

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF NORTHERN INDIANA PUBLIC SERVICE)
COMPANY FOR AUTHORITY TO MODIFY ITS RATES)
AND CHARGES FOR ELECTRIC UTILITY SERVICE AND)
FOR APPROVAL OF: (1) CHANGES TO ITS ELECTRIC)
SERVICE TARIFF INCLUDING A NEW SCHEDULE OF)
RATES AND CHARGES AND CHANGES TO THE)
GENERAL RULES AND REGULATIONS AND CERTAIN)
RIDERS; (2) REVISED DEPRECIATION ACCRUAL)
RATES; (3) INCLUSION IN ITS BASIC RATES AND)
CHARGES OF THE COSTS ASSOCIATED WITH)
CERTAIN PREVIOUSLY APPROVED QUALIFIED)
POLLUTION CONTROL PROPERTY, CLEAN COAL)
TECHNOLOGY, CLEAN ENERGY PROJECTS AND)
FEDERALLY MANDATED COMPLIANCE PROJECTS;)
AND (4) ACCOUNTING RELIEF TO ALLOW NIPSCO TO)
DEFER, AS A REGULATORY ASSET OR LIABILITY,)
CERTAIN COSTS FOR RECOVERY IN A FUTURE)
PROCEEDING.)

CAUSE NO. 44688

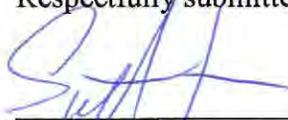
INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

TESTIMONY OF

MARGARET A. STULL – PUBLIC’S EXHIBIT NO. 5

JANUARY 22, 2015

Respectfully submitted,



Scott C. Franson
Attorney No. 27839
Deputy Consumer Counselor

CERTIFICATE OF SERVICE

This is to certify that a copy of the ***OUC*** ***TESTIMONY OF MARGARET A. STULL*** has been served upon the following parties of record in the captioned proceeding by electronic service on January 22, 2015.

NIPSCO

Claudia J. Earls
Frank A. Shambo
Timothy R. Caister
NiSource Corporate Services
150 West Market Street, Suite 600
Indianapolis, Indiana 46204
cjearls@nisource.com
fshamb@nisource.com
tcaister@nisource.com

Kay E. Pashos
Michael B. Cracraft
Philip B. McKiernan
Ice Miller, LLP
One American Square, Suite 2900
Indianapolis, Indiana 46282-0200
kay.pashos@icemiller.com
michael.cracraft@icemiller.com
philip.mckiernan@icemiller.com

LAPORTE COUNTY

Shaw R. Friedman
Friedman & Associates, P.C.
705 Lincolnway
LaPorte, IN 46350
sfriedman.associates@frontier.com

Reginald T. Badeaux IV
Deanna A Dean-Webster
Badeaux Dean-Webster LLP
310 North Alabama Street, Suite 305
Indianapolis, IN 46204
badeaux@bdwlegal.com
dean@bdwlegal.com

Keith L. Beall
Beall & Beall
13238 Snow Owl Dr., Ste. A
Carmel, IN 46033
Phone/fax: 317-810-9357
kbeall@indy.rr.com

NIPSCO INDUSTRIAL GROUP

Bette J. Dodd
Todd A. Richardson
Jennifer W. Terry
Tabitha L. Balzer
Lewis & Kappes, P.C.
One American Square, Suite 2500
Indianapolis, Indiana 46282
BDodd@Lewis-Kappes.com
TRichardson@Lewis-Kappes.com
JTerry@Lewis-Kappes.com
tbalzer@lewis-kappes.com

NLMK INDIANA

Anne E. Becker
Lewis & Kappes, P.C.
One American Square, Suite 2500
Indianapolis, Indiana 46282
abecker@lewis-kappes.com

James Brew

Stone, Mattheis, Xenopoulos and Brew
1025 Thomas Jefferson Street, NW
8th Floor, West Tower
Washington, D.C. 20007
jbrew@smxblaw.com

INDIANA MUNICIPAL UTILITY GROUP

Robert M. Glennon
Robert Glennon & Assoc., P.C.
3697 N. Co. Rd. 500 E.
Danville, Indiana 46122
glennon@iquest.net

U.S. STEEL

Nikki G. Shoultz
L. Parvin Price
Bose McKinney & Evans LLP
111 Monument Circle, Suite 2700
Indianapolis, IN 46204
nshoultz@boselaw.com
pprice@boselaw.com

