CAC witness Inskeep (Direct, pp. 14-15) and ChargePoint witness Deal (Direct, pp. 34-35) make recommendations on how to measure EV usage that would not require customers install separate metering to participate in EV charging tariffs or programs. How do you respond?

A8. As I stated in my direct testimony, the type of metering infrastructure required to promote efficient EV charging will be whatever metering infrastructure is most cost effective and reliable. This will vary depending on the utility and their circumstances as well as on the kind of EV charging program the utility chooses to use. It would be premature at this point in

the development of EVs and EV charging technology to limit the methods through which utilities can offer EV charging programs to a specific technology.

For example, without a submeter, a utility will have to find a way to access the EV telematics managed by the EV or smart charger manufacturer. The EV driver/utility customer would have to allow the utility access to their app data, and the utility would have to have the capability to bring that data over to its customer information service billing system. In this nascent space, these kinds of technological challenges are still being identified and just beginning to be worked on and solved; therefore, creating limitations on how utilities offer EV programs is unnecessary and would potentially stifle acceptance of innovative solutions in the future.

Q9. OUCC witness John E. Haselden recommends (Direct, p. 10) that, for purposes of evaluating EV program costs and benefits, the expected life of EV charging *technology* should be used rather than the expected life of the *equipment*. How do you respond?

A9. As has been stated previously in my testimony and as the impetus for the Commission's investigation suggests, the regulatory space for EVs is

somewhat nascent. Using asset lives in cost benefit tests based on expected technology life and not equipment life, will skew results such that potentially no EV program would pass. At minimum, the Commission should elect not to make a specific finding in this Cause on what kind of expected life should be used to evaluate the costs and benefits of EV programs, in favor of leaving that determination for individual programmatic decisions as they are brought in for regulatory approval.

Q10. The OUCC also recommends the Ratepayer Impact Measure ("RIM") to evaluate the effectiveness of EV programs. Please respond.

A10. I don't disagree with Mr. Haselden's recommendation; indeed, my direct testimony stated that the RIM test can be appropriately used to evaluate the cost effectiveness of EV programs. However, the RIM test should not be the *only* test used to evaluate EV programs. As I explained in my direct testimony, the Societal Cost Test ("SCT") and Participant Cost Tests ("PCT") are also well-suited to evaluate programs that promote EV adoption. The SCT test includes all of the benefits and costs included in the Total Resource Cost test as well as environmental benefits, which are a critical component in evaluating the impact of an EV program. The PCT

test helps illustrate the attractiveness of an EV program from a participant perspective while the RIM test helps illustrate if an EV program could serve to reduce utility bill costs for all customers, including non-participating customers. These two tests serve to balance overall decisions related to EV programs.

Q11. Do you believe a statewide EV collaborative should be required for regulated utilities within Indiana as CAC witness Inskeep (Direct, p. 10) recommends?

A11. No. Utilities engage with customers and community stakeholders on a regular and recurring basis. The Utility Group agrees that planning for EV growth is imperative for utilities, and each member of the Utility Group has or is in the process of putting together a comprehensive EV plan to be presented to the Commission. As a result, a Commission order directing stakeholder engagement is unnecessary. The Utility Group agrees that their EV plans should be updated periodically, as circumstances warrant, but does not believe that a rigid five-year update requirement is needed. CAC makes additional recommendations that would require utilities to develop 20-year forecasts of EV adoption and five-year forecasts of "mechanisms

being pursued or explored" to facilitate EV charging in their service territories. (*Id.*) These kinds of forward-looking requirements are unrealistic at this stage of the emerging EV market. I would also note that EV growth and demands will be incorporated into the Utilities' Integrated Resource Plans ("IRPs") as those plans are updated as required by existing Commission rules and go through an extensive IRP stakeholder process.

Mandated statewide EV collaboratives impose real costs on the companies whereby the same interaction can occur through normal stakeholder engagement meetings for each utility. It is the implementing utility that is ultimately responsible for any implementation, quality assurance and program cost effectiveness – not any other parties. For these reasons, we believe open dialogue is important, but should not require a mandatory statewide collaborative.

Q12. Several intervenor witnesses, including CAC and the NAACP, discuss the need for establishing goals or programs specifically for disadvantaged communities. Do you have any comments regarding identification of what how a disadvantaged community can be defined?

