

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

Settlement Testimony of

**Nicholas Phillips, Jr.**

On behalf of

**NIPSCO Industrial Group**

March 4, 2016





1    **Q     WHAT IS THE SUBJECT MATTER OF YOUR SETTLEMENT TESTIMONY?**

2    A     My testimony is directed toward the ratemaking and policy issues involved with the  
3         Stipulation and Settlement Agreement (“Settlement or Settlement Agreement”)  
4         between NIPSCO, the Office of Utility Consumer Counselor (“OUCC”), the NIPSCO  
5         Industrial Group (“Industrial Group”), US Steel Corporation, NLMK Indiana, the  
6         Indiana Municipal Utilities Group and United Steel, Paper and Forestry, Rubber,  
7         Manufacturing, Energy, Allied Industrial and Service Workers International Union,  
8         AFL-CIO/CLC, collectively the “Settling Parties” filed on February 19, 2016.

9    **Q     WHAT IS THE INDUSTRIAL GROUP’S INTEREST IN THE SETTLEMENT**  
10   **AGREEMENT?**

11   A     The members of the Industrial Group take service under rate classes 624, 625, 632,  
12         633, and 634. NIPSCO’s large industrial customers make up over 40% of NIPSCO’s  
13         sales. The members of the Industrial Group employ approximately 12,000 people in  
14         Northwest Indiana. This figure does not include contractors and others who derive  
15         employment from serving Industrial Group member companies and facilities, which  
16         results in extensive indirect employment from large industrials. As such, the members  
17         of the Industrial Group are some of the largest employers in the NIPSCO service area  
18         and their economic viability has a ripple effect on NIPSCO’s commercial and  
19         residential customers as well. Many of the smaller industrial and commercial  
20         businesses in NIPSCO’s service area are dependent on the viability of NIPSCO’s  
21         large industrial customers. As testified to by Mr. Shambo, a downturn in the  
22         productivity of NIPSCO’s large industrial customers has a negative impact on  
23         NIPSCO’s overall revenues. A downturn in large industrial customer production also  
24         has a significant impact on the unemployment rate in Northwest Indiana and the  
25         economic viability of smaller industries and businesses. These large customers

1 compete not only nationally but globally for business and sometimes even within their  
2 own corporate structure as to other plant locations for the companies. In addition, the  
3 members of the Industrial Group are engaged in operations that are highly energy-  
4 intensive, so that energy costs are a major component of production costs.  
5 Therefore, keeping the large industrial customers' operating costs competitive in  
6 Northwest Indiana is vital to keeping the existing customers there and attracting new  
7 industry.

8 **Q DO YOU RECOMMEND APPROVAL OF THE SETTLEMENT?**

9 A Yes. I recommend approval of the Settlement, which is based on appropriate  
10 regulatory policy and sound ratemaking principles. The Settlement is a  
11 comprehensive agreement that resolves both revenue and the complex allocation  
12 and rate mitigation issues in this rate case including the economic factors impacting  
13 industrial sales. The Settlement is a result of arms-length negotiations between the  
14 Settling Parties in order to reach a comprehensive settlement. Aply, the Settlement  
15 is well within the range of outcomes from a litigated case.

16 In summary, the Settlement should be approved for the following reasons:

- 17 1. The Settlement is fair, reasonable and in the public interest.
- 18 2. The Settlement mitigates the increase to the residential class and results in a  
19 significantly lower percentage increase to the residential class than NIPSCO's  
20 direct testimony.
- 21 3. The Settlement contains an array of industrial rate offerings that collectively  
22 provide a reasonable opportunity for these large customers that are subject to  
23 global competition to manage power costs and remain a viable and necessary  
24 segment of the Northwest Indiana economy.  
25

1 **Q PLEASE PROVIDE SOME RELEVANT BACKGROUND INFORMATION**  
2 **ASSOCIATED WITH NIPSCO'S RATES AND CHARGES.**

3 A NIPSCO's current base rates were established by Order in Cause No. 43969 on  
4 December 21, 2011. Those rates were reached through a settlement agreement  
5 after back to back rate cases in 2008 (Cause No. 43526) and 2010 (Cause No.  
6 43969). The rates from the 2008 rate case were never implemented and prior to the  
7 2008 rate case NIPSCO had not had a rate case in over 20 years (Cause No. 38045).  
8 The Settlement Agreement from 43969 resulted in over a 20% increase for NIPSCO's  
9 largest customer classes (632, 633 and 634), but provided tools for sophisticated  
10 large customers to mitigate the increased costs by utilizing their resources under  
11 Riders 675 (Interruptible Service) and 676 (Back Up, Maintenance and Temporary  
12 Service).

