

**ORIGINAL**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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VERIFIED PETITION OF NORTHERN INDIANA )  
PUBLIC SERVICE COMPANY FOR APPROVAL OF )  
DEMAND SIDE MANAGEMENT ADJUSTMENT )  
FACTORS FOR ELECTRIC SERVICE FOR THE )  
BILLING CYCLES FOR THE MONTHS OF JANUARY )  
THROUGH JUNE 2015 AND CONTINUED )  
AUTHORITY IN ACCORDANCE WITH THE )  
ORDERS OF THE COMMISSION IN CAUSE NOS. )  
43618, 43912, 44154, 44363 AND 44441 AND )  
MODIFICATION OF RIDER 683 – ADJUSTMENT OF )  
CHARGES FOR DEMAND SIDE MANAGEMENT )  
ADJUSTMENT MECHANISM (DSMA). )

CAUSE NO. 43618 DSM 07

APPROVED:

DEC 30 2014

ORDER OF THE COMMISSION

**Presiding Officers:**

**Angela Rapp Weber, Commissioner**

**Loraine L. Seyfried, Administrative Law Judge**

On September 30, 2014, Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”) filed its semi-annual request for Commission approval of Demand Side Management Adjustment Factors for electric service for the billing cycles of January through June 2015 and modification of Rider 683 – Adjustment of Charges for Demand Side Management Adjustment Mechanism (“DSMA Rider”). Petitioner also filed its case-in-chief, including direct testimony, exhibits and workpapers supporting the proposed DSMA factors and the underlying costs for which Petitioner seeks cost recovery.

On October 21, 2014, NIPSCO Industrial Group (“Industrial Group”) filed a petition to intervene, which was subsequently granted on October 29, 2014.<sup>1</sup>

On November 19, 2014, NIPSCO filed a Stipulation and Settlement Agreement (“Settlement Agreement”) between NIPSCO and the Indiana Office of Utility Consumer Counselor (“OUCC”). Testimony supporting the Settlement Agreement was filed by the OUCC on November 25, 2014, and by NIPSCO on December 2, 2014. NIPSCO also filed supplemental testimony on December 2, 2014.

An evidentiary hearing was held on December 10, 2014, at 10:30 a.m. in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. At the hearing, the prefiled evidence of NIPSCO and the OUCC was admitted into the record without objection and all parties waived cross-examination of witnesses. No members of the general public appeared or

<sup>1</sup> The members of the NIPSCO Industrial Group in this proceeding are Arcelor Mittal USA, BP Products North America, Inc., Jupiter Aluminum Corporation, Marathon Petroleum Company LP, Praxair, Inc. and USG Corporation.

participated at the hearing.

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

**1. Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published as required by law. NIPSCO is a public utility as that term is defined in Ind. Code § 8-1-2-1. The Commission's May 25, 2011 Order in Cause No. 43618 authorized NIPSCO to seek recovery of costs associated with its Demand Side Management ("DSM") program through a semi-annual adjustment mechanism. Under Ind. Code § 8-1-2-42, the Commission has jurisdiction over changes in Petitioner's schedules of rates and charges. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

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

**3. Background.** On May 25, 2011, the Commission issued an Order in Cause No. 43618 approving NIPSCO's request for approval of Rule 52 of the General Rules and Regulations and Appendix G – Demand Side Management Adjustment Mechanism Factor ("DSMA Mechanism").

On July 27, 2011, the Commission issued an Order in Cause No. 43912 approving, among other things, NIPSCO's proposed DSM programs and their projected budgets, which expired on December 31, 2013.

On August 8, 2012, the Commission issued an Order in Cause No. 44154 ("44154 Order") authorizing NIPSCO to recover lost revenues associated with its approved DSM programs through the DSMA Mechanism.

On December 18, 2013, the Commission issued an Order in Cause No. 44363 ("44363 Order") approving NIPSCO's DSM programs for the period January through December 2014 and recovery of associated program costs pursuant to 170 IAC 4-8-5 and lost revenues pursuant to 170 IAC 4-8-6 through its DSMA Mechanism, which will expire on December 31, 2014.

On June 30, 2014, the Commission issued an Order in Cause No. 44441 ("44441 Order") approving NIPSCO's proposed opt out tariff language and opt out rates as a result of the industrial customer opt out provided for in Senate Enrolled Act 340 ("SEA 340").

On November 12, 2014, the Commission issued an Order in Cause No. 44496 ("44496 Order"), approving NIPSCO's DSM programs for the period January 1, 2015 through December 31, 2015 and authority to recover associated start-up, implementation and administrative costs along with costs associated with the evaluation, measurement and verification ("EM&V") of those programs through the DSMA Mechanism and to defer program costs and lost revenues for future recovery. The Commission also authorized the continuation of the NIPSCO Oversight

Board (“OSB”).

**4. Requested Relief.** Petitioner requests Commission approval of DSMA factors to be effective with the billing cycles for the months of January through June 2015. The factors proposed in this proceeding include estimated DSM program costs from January through June 2015 and reconciles the actual costs for the period January through June 2014. The proposed factors also include recovery of projected lost revenues for the period January through June 2015, as authorized for recovery in the 44363 Order. This filing and the resulting factors also include NIPSCO’s first reconciliation of lost revenues as approved in the 44154 Order.<sup>2</sup>

Petitioner is also requesting continued authority to defer as a regulatory asset or regulatory liability the over- and under-recoveries of projected DSM program costs and program costs incurred implementing the DSM programs prior to the time the Commission issues an order authorizing Petitioner to recognize these costs through the ratemaking process. NIPSCO will defer these costs on the balance sheet as a regulatory asset in Account 182.3 – Regulatory Asset or a regulatory liability in Account 254 – Other Regulatory Liabilities depending on the net balance of program costs. In addition, NIPSCO is proposing modifications to its DSMA Rider.

