CAC Exhibit 5 (Public)

STATE OF INDIANA

BEFORE THE 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. 45159**

RESPONSIVE TESTIMONY OF

JONATHAN WALLACH

ON BEHALF OF

CITIZENS ACTION COALITION OF INDIANA, INC.

Resource Insight, Inc.

JUNE 17, 2019

PUBLIC VERSION—CONFIDENTIAL INFORMATION REDACTED

Q: Please state your name, occupation, and business address.

A: My name is Jonathan F. Wallach. I am Vice President of Resource Insight, Inc., 5 Water Street, Arlington, Massachusetts.

Q: Are you the same Jonathan F. Wallach who filed direct testimony in this proceeding?

A: Yes.

Q: On whose behalf are you testifying?

A: I am testifying on behalf of the Citizens Action Coalition of Indiana, Inc. ("CAC").

Q: Are you sponsoring any attachments?

A: Yes. I am sponsoring the following attachments:

- Attachment JFW-1: Industrial Subsidy from Proposed Rate 831 Agreement
- Attachment JFW-2: NIPSCO Response to CAC Data Request 11-1
- Attachment JFW-3: NIPSCO Response to CAC Data Request 12-3

Q: What is the purpose of your responsive testimony?

A: On April 25, 2019, Northern Indiana Public Service Company ("NIPSCO" or "the Company") filed with the Indiana Utility Regulatory Commission ("the Commission") on behalf of a number of parties to this proceeding, including CAC, a Stipulation and Settlement Agreement On Less than All the Issues ("Revenue Requirement Agreement"). The Revenue Requirement Agreement stipulates a total revenue requirement to be recovered through base rates of about $1.48 billion.

On May 17, 2019, NIPSCO filed on behalf of itself, the NIPSCO Industrial Group, NLMK Indiana, and United States Steel Corporation (collectively, "Rate 831 Settling Parties") a Stipulation and Settlement

Agreement on Rate 831 Implementation ("Rate 831 Agreement").[1] Of the $1.48 billion total revenue requirement stipulated in the Revenue Requirement Agreement, about $149.4 million would be allocated to and recovered from the Rate 831 class under the Rate 831 Agreement.

My testimony explains why the Commission should reject the proposed Rate 831 Agreement as not in the public interest.

Q: Please describe the terms of the proposed Rate 831 Agreement as it relates to the allocation of revenues to Rate 831 customers.

A: Under the Rate 831 Agreement, revenues would be allocated to the Rate 831 class in the same fashion as proposed by NIPSCO in its initial and rebuttal filings. Specifically, revenues would be allocated to the Rate 831 class based on the results of the Company's allocated cost of service study ("ACOSS"), which allocates demand-related embedded production costs to the Rate 831 class on the basis of the sum of Rate 831 customers' Tier 1 Contract Demands. For the purposes of allocating demand-related embedded production costs in the ACOSS, the Rate 831 Agreement stipulates a total Tier 1 Contract Demand for rate 831 customers of 194.6 megawatts.[2]

Q: How would demand-related production costs be allocated to large industrial customers under the current industrial service structure?

A: Under the current industrial service structure, demand-related production costs would be allocated to large industrial customers on the basis of the sum of their total demands rather than just their Tier 1 demands.

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[1] In addition, NIPSCO, the NIPSCO Industrial Group, and United States Steel Corporation filed testimony in support of the proposed Rate 831 Agreement.

[2] Rate 831 Agreement, Section B.1.

Q: How would other rate classes be affected by the proposed allocation of revenues to the Rate 831 class under the Rate 831 Agreement?

