STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY FOR AUTHORITY TO MODIFY ITS RATES AND CHARGES FOR ELECTRIC UTILITY SERVICE AND FOR APPROVAL OF: (1) CHANGES TO ITS ELECTRIC SERVICE TARIFF INCLUDING A NEW SCHEDULE OF RATES AND CHARGES AND CHANGES TO THE GENERAL RULES AND REGULATIONS AND CERTAIN RIDERS; (2) REVISED DEPRECIATION ACCRUAL RATES; (3) INCLUSION IN ITS BASIC RATES AND CHARGES OF THE COSTS ASSOCIATED WITH CERTAIN PREVIOUSLY APPROVED QUALIFIED POLLUTION CONTROL PROPERTY, CLEAN COAL TECHNOLOGY, CLEAN ENERGY PROJECTS AND FEDERALLY MANDATED COMPLIANCE PROJECTS; AND (4) ACCOUNTING RELIEF TO ALLOW NIPSCO TO DEFER, AS A REGULATORY ASSET OR LIABILITY, CERTAIN COSTS FOR RECOVERY IN A FUTURE PROCEEDING.	)	**CAUSE NO. 44688**

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

TESTIMONY OF

EDWARD T. RUTTER – PUBLIC'S EXHIBIT NO. 6

JANUARY 22, 2015

Respectfully submitted,

Scott C. Franson
Attorney No. 27839
Deputy Consumer Counselor

CERTIFICATE OF SERVICE

This is to certify that a copy of the ***OUCC TESTIMONY OF EDWARD T. RUTTER*** has been served upon the following parties of record in the captioned proceeding by electronic service on January 22, 2015.

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DIRECT TESTIMONY OF OUCC WITNESS EDWARD T. RUTTER
CAUSE NO. 44688
NORTHERN INDIANA PUBLIC SERVICE COMPANY

I. INTRODUCTION

Q: Please state your name, employer, current position and business address.

A: My name is Edward T. Rutter. I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC") as a Utility Analyst in the Resource Planning and Communications Division. My business address is 115 West Washington St., Suite 1500 South Tower, Indianapolis, Indiana 46204. My educational background and professional experience is detailed in Appendix A attached to this testimony.

Q: What did you do to prepare your direct testimony in this Cause?

A: I reviewed and analyzed the petition, pre-filed testimony, exhibits and workpapers and Northern Indiana Public Service Company's ("NIPSCO") responses to data requests. I attended meetings with NIPSCO personnel, including the Cause No. 44688 technical conference held November 18, 2015.

Q: What is the purpose of your direct testimony?

A: I discuss OUCC's objection to NIPSCO's request to adjust depreciation rates for steam production plant to reflect the change in retirement date for Bailly Unit 8 from 2029 to 2023. I also discuss OUCC's concerns with NIPSCO's use of a Replacement Cost New Less Depreciation[1] methodology in developing the current value of NIPSCO's electric utility assets. I raise this concern because Ind. Code § 8-1-2-6 states that the Commission can take into account the reproduction

[1] The determination of value based on the current cost to replace the asset or group of assets with materials having characteristics equivalent to the asset or group of assets

cost of utility property at current prices less depreciation. However, there is a distinct difference between Replacement Cost and Reproduction Cost.[2]

II. DEPRECIATION IMPACT OF THE PROPOSED EARLY RETIREMENT OF BAILLY GENERATING UNIT NO. 8

Q: Did you review and analyze the depreciation expense impact of NIPSCO's proposal to accelerate the retirement of Bailly generating Unit No. 8 from 2029 to 2023?

A: Yes. NIPSCO witnesses Mr. Frank A. Shambo[3] and Mr. Michael Hooper[4] discuss the change in the retirement dates for Bailly Units 7 & 8. The 2014 Integrated Resource Plan ("IRP") has Bailly Unit 7 retiring in 2023 and Bailly Unit 8 retiring in 2029. Petitioner's witness Mr. John J. Spanos changed the retirement date for Bailly Unit 8 from 2029 to 2023 to reflect the position taken by NIPSCO relative to the depreciation expense for Bailly Unit 8.

Q. What is the impact to test year depreciation expense caused by accelerating the retirement date of Bailly Unit No. 8?

A. To reflect the impact to depreciation expense due to the accelerated retirement date for Bailly Unit 8, Mr. Spanos changed the probable retirement date in his depreciation study to December 2022, which increased the test year depreciation expense for the steam assets by $11.1 million.