**5. Stipulation and Settlement Agreement.** NIPSCO and the OUCC (“Settling Parties”) entered into a Settlement Agreement, a copy of which is attached to this Order, establishing the following:

- NIPSCO agreed that in DSM 8 and future DSM tracker proceedings, NIPSCO will begin forecasting lost revenues for measures to be installed utilizing the deemed savings value provided by the next ex post value from the most recently approved EM&V report as approved by the OSB. This is the same process NIPSCO currently uses for measures previously installed. If a measure is not included in the EM&V report approved by the OSB or the OSB has adopted a value different from that included in the EM&V report approved by the OSB, NIPSCO will forecast the lost revenues utilizing the deemed savings value approved by the OSB.
- NIPSCO will recalculate estimated lost revenues for measures projected to be installed during the period January through June 2015 using the most recent EM&V report approved by the OSB or other deemed savings measure approved by the OSB. NIPSCO agreed to include a reconciliation, either positive or negative, based on this recalculation in DSM 8, which covers the period of July through December 2015.
- NIPSCO will continue to allocate program costs as approved by the Commission in its 44496 Order.

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<sup>2</sup> In the 44154 Order, the Commission authorized NIPSCO to record lost revenues associated with its Core programs effective February 1, 2012 and to record lost revenues associated with its Core Plus programs as of August 8, 2012, the effective date of the 44154 Order. NIPSCO began recovery of the deferred lost revenues as well as the on-going collection of lost revenues based on an estimate in Cause No. 43618 DSM 3 (January through June 2013). Pursuant to the 44154 Order, NIPSCO is reconciling lost revenues collected from January 2013 through December 2013.

- Because of the timing of the November 15, 2014 Opt Out notification deadline as approved in the 44441 Order, NIPSCO would likely need to file updates to some of its schedules. The Settling Parties agreed to work collaboratively to produce settlement schedules reflecting these changes. The Settling Parties agreed that they would file testimony and updated schedules supporting the Settlement Agreement on or before December 2, 2014.
- The Settling Parties agreed that the necessary tariff changes included in this filing are appropriate.

NIPSCO's witness Victoria A. Vrab, Director of DSM Programs, testified the Settlement Agreement is reasonable and in the public interest. She stated the Settlement Agreement reflects consensus between NIPSCO and the OUCC regarding NIPSCO's DSMA Rider. Specifically, the Settlement Agreement provides an appropriate mechanism for NIPSCO to forecast its lost revenues going forward and also provides a way to reconcile the difference that may be created in this proceeding by using this mechanism without making last minute changes to the filing. She said the Settling Parties believe the Settlement Agreement is reasonable and in the public interest because it provides a mechanism for NIPSCO to collect funds approved by the Commission to allow NIPSCO to promote energy efficiency by its customers and to provide opportunities for them to manage energy costs.

Wes R. Blakley, Senior Utility Analyst with the OUCC, testified that based on an explanation from Ed Rutter, an OUCC staff member and current chair of the EM&V Subcommittee of the Demand Side Management Coordination Committee, the modifications to NIPSCO's EM&V methods described in the Settlement Agreement will bring NIPSCO's practices in line with other utilities and reduce the likelihood of over-collecting estimated lost revenues from NIPSCO ratepayers. He stated that both of these benefits serve the public interest.

**6. Implementation of DSM Programs.** Ms. Vrab described the performance of NIPSCO's DSM programs through June 2014 as follows:

- School Education Program – At the mid-year point (June 30), this program achieved approximately 13% of its goal, but is projected to achieve 100% of its savings goal because more schools incorporate the kits into the fall curriculum.
- Residential Home Energy Assessment (“HEA”) Program – At the midpoint of 2014, this program had achieved 58% of its savings goal and is on track to achieve 100% of its goal before the end of the year.
- Residential Lighting Program – As of June 30, this program achieved 82% of its savings goal and is expected to achieve 100% by September 30, 2014.
- Residential Income Qualified Weatherization Program – At the midpoint of 2014, this program achieved 39% of its savings goal. While NIPSCO will continue to

work with GoodCents<sup>3</sup> to market the program in an effort to achieve the established goal, recent discussions have suggested that this goal may not be met by year end.