WALMART

Eric E. Kinder

Spilman Thomas & Battle, PLLC

300 Kanawha Boulevard, East

P. O. Box 273

Charleston, WV 25321

ekinder@spilmanlaw.com

Barry A. Naum

Spilman Thomas & Battle, PLLC

1100 Bent Creek Boulevard

Suite 101

Mechanicsburg, PA 17050

bnaum@spilmanlaw.com

Carrie M. Harris

Spilman Thomas & Battle, PLLC

310 First Street, Suite 1100

P.O. Box 90

Roanoke, VA 24002-0090

charris@spilmanlaw.com

UNITED STEELWORKERS

Antonia Domingo

United Steelworkers

60 Boulevard of the Allies

8th Floor

Pittsburgh, PA 15208

adomingo@usw.org

CITIZENS ACTION COALITION

Jennifer A. Washburn

Citizens Action Coalition

603 East Washington Street, Suite 502

Indianapolis, Indiana 46204

jwashburn@citact.org

PRAXAIR

Timothy L. Stewart

Lewis & Kappes, P.C.

One American Square, Suite 2500

Indianapolis, Indiana 46282-0003

tstewart@lewis-kappes.com



Scott C. Franson

Deputy Consumer Counselor

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PNC Center

115 West Washington Street, Suite 1500 South

Indianapolis, IN 46204

infomgt@oucc.in.gov

317/232-2494 – Telephone

317/232-5923 – Facsimile

TESTIMONY OF OUCC WITNESS MARGARET A. STULL
CAUSE NO. 44688
NORTHERN INDIANA PUBLIC SERVICE COMPANY

I. INTRODUCTION

1 **Q: Please state your name and business address.**

2 A: My name is Margaret A. Stull, and my business address is 115 W. Washington
3 St., Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom are you employed and in what capacity?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as a Senior Utility Analyst. I have worked as a member of the OUCC's
7 Water/Wastewater Division since August of 2003. My qualifications, experience
8 and preparations for this case are set forth in Appendix A.

9 **Q: What is the purpose of your testimony?**

10 A: My testimony explains why the Commission should reject Northern Indiana
11 Public Service Company's ("NIPSCO") proposal to include \$216,303,291 of net
12 prepaid pension assets in rate base as of June 30, 2015.

II. NET PREPAID PENSION ASSET – RATE BASE TREATMENT

13 **Q: How is a prepaid pension asset or liability created?**

14 A: A prepaid pension asset or liability results from the implementation of accounting
15 rules promulgated under Accounting Standards Codification ("ASC") 715
16 "Compensation-Retirement Benefits."¹ ASC 715 governs the recording of both

¹ ASC 715 includes rules previously promulgated under Financial Accounting Standard ("FAS") No. 87 "Accounting for Pensions" and FAS No. 106 "Employers' Accounting for Postretirement Benefits Other Than Pensions."

1 pension and other postemployment benefits (“OPEB”) and, among other things,
2 requires that the difference between cumulative contributions to the pension plan
3 and cumulative accrued pension expense be recognized as either a prepaid asset or
4 liability on a company’s balance sheet. To the extent that cumulative pension
5 contributions are greater than cumulative pension expenses, the result is a prepaid
6 pension asset. To the extent that cumulative pension expenses are greater than
7 cumulative pension contributions, the result is a prepaid pension liability.

8 **Q: Does NIPSCO currently have a prepaid pension asset?**

9 A: Yes. NIPSCO’s witness Derric J. Isensee explains that, as of June 30, 2015,
10 NIPSCO had recorded a prepaid pension asset of \$317,067,269 on its balance
11 sheet in accordance with ASC 715. Of this amount, \$216,303,291 was allocated
12 to NIPSCO Electric.²

13 **Q: What ratemaking treatment does NIPSCO seek in this Cause for its prepaid**
14 **pension asset?**

15 A: NIPSCO is seeking to include its prepaid pension asset in rate base and earn a
16 return on that asset.

17 **Q: Does the OUCC agree with NIPSCO’s proposal to include its prepaid**
18 **pension asset in rate base?**

19 A: No. NIPSCO’s prepaid pension asset is not an investment in utility plant as
20 defined by Ind. Code § 8-1-2-6, and does not otherwise qualify for rate base
21 inclusion.

² See Petitioner’s Ex. 6, pages 44 – 45, Att. 6-C, line 9, and Att. 6-J.

1 **Q: What should be included in rate base as used and useful plant under Ind.**
2 **Code § 8-1-2-6?**

3 A: Ind. Code § 8-1-2-6(a) states that the Commission “shall value all property of
4 every public utility actually used and useful for the convenience of the public at
5 its fair value.” Ind. Code § 8-1-2-6(b) further states, “all public utility valuations
6 shall be based upon *tangible* property, that is, property as has value by reason of
7 construction costs.” (Emphasis added.) A prepaid pension asset does not qualify
8 as “tangible property” and is thus ineligible for inclusion in rate base on those
9 grounds.

