ORIGINAL

Commissioner	Yes	No	Not Participating
Huston	√		
Bennett	√		
Freeman	√		
Veleta	√		
Ziegner	√		

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR APPROVAL OF ITS PROPOSED 2024-2026 ENERGY EFFICIENCY PLAN FOR GAS SERVICE AND ASSOCIATED RATEMAKING AND ACCOUNTING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH NIPSCO'S GDSM MECHANISM OF ASSOCIATED COSTS (INCLUDING PROGRAM OPERATING COSTS AND LOST REVENUES), AND FOR AUTHORITY TO DEFER PROGRAM COSTS.	)	**CAUSE NO. 45850** **APPROVED: AUG 30 2023**

ORDER OF THE COMMISSION

Presiding Officers:
James F. Huston, Chairman
Ann Pagonis, Administrative Law Judge

On February 15, 2023, Northern Indiana Public Service Company LLC ("NIPSCO" or "Petitioner") filed a verified petition in the above-captioned Cause with the Indiana Utility Regulatory Commission ("Commission"). In its petition, NIPSCO requests approval of Petitioner's proposed gas energy efficiency ("EE") programs for the period January 1, 2024 through December 31, 2026 (the "2024-2026 EE Plan" or "Plan"), including NIPSCO's proposed EE goals; the programs NIPSCO proposes to achieve these goals; the program budgets and costs; the evaluation, measurement, and verification ("EM&V") procedures for the programs; and associated ratemaking treatment for the Plan. NIPSCO also prefiled its case-in-chief on February 15, 2023, consisting of the testimony and exhibits of the following witnesses:

- Alison M. Becker, Manager of Regulatory Policy at NIPSCO;
- Jennifer Staciwa, Manager of Demand Side Management ("DSM") Reporting at NIPSCO; and
- R. Kenneth Skinner, Vice President of Integral Analytics, Inc.

On February 22, 2023, Citizens Action Coalition of Indiana, Inc. ("CAC") petitioned to intervene in this Cause and CAC's petition was granted on March 3, 2023.

On April 13, 2023, NIPSCO filed a Submission of Corrections to Direct Testimony making certain corrections to the Verified Direct Testimony of witness Skinner. On May 8, 2023, NIPSCO filed a Second Submission of Corrections to Direct Testimony making a correction to the Verified Direct Testimony of witness Staciwa.

On June 19, 2023, NIPSCO filed a Notice of Settlement and Request to Convert Evidentiary Hearing to Settlement Hearing with the Commission, notifying the Commission that

NIPSCO, the Indiana Office of Utility Consumer Counselor ("OUCC"), and the CAC (collectively, the "Settling Parties") had reached a settlement in principle of all issues in this Cause.

On July 7, 2023, NIPSCO filed the Stipulation and Settlement Agreement (the "Settlement"). The Settling Parties also filed their respective testimony in support of the Settlement on July 7, 2023, by NIPSCO witness Becker, OUCC witness Mohab M. Noureldin, and CAC witness Benjamin Inskeep.

The Commission set this matter for an evidentiary hearing to be held at 9:30 a.m. on August 1, 2023, in Room 222 of the PNC Center, 101 W. Washington Street, Indianapolis, Indiana. NIPSCO, the OUCC, and CAC each appeared by counsel and participated in the evidentiary hearing, and the testimony and exhibits of the Settling Parties were admitted into the record without objection.

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

1. Notice and Jurisdiction. Notice of the hearing in this Cause was given and published by the Commission as required by law. NIPSCO is a public utility as defined in Ind. Code § 8-1-2-1(a). Under Ind. Code §§ 8-1-2-4, 8-1-2-12, and 8-1-2-42, the Commission has jurisdiction over NIPSCO's EE programs and associated accounting and ratemaking treatment; therefore, the Commission has jurisdiction over NIPSCO and the subject matter of this proceeding.

2. NIPSCO's Characteristics. NIPSCO is a limited liability company organized under the laws of the State of Indiana with its principal office at 801 East 86th Avenue, Merrillville, Indiana. NIPSCO renders electric and gas public utility service in Indiana and owns, operates, manages, and controls, among other things, plant and equipment in Indiana for the generation, transmission, distribution, and furnishing of such service to the public.

3. Background and Relief Requested. The Commission previously approved NIPSCO's gas energy efficiency programs, associated accounting treatment and cost recovery through an Energy Efficiency Rider, its EM&V plans, and the NIPSCO Oversight Board ("OSB") in Cause Nos. 43051 (May 9, 2007), 43894 (Nov. 4, 2010), 44001 (Dec. 28, 2011), 44501 (Oct. 29, 2014), 44637 (Dec. 30, 2015), 45012 (Nov. 21, 2018), and 45455 (July 14, 2021) (the "45455 Order"). NIPSCO's current energy efficiency programs are set to expire on December 31, 2023.

In this Cause, NIPSCO requests the Commission take the following actions:

1. Approve the proposed 2024-2026 EE Plan, effective for the period January 1, 2024, through December 31, 2026, including its EE goals, programs to achieve those goals, program budgets and costs, EM&V procedures (including independent EM&V), allocation and recovery of all program costs (including vendor implementation costs, NIPSCO administrative costs, and EM&V costs) on a timely basis through a periodic rate adjustment mechanism (Energy Efficiency Rider 272), allocation and recovery of certain lost revenues on a timely basis through Rider 272, and authority to defer and recover any over- and under-recoveries of projected costs associated with the Plan;

2. Authorize NIPSCO to begin implementing the Plan as of January 1, 2024;

3. Authorize NIPSCO to continue to utilize its existing OSB to assist in the administration of the Plan, including granting the OSB certain program and budget flexibility; and

4. Approve NIPSCO's proposal to file annual EM&V results no later than July 15 of each year and to quarterly file scorecards within 60 days of the end of each relevant period, with the fourth quarter scorecard to be filed by July 15 of each year to include information for the full year, to the Commission.

4. <u>The Settlement and Evidence in Support of the Settlement</u>. The Settling Parties agreed that the Commission should approve NIPSCO's 2024-2026 EE Plan for gas service, along with associated accounting and ratemaking treatment. The Settlement specifically addresses the programs, savings goals, program budgets, budget flexibility, EM&V, the OSB, program cost recovery, recovery of lost revenues, allocation of program costs, including administration, EM&V and marketing costs, and lost revenues, accounting authorizations, the Gas Demand Side Management Mechanism ("GDSM Mechanism"), and reporting requirements. The Settlement also provides that all other aspects of NIPSCO's proposal (including program implementation, marketing, EM&V procedures, EM&V costs, and program design) should be approved as proposed by NIPSCO.