- Prescriptive Rebate Program Commercial – As of June 30, 2014, this program achieved 40% of its savings goal and is anticipated to achieve approximately 50% of its goal by year end. However, there was a large under-collection in this program for the January through June 2014 time period, which was due to the success of the double incentive rebate offering. Although the double incentive ended in 2013, many of the rebates were not paid until after January 1. NIPSCO did not plan for this in its forecasting.
- School Audit Direct Install Program – As of June 30, 2014, this program was nearly fully subscribed for the year and had achieved 77% of its savings goal.
- Energy Efficiency Rebate Program – At the midpoint of 2014, this program achieved 60% of its savings goal and is on track to achieve 100% of its goal for the year. NIPSCO continues to work with CLEAResult<sup>4</sup> through a variety of channels, including a quarterly meeting to go through each program and with its OSB to address participation issues and to make appropriate adjustments.
- Residential Home Weatherization Program – This program has traditionally relied on the HEA Program to provide a complement to the incentives offered through this program. However through 2014, this program and the HEA Program are offered through two different providers. To compensate for this, CLEAResult offers a program that provides a less comprehensive home audit, and is specifically marketed to customers looking to install weatherization measures (rather than those looking for the assessment and direct-install measures provided by the HEA Program). By the middle of 2014, this program achieved 10% of its savings goal. Beginning in 2015, this program will be combined with the HEA Program and it is expected that participation will improve dramatically.
- Residential New Construction Program – This program has continued to capitalize on strides made during 2013. By June 30, 2014, this program achieved 67% of its savings goal.
- Residential Multifamily Direct Install Program – This year, because the market of apartment complexes has been saturated, the program is mostly focused on manufactured (mobile) homes. At the midpoint of 2014, this program achieved 22% of its savings goal. NIPSCO has requested to put this program on hold for a year in order to redesign it to capture more interest.

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<sup>3</sup> GoodCents is the independent third-party administrator of the Core Programs approved by the Commission in Cause No. 42693 S1.

<sup>4</sup> CLEAResult is an independent company that NIPSCO has contracted with to administer certain DSM programs.

- Residential Appliance Recycling Program – NIPSCO increased the incentive in this program from \$35 to \$50 beginning January 1, 2014. As of June 30, 2014, the increased incentive had not improved participation much because the program achieved 24% of its savings goal. Similar to the Multifamily Direct Install Program, NIPSCO has requested to put this program on hold for 2015 as it reexamines the program and its potential in NIPSCO’s service territory.
- Residential Home Energy Conservation Program – At the midpoint of the program year, this program achieved 43% of its savings goal.
- A/C Cycling Program – This program began in October 2011. NIPSCO has only achieved 26% of its goal for 2014. Because of this, NIPSCO has proposed to close the program to new participants in 2015 as it looks for better ways to attract customer interest, which could be through marketing, new hardware or other opportunities.
- Commercial & Industrial (“C&I”) Custom Program – One of the lessons learned about this program is the long lead time between application for the program and the completion of the proposed project. The lead time frequently exceeds 18 months based on customer budgeting and construction cycles. Therefore, while funding under the program is reserved in advance, the savings associated with a project may not materialize until the project is physically completed well into the future. Franklin Energy<sup>5</sup> continues to enroll the anticipated energy savings into the program. NIPSCO created a “pipeline” of anticipated savings to better align the program expectations. The pipeline is the major reason for the large under-collection for January through June 2014. More projects were completed than had been completed during the same timeframe in 2013, and the actuals were used for the forecasting. The timing for the completion of such major projects is often difficult to accurately predict. Through June 30, 2014, the program had achieved 23% of its savings goals, and is on target to meet the goal for the year.
- C&I New Construction Program – At the midpoint of 2014, this program achieved 17% of its savings goal. Savings to date are low due to measures being installed that have a long project completion time and savings are not recognized until projects are complete.

7. **Opt Out Program.** SEA 340, which became law on March 27, 2014, provided for, among other things, the ability for certain industrial customers to opt out of participation in an electric utility’s DSM programs. In the 44441 Order, the Commission approved NIPSCO’s proposed opt out tariff language and opt out rates as a result of the industrial customer opt out provided for in SEA 340 (“Opt Out Program”).

Mr. Isensee testified that consistent with SEA 340, NIPSCO’s opt out procedures allow for industrial customers having more than one megawatt (“MW”) of electric demand to opt out

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<sup>5</sup> NIPSCO has contracted with Franklin Energy to administer this program.

of paying for prospective energy efficiency program costs, so long as they provide the utility with notice of their decision to opt out prior to July 1, 2019. Eligible customers were notified in May, 2014 of the ability to opt out effective July 1, 2014. Customers who opted out in this time period have been categorized as “Opt Out 1.” Mr. Isensee said that for subsequent years, eligible customers will be provided an opportunity to opt out of NIPSCO’s DSM program once per year (by November 15), with an effective date of January 1. Eligible customers who notify NIPSCO by November 15, 2014 of the intention to opt out effective January 1, 2015 will be categorized as “Opt Out 2.” Each January 1 will create a new opt out period (e.g., January 1, 2016 will be “Opt Out 3”).

Mr. Isensee explained that to implement the Opt Out Program, NIPSCO adjusted the overall framework of the schedules to distinguish all program costs, energy savings and demand savings by time period to appropriately link each eligible cost to a specific time period. For schedules that have an extension after the schedule number (e.g., Schedule 2.1), the extension is noting that there are different time periods based on various opt out periods. Schedules 3, 4 and 5 each also have a sub-schedule A, which provides information regarding the reconciliation of prior period costs. Another necessary change to implement the Opt Out Program was that all schedules that include rate level information (e.g., 632, 633 and 634) were changed to differentiate the rate options for customers who have opted out. Any rate group that is identified as a “XXX.1” represents customers who opted out as part of Opt Out 1. Any rate group which is identified as a “XXX.2” represents customers who are projected to opt out as part of Opt Out 2. NIPSCO will add a new rate designation for each additional opt out period.