A: As shown in Attachment JFW-1, I estimate that the revenue allocation stipulated in the Rate 831 Agreement would shift recovery of about $66 million of annual non-fuel revenue requirements from industrial customers to other customers. In other words, annual industrial revenues under the proposed Rate 831 Agreement would be $66 million less (and other rate classes' revenues more) than would be the case under the current industrial service structure.[3] This cost-shift results from the allocation of demand-related production costs in the ACOSS on the basis of Tier 1 Contract Demand (under the proposed Rate 831 Agreement) rather than total demand (under the current industrial service structure), as discussed above.[4]

Q: How did you derive your estimate of the $66 million cost-shift provided under the Rate 831 Agreement.

A: I calculated the cost-shift under the Rate 831 Agreement in the same way that I derived the cost-shift associated with the Company's initial proposal for

[3] My estimate of the annual cost-shift is based on the results of cost of service studies which use a 4CP demand allocator to allocate demand-related production costs. If demand-related production costs were instead allocated using a 12CP allocator, as recommended by OUCC, then by my estimate the proposed Rate 831 Agreement would shift recovery of about $94 million of annual non-fuel revenue requirements from industrial customers to other customers.

[4] My estimate understates the magnitude of the cost-shift because it captures the change in the allocation of non-fuel revenue requirements for all industrial customers, not just for the large customers that would take service under Rate 831. The revenue allocation proposed under the Rate 831 Agreement would shift costs from just Rate 831 customers and would in fact shift some of those costs onto Rate 832 and Rate 833 customers. I was not able to isolate the amount shifted onto Rate 832 and Rate 833 customers with the data provided by NIPSCO, so my estimate is of the *net* cost shift from *all* industrial customers.

industrial service restructuring in my direct testimony. Specifically, in response to a data request, NIPSCO prepared two versions of the ACOSS based on the total revenue requirement stipulated in the Revenue Requirement Agreement.[5] One version of the ACOSS reflects the terms of the Rate 831 Agreement, including allocation of demand-related production costs on the basis of Tier 1 Contract Demand. The other version assumes a continuation of the current industrial service structure with Rates 732, 733, and 734 and Interruptible Service Rider 775, and allocates demand-related production costs on the basis of total demand.[6] I derived my estimate of the cost-shift as the difference between: (1) the amount of non-fuel revenue requirements allocated to industrial customers in the current-structure version of the ACOSS; and (2) the amount allocated to industrial customers in the Rate 831 Agreement ACOSS.[7]

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[5] NIPSCO Response to CAC Data Request 11-1 (Attachment JFW-2). The confidential attachments of the ACOSS spreadsheets are included in my workpaper submission.

[6] In cross-answering testimony, NIPSCO Industrial Group witness Nicholas Phillips, Jr. claims that I "inflated" the industrial subsidy in my direct testimony by relying on a previous version of this "without-restructuring" ACOSS, which he contends understated the value of interruptible load by allocating demand-related production costs to interruptible load. *Verified Cross-Answering Testimony and Attachments of Nicholas Phillips, Jr. on behalf of the NIPSCO Industrial Group*, Cause No. 45159, 14-15 (March 15, 2019). However, Mr. Phillip's claim lacks merit because he overlooks the fact that my estimate of the subsidy in direct testimony (and in this responsive testimony) explicitly credits industrial customers for the value of their interruptible load in the form of expected revenues received for their interruptible load under Rider 775.

[7] As noted above, my estimate understates the magnitude of the cost-shift because it takes the difference in allocated non-fuel revenue requirements for all industrial customers, not just for the large customers that would take service under Rate 831.

Q: Is this $66 million annual cost-shift fair and reasonable?

A: No. As I discussed in my direct testimony, allocating demand-related production costs on the basis of Tier 1 Contract Demand would be contrary to basic principles of cost-causation since such costs were incurred to serve, and are therefore reasonably considered to be "caused" by, industrial customers' total demand. Thus, the proposed Rate 831 Agreement would provide a $66 million annual subsidy to large industrial customers by allowing these customers to contribute less than their fair share toward recovery of demand-related production costs.

