

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS AND ELECTRIC)
COMPANY D/B/A CENTERPOINT ENERGY INDIANA)
SOUTH PURSUANT TO INDIANA CODE CH. 8-1-40.5 FOR (1))
AUTHORITY TO (A) ISSUE SECURITIZATION BONDS; (B))
COLLECT SECURITIZATION CHARGES; AND (C))
ENCUMBER SECURITIZATION PROPERTY WITH A LIEN)
AND SECURITY INTEREST; (2) A DETERMINATION OF)
TOTAL QUALIFIED COSTS AND AUTHORIZATION OF)
RELATED ACCOUNTING TREATMENT; (3))
AUTHORIZATION OF ACCOUNTING TREATMENT)
RELATED TO ISSUANCE OF SECURITIZATION BONDS)
AND IMPLEMENTATION OF SECURITIZATION)
CHARGES; (4) APPROVAL OF PROPOSED TERMS AND)
STRUCTURE FOR THE SECURITIZATION FINANCING; (5))
APPROVAL OF PROPOSED TARIFFS TO (A) IMPLEMENT)
THE SECURITIZATION CHARGES AUTHORIZED BY THE)
FINANCING ORDER IN THIS PROCEEDING, (B) REFLECT)
A CREDIT FOR ACCUMULATED DEFERRED INCOME)
TAXES, AND (C) REFLECT A REDUCTION IN)
PETITIONER’S BASE RATES AND CHARGES TO REMOVE)
ANY QUALIFIED COSTS FROM BASE RATES; AND (6))
ESTABLISHMENT OF A TRUE-UP MECHANISM)
PURSUANT TO INDIANA CODE § 8-1-40.5-12(c).)

CAUSE NO. 45722

JOINT PARTIES’ PROPOSED FINANCING ORDER

The Indiana Office of the Utility Consumer Counselor (“OUCC”), Citizens Action Coalition of Indiana, Inc. (“CAC”), and the CenterPoint Indiana South Industrial Group (“IG”) (collectively “Joint Parties”), by counsel, files this proposed Financing Order.¹

Respectfully submitted,

T. Jason Haas
Attorney No. 34983-29
Deputy Consumer Counselor

¹ The OUCC is authorized to file on behalf of CAC and IG.

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS AND)
ELECTRIC COMPANY D/B/A CENTERPOINT)
ENERGY INDIANA SOUTH PURSUANT TO INDIANA)
CODE CH. 8-1-40.5 FOR (1) AUTHORITY TO (A) ISSUE)
SECURITIZATION BONDS; (B) COLLECT)
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TOTAL QUALIFIED COSTS AND AUTHORIZATION)
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PROPOSED TARIFFS TO (A) IMPLEMENT THE)
SECURITIZATION CHARGES AUTHORIZED BY THE)
FINANCING ORDER IN THIS PROCEEDING, (B))
REFLECT A CREDIT FOR ACCUMULATED)
DEFERRED INCOME TAXES, AND (C) REFLECT A)
REDUCTION IN PETITIONER’S BASE RATES AND)
CHARGES TO REMOVE ANY QUALIFIED COSTS)
FROM BASE RATES; AND (6) ESTABLISHMENT OF A)
TRUE-UP MECHANISM PURSUANT TO INDIANA)
CODE § 8-1-40.5-12(c).)

CAUSE NO. 45722

ORDER OF THE COMMISSION

Presiding Officers:

James Huston, Chairman of the Commission
Sarah Freeman, Commissioner
David Veleta, Commissioner
Jennifer Schuster, Administrative Law Judge

On May 10, 2022, Southern Indiana Gas & Electric Company d/b/a CenterPoint Energy Indiana South (“Petitioner”, “Company”, or “CEI South”) filed its Verified Petition and Case-in-Chief in this Cause seeking a financing order authorizing CEI South to issue “Securitization

Bonds”¹ in an approximate amount of \$350,125,000, collect “Securitization Charges,”² to cover “Qualified Costs”³ estimated to total \$359,397,933, and encumber “Securitization Property”⁴ with a lien and security interest.⁵ CEI South’s Petition and Case-In-Chief were filed pursuant to Senate Enrolled Act 386, adopted by the Indiana General Assembly in 2021 and codified at Indiana Code ch. 8-1-40.5 (the “Securitization Act”), which allows electric utilities with no more than 200,000 customers with Qualified Costs that are at least five percent of the electric utility’s total jurisdictional electric rate base to finance the retirement of electric utility generation assets through the issuance of Securitization Bonds.⁶

Petitioner’s Case-In-Chief included the direct testimony, attachments and workpapers of the following witnesses:

1. Richard C. Leger, Senior Vice President, Indiana Electric for CEI South (Pet. Ex. 1)
2. Brett A. Jerasa, Assistant Treasurer for CenterPoint Energy, Inc. (Pet. Ex. 2)
3. Eric K. Chang, Managing Director in the Securitized Products Origination Group at Barclays Capital Inc. (Pet. Ex. 3)
4. Jessica L. Thayer, Director of Property Accounting for CenterPoint Energy, Inc. (Pet. Ex. 4)
5. Jeffrey T. Kopp, Senior Managing Director, Utility Consulting with 1898 & Co., a division of Burns & McDonnell Engineering Company, Inc. (Pet. Ex. 5)
6. Ryan P. Harper, Director and Assistant Controller for CenterPoint Energy, Inc. (Pet. Ex. 6)
7. Benjamin D. Vallejo, Director, Corporate Tax for CenterPoint Energy, Inc. (Pet. Ex. 7)
8. Matthew A. Rice, Director of Indiana Electric Regulatory and Rates (Pet. Ex. 8)
9. Ralph N. Zarumba, Managing Director of Natural Gas and Electricity Rates & Regulatory Services Practice for Black & Veatch Global Advisory (Pet. Ex. 9)

[Joint Parties adopt CEI South’s procedural summary.]

