

ORIGINAL



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY FOR APPROVAL OF )  
ELECTRIC DEMAND SIDE MANAGEMENT )  
PROGRAMS THROUGH 2014 AND FOR )  
RECOVERY OF ASSOCIATED PROGRAM COSTS )  
AND LOST MARGINS THROUGH ITS DEMAND )  
SIDE MANAGEMENT ADJUSTMENT )  
MECHANISM IN ACCORDANCE WITH IND. )  
CODE § 8-1-2-42(a) AND PURSUANT TO 170 IAC 4- )  
8-5 AND 170 IAC 4-8-6. )

CAUSE NO. 44363

APPROVED:

DEC 18 2013

ORDER OF THE COMMISSION

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**Gregory R. Ellis, Administrative Law Judge**

On July 2, 2013, Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”) filed its Petition with the Indiana Utility Regulatory Commission (“Commission”) for approval of electric demand side management (“DSM”) programs through 2014 and for recovery of associated program costs and lost margins through its Demand Side Management Adjustment (“DSMA”) Mechanism. On July 19, 2013, NIPSCO filed a Stipulation and Settlement Agreement (“Settlement Agreement”) by and between NIPSCO and the Indiana Office of Utility Consumer Counselor (“OUCC”) (the “Settling Parties”). On July 19, 2013, NIPSCO filed the testimony and exhibits of Alison M. Becker, Manager of Regulatory Policy; Karl E. Stanley, Vice President, Commercial Operations; and Richard A. Morgan, President of Morgan Marketing Partners, LLC, and the OUCC filed the testimony and exhibits of Edward T. Rutter, Utility Analyst, supporting the Settlement Agreement. On July 22, 2013, NIPSCO submitted the revised testimony and exhibits of Mr. Stanley. The NIPSCO Industrial Group (“Industrial Group”) filed a petition to intervene on August 1, 2013, which the Commission granted on August 8, 2013.

Pursuant to notice duly published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission an Evidentiary Hearing was held in this Cause on October 3, 2013, at 9:30 a.m., in Room 224 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner, the OUCC and the Industrial Group were present and participated. The testimony and exhibits of Petitioner and the OUCC were admitted into the record without objection. The Industrial Group’s exhibits were also admitted into the record without objection. No members of the general public appeared or sought to testify at the hearing.

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

1. **Notice and Jurisdiction.** Due, legal and timely notice of the hearing in this Cause was given as required by law. NIPSCO is a public utility within the meaning of Ind. Code § 8-1-2-1(a). In accordance with the Commission's Orders in Cause Nos. 42693, 42693 S1, and pursuant to Ind. Code §§ 8-1-2-4 and 8-1-2-42 and 170 IAC 4-8, the Commission has jurisdiction over NIPSCO's DSM programs and associated cost recovery. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Petitioner is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office and place of business at 801 East 86<sup>th</sup> 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 of Indiana used for the generation, transmission, distribution and furnishing of such service to the public. Petitioner is a wholly-owned subsidiary of NiSource Inc., an energy holding company whose stock is listed on the New York Stock Exchange. Petitioner is authorized by the Commission to provide electric utility service to the public in all or part of Benton, Carroll, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, Saint Joseph, Stake, Steuben, Warren and White Counties in northern Indiana. Petitioner provides electric utility service to more than 457,000 residential, commercial, industrial, wholesale and other customers.

3. **Background.** On May 25, 2011, the Commission issued an Order in Cause No. 43618 ("43618 Order") approving NIPSCO's request for approval of the DSMA Mechanism through Rule 52 of NIPSCO's General Rules and Regulations (now Rider 683).

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, timely recovery of DSM-related costs, pursuant to 170 IAC 4-8-5, through the DSMA Mechanism, the formation of an oversight board ("OSB") and its proposed parameters for flexible program administration, and an Evaluation, Measurement and Verification ("EM&V") program for its Core Plus Programs, pursuant to 170 IAC 4-8-4.

On January 2, 2012, the Core Programs approved by the Commission in its Phase II Order in Cause No. 42693 ("Phase II Order") and administered by the Third Party Administrator ("TPA") approved by the Commission in its July 27, 2011 Order on TPA & EM&V Contracts in Cause No. 42693 S1, became available on a statewide basis. The contract for implementation of these programs was executed at that time to cover 2012 and 2013.

On August 8, 2012, the Commission issued an Order in Cause No. 44154 ("44154 Order") approving, among other things, NIPSCO's request for approval to recover lost margins associated with Petitioner's Commission-approved electric DSM programs.

By its August 15, 2012 Order in Cause No. 42693 S1, the Commission approved the extension of the Core Programs through December 31, 2014. The end-date of authority for NIPSCO's Core Plus offerings is December 31, 2013.

4. **Requested Relief.** NIPSCO requests approval to continue from January 1, 2014 through December 31, 2014: (1) its current electric DSM programs required to comply with the Phase II Order, including the addition of two new Core Plus programs (the "2014 Electric DSM

Program”); (2) recovery of program costs associated with its 2014 Electric DSM Program through its DSMA Mechanism consistent with the provisions of 170 IAC 4-8-5; (3) continuance of the recovery of lost margins associated with its 2014 Electric DSM Program through its DSMA Mechanism consistent with the provisions of 170 IAC 4-8-6 as authorized in the 44154 Order; (4) EM&V of its DSM programs as required in the Phase II Order and approved in the 44154 Order; (5) to credit excess energy savings toward later achievement of savings targets consistent with current practice; (6) the reporting requirement to file monthly scorecards to detail program performance; and (7) to utilize the approved structure and function of the OSB to administer its Core Plus Programs.

**5. Settlement Agreement and Supporting Evidence.**

**A. Settlement Agreement.** On July 19, 2013, NIPSCO and the OUCC filed their Settlement Agreement. The Settlement Agreement resolved the issues addressed in this Cause. The Settlement Agreement was sponsored as Joint Exhibit 1 by NIPSCO Witness Alison M. Becker and OUCC Witness Edward T. Rutter. A copy of the Settlement Agreement is attached to this Order as Attachment A.

**B. Evidence Supporting the Settlement Agreement.**

**(1) NIPSCO’s Evidence.** Petitioner offered the testimony and exhibits of Alison M. Becker, NIPSCO’s Manager of Regulatory Policy; Karl E. Stanley, NIPSCO’s Vice President of Commercial Operations; and Richard A. Morgan, President of Morgan Marketing Partners, LLC (“MMP”) in support of the Settlement Agreement.