A. <u>Programs and Program Budgets</u>. NIPSCO's proposal in its petition and case-in-chief testimony requests authorization to implement the following gas EE programs in conjunction with its electric EE programs during the 2024-2026 Plan period:

RESIDENTIAL PROGRAMS

- <u>Home Rebates Program</u>. The Home Rebates program is designed to provide incentives to residential customers to replace inefficient HVAC equipment and other home products with energy-efficient alternatives. These measures are paid per-unit installed, reimbursing customers for a portion of their cost. The program's intent is to help remove the financial barrier associated with the initial cost of these energy-efficient alternatives. The gas program promotes high efficiency gas boilers and furnaces and smart Wi-Fi thermostats.

- <u>Home Energy Analysis Program</u>. The Home Energy Analysis ("HEA") program is designed to help eligible customers improve the efficiency and comfort of their homes, as well as deliver an immediate reduction in gas (therm) consumption and promote additional efficiency work. This program provides homeowners with the direct installation of low-cost, energy-efficient measures followed by the delivery of a Comprehensive Home Assessment report to the customer. This program is unique in that it provides a whole home assessment leading to easy to achieve therm savings opportunities.

- <u>School Education Program</u>. The School Education program is designed to produce cost-effective gas savings by influencing fifth grade students and their families to focus on the efficient use of gas. It provides classroom instruction, posters, and activities aligned with national and state learning standards and energy education kits filled with energy-saving products and advice. Students participate in an energy education presentation at school, learning about basic energy concepts through class lessons and activities. Students also receive an energy education kit of quality, high-efficiency products and are instructed to install the energy-efficient products at home with their families as well as complete a worksheet. The experience at home completes the learning cycle started at school.

- Multifamily Direct Install Program. The Multifamily Direct Install program is designed to provide a "one-stop shop" to multifamily building owners, managers, and tenants of multifamily units containing three or more residences receiving service from NIPSCO. With flexible and affordable options, the program generates immediate energy savings and improvements in two distinct program phases. Phase I is a walkthrough assessment of each property, which is conducted to determine eligibility for direct installation services provided by the Multifamily Direct Install Program, along with complementary incentive offers available through other NIPSCO programs. Property managers are presented with an Energy Improvement Plan that prioritizes recommendations along with a proposal to provide the direct installation services outlined in Phase II. Phase II is an in-unit direct installation of energy-efficient devices at no-cost or low-cost to the tenant or landlord, such as low-flow showerheads, faucet aerators, pipe wrap, and programmable thermostats. Educational materials about home operation, maintenance, and behavior that may reduce energy consumption are provided to tenants in each living unit. TRC Companies, Inc., the company that currently administers the programs, will utilize a qualified subcontractor for the implementation of this program.

- Home Energy Report Program. The Home Energy Report program (also known as the Behavioral program) is designed to encourage energy savings through behavioral modification. The program provides customers with home energy reports that contain personalized information about their energy use and provide ongoing recommendations to make their homes more efficient. Customers are randomly chosen to participate in the program and may opt-out if they do not wish to participate. The reports engage customers and drive them to take action to bring their energy usage in line with similar homes and encourage participation in other complimentary residential programs. The program empowers customers to understand their energy usage better and uses competition through neighbor comparisons to influence customers to act on this knowledge, resulting in changed behavior.

- Income Qualified Home Energy Report Program. The Income Qualified Home Energy Report program (also known as the Income Qualified Behavioral program) is designed to encourage energy savings through behavioral modification. The program provides income qualified customers with home energy reports (print and e-mail) that contain personalized information about their energy use and provide ongoing recommendations to make their homes more efficient as well as at-risk language to support customers with energy saving tips, ways to seek additional assistance from utility, local, state, and federal agencies and inform them of potential higher than average usage compared to prior months before receiving their bill. Customers are randomly chosen to participate in the program and may opt-out if they do not wish to participate. The reports engage customers and drive them to take action to bring their energy usage in line with similar homes and encourage participation in other complimentary residential programs, including programs offered both by NIPSCO and by other entities focused on income qualifications. The program empowers customers to understand their energy usage better and uses competition through neighbor comparisons to influence customers to act on this knowledge, resulting in changed behavior.

- Residential New Construction Program. The Residential New Construction program is designed to increase awareness and understanding by home builders of the benefits of energy-efficient building practices, with a focus on capturing energy efficiency opportunities during the design and construction of single-family homes. This program produces long-term, cost-effective savings as a result of the training they receive to achieve the various Home Energy Rating System tiers, along with strategies for incorporating the Silver, Gold, and Platinum designations into their marketing efforts to attract home buyers.

- HomeLife EE Calculator Program. The HomeLife EE Calculator program is designed to offer NIPSCO's residential customers an online "do-it-yourself" audit and an energy savings kit for carrying out this audit, at no cost to the customer. The audit tool effectively: (1) identifies low-cost/no-cost measures that a NIPSCO residential customer can easily implement to manage gas consumption; (2) allows eligible customers to request a free home energy kit; (3) educates customers about the variety of programs available to them through the residential energy efficiency portfolio; and (4) assists customers in finding qualified and experienced contractors through a network of trade allies.

- Income Qualified Weatherization Program. The Income Qualified Weatherization ("IQW") program is designed to provide energy efficiency services to qualifying low-income households. For a household to be eligible to participate in the IQW program, the customer must be a NIPSCO residential customer with active service that receives Low-Income Home Energy Assistance, Temporary Assistance for Needy Families, Supplemental Security Income or Supplemental Security Disability Income and has not received weatherization services in the past ten years from the date of application. Qualifying participants receive the direct installation of no-cost energy efficiency measures and a Comprehensive Home Assessment to identify areas of the home where additional energy savings can be achieved to make the home more comfortable and reduce energy costs.

- Online Marketplace Program. The Residential Online Marketplace program provides an online store for NIPSCO gas customers to purchase and install energy efficiency measures with instant incentive applied at the time of purchase. The Online Marketplace ensures only NIPSCO customers are eligible to purchase, and limits are set on the quantities purchased to ensure timely installation.