Executive Summary:

The Commission issues this Financing Order and finds that the securitization approved in this Financing Order meets the applicable requirements of Indiana Code ch. 8-1-40.5 and the rules adopted by this Commission at 170 IAC 4-10. Accordingly, the Commission: (1) approves the securitization on the terms described herein; (2) authorizes, subject to the terms of this Financing Order, CEI South to issue Securitization Bonds for reimbursement of Qualified Costs in an amount not to exceed \$350,125,000, as modified herein; (3) authorizes CEI South to impose, collect, and receive Securitization Charges over the life of the Securitization Bonds (not to exceed twenty (20) years) to recover total Qualified Costs, including costs incurred to issue and ongoing costs to

¹ IC § 8-1-40.5-7.

² IC § 8-1-40.5-8.

³ IC § 8-1-40.5-6.

⁴ IC § 8-1-40.5-9.

⁵ IC § 8-1-40.5-10.

⁶ IC §§ 8-1-40.5-3, -6 and -10.

maintain the Securitization Bonds (“financing costs”), in the amount of \$359,397,933, as modified herein;⁷ (4) approves the structure of the proposed securitization financing, as provided in this Financing Order, through an issuance advice letter process; (5) approves the encumbrance of Securitization Property with a valid and enforceable lien and security interest; (6) approves the adjustment mechanism set forth in this Financing Order to account for over collections and under collections of Securitization Charges and ensure recovery of amounts sufficient to provide all payments of debt service and other required amounts and charges in connection with the securitization bonds; and (7) approves the forms of tariff, as provided in this Financing Order, to implement Securitization Charges and any credits or rate reductions to remove Qualified Costs from CEI South’s existing rates.

In order to approve the securitization, the Commission must make certain findings and determinations, among them:

- a. The amount of CEI South’s Qualified Costs.⁸
- b. That the proceeds of the authorized Securitization Bonds will be used solely for the purposes of reimbursing Company for Qualified Costs; that CEI South’s books and records will reflect a reduction in rate base associated with the receipt of proceeds from the Securitization Bonds; and that such reduction will be reflected in retail rates when the Securitization Bonds are issued.⁹
- c. That the expected structuring and the expected pricing of the Securitization Bonds will result in reasonable terms consistent with market conditions and the terms of this Financing Order.¹⁰
- d. That CEI South has demonstrated that it will make capital investments in Indiana in an amount equal to or exceeding the amount of CEI South's Qualified Costs, over a period of not more than seven (7) years immediately following the planned issuance date of the Securitization Bonds.¹¹
- e. That CEI South has proposed a reasonable adjustment mechanism to reflect a reduction in CEI South’s base rates and charges upon the assessment of Securitization Charges on customer bills, so as to remove any Qualified Costs from CEI South’s base rates, and the adjustment mechanism will provide timely rate savings for customers.¹²

⁷ Costs described in IC § 8-1-40.5-6(3) of issuing, supporting and servicing the Securitization Bonds, including the payments of debt service on the Securitization Bonds as well as fees, costs and expenses payable by the Special Purpose Entity (“SPE”) under the transaction documents described in Section 6.A.iii of this Financing Order (i.e., the Administration Agreement, the Servicing Agreement, the Purchase and Sale Agreement, the Indenture and the Amended and Restated LLC Agreement) may be adjusted pursuant to IC § 8-1-40.5-12(c). Other elements of Qualified Costs described in IC § 8-1-40.5-6(1), (2), (4) and (5), to the extent they differ from the Qualified Costs approved in this Financing Order, would be subject to IC § 8-1-40.5-12(d)(1) providing that any difference between Qualified Costs approved in this Financing Order and Qualified Costs at the time the electric generation facility is retired shall be accounted for as a regulatory asset or liability.

⁸ IC § 8-1-40.5-10(d)(1).

⁹ IC § 8-1-40.5-10(d)(2).

¹⁰ IC § 8-1-40.5-10(d)(3).

¹¹ IC § 8-1-40.5-10(d)(4).

¹² IC § 8-1-40.5-10(d)(5).