**a. Ms. Alison M. Becker.** Ms. Becker testified that NIPSCO is requesting approval of its electric DSM programs required to comply with the Commission’s Phase II Order and for 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). Ms. Becker also provided testimony in support of the Stipulation and Settlement Agreement between the Settling Parties. She stated the Settlement Agreement reflects consensus between the Settling Parties regarding NIPSCO’s 2014 Electric DSM Program. The Settling Parties believe the Settlement Agreement is reasonable and in the public interest because NIPSCO’s 2014 Electric DSM Program is designed to reduce load and benefit customers by providing opportunities for them to manage current energy costs and by reducing or deferring future generation needs. She also provided testimony regarding: the background of the Phase II Order; NIPSCO’s current electric DSM program; NIPSCO’s proposed 2014 Electric DSM program; NIPSCO’s OSB; EM&V and Energy Efficiency Action Plan (“Action Plan”); NIPSCO’s pursuit of DSM from a policy perspective; and NIPSCO’s pursuit of DSM from a market perspective.

**b. Mr. Karl E. Stanley.** Mr. Stanley provided testimony in support of the Settlement Agreement regarding program cost allocations, program budgets and energy savings targets, projected costs, and the relationship between NIPSCO’s integrated resource planning (“IRP”) process and DSM.

**c. Mr. Richard A. Morgan.** Mr. Morgan explained that MMP is a professional services firm formed in 1995 that partners with utility and governmental

clients to provide energy efficiency consulting services. Mr. Morgan also provided testimony in support of the Settlement Agreement, NIPSCO's Action Plan and cost benefit analysis, which was developed by MMP under the direction of the NIPSCO OSB.

(2) **OUCC's Evidence.** The OUCC offered the testimony of Edward T. Rutter in support of the Settlement Agreement. Mr. Rutter testified the Settlement Agreement is a collaborative effort that maintains existing programs, adds and aims to improve programs targeting underserved market segments and synchronizes the timing of 2015 Core Plus filings with the new set of 2015 statewide Core programs, as well as with NIPSCO's gas DSM programs. He stated the purpose of the Settlement Agreement is to continue Petitioner's DSM program essentially unchanged. Mr. Rutter indicated the 2014 Core programs, the proposed Core Plus program offerings and accompanying program budgets discussed in Ms. Becker's and Mr. Stanley's testimonies should provide NIPSCO the opportunity to cost-effectively meet the energy savings requirements approved by the Commission in its Phase II Order. The benefit/cost studies are designed to ensure that DSM program benefits outweigh program costs, providing net benefits for NIPSCO's customers. In addition, the Settlement Agreement continues the OSB, which will provide the OUCC and other parties on-going oversight of and input into NIPSCO's DSM programs. He testified that the public interest will be served if the Commission approves that plan, consistent with the proposed Settlement Agreement. He also testified that Petitioner's testimony and exhibits support the commitments made in the Settlement Agreement and the OUCC recommends the Commission approve NIPSCO's 2014 Electric DSM Program, recommended funding and the Settlement Agreement without change.

6. **Commission Discussion and Findings.** The Commission begins with a general discussion of Settlement Agreements. 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 v. PSI Energy*, 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 at 795 (citing *Citizens Action Coalition v. Public Service Co.*, 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.

With the exception of the addition of two new commercial and industrial ("C&I") programs and two changes to existing programs, NIPSCO's request in this proceeding is essentially a request for the Commission to approve the continuation of the current composition, administration and cost recovery of NIPSCO's existing electric DSM programs.

The evidence of record indicates that the Settlement Agreement is the result of arms-length negotiation between Petitioner and the OUCC. The terms of the Settlement Agreement are supported by the evidence and represent a reasonable resolution of the issues presented to the Commission. The Settlement Agreement balances the interests of NIPSCO, its customers and the public. Accordingly, we conclude that the Settlement Agreement is reasonable, just and consistent with the purpose of Ind. Code ch. 8-1-2 and serves the public interest.

We have also reviewed the terms of the parties' Settlement Agreement and hereby approve them. The 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. Consequently, 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, (*Ind. Util. Reg. Comm'n*, March 19, 1997).

Consistent with the terms of the Settlement Agreement approved and discussed herein, the Commission specifically finds:

**A. Approval of NIPSCO's 2014 Electric DSM Program.** In the 43912 Order, we discussed the legal consideration of DSM proposals and noted the Commission's IRP Rules (170 IAC 4-7) establish a regulatory framework that allows a utility to meet long-term resource options in a least-cost manner. We cited to 170 IAC 4-7-6(b) and stated, as part of its IRP "an electric utility must consider alternative methods of meeting future demand for electric service, including a comprehensive array of demand-side measures that provide an opportunity for all ratepayers to participate in DSM..." 43912 Order at 21.

The Commission also noted that the DSM Rule (170 IAC 4-8) enabled balanced use of DSM as part of a utility's resource mix. *See* 43912 Order at 22. In considering the statutory framework regarding least cost planning for purposes of the issuance of certificates of public convenience and necessity for electric generation, we have noted that the Commission's definition of "least cost" includes a "planning approach which will find the set of options most likely to provide utility services at the lowest cost once appropriate service and reliability levels are determined." *Id.* (citing *Joint Petition of PSI Energy, Inc.*, Cause No. 42145, 2002 Ind. LEXIS PUC 544 at \*10 (IURC December 19, 2002)). We explained that public utilities must exercise reasonable judgment as to how to meet service obligations within the domain of the least-cost standard. *Id.* (citing *Petition of PSI Energy, Inc.*, Cause No. 39175, 1992 Ind. PUC LEXIS 251, at \*34 (IURC May 13, 1992)).