Q. Why is the OUCC objecting to the adoption of an accelerated retirement date for Bailly Unit 8?

A. Any change to a resource option that is inconsistent with a current IRP should not be approved unless a new IRP analysis is provided. The retirement of a generation

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[2] The determination of value based on the current cost to reproduce the asset or group of assets in kind based on current prices for the same or closely similar materials.
[3] Petitioner's Exhibit No. 2, Direct Testimony of Mr. Frank A. Shambo, page 23 lines 1 – 19.
[4] Petitioner's Exhibit No. 3 Direct testimony of Mr. Michael Hooper, page 17, lines 6-10

unit by any utility is a "Resource Action" as defined in the Commission's Draft Proposed Rule dated 10/04/2012 amending 170 IAC 4-7:

> "Resource action": means a resource change or addition proposed by a utility in a formally docketed proceeding.

In his April 30, 2014 "Report of the Indiana Utility Regulatory Commission Electricity Division Director Dr. Bradley K. Borum Regarding 2013 Integrated Resource Plans" Dr. Borum described the Draft Proposed rule as "developed in collaboration with Indiana's utilities and interested stakeholders." Report at 1. He noted that utilities had "moved forward with using the Draft Proposed Rule for the IRPs they've submitted in November 2013 " and that "for purposes of preparation of this report, the Commission has decided to act as if the Draft Proposed Rule is in effect." *Id.*

In the 10/22/15 IRP "Strawman Draft proposed Rule", the definition of "Resource action" was essentially unchanged, clarifying that it applied to IURC proceedings:

> "Resource action": means a resource change or addition proposed by a utility in a formally docketed commission proceeding.

In both the 2012 Draft Proposed Rule and the 2015 Strawman, proposed Section 3, 170 IAC 4-7-2, Sec. 2 (q) is the same. This section addresses "resource actions" and the applicable requirements are as follows:

> (q) Any resource action shall be consistent with the most recent IRP submitted under this rule, including its:

1 (1) Inputs (including data and assumptions):

2 (2) Methods (including models); and

3 (3) Judgment factors (including the rationales used to determine
4 inputs, methods and risk metric(s));

5 Unless any discrepancies between the most recent IRP and the
6 resource action are fully explained and justified with supporting
7 evidence, including updated IRP analysis.

8 The OUCC reads this language to say that in order for a utility to receive
9 approval to adopt a resource action, it must be consistent with the most recent
10 IRP. If the resource action is not consistent with the most recent IRP, then the
11 utility is required to explain and justify the proposed resource action with an
12 updated IRP analysis.

13 **Q. Is NIPSCO seeking a specific resource action as discussed above in this**
14 **proceeding?**

15 A. No. NIPSCO is not seeking approval of a specific resource action in this
16 proceeding. However, NIPSCO is seeking a change in the depreciation expense
17 for a resource, Bailly Unit 8, where the retirement date has changed from 2029 to
18 2023. NIPSCO's request to accelerate the retirement date of a resource implies a
19 resource action will have taken place, which results in an increase in test year
20 depreciation expense in the amount of $11.1 million.[5]

21 **Q. Did NIPSCO file an updated IRP analysis with its case-in-chief in this**
22 **proceeding?**

23 A. No. In response to OUCC Data request 17-001, ETR Attachment-2 NIPSCO
24 responded "....No updated integrated resource planning study or associated
25 economic analysis has been performed."

[5] Petitioner's Response to OUCC request 22-005, c), ETR Attachment-1

Also in response to OUCC Request 20-008, ETR Attachment-3, where NIPSCO was asked if it ran an updated IRP including new assumptions regarding the updated Bailly retirement, NIPSCO responded "No. NIPSCO will run and submit an updated Integrated Resource Plan in 2016".

Q. Did NIPSCO provide any support for the accelerated retirement of Bailly Unit 8?

A. Yes. Mr. Hooper testifies if Bailly Unit 8 were to continue to operate beyond 2023 it is estimated that NIPSCO would need to spend in excess of $40.0 million in capital and an incremental $40.0 million in maintenance expense over the course of two (2) years.[6] He also testifies that many components of Bailly 8 are approaching, at or beyond the Original Equipment Manufacturers expected life.[7]

Mr. Hooper also testifies that Bailly Units 7 & 8 are not completely separate and retiring only one unit would require that the common elements would need to remain in service to support the remaining unit.[8]

Q. Does the information provided in Mr. Hooper's testimony and the response to OUCC 5-005 satisfy the OUCC that NIPSCO has provided sufficient justification and support to be considered in place of an updated IRP analysis?

