

ORIGINAL

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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC)
 SERVICE COMPANY ("PETITIONER") FOR)
 APPROVAL OF AND AUTHORITY FOR: (1))
 MODIFICATION TO ITS RATES AND CHARGES FOR)
 GAS UTILITY SERVICE; (2) NEW SCHEDULES OF)
 RATES AND CHARGES APPLICABLE THERETO; (3))
 REVISIONS TO ITS DEPRECIATION ACCRUAL)
 RATES; (4) DEFERRAL OF ACCRUED)
 DEPRECIATION EXPENSE; (5) DEFERRAL IN A)
 BALANCING ACCOUNT OF OVER AND UNDER)
 RECOVERIES OF PENSION AND OPEB EXPENSES;)
 (6) CONTINUATION OF NIPSCO'S ENERGY)
 EFFICIENCY PROGRAM WITH MODIFICATIONS; (7))
 IMPLEMENTATION OF A NEW LOW-INCOME)
 PROGRAM; (8) CERTAIN RATEMAKING) CAUSE NO.)
 43894 TREATMENTS FOR REVENUES AND)
 EXPENSES RELATING TO SERVICES AND)
 PROGRAMS OFFERED PURSUANT TO)
 PETITIONER'S CUSTOMER CHOICE ALTERNATIVE)
 REGULATORY PLAN; (9) TO THE EXTENT)
 NECESSARY, GRANTING THE REQUESTED RELIEF)
 AS AN ALTERNATIVE REGULATORY PLAN)
 PURSUANT TO IND. CODE CHAPTER 8-1-2.5; (10))
 MODIFICATION OF PETITIONER'S GAS COST)
 ADJUSTMENT PROCESS TO INCLUDE)
 UNACCOUNTED FOR GAS AND THE GAS COST)
 COMPONENT OF BAD DEBT EXPENSE; AND (11))
 VARIOUS CHANGES TO ITS TARIFF FOR GAS)
 SERVICE INCLUDING IMPLEMENTING A)
 STRAIGHT- FIXED VARIABLE RATE DESIGN,)
 REMOVAL OF GAS COSTS FROM BASE RATES AND)
 CHANGES TO ITS GENERAL TERMS AND)
 CONDITIONS FOR SERVICE)

CAUSE NO. 43894

APPROVED: 'AUG 28 2013

ORDER OF THE COMMISSION

Presiding Officers:

James D. Atterholt, Chairman

Aaron A. Schmoll, Senior Administrative Law Judge

On June 18, 2013, Northern Indiana Public Service Company ("NIPSCO") filed, on behalf of itself and the Indiana Office of Utility Consumer Counselor ("OUCC"), the NIPSCO Industrial Group ("Industrial Group") and Citizens Action Coalition of Indiana, Inc. (collectively, the "Settling Parties"), a *Motion for Extension of Rate Case Settlement* ("Motion"), and attached a

Settlement Extension (the “2013 Extension”), a copy of which is attached hereto and incorporated herein by reference. In the Motion, the Settling Parties seek to modify the *Stipulation and Agreement* approved by the Indiana Utility Regulatory Commission (the “Commission”) on November 4, 2010 under this Cause, and the *Stipulation and Settlement Agreement* approved on May 31, 2011 in Cause Nos. 43941, 43942 and 43943. On June 25, 2013 NIPSCO filed testimony in support of the 2013 Extension. On June 28, 2013 the OUCC filed testimony in support of the 2013 Extension. On July 22, 2013 the Commission issued a Docket Entry requesting responses to questions to which NIPSCO responded on July 24, 2013.

Pursuant to notice given as provided by law, proof of which was incorporated into the record, a Settlement Hearing was held in this matter on July 25, 2013 at 9:30 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 the witnesses. No members of the general public appeared or participated at the hearing.

Based upon the applicable law and being duly advised in the premises, the Commission now finds as follows:

1. **Notice and Jurisdiction.** Due, legal and timely notice of the public hearing conducted herein was given and published by the Commission as required by law. Petitioner is a “public utility” as defined in Ind. Code § 8-1-2-1(a), and is subject to the jurisdiction of the Commission. Pursuant to Ind. Code § 8-1-2-72, the Commission may, upon issuance of proper notice, amend its prior orders. Pursuant to Ind. Code § 8-1-2-42, the Commission has jurisdiction over a public utility’s rates and charges. Therefore, the Commission has jurisdiction over the Petitioner and the subject matter of the proceeding in the manner and to the extent provided by the laws of the State of Indiana.

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

3. **Background.**

A. **The Rate Settlement.** The Settling Parties negotiated a comprehensive *Stipulation and Settlement Agreement* (the “Rate Settlement”) in this Cause.¹ The Rate Settlement was approved without modification by the Commission in a Final Order issued on November 4, 2010 (the “43894 Order”). The 43894 Order approved, *inter alia*, rates and charges for NIPSCO

¹ Since the NIPSCO Choice Supplier Group (“Choice Marketers”) was a signatory to the Rate Settlement, the proposal for extension was circulated to counsel for the Choice Marketers who advised that unless there is a revision on the treatment of Alternative Regulatory Program revenues or something else provocative to the marketers, the Choice Marketers will not participate in this proceeding on the proposed extension.

calculated to provide NIPSCO an opportunity to earn an authorized net operating income (“NOI”) of \$39,841,895.