Ms. Vrab described how NIPSCO addressed the Opt Out Program in its forecasting for the original filing in this Cause. She explained that for those customers who opted out effective July 1, 2014 (Opt Out 1), NIPSCO removed their volumes from the program when determining potential participation. In addition, NIPSCO removed from its projections the volumes for the two customers that had already notified NIPSCO of the intention to opt out effective January 1, 2015 (Opt Out 2). She explained that since the November 15, 2014 deadline for Opt Out 2 had not passed, NIPSCO worked with its largest customers who had not yet communicated their plans related to Opt Out 2 to gauge potential interest and make adjustments to remove any volumes where there was a strong potential that the customer would opt out. In its original filing, NIPSCO stated that if there were significantly more notifications of opt outs than was anticipated and if there was sufficient time prior to the hearing in this Cause to submit revised exhibits, NIPSCO would file updated schedules. If the number of notifications was not significant or if sufficient time did not exist, NIPSCO stated that it would reconcile as appropriate.

Ms. Vrab testified NIPSCO received opt out notices from 23 additional customers/sites totaling 494.33 MW of peak load, which differed from the forecast used in the original filing that included six customers/sites with 684.14 MW of peak load. She stated that not only was the amount of load that actually opted out significantly smaller than anticipated, the impacted rate classes shifted dramatically with a larger number of customers with small amounts of load electing to opt out of program participation than NIPSCO anticipated in the original filing.

Ms. Vrab testified NIPSCO has now removed those customers’ volumes from the program when determining the proposed factors and changes were made to all schedules where

volumes were utilized to allocate cost. She noted this impacted Schedules 2, 4, 5, 5A, 6 and 7 (and the various sub-schedules).

Ms. Vrab testified because the customer and rate class are known for all C&I programs, customers who opted out of program participation will pay for the lost revenues associated with the program during their participation. She explained that NIPSCO has added new schedules to account for each of the periods to be considered under the various opt out periods and also added new subclasses for the impacted rate classes to account for the opt out periods. She stated the main impact of the Opt Out Program has been to assure that customers that do opt out are only responsible for lost revenues, including the reconciliation, for the time during which they were participating in the programs.

Ms. Vrab testified that the Settlement Agreement does not contemplate a change to the language approved in Cause No. 44441 and Cause No. 44496 (and is shown in the revised DSMA Rider) that “If the Company makes subsequent changes to the allocating of Energy Efficiency Program Costs, Qualifying Customers that opted out of participation will continue to pay those costs based on the allocation in effect at the time of the notice of opt out.” The Industrial Group’s Exhibit 1 indicates that the OUCC, as the other signatory to the Settlement Agreement, agrees with this interpretation.

Mr. Isensee testified the changes to the schedules, workpapers and exhibits reflect the changes in the actual amount of load that opted out as of November 15, 2014. He stated that NIPSCO updated forecasted load for each rate group (XXX, XXX.1 or XXX.2) based on the customers that were officially opting out of program participation effective January 1, 2015. He stated that while there were several rate groups that saw changes, the most significant change was in Rate 634, where NIPSCO had previously anticipated that none of the load would opt out effective January 1, 2015, but ultimately the entire load did opt out in 2015. He testified that in total, there were changes to 14 of the 36 rate groups included in the filing. In addition, subsequent to the initial filing, NIPSCO added a new customer that signed a demand contract with Qualifying Load as defined in the DSMA Rider. Based on the provision in the DSMA Rider, that customer opted out of participation in NIPSCO’s DSM program immediately. Mr. Isensee explained that to reconcile the total load used in Schedule 7 with the total load used in other NIPSCO filings, NIPSCO has added a “Not Applicable” line to track any new customer load that is not included in any of the DSMA rate groups.

**8. DSMA Rider.** Mr. Isensee described NIPSCO’s two proposed changes to its DSMA Rider. He said the first change is to provide clarity in the formula used to calculate the adjustment factor. In its approved tariff, NIPSCO included the program costs and the lost revenues to be collected for all programs, regardless of the allocation mechanism approved by the Commission, in the same step of the equation and simply noted that either kilowatt hour (“kWh”) volumes “or” customer count would apply. However, NIPSCO felt that such a distinction could leave NIPSCO’s intention unclear. Mr. Isensee stated that, to better clarify, NIPSCO has separated the allocation mechanisms into two steps. Step one is for programs where the Commission has approved an allocation based on estimated billing kWh. Step two is for programs where the Commission has approved an allocation based on estimated customer count. Mr. Isensee stated this proposed change simply provides clarity in how the two different types of allocators will be handled in the calculation of the DSMA Factor and does not change

the calculation (based on customer count) to be used in determining allocators for customers who provided notice of opt out on or before November 15, 2014.

The second change needed to the DSMA Rider is based on NIPSCO's experience in implementing the Opt Out Program. In the 44441 Order, the Commission approved a provision in the DSMA Rider related to customers that opted out of participation effective July 1, 2014. Specifically, the provision allows that for the period covered by DSMA 7 (January 1 through June 30, 2015), those customers would pay lost revenues and applicable program costs for the period of July 1 through December 31, 2014. Rather than do a two-step reconciliation, with NIPSCO forecasting those numbers and then subsequently reconciling when actual results are known, NIPSCO is proposing to change the DSMA Rider to reconcile applicable program costs during the period of July through December 2014 and to reconcile lost revenues according to NIPSCO's Commission-approved process. Mr. Isensee stated this is what would have occurred prior to implementation of the Opt Out Program. He said NIPSCO reviewed the proposed changes with its OSB and made adjustments based on the feedback received.