We find that the discussion in our 43912 Order is applicable today, and an integral part of this discussion is the Commission's Phase II Order. As we noted in our 43912 Order, the Phase II Order established provision of statewide Core DSM programs to all customer classes and market segments. *Id.* We noted the establishment of the third-party administrator framework for the five Core Programs and restated the Commission found (in the Phase II Order) that ratemaking and cost recovery issues associated with an electric utility's DSM programs should be addressed on a case-by-case basis in individual utility proceedings. *Id.*

Just as relevant as when we said it in the 43912 Order, "[it] is against this backdrop of the Commission's Rules and the requirements of the Phase II Order that we consider the DSM programs and ratemaking proposals made by NIPSCO in this Cause." *Id.*

In support of the Settlement Agreement, NIPSCO filed testimony and exhibits of Alison M. Becker, Karl E. Stanley, and Richard M. Morgan. Ms. Becker addressed, among other things, NIPSCO's 2014 Electric DSM Program. She stated that NIPSCO provides electric DSM programs to its customers through the Core Programs and Core Plus Programs. As Ms. Becker noted, NIPSCO's Core Programs are those established by the Phase II Order that are being implemented through GoodCents, the administrator for these statewide programs, and overseen by the Demand Side Management Coordination Committee ("DSMCC"). Currently, these Core Programs are Residential Lighting, Residential Home Energy Assessment, Residential Income Qualified Weatherization, Energy Efficient Schools (School Education Kits and School Audit), and C&I Prescriptive Rebate. Ms. Becker testified that NIPSCO's 2014 Electric DSM Program includes these five Core offerings.

The Commission approved these Core Programs for NIPSCO in the 43912 Order. We noted NIPSCO's Core Program offerings are consistent with those required of all jurisdictional electric utilities in the Phase II Order. *Id.* at 23. The Commission required the Core Programs be coordinated for delivery throughout the State through the third-party providers (with whom contracts have since been executed). *Id.* at 24. Ms. Becker testified that NIPSCO's current Core Programs are those outlined and approved in the Phase II Order and are currently being implemented by GoodCents through 2014. She testified that these programs continue to perform toward achievement of the energy savings targets and that GoodCents and the DSMCC continue to look for ways to improve program performance.

Having reviewed the evidence presented, we find that the Commission should not deviate from our prior approval of these programs. Accordingly, we authorize NIPSCO's continued offering of these five Core Programs, and NIPSCO should continue to implement these programs through the auspices of the TPA and DSMCC framework consistent with our approval of the extension of the implementation contracts through December 31, 2014.

Regarding NIPSCO's current Core Plus offerings, Ms. Becker testified that NIPSCO currently offers nine programs: Appliance Recycling, Residential Energy Efficiency Rebates, Weatherization, Direct Install (Multi-Family), Conservation Program (Opower), Residential New Construction, A/C Cycling, Non-Residential New Construction Program, and C&I Custom Incentive. She testified that the Core Plus portion of NIPSCO's 2014 Electric DSM Program includes these nine existing programs and the addition of two new C&I programs, a Small Business Direct Install Program ("SBDI") and a Guest Room Energy Management Program ("GREM").

Ms. Becker described each of these programs in detail. She testified that with approval of its OSB, NIPSCO hired MMP to create an Action Plan to determine how NIPSCO will achieve its energy savings goals, which, for 2014, includes the two new programs. She testified that NIPSCO decided to add the SBDI and GREM programs based on the results of NIPSCO's Action Plan (Petitioner's Exhibit No. RAM-1) and based on a desire to expand DSM participation in the commercial sector. In addition to these two new programs, Ms. Becker testified that NIPSCO is requesting authority to modify program eligibility, and the accompanying cost allocation, for the Energy Efficiency Rebates program, stating that only two non-residential customers participated in this program. Mr. Stanley added to this discussion noting that upon our approval, beginning January 1, 2014, non-residential customers will no

longer be eligible to participate in this program and will no longer be allocated any of the costs. However, during the transition, reconciliation of costs and savings will still take place to the previously-impacted rate classes. Ms. Becker noted NIPSCO made this adjustment to reflect actual practice and adoption by residential customers.

Regarding implementation, Ms. Becker testified about NIPSCO plans, with OSB approval, to implement the additional period of the programs by extending the contracts with the current third party providers for each program. For the two new programs, Ms. Becker indicated NIPSCO plans to solicit bids from NIPSCO's current DSM contractors. She stated NIPSCO would continue to work with its OSB for any program adjustments. In addition, Ms. Becker explained how NIPSCO will use a "pipeline" to project C&I savings and expenses for the C&I Custom Incentive and Non-Residential New Construction programs. Although NIPSCO is seeking approval for recovery of expenses assuming all approved projects are complete in the same budget year in which they are approved, she also explained that the costs will be collected in the DSMA tracker filings in the year in which the project is complete and the project incentive is paid. The pipeline will allow NIPSCO to better forecast anticipated expenses and savings, which will allow NIPSCO to understand when savings and expenses will accrue to the program. Furthermore, if a project is approved in one year and canceled in a subsequent year, NIPSCO will work with the OSB to approve the reallocation of those funds for other commercial and industrial projects. NIPSCO's process assures that reconciliation of project expenditures will take place on a regular basis to prevent retention of any over-recovery.

The Commission first approved NIPSCO's existing nine Core Plus offerings in its 43912 Order. We discussed how, with the exception of the Residential New Construction program, the programs had then-projected Total Resource Cost ("TRC") test scores above 1.0. In accordance with the cost-effectiveness tests required by our DSM and IRP Rules, we emphasized that the cost-effectiveness and reasonableness of the programs warranted review and approval. We find the same true today.

Regarding the relationship between DSM and the IRP, Mr. Stanley explained NIPSCO evaluates future resource options to meet its native load obligations using the IRP process defined in the Commission's IRP Rules. As noted in the 43912 Order, the IRP Rule establishes a regulatory framework that allows a utility to meet long-term resource options in a least-cost manner. As part of its IRP "an electric utility must consider alternative methods of meeting future demand for electric service, including a comprehensive array of demand-side measures that provide an opportunity for all ratepayers to participate in DSM..." 170 IAC 4-7-6(b). Mr. Stanley noted specifically that in NIPSCO's 2011 IRP, expected program energy savings were aggregated and computed into the modeling system as a fixed reduction to the baseline energy and demand forecasts. He stated once the overall demand curves were adjusted by these energy efficiency adjustments, the model was run to determine any remaining supply-side resources. He explained the aggregation happened because most programs were still under development and due to the assumption that NIPSCO would meet the energy savings targets. Consequently, he testified, current and expected program savings were aggregated to capture the expected effects of the programs but without the detail necessary to evaluate programs individually. As demonstrated by the evidence in this Cause, NIPSCO clarified that it assumed the goals from the Phase II Order in its 2011 IRP would be met. These savings assumptions, then, were deducted from the initial demand forecast, the result of which was then used for the evaluation of the need for additional resources.