COMMERCIAL AND INDUSTRIAL PROGRAMS

- Prescriptive Program. The Prescriptive program is designed to provide incentives for a set list of energy efficient measures and are paid based on per unit installed, reimbursing the customer for a portion of the cost. The Prescriptive Program offers incentives to NIPSCO's commercial and industrial ("C&I") customers that are making gas energy efficiency improvements in existing buildings.

- Custom Program. The Custom program is available to qualifying C&I customers for installing new energy-saving equipment. Custom incentives are designed for more complicated projects, retro-commissioning ("RCx" projects) or those that incorporate alternative technologies. Project pre-approval is required for all Custom incentives to ensure that only cost-effective projects are approved. Qualifying measures must have a Total Resource Cost test score greater than 1.0, have a simple payback greater than 12 months (less than 12 months for RCx measures) and not be included as an energy efficiency measure in the Prescriptive program. RCx projects examine energy consuming systems for cost-effective savings opportunities. The RCx process identifies operational inefficiencies that can be removed or reduced to yield energy savings.

- C&I New Construction Program. The C&I New Construction program is designed to encourage construction of energy efficient C&I facilities within the NIPSCO service territory. This program offers financial incentives to encourage building owners, designers, and architects to exceed standard building practices and achieve efficiency, above and beyond the 2010 Indiana Energy Conservation Code. The goal of the New Construction program is to produce newly constructed and expanded buildings that are efficient from the start. New construction projects that may be eligible for incentives under the New Construction Program may include any of the following: (1) new building projects wherein no structure or site footprint presently exists; (2) addition to or expansion of an existing building or site footprint; and (3) a total gut rehabilitation for a change of purpose requiring replacement of all mechanical systems and equipment.

- Small Business Direct Install Program. The Small Business Direct Install ("SBDI") program is designed to facilitate participation in the NIPSCO business energy efficiency program of small businesses that do not possess the in-house expertise or capital budget to develop and implement an energy efficiency plan. The SBDI program offers a variety of ways for small businesses to improve the efficiency of their existing facilities. Measures are paid out on a per unit basis, much the same way as the Prescriptive program, but with slightly higher incentive rates to encourage energy efficient investment from these smaller commercial customers. Incentive payments to the approved trade allies occurs following measure implementation and submission of all required paperwork. If additional incentives are available through other programs, customers are directed to the appropriate application.

- Online Marketplace Program. The Online Marketplace program provides an online store for NIPSCO gas customers to purchase and install energy efficiency measures with instant incentive applied at the time of purchase. The Online Marketplace ensures only NIPSCO customers are eligible to purchase, and limits are set on the quantities purchased to ensure timely installation.

- Strategic Energy Management. The Strategic Energy Management ("SEM") program is a method used to operate buildings efficiently and effectively. SEM integrates energy management into everyday business and operations practices which results in persistent energy savings. Staff at all levels participate in daily operational habits to ensure the buildings – and the equipment in them – are operating as efficiently and cost-effectively as possible.

The Settlement also provides that NIPSCO should be authorized to implement the programs according to the following program budgets (subject to the budget flexibility discussed below):

	Residential	C&I	Total
Vendor Implementation Cost	$ 17,512,266	$ 7,708,041	$ 25,220,307
NIPSCO Admin	$ 875,612	$ 385,404	$ 1,261,016
NIPSCO Marketing	$ 437,808	$ 245,326	$ 683,134
EM&V	$ 875,612	$ 385,404	$ 1,261,016
Total Program Budget	**$ 19,701,298**	**$ 8,724,175**	**$ 28,425,473**
Lost Revenues	$ 2,537,808	$ 802,417	$ 3,340,225
Total Program Costs	**$ 22,239,106**	**$ 9,526,592**	**$ 31,765,698**

NIPSCO evidenced that the gas EE programs identified, and the associated savings goals, are reasonable and cost-effective. In support of the reasonableness and cost-effectiveness of the programs included in the 2024-2026 EE Plan, NIPSCO offered the case-in-chief testimony of Ms. Becker, Ms. Staciwa, and Mr. Skinner; and the settlement testimony of Ms. Becker.

The Settlement reflects the Settling Parties' agreement that these programs and the associated savings goals are reasonable and cost-effective. In further support of the reasonableness and cost-effectiveness of the programs included in the 2024-2026 EE Plan, NIPSCO offered the case-in-chief testimony of Ms. Becker, Ms. Staciwa, and Mr. Skinner, and the settlement testimony of Ms. Becker.

Ms. Becker stated the programs provide a robust, cost-effective portfolio of EE programs available to all customer classes. She testified the 2024-2026 EE Plan is reasonable in its entirety and provides programs for all customer segments. She stated the programs are cost effective using standard industry tests and provide benefits to customers who participate. Ms. Becker testified that, at the end of the three-year period, the estimated monthly bill impact for a typical residential customer (using 72 therms per month) would be $0.86. Ms. Becker and Mr. Skinner described the inputs to and the cost-effectiveness analyses of the EE programs, respectively. Ms. Becker provided the utility input information in Petitioner's Exhibit 1, Attachment 1-B. Mr. Skinner testified that as required by the Commission, his analysis considered the Utility Cost test ("UCT"), the Total Resource Cost ("TRC") test, the Ratepayer Impact Measure test, and the Participant test. He described each of the cost effectiveness tests he performed and described the overall approach and process used to perform the analysis. He testified that the program goals for both Residential and C&I portfolios, as well as all individual programs included in the Residential and C&I portfolio, pass the UCT test and TRC test. Mr. Skinner testified that based on the cost-benefit analysis results, the past success of NIPSCO's programs, and his understanding and observations of other successful utility programs, he believes NIPSCO's proposed Plan is cost effective and achievable.

The Settlement adds certain conditions and requirements to the programs and program budgets herein described. First, to the extent measures are added to an existing program to achieve additional savings, those measures, as a group, must be cost effective outside of the total program. Second, NIPSCO, in collaboration with the OSB, will work in good faith to optimize and enhance its delivery of programs and initiatives. NIPSCO and the OSB will specifically strive to: (1) target the following measures: air sealing, above grade wall insulation, attic insulation, basement wall insulation, crawlspace insulation, doors, duct insulation, floor insulation, furnace/boiler tune ups, kneewall insulation, pipe insulation, rim joist insulation, smart thermostats, and windows; and (2) prioritize the weatherization of income qualified residences. Third, NIPSCO will collaborate with the OSB on ways to seek to improve education for contractors and other trade allies related to targeted measures or programs. Such efforts may include, but are not limited to, utilizing marketing funds to provide additional education opportunities for contractors and other trade allies. And fourth, as in previous NIPSCO DSM Plans approved by the Commission, the OSB shall have the opportunity to review and provide input on final program designs, including program offerings, each year prior to implementation.