A12. Yes. I would first note that Indiana law provides direction on this issue. Ind. Code § 8-1-43-8(b)(5) requires that an EV pilot program include a plan that demonstrates the charging infrastructure will be "located in an equitable manner" such that all customers within a utility's service territory have convenient access, including in areas that are "economically distressed" or "racially and ethnically diverse." This statutory requirement appears to address CAC's recommendation (Inskeep Direct, p. 10) that utilities generate a "plan to address inequities in access to EVSE" experienced by low-income communities and communities of color. Mr. Inskeep's other recommendation that utilities create an "assessment of *publicly available* EVSE in low-income communities and communities of color in the utility's service area" (*Id.*) (emphasis added) would be a significant undertaking, and ultimately impractical and burdensome at this early stage of EV market development.[1]

Within the confines of Indiana law, my general response is that utilities may designate specific programs for specific groups or desired outcomes

[1] Note that publicly available, system-wide information on public EV charging stations is maintained by the Federal Department of Energy (https://afdc.energy.gov/stations/#/find/nearest?fuel=ELEC&location=Indiana.) This broader view provides a better indication of customer experience than a utility-by-utility view would.

differently depending on their program goals and specific territory differences; therefore, these utility specific circumstances should be dealt with an individual utility's ARP filing. For example, some utilities may choose to adopt all or some of the Six Point Plan described in Barbara Bolling-Williams' testimony on behalf of the NAACP and the Indiana Alliance for Equity, Diversity and Inclusion of Electric Vehicle Infrastructure and Economic Opportunities.

In addition, the Justice40 initiative established by the US government sets a nationwide goal that 40% of the overall benefits of certain federal investments flow to disadvantaged communities that are marginalized, underserved, and overburdened by pollution.[2] Programs funded through the IRA and IIJA are considered Justice40 programs. Each utility may have different levels of Justice40 community populations that will differ across Indiana; as such, an overall goal or program designation to Justice40 areas may differ by utility. However, Justice40 communities are easily identifiable areas that already have mapping tools in place[3] and are readily

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2 https://www.transportation.gov/equity-Justice40.

3 https://www.arcgis.com/home/item.html?id=bdac3e391cd04d2396983fc67c23bf1c.

available for all to see and be able to agree on, which should serve to expedite EV program implementation and design consistency.

Q13. NAACP witness Bolling-Williams states (Direct, pp. 11-12) that EV charging station subsidies should be adopted by the Commission. What is the Utility Group's view on subsidies for EV charging stations?

A13. Subsidies should be approached with cost causation and cost effectiveness in mind. Some form of subsidy, for public policy reasons, may be necessary to encourage EV charging station installation, particularly for a nascent EV sector. As described above, with regard to underserved communities, utilities may be able to play a useful role in advancing transportation electrification in communities where there is insufficient competition and activity. In any event, the utility should first demonstrate that a subsidy is cost-effective and/or in the public interest.

Q14. The CAC recommends the Commission establish a "Code of Conduct" to address perceived unfair competition between utilities and private EV developers. Is such a code of conduct necessary?

A14. No. The Indiana General Assembly, through Ind. Code ch. 8-1-43, contemplates that utilities may own and operate EV charging equipment,

subject to a Commission finding that such ownership/operation is in the public interest. Unfair competition, as well as non-cost-effective programs, would be inconsistent with the public interest and I would not expect the Commission to approve programs that are not cost-effective or would unfairly compete with third-party EV charging suppliers. Moreover, the Utility Group's proposals for ownership and operation of EV charging equipment are premised on using market rates for EV charging, with procedures in place to survey and update market rates as needed.[4] This should mitigate concerns about unfair competition. Given that utility ownership and operation of EV charging equipment is explicitly authorized by law in Indiana, a code of conduct relating to affiliate EV charging is unnecessary.

I would note that the Michigan Code of Conduct referenced by CAC was authorized by the Michigan state legislature pursuant to MCL 460.10ee of Public Act 341 of 2016 (PA 341) and that it incorporates existing guidelines that govern the interactions between regulated utility companies and their

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[4] Walmart witness Perry states (p. 16) that, if not set correctly, EV charging rates for utility-owned EV charges can be anti-competitive. Using market rates, as all of the Utility Group utilities have proposed to do, obviates this concern.

unregulated affiliates, which include penalties for violations of those rules and new reporting requirements. This goes well beyond rules for EV programs and any kind of similar action by the Commission would appear to result in costs to utilities and would likely require legislative action.

Q15. Does this conclude your prepared rebuttal testimony?

A15. Yes.

VERIFICATION

I, Kevin A. Kirkham, Strategy and Risk Integration Manager, 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.

Kevin A. Kirkham

Date: July 10, 2023