Mr. Stanley emphasized the importance of the TRC test. He explained that this particular test is a benefit-cost test that compares the costs of energy efficiency measures and program activities necessary to deliver them to the value of avoided energy production, transmission, distribution, and power plant construction. He stated while it performed various cost-effectiveness tests - as can be seen in NIPSCO's Action Plan - NIPSCO used the TRC test to determine a program's effectiveness. The OUCC's witness, Mr. Rutter, further explained that the benefit/cost studies are designed to ensure that DSM program benefits outweigh program costs, providing net benefits for NIPSCO's customers.

Mr. Morgan discussed the TRC test results in detail. He testified that the residential and C&I portfolios (which include the Core and Core Plus between them) pass the TRC test with scores of 1.67 for residential and 2.85 for C&I. He stated that the individual programs included in the residential and C&I portfolios pass the TRC test except for the A/C Cycling program, which does not pass the test in 2014 due to incurred startup costs, but is projected to pass in the 2015-2019 periods.

Mr. Morgan testified that the Action Plan is the "roadmap" for NIPSCO to reach its energy savings targets. He indicated the Action Plan describes programs and the elements of the programs so they can be implemented by NIPSCO. He stated that the Action Plan contains cost-benefit determinations for NIPSCO's complete portfolio using the DSMore cost analysis tool and is based on several inputs: participation rates, customer incentives paid, measure energy savings, measure life, implementation costs, administrative costs, and incremental costs to the participant of the high efficiency measure.

Regarding the SBDI, which is one of the proposed new Core Plus programs, Ms. Becker testified that the SBDI program is a direct-install program that could be used to penetrate the small commercial market since small commercial customers may not have the expertise, time or available capital to make efficiency upgrades. Ms. Becker further testified that the direct installation programs could be ramped up quickly to achieve immediate, cost-effective savings and helps ensure that smaller customers receive program benefits commensurate with their contribution to the energy efficiency program. She also stated the SBDI program would be available to customers on Rates 620, 621, 622, and 623 because these are the rates that serve small commercial customers that would most likely take advantage of the program. Mr. Rutter also testified the new SBDI, as well as the GREM program discussed below, are both designed specifically for a quick ramp-up and immediate savings from a market sector identified as promising. We agree with Ms. Becker that the SBDI approach could provide lighting and other direct install measures for the customer and reduce barriers of participation. Thus, we believe this program is an acceptable addition to NIPSCO's Core Plus offerings.

Ms. Becker indicated that the GREM program, the other of the proposed new Core Plus program, aims to achieve energy savings in hospitality facilities by offering customers direct installation of controls for a minimal co-pay. She stated the program would save energy, reducing heating and cooling energy when the room is unoccupied. Ms. Becker stated that the GREM program would be available to customers on Rates 620, 621, 622, and 623 because customers on these rates are those small commercial customers likely to take advantage of the program. As with the SBDI program, we believe the GREM program is an acceptable addition

to NIPSCO's Core Plus offerings and that implementation will help increase participation by the smaller commercial customers.

Therefore, based on the evidence presented, the Commission finds that NIPSCO's eleven Core Plus Programs included in its 2014 Electric DSM Program are cost-effective, reasonable, satisfy the requirements of our DSM Rule, are in the public interest and should be approved. This approval includes the program eligibility change for the Energy Efficiency Rebates program since this alteration makes this program more reflective of customer behavior.

The Commission notes that Ms. Becker testified the public interest is served in several ways if we approve the proposed portfolio of Core and Core Plus programs. We further note Mr. Rutter testified the public interest will be served if the Commission approves NIPSCO's proposed 2014 Electric DSM Program. He indicated the nature of this filing and purpose of the Settlement Agreement is to continue NIPSCO's DSM program essentially unchanged. NIPSCO's proposal is designed to reduce load and benefit customers by providing opportunities for them to manage current energy costs and reduce their usage. Mr. Stanley provided testimony that NIPSCO projects 86,635 megawatt-hour ("MWh") in gross energy savings to occur in 2014 from Core Programs and 152,702 MWh in gross energy savings to occur from Core Plus programs. This equates to a projected total of 239,337 MWh gross energy savings for 2014. Further, NIPSCO's Core and Core Plus Programs are consistent with the Phase II Order and cover all customer classes. In addition, Mr. Rutter testified the OUCR recommends the Commission approve NIPSCO's 2014 Electric DSM Program, as well as the requested funding. Based upon the evidence in this Cause, the Commission finds NIPSCO's Core and Core Plus portfolios of its 2014 Electric DSM Program serve the public interest and should be approved.

Regarding the proposed one-year term, Ms. Becker testified that although NIPSCO committed in Cause No. 43912 to file its subsequent DSM program for a term of three years, NIPSCO proposed a one-year term of January 1, 2014 through December 31, 2014 for its 2014 Electric DSM Program to allow NIPSCO to synchronize its 2014 Electric DSM Program with the duration of the Core Programs, which are up for a contract renewal beginning January 1, 2015. Ms. Becker testified that since the Core Programs for the period beginning January 1, 2015 could be different than those in place today, a one year term for NIPSCO's 2014 Electric DSM Program will provide NIPSCO an opportunity to better plan for those changes. In addition, she stated this one-year term places NIPSCO's gas and electric DSM programs on the same schedule. Further, Mr. Rutter testified the Settlement Agreement is a collaborative effort that maintains existing programs, adds and aims to improve programs targeting underserved market segments and synchronizes the timing of the 2015 Core Plus filings with the new set of 2015 statewide Core programs, as well as with NIPSCO's gas DSM programs. We find NIPSCO's rationale for a one-year term to be reasonable and acceptable. Synchronized DSM offerings by NIPSCO allow for better administration of the programs. Therefore, the Commission approves the proposed term of January 1, 2014 through December 31, 2014.

**B. Timely Recovery of Program Costs and Lost Margins.** The Commission approved NIPSCO's DSMA Mechanism in the 43618 Order as a mechanism to recover any costs and lost margins associated with Commission-approved DSM programs. The underlying programs and associated costs and lost margins were approved in the 43912 Order. In this Cause, NIPSCO seeks approval to continue timely recovery of DSM-related costs pursuant to 170 IAC 4-8-5 and lost margin recovery pursuant to 170 IAC 4-8-6 through its

DSMA Mechanism. Ind. Code § 8-1-2-42(a) requires Commission approval for changes in schedules. Mr. Stanley indicated that approval of the projected program budgets and recovery through the DSMA Mechanism would change schedules and bills for NIPSCO’s customers subject to the DSMA Mechanism, so Commission review of NIPSCO’s request is appropriate.