10 **Q: Can other amounts be included in rate base besides investment in tangible**
11 **utility plant?**

12 A: Yes, but the prepaid pension asset does not qualify under those other categories.
13 Utilities may be authorized to include in rate base an amount for working capital.³
14 However, the utility must *request* working capital, it must be specifically
15 calculated, and the Commission must determine if the utility is entitled to include
16 it in rate base.

17 **Q: Do all utilities have working capital as part of their rate base?**

18 A: No.

19 **Q: Did NIPSCO request working capital in this Cause?**

20 A: No. NIPSCO did not request working capital in this Cause nor did it include
21 working capital in its rate base calculation.

³ “It has long been accepted that an allowance for working capital may be added to a utility’s investment in physical properties to accurately determine rate base.” *In re Indianapolis Water Co.*, Cause No. 38868, 112 P.U.R.4th 520, 1990 WL 488732 at 3 (Ind. Util. Regulatory Comm’n May 16, 1990).

1 **Q: Please explain how the term “working capital” is defined for regulatory**
2 **purposes.**

3 A: Although accountants generally define working capital as a measure of liquidity
4 based on a comparison of current assets to current liabilities, for ratemaking
5 purposes working capital generally has been defined as the average amount of
6 capital provided by investors to bridge the gap between the time expenditures are
7 required to provide service and the time collections are received for that service.
8 In other words, it is an amount calculated to cover expenses incurred by a utility
9 before the utility recovers the amount of the expense through rates.

10 **Q: How is working capital calculated or measured for regulatory purposes?**

11 A: The most reliable method to calculate working capital is to perform a lead-lag
12 study. A lead-lag study uses historical data and actual payment requirements to
13 measure the differences in the time frames between (1) the time services are
14 rendered until the revenues for those services are received and (2) the time that
15 the costs associated with providing those services, such as labor and materials, are
16 incurred until they are paid for by the utility. The difference between these
17 periods, expressed in days, multiplied by the average daily operating expense,
18 provides the amount of cash working capital required.

19 **Q: Did NIPSCO perform a lead-lag study in this case?**

20 A: No. NIPSCO did not perform a lead-lag study in this case and, therefore, we do
21 not know what, if any, its working capital needs are.

1 **Q: Does NIPSCO's prepaid pension qualify for rate base treatment as working**
2 **capital?**

3 A: No. while the cash disbursements related to NIPSCO's pension plan contributions
4 might be one of the factors considered to determine NIPSCO's overall working
5 capital needs, the prepaid pension asset itself would not be considered working
6 capital for regulatory purposes.

7 **Q: Has inventory investment been included in rate base?**

8 A: Yes. In addition to the inclusion of working capital discussed above, the
9 Commission has also recognized a utility's investments in inventory as a
10 component of rate base and allowed a utility to earn a return on those investments.

11 **Q: Does NIPSCO's prepaid pension asset qualify for inclusion in rate base**
12 **under the inventory exception?**

13 A: No. NIPSCO's prepaid pension asset is not and cannot be construed as inventory.

14 **Q: Should NIPSCO's prepaid pension asset be included in rate base?**

15 A: No. NIPSCO's prepaid pension asset is not used and useful plant under I.C. § 8-1-
16 2-6. It cannot be considered inventory, nor is it working capital. NIPSCO has
17 neither requested working capital nor presented evidence supporting the inclusion
18 of working capital in its rate base. For these reasons, NIPSCO's proposed prepaid
19 pension asset should not be included in rate base in this Cause.

20 **Q: Have there been recent cases in Indiana regarding the inclusion of a prepaid**
21 **pension asset in rate base?**

22 A: Yes. Three utilities have recently requested the inclusion of a prepaid pension
23 asset in rate base: (1) Indiana Michigan Power Company ("I&M") (Cause No.
24 44075), (2) Indiana-American Water Company, Inc. ("IAWC") (Cause No.
25 44450), and (3) Indianapolis Power and Light ("IPL") (Cause No. 44576). In

1 Cause No. 44075, which was appealed to the Indiana Court of Appeals, the
2 Commission allowed I&M to include a prepaid pension asset in rate base. The
3 OUCC opposed I&M's inclusion of the prepaid pension asset in rate base. The
4 Commission recited the parties' evidence and found as follows:

5 The record reflects that the prepaid pension asset was recorded on
6 the Company's books in accordance with governing accounting
7 standards. The record also reflects that the prepaid pension asset
8 has reduced the pension cost reflected in the revenue requirement
9 in this case and preserves the integrity of the pension fund.
10 Petitioner made a discretionary management decision to make use
11 of available cash to secure its pension funds and reduce the
12 liquidity risk of future payments. In addition, the prepayment
13 benefits ratepayers by reducing total pension costs in the
14 Company's revenue requirement. Therefore, we find that the
15 prepaid pension asset should be included in Petitioner's rate base.⁴

16 The Commission made no findings expressing how the prepaid pension
17 asset qualified to be included in rate base under the strictures of I.C. § 8-1-2-6.
18 The OUCC subsequently appealed the I&M order, and in a memorandum opinion
19 the Court of Appeals affirmed the Commission and accorded the Commission's
20 decision deference. The Court did not discuss how the asset qualified to be
21 included in rates under the terms of I.C. § 8-1-2-6.