Paragraph 7.a of the Rate Settlement provided for specific treatment of Depreciation Expense and Accumulated Depreciation. Specifically, the Rate Settlement provides that:

[the] Parties stipulate that the depreciation accrual rates recommended by NIPSCO Witness John Spanos and presented in this proceeding (the “Depreciation Study”) should be approved, but that the annual depreciation expense and provision for accumulated depreciation should be offset for a period of four years or until further order of the Commission, whichever occurs first, through a reduction in the accumulated depreciation reserve in the fixed amount of \$25.7 million/year. The Parties further agree that in no case shall the accounting treatment described herein result in the creation of either a deferred depreciation expense or regulatory asset for the purpose of future recovery of current period depreciation expense.

The provision for depreciation is an accounting estimate, which is revised prospectively utilizing depreciation studies that incorporate recent experience with relevant factors such as useful life, cost of removal, net salvage values, etc. By applying these updated factors retrospectively, a theoretical reserve can be calculated. A difference between the actual accumulated depreciation reserve and this theoretical reserve is reflected as a component of prospective depreciation expense in the Depreciation Study. The Parties agree that \$102.8 million of the amount of the depreciation reserve will be reduced over the next four years, thereby reducing this difference more rapidly than over the remaining life of the property to which it relates. The Company will offset depreciation expense for each class of depreciable gas utility plant up to, but not in excess of, the amount of expense computed in connection with the Depreciation Study. The Company agrees that Depreciation on common plant shall be as proposed by NIPSCO in its case-in-chief. This method would result in the following accounting for gas plant:

	Millions	
	Debit	Credit
Depreciation Expense	\$26	
Accumulated Depreciation		\$26
Annual Adjustment to Depreciation Expense		
Accumulated Depreciation	\$25.7	
Depreciation Expense		\$25.7

In the event that annual depreciation for any class of gas utility plant is reduced to zero during the year and prior to the full annual depreciation adjustment of \$25.7 million, the Company will reduce the annual adjustment such that there will not be negative depreciation for any class of property. The Parties agree that NIPSCO will not seek an accelerated recovery period on depreciation expense reduced as a result of this Agreement. NIPSCO will provide the OUCC with a full accounting of any

reductions to the annual depreciation expense adjustment, showing details of the cause and the effect on all utility plant account.

Rate Settlement, Paragraph 7.a.

B. The Merger Settlement. In Consolidated Cause Nos. 43941, 43942 and 43943, the Commission issued an Order on May 31, 2011 (the “Merger Order”) approving a unanimous Stipulation and Settlement Agreement between NIPSCO, the OUC and the Choice Marketers whereby the former Kokomo Gas & Fuel Company and Northern Indiana Fuel & Light Company Inc. were merged into NIPSCO, and the rates approved by the Commission in the Rate Settlement made applicable to customers across the footprint of the consolidated company (the “Merger Settlement”).² The Merger Order also approved an addition to the authorized NOI of the consolidated company of \$4,602,071 resulting in a total authorized NOI of \$44,443,966.

Paragraph 15 of the Merger Settlement approved in the Merger Order addressed the treatment of Depreciation Expense and Accumulated Depreciation in a manner consistent with and incremental to the Rate Settlement approved in the 43894 Order. Specifically, the Merger Settlement provided that,

- a. Depreciation Expense. The Parties agree that depreciation expense should be based on NIPSCO’s depreciation rates as approved in the NIPSCO Rate Order, and the plant balances in the current Kokomo and NIFL accounts shall be added to the balances in the corresponding NIPSCO accounts for ratemaking purposes, allowing for a single uniform set of depreciation rates for the gas plant throughout the consolidated NIPSCO upon completion of the merger contemplated by this Agreement. The Parties agree that Depreciation Expense associated with the Kokomo and NIFL plant in service is \$1,966,536 and is consistent with the service life study submitted by NIPSCO witness John Spanos in Cause No. 43894.
- b. Credit to Depreciation Expense. In recognition of the revenue shortfall identified in Paragraph 13.b. of this Agreement, the Parties agree to an additional credit to depreciation expense and reduction to accumulated depreciation reserve of \$447,394 per year consistent with the methodology approved by the Commission in the NIPSCO Rate Order, and that such credit shall expire concurrently with the credit identified in Paragraph 7(a) of the Stipulation and Settlement Agreement approved in that Cause.

Merger Settlement, Paragraph 15.

4. Terms of the 2013 Extension. The Settling Parties have agreed that the provisions of Paragraph 7.a. of the Rate Settlement and Paragraph 15.b. of the Merger Settlement as approved in the 43894 Order and the Merger Order, respectively, should be modified so that the annual depreciation expense and provision for accumulated depreciation should be offset until November 4, 2020 or until further order of the Commission, whichever occurs first, through a reduction in the

² The NIPSCO Industrial Group and CAC were not parties in Consolidated Cause Nos. 43941, 43942 and 43943.

accumulated depreciation reserve in the fixed amount of \$28.4 Million/year to reflect the annual depreciation expense on NIPSCO's December 31, 2012 gas plant balance. The Extension will result in the following accounting for gas plant:

	Millions	
	Debit	Credit
Depreciation Expense	\$28.4	
Accumulated Depreciation		\$28.4
Annual Adjustment to Depreciation Expense		
Accumulated Depreciation	\$28.4	
Depreciation Expense		\$28.4

The Settling Parties have agreed that all other provisions of the Rate Settlement and Merger Settlement should remain in place without modification including, without limitation, NIPSCO's authorized NOI of \$44,443,966 and its return on equity of 9.9 percent.