The Commission’s DSM Rule authorizes a variety of cost recovery mechanisms for DSM-related costs, including “[a] cost recovery mechanism proposed by the utility, other parties, or the commission.” 170 IAC 4-8-5(a)(5). Ms. Becker specifically stated that NIPSCO requests approval to continue its existing (and approved) mechanism to recover program costs and lost margins. We believe NIPSCO’s continued use of its DSMA Mechanism is reasonable and appropriate. Accordingly, we find that NIPSCO’s request to use its existing DSMA Mechanism to recover program costs and lost margins associated with approved DSM programs is consistent with our DSM Rules and should be approved.

This brings us to the issue of recovery of program costs and lost margins. We addressed program cost recovery in the 43912 Order (program approval), the 43618 Order (allocation and the DSMA) and Cause No. 44145 (lost margin recovery). In this Cause, NIPSCO requests approval for the recovery of costs associated with its proposed 2014 Electric DSM Program pursuant to 170 IAC 4-8-5.

Mr. Stanley testified that NIPSCO’s proposed budget for its 2014 Core Programs is \$10,509,953. He indicated this includes only program-related costs and does not include lost margins. Mr. Stanley provided a breakdown for each individual Core program as follows:

- Residential Lighting Program \$ 866,502
- Residential Home Energy Assessment Program \$ 2,604,208
- Residential Income-Qualified Weatherization Program \$ 1,538,716
- Energy Efficient Schools Program (School Education Kits) \$ 402,019
- Energy Efficient Schools Program (School Audit) \$ 158,417
- Commercial and Industrial Prescriptive Rebate Program \$ 4,940,091

Mr. Stanley also testified that the projection for NIPSCO’s Core Plus programs is \$26,789,453. As with NIPSCO’s projection for its 2014 Core programs, this projection includes only program-related expenses and does not include lost margins. Mr. Stanley provided NIPSCO’s projections for the individual 2014 Core Plus programs as follows:

- Appliance Recycling Program \$ 700,478
- Residential Energy Efficiency Rebate Program \$ 1,621,292
- Weatherization Program \$ 404,792
- Direct Install Program (Multi-Family) \$ 465,169
- Conservation Program (Opower) \$ 1,070,032
- Residential New Construction Program \$ 741,101
- A/C Cycling Program \$ 4,108,411
- Non-Residential New Construction Program \$ 499,587
- C&I Custom Incentive Program \$ 14,615,977
- Small Business Direct Install Program \$ 1,665,192

- Guest Room Energy Management Direct Install Program \$ 897,421

Mr. Stanley further testified that NIPSCO will allocate these costs as approved by the Commission in the 43618 Order. Specifically, he stated the allocation of program costs will be by number of customers on participating rates, and that for the two new programs (SBDI and GREM) the program costs will be allocated across Rates 620, 621, 622, and 623 based on the number of customers in each of those Rates to the total eligible customers for these two programs.

NIPSCO does propose two changes to its approved methodology. Mr. Stanley testified NIPSCO proposes to modify the Energy Efficiency Rebate program to cover only residential customers on Rates 611, 612, and 613. He stated it is inappropriate for non-residential customers to pay for a portion of the costs if only two non-residential customers have participated, and he stated that during the transition NIPSCO will reconcile the lost margins and program costs back to the applicable rate classes. He stated all new program costs (and lost margins) will be allocated only to customers on Rates 611, 612, and 613.

Mr. Stanley described NIPSCO's proposed allocation change regarding the Energy Efficient Schools program. He stated this program will be broken down into two separate programs - school education and school audits - and that allocation of costs and lost margins (and the reporting of savings) will be tracked based on school kits provided in the School Education program and audits provided through the School Audit program. Mr. Stanley noted school audits are currently rolled into the same program as the school kits and all costs are allocated to residential on Rates 611, 612, and 613. He added that because the program now tracks savings through the School Audit program, NIPSCO proposes to allocate to customers on Rates 623 and 624 the program costs for the School Audits program. He stated during the transition, NIPSCO will reconcile the lost margins and program costs back to the applicable rate classes, and, pending our approval, beginning January 1, 2014, all new program costs and lost margins for school audits will be allocated to Rates 623 and 624. Mr. Stanley testified that program costs and lost margins for school kits will continue to be allocated to Rates 611, 612, and 613. Additionally, he testified that the DSMCC has approved this change and that GoodCents has begun implementation. Mr. Rutter, the OUCC's witness, stated the proposed modifications to cost allocation are not unreasonable.

Mr. Stanley stated NIPSCO used several assumptions to develop its calculations:

- for the calculation of cumulative forecasted energy and demand, it was assumed that the starting point was actual savings as of December 31, 2012 and that all programs except the C&I Prescriptive Rebate program, the Non-Residential New Construction program, the A/C Cycling program, and the C&I Custom Incentive program would hit their energy savings targets outlines in the individual business requirement documents during 2013;
- the 2014 savings estimates are derived from the Action Plan projections and are allocated across months using a straight-line methodology;
- the allocation of program costs and savings estimates are the same allocations that were used in NIPSCO's DSM 4 tracker filing, except for the Energy Efficiency

Rebates allocation change, the new SBDI and GREM programs, and the Energy Efficient Schools allocation change; and

- EM&V results incorporated into the savings estimates were the same assumptions used in NIPSCO's DSM 3 (actuals through December 2013) tracker filing.

We note that the budget projections to achieve the 2014 energy savings targets are NIPSCO's best projections at this time. Mr. Stanley indicated that NIPSCO does not expect the projected budgets for the 2014 Electric DSM Program to change significantly. Accordingly, should actual costs deviate from NIPSCO's projections, NIPSCO shall utilize its semi-annual DSMA mechanism to reconcile any differences. In addition, the proposed Core Plus program offerings and accompanying program budgets should provide NIPSCO the opportunity to cost-effectively meet the energy savings requirements in the Phase II Order. Mr. Rutter testified the benefit/cost studies are designed to ensure that DSM program benefits outweigh program costs, providing net benefits for NIPSCO's customer.

Based upon the evidence of record, the Commission finds that the proposed program cost recovery methodology is reasonable, consistent with the requirements of 170 IAC 4-8-5 and should be approved. Therefore, NIPSCO is authorized to recover program costs associated with the programs in its approved 2014 Electric DSM Program for the period of January 1, 2014 through December 31, 2014.