- f. That CEI South's proposal to finance the retirement of electric utility generation assets through the issuance of Securitization Bonds is just and reasonable.¹³
- g. That the net present value of the total Securitization Charges to be collected under this Financing Order is less than the amount that would be recovered through traditional ratemaking if CEI South's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years.¹⁴

The Commission, in the Financing Order, may approve an allocation adjustment of Qualified Costs to avoid unreasonable rates to certain customer classes, and if the Commission so approves, then such allocation adjustment must:

1. Ensure that the adjusted allocation of Securitization Charges will preserve the rating of the Securitization Bonds and will not impair or reduce the total Securitization Charges;¹⁵ and
2. Be just and reasonable.¹⁶

In addition, pursuant to Indiana Code, any Financing Order for the securitization of CEI South's retired electric utility assets must include:

1. The amount of Qualified Costs to be recovered by CEI South and the period over which securitization charges are to be collected (not to exceed twenty (20) years);¹⁷
2. Terms to ensure that the Securitization Charges authorized under the Financing Order are non-bypassable charges payable to all customers and customer classes of CEI South;¹⁸
3. A mechanism requiring that Securitization Charges be reviewed by the Commission at least annually;¹⁹
4. A provision that any difference between Qualified Costs approved by the Commission and CEI South's Qualified Costs at the time its generation assets are retired shall be accounted for by CEI South as a regulatory asset or liability;²⁰ and
5. A provision that if CEI South incurs costs for removal and restoration that are greater than the amount estimated when the assets are retired, then CEI South can seek recovery of such costs through rates, and the Commission may approve such recovery if it finds the costs to be just and reasonable.²¹

The Commission, having heard the evidence and being duly advised, now finds as follows:

1. Notice and Jurisdiction.

¹³ IC § 8-1-40.5-10(d)(6).

¹⁴ IC § 8-1-40.5-10(b)(2).

¹⁵ IC § 8-1-40.5-10(c)(1).

¹⁶ IC § 8-1-40.5-10(c)(2).

¹⁷ IC § 8-1-40.5-10(e).

¹⁸ IC § 8-1-40.5-12(b).

¹⁹ IC § 8-1-40.5-12(c).

²⁰ IC § 8-1-40.5-12(d)(1).

²¹ IC § 8-1-40.5-12(d)(2) and (3).

Due legal and timely notice of the evidentiary hearing in this Cause was given and published as required by law. Petitioner is a “public utility” as defined in Ind. Code § 8-1-2-1(a) and an “electric utility” as defined in Ind. Code § 8-1-40.5-3. Petitioner is subject to the jurisdiction of this Commission in the manner and to the extent provided by Indiana law. Pursuant to Ind. Code ch. 8-1-40.5, Petitioner may seek authority to issue Securitization Bonds, collect Securitization Charges, and encumber Securitization Property with a lien and security interest. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this proceeding in the manner and to the extent provided by laws of the State of Indiana. Petitioner supplied evidence of its compliance with the notice requirements set forth in 170 IAC 4-10-7 via proofs of publication of legal notice supplied as Pet. Ex. 1, Attachment RCL-2 and notice to customers posted to the Company’s website supplied at Pet. Ex. 1, Attachment RCL-3.

2. Petitioner’s Characteristics and System. Petitioner CEI South is an operating public utility incorporated under the laws of the State of Indiana and has its principal office at 211 NW Riverside Drive, Evansville, Indiana. CEI South has charter power and authority to engage in, and is engaged in the business of, rendering retail electric service solely within the State of Indiana under indeterminate permits, franchises, and necessity certificates heretofore duly acquired. CEI South owns, operates, manages, and controls, among other things, plant, property, equipment, and facilities which are used and useful for the production, storage, transmission, distribution, and furnishing of electric service to approximately 150,000 electric consumers in southwestern Indiana. Its service territory is spread throughout seven counties: Pike, Gibson, Dubois, Posey, Vanderburgh, Warrick and Spencer. Petitioner is a wholly-owned subsidiary of Vectren Utility Holdings, Inc. (“VUHI”), which is a wholly-owned subsidiary of Vectren Corporation. Vectren Corporation is a wholly owned subsidiary of CenterPoint Energy, Inc., a holding company whose stock is publicly traded and listed on the New York Stock Exchange. Petition ¶1.

3. Background. The Securitization Act was enacted in 2021 by the Indiana General Assembly to establish a pilot program for securitization of retired electric utility assets. Utility securitization is a financial tool that is intended to reduce the overall cost to customers due to the retirement of generation assets. By enacting the Securitization Act, the General Assembly established the process by which an electric utility would apply to proceed with securitization and the findings the Commission must make in approving the application. One of the findings is that the net present value of the securitization charges collected under the financing order is less than the amount that would be recovered through traditional ratemaking, showing a reduction of customer costs arising from the retirement of utility generation assets. Petitioner, the smallest of Indiana’s investor-owned electric utilities, is currently the only one that meets the statutory criterion to seek securitization approval (i.e., utilities serving no more than 200,000 customers (Ind. Code § 8-1-40.5-3(3))).

The Securitization Act enables an electric utility to use securitization, through the issuance of Securitization Bonds, secured by Securitization Property, to recover Qualified Costs associated with the retirement of certain qualifying electric generation facilities through the collection of Securitization Charges from customers of the electric utility. To be eligible for financing under the Securitization Act, an electric utility’s “Qualified Costs” must total at least five percent (5%) of its total jurisdictional electric rate base. Ind. Code § 8-1-40.5-10.

Securitization Bonds, as approved by the Commission in this Financing Order, are “bonds, debentures, notes, certificates of participation, certificates of a beneficial interest, certificates of ownership, or other evidences of indebtedness” for issuance by CEI South, which have a term of twenty years or less and are secured by Securitization Property. Ind. Code § 8-1-40.5-7.