The Settling Parties have agreed that NIPSCO's basic rates and charges approved by the Commission in the 43894 Order (which were also approved for NIFL and Kokomo in the Merger Order) should remain in effect through November 4, 2020 or as otherwise modified by the Commission in a proceeding setting new basic rates and charges.³ The Settling Parties have agreed that the implementation and operation of the Extension is subject to review and discussion among the Settling Parties on or after May 1, 2017, at the request of any Settling Party. In the event that, as a result of such review and discussion, the Settling Parties agree to modify the terms of this Extension, the Settling Parties will jointly submit such modification to the Commission for approval. In the event one or more Settling Parties propose a modification as to which there is not full agreement, such Settling Party or Parties may present such proposal for Commission review, in which case the Settling Party seeking the revision shall bear the burden of proof to support the proposed modification.

The Settling Parties have agreed that nothing in the Extension should be interpreted as imposing any limitation on the adjustment of NIPSCO gas rates through any lawful tracking mechanism including without limitation gas cost adjustments undertaken pursuant to Ind. Code 8-1-2-42(g), federally mandated costs that are recoverable pursuant to Ind. Code ch. 8-1-8.4, and transmission and distribution improvement charges recoverable pursuant to Ind. Code ch. 8-1-39.

5. Testimony in Support of the 2013 Extension. NIPSCO presented the testimony of Frank A. Shambo and Linda E. Miller and the OUCC presented the testimony of Mark H. Grosskopf in support of the 2013 Extension.

A. Frank A. Shambo. Mr. Shambo prefiled settlement testimony to address the circumstances surrounding the 2013 Extension and the regulatory policy that supports the conclusion that the 2013 Extension is in the public interest.

³ Consistent with the 43894 Order, NIPSCO is required to reduce rates by \$1,080,937 when rate case expense amortization is completed in November 2013. In addition, at that time, NIPSCO will also include a reduction in rates of \$167,879, which would be due in July 2014 pursuant to the Merger Order.

Mr. Shambo testified the Settling Parties represent a diverse group of constituents with differing views on the complicated issues that were raised in the proceeding underlying the Rate Settlement. He stated that the 2013 Extension is the result of substantial negotiations and investigation and that while the 2013 Extension is straight forward and non-complicated, it is the result of numerous meetings. He stated that experts were involved with legal counsel in the development of both the conceptual framework and the details of the 2013 Extension. He noted that NIPSCO appreciated the willingness of the other Settling Parties to engage in the process that resulted in the 2013 Extension. He presented an overview of the 2013 Extension, and he concluded that the 2013 Extension balances the interests of the various stakeholders and the overall public interest.

Mr. Shambo testified the 2013 Extension provides for the extension of a depreciation credit through November 4, 2020, or the issuance of an order in a subsequent rate case that modifies NIPSCO's basic rates and charges, whichever occurs sooner. He testified there are no changes to rates or tariffs in the 2013 Extension.

Mr. Shambo explained how NIPSCO's overall delivery rates compare to those of other gas utilities in Indiana. He stated that applying NIPSCO's current residential service delivery rates to 863 therms, the annual usage of the average NIPSCO residential customer during calendar year 2009, NIPSCO's annual delivery bill is \$229.34, approximately \$43.60 less than its closest major gas utility peer and approximately \$99.50 less than the average of all its peers.

Mr. Shambo explained the reason that the Parties originally agreed to a depreciation credit. He stated that comparing depreciation expense to capital expenditures from 1988 to 2008, there was a gap of \$474.3 Million of depreciation expense that was in excess of NIPSCO's capital additions. The result of this differential is that the Company had an accounting net plant in service balance, including common plant, of \$230 Million. The \$230 Million of net plant in service was the remaining balance of the \$1.7 Billion gross plant in service, including common plant that the Company had at the end of its test year (December 31, 2009). He stated the Depreciation Study supporting the Rate Settlement recommended NIPSCO's depreciation rates be decreased from 5.5% to 1.58%. He testified NIPSCO agreed to a depreciation credit equal to the amount of its gas service depreciation expense to better align its net utility plant with the remaining life of its gas assets. He stated that the initial depreciation credit mechanism is due to expire on November 4, 2014.

Mr. Shambo testified that while the depreciation credit mechanism has helped close the gap between the book value of its gas assets and their remaining useful life, it has not completely addressed the issue. Therefore, the Settling Parties have agreed to extend the depreciation credit mechanism to November 4, 2020, or until a further order of the Commission, whichever occurs first. He stated the Parties believe that the 2013 Extension will, by 2020, result in a closer relationship between the net book value of NIPSCO's gas assets with their remaining useful life.

Mr. Shambo testified NIPSCO will continue using the gas plant depreciation rates approved in the 43894 Order as they continue to reflect an accurate representation of the useful life of NIPSCO's plant additions. Mr. Shambo testified depreciation expense will be calculated in accordance with the approved Depreciation Study and will fluctuate annually with plant account balances. He stated NIPSCO will continue to make an offsetting entry to credit depreciation

expense and debit its accumulated depreciation reserve account monthly. He explained that the annual amount of this credit has been \$26.2 Million since the 43894 Order and Merger Order, and under the 2013 Extension will increase to \$28.4 Million per year as NIPSCO's gas plant has continued to grow through December 31, 2012 as a result of capital additions (the 2012 value), through November 4, 2020 or further Order of the Commission, whichever occurs first.