A. No. NIPSCO did not provide any updated integrated resource planning analysis or associated economic analysis. Absent an updated IRP analysis provided by NIPSCO in its case-in-chief, 170 IAC 4-7-2, Sec. 2 (q) seems to preclude NIPSCO's proposed change in depreciation expense to reflect the accelerated retirement of Bailly Unit No. 8.

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[6] Petitioner's Exhibit No. 3 page 15, lines 9-13.
[7] *Id.* at page 15, lines 6-8
[8] *Id.* at page 15, lines 17-18 and page 16, lines 1-8.

III. REPLACEMENT COST STUDY

Q. Did you review Petitioner's Exhibit No. 14 and its Attachments?

A. Yes. That is the direct testimony and attachments of Petitioner's witness Ms. Bulkley.

Q. Do you have any concerns with Ms. Bulkley's testimony and the attachments to the testimony?

A. The testimony is confusing in several aspects. First, her testimony states that Concentric (her employer) was retained by NIPSCO "to perform a replacement cost study or appraisal of the current value of [NIPSCO's] electric utility transmission, distribution, general and common plant assets (sometimes collectively referred to as the "electric utility assets")."[9] Generation assets are not included within this description of the scope of analysis, yet they are the first asset group discussed (page 5) and are a part of her study (see Attachments B, C, D).

Second, Ms. Bulkley testifies that her analysis uses a cost-based valuation methodology, the Replacement Cost New Less Depreciation ("RCNLD"),[10] but pages 12-20 explain the Reproduction Cost New study she performed. On page 4 she describes her Attachment C as a summary of the Original Cost, Reproduction Cost New ("RCN") and RCNLD of the Company's Electric Plant in service at June 30, 2015 and her Attachment D as providing "a more detailed calculation" of all three valuations. The headings for Attachments C and D are both labeled "Replacement Cost New Less Depreciation" and while Attachment C has data columns for all three methods, Attachment D shows values only for Original Cost

[9] Petitioner's Exhibit No. 14 page 3 lines 9 – 12.
[10] *Id.* at lines 15-18.

and Reproduction Cost, but not Replacement Cost. Ms. Bulkley says her Attachment E provides Reproduction Cost New calculations,[11] yet that attachment is labeled "Replacement Cost New Less Depreciation".

Later in her testimony Ms. Bulkley refers to Ind. Code § 8-1-2-6. She cites this statute for the proposition that the Commission can take into account the reproduction cost of utility property in determining the fair value of the assets.[12]

OUCC Data Request 22-003, ETR Attachment-5, sought to clarify whether Ms. Bulkley's study was "reproduction" or "replacement" cost. NIPSCO responded as follows:

> No. Ms. Bulkley did not perform a reproduction cost new less depreciation study relative to the electric utility assets in service as of June 30, 2015 as that analysis was not in the scope of services defined by the engagement letter. Concentric was engaged to provide an update to the "Replacement Cost new Less Depreciation" study for the electric utility assets.

Q. Do you have any further concerns with Ms. Bulkley's testimony relative to NIPSCO's recently filed 7-Year Plan in Cause No. 44733?

A. Yes. The 7-Year Plan includes significant transmission and distribution investments to replace and/ or upgrade existing plant. These expenditures are designed to provide for an accelerated recovery of the costs of transmission, distribution and storage assets to address safety and reliability issues. In response to OUCC data request 22-004, ETR Attachment-6, NIPSCO indicated that it did not provide Concentric with preliminary data developed relative to the 7-Year Plan. While I recognize that the 7-Year Plan seeks transmission and distribution system upgrades and replacements, the Company put significant work into

[11] Petitioner's Exhibit No. 14, page 4, lines 6-14.
[12] *Id.* at page 10 lines 11 – 17, page 11 lines 1- 17 and page 12 Line 1.

1 developing the 7-Year Plan. Based on my familiarity with 7-Year Plans and
2 TDSIC filings in general and NIPSCO's in particular, this would seem to be
3 information Concentric reasonably should have considered in making any
4 appraisal or fair value assessment of NIPSCO's transmission and distribution
5 assets.