Securitization Property means the rights and interests of CEI South as provided for in this Financing Order. Ind. Code § 8-1-40.5-9. Securitization Property includes the right to impose, collect, and receive securitization charges, as authorized under the financing order, in an amount necessary to provide for the full recovery of all qualified costs. Ind. Code § 8-1-40.5-11. The Securitization Bonds issued under this Financing Order are binding in accordance with their terms, even if the Financing Order is later vacated, modified, or otherwise held to be invalid in whole or in part. Ind. Code § 8-1-40.5-10(g). Furthermore, the State of Indiana has pledged that it will not take or permit any action that impairs the value of Securitization Property or reduces, alters (except as provided in Ind. Code § 8-1-40.512(c)) or impairs Securitization Charges to be imposed, collected, and remitted to financing parties under Ind. Code ch. 8-1-40.5 until the principal, interest, and premium, and other charges incurred, or contracts to be performed, in connection with the related Securitization Bonds have been paid or performed in full. Ind. Code § 8-1-40.5-16(b).

Qualified Costs include the net original cost of the facility and any associated investments, adjusted for depreciation until retirement, costs for removal or restoration, any investment tax credits for the facility, costs of issuing, supporting and servicing Securitization Bonds, taxes for recovery of Securitization Charges, and costs of retiring and refunding existing debt and equity securities related to the Securitization Bonds. Ind. Code § 8-1-40.5-6. Qualified Costs are recovered through Securitization Charges, as approved by the Commission in this Financing Order.

Securitization Charges, as approved by the Commission in this Financing Order, are non-bypassable amounts that will allow CEI South to fully recover its Qualified Costs. Ind. Code § 8-1-40.5-8. The Securitization Charges approved in this Financing Order will be charged to and collected from all CEI South retail customers and customer classes for the use or availability of electric services. *Id.* The Securitization Charges are irrevocable and not subject to reduction, impairment, or adjustment by further action of the Commission except as provided in Ind. Code § 8-1-40.5-10(h) (referring to a request by an electric utility for authorization to retire and refund previously authorized Securitization Bonds) and Ind. Code § 8-1-40.5-12(c) (providing a true-up mechanism whereby the Securitization Charges are reviewed at least annually to correct for any over or under collections and to ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the Securitization Bonds).

The testimony of Mr. Leger provided an overview of the relief requested in this Cause. Mr. Leger testified that securitization provides a lower cost means for CEI South to recover the Qualified Costs associated with the retirement of two of CEI South's generating assets, A.B. Brown Generating Station Units 1 and 2, than traditional ratemaking. Pet. Ex. 1 at 9. CEI South witness Jerasa testified that securitization is a financing technique in which certain assets are legally isolated within a special purpose entity ("SPE"). The SPE then issues securities backed primarily by a statutory and regulatory right to receive a charge paid by customers. Generally, securitization bonds, which are issued by a newly-formed bankruptcy remote SPE subsidiary of the operating entity, are nonrecourse to the operating entity. The Securitization Bonds are backed by the Securitization Property, including the right to collect the Securitization Charges and self-amortize through payment of principal over time. Collections of Securitization Charges from customers provide the cash from which interest and principal payments on the Securitization Bonds are made. Pet. Ex. 2 at 6.

Mr. Jerasa and Mr. Chang, and OUCC witnesses Mr. Fichera and Mr. Sutherland, provided evidence that securitization is common in the utility industry and is used to spread out the customer impact of certain events such as stranded costs due to asset retirement, market restructuring, or

natural disasters such as hurricanes, wildfires, etc., typically at a lower interest rate than otherwise available through traditional ratemaking. *Id.* at 6-7; Pet. Ex. 3 at 5-9. Pub. Ex. No. 3 at 11-16, Pub. Ex. No. 7 at 5-7. Utility-issued Securitization Bonds typically contain credit-enhancing features that allow for a AAA rating from the rating agencies. Pet. Ex. 2 at 7; Pet. Ex. 3 at 12.

4. Description of Transaction as Proposed by CEI South. A description of the transaction proposed by CEI South is contained in its Petition and Case-In-Chief. A brief summary of the proposed transaction is provided in this section. A more detailed description is included in Section 6.A.iii below. In general, the proposal consists of the following framework:

- The Qualified Costs will be updated, trued-up, verified and allocated among CEI South customers;
- CEI South will create a wholly owned Delaware limited liability company subsidiary (“SPE”), referred to as an “assignee;”²²
- The SPE will be designed to be a bankruptcy-remote limited purpose entity;²³
- The Financing Order will establish the mechanism for the creation of “Securitization Property;”²⁴
- CEI South will transfer, via a true sale, its rights in Securitization Property to the Assignee;
- The SPE will issue “Securitization Bonds” to investors;²⁵
- The proceeds received by CEI South from the Securitization Bonds will be used, directly or indirectly to reimburse CEI South’s “Qualified Costs;”²⁶
- CEI South will act as a collection agent or servicer for the SPE and the SPE’s right to collect and receive Securitization Charges;
- CEI South will, at least annually, apply an “adjustment mechanism” to the Securitization Charges to ensure the timely and complete payment of the debt service and all other required amounts and charges in connection with the Securitization Bonds.²⁷

²² Per Ind. Code § 8-1-40.5-1, an assignee means “any individual, corporation, or other legally recognized entity to which an interest in Securitization Property is transferred.”

²³ Pet. Ex. 2 at 11.