Beyond the above-described conditions, the Settlement states that the Settling Parties agree that NIPSCO should be authorized to implement the gas energy efficiency programs presented in its direct case, up to the budget amounts set out therein (subject to the budget flexibility described below). Further, the Settling Parties agree and stipulate within the Settlement that these programs are cost-effective and reasonably achievable.

B. Savings Goals. Consistent with NIPSCO's case-in-chief testimony, the Settlement provides that the savings goals targeted for achievement by the above programs are as follows:

	Projected Energy Savings (Therms)			
Residential Programs	2024	2025	2026	2024-2026
Home Rebates	843,209	821,415	796,153	2,460,777
Home Energy Analysis (HEA)	122,807	123,576	124,500	370,883
School Education	107,455	107,455	107,455	322,365
Multifamily Direct Install (MFDI)	56,655	56,655	56,655	169,965
Residential New Construction	222,233	222,683	223,178	668,094
HomeLife Energy Efficiency Calculator	15,296	15,296	15,296	45,888
Income Qualified Weatherization (IQW)	158,043	158,618	159,307	475,968
Residential Online Marketplace	174,302	174,302	174,302	522,906
Home Energy Report	1,119,038	996,719	917,927	3,033,684
Income Qualified Home Energy Report	451,762	402,381	370,573	1,224,716
Residential Portfolio	3,270,800	3,079,100	2,945,346	9,295,246
C&I Programs	2024	2025	2026	2024-2026
Prescriptive	73,270	71,910	70,982	216,162
Custom	887,669	871,192	859,944	2,618,805
C&I New Construction	732,891	719,288	710,001	2,162,180
Small Business Direct Install (SBDI)	17,240	16,920	16,702	50,862
C&I Online Marketplace	4,310	4,230	4,175	12,715
Strategic Energy Management (SEM)	8,620	8,460	8,351	25,431
C&I Portfolio	1,724,000	1,692,000	1,670,155	5,086,155
Total Plan	**4,994,800**	**4,771,100**	**4,615,501**	**14,381,401**

In support of these savings goals, NIPSCO offered the testimony of Ms. Becker. Ms. Becker testified that the savings goals were determined, after review and discussion with the OSB, based on the amount the program implementer indicated could be achieved. Additionally, she stated that NIPSCO and Mr. Skinner performed an independent cost-effectiveness analysis indicating the goals are achievable in a cost-effective manner.

The Settlement set further savings goals for NIPSCO, providing a stretch goal of an additional 1,725,768 gross therms over the total three-year period of the 2024-2026 EE Plan. The Settlement calls on the OSB to work collaboratively and in good faith to use best efforts to identify and achieve, through the use of the flexible funding, additional cost-effective energy savings of an additional 1,725,768 gross therms over the total three-year period of 2024-2026. The Settlement states the Settling Parties, through the OSB, will use best efforts to increase the scale of programs and/or identify emerging technologies to produce reasonably achievable, cost-effective (based on pro forma estimates) incremental energy savings. In addition to other programs identified by the OSB in working with the program vendor, the OSB will work in good faith to explore new programs and initiatives to seek to achieve greater savings levels. NIPSCO will also make a good faith effort to expand other measures and programs. Additionally, the Settlement states that to the extent measures are added to an existing program to achieve additional savings, those measures, as a group, must be cost effective outside of the total program.

CAC also supports the agreed upon savings goals. Mr. Inskeep testified "CAC believes that the savings goal and the settlement agreement, which includes the commitment to a stretch goal associated with the use of flexible funding, are reasonable." (CAC Exhibit 1, at Page 5).

C. Budget Flexibility. The Settlement provides that NIPSCO, with OSB approval, should be authorized to increase any individual program funding by up to 20% of the annual total program budget, even if this exceeds the overall 2024-2026 EE Plan budget approved by the Commission by up to, but not exceeding, 20%. A majority vote of the OSB is required for flexible funding requests of 0-10%, and a unanimous vote of the OSB is required for flexible funding requests greater than 10%. To the extent additional funding is needed to achieve additional cost-effective saving opportunities that requires funding over and above the amount allotted by flexible funding, the Settling Parties, through the OSB by unanimous vote, shall vote on whether to request additional funding through a request to the Commission. All other previous conditions set out in the settlement agreement in Cause No. 45456 related to flex funding shall apply to both the electric and gas programs, including that approval of flex funding will be sought before such flex funding is utilized.

The Settlement also provides that NIPSCO may roll over unspent budget amounts from one program year to the next within the 2024-2026 EE Plan period, with a corresponding increase to the savings goal. In addition, to the extent that NIPSCO has unspent budget amounts available at the conclusion of the 2023 program year, NIPSCO may utilize those unspent budget amounts in the 2024 program year to pay program expenses related to the 2023 program year. The savings goal for the 2024 program year will be increased by the same amount. NIPSCO will continue to work with the OSB and its vendor(s) to use flex funding to increase savings as available and appropriate.

Mr. Noureldin, Mr. Inskeep, and Ms. Becker all testified in support of the budget flexibility provisions of the Settlement. Mr. Noureldin described the Settlement's budget flexibility provisions and opined the Settlement will allow ratepayers to "save on lost revenues while the increased spending flexibility for the OSB provides a pathway to optimizing energy savings." Mr. Inskeep testified, as stated above, that the Settlement's commitment to a stretch goal associated with the use of flexible funding is reasonable. Mr. Inskeep further references the CAC's agreement with the flexibility mechanism agreed to in the Settlement when he states "[t]he Settlement… contains mechanisms for potentially expanding and enhancing cost-effective energy efficiency programs during the duration of the DSM Plan, which can increase benefits to customers." (CAC Exhibit 1, at Pages 6-7). Ms. Becker testified that the Settlement's provisions, including those tied to budget flexibility, represented a reasonable compromise among the Settling Parties and should be approved by the Commission.

