

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**PETITION OF NORTHERN INDIANA PUBLIC )  
SERVICE COMPANY FOR DETERMINATION )  
THAT CERTAIN INFORMATION )  
CONTAINED IN ITS INTEGRATED ) CAUSE NO. **44874**  
RESOURCE PLAN IS CONFIDENTIAL AND )  
EXEMPT FROM DISCLOSURE PURSUANT TO )  
170 IAC 4-7-3(f), 170 IAC 1-1.1-4, IND. CODE § 8- )  
1-2-29 AND IND. CODE § 5-14-3-4. )**

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**VERIFIED PETITION**

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Northern Indiana Public Service Company (“NIPSCO” or “Petitioner”), pursuant to 170 IAC 4-7-3(f) and 170 IAC 1-1.1-4, petitions the Indiana Utility Regulatory Commission (“Commission”) to find that certain information hereinafter described and contained in its 2016 biennial Integrated Resource Plan (“IRP”) to be submitted on or before November 1, 2016 is confidential, proprietary, competitively sensitive and/or trade secret, exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code § 5-14-3 and should be treated as confidential by all parties and the Commission and its Staff. Petitioner respectfully submits the following information in support of this petition.

### **Petitioner's Corporate Status**

1. Petitioner is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office and place of business at 801 East 86th Avenue, Merrillville, Indiana. Petitioner renders electric and gas public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the generation, transmission, distribution and furnishing of such service to the public.

### **Petitioner's Regulated Status**

2. Petitioner is a "public utility" within the meaning of Ind. Code § 8-1-2-1 and is subject to the jurisdiction of this Commission in the manner and to the extent provided by the Public Service Commission Act, as amended, and other pertinent laws of the State of Indiana.

### **Petitioner's Operations**

3. Petitioner is authorized by the Commission to provide electric utility service to the public in all or part of Benton, Carroll, DeKalb, Elkhart, Fulton, Jasper, Kosciusko, LaGrange, Lake, LaPorte, Marshall, Newton, Noble, Porter, Pulaski, Saint Joseph, Starke, Steuben, Warren and White Counties in northern Indiana. Petitioner provides electric utility service to more than 461,000 residential, commercial, industrial, wholesale and other customers.

### **Petitioner's IRP**

4. The Commission's rules for IRPs, 170 IAC 4-7, provide for the filing of information contained in a utility's IRP that the utility considers to be proprietary or otherwise confidential in a redacted and nonredacted form under seal. These rules also establish a procedure for determining that such information is confidential, and therefore should be protected. *See* 170 IAC 4-7-3(f). Petitioner is submitting a redacted version of its 2016 IRP concurrently with the filing of this petition. In accordance with 170 IAC 4-7-3(f), Petitioner has provided under seal to the Commission a nonredacted copy of its 2016 IRP that contains the information sought to be found confidential in this proceeding.

### **The Confidential Information**

5. As affirmed by the Affidavit of Edward K. Achaab, attached hereto as Exhibit A, the Confidential Information should be treated as confidential because (1) the Federal Energy Regulatory Commission's ("FERC") Final Rules on Critical Energy Infrastructure Information ("CEII") have designated parts of FERC Form 715 as CEII and have limited the public access to this information, (2) the Confidential Information is not available or ascertainable by third parties through normal or proper means, (3) Petitioner has maintained the confidentiality of the Confidential Information by taking all reasonable steps in order to protect the Confidential Information, including sharing such information internally on a need

to know basis, (4) the Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by, persons who could obtain economic value from its disclosure or use; (5) public disclosure of the Confidential Information would cause substantial detriment to Petitioner and others, including the entities from who Petitioner purchased the information pursuant to an obligation to maintain the information as confidential and proprietary; (6) public disclosure of the forecasts and associated analysis could be harmful to Petitioner as it would provide third parties with insight into Petitioner's operational needs, strategic plans and expectations; (7) the information would be of economic value to independent power producers and other parties with whom Petitioner may be negotiating; (8) public disclosure of this information could also allow suppliers and competitors an unfair opportunity to analyze Petitioner's operations, make pricing decisions, and determine market entry; (9) the disclosure of such forecasts and other cost information would adversely affect Petitioner because it would permit such third parties to better determine how to price their services and products; and/or (10) the disclosure of Petitioner's resource costs would discourage the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what Petitioner's expectations are with respect to its resource and other costs; thus, these suppliers or vendors would have the advantage of knowing how to price

their bids or renegotiate to provide resources. As a result, resource and other costs may not be as low as they might have been had the parties not had unfair access to the information. Certain of the confidential, proprietary, competitively sensitive, and/or trade secret information for which protection is sought in this proceeding is the same type information that the Commission found to be exempt from public disclosure in Commission Orders dated January 11, 2006 in Cause No. 42945, January 30, 2008 in Cause No. 43381, February 29, 2012 in Cause No. 44103 and January 21, 2015 in Cause No. 44554.