²⁴ Per Ind. Code § 8-1-40.5-9, “Securitization Property” means “the rights and interests of an electric utility, or its successor, under a financing order, as described in [Ind. Code § 8-1-40.5-11].”

²⁵ Per Ind. Code § 8-1-40.5-7, “Securitization Bonds” mean “bonds, debentures, notes, certificates of participation, certificates of a beneficial interest, certificates of ownership, or other evidences of indebtedness that: (1) are issued by an electric utility, its successors, or an assignee under a financing order; (2) have a term of not more than twenty (20) years; and (3) are secured by, or payable from, Securitization Property.”

²⁶ Per Ind. Code § 8-1-40.5-6, “Qualified Costs” means “the net original cost of the facility and any associated investments, as reflected on the electric utility’s accounting system, and as adjusted for depreciation to be incurred until the facility is retired, together with: (1) costs of: (A) removal; and (B) restoration, as applicable; of the facility, any associated improvements, and facility grounds; (2) the applicable portion of investment tax credits associated with the facility and any associated investments; (3) costs of issuing, supporting, and servicing Securitization Bonds; (4) taxes related to the recovery of Securitization Charges; and (5) any costs of retiring and refunding the electric utility’s existing debt and equity securities in connection with the issuance of Securitization Bonds.”

²⁷ Per Ind. Code § 8-1-40.5-12(c), a financing order to securitize Qualified Costs for retiring electric generation assets must “include a mechanism requiring that Securitization Charges be reviewed and adjusted by the commission at least annually. ...to do the following: (1) Correct any over collections or under collections of Securitization Charges during the twelve (12) months preceding the date of the filing of the electric utility’s application under this section.

To facilitate the proposed securitization, CEI South will form the SPE to which will be transferred the rights to impose, collect, and receive Securitization Charges along with the other rights arising pursuant to this Financing Order. Pet. Ex. 2 at 10-11. Upon transfer (in connection with the issuance of the Securitization Bonds), the rights to impose, collect, and receive Securitization Charges along with the other rights arising pursuant to this Financing Order will become Securitization Property as provided by Ind. Code § 8-1-40.5-7. The SPE will issue the Securitization Bonds and will transfer the net proceeds from the sale of the Securitization Bonds to CEI South in consideration for the transfer of the Securitization Property. The SPE will be organized and managed in a manner designed to achieve the objective of maintaining the SPE as a bankruptcy-remote special purpose entity that will not be affected by any bankruptcy of CEI South, its affiliates, or respective successors. In addition, the SPE will have at least one independent manager whose approval will be required for certain actions or changes by the SPE. *Id.* at 11.

The Securitization Bonds will be issued pursuant to an Indenture and a series supplement, which will be administered by an Indenture Trustee ("the Indenture," and "the Indenture Trustee" respectively). Pet. Ex. 2, Attachment BAJ-11. The Securitization Bonds will be secured by and payable solely out of the corresponding Securitization Property created pursuant to this Financing Order and any other collateral. Such collateral will be pledged to the Indenture Trustee for the benefit of the holders of the Securitization Bonds and to secure payment of the principal, interest, and related charges for the Securitization Bonds.

CEI South will serve as the servicer of the Securitization Bonds (the "Servicer"). The Servicer will bill and collect the Securitization Charges and remit those amounts to the Indenture Trustee on behalf of the SPE. CEI South, as the Servicer, will be responsible for filing any required or permitted true ups of the Securitization Charges. Moreover, as the Servicer, CEI South will perform these functions for the SPE pursuant to a Servicing Agreement by and between CEI South, as the initial Servicer, and the SPE. If the Servicer defaults on its obligations under the Servicing Agreement, the Indenture Trustee may appoint a successor Servicer. CEI South will act as the initial Servicer for the Securitization Bonds and will be paid servicer fees as described in the Servicing Agreement for performing the required Servicer services. Pet. Ex. 2 at 20-22.

The Servicing Agreement prohibits the initial Servicer from resigning as Servicer unless (i) it is unlawful for the initial Servicer to continue in such a capacity, or (ii) the Commission provides consent and the credit rating agencies confirm that the resignation would not impact the ratings on the Securitization Bonds. Resignation of the initial Servicer cannot become effective until the successor Servicer has fully assumed all obligations to continue servicing the Securitization Bonds without interruption. The Servicer may be terminated from its responsibilities in certain cases upon a majority vote of holders of the Securitization Bonds. Pet. Ex. 3 at 22; Pet. Ex. 2, Attachment BAJ-7.

CEI South requested approval of Securitization Charges sufficient to recover the Qualified Costs as described in this Financing Order. Securitization Charges will be calculated to ensure the collection of an amount sufficient to service the principal, interest, and related charges for the Securitization Bonds and in a manner that allocates this amount to all customers served by CEI South as provided in this Financing Order or as otherwise ordered by the Commission.

...(2) Ensure, through proposed Securitization Charges, as set forth by the electric utility in the application, the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the Securitization Bonds."

CEI South proposed that the Securitization Charges be calculated as a volumetric rate using the budgeted kWh sales for each tariff class, with the exception of Residential (“RS”), Small General Service (“SGS”), and Demand General Service (“DGS”), which will be divided by effective sales in kWh to employ a “Minimum Bill” approach for these customer classes containing the majority of CEI South’s Net Metering (“NM”) and Excess Distributed Generation (“EDG”) customers. Rate OSS customers will also be subject to a minimum bill using the methodology employed for DGS customers. The proposed calculation is designed to ensure the Securitization Charges are non-bypassable for these classes in compliance with the Securitization Act. Pet. Ex. 8 at 10-11; Attachment MAR-1. The Securitization Charges will be adjusted at least annually pursuant to the adjustment mechanism described below.