D. EM&V. Consistent with NIPSCO's proposal in its petition and case-in-chief testimony, the Settling Parties agree that NIPSCO's proposed independent EM&V procedures should be implemented, as summarized in Petitioner's Exhibit 2, Attachment 2-C. NIPSCO requests that independent EM&V procedures should be implemented, as summarized in its case-in-chief testimony. Ms. Becker testified the proposed EM&V procedures are the same procedures as those NIPSCO currently utilizes and the Commission approved in the 45455 Order. Ms. Staciwa provided a detailed description of NIPSCO's proposed EM&V process. Ms. Becker testified that NIPSCO currently uses the statewide EM&V framework as the basis for its evaluation activities, working with its OSB to complete a Request for Proposals for its EM&V vendor, with the OSB making the selection. She testified a statement of work which details the specific activities of the vendor is developed in consultation with the OSB, and the OSB participates in ongoing meetings with the vendor as the evaluation is completed. The EM&V results are presented to and reviewed by the OSB. Ms. Becker further testified that once the final EM&V report is received, NIPSCO reviews the report recommendations with the program implementer and provides an update to the OSB on each recommendation. NIPSCO, upon approval by the OSB, proposes to continue using ILLUME Advising, LLC as its EM&V vendor for the 2024-2026 Plan. If the OSB does not approve NIPSCO's request to continue utilizing ILLUME Advising, LLC, NIPSCO will work with the OSB to conduct a Request for Proposals to select a new evaluator.

E. **OSB.** Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO's OSB will continue functioning as is. The OSB will continue to have authority and flexibility to shift costs within a program budget as needed, shift funds among programs (pursuant to the budget flexibility described above), and design and implement new programs so long as they are cost-effective and the overall 2024-2026 EE Plan budget is not exceeded. Ms. Becker testified that the current OSB structure and process approved in the 45455 Order has been beneficial to both NIPSCO and its stakeholders; therefore, NIPSCO proposes to maintain its OSB as approved in the 45455 Order.

F. **Program Cost Recovery.** Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO should be authorized to recover its EE program operating costs, including EM&V, administrative, and marketing costs, on a timely basis through NIPSCO's existing GDSM Mechanism.

G. **Recovery of Lost Revenues.** Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO should be authorized to recover and defer lost revenues associated with its 2024-2026 EE Plan through NIPSCO's GDSM Mechanism until such amounts are recovered through NIPSCO's rates.

Ms. Becker's case-in-chief testimony defines lost revenues as the difference between the revenues lost and the variable operating and maintenance costs saved by NIPSCO as a result of implementing an energy efficiency program – in other words, the lost component of fixed costs resulting from implementation of the programs included in the Plan. She stated that consistent with the 45455 Order, the only lost revenues to be recovered are lost revenues that result from its 2024-2026 Plan and that accrue during the 2024-2026 Plan. She stated that recovery of lost revenues supports appropriate utility-customer alignment in terms of encouraging EE programs, keeps the utility whole from a fixed-costs-recovery perspective, and avoids imposing a penalty on the utility in exchange for the pursuit of energy policy goals. Ms. Becker testified that implementing EE programs causes the utility's recovery of its fixed costs to decline through reduced sales, so approval of lost revenue recovery makes the utility whole. According to Ms. Becker, without lost revenue recovery, a utility implementing EE programs for the benefit of its customers will be penalized through reduced recovery of its fixed costs.

In support of NIPSCO's request for continued recovery of lost revenues, Ms. Becker testified NIPSCO has implemented its energy efficiency programs and has base rates and charges that were recently approved in Cause No. 45621 (the "45621 Order") and went into effect prior to September 1, 2022.[1] In other situations, such as NIPSCO's electric program, where lost revenues are allowed, the calculation of lost revenues must account for: (1) the impact of free-riders; (2) the change in the number of energy efficiency 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. She explained that with the 45621 Order and the methodology NIPSCO proposes to maintain in this Cause, NIPSCO is prepared to continue to meet these requirements.

Ms. Staciwa described NIPSCO's forecasted lost revenues and described how NIPSCO forecasted lost revenues associated with the implementation of the 2024-2026 EE Plan. She testified that, consistent with the 45455 Order, the only lost revenues to be recovered are lost revenues that results from its 2024-2026 EE Plan and that accrue during the 2024-2026 EE Plan. Neither lost revenues resulting from measures installed under previous plans, nor lost revenues resulting from measures installed under the 2024-2026 EE Plan but accruing after the end of the Plan period, shall be recovered. Additionally, the reconciliation of lost revenues will take place once per year, with the variance spread over the succeeding 12-month period.

H. <u>Allocation of Program Costs and Lost Revenues</u>. Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO should be authorized to allocate its 2024-2026 EE Plan program operating costs and lost revenues as follows:

1. Program operating costs (including EM&V, administrative, and marketing costs) will be allocated to either residential or non-transport only commercial and industrial customers; the costs will then be divided by the number of customers, on a forecasted and reconciled basis.

2. Lost revenues will be allocated as follows: the projected period's cumulative net therm savings will be allocated to the individual rate classes eligible to participate in the program. The allocation will be based on the number of customers for those rate classes. For programs that are applicable only to a specific rate class, 100% of the savings will be assigned to that class. For programs that are applicable to more than one rate class, the percentage of therms allocated to each rate class will be based on the number of customers for those rate classes as a proportion of the total number of customers for the customer class.

Ms. Staciwa supported these proposed allocations and testified this is NIPSCO's current allocation methodology as approved in the 45455 Order.

I. <u>Accounting Authorizations</u>. Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO should be authorized to defer and subsequently recover, or return as the case may be, the over- and under-recoveries of projected EE program operating costs and lost revenues through the GDSM Mechanism pending reconciliation in subsequent periods and to defer any program operating costs incurred in implementing the 2024-

[1] The rates approved in the 45621 Order reflect a test year of 2022, and it is upon those rates that the lost revenues are based.

2026 EE Plan prior to the date of the Commission's final Order in this Cause. Ms. Becker supported these requests for accounting authorizations.

J. Reporting Requirements. Consistent with NIPSCO's petition and case-in-chief testimony, the Settlement provides that NIPSCO should file the following reports with the Commission:

1. Quarterly scorecards for its 2024-2026 EE Plan within 60 days of the end of each relevant period, with the fourth quarter scorecard to include information for the full year;

2. Annual EM&V results no later than July 15 of each year; and

3. An updated fourth quarter/full year scorecard after the EM&V results have been received based on the updated savings achieved according to the evaluated results to calculate actual lost revenues no later than July 15 of each year.