Mr. Isensee emphasized that a customer will only be responsible for costs based on its eligibility for a program. Mr. Isensee testified the DSMA Rider has been modified to reflect that customers that opted out effective July 1, 2014 will pay any costs that should have been paid during July through December 2014 when those costs are reconciled. Mr. Isensee stated that for program costs, the reconciliation will take place as part of the DSMA effective July through December 2015 and that the lost revenues will be reconciled in two steps. In the first step, the volumetric reconciliation will take place as part of the DSMA effective July through December 2015. The reconciliation that occurs based on the EM&V will take place over two periods beginning with the January after the EM&V results are received. Mr. Isensee testified that for lost revenues related to measures installed in 2014, the reconciliation based on EM&V results is expected to take place beginning with the DSMA effective January through June 2016 and continuing through the July through December 2016 period. He stated that customers who opted out effective July 1, 2014, will only be responsible for lost revenues associated with measures installed through June 30, 2014, but the reconciliation will still take place over a 12-month period. Mr. Isensee stated that because the costs will be reconciled during the same period in which the overall reconciliation takes place, the customers will only pay the reconciled costs, which is the reason NIPSCO suggested the change so the reconciliation could be handled in a single step rather than reconciling the costs twice. Mr. Isensee testified that program costs will be reconciled in the same manner in which they were allocated and lost revenues are ultimately reconciled back to the custom class that caused the lost revenue.

**9. Recovery and Reconciliation of Program Costs and Revenues.** Ms. Vrab sponsored Schedule 1 of Exhibit 1 attached to the Verified Petition ("Schedule 1"), which shows a breakdown of projected and reconciled costs for the recovery period of January through June 2015. The factors proposed in this proceeding include estimated costs from January through June 2015 and reconcile the actual costs for the period January through June 2014.

Ms. Vrab provided an explanation of the workpapers supporting Schedule 1. She stated that Workpaper VAV-1 is the work product that feeds into Schedule 1 showing the actual costs incurred from January through June 2014 reconciled against the prior forecast for the same period and includes projected costs for the period January through June 2015. Workpaper VAV-

1 consists of 10 tabs showing: (1) a detailed account of planned expenses expected in the period January through June 2015 along with a detailed explanation of the adjustments included, (2) a detailed account of the actual expenses incurred in the period January through June 2014 along with a detailed explanation of the adjustments included and (3) a detailed account of specific corrections and adjustments.

Ms. Vrab testified that given the experience NIPSCO has had over the past year and the fact that new agreements are being put in place for 2015, NIPSCO utilized the projected budgets and savings for its projections for January through June 2015. She explained because NIPSCO has more experience with both its program offerings and its forecasting and because the program costs are ultimately reconciled, NIPSCO is using the proposed budgets provided by the vendors.

Ms. Vrab testified the projected costs for the period January through June 2014 were \$10,847,534 and the actual costs for the period January through June 2014 were \$17,795,287 resulting in an under-collection of \$6,947,753. She stated that the majority of the under-collection is associated with two programs: C&I Custom Electric Incentive Program and the C&I Prescriptive Rebate Program-Commercial.

Ms. Vrab testified the projected costs for the period January through June 2015 are \$8,889,288 and the projected EM&V costs for the period January through June 2015 are \$430,751. Adding these amounts to the under-recovery of projected costs for the period January through June 2014 of \$6,947,753, results in total costs of \$16,267,792 to be collected for the period January through June 2015.

Mr. Isensee testified regarding NIPSCO's request for continued authority to defer as a regulatory asset or regulatory liability the over- and under-recoveries of projected DSM program costs and program costs incurred implementing the DSM programs prior to the time the Commission issues an order authorizing Petitioner to recognize these costs through the ratemaking process. He stated that NIPSCO will defer these costs on the balance sheet as a regulatory asset in Account 182.3 – Regulatory Asset or a regulatory liability in account 254 – Other Regulatory Liabilities depending on the net balance of program costs.

**10. Calculation and Reconciliation of Lost Revenues.** Ms. Vrab sponsored Schedule 3 of Exhibit 1 attached to the Verified Petition (“Schedule 3”), which shows the energy and demand forecasts used in the calculation of lost revenues. NIPSCO's request in this filing includes projected lost revenues for the period January through June 2015 and includes a reconciliation of lost revenues through December 31, 2013.

Ms. Vrab stated that Workpaper VAV-2 is the work product that feeds into Schedule 3 showing the detailed calculations supporting the energy and demand savings. Workpaper VAV-2 consists of nine tabs showing: (1) source data and measures used to determine monthly incremental savings, (2) cumulative savings, (3) expected savings by program, (4) calculation of risk factors, (5) expected incremental savings by month for future periods, (6) demand reductions by program, (7) energy savings by program, and (8) demand reductions and energy savings.

According to Schedule 3A of Exhibit A attached to the Verified Petition, the projected lost revenues for the period ending December 31, 2013 were \$12,257,762. After the

reconciliation, actual revenues for the period ending December 31, 2013 were \$12,520,492, resulting in an under-collection of \$262,730. She stated that because NIPSCO reconciles lost revenues once per year and spreads that amount over 12 months, NIPSCO will collect half of that amount, or \$131,365, from January 1 through June 30, 2015.