Mr. Shambo testified plant additions experienced during this period will result in an increase in NIPSCO's Original Cost Rate Base, while the proposed depreciation treatment will serve as an offset to the Original Cost Rate Base.

Mr. Shambo testified NIPSCO's Gross Gas Plant was \$1.612 Billion, Accumulated Depreciation was \$1.444 Billion and Net Book Value was \$168 Million as of September 30, 2009 (the date of the depreciation study). The depreciation credit approved in the 43894 Order has been a major factor in the increase to \$321 million in Net Book Value as of December 31, 2012.

Mr. Shambo explained that the total depreciable level is the combination of Gross Plant plus Net Salvage. Net Salvage is defined as Gross Salvage less Cost of Removal. He testified NIPSCO's estimated Net Salvage cost was \$778 Million at the time of the last depreciation study and NIPSCO's total depreciable level was approximately \$2.4 Billion at the time of the study.

Mr. Shambo testified that as of September 30, 2009, based upon the Depreciation Study, NIPSCO's assets were at 38% of their useful life. Mr. Shambo further testified that NIPSCO's accumulated depreciation as of the time of the depreciation study was 60% of the total depreciable level. Mr. Shambo then testified that the gap caused by this difference yielded an Accumulated Depreciation balance that was \$524 Million greater than that which would be based on remaining useful life. This gap causes the relationship of Fair Value return and Original cost return to become irreconcilable through the adjustment of the rate of common equity to account for inflation. He testified the depreciation crediting mechanism agreed to in the 2013 Extension should bring these calculations much closer by 2020. He explained that the depreciation credit has contributed to a reduction in the gap of approximately \$56 Million, the amount of the credit from November 2010 through December 31, 2012. He said that since gross plant has increased faster than depreciation expense during this period, the relative gap has declined by a somewhat larger percentage. He testified that if the Commission approves the 2013 Extension, over the period September 1, 2013 to November 4, 2020, this credit will further reduce the gap. He stated the exact gap will also be impacted by future capital investments, changes in survivor curves and other factors. He stated that the combination of the credit and gross plant additions will bring Fair Value return, with an inflation adjustment, closer to Original cost return. He testified that during this period customers are receiving the benefit of a cost of service that is collecting little to no depreciation expense.

Mr. Shambo testified approval of the 2013 Extension as it is written is consistent with the public interest because it extends the terms of a unanimous and comprehensive resolution of all of the issues in the proceeding underlying the 43894 Order by NIPSCO and its stakeholders. He testified all parties and the Commission avoid the expense and time commitment that would result from the filing of a case to establish new basic rates and charges for NIPSCO's gas service. Mr. Shambo testified the earnings bank will not be reset, but rather will continue accruing from the level it is today. He also testified the return on equity to be utilized for purposes of Ind. Code chs. 8-1-8.4, 8-1-8.8 and 8-1-39 will be 9.9 percent. Finally, he testified all parties have certainty that there will be no rate increase arising out of a rate case, which would have been filed during the summer

of 2013 to assure an Order was issued by November 4, 2014, the current expiration date of the depreciation credit.

Mr. Shambo explained paragraph 7 of the 2013 Extension that states that the agreement is subject to review and discussion among the Settling Parties on or after May 1, 2017, at the request of any party. He explained that given the passage of Senate Bill 560 and the potential for the cost of transmission and distribution projects to be recovered via a rate mechanism, the Settling Parties agreed that it would be prudent to include the ability to review and discuss the 2013 Extension after a period of time.

B. Linda E. Miller. Ms. Miller presented the results of operations during calendar year 2012 and explained in greater detail the workings of the depreciation expense credit. Ms. Miller sponsored the per books Statement of Income (unaudited) for NIPSCO Gas for the twelve-month periods ending December 31, 2012 and December 31, 2011 (Petitioner's Exhibit No. LEM-E2) and the NIPSCO Original Cost Gas Rate Base at December 31, 2012 and Original Cost Gas Rate Base per Cause Nos. 43894, 43942 and 43943 (Petitioner's Exhibit No. LEM-E3). She testified based on balances for gas plant in service, common plant (plant that serves both gas and electric operations), accumulated depreciation related to the aforementioned and gas inventories, NIPSCO has calculated an Original Cost Gas Rate Base of \$459.4 Million. Ms. Miller explained how this compared to the aggregate Original Cost Gas Rate Base in the 43894 Settlement and the Merger Settlement. She explained that the total amount, determined on the same basis as the December 31, 2012 calculation, was \$384.8 Million (comprised of \$318.0 Million for NIPSCO and \$66.8 Million contributed by NIFL and Kokomo). She testified the trend of reduced Original Cost Gas Rate Base amounts has been reversed. She stated that in just over two years, as a result of capital expenditures, reduced depreciation expenses and most importantly annual depreciation expense credits of \$26.2 Million, NIPSCO's Gas Rate Base is increasing. She testified that by increasing the credit to \$28.4 Million annually in the Extension, the Gas Rate Base will continue to increase.

C. Mark H. Grosskopf. Mr. Grosskopf prefiled settlement testimony supporting an extension of the Rate Settlement. He explained that he participated in numerous settlement discussion and technical meetings with NIPSCO representatives and the OUCC staff, as well as with the Industrial Group and CAC. He also conducted informal discovery and technical discussions with NIPSCO's staff, detailing historic and forecasted depreciation expense analysis, current and forecasted utility plant in service balances and current and forecasted original cost rate basis analysis. Mr. Grosskopf was also involved in the negotiations and analysis resulting in the Rate Settlement and the Merger Settlement.