Regarding lost margins, Ms. Becker testified NIPSCO seeks recovery of lost margins pursuant to 170 IAC 4-8-6 and as approved in the 44154 Order. According to Ms. Becker, NIPSCO's current request seeks recovery of approximately \$14,900,000 in lost margins of the total \$52,200,000 projected budget. As we discussed in the 44154 Order, the DSM Rule authorizes the Commission to consider the recovery of lost revenues associated with the implementation of a DSM program. 170 IAC 4-8-6 sets forth certain criteria that must be met to qualify for lost revenue recovery:

(a) The commission may allow the utility to recover the utility's lost revenue from the implementation of a demand-side management program sponsored or instituted by the utility. The calculation of lost revenue must account for the following:

- (1) The impact of free-riders.
- (2) The change in the number of DSM program participants between base rate changes and on the revised estimate of a program specific load impact that result from the utility's measurement and evaluation activities under sections 4 and 5(e) of this rule.

(b) A utility seeking recovery of lost revenue shall propose for commission review a methodology or process for incorporating a lost revenue recovery mechanism which includes the following:

- (1) The level of free-riders in a DSM program.
- (2) A revised estimate of a DSM program specific load impact resulting from regular utility measurement and evaluation activities.

(c) The commission may periodically review the need for continued recovery of the lost revenue as a result of a utility's DSM program, and the approval of a lost revenue recovery mechanism shall not constitute approval of specific dollar amount, the prudence or reasonableness of which may be debated in a future proceeding before the commission.

The DSM Rule requires that a utility seeking recovery of lost revenue propose a methodology or process for incorporating a lost revenue recovery mechanism which includes the level of free-riders in a DSM program and a revised estimate of a DSM program specific load impact resulting from regular EM&V. NIPSCO proposes to utilize the same methodology approved in the 44154 Order for lost margin recovery. Ms. Becker testified that NIPSCO's OSB selected TecMarket Works as the vendor to perform the EM&V of its Core Plus programs. TecMarket Works has also been engaged to provide EM&V for the Core programs created by the Commission in the Phase II Order. The EM&V performed by TecMarket Works involves assessments of the performance and implementation of a program, assist in determining whether each program met its goals as a reliable energy resource, and allow NIPSCO to provide the Commission with updated information about free-ridership and load impacts as part of NIPSCO's proposed reconciliation mechanism.

The Commission required in the 43912 Order that the revenue margin rates upon which lost margins are based be reasonably reflective of the utility's operating conditions. In this proceeding, NIPSCO is requesting continuation of DSM programs approved by the Commission in the 43912 Order. The evidence of record demonstrates that NIPSCO's calculation of lost margins are based on those approved DSM programs and on recently approved base rates and charges in NIPSCO's most recent base rate proceeding in Cause No. 43969.

170 IAC 4-8-4 requires utilities that seek cost recovery, performance incentives, or recovery of lost margins to develop a process and load impact evaluation plan. NIPSCO has provided a plan that satisfies this requirement.

Based upon the evidence of record, the Commission finds that the proposed lost revenue recovery methodology is reasonable, consistent with the requirements of 170 IAC 4-8-6 and should be approved. Therefore, NIPSCO is authorized to recover lost margins associated with its approved 2014 Electric DSM Program for the period of January 1, 2014 through December 31, 2014. NIPSCO will reconcile estimated lost margins with actual lost margins retrospectively using its EM&V results. The Commission also finds that actual lost margins should be included in the fuel adjustment cost ("FAC") earnings test. Consistent with the provisions of 170 IAC 4-8-6(c), the specific dollar amount for recovery shall be considered in subsequent semi-annual DSMA filings in which evidence concerning such amounts is to be presented.

Ms. Becker indicated that because NIPSCO does not have a full year's performance results available for every program as was required in the 43912 Order, NIPSCO does not seek performance incentives at this time. Accordingly, our approval in this Cause of ratemaking treatment does not authorize the recovery of performance incentives.

C. **Evaluation, Measurement, and Verification.** In its Petition, NIPSCO requests approval to utilize its existing evaluation, measurement, and verification program for the 2014 Electric DSM Program.

The Commission found in its Phase II Order that a single statewide evaluation protocol was necessary in order to track achievement with DSM goals. Consequently, jurisdictional electric utilities were required to contract with an independent entity to conduct EM&V. The DSMCC selected TecMarket Works to evaluate the Core Programs. Ms. Becker testified that NIPSCO recognizes the value of having the same type of EM&V process for its Core Plus and Core components. To this end, NIPSCO's OSB engaged TecMarket Works to provide EM&V of NIPSCO's Core Plus Programs. TecMarket Works has completed the evaluation report for the first program year (2011) and is working on evaluation activities for 2012. Ms. Becker indicated that once approved by the OSB, this report will be used for future program planning and for the reconciliation of lost margins in the semi-annual DSMA filings.

Mr. Rutter testified the Settlement Agreement recognizes the OUCC is not addressing the topics of lost margins or the retroactive versus prospective application of EM&V results. He noted the Settlement Agreement reflects the OUCC's support for NIPSCO's commitment in Cause No. 44154 to retroactively apply EM&V results to reconcile its program year estimated lost margins. He noted the Settlement Agreement is also intended to make clear the OUCC can raise any concerns during NIPSCO's 2015 proceeding in the event NIPSCO seeks to change its position.

The Commission has previously approved NIPSCO's plan to evaluate its DSM programs, and we agree that value exists in synchronized EM&V processes. NIPSCO engaged TecMarket Works, with its OSB approval, to perform EM&V for Core Plus Programs similar to that which is conducted on Core Programs. The evidence of record demonstrates that NIPSCO has proposed to continue an EM&V program that satisfies the requirements of 170 IAC 4-8-4. Therefore, we find NIPSCO is authorized to utilize the same evaluation, measurement, and verification program for its 2014 Electric DSM Program.