Ms. Vrab explained the change to the forecasting of lost revenues contemplated by the Settlement Agreement. She stated that when NIPSCO made its original filing in this Cause, it forecasted lost revenues for measures projected to be installed during the time period covered by DSMA 7 (January through June 2015) utilizing the deemed savings per the appropriate technical resource manual ("TRM"), but adjusted for the most current net-to-gross number. For measures previously installed, NIPSCO forecasted lost revenues utilizing the net ex post from the EM&V report as the deemed savings going forward. She stated that the OUCC expressed concerns with NIPSCO utilizing the TRM for measures projected to be installed even if there were EM&V results available to be utilized. As a result of these concerns, NIPSCO agreed it would be more appropriate to use the EM&V numbers, when available, for all measures, whether they were previously installed or were projected to be installed during the time period covered by the DSMA. She noted that the Settling Parties agreed that, rather than make the changes during this time period, NIPSCO would instead reconcile the difference between the TRM value and the net ex post from the EM&V report in the next DSMA filing. This will provide NIPSCO sufficient time to adjust the deemed savings for the measures and review the changes with the OUCC.

**11. Resulting DSMA Factors.** Mr. Isensee explained the calculation of NIPSCO's proposed DSMA factors. He testified the calculations of the proposed DSMA factors were prepared in conformity with the DSM Orders. He sponsored Schedules 2, 4, 5, 6 and 7 to the Verified Petition showing: (1) projected program costs allocated to each rate schedule, (2) the allocation of lost revenues based on energy and demand by rate schedule and by opt out period, (3) reconciliation of revenues by rate class, and (4) the calculation of DSMA factors by rate schedule. NIPSCO allocated the projected lost revenues by program to the individual rate classes based on either the number of customers in each eligible class or the energy forecasts related to each eligible rate class consistent with the methodology approved by the 44154 and 44363 Orders. He noted that this filing includes NIPSCO's first annual reconciliation of forecasted lost revenues as compared to actual lost revenues. Once NIPSCO allocates the program expenditures and lost revenues to the individual rate classes, and it has performed a reconciliation of revenue collection, NIPSCO then calculates the DSMA factors by dividing the cost per rate class by the respective forecasted usage. NIPSCO then adjusts the resulting DSMA factors to reflect Utility Receipts Tax on Retail Sales.

Mr. Isensee explained that in Cause No. 44436, the Commission approved NIPSCO's proposed mechanism for the phase-out of residential space heating discounts under Rates 611, 612 and 613 on or before January 1, 2015. He said this results in the collapsing of the rates for Rates 611, 612 and 613 in Year 1 of this transition. Therefore, as part of this proceeding, which is effective beginning with the first billing cycle of January 2015, NIPSCO has collapsed Rates 611, 612 and 613 consistent with the Commission's Order in Cause No. 44436.

Mr. Isensee sponsored Revised Exhibit B attached to Petitioner's Exhibit 1-S showing the calculation of the proposed DSMA factors for recovery in the period January through June 2015. This exhibit also shows the Opt Out Program DSMA factor effective with the first billing cycle

for the month of January 2015, in accordance with the provisions of Ind. Code § 8-1-8.5-9 and the 44441 Order, for qualifying customers electing to opt out of participation in Petitioner's Energy Efficiency Program and DSMA Rider effective July 1, 2014 (e.g., Rate Class XXX.1) and for qualifying customers electing to opt out of participation in Petitioner's energy efficiency programs and DSMA Rider effective January 1, 2015 (e.g., Rate Class XXX.2).

Mr. Isensee testified the estimated average monthly bill impact for a typical residential customer using 688 kWh per month is \$3.49. He noted this is a \$1.77 decrease in comparison to what a customer would pay today using the current DSMA factors.

Mr. Blakley testified that his Schedule 1 confirmed the accuracy of Petitioner's calculation of its residential DSMA factor. His Schedule 1 showed that total company retail DSM costs are \$25,434,671 and that the residential portion of these costs is \$8,207,013. He said that the bill impact for a residential customer using 1,000 kWh per month is \$5.07, which is a \$2.58 decrease in comparison to what a customer would pay today using the current DSMA factors.

**12. Commission Findings.** NIPSCO requests approval of its proposed DSMA factors in accordance with the Settlement Agreement. Settlements presented to the Commission are not ordinary contracts between private parties. *United States Gypsum, Inc. v. Indiana Gas Co.*, 735 N.E.2d 790, 803 (Ind. 2000). When the Commission approves a settlement, that settlement "loses its status as a strictly private contract and takes on a public interest gloss." *Id.* (quoting *Citizens Action Coalition of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coalition*, 664 N.E.2d at 406.

Further, any Commission decision, ruling, or order – including the approval of a settlement – must be supported by specific findings of fact and sufficient evidence. *United States Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition of Ind., Inc. v. Public Service Co. of Ind., Inc.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the Settlement Agreement is reasonable, just and consistent with the purpose of Ind. Code ch. 8-1-2, and that such agreement serves the public interest.