Moreover, as I noted in my direct testimony, the proposed allocation in the Rate 831 Agreement would effectively shift onto other rate classes the large industrials' entire share of the incremental depreciation expense associated with accelerated depreciation of Schahfer and Michigan City plant costs. With the allocation stipulated in the Rate 831 Agreement, large industrial customers would enjoy the future economic benefits from early retirement of the Schahfer and Michigan City coal units without having to pay for the near-term incremental depreciation expense associated with early retirement.

Finally, the subsidy provided to industrial customers under the Rate 831 Agreement is particularly unfair to other customers since it would come on top of the cost shift from industrial customers to other customers associated with the aggregation of metering for BP and Whiting Energy. The Company estimates that aggregated metering would shift recovery of about $[redacted] million annually from industrial customers to other customers under the current industrial service structure.[8] In other words, even without any change to the

[8] CAC Exhibit 1, Attachment JFW-9 (Attachment A to NIPSCO Response to OUCC Data Request 5-10).

current service structure, NIPSCO expects that industrial customers will enjoy a $[redacted] million subsidy. The proposed Rate 831 Agreement would further enrich the Rate 831 customers with an additional subsidy of $66 million.

Q: Does the proposed Rate 831 Agreement offer any tangible benefit to customers other than Rate 831 customers?

A: No. The Rate 831 Settling Parties contend that the Rate 831 Agreement would benefit other customers by eliminating the risk that the Tier 1 subscription will be less – and therefore that the actual cost-shifting from industrial customers to other customers will be more – than estimated by NIPSCO in its initial and rebuttal filing.[9] In those filings, NIPSCO proposed a process for reallocating revenues to the Rate 831 class in the event that the actual Tier 1 subscription differed from the levels estimated by the Company in its filings. Thus, there was a risk with this proposed process that the actual cost-shifting from industrial customers to other customers would be greater than anticipated in the Company's initial and rebuttal filings if the actual Tier 1 subscription was less than assumed in those filings.

The Rate 831 Settling Parties assert that the proposed Rate 831 Agreement would eliminate any possibility for *actual* cost-shifting to exceed *expected* cost-shifting by locking-in the Tier 1 subscription amount to be used for revenue-allocation purposes. However, the fact that the Rate 831 Agreement would ensure that the harm to other customers would be no worse than an already unreasonable $66 million annual cost-shift is cold comfort indeed.

[9] For example, see *Verified Settlement Testimony of Nicholas Phillips, Jr. on behalf of the NIPSCO Industrial Group*, Cause No. 45159, 3-4 (May 17, 2019).

Q: What do you conclude with regard to the proposed Rate 831 Agreement?

A: The Rate 831 Agreement would unduly subsidize large industrial customers by shifting recovery of embedded production costs to other rate classes. The proposed Rate 831 Agreement would allocate embedded production costs to large industrial customers on the basis of contract demand rather than total demand, even though such production costs were incurred in the past to serve total demand not contract demand. Consequently, the proposed allocation of revenues to the Rate 831 class would recover from large industrial customers less than their fair share of embedded production costs and instead unfairly and unreasonably shift recovery of such costs to other rate classes.

Accordingly, the Commission should reject the proposed Rate 831 Agreement, and deny the Company's request for an Alternative Regulatory Plan, as not in the public interest. Instead, I recommend that the current industrial service structure be retained and that a procedural schedule be established to determine the appropriate revenue allocation and rate designs for all rate classes.

Q: Does your recommendation to retain the current industrial service structure differ from your recommendation regarding Rate 831 in your direct testimony?