The Securitization Charges shall be billed until legal maturity of the Securitization Bonds, which is seventeen (17) years, and collected until the billed amounts are paid.

The Securitization Charges will become effective upon the issuance of the Securitization Bonds.

The Securitization Charges are irrevocable and not subject to reduction, impairment, or adjustment by further action of the Commission except as provided in Ind. Code § 8-1-40.5-10(h) (referring to a request by an electric utility for authorization to retire and refund previously authorized securitization bonds) and Ind. Code § 8-1-40.5-12(c) (providing a true-up mechanism whereby the securitization charges are reviewed at least annually to correct for any over or under collections and to ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the securitization bonds). The Securitization Charges are non-bypassable and must be paid by all customers and customer classes of the electric utility. Securitization bonds issued under a Financing Order of the Commission under Ind. Code § 8-1-40.5-10 are binding in accordance with their terms, even if the Financing Order is later vacated, modified, or otherwise held to be invalid in whole or in part. Ind. Code § 8-1-40.5-10(g).²⁸ The State of Indiana has pledged that it will not take or permit any action that impairs the value of securitization property or reduces, alters (except as provided in Ind. Code § 8-1-40.5-12(c)) or impairs securitization charges to be imposed, collected, and remitted to financing parties under Ind. Code ch. 8-1-40.5 until the principal, interest, and premium, and other charges incurred, or contracts to be performed, in connection with the related securitization bonds have been paid or performed in full. Ind. Code § 8-1-40.5-16(b). A true-up adjustment mechanism (or “adjustment mechanism”), as described in Ind. Code § 8-1-40.5-12(c), and as authorized by the Commission in this Financing Order, shall be used to make necessary corrections at least annually, to (a) adjust for the over-collection or under-collection of Securitization Charges, or (b) to ensure the timely and complete payment of the Securitization Bonds and other required amounts and charges in connection with the Securitization Bonds. In addition to the annual true-up, more frequent periodic true-ups may be performed as necessary to ensure that the amount collected from Securitization Charges is sufficient to service the Securitization Bonds and ensure timely and complete payment of other required amounts and charges in connection with the Securitization Bonds. The methodology for making true-up adjustments under the adjustment mechanism and the circumstances under which any such adjustment shall be made are described in Section 8 below.

5. Overview of the Evidence.²⁹

²⁸ A Financing Order is subject to appeal under Ind. Code ch. 8-1-3.

²⁹ To avoid unnecessary duplication, more detailed summaries of the evidence are included with the relevant findings below.

Petitioner's Case-in-Chief included the following, as described in greater detail throughout this Order:

Testimony of Richard C. Leger (Pet. Ex. 1)

Mr. Leger provided an overview of CEI South's request that the Commission issue a financing order authorizing CEI South to finance the retirement of electric utility generation assets through the issuance of Securitization Bonds. Mr. Leger also described CEI South's planned future investments, including for the period 2022-2026, which exceed its Qualified Costs.

Testimony of Brett A. Jerasa (Pet. Ex. 2)

Mr. Jerasa described the proposed securitization transaction and presented an analysis showing the net present value of the total Securitization Charges to be collected under this Financing Order as less than the amount that would be recovered through traditional ratemaking if Petitioner's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years. Mr. Jerasa also explained rating agency considerations associated with the securitization and explained how the true-up mechanism under Indiana Code § 8-1-40.5-12(c) will work. He also described the anticipated costs to issue and maintain the Securitization Bonds as well as the use of the proceeds from the Securitization Bonds. Mr. Jerasa sponsored the proposed form of Financing Order, as well as drafts of the basic documents to be used in the securitization.

Testimony of Eric K. Chang (Pet. Ex. 3)

Mr. Chang provided a brief history and overview of the securitization market, including the structural features of commercial securitization transactions. He described key structural and security features of utility securitizations and discussed structuring, sale, and pricing considerations of utility securitizations. Mr. Chang also described the rating agency process and the marketing process for utility securitizations. He described the costs of issuance associated with utility securitizations generally, and specifically the estimated costs of issuance for CEI South's first Securitization Bonds.

Testimony of Jessica L. Thayer (Pet. Ex. 4)

Ms. Thayer addressed the criteria CEI South must satisfy for the Commission to approve the issuance of Securitization Bonds and collect Securitization Charges. In addition, Ms. Thayer sponsored the book values associated with the generation units to be retired with this securitization.

Testimony of Jeffrey T. Kopp (Pet. Ex. 5)

Mr. Kopp described CEI South's Decommissioning Cost Study prepared by 1898 & Co. for the generation units to be retired with this securitization.

Testimony of Ryan P. Harper (Pet. Ex. 6)

Mr. Harper described the SPE to be created for purposes of consummating the securitization transactions. He also provided the accounting entries associated with the proposed securitization, described how customers will continue to receive the benefits of accumulated deferred income taxes ("ADIT") associated with generation units to be retired through an ADIT credit, and he also calculated the revenue requirement reduction to reflect a reduction in rate base associated with Securitization Bond proceeds.