Mr. Grosskopf described some of the benefits of the Rate Settlement. First, a notable benefit of the Settlement is that it resulted in a rate decrease for all customer classes. Second, an agreed upon depreciation credit equal to the amount of gas service depreciation expense enables NIPSCO to better align its net utility plant in service per books with the remaining life of the utility plant assets. The depreciation expense credit offsets the depreciation charge against accumulated depreciation, allowing NIPSCO to build up its original cost rate base faster than if depreciation expense were being fully charged against accumulated depreciation. Third, the depreciation credit is factored into current rates, thereby lowering rates for current customers. Also, the Settlement does not consider the depreciation credit a deferred expense, to be subsequently recovered at an accelerated rate. Instead, when the depreciation credit expires, depreciation expense will likely be

recovered at an approved rate representing the remaining useful life of the utility's plant in service. Fourth, by enabling NIPSCO to build up its original cost rate base to a level more representative to the remaining useful life of the utility plant in service, the motivation for NIPSCO to propose a fair value rate base is diminished, thereby reducing the need for costly and time consuming analysis and litigation of a contentious issue.

Mr. Grosskopf also testified there were other provisions included in the Rate Settlement such as increased monthly service charges, treatment of ARP margin revenues, energy efficiency and low income customer programs, revised and capped unaccounted for gas and bad debt recovery, and a reduction to NIPSCO's earnings bank level. He explained that while these provisions are beneficial to NIPSCO and the ratepayers, they are not at issue in the requested extension of the Settlement, and therefore, were not addressed.

Mr. Grosskopf testified most of the benefits and provisions of the Rate Settlement, including current rates and charges, remain unchanged. He stated that the differences relate to the depreciation expense credit and the term for which it may be applied. He explained that the Settling Parties agreed (1) to an increase of the depreciation credit from \$26.2 Million to \$28.4 Million per year to reflect an update to the annual depreciation expense on gas plant as of December 31, 2012; (2) to a proposed extension of the period for which NIPSCO may continue to credit depreciation expense against accumulated depreciation from the current expiration of November 4, 2014 to November 4, 2020, or further Order of the Commission, whichever comes first; and (3) the 2013 Extension shall be subject to review and discussion among the Parties on or after May 1, 2017, at the request of any Party. If a review and discussion result in an agreement to modify the terms of the Settlement extension, the Parties will jointly submit such modification for Commission approval. If one or more Parties propose a modification without full agreement, the Party or Parties shall bear the burden of proof to support the modification in a proposal submitted for Commission review.

Mr. Grosskopf testified that per his analysis of the information and forecasts provided by NIPSCO, he believes by November 4, 2020 the depreciation expense credit mechanism will result in an original cost net utility plant in service book balance that has a closer relationship to the remaining useful life of NIPSCO's gas utility plant in service. He stated this issue may be revisited on or after May 1, 2017 or at the proposed expiration date of November 4, 2020, but the utility plant balances projected for the current expiration date of November 4, 2014 appear inadequate to achieve the goal of the Parties in the Rate Settlement.

Mr. Grosskopf concluded that approval of the extension to the Settlement is consistent with the terms of a unanimous agreement and resolution of all issues approved in Cause No. 43894. He testified approval of the 2013 Extension avoids the expense and time commitment that would result from a fully litigated rate case. He stated that additionally, the earnings bank will not be reset and the return on equity will remain at 9.9%. Mr. Grosskopf testified that he believes extension of the Rate Settlement will achieve an original cost utility plant in service balance bearing a closer relationship to the remaining useful life of NIPSCO's utility plant while retaining all of the benefits to ratepayers provided in the Rate Settlement. Mr. Grosskopf recommends approval of the 2013 Extension.

5. Commission Discussion and Findings. We have previously discussed our policy with respect to settlements:

Indiana law strongly favors settlement as a means of resolving contested proceedings. See, e.g., *Manns v. State Department of Highways*, Ind., 541 N.E.2d 929, 932 (1989); *Klebes v. Forest Lake Corp.*, Ind. App. 607 N.E.2d 978, 982 (1993); *Harding v. State*, Ind. App., 603 N.E.2d 176, 179 (1992). A settlement agreement “may be adopted as a resolution *on the merits* if [the Commission] makes an independent finding supported by ‘substantial evidence on the record as a whole’ that the proposal will establish ‘just and reasonable’ rates.” *Mobil Oil Corp. v. FPC*, 417 U.S. 283, 314 (1974) (emphasis in original).

See, e.g., *Indianapolis Power & Light Co.*, Cause No. 39938, p. 7 (IURC 8/24/95); *Commission Investigation of Northern Ind. Pub. Serv. Co.*, Cause No. 41746 at 23 (IURC Sept. 23, 2002). This policy is consistent with expressions to the same effect by the Supreme Court of Indiana. See, e.g., *Mendenhall v. Skinner & Broadbent Co.*, 728 N.E.2d 140, 145 (Ind. 2000) (“The policy of the law generally is to discourage litigation and encourage negotiation and settlement of disputes.”)(citation omitted); *In re Assignment of Courtrooms, Judge’s Offices and Other Facilities of St. Joseph Superior Court*, 715 N.E.2d 372, 376 (Ind. 1999) (“Without question, state judicial policy strongly favors settlement of disputes over litigation.”) (citations omitted).