The Settlement Agreement addresses NIPSCO's method for forecasting lost revenues going forward based on the most updated program data available and approved by the OSB. The OUCC indicated that this change will bring NIPSCO's practices in line with the other investor-owned utilities and reduce the likelihood of over-collecting estimated lost revenues from ratepayers. No party objected to the Settlement Agreement. Based on the evidence presented, we find the Settlement Agreement is reasonable and should be approved.

The DSMA factors presented for approval include projected costs for the period January through June 2015 associated with NIPSCO's approved DSM programs. The evidence presented in this Cause as discussed above supports approval of Petitioner's proposed DSMA factors as

reasonable. NIPSCO's proposed changes to the structure of its DSMA Rider to address the different allocation mechanisms employed by NIPSCO and the implementation of the Opt Out Program are also supported by the evidence. Accordingly, we approve the requested DSMA factors. The resulting DSMA factors will be effective for the first billing cycle for the billing month of January 2015 and shall remain in effect through June 30, 2015, or until replaced by different adjustment factors approved in a subsequent filing.

**13. Effect of Settlement Agreement.** The Settling Parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. But, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 Ind. PUC LEXIS 459, at \*19-22 (IURC March 19, 1997).

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

1. NIPSCO's request for approval of DSMA factors is approved as set forth herein.
2. NIPSCO is granted continued authority to defer as a regulatory asset or regulatory liability the over and under recoveries of projected DSM program costs incurred implementing the DSM programs prior to the time the Commission issues an order authorizing Petitioner to recognize these costs through the ratemaking process.
3. The proposed changes to Rider 683 – Demand Side Management Adjustment Factor are hereby approved.
4. NIPSCO shall file with the Electricity Division of this Commission, prior to placing in effect the DSMA factors herein approved, a separate amendment to its rate schedules with a reasonable reference therein reflecting that such charge is applicable to all of its filed rate schedule, as shown in Petitioner's Exhibit 1-S, Revised Exhibit B.
5. This Order shall be effective on and after the date of its approval.

**STEPHAN, HUSTON, WEBER AND ZIEGNER CONCUR; MAYS-MEDLEY ABSENT:**

**APPROVED:**      **DEC 30 2014**

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

  
**Brenda A. Howe**  
**Secretary to the Commission**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA )  
PUBLIC SERVICE COMPANY FOR APPROVAL )  
OF DEMAND SIDE MANAGEMENT )  
ADJUSTMENT FACTORS FOR ELECTRIC )  
SERVICE FOR THE BILLING CYCLES FOR THE )  
MONTHS OF JANUARY THROUGH JUNE 2015 )  
AND CONTINUED AUTHORITY IN ) CAUSE NO. 43618-DSM-7  
ACCORDANCE WITH THE ORDERS OF THE )  
COMMISSION IN CAUSE NOS. 43618, 43912, )  
44154, 44363 AND 44441 AND MODIFICATION OF )  
RIDER 683 – ADJUSTMENT OF CHARGES FOR )  
DEMAND SIDE MANAGEMENT ADJUSTMENT )  
MECHANISM (DSMA). )

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STIPULATION AND SETTLEMENT AGREEMENT

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Northern Indiana Public Service Company (“NIPSCO”) and the Indiana Office of Utility Consumer Counselor (“OUCC”) (collectively, the “Settling Parties”), by their respective counsel, stipulate and agree as follows in the interest of jointly resolving the issues addressed in the above captioned proceeding:

**A. BACKGROUND.**

1. NIPSCO is a “public utility” within the meaning of Ind. Code § 8-1-2-1 and provides electric utility service to more than 468,000 retail customers in 20 counties

in Indiana and natural gas utility service to more than 821,000 retail customers in 32 counties in Indiana pursuant to authority granted by the Indiana Utility Regulatory Commission (the "Commission").

2. On May 25, 2011, the Commission issued an Order in Cause No. 43618 ("43618 Order") approving NIPSCO's request for approval of Rule 52 of the General Rules and Regulations (now Rider 683 - Adjustment of Charges for Demand Side Management Adjustment Mechanism) and Appendix G - Demand Side Management Adjustment Mechanism Factor ("DSMA Mechanism").

3. On July 27, 2011 the Commission issued an Order in Cause No. 43912 ("43912 Order") approving, among other things, NIPSCO's proposed Core and Core Plus energy efficiency programs and their projected budgets.

4. On August 8, 2012, the Commission issued an Order in Cause No. 44154 ("44154 Order") authorizing NIPSCO to recover lost margins associated with its approved Core and Core Plus programs through the DSMA Mechanism.

5. On December 18, 2013, the Commission issued an Order in Cause No. 44363 ("44363 Order") approving NIPSCO's electric demand side management ("DSM") programs for the period January through December 2014 and recovery of associated program costs pursuant to 170 IAC 4-8-5 and lost margins pursuant to 170 IAC 4-8-6 through its DSMA Mechanism in accordance with Ind. Code § 8-1-2-42(a).

6. On November 12, 2014, the Commission issued an Order in Cause No. 44496 (“44496 Order”) approving NIPSCO’s electric DSM programs for the period January through December 2015 and recovery of associated program costs pursuant to 170 IAC 4-8-5 and lost margins pursuant to 170 IAC 4-8-6 through its DSMA Mechanism in accordance with Ind. Code § 8-1-2-42(a).