Testimony of Benjamin D. Vallejo (Pet. Ex. 7)

Mr. Vallejo addressed the specific income tax requirements that must be met in order for the initial securitization proceeds to be non-taxable. He also explained why there is no need to include a tax gross-up on future securitization payments in the Qualified Costs.

Testimony of Matthew A. Rice (Pet. Ex. 8)

Mr. Rice provided the calculation of the (i) Securitization Charges, (ii) an annual credit for accumulated deferred income tax associated with A.B. Brown Units 1 and 2 (the “ADIT credit”), and (iii) the securitization credit to effect removal of Qualified Costs from rate base until the next rate case order when they will be removed from current rates. Mr. Rice proposed a methodology for allocation of revenue requirements to facilitate the Securitization Charges described by Witness Jerasa and the revenue requirement created to facilitate removal of Qualified Costs from rate base, as described by Mr. Harper. Mr. Rice also supports three tariffs: one to facilitate the securitization of Qualified Costs associated with retirement of two generation units (the Securitization of Coal Plants (“SCP”) Tariff), a temporary tariff to facilitate the removal of Qualified Costs from the existing rates (the Securitization Rate Reduction (“SRR”) Tariff), and a tariff to reflect the ADIT credit (the Securitization ADIT Credit (“SAC”) Tariff). Finally, Mr. Rice described the true-up mechanisms that will be used to make necessary corrections to adjust for the overcollection or under-collection of Securitization Charges, or to ensure the timely and complete payment of Securitization Bonds, financing costs, and other amounts due in connection with the Securitization Bonds.

Testimony of Ralph N. Zarumba (Pet. Ex. 9)

Mr. Zarumba provided testimony to describe the proposed assessment of Securitization Charges to customers, including a minimum bill mechanism and Petitioner’s proposed treatment of street lighting customers.

The OUCC filed the following Case-in-Chief testimony, described in greater detail throughout this Order:

Testimony of Caleb Loveman (Public’s Ex. No. 1)

Caleb R. Loveman, Assistant Director in the Electric Division at the OUCC, testified that securitization can be an effective tool, but CEI South’s case-in-chief is severely deficient in ensuring ratepayers’ interests will be protected and represented during the post-financing order process of the Ratepayer Backed Bonds (“RBB”). Public’s Exhibit No. 1, page 1, lines 18-21. Mr. Loveman recommended the Commission approve CEI South’s request subject to recommendations made by OUCC witnesses. *Id.* page 2, line 7 to page 4, line 6. Mr. Loveman also introduced other OUCC witnesses. *Id.* page 5, line 13 to page 7, line 7.

Mr. Loveman recommended denial of CEI South’s proposal to apply a minimum bill to four of its customer classes and accept the OUCC’s proposal to allocate the SCP Tariff on a net kWh outflow to CEI South’s customers prior to any netting on a customer’s bill, exclusive of CEI South’s streetlighting customers. Mr. Loveman also recommended CEI South allocate its proposed ADIT Credit Rider and SAC Tariff in the same manner as the OUCC’s proposal to allocate CEI South’s proposed SCP Tariff. *Id.* page 8, line 18 to page 14, line 4. Mr. Loveman also recommended CEI South adjust its qualified costs to be the net book value of the Brown Units at the expected time of retirement, February 28, 2023, and not the date of the expected RBB issuance, February 28, 2023, in compliance with I.C. § 8-1-40.5-6. *Id.* page 14, line 5 to page 16, line 5. Further, Mr. Loveman recommended CEI South update its Cause No. 44910 TDSIC-XX Tracker to reflect the updated excess ADIT credit upon issuance of a final order in this cause. *Id.* page 16, line 6 to page 17, line 11.

Testimony of Leja Courter (Public's Ex. No 2)

Leja D. Courter, Chief Technical Advisor at the OUCC, testified the financial consequences of the securitization will cost CEI South's customers around \$350 million. The OUCC and its consultant need to actively participate in the post-financing order processes to ensure CEI South's customers' interests are well represented. Public's Exhibit No. 2, page 2, lines 9-12. Mr. Courter testified the OUCC is not opposed to securitization. However, the participation of the OUCC, as the statutory representative of Indiana ratepayers, is necessary to ensure the lowest securitization charges for the structuring, marketing, and pricing of the RBBs, maximizing savings for CEI South's customers. Otherwise, there is little to no incentive for CEI South to ensure the lowest securitization charges. *Id.*, lines 16-20.

Mr. Courter recommended the OUCC and Saber Partners, LLC, the OUCC's consultant in this proceeding, fully participate in negotiations throughout the post-financing order structuring, marketing, and pricing discussions until the RBBs are issued. He recommended CEI South and the OUCC have joint decision-making authority. *Id.*, page 2, line 22 – page 3, line 2. Alternatively, Mr. Courter recommended the OUCC and its consultant should fully participate in negotiations, but CEI South would have the final and sole decision in each phase – structuring, marketing, and pricing of the bonds. However, the OUCC would submit a filing, recommending approval or denial of the transaction for the Commission's consideration. *Id.*, page 24, line 20 – page 25, line 2.