Ms. Becker testified that these reporting requirements are different than those approved in the 45455 Order but explained and justified each discrepancy. Regarding the first reporting requirement, under the 45455 Order, NIPSCO was required to file scorecards within 30 days of the end of the quarter rather than 60. Ms. Becker testified that this can be problematic if results are received later in the month, which is particularly likely after the conclusion of the program year. She explained that filing 60 days after the end of the quarter allows NIPSCO sufficient time to obtain results from the vendors, confirm the accuracy of those results, and make the filing with the Commission. Ms. Becker stated NIPSCO will continue to provide the monthly results to the OSB as soon as they are available.

Regarding the second reporting requirement, under the 45455 Order, NIPSCO was required to submit annual EM&V results no later than July 1 of each year. Ms. Becker acknowledged this difference but explained that by moving the filing of annual EM&V results back to no later than July 15 of each year would make the gas EM&V results due at the same time as the electric results.

Lastly, regarding the third reporting requirement, Ms. Becker acknowledged that this reporting requirement is inconsistent with the 45455 Order but will make the updated results due at the same time as the EM&V results.

5. Commission Discussion and Findings. The evidence demonstrates that the Settlement is the product of arms' length negotiations and compromises by the Settling Parties. As Mr. Inskeep stated, the Settlement is "a reasonable overall resolution to the range of issues at dispute in this proceeding," and "all Settling Parties believe that approval of the Settlement is in the public interest and all Parties strongly encourage the Commission to promptly enter an order approving the Settlement in its entirety." (CAC Exhibit 1, at Pages 4 and 7).

We have previously discussed our policy with respect to settlements:

Settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum, Inc. v. Ind. 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 Coal. of Ind., Inc. v. PSI Energy, Inc.*, 664 N.E.2d 401, 406 (Ind. Ct. App. 1996)). Thus, the Commission "may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement." *Citizens Action Coal.*, 664 N.E.2d at 406.

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

A. NIPSCO's 2024-2026 EE Plan. The Settling Parties request approval for a three-year term of January 1, 2024 through December 31, 2026 for NIPSCO's 2024-2026 EE Plan. The 2024-2026 EE Plan for gas service includes continuing NIPSCO's existing gas EE programs, which are managed in conjunction with NIPSCO's electric EE programs, proposed program budgets for 2024-2026, and associated savings goals for the 2024-2026 EE Plan. The 2024-2026 savings goal of 14,381,401 gross therms represents approximately 0.4% of total projected retail sales. This does not include the incremental cost-effective savings that can be achieved through the flexible funding and the Settling Parties' commitment to "work collaboratively and in good faith to use best efforts to identify and achieve, through the use of the flexible funding, additional cost-effective energy savings of an additional 1,725,768 gross therms over the total three-year period of 2024-2026" as outlined in the Settlement. The evidence demonstrates that the proposed EE programs and portfolios are projected to be both reasonably achievable and cost effective based on industry standard cost-benefit analyses and that the rate impact of the 2024-2026 EE Plan is projected to be reasonable.

NIPSCO's gas EE programs remain a low-cost thermal resource for NIPSCO's ratepayers. For this case, NIPSCO estimated the Utility Cost test scores at 1.78 for total residential programs and 2.54 for total C&I programs. In other words, for every $1 spent on residential programs, ratepayers will receive $1.78 in benefits, and for every $1 spent on C&I programs, ratepayers receive will $2.54 in benefits. We find this supports the public interest benefit of the Plan.

The Settling Parties agreed to the proposed EE programs, budgets, program and budget flexibility, and savings goals in NIPSCO's proposal, except as modified by the Settlement. Based on the evidence presented, we find that NIPSCO's proposed 2024-2026 EE Plan – including the programs, the program budgets, the program and budget flexibility, and the savings goals – is cost effective and reasonable. Accordingly, we approve NIPSCO's proposed 2024-2026 EE Plan.

B. Recovery of Program Costs and Lost Revenues. The Settlement states that NIPSCO should be authorized to implement the EE programs up to the budget amounts set out by NIPSCO. NIPSCO projects a budget of $19,701,298 for the residential programs included in its 2024-2026 EE Plan, inclusive of program costs, EM&V, and NIPSCO administrative and marketing costs. NIPSCO also projects a budget of $8,724,175 for its C&I programs included in its 2024-2026 EE Plan, inclusive of program costs, EM&V costs, and NIPSCO administrative and marketing costs. NIPSCO further estimates that the lost revenue recovery provisions will result in lost revenue recovery of $3,340,225 during the Plan period. The Settling Parties agreed to NIPSCO's timely recovery of program costs and lost revenues, or the allocation of such costs, via NIPSCO's GDSM Mechanism, and evidence refuting the propriety of this recovery was not presented.

Ind. Code § 8-1-2-42(a) authorizes the Commission to allow recovery of costs and revenues outside of a base rate case. The Commission has previously employed Section 42(a) for purposes of authorizing recovery of electric demand side management program costs and lost revenues. See, e.g., *In re PSI Energy, Inc.*, Cause No. 38986 (IURC October 16, 1991) (Commission authorized PSI to defer and subsequently recover lost revenues pursuant to a settlement agreement); *In re SIGECO*, Cause No. 39201 (IURC October 23, 1991) (Commission authorized SIGECO to recover lost revenues via a tracking mechanism pursuant to a settlement agreement); *In re Indianapolis Power & Light Co.*, Cause No. 39672 (IURC September 8, 1993) (Commission authorized IPL to defer lost revenues for subsequent recovery pursuant to a settlement agreement). Notably, this use of Section 42(a) for the recovery of demand side management program costs and lost revenues predates the more explicit EE recovery authorizations for electric utility demand side management activities now found in Ind. Code ch. 8-1-8.5. After reviewing the evidence and applicable law, we find the proposed recovery of the 2024-2026 EE Plan costs via NIPSCO's GDSM Mechanism, including recovery of program costs and lost revenues, is reasonable. Accordingly, NIPSCO is authorized to recover the costs associated with its gas 2024-2026 EE Plan, including recovery of program costs (including administrative, EM&V, and marketing costs) and lost revenues.