A: Yes. In my direct testimony, I did not recommend rejection of the Company's proposal to restructure industrial service. Instead, I recommended that substantially more revenues be allocated to Rate 831 than proposed by NIPSCO in order to mitigate the unjust and unreasonable subsidy to Rate 831 customers associated with the Company's restructuring proposal.[10]

Such measures to mitigate the harm from the proposed restructuring are no longer an option because the Rate 831 Agreement constitutes a take-it-or-leave-it offer. According to Section C.4, any modification to the Rate 831 revenue allocation stipulated in the Rate 831 Agreement that leads to a reduction in Tier 1 subscription by any Rate 831 customer would be considered by the Rate 831 Settling Parties to be a rejection of all aspects of the proposed Rate 831 service structure. In that event, NIPSCO intends to withdraw its filing for an Alternative Regulatory Plan for Rate 831 and to request a procedural schedule to determine the revenue requirement, revenue allocation, and rate design under the current industrial structure.[11]

Q: Is there a risk of a loss of industrial load, with its attendant cost-shifting, if the Commission decides to retain the current industrial service structure?

A: Yes. However, neither NIPSCO nor any of the other Rate 831 Settling Parties has provided any evidence that the *potential* load loss under the current service structure would exceed the *certain* load loss under the proposed Rate 831 structure. In other words, the Rate 831 Settling Parties have failed to show that other customers would be any worse off under the current service structure than under the Rate 831 structure. Instead, the Rate 831 Settling Parties would have the Commission approve a radical change in the industrial service

[10] Specifically, I recommended in my direct testimony that Rate 831 revenues be maintained at test-year levels under current rates (i.e., no increase or decrease). With a 0% increase to Rate 831 revenues, I estimated in my direct testimony that the annual industrial subsidy would have been reduced by about 40%.

[11] See NIPSCO Response to CAC Data Request 12-3 (Attachment JFW-3).

structure based on speculation that the potential margin loss with the current structure could be even greater than the demonstrated $66 million loss under the Rate 831 structure.[12]

Q: Does this conclude your responsive testimony?

A: Yes.

[12] The Commission could also consider options for substantially mitigating the harm to remaining load from margin loss under the current service structure, such as by imposing exit fees or transition charges on load leaving the system.

VERIFICATION

I, Jonathan Wallach, affirm under penalties of perjury that the foregoing representations are true and correct to the best of my knowledge, information and belief.

____
Jonathan Wallach

June 17, 2019
Date

ATTACHMENT JFW-1

Industrial Subsidy from Proposed Rate 831 Agreement

Based on Settlement Revenue Requirement

Current Industrial Rate Structure

	Rate 732	Rate 733	Rate 734	Total
Settlement Revenue Requirement	$ 149,297,358	$ 96,917,972	$ 141,670,416	$ 387,885,746
Fuel Expense	$ (49,691,581)	$ (39,290,426)	$ (56,855,304)	$ (145,837,311)
Non-Fuel Revenue Requirement	$ 99,605,777	$ 57,627,546	$ 84,815,112	$ 242,048,435
Interruptible Credit	$ (20,353,990)	$ (4,312,396)	$ (17,892,385)	$ (42,558,771)
Net Margin	$ 79,251,787	$ 53,315,150	$ 66,922,727	$ 199,489,664

Proposed Rate 831 Agreement

	Rate 831	Rate 832	Rate 833	Total
Settlement Revenue Requirement	$ 152,266,583	$ 12,016,196	$ 28,326,252	$ 192,609,031
Fuel Expense	$ (44,559,646)	$ (3,957,444)	$ (10,612,320)	$ (59,129,411)
Non-Fuel Revenue Requirement	$ 107,706,937	$ 8,058,752	$ 17,713,932	$ 133,479,621
Interruptible Credit	$ -	$ -	$ -	$ -
Net Margin	$ 107,706,937	$ 8,058,752	$ 17,713,932	$ 133,479,621

Industrial Subsidy $\boxed{\$\ 66,010,044}$

ATTACHMENT JFW-2

Cause No. 45159
Northern Indiana Public Service Company LLC's
Objections and Responses to
Citizens Action Coalition's Data Request Set No. 11