Nevertheless, a settlement agreement will not be approved by the Commission unless it is supported by probative evidence. 170 IAC 1-1.1-17. 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). Any settlement agreement that is approved by the Commission “loses its status as a strictly private contract and takes on a public interest gloss.” *Id* (quoting *Citizens Action Coalition 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. Furthermore, 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 790 at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusion that the Settlement Agreement is reasonable, just, and consistent with the purpose of Ind. Code ch. 8-1-2, and that such Settlement Agreement serves the public interest.

In this proceeding, the Commission reviewed the proposed 2013 Extension and finds that the agreement is reasonable and just and properly balances the interests of NIPSCO, its customers and the overall public interest. The 2013 Extension will increase the depreciation credit previously agreed to and approved in the Rate Settlement. As explained by Mr. Shambo, the depreciation credit does not impact current rates, but does reduce the gap between actual accumulated depreciation and the accumulated depreciation matched to the remaining useful life of NIPSCO’s gas assets. As NIPSCO places new assets in service, net book value will increase more than it otherwise would have because the amount of accumulated depreciation will decrease due to the depreciation credit. Ultimately, the 2013 Extension may reduce future issues related to NIPSCO’s fair value rate base. As shown by substantial evidence of record, the 2013 Extension is reasonable, just and consistent with the purpose of Ind. Code ch. 8-1-2, and that the 2013 Extension serves the public interest.

The Settling Parties also agree that the 2013 Extension shall be subject to review no earlier than May 1, 2017, and that NIPSCO's basic rates and charges should remain in effect through November 4, 2020, or further order of the Commission. Given that NIPSCO's rates, by 2020, would have been in effect for ten years, we find that on or before November 4, 2020, NIPSCO shall file a new base rate proceeding.

The Settling Parties agreed that the 2013 Extension shall not constitute an admission or a waiver of any position that any of the Settling Parties may take with respect to any or all of the items and issues resolved therein in any future regulatory or other proceedings, except to the extent necessary to enforce its terms. However, with regard to future citation of the 2013 Extension, we find the 2013 Extension and our approval of it should be treated in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434 (IURC Mar. 19, 1997).

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

1. The 2013 Extension between NIPSCO, the OUCC, the Industrial Group and CAC filed in this Cause on June 18, 2013, shall be and hereby is approved by the Commission as set forth herein.
2. On or before November 20, 2020, NIPSCO shall file a new base rate proceeding.
3. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, MAYS AND ZIEGNER CONCUR; LANDIS ABSENT:

APPROVED: AUG 28 2013

**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

PETITION OF NORTHERN INDIANA PUBLIC SERVICE)
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 AUTHORITY FOR: (1) MODIFICATION TO ITS RATES)
 AND CHARGES FOR GAS UTILITY SERVICE; (2) NEW)
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 PROGRAM; (8) CERTAIN RATEMAKING) CAUSE NO.)
 43894 TREATMENTS FOR REVENUES AND EXPENSES)
 RELATING TO SERVICES AND PROGRAMS OFFERED)
 PURSUANT TO PETITIONER'S CUSTOMER CHOICE)
 ALTERNATIVE REGULATORY PLAN; (9) TO THE)
 EXTENT NECESSARY, GRANTING THE REQUESTED)
 RELIEF AS AN ALTERNATIVE REGULATORY PLAN)
 PURSUANT TO IND. CODE CHAPTER 8-1-2.5; (10))
 MODIFICATION OF PETITIONER'S GAS COST)
 ADJUSTMENT PROCESS TO INCLUDE UNACCOUNTED)
 FOR GAS AND THE GAS COST COMPONENT OF BAD)
 DEBT EXPENSE; AND (11) VARIOUS CHANGES TO ITS)
 TARIFF FOR GAS SERVICE INCLUDING)
 IMPLEMENTING A STRAIGHT- FIXED VARIABLE RATE)
 DESIGN, REMOVAL OF GAS COSTS FROM BASE RATES)
 AND CHANGES TO ITS GENERAL TERMS AND)
 CONDITIONS FOR SERVICE)

CAUSE NO. 43894

EXTENSION OF SETTLEMENT AGREEMENT

Northern Indiana Public Service Company ("NIPSCO"), the Indiana Office of Utility Consumer Counselor ("OUCC"), the NIPSCO Industrial Group ("Industrial Group") and Citizens Action Coalition of Indiana, Inc. (collectively, "the Parties"), having been duly advised, move the Indiana Utility Regulatory Commission (the "Commission") pursuant to Ind. § 8-1-2-

72 for the modification of its Order in the above titled proceeding for the limited purpose of approving an agreed extension of certain provisions of the *Stipulation and Agreement* approved on November 4, 2010 (the “Extension”). Specifically, the Parties agree as follows:

I. BACKGROUND.

A. The Rate Settlement.

1. The Parties negotiated a comprehensive *Stipulation and Settlement Agreement* (the “Rate Settlement”) in the above captioned proceeding. The Rate Settlement was approved without modification by the Indiana Utility Regulatory Commission (the “Commission”) in a Final Order issued on November 4, 2010 (the “43894 Order”). The 43894 Order approved, *inter alia*, rates and charges for NIPSCO calculated to provide NIPSCO an opportunity to earn an authorized net operating income (“NOI”) of \$39,841,895.