C. <u>OSB</u>. The Settling Parties request approval to continue to utilize its existing NIPSCO OSB to assist in the administration of the 2024-2026 EE Plan. The Commission has previously approved OSBs to oversee and monitor EE programs for both gas and electric utilities. *See, e.g., Indianapolis Power & Light Co.*, Cause No. 44945 (IURC February 7, 2018); *Southern Indiana Gas and Elec. Co.,* Cause No. 44927 (IURC December 28, 2017); *Indiana Michigan Power Co.,* Cause No. 44841 (IURC September 20, 2017). The Settling Parties agreed to the continuation of NIPSCO's approved OSB to administer NIPSCO's 2024-2026 EE Plan. Likewise, the parameters for budget and program flexibility within that administration were supported in NIPSCO's case-in-chief testimony and settlement testimony, as well as the settlement testimony of the OUCC and CAC. The OSB provides oversight and an opportunity for key stakeholders to have input in program delivery and EM&V. Based upon the evidence, we approve NIPSCO's proposal to continue its currently approved OSB and its proposed parameters for flexible program and budget administration.

D. <u>EM&V</u>. The Settling Parties request approval for NIPSCO to continue the same EM&V process for its 2024-2026 EE Plan as the Commission authorized in the 45455 Order. The evidence demonstrates that the proposed EM&V procedures are reasonable and call for process and impact evaluations pursuant to industry standards by an independent EM&V vendor selected by the OSB. The Settling Parties agreed to the continuation of NIPSCO's currently approved EM&V program for its 2024-2026 EE Plan. Based upon the record, the Commission finds the Settling Parties' proposal for NIPSCO to continue to utilize its current EM&V procedures is reasonable, and we approve the same.

E. **Reporting Requirements.** The Settling Parties proposed NIPSCO file its annual EM&V results no later than July 15 of each year. In addition, the Settling Parties proposed NIPSCO file quarterly gas EE scorecards within 60 days of the end of each quarter, and the scorecard with EM&V results to be filed no later than July 15. Lastly, the Settling Parties proposed NIPSCO file an updated fourth quarter/full year scorecard after the EM&V results have been received based on the updated savings achieved according to the evaluated results to calculate actual lost revenues no later than July 15 of each year. We find these reporting requirements provide transparency and updates to the public and the Commission with regard to savings achievement and spending. Therefore, we find that NIPSCO shall file its annual EM&V results no later than July 15 of each year, and NIPSCO shall file quarterly gas EE scorecards within 60 days of the end of each quarter, and the scorecard with EM&V results is to be filed no later than July 15. Additionally, NIPSCO shall file an updated fourth quarter/full year scorecard after the EM&V results have been received based on the updated savings achieved according to the evaluated results to calculate actual lost revenues no later than July 15 of each year. All required reports shall be filed as stand-alone documents under Cause No. 45850.

6. **Effect of Settlement Agreement.** The Settling Parties agree that the Settlement Agreement is not to be used as precedent in any other proceeding or for any other purpose except to the extent necessary to implement or enforce their terms; consequently, with regard to future citation of the Settlement Agreement or of this Order, the Commission finds our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 WL 34880849 at *7-8 (IURC March 19, 1997).

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

1. The Settlement among NIPSCO, the OUCC, and CAC, a copy of which is attached to this order, is approved in its entirety.

2. NIPSCO's 2024-2026 EE Plan to become effective January 1, 2024 (including proposed programs, program budgets, program and budget flexibility, savings goals, program cost recovery, and recovery of lost revenues) is approved, consistent with the provisions of the Settlement.

3. Consistent with the Settlement, NIPSCO may recover the program costs associated with its gas 2024-2026 EE Plan, including program implementation costs, administrative costs, marketing costs, and EM&V costs, through its GDSM Mechanism.

4. Consistent with the Settlement, NIPSCO may recover lost revenues incurred during and resulting from the 2024-2026 EE Plan through the GDSM Mechanism.

5. Consistent with the Settlement, NIPSCO may defer and subsequently recover, or return as the case may be, the over- and under-recoveries of projected EE program operating costs and lost revenues through the GDSM Mechanism pending reconciliation in subsequent periods and may also defer any program operating costs incurred in implementing the 2024-2026 EE Plan prior to the date of this Order.

6. NIPSCO may utilize its existing NIPSCO OSB to administer the 2024-2026 EE Plan.

7. NIPSCO may continue the approved EM&V process for its 2024-2026 EE Plan.

8. NIPSCO shall comply with the reporting requirements set forth in Finding No. 5.E. above.

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

<u>HUSTON, BENNETT, FREEMAN, VELETA, AND ZIEGNER CONCUR</u>:

APPROVED: AUG 30 2023

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

Dana Kosco Digitally signed by Dana Kosco Date: 2023.08.30 10:14:06 -04'00'

Dana Kosco
Secretary of the Commission

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF NORTHERN INDIANA PUBLIC SERVICE COMPANY LLC FOR APPROVAL OF ITS PROPOSED 2024-2026 ENERGY EFFICIENCY PLAN FOR GAS SERVICE AND ASSOCIATED RATEMAKING AND ACCOUNTING TREATMENT, INCLUDING TIMELY RECOVERY THROUGH NIPSCO'S GDSM MECHANISM OF ASSOCIATED COSTS (INCLUDING PROGRAM OPERATING COSTS AND LOST REVENUES), AND FOR AUTHORITY TO DEFER PROGRAM COSTS	)	**CAUSE NO. 45850**

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement is entered into as of the 28th day of June, 2023, by and among Northern Indiana Public Service Company LLC ("NIPSCO" or "Company"), the Indiana Office of Utility Consumer Counselor ("OUCC"), and Citizens Action Coalition of Indiana, Inc. ("CAC") (collectively, the "Settling Parties") (the "Agreement"), who stipulate and agree for purposes of settling the issues in Cause No. 45850 that the terms and conditions set forth below represent a fair and reasonable resolution of all issues subject to incorporation into a Final Order of the Indiana Utility Regulatory Commission ("Commission") without any modification or condition that is not acceptable to the Settling Parties.

I. <u>Substantive Terms and Conditions</u>

The Settling Parties agree to Commission approval of NIPSCO's proposed 2024-2026 Energy Efficiency Plan for gas service (the "2024-2026 DSM Plan") and associated accounting and ratemaking treatment as follows:

A. <u>Programs, Budgets, and Savings Goals</u>

1. NIPSCO should be authorized to implement the gas energy efficiency programs presented in its direct case, up to the budget amounts set out therein (subject to the budget flexibility described in subsection B below). The Settling Parties agree and stipulate that these programs are cost-effective and reasonably achievable. To the extent measures are added to an existing program to achieve additional savings, those measures, as a group, must be cost effective outside of the total program.