D. **Energy Savings Credit.** NIPSCO requests permission to continue crediting any savings in excess of a specific annual goal for purposes of meeting the incremental savings goals in subsequent years, which is consistent with its current practice. Ms. Becker explained that NIPSCO previously requested the ability to "bank" energy savings over and above the annual requirements identified in the Phase II Order to be applied against savings goals in the later years. She testified savings in later years become more challenging and stated NIPSCO believes it should not be penalized for overachieving in the early years of the program. The Commission noted in the Phase II Order that utilities should be encouraged to utilize best efforts to exceed the savings goals in a cost effective manner. We find this rationale still applies, and allowing for the maximization of savings within each calendar year is consistent with the policy goals enumerated in the Phase II Order. Consistent with our findings in the 43912 Order, to disallow the "banking" of energy would incent utilities to meet only the precise amount of savings required rather than to pursue greater savings that they may achieve. Accordingly, we approve of and grant NIPSCO's request to continue crediting energy savings.

E. **Reporting Requirements.** NIPSCO proposed a reporting requirement to file a monthly scorecard detailing program performance applicable to NIPSCO's current Electric

DSM Program be applicable to the 2014 Electric DSM Program. Ms. Becker indicated this would provide the Commission with the ability to follow NIPSCO's progress and to follow up with any questions or concerns. The Commission finds this to be consistent with NIPSCO's current practice and the 43912 Order. Therefore, NIPSCO shall file a monthly scorecard detailing program performance applicable to its 2014 Electric DSM Program.

**F. Oversight Board.** NIPSCO requests to utilize its existing OSB to administer its Core Plus Programs. Ms. Becker testified that the OSB should be able to shift costs within a program budget as needed as well as shifting funds among programs as long as the programs still pass the TRC test and the overall DSM budget is not exceeded. She stated that the OSB should have the same authority to increase funding by program, without shifting funds from other programs, by up to 5% and to modify programs based on a review of initial program results as reported by an independent third-party evaluator. Ms. Becker also testified the OSB should be empowered to design and implement new programs as long as they pass the TRC test and so long as the overall DSM budget remains unchanged.

Ms. Becker testified NIPSCO believes it is appropriate to continue its OSB with members from the OUCC, Citizens Action Coalition of Indiana, Inc. and the Industrial Group. NIPSCO recognizes the value of having a viable and functioning oversight board to help monitor the Core Plus program components. Mr. Rutter noted that the Settlement Agreement continues the OSB, which will provide the OUCC and other parties with on-going oversight of and input into NIPSCO's DSM programs.

The Commission approved the NIPSCO OSB in the 43912 Order and our rationale for approving the OSB then applies now. In that Order, we noted the Commission had a precedent of approving OSBs to oversee and monitor energy efficiency programs for both gas and electric utilities. *Id.* at 28 (citing *Indiana Michigan Power Co.*, Cause No. 43959, 2011 Ind. PUC LEXIS, (IURC Apr. 27, 2011); *Southern Indiana Gas and Elec. Co.*, Cause No. 43427, 2009 Ind. PUC LEXIS 495, (IURC Dec. 16, 2009)). No party in this proceeding opposed NIPSCO's request to continue to utilize the OSB or to continue giving it flexibility for administration, and the Settlement Agreement specifically continues the OSB. We find no reason why we should deviate from our approval of oversight boards or from our decision to specifically approve NIPSCO's OSB in Cause No. 43912. The Commission accordingly finds that NIPSCO's request to utilize its existing OSB to administer its Core Plus Programs should be approved.

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

1. The Settlement Agreement, attached to this Order as Attachment A, is approved.
2. NIPSCO's Core and Core Plus programs, constituting its 2014 Electric DSM Program, for the term of January 1, 2014 through December 31, 2014 are hereby approved.
3. NIPSCO is authorized to use its Demand Side Management Adjustment Mechanism to recover costs and lost margins for the January 1, 2014 and December 31, 2014 period.

4. NIPSCO is granted continued approval of the structure and function of the Oversight Board formed to administer NIPSCO's Core Plus Programs, including the parameters for flexible program administration, as approved in the 43912 Order.

5. NIPSCO is authorized to continue to credit or "bank" energy savings over and above the annual requirements identified in the Phase II Order to be applied against savings goals in later years.

6. NIPSCO is authorized to make any necessary tariff changes in order to effectuate approval of the 2014 Electric DSM Program and associated ratemaking treatment. Petitioner shall file with the Electricity Division of the Commission any proposed amendments to its tariff.

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

**ATTERHOLT, LANDIS, MAYS, AND ZIEGNER CONCUR:**

APPROVED      DEC 18 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 COMPANY FOR APPROVAL OF )  
ELECTRIC DEMAND SIDE MANAGEMENT )  
PROGRAMS THROUGH 2014 AND FOR )  
RECOVERY OF ASSOCIATED PROGRAM ) CAUSE NO. 44363  
COSTS AND LOST MARGINS THROUGH ITS )  
DEMAND SIDE MANAGEMENT ADJUSTMENT )  
MECHANISM IN ACCORDANCE WITH IND. )  
CODE § 8-1-2-42(a) AND PURSUANT TO 170 IAC )  
4-8-5 AND 170 IAC 4-8-6. )

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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 457,000 retail customers in 20 counties of Indiana pursuant to authority granted by the Indiana Utility Regulatory Commission (the "Commission"). NIPSCO also provides natural gas utility service to approximately

786,000 retail customers in 32 counties in Indiana pursuant to authority granted by the Commission.

2. NIPSCO currently offers a portfolio of demand side management ("DSM") programs to its electric customers consistent with approval granted by the Commission. Specifically, NIPSCO's portfolio of programs includes Core programs provided on a statewide basis consistent with the December 9, 2009 Phase II Order in Cause No. 42693 (the "Phase II Order") and overseen by the Demand Side Management Coordination Committee ("DSMCC") of which NIPSCO is a member and active participant. The portfolio of programs also includes Core Plus programs overseen by the NIPSCO Oversight Board ("OSB") as approved by the Commission in its July 27, 2011 Order in Cause No. 43912 ("43912 Order"). The OSB includes representatives of the OUCC, Citizens Action Coalition of Indiana, Inc. and the NIPSCO Industrial Group.

3. In addition to the portfolio of electric DSM programs, NIPSCO also offers a portfolio of gas energy efficiency programs pursuant to authority granted by the Commission, most recently in its December 28, 2011 Order in Cause No. 44001 ("44001 Order"), that are not directly the subject of this proceeding. Several of NIPSCO's gas programs are offered in conjunction with or associated or complementary to NIPSCO's electric programs.