13 Subsidies flowing to the residential class have been a consistent challenge in  
14 achieving cost-based rates in the NIPSCO system. NIPSCO's rates have  
15 consistently had subsidies at least since Cause No. 38045. In the present case,  
16 NIPSCO's proposed 4 CP cost of service study showed significant subsidies to the  
17 residential rates. A 12 CP cost of service study still showed subsidies to the  
18 residential class. Accordingly, mitigation to avoid rate shock to the residential class  
19 was a part of NIPSCO, the OUCC, Industrial Group and US Steel Corporation's  
20 direct evidence in this proceeding. The Settlement filed on February 19, 2016  
21 resolves the complex issues in this case in a reasonable manner and provides Rates  
22 for 632, 633 and 634 which do not receive a subsidy and move those rate classes  
23 closer to cost of service.

24 .

25 **Q WHAT COST ALLOCATION METHOD IS USED IN THE SETTLEMENT?**

1 A The Settlement takes into account the cost of service positions presented by the  
2 various parties in order to reach a fair and reasonable result. NIPSCO presented a  
3 cost of service study allocating generation costs on a 4CP basis. The Industrial Group  
4 agreed with a 4CP allocator for generation costs, however, it notably proposed  
5 adjustments to remove buy-through load from the 4 CP allocator when interruptible  
6 customers are receiving electricity from the market rather than from NIPSCO's FAC  
7 resources and to normalize the metal melting class. US Steel Corporation, the  
8 Indiana Municipal Utilities Group and Wal-Mart also agreed with a 4CP generation  
9 allocator. The OUCC presented cost of service study results for generation based on  
10 a 12 CP, Probability of Dispatch, Base-Intermediate-Peak and Peak & Average  
11 methods.

12 The method for allocating transmission costs was also disputed. NIPSCO  
13 proposed allocating transmission costs on a 12 CP basis. The OUCC did not dispute  
14 this allocation, however the Industrial Group noted that 4CP would be a more cost-  
15 based method of allocating transmission costs.

16 Base rates under the Settlement were derived by determining a revenue  
17 increase per class. While the Settlement does not adopt a particular cost of service  
18 methodology, the resulting revenue increases under the Settlement reflects the range  
19 of evidence on generation and transmission cost allocation and appropriately reflects  
20 the issues and concerns the Industrial Group raised. Although there were many  
21 disputed issues in the case, it was the Industrial Group's viewpoint that the results  
22 from the Settlement reasonably addressed the cost allocation concerns filed in its  
23 direct testimony. Specifically, the Industrial Group advocated for a 4 CP generation  
24 cost allocation methodology, adjusting for buy through load and normalizing the metal

1 melting class consistent with the tariff provisions with reasonable mitigation for the  
2 residential class as an appropriate outcome.

3 Unlike the settlement in NIPSCO's last rate case, Cause No. 43969, in which the  
4 parties agreed to an across-the-board increase with negotiated modifications, here  
5 the record includes extensive cost of service evidence from multiple parties, and the  
6 Settlement appropriately took that evidence into account in reaching a result that all  
7 the Settling Parties could agree was reasonable.

8 **Q IN YOUR OPINION, IS THE REVENUE ALLOCATION RESULTING FROM THE**  
9 **SETTLEMENT AGREEMENT REASONABLE?**

10 A Yes. As NIPSCO stated in its case-in-chief, a driving factor for its proposal in this  
11 case was to balance the needs of its industrial customers for cost-based rates while  
12 mitigating the impact on the residential class. The base rates under the Settlement  
13 are lower for every major rate class than under NIPSCO's case-in-chief. Given all of  
14 the facts and circumstances in this case and viewing the Settlement as an entire  
15 package, in my opinion the agreed upon revenue allocation is reasonable and fair.

16 **Q DOES THE SETTLEMENT ADDRESS COST ALLOCATION ISSUES FOR**  
17 **TRACKERS?**

18 A Yes, the Settlement addresses cost allocation methods for the Regional Transmission  
19 Organization ("RTO"), Resource Adequacy ("RA"), Environmental (ECRM and  
20 EERM), Transmission, Distribution, Storage Infrastructure Charge ("TDSIC"), and  
21 Federally Mandated Cost Adjustment ("FMCA") trackers. The Settlement provides  
22 that the revenue allocation from Settlement Joint Exhibit B shall be used for the  
23 demand component of the ECRM, EERM, FMCA and RTO mechanisms. The  
24 allocation factors for the RA and TDSIC are specified in Joint Exhibits C and D  
25 respectively. The method for allocating 75% of interruptible costs through the RA is

1 consistent with existing practice. The Settlement calls for continued use of the  
2 existing factors updated for new interruptible load. For purposes of any future  
3 NIPSCO TDSIC tracker, the Settling Parties determined the customer class revenue  
4 factors that should be applied to firm load, as called for in the TDSIC statute. Taken  
5 together, Settlement Joint Exhibits B through D provide a comprehensive method for  
6 allocating NIPSCO's base rates as well as tracked expenses, which is reasonable  
7 and in the public interest.

8 **Q DOES THE SETTLEMENT PROVIDE OTHER BENEFITS WHICH INDUSTRIAL**  
9 **CUSTOMERS FIND HELPFUL IN DEALING WITH TRACKERS?**

10 A Yes, as part of the Settlement Agreement, NIPSCO agreed to prepare tracker  
11 forecasts for industrial customers. The forecast is a useful mechanism to enhance  
12 industrial customers' ability to budget their electricity costs and better plan their  
13 energy usage.

14 **Q DO THE EXPANDED INTERRUPTIBLE OPTIONS PROVIDE SYSTEM BENEFITS**  
15 **FOR ALL CUSTOMERS?**

16 A Yes. NIPSCO has been offering some type of interruptible rate for over 30 years.  
17 Interruptible service allows NIPSCO to avoid building or buying generation capacity to  
18 serve its retail load and defers the need for incremental generation investment.  
19 Customers willing to accept this lower level of service provide a capacity resource to  
20 the system which benefits all ratepayers. Interruptible service also lowers NIPSCO's  
21 fuel and purchased power costs for ratepayers by allowing NIPSCO to economically  
22 interrupt at times of high market prices.

23 **Q HOW DOES THE SETTLEMENT ADDRESS RATE DESIGN FOR THE**  
24 **INDUSTRIAL RATE CLASSES?**



1 A The Settlement retains the rate structures and rate designs which were implemented  
2 after lengthy settlement negotiations in Cause No. 43969. The Settlement  
3 implements the manner in which the agreed upon rate class revenues are collected  
4 within a class through rates. The demand charge for Rate 732 is increased by the  
5 class' overall revenue percentage increase, which is appropriate for the low load  
6 factor rate. The demand charges for Rates 733 and 734 are increased by the system  
7 average increase.

8 **Q HOW DOES THE SETTLEMENT ADDRESS REVENUE ISSUES?**

9 A NIPSCO's revenue requirement is reduced from its direct case by \$54.1 million. The  
10 revenue reduction benefits all major rate classes. Capital structure and return on  
11 equity were significant portions of the Industrial Group's Direct testimony. The  
12 Industrial Group also challenged NIPSCO's inclusion of prepaid pension asset in  
13 ratebase and depreciation. The Settlement addresses all four items. Use of a return  
14 on equity lower than 10% is a significant part of the Settlement Agreement. In  
15 addition, NIPSCO's agreement to use 60% debt to fund capital, CPCN projects in  
16 excess of \$100 million helps to address the capital structure concerns raised by the  
17 Industrial Group in this proceeding. To the extent that NIPSCO has capital trackers  
18 after the rate case, such as its pending TDSIC, the lower return and debt financing  
19 provision provides further benefits to all ratepayers by lowering the rate of return  
20 NIPSCO may be authorized to use in its capital trackers. Finally, the settlement  
21 provides that prepaid pension is not included in ratebase and adopts the Industrial  
22 Group's recommendations on depreciation.

23 **Q ARE THERE OTHER NOTABLE PROVISIONS IN THE SETTLEMENT**  
24 **AGREEMENT?**

1 A Yes. The Settlement provides that the increase in base rates will not be effective  
2 before October 2016, with a mechanism for implementing interruptible provisions  
3 upon issuance of a Commission Order. Under Indiana Code § 8-1-2-42.7 absent a  
4 Settlement Agreement, a Commission Order would be expected several months  
5 before October 2016. The timeframe for implementation was a material element of  
6 the Settlement and one which benefits all ratepayers. In order to encourage other  
7 utilities to consider settlements with similar, creative provisions in the future, it is good  
8 public policy for the Commission to act upon the Settlement Agreement within the  
9 same 300 day schedule originally set for the case. The Settlement Agreement was  
10 timely filed on the date specified by the Prehearing Conference Order.

11 **Q IN YOUR OPINION IS THE SETTLEMENT AGREEMENT REASONABLE AND IN**  
12 **THE PUBLIC INTEREST?**

13 A Yes. The Settlement Agreement, when taken as a complete package, reasonably  
14 resolves the Industrial Group's issues in this rate case and results in a fair and  
15 reasonable resolution for all of NIPSCO's customers. The Settlement Agreement  
16 provides significant reductions in the rate increases proposed by NIPSCO,  
17 reasonably mitigates the rate increase for the residential class, provides NIPSCO's  
18 large industrial customers a better chance to be competitive in the national and global  
19 markets they compete in, helps large industrial customers more efficiently operate  
20 their production, helps NIPSCO mitigate the need for additional capacity, allows  
21 NIPSCO to receive sufficient revenues to efficiently and economically provide service  
22 within its service area, and helps maintain the economic stability of NIPSCO's large  
23 industrial customers and the economic viability of the entire area. The Settlement  
24 Agreement is a comprehensive agreement and each term within the Settlement is

1 essential to the overall reasonableness of the agreement. Therefore, I recommend  
2 the Commission approve the Settlement Agreement without any material changes.

3 **Q DOES THIS CONCLUDE YOUR SETTLEMENT TESTIMONY?**

4 **A** Yes, it does.

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Verification

I, Nicholas Phillips, Jr., Consultant and Managing Principal of Brubaker & Associates, Inc., affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.



Nicholas Phillips, Jr.

3/4/2016