6. The Confidential Information consists of (1) Confidential Appendix G – which includes major modeling input costs and operation parameters for unit disposition options for NIPSCO's generating facilities, as well as various assumptions (fuel and when applicable consumables pricing assumptions for different elements) which would provide suppliers and competitors an unfair competitive advantage, (2) Confidential Appendix H – Strategist® modeling input and output of the foregoing, disclosure of which would have the effect of disclosing the forecast and operational data and Petitioner's confidential assessment and analysis of this information, (3) Confidential Appendix I – the Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report, which includes various generation technologies, and assesses transmission, infrastructure, fuel and supply procurement, environmental, labor

and other sensitive issues, and (4) Confidential Appendix J – confidential information from Petitioner’s FERC Form 715 Annual Transmission Planning and Evaluation Report that is considered to be CEII following the events of September 11, 2001.

7. Under 170 IAC 4-7-4(10), (11), (12), (13) and (14), certain portions of the Commission’s Rule 7 providing Guidelines for Integrated Resource Planning by an Electric Utility allow for satisfaction of the information requirements through a filing of FERC Form 715. FERC has held that certain parts of FERC Form 715 contain CEII and has established procedures to protect and limit the availability of such information to the public. *See* 18 C.F.R. § 141.300 (2003) and FERC Order 630, Final Rule on Critical Energy Infrastructure Information, 102 FERC ¶61,190 (2003). This information is provided confidential treatment by FERC and Petitioner takes all reasonable steps to protect this information from public disclosure.

8. In its order in Cause No. 44554 (IURC 1/21/2015), the Commission found that the CEII in Petitioner’s 2014 IRP was entitled to confidential treatment and therefore exempt from the public access requirements. As this Commission has noted, “Ind. Code § 5-14-3-4(b)(19)(I) specifically authorizes the Commission to exempt such data from public disclosure.” *Ind. Util. Reg. Comm’n.*, Cause No.

42531 (IURC 3/16/05), p. 7, Cause No. 42534 (IURC 3/16/05), p. 10, and Cause No. 42946 (IURC 1/11/06), p. 3.

9. Confidential Appendix G – includes NIPSCO's retirement analysis, which includes detailed cost of service at the station level, detailed forward estimates of generation spending by unit by year, detailed estimates for potential environmental costs, and detailed cost of removal estimates for each of the units, including accruals, disclosure of which would provide suppliers and competitors an unfair competitive advantage.

10. Appendix H - Strategist Base Case and Sensitivity Reports - is provided to the Commission on a CD-Rom. This Appendix includes the inputs and output from the Strategist Model used to evaluate resource options for the plan. The analysis and data included in Appendix H includes the confidential information discussed above which NIPSCO received from third party consultants. NIPSCO is required to maintain this information as confidential. As discussed above, disclosure of the information in Appendix H could adversely affect NIPSCO, including its implementation of its IRP, and other third parties. In its order in Cause No. 44554 (IURC 1/21/2015), the Commission found the Strategist modeling input and output in Petitioner's 2014 IRP was entitled to confidential treatment and therefore exempt from the public access requirements.

11. Appendix I - The Sargent & Lundy - Integrated Resource Plan Engineering Study Technical Assessment Report assesses generation technologies, transmission, infrastructure, fuel and supply procurement, environmental, labor and other sensitive issues. As such, the analysis is confidential, proprietary, competitively sensitive and trade secret. In its order in Cause No. 44554 (IURC 1/21/2015), the Commission found the generation technologies, assesses transmission, infrastructure, fuel, supply procurement, environment and other sensitive data included in Petitioner's 2014 IRP was entitled to confidential treatment and therefore exempt from the public access requirements.

12. In accordance with 170 IAC 4-7-3(f), NIPSCO has provided under seal to the Commission a nonredacted copy of NIPSCO's 2016 IRP that contains the information sought to be found confidential<sup>1</sup>. The Commission's rule, 170 IAC 4-7 -3(f), specifically provides that the nonredacted version shall be treated as confidential pending completion of this proceeding. NIPSCO considers this specific rule to constitute a preliminary determination of confidentiality and that the nonredacted information shall not be available to the public under 170 IAC 1-1.1-4(e). If this understanding is not correct, NIPSCO requests that the nonredacted information be returned prior to public disclosure in accordance with 170 IAC 1-1.1-4(d).

13. Petitioner is providing the Indiana Office of Utility Consumer Counselor ("OUCC") with a nonredacted copy of its 2016 IRP pursuant to a Standard Form Nondisclosure Agreement between NIPSCO and the OUCC dated August 6, 2006.