CAC Request 11-001:
Reference Implementation Agreement, Section B.1. a) Please provide an electronic spreadsheet version (with all cell formulas and file linkages intact) of the NIPSCO cost of service study which allocates \$149.438 million to Rate 831 on the basis of a Tier 1 subscription of 194.556 megawatts. b) Please provide an updated response to CAC Data Request 5-01(a) based on the Revenue Settlement revenue requirement. c) Please provide an updated response to CAC Data Request 5-01(a) based on the Revenue Settlement revenue requirement and with a generation 4CP demand allocator based on gross demand inclusive of Rider 775 interruptible load for Rates 731, 732, and 733.
Objections:
NIPSCO objects to this Request on the grounds and to the extent that this Request seeks information that is confidential, proprietary and/or trade secret.
Response:
Subject to and without waiver of the foregoing general and specific objections, NIPSCO is providing the following response: a) Please see CAC Request 11-001 Confidential Attachment A for an electronic spreadsheet version (with all cell formulas and file linkages intact) of the NIPSCO cost of service study which allocates \$149.438 million to Rate 831 on the basis of a Tier 1 subscription of 194.556 megawatts. b) Please see CAC Request 11-001 Confidential Attachment B for updated response to CAC Data Request 5-01(a) based on the Revenue Settlement revenue requirement excluding adjustments for new rates structure (fuel, variable chemicals, etc). See Question 237 of Witness Shikany's direct testimony for further explanation on these adjustments. c) Please see CAC Request 11-001 Confidential Attachment C for updated response to CAC Data Request 5-01(a) based on the Revenue Settlement revenue requirement excluding adjustments for the new rates structure (fuel, variable

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chemicals, etc), and with a generation 4CP demand allocator based on gross demand inclusive of Rider 775 interruptible load for Rates 732, 733, and 734.

ATTACHMENT JFW-3

Cause No. 45159
Northern Indiana Public Service Company LLC's
Objections and Responses to
Citizens Action Coalition's Data Request Set No. 12

CAC Request 12-003:
Reference Implementation Agreement, Section C.4. a) In the event that the Commission approves the Rate 831 service structure but "makes modifications in the Rate 831 allocation", will the Implementation Agreement be "null and void" pursuant to the terms of Section C.3? Please explain. b) In the event that the Commission approves the Rate 831 service structure but "makes modifications in the Rate 831 allocation", is it the contention of the Rate 831 Settling Parties that such modification to the Rate 831 allocation "would directly affect the stipulated revenue requirement? Please explain.
Objections:
Response:
a) Yes. The question only includes a partial quotation of the particular language of the Implementation Agreement, which reads: "In the event the Commission . . . makes modifications in the Rate 831 allocation or design (collectively "831 Rejection"), which results in the six largest industrial customers being unable or unwilling to subscribe to the total megawatts included on Rate 831 Implementation Agreement Confidential Exhibit C under the proposed design, ..." One of the terms of the Implementation Agreement is that "Rate 831 shall be adopted as proposed in NIPSCO's case-in-chief as modified in NIPSCO's rebuttal, and based on the settlement revenue requirement for Rate 831 described in B.1." Implementation Agreement, ¶3.a. If this term is not approved, then the agreement is null and void upon written notice that a party deems the modification unacceptable. b) Under the Implementation Agreement, a modification in the Rate 831 allocation or design which "results in the six largest industrial customers being unable or unwilling to subscribe to the total megawatts included on Rate 831 Implementation Agreement Confidential Exhibit C under the proposed design . . . " constitutes a Rate 831 Rejection. Upon due notice, yes, there would have to be changes to the stipulated revenue requirement, "specifically the fuel and related expenses" as stated in Section 4.C. For a description of the changes to the stipulated revenue requirement which would be required in the event of a

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Rate 831 Rejection, and the corresponding establishment of a non-831 service structure, please see the direct testimony of NIPSCO Witness Shikany which indicates the fuel and purchase power expenses that would need to be updated, and the related discussion contained in the direct testimony of NIPSCO Witness Campbell regarding changes that would need to be reflected in PROMOD.