2. Paragraph 7.a of the Rate Settlement provided for specific treatment of Depreciation Expense and Accumulated Depreciation. Specifically, the Rate Settlement provides that:

[the] Parties stipulate that the depreciation accrual rates recommended by NIPSCO Witness John Spanos and presented in this proceeding (the “Depreciation Study”) should be approved, but that the annual depreciation expense and provision for accumulated depreciation should be offset for a period of four years or until further order of the Commission, whichever occurs first, through a reduction in the accumulated depreciation reserve in the fixed amount of \$25.7 million/year. The Parties further agree that in no case shall the accounting treatment described herein result in the creation of either a deferred depreciation expense or regulatory asset for the purpose of future recovery of current period depreciation expense.

The provision for depreciation is an accounting estimate, which is revised prospectively utilizing depreciation studies that incorporate recent experience with relevant factors such as useful life, cost of removal, net salvage values, etc. By applying these updated factors retrospectively, a theoretical reserve can be calculated. A difference between the actual accumulated depreciation reserve and this theoretical reserve is reflected as a component of prospective depreciation

expense in the Depreciation Study. The Parties agree that \$102.8 million of the amount of the depreciation reserve will be reduced over the next four years, thereby reducing this difference more rapidly than over the remaining life of the property to which it relates. The Company will offset depreciation expense for each class of depreciable gas utility plant up to, but not in excess of, the amount of expense computed in connection with the Depreciation Study. The Company agrees that Depreciation on common plant shall be as proposed by NIPSCO in its case-in-chief. This method would result in the following accounting for gas plant:

	Millions	
	Debit	Credit
Depreciation Expense	\$26	
Accumulated Depreciation		\$26
Annual Adjustment to Depreciation Expense		
Accumulated Depreciation	\$25.7	
Depreciation Expense		\$25.7

In the event that annual depreciation for any class of gas utility plant is reduced to zero during the year and prior to the full annual depreciation adjustment of \$25.7 million, the Company will reduce the annual adjustment such that there will not be negative depreciation for any class of property. The Parties agree that NIPSCO will not seek an accelerated recovery period on depreciation expense reduced as a result of this Agreement. NIPSCO will provide the OUCC with a full accounting of any reductions to the annual depreciation expense adjustment, showing details of the cause and the effect on all utility plant account.

B. The Merger Settlement.

3. In Consolidated Cause Nos. 43941, 43942 and 43943, the Commission issued an Order on May 31, 2011 (the “Merger Order”) approving a unanimous *Stipulation and Settlement Agreement* between NIPSCO, the OUCC and the Choice Marketers whereby the former Kokomo Gas & Fuel Company and Northern Indiana Fuel & Light Company Inc. were merged into NIPSCO, and the rates approved by the Commission in the Rate Settlement made applicable to customers across the footprint of the consolidated company (the “Merger Settlement”).¹ The

¹ The NIPSCO Industrial Group and CAC were not parties in Consolidated Cause Nos. 43941, 43942 and 43943.

Merger Order also approved an addition to the authorized NOI of the consolidated company of \$4,602,071 resulting in a total authorized NOI of \$44,443,966.

4. Paragraph 15 of the Merger Settlement approved in the Merger Order addressed the treatment of Depreciation Expense and Accumulated Depreciation in a manner consistent with and incremental to the Rate Settlement approved in the 43894 Order. Specifically, the Merger Settlement provided that,

- a. Depreciation Expense. The Parties agree that depreciation expense should be based on NIPSCO's depreciation rates as approved in the NIPSCO Rate Order, and the plant balances in the current Kokomo and NIFL accounts shall be added to the balances in the corresponding NIPSCO accounts for ratemaking purposes, allowing for a single uniform set of depreciation rates for the gas plant throughout the consolidated NIPSCO upon completion of the merger contemplated by this Agreement. The Parties agree that Depreciation Expense associated with the Kokomo and NIFL plant in service is \$1,966,536 and is consistent with the service life study submitted by NIPSCO witness John Spanos in Cause No. 43894.
- b. Credit to Depreciation Expense. In recognition of the revenue shortfall identified in Paragraph 13.b. of this Agreement, the Parties agree to an additional credit to depreciation expense and reduction to accumulated depreciation reserve of \$447,394 per year consistent with the methodology approved by the Commission in the NIPSCO Rate Order, and that such credit shall expire concurrently with the credit identified in Paragraph 7(a) of the Stipulation and Settlement Agreement approved in that Cause.

II. TERMS OF EXTENSION.

5. The Parties agree that the provisions of Paragraph 7.a. of the Rate Settlement and Paragraph 15.b. of the Merger Settlement as approved in the 43894 Order and the Merger Order, respectively, should be modified to \$28.4 million to reflect depreciation on NIPSCO's December 31, 2012 gas plant balance. The depreciation credit should be extended through November 4, 2020 or as otherwise modified by the Commission, whichever comes first, and that this Extension will result in the following accounting for gas plant:

	Millions	
	Debit	Credit
Depreciation Expense	\$28.4	
Accumulated Depreciation		\$28.4
Annual Adjustment to Depreciation Expense		
Accumulated Depreciation	\$28.4	
Depreciation Expense		\$28.4

6. The Parties agree that all other provisions of the Rate Settlement and Merger Settlement should remain in place without modification including, without limitation, NIPSCO's authorized NOI of \$44,443,966 and its return on equity of 9.9 percent.