22 In Cause No. 44450, the Commission approved a settlement agreement
23 that included Indiana-American's prepaid pension asset as a component of the
24 capital structure rather than including it as a component of the utility's rate base.
25 Since the case was settled, the order is not precedential as to other parties and

⁴ *In re Indiana Michigan Power Co.*, Cause No. 44075, 303 P.U.R.4th 384, 2013 WL 653036 p. 18 (Ind. Util. Regulatory Comm'n Feb. 13, 2013) *aff'd*, (mem. Dec. 2014).

1 does not provide any useful analysis addressing how a prepaid pension asset
2 qualifies to be included in rate base.⁵

3 Cause No. 44576 is still pending before the Commission and no order has
4 been issued as of the filing of this testimony. The OUCC opposed I&M's and
5 IPL's inclusion of the prepaid pension asset in rate base, and continues to oppose
6 such a request by NIPSCO in this case.

III. RECOMMENDATIONS

7 **Q: What does the OUCC propose regarding the ratemaking treatment of**
8 **NIPSCO's net prepaid pension asset?**

9 A: The OUCC proposes that no ratemaking treatment be allowed for NIPSCO's
10 prepaid pension asset of \$216,303,291. The prepaid pension asset represents a
11 portion of all the funds that have been contributed to the pension trust fund. These
12 funds can earn a return through investment in the pension trust fund's portfolio of
13 investments. Once made, pension fund contributions are not available to invest in
14 used and useful property, plant, and equipment.

⁵ As with many cases settled before the Commission, the Final Order in Cause No. 44450 contained the following language:

The parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 Ind. PUC LEXIS 459, at *19-22 (IURC March 19, 1997).

In re Indiana American Water, 2015 WL 429993 p. 11 (Ind. Util. Regulatory Comm'n Jan. 28, 2015).

1 The prepaid pension asset is not used and useful physical property, nor
2 does it qualify as working capital or inventory. Therefore, the prepaid pension
3 asset should not be treated as rate base.

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

5 **A: Yes.**

APPENDIX A

1 **Q: Please describe your educational background and experience.**

2 A: I graduated from the University of Houston at Clear Lake City in August 1982
3 with a Bachelor of Science degree in accounting. From 1982 to 1985, I held the
4 position of Gas Pipeline Accountant at Seagull Energy in Houston, Texas. From
5 1985 to 2001, I worked for Enron in various positions of increasing responsibility
6 and authority. I began in gas pipeline accounting, was promoted to a position in
7 the financial planning and reporting department, for both the gas pipeline division
8 and the international division, and finally was promoted to a position providing
9 accounting support for infrastructure projects in Central and South America. In
10 2002, I moved to Indiana, where I held non-utility accounting positions in
11 Indianapolis. In August 2003, I accepted my current position with the OUCC. In
12 2011, I was promoted to Senior Utility Analyst. Since joining the OUCC I have
13 attended the National Association of Regulatory Utility Commissioners
14 ("NARUC") Eastern Utility Rate School in Clearwater Beach, Florida, and the
15 Institute of Public Utilities' Advanced Regulatory Studies Program in East
16 Lansing, Michigan.

17 **Q: Have you held any professional licenses?**

18 A: Yes. I passed the CPA exam in 1984 and was licensed as a CPA in the State of
19 Texas until I moved to Indiana in 2002.

1 **Q: Have you previously testified before the Indiana Utility Regulatory**
2 **Commission ("Commission")?**

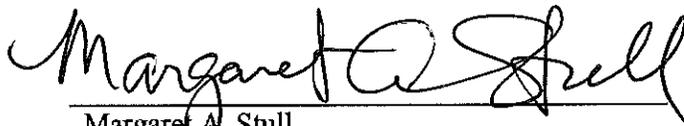
3 A: Yes. I have testified before the Commission as an accounting witness in various
4 causes involving water, wastewater, electric, and gas utilities.

5 **Q: Please describe the review and analysis you performed.**

6 A: I reviewed NIPSCO's testimony, exhibits, and supporting documentation
7 concerning its proposed prepaid pension asset. I prepared discovery questions and
8 reviewed responses to those questions. Finally, I participated in meetings with
9 other OUCC staff members to identify and discuss the issues in this Cause.

AFFIRMATION

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



Margaret A. Stull
Senior Utility Analyst
Indiana Office of Utility Consumer Counselor

January 22, 2016

Date

Cause No. 44688
NIPSCO