4. Costs associated with NIPSCO's approved electric DSM programs are recovered through the Demand Side Management Adjustment ("DSMA") Mechanism approved by the Commission's May 25, 2011 Order in Cause No. 43618 ("43618 Order"). Lost margins associated with NIPSCO's approved electric DSM programs are recovered through that DSMA Mechanism consistent with the Commission's August 8, 2012 Order in Cause No. 44154 ("44154 Order").

5. Pursuant to the 43912 Order, approval of NIPSCO's Core Plus programs, budgets for its portfolio of DSM programs and the authority to recover program costs associated with them, as well as approval over NIPSCO's current OSB expires on December 31, 2013.

6. The statewide Core programs approved by the Commission in the Phase II Order are in effect through December 31, 2014 by virtue of the Commission's August 15, 2012 Order in Cause No. 42693-S1 granting an extension of one year to the underlying third party administrator ("TPA") and evaluation, measurement and verification ("EM&V") contracts.

7. NIPSCO initiated this proceeding with the filing of its Verified Petition on July 2, 2013. NIPSCO seeks approval of a portfolio of electric DSM programs through the end of 2014 along with the continued authority to recover program costs and lost margins associated with those programs. The portfolio of DSM programs for which

approval is sought proposes the continuation of NIPSCO's current Core and Core Plus programs with the addition of two new Commercial and Industrial ("C&I") Core Plus programs. NIPSCO also proposes the continuation of its currently approved OSB.

8. The relief requested in this proceeding is supported by an Action Plan undertaken by Morgan Marketing Partners (the "Action Plan"), a consultant retained as a result of a Request for Proposal, in conjunction with NIPSCO and the OSB.

**B. TERMS OF AGREEMENT.**

9. The Settling Parties agree that the extension of NIPSCO's Core Plus programs approved in Cause No. 43912 through December 31, 2014 is reasonable and brings the expiration of the vendor contracts associated with those programs into alignment with the expiration of the statewide Core programs.

10. The Settling Parties agree that the two new C&I programs proposed by NIPSCO (Small Business Direct Install Program and the Guest Room Energy Management Program), are reasonable additions to the NIPSCO Core Plus portfolio and should be approved through December 31, 2014.

11. The Settling Parties agree that (1) costs associated with NIPSCO's approved electric DSM programs will be recovered through the Demand Side Management Adjustment ("DSMA") Mechanism approved by the Commission's May

25, 2011 Order in Cause No. 43618 (“43618 Order”), and (2) lost margins associated with NIPSCO’s approved electric DSM programs will be recovered through that DSMA Mechanism consistent with the Commission’s August 8, 2012 Order in Cause No. 44154 (“44154 Order”), which is the same cost recovery mechanism used by NIPSCO in its DSM semi-annual adjustment filings (Cause No. 43618-DSM-X).

12. Except as noted below, the Settling Parties agree that NIPSCO will allocate program costs as approved by the Commission in its 43618 Order. The allocation of program costs will be by number of customers on participating rates.

13. The Settling Parties agree the Energy Efficiency Rebate Program should be modified to cover only residential customers on Rates 611, 612 and 613.

14. The Settling Parties agree the Energy Efficient Schools Program should be broken down into two (2) separate programs (School Education Kits and School Audits) for the collection of costs and lost margins, as well as for the reporting of energy savings. Currently, school audits are being rolled into the same program as the school kits and the costs are allocated to eligible customers on Rates 611, 612 and 613. Because the program now tracks savings through the School Audit Program, the Settling Parties propose to only allocate program costs to eligible customers on Rates 623 and 624.

15. The Settling Parties agree the program costs for the two (2) new programs should be allocated to Rates 620, 621, 622 and 623 based on the number of customers in each of those rates to the total eligible customers for those two programs.

16. The Settling Parties agree that the Action Plan is evidence that supports continuation of the current portfolio of programs with the addition of the two new C&I offerings. Such agreement shall not constitute an endorsement of the Action Plan for any other purpose nor shall it act as a waiver of any position with respect to the application of the Action Plan beyond December 31, 2014.

17. The Settling Parties agree that the proposed budgets for NIPSCO's portfolio of electric DSM programs are reasonable based on the Action Plan and should be approved for recovery through the DSMA Mechanism, subject to ongoing oversight by the OSB and limitations imposed by the Commission in its 43618 Order, 43912 Order, Phase II Order and 44001 Order.

18. The Settling Parties agree that, through 2014, NIPSCO should continue to have authority to recover lost margins associated with its electric DSM programs through the DSMA Mechanism consistent with the provisions of the 44154 Order. The continuation of NIPSCO's authority to recover lost margins through 2014 shall not act as a waiver by the OUCC of any position it may take regarding NIPSCO's recovery of lost margins beyond December 31, 2014.

19. The Settling Parties agree that the current OSB structure and process is reasonable and should continue to be in force through December 31, 2014.

**C. MISCELLANEOUS.**

20. 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.

21. 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.

22. 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.

23. 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.

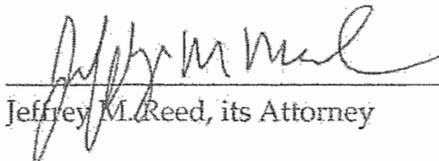
24. The communications and discussions during the negotiations and conferences which have produced this Agreement shall be conducted on the explicit understanding that they are, or relate to offers of settlement and shall be privileged and confidential, shall be without prejudice to the position of any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

25. 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.

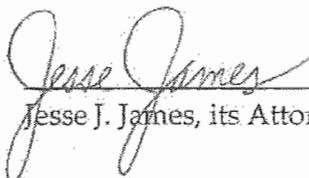
26. The Parties agree that the execution of duplicate signature page(s) hereto shall be binding upon each Party as if each had executed the same original document.

ACCEPTED AND AGREED this 16<sup>th</sup> day of July, 2013.

INDIANA OFFICE OF UTILITY CONSUMER  
COUNSELOR

By:   
Jeffrey M. Reed, its Attorney

NORTHERN INDIANA PUBLIC SERVICE COMPANY

By:   
Jesse J. James, its Attorney

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served by email transmission upon the following:

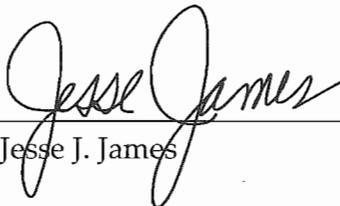
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With a courtesy copy to:

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Dated this 19th day of June, 2013.

  
\_\_\_\_\_  
Jesse J. James