7. The Parties agree that NIPSCO's basic rates and charges approved by the Commission in the 43894 Order (which were also approved for NIFL and Kokomo in the Merger Order) should remain in effect through November 4, 2020 or as otherwise modified by the Commission in a proceeding setting new basic rates and charges.² The implementation and operation of this Extension shall be subject to review and discussion among the Parties on or after May 1, 2017, at the request of any Party. In the event that, as a result of such review and discussion, the Parties agree to modify the terms of this Extension, the Parties will jointly submit such modification to the Commission for approval. In the event one or more Parties propose a modification as to which there is not full agreement, such Party or Parties may present such proposal for Commission review, in which case the Party seeking the revision shall bear the burden of proof to support the proposed modification.

² Consistent with the 43894 Order, NIPSCO is required to reduce rates by \$1,080,937 when rate case expense amortization is completed in November 2013. In addition, at that time, NIPSCO will also include a reduction in rates of \$167,879, which would be due in July 2014 pursuant to the Merger Order.

8. The Parties agree that nothing in this Extension should be interpreted as imposing any limitation on the adjustment of NIPSCO gas rates through any lawful tracking mechanism including without limitation gas cost adjustments undertaken pursuant to Ind. Code 8-1-2-42(g), federally mandated costs that are recoverable pursuant to Ind. Code 8-1-8.4-1 *et seq.*, and transmission and distribution improvement charges recoverable pursuant to Ind. Code 8-1-39-1, *et seq.*

III. PROCEDURAL ASPECTS AND PRESENTATION OF THE EXTENSION.

9. The Parties agree to jointly present this Extension to the Commission for its approval in this proceeding or any other docketed proceeding established by the Commission for consideration of this Extension, and agree to assist and cooperate in the preparation and presentation of evidence as necessary to provide an appropriate factual basis for such approval.

10. If the Extension is not approved in its entirety by the Commission, the Parties agree that the terms herein shall not be admissible in evidence or discussed by any party in a subsequent proceeding. Moreover, the concurrence of the Parties with the terms of this Extension is expressly predicated upon the Commission's approval of the Extension in its entirety without any material modification of any material further condition deemed unacceptable by any Party. If the Commission does not approve the Extension in its entirety, the Extension shall be null and void and deemed withdrawn, upon notice in writing by any settling Party within fifteen (15) business days after the date of the order that any modifications made by the Commission are unacceptable to it.

11. The Parties agree that this Extension and each term, condition, amount, methodology and exclusion contained herein reflects a fair, just and reasonable resolution and

compromise for the purpose of settlement, and is agreed upon without prejudice to the ability of any party to propose a different term, condition, amount, methodology or exclusion in future proceedings. As set forth in the Order in *Re Petition of Richmond Power & Light*, Cause No. 40434, p. 10, the Parties agree and ask the Commission to incorporate as part of its Final order that this Extension, or the Order approving it, not be cited as precedent by any person or 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 on these particular issues. This Extension is solely the result of compromise in the settlement process. Each of the Parties hereto have entered into this Extension solely to avoid further disputes and litigation with the attendant inconvenience and expenses.

12. The Parties stipulate that the evidence of record to be submitted in support of the Extension constitutes substantial evidence sufficient to support this Extension and provide an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Extension, as filed. The Parties agree to the admission into the evidentiary record of this Extension, along with testimony supporting it without objection.

13. The issuance of an order by the Commission is deemed final approving this Extension without any material modification or further condition shall terminate all proceedings in this Cause.

14. The undersigned represent and agree that they are fully authorized to execute this Extension on behalf of their designated clients who will be bound thereby.

15. The Parties shall not appeal the agreed final order or any subsequent Commission order as to any portion of such order that is specifically implementing, without modification, the provisions of this Extension and the Parties shall not support any appeal of the portion of such order by a person not a party to this Extension.

16. The provisions of this Extension shall be enforceable by any Party before the Commission or in any court of competent jurisdiction.

17. The communications and discussions during the negotiations and conferences which produced this Extension have been conducted on the explicit understanding that they are or relate to offers of settlement and shall therefore be privileged.

ACCEPTED AND AGREED this 13th day of June, 2013.

Northern Indiana Public Service Company

Indiana Office of Utility Consumer Counselor

Date

Date

NIPSCO Industrial Group

Citizens Action Coalition of Indiana, Inc.

Date

Date

Paul L. De...

6/13/13

ACCEPTED AND AGREED this ____ day of June, 2013.

Northern Indiana Public Service Company

Indiana Office of Utility Consumer Counselor

Date

Date

NIPSCO Industrial Group

Citizens Action Coalition of Indiana, Inc.

_____

June 13, 2013

Date

Date

ACCEPTED AND AGREED this ____ day of June, 2013.

Northern Indiana Public Service Company

Indiana Office of Utility Consumer Counselor



Frank A. Shambo

Randall C. Helmen

6/17/2013

Date

Date

NIPSCO Industrial Group

Citizens Action Coalition of Indiana, Inc.

Date

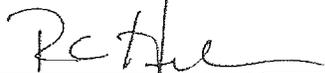
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ACCEPTED AND AGREED this ____ day of June, 2013.

Northern Indiana Public Service Company

Indiana Office of Utility Consumer Counselor

Frank A. Shambo



Randall C. Helmen

Date

6/18/13

Date

NIPSCO Industrial Group

Citizens Action Coalition of Indiana, Inc.

Date

Date