Mr. Courter also recommended CEI South and the OUCC file certifications as to whether the Issuance Advice Letter is consistent with market conditions and the terms of the financing order and is just and reasonable pursuant to the statute. Ind. Code §§ 8-1-40.5-10(d)(3) and (6). *Id.*, page 26, lines 4-7. In conclusion, Mr. Courter recommended detailed information explaining the securitization charge be provided to customers within 30 days of issuance of the bonds, and CEI South coordinate with the OUCC regarding securitization-related correspondence with customers. *Id.*, lines 8-11.

Testimony of Joseph Fichera (Public's Ex. No 3)

Joseph S. Fichera, Chief Executive Officer of Saber, described the structure of the capital markets and the history of RBBs within it. Mr. Fichera testified on the three phases of the Financing Order process and described how the post-Financing Order process is the most important part of the process for ratepayers. Mr. Fichera further described the “best practices” identified from other state commissions in a post-Financing Order / pre-bond issuance process that involve a final decision by the commission that uses an “Issuance Advice Letter” process similar to the one proposed by CEI South. Mr. Fichera recommended the involvement of the OUCC and its financial advisor in the bond issuance process to ensure the pricing, marketing, and issuance of the securitization bonds result in the lowest cost possible for ratepayers. Finally, Mr. Fichera testified to show how the “best practices” prevent customer losses and achieve greater customer savings. Public's Exhibit No. 3, page 7, line 1 to page 8, line 2.

Testimony of Rebecca Klein (Public's Ex. No. 4)

Rebecca Klein, Principal of Klein Energy LLC, member of the Advisory Board of Saber, and former Chair of the Public Utility Commission of Texas (PUCT) testified of the importance and benefits of incorporating a lowest securitization cost standard when establishing a new RBB program. Ms. Klein also testified on actions taken at the Public Utility Commission of Texas in tandem with its independent financial advisor, that resulted in the lowest securitization cost with market conditions and terms of the financing orders. Finally, she explained why having an entity with a statutory duty to ratepayers, the OUCC, is instrumental in reaching a “lowest cost” standard.

Testimony of Hyman Schoenblum (Public’s Ex. No. 5)

Hyman Schoenblum, Senior Advisor to Saber, testified on the importance of active ratepayer involvement, through experts and independent advisors, in the structuring, marketing, and pricing of CEI South’s proposed RBB offering. Mr. Schoenblum also testified on the differences between regulatory oversight applied to RBBs and the oversight applicable to traditional utility debt offerings and why intense oversight is necessary for RBB transactions. Mr. Schoenblum testified on how the two types of bonds do not provide the same incentives to achieve the lowest cost for customers and briefly discussed why the “lowest cost” standard for ratepayers is appropriate for securitization transactions. Finally, Mr. Schoenblum addressed the importance of independent fiduciary opinions to ensure ratepayers are receiving the maximum benefits of CEI South’s proposed RBB transaction.

Testimony of Brian Maher (Public’s Ex. No. 6)

Brian A. Maher, Senior Advisor to Saber, testified on the appropriate relationship between the OUCC, with its independent experts and advisors, and the other key parties in the RBB transaction. Mr. Maher explained what a fiduciary relationship in a financial transaction means and how it applies to this proceeding. Specifically, he highlighted that the lack of fiduciary responsibility to the ratepayers on the part of CEI South and the underwriters is the key reason why the OUCC and the Commission need to be actively involved in every aspect of the bond issue. Based on his experience as a AAA/Aaa bond issuer that interacted with underwriters and investors on the sale of securities, Mr. Maher explained some of the dynamics of the market and why just achieving a AAA/Aaa rating does not guarantee the lowest cost of funds at any given time. Finally, Mr. Maher discussed the need for certifications from the various parties, so the Commission has the essential evidence to consider when it makes its final decision.

Testimony of Paul Sutherland (Public’s Ex. No. 7)

Paul Sutherland, a senior advisor with Saber Partners, discussed and demonstrated how to maximize ratepayer benefits from Ratepayer Backed Bonds, and ways that benefit can be measured and maximized through optimal structuring and application of best practices by a Bond Team, which would include the Petitioner, the OUCC, and their advisors. Mr. Sutherland also testified how negotiated bond pricing can be evaluated. He further discussed how ratepayers can save up to an additional \$15.6 million on a net present value basis, which is a 35% increase, by extending the final scheduled maturity beyond the 15 years proposed by Petitioner. Mr. Sutherland also pointed out several misleading or erroneous statements, calculations or assumptions by Petitioner’s witnesses, and suggested other changes to the proposed financing order, including using provisions similar to those in other securitizations to prevent overcollection of servicing fees and to ensure prompt refunding of excess charges collected after the final bond payment is made.

Testimony of Steven Heller (Public’s Ex. No. 8)

Steven Heller, President of Analytical Aid, and a consultant to Saber, testified about the function of the RBBs’ modeler and structuring agent and provided insight into the different perspectives and objectives of the structuring agent when working for an investment bank, opposed to when the structuring agent is an independent member of the financing team. Mr. Heller also testified on the time it typically takes to complete the RBB process, how RBBs would be marketed, and discussed the “optimal” structure for CEI South’s proposed RBB issuance.

Testimony of Shawn Dellinger (Public’s Ex. No. 9)

OUCU Utility Analyst Shawn Dellinger testified regarding CEI South's request to earn a return at its weighted average cost of capital on the initial equity contribution to the special purpose entity of approximately \