6 **Q. Based on the concerns noted above, should the Commission accept the fair**
7 **value of the electric utility assets at June 30, 2015 as developed by Concentric**
8 **and presented by Ms. Bulkley?**

9 A. No. It remains unclear if Concentric's determination of the fair value of
10 NIPSCO's electric utility assets is based on Reproduction Cost New Less
11 Depreciation determination or a Replacement Cost New Less Depreciation
12 determination. There is a difference between a Reproduction Cost New Less
13 Depreciation[13] fair value determination and a Replacement Cost new Less
14 Depreciation fair value determination.[14] Since Ms. Bulkley cites I.C. § 8-1-2-6,
15 which acknowledges that the Commission can take into account the reproduction
16 cost of utility property in determining the fair value of the assets, it is important to
17 know and understand what methodology Concentric employed. Also, NIPSCO
18 apparently did not inform Concentric of its intention to file a new 7-Year TDSIC
19 Plan and its intention to not allow Concentric to review the work performed by
20 NIPSCO employees in developing cost estimates relative to transmission and
21 distribution plant.

[13] The determination of value based on the current cost to reproduce the asset or group of assets in kind based on current prices for the same or closely similar materials.
[14] The determination of value based on the current cost to replace the asset or group of assets with materials having characteristics equivalent to the asset or group of assets.

1 **Q. What does the OUCC recommend in this proceeding?**

2 A. The OUCC recommends the following based on my testimony:

3 1. Deny NIPSCO's request to reflect an acceleration of the retirement of

4 Bailly Unit 8 from 2029 as reflected in the most recent IRP.

5 2. Reject Ms. Bulkley's RCNLD study.

6 **Q: Does this conclude your testimony?**

7 A: Yes.

APPENDIX A

Q: Please describe your educational background and experience.

A: I am a graduate of Drexel University in Philadelphia, PA, with a Bachelor of Science degree in Business Administration. I was employed by South Jersey Gas Company as an accountant responsible for coordinating annual budgets, preparing preliminary monthly, quarterly, annual and historical financial statements, assisting in preparation of annual reports to shareholders, all SEC filings, state and local tax filings, all FPC/FERC reporting, plant accounting, accounts payable, depreciation schedules and payroll. Once the public utility holding company was formed, South Jersey Industries, Inc., I continued to be responsible for accounting as well as for developing the consolidated financial statements and those of the various subsidiary companies including South Jersey Gas Company, Southern Counties Land Company, Jessie S. Morie Industrial Sand Company, and SJI LNG Company.

I left South Jersey Industries, Inc. and took a position with Associated Utility Services Inc. (AUS), a consulting firm specializing in utility rate regulation including rate of return, revenue requirement, purchased gas adjustment clauses, fuel adjustment clauses, revenue requirement development and valuation of regulated entities.

On leaving AUS, I worked as an independent consultant in the public utility area as well as telecommunications including cable television (CATV). I joined the OUCC in December 2012 as a utility analyst.

Q: Have you previously testified before the Indiana Utility Regulatory Commission?

A: I have previously testified before the Indiana Utility Regulatory Commission (Commission) in Cause Nos. 44311, 44331, 44339, 44363, 44370, 44418, 44429, 44446, 44478, 44486, 44495, 44497, 44526, 44540, 44542, 44576, 44602, 44403, 44634, 44645, plus 43827 and 43955 DSM dockets and several sub-dockets.. I have also testified before the regulatory commissions in the states of New Jersey, Delaware, Maryland, Pennsylvania, New York, Connecticut, Georgia, Florida, North Carolina, Ohio, Oklahoma, Virginia and Wisconsin. In addition to the states mentioned, I submitted testimony before the utility regulatory commissions in the Commonwealth of Puerto Rico and the U.S. Virgin Islands. I have also testified as an independent consultant on behalf of the U.S. Internal Revenue Service in Federal Tax Court, New York jurisdiction.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Counselor's Data Request Set No. 22