2. NIPSCO, in collaboration with the Oversight Board ("OSB"), will work in good faith to optimize and enhance its delivery of programs and initiatives. NIPSCO and the OSB will specifically strive to: (1) target the following measures: air sealing, above grade wall insulation, attic insulation, basement wall insulation, crawlspace insulation, doors, duct insulation, floor insulation, furnace/boiler tune ups, kneewall insulation, pipe insulation, rim joist insulation, smart thermostats, and windows; and (2) prioritize the weatherization of income qualified residences.

3. The NIPSCO OSB agrees to work collaboratively and in good faith to use best efforts to identify and achieve, through the use of the flexible funding, additional cost-effective energy savings of an additional 1,725,768 gross therms over the total three-year period of 2024-2026. The Settling Parties, through the OSB, will use best efforts to increase the scale of programs and/or identify emerging technologies to produce reasonably achievable, cost-effective (based on pro forma estimates) incremental energy savings. In addition to other programs identified by the OSB in working with the program vendor, the OSB will work in good faith to explore new programs and initiatives and potentially expand existing programs and initiatives to seek to achieve greater savings levels. NIPSCO will also make a good faith effort to expand other measures and programs.

4. NIPSCO will collaborate with the OSB on ways to seek to improve education for contractors and other trade allies related to targeted measures or programs. Such efforts may include, but are not limited to, utilizing marketing funds to provide additional education opportunities for contractors and other trade allies.

5. As in previous NIPSCO DSM Plans approved by the Commission, the OSB shall have the opportunity to review and provide input on final program designs, including program offerings, each year

prior to implementation.

B. <u>Budget Flexibility</u>

1. The Settling Parties agree that NIPSCO, with OSB approval, should be authorized to increase any individual program funding by up to 20% of the total program budget, even if this exceeds the overall 2024-2026 DSM Plan budget approved by the Commission by up to, but not exceeding, 20%. A majority vote of the OSB is required for flexible funding requests of 0-10%, and a unanimous vote of the OSB is required for flexible funding requests greater than 10%.

2. To the extent additional funding is needed to achieve additional cost-effective saving opportunities that requires funding over and above the amount allotted by flexible funding, the Settling Parties, through the OSB by unanimous vote, shall vote on whether to request additional funding through a request to the Commission.

3. All other previous conditions set out in the settlement agreement in Cause No. 45456 related to flex funding shall apply to both the electric and gas programs, including that approval of flex funding will be sought before such flex funding is utilized.

4. NIPSCO may also roll over unspent budget amounts from one program year to the next within the three year 2024-2026 DSM Plan period, with a corresponding increase to the savings goal.

5. In addition, to the extent NIPSCO has unspent budget amounts available at the conclusion of the 2023 program year, it may utilize those unspent budget amounts in the 2024 program year, for the purpose of paying program expenses related to the 2023 program year. The savings goal for the 2024 program year will be increased correspondingly.

6. NIPSCO will continue to work with the OSB and its vendor(s) to use the flex funding to increase savings as available and appropriate (e.g., cost-effective).

C. <u>Other</u>

1. All other aspects of NIPSCO's Petition and Case-in-Chief Testimony, as corrected, remain the same as proposed by NIPSCO, including but not limited to 2024-2026 DSM Plan implementation,

marketing, lost revenues, EM&V procedures, EM&V costs, program design, and reporting requirements. The Settling Parties agree to work in good faith to resolve any additional issues which may arise.

II. Procedural Aspects and Presentation of the Agreement.

A. The Settling Parties acknowledge that a significant motivation to enter into this Agreement is the expectation that, if the Commission finds this Agreement is reasonable and in the public interest, the Commission would issue an order authorizing the implementation of NIPSCO's 2024-2026 DSM Plan in this Cause No. 45850, along with associated accounting and ratemaking treatment. The Settling Parties have spent valuable time reviewing data and negotiating this Agreement in an effort to eliminate time consuming and costly litigation. The Settling Parties agree to request that the Commission review the Agreement in a timely manner and, if it finds the Agreement is reasonable and in the public interest, approve this Agreement without any material changes no later than December 31, 2023, so that the 2024-2026 DSM Plan can be implemented on January 1, 2024.

B. The Settling Parties agree to jointly present this Agreement to the Commission for its approval in Cause No. 45850 and agree to assist and cooperate in the preparation and presentation of settlement supporting testimony as necessary.

C. If the Agreement is not approved in its entirety by the Commission, the Settling 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 Settling Parties with the terms of this Agreement is expressly predicated upon the Commission's approval of the Agreement in its entirety without any material modification or any material condition deemed unacceptable by any Party. If the Commission does not approve the Agreement in its entirety, the Agreement 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 Final Order that any modifications made by the Commission are unacceptable to it. In the event the Agreement is withdrawn, the Settling Parties will request that an Attorneys' Conference be convened to establish a procedural schedule for the continued litigation of this proceeding.

D. The Settling Parties agree that this Agreement and each provision 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 Settling Parties agree and ask the Commission to incorporate as part of its Final Order that this Agreement, 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 Agreement is solely the result of compromise in the settlement process. Each of the Settling Parties hereto has entered into this Agreement solely to avoid further disputes and litigation with the attendant inconvenience, risk, and expenses.

E. The Settling Parties stipulate that the evidence of record presented in Cause No. 45850 constitutes substantial evidence sufficient to support this Agreement and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of this Agreement, as filed. The Settling Parties agree to the admission into the evidentiary record of this Agreement, along with testimony supporting it, without objection.

F. The issuance of a Final Order by the Commission approving this Agreement without any material modification or further condition shall terminate all proceedings in this Cause.

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

H. The Settling 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 Agreement and the Settling Parties shall not support any appeal of the portion of such order by a person not a party to this Agreement. All Settling Parties shall support the Final Order if appealed by any party not a signatory to this Agreement.

I. The provisions of this Agreement shall be enforceable by any Settling Party before the Commission or in any court of competent jurisdiction.

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

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ACCEPTED AND AGREED this 28th day of June, 2023.

Northern Indiana Public Service Company LLC

Erin E. Whitehead

Erin E. Whitehead, Vice President, Regulatory Policy and Major Accounts

Indiana Office of Utility Consumer Counselor

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Thomas R. Harper, Deputy Consumer Counselor

Citizens Action Coalition of Indiana, Inc.

____
Kerwin L. Olson, Executive Director

Respectfully submitted,

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Northern Indiana Public Service Company LLC

CERTIFICATE OF SERVICE

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

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Dated this 7th day of July, 2023.

Mark R. Alson