7. NIPSCO currently offers a portfolio of electric DSM programs to its electric customers consistent with approval granted by the Commission. Specifically, NIPSCO’s portfolio of programs includes programs overseen by the NIPSCO Oversight Board (“OSB”) as approved by the Commission. The OSB includes representatives of the OUCC, Citizens Action Coalition of Indiana, Inc. and NIPSCO Industrial Group.

8. Costs associated with NIPSCO’s approved electric DSM programs are recovered through the DSMA Mechanism approved in the 43618 Order.

9. NIPSCO initiated this proceeding with the filing of its Verified Petition on September 30, 2014, requesting Commission approval of DSMA Factors to be effective for the billing cycles for the months of January through June 2015. The factors proposed in this proceeding include estimated costs from January through June 2015 and reconcile the actual costs for the period January through June 2014. The proposed factors also include recovery of projected lost margins for the period January through June 2015, as authorized for recovery in the 44363 Order. This filing also includes

NIPSCO's first reconciliation of lost margins as approved in the 44154 Order. NIPSCO is also proposing modifications to its DSMA Rider.

**B. TERMS OF AGREEMENT.**

1. The Settling Parties agree that the relief proposed by NIPSCO, as amended by this Settlement Agreement, is reasonable and should be approved to be effective from January 1, 2015 through June 30 2015.

2. The Settling Parties agree that, beginning with NIPSCO's DSM-8 proceeding, NIPSCO will change its method for forecasting lost margins for measures forecasted to be installed during the time period covered by the DSMA Factors. NIPSCO agrees that in DSM-8 and future DSM tracker proceedings, NIPSCO will forecast lost margins for measures to be installed utilizing the deemed savings value provided by the next ex post value from the most recently approved evaluation, measurement and verification ("EM&V") report as approved by the Oversight Board. This is the same process NIPSCO currently uses for measures previously installed. If a measure is not included in the EM&V report approved by the Oversight Board or the Oversight Board has adopted a value different from that included in the EM&V report approved by the Oversight Board, NIPSCO will forecast the lost margins utilizing the deemed savings value approved by the Oversight Board.

3. NIPSCO will recalculate estimated lost margins for measures projected to be installed during the period January through June 2015 period using the most recent EM&V report approved by the Oversight Board or other deemed savings measure approved by the Oversight Board. NIPSCO agrees to include a reconciliation, either positive or negative, based on this recalculation in DSMA 8, which covers the period of July through December 2015.

4. The Settling Parties agree that NIPSCO will continue to allocate program costs as approved by the Commission in its 44496 Order.

5. The Settling Parties agree that, because of the timing of the November 15, 2014 Opt-Out notification deadline as approved by the Commission in its June 30, 2014 Order in Cause No. 44441, NIPSCO will likely need to file updates to some of its schedules. The Settling Parties agree to work collaboratively to produce settlement schedules reflecting these changes. The Settling Parties agree that they will file testimony and updated schedules supporting the Settlement Agreement on or before December 2, 2014, NIPSCO's current rebuttal date.

6. The Settling Parties agree that the necessary tariff changes included in this filing are appropriate.

**C. MISCELLANEOUS.**

7. This Agreement is not to be deemed an admission by any Party in any other proceeding except as necessary to enforce its terms before the Commission, or any Court of competent jurisdiction. This Agreement is solely the result of compromise in the settlement process and, except as expressly provided herein, is without prejudice to and shall not constitute a waiver of any position that any of the Parties may take with respect to any or all of the issues resolved herein in any other future regulatory or other proceedings.

8. If this Agreement is not approved by the Commission, the Parties agree that the terms hereof shall be privileged and shall not be admissible in evidence or in any way discussed in any subsequent proceeding. Moreover, the concurrence of the Parties with the terms of this Agreement is expressly predicated upon the Commission's approval of this Agreement in its entirety without modification or further condition deemed unacceptable by any Party. If the Commission does not approve this Agreement in its entirety, this Agreement shall be null and void and deemed withdrawn, unless otherwise agreed in writing by the Parties.

9. This Agreement represents all of the terms and conditions agreed to by the Parties. It shall be construed in accordance with its plain meaning. Its terms may not be expanded, varied or interpreted based on supporting testimony, the order

approving this Agreement or any other documents. This Agreement shall be binding upon the Parties, successors and assigns.

10. The Settling Parties will submit prefiled written testimony into the record at the public hearing related to approval of this Agreement sufficient to support the Commission's finding that this Agreement is in the public interest.

11. The communications and discussions during the negotiations and conferences which have produced this Agreement shall be conducted on the explicit understanding that they are, or relate to offers of settlement and shall be privileged and confidential, shall be without prejudice to the position of any Party, and are not to be used in any manner in connection with any other proceeding or otherwise.

12. Each of the undersigned represents and agrees that he or she is fully authorized to execute this Agreement on behalf of the Party identified above his or her respective signature.

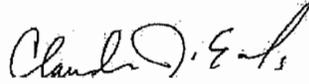
13. The Parties agree that the execution of duplicate signature page(s) hereto shall be binding upon each Party as if each had executed the same original document.

ACCEPTED AND AGREED this 19th day of November, 2014.

INDIANA OFFICE OF UTILITY CONSUMER  
COUNSELOR

By:   
Jeffrey M. Reed, its Attorney

NORTHERN INDIANA PUBLIC SERVICE COMPANY

By:   
Claudia J. Earls, its Attorney