OUCC Request 22-005:
Regarding NIPSCO Witness Spanos' treatment of depreciation for Bailly Unit 8: a) Please verify that his depreciation calculations do in fact reflect the change in retirement date for Bailly Unit 8, as identified on Page 17, Lines 6 - 10 of NIPSCO Witness Hooper's testimony; b) Please explain in detail how NIPSCO's decision to retire Bailly Unit 8 early was reflected in his calculations; c) Please identify the magnitude of this early retirement decision on his calculation of test year depreciation expense for NIPSCO.
Objections:
Response:
a) Mr. Spanos' Depreciation Study sets forth the change in retirement date for Bailly Unit 8 to December 2022. This is shown on page III-6 and in the Detailed Depreciation Calculations, Part IX. b) The calculations are based on all life and salvage parameters as well as the surviving aged balances and book reserve. Thus, the recovery of the remaining net investment (future accruals) is calculated to be recovered by December 2022 instead of 2028. c) The change in retirement date for Bailly Unit 8 and Bailly Common increased depreciation expense for the steam assets by $11.1 million.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Data Request Set No. 17

OUCC Request 17-001:
Please provide the updated integrated resource planning study or economic analysis, including any studies conducted internally by NIPSCO that supports NIPSCO's assertion that it will retire Bailly Unit 8 by 2023. Please include all assumptions made for the study or analysis.
Objections:
NIPSCO objects to this Request on the grounds and to the extent that such Request seeks information protected from disclosure by the attorney/client privilege and the work product privilege.
Response:
Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response: Please see NIPSCO's response to Industrial Group Request 5-008 and OUCC Request 5-005. No updated integrated resource planning study or associated economic analysis has been performed.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Data Request Set No. 20

OUCC Request 20-008:
Did NIPSCO run an updated Integrated Resource Plan to include NIPSCO's new assumptions with regard to retiring Bailly? If no, please explain why. Provide all analysis and supporting documentation.
Objections:
Response:
No. NIPSCO will run and submit an updated Integrated Resource Plan in 2016.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Counselor's Data Request Set No. 22

OUCC Request 22-003:
Concentric was engaged by NIPSCO to perform a replacement cost study or appraisal of the current value of NIPSCO's electric utility assets. Did Ms. Bulkley perform a reproduction cost new less depreciation study relative to the electric utility assets in service as of June 30, 2015? If not please explain why Ms. Bulkley has chosen to perform a replacement cost new less depreciation analysis as opposed to a reproduction cost new less depreciation analysis.
Objections:
Response:
No. Ms. Bulkley did not perform a reproduction cost new less depreciation study relative to the electric utility assets in service as of June 30, 2015 as that analysis was not in the scope of services defined by the engagement letter. Concentric was engaged to provide an update to the "Replacement Cost New Less Depreciation" study for the electric utility assets.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Consumer Counselor's Data Request Set No. 5

OUCC Request 5-005:
Refer to Direct Testimony of Michael Hooper, page 15, lines 9-13. Witness Hooper states that if Bailly Unit 8 continues to operate beyond 2023, "NIPSCO estimates it would need to spend in excess of $40 million in capital expense and an incremental $40 million in maintenance expenses over the course of two (2) years." Please provide supporting documentation in electronic format for the cost estimates included in these statements
Objections:
NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary and/or trade secret information.
Response:
Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response: Please see the file attached hereto as OUCC Set 5-005 Confidential Attachment A which shows both the required and high probability items Bailly would need in order to operate until 2025. The incremental estimates referenced in testimony are conservative in nature and final investment decisions will be based upon current operating performance and equipment condition. These decisions will be evaluated and acted upon as the time horizon narrows. As seen in Confidential Attachment A, the actual level of investment required could be larger than amounts referenced in testimony; however, NIPSCO was cautious not to overstate, especially the latter year investments, which can be more difficult to predict 6 - 10 years out.

Cause No. 44688
Northern Indiana Public Service Company's
Objections and Responses to
Indiana Office of Utility Counselor's Data Request Set No. 22

OUCC Request 22-004:
In performing a replacement cost study or appraisal of the current value of NIPSCO's electric utility assets, was Concentric provided with the preliminary data developed relative to NIPSCO's proposed TDSIC 7 Year Plan announced by NIPSCO to be filed on December 31, 2015? 1. If the answer is yes, explain how the data prepared by NIPSCO was used in developing the replacement cost study. 2. If the answer is no, explain why the data developed by NIPSCO for the TDSIC assets should not be included in the replacement cost study.
Objections:
Response:
No. The RCNLD of the transmission and distribution assets is a trended historical cost study based on the electric and common plant assets in service as of June 30, 2015. The current value that is determined is also as of June 30, 2015, therefore, projected capital investment should not be included in that analysis.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

Edward T. Rutter
Utility Analyst
Indiana Office of Utility Consumer Counselor

January 22, 2016
Date

Cause No. 44688
NIPSCO