**Applicable Law**

14. Petitioner considers the provisions of the Public Service Commission Act, as amended, including Ind. Code §§ 5-14-3 and 8-1-2-29 and 170 IAC 4-7-3(f) and 1-1.1-4, to be applicable to the subject matter of this Petition and believes that such traditional statutes provide the Commission authority to approve the requested relief.

**Petitioner's Counsel**

15. The names and addresses of persons authorized to accept service of papers in this proceeding are:

**Counsel of Record:**

Claudia J. Earls (No. 8468-49)  
NiSource Corporate Services - Legal  
150 West Market Street, Suite 600  
Indianapolis, Indiana 46204  
Phone: (317) 684-4923  
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**With a copy to:**

Timothy R. Caister  
NORTHERN INDIANA PUBLIC SERVICE COMPANY  
150 W. Market Street, Suite 600  
Indianapolis, Indiana 46204  
Phone: (317) 684-4908  
Fax: (317) 684-4918  
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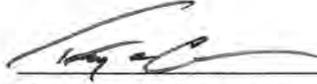
WHEREFORE, Northern Indiana Public Service Company respectfully requests that the Commission:

(a) Following such investigation as the Commission deems necessary, find that Petitioner's 2016 IRP contains information that is confidential, proprietary, competitively sensitive and/or trade secret and is thereby exempted from the access to public records provisions, as set forth in Ind. Code § 5-14-3-4; and

(b) Granting to NIPSCO such additional and further relief as the Commission may be deemed necessary or appropriate.

Dated this 1<sup>st</sup> day of November, 2016.

Northern Indiana Public Service Company



Timothy R. Caister  
Vice President, Regulatory Policy

**Verification**

I, Timothy R. Caister, Vice President, Regulatory Policy of Northern Indiana Public Service Company, affirm under penalties for perjury that the foregoing representations are true to the best of my knowledge, information, and belief.

Dated: November 1, 2016.



Timothy R. Caister

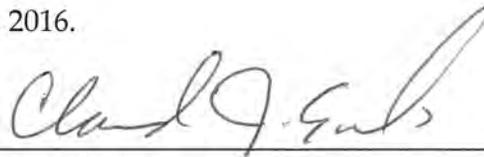
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Attorney for Petitioner  
Northern Indiana Public Service Company

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served via email transmission upon A. David Stippler, Office of Utility Consumer Counselor, 115 W. Washington Street, Suite 1500 South, Indianapolis, Indiana 46204 ([dstippler@oucc.in.gov](mailto:dstippler@oucc.in.gov), [infomgt@oucc.in.gov](mailto:infomgt@oucc.in.gov)).

Dated this 1<sup>st</sup> day of November, 2016.

A handwritten signature in cursive script, appearing to read "Claudia J. Earls", written over a horizontal line.

Claudia J. Earls



7. Appendix J includes confidential information from the Company's Federal Energy Regulatory Commission ("FERC") Form 715, Annual Transmission Planning and Evaluation Report that is considered to be Critical Energy Infrastructure Information ("CEII") following the events of September 11, 2001. This information is provided confidential treatment by the FERC, and NIPSCO takes all reasonable steps to protect this information from public disclosure.

8. The Confidential Information is not available or ascertainable by third parties through normal or proper means. NIPSCO has maintained the confidentiality of the Confidential Information by taking all reasonable steps in order to protect the Confidential Information, including sharing such information internally on a need to know basis.

9. The Confidential Information derives actual and potential independent economic value from being neither generally known to nor readily ascertainable by, persons who could obtain economic value from its disclosure or use. Public disclosure of the Confidential Information would cause substantial detriment to NIPSCO and others, including the entities from who NIPSCO purchased the information pursuant to an obligation to maintain the information as confidential and proprietary.

10. Public disclosure of these forecasts and associated analysis could be harmful to NIPSCO as it would provide third parties with insight into NIPSCO's operational needs, strategic plans and expectations. This information would be of economic value to independent power producers and other parties with whom NIPSCO may be negotiating. Public disclosure of this information could also allow suppliers and competitors an unfair opportunity to analyze NIPSCO's operations, make pricing decisions, and determine market entry.

11. The disclosure of such forecasts and other cost information would adversely affect NIPSCO because it would permit such third parties to better determine how to price their services and products. Further, the disclosure of the Company's resource costs would disincite the negotiation or competitive bidding process by allowing potential suppliers or vendors to know what the Company's expectations are with respect to its resource and other costs. Thus, these suppliers or vendors would have the advantage of knowing how to price their bids or negotiate to provide resources. As a result, resource and other costs may not be as low as they might have been had the parties not had unfair access to the information.

Further, Affiant sayeth not.



Edward K. Achaab

The preceding Affidavit of Edward K. Achaab was subscribed and sworn before me this 31<sup>st</sup> day of October, 2016.



Notary Public

My Commission Expires 12-2-2022

My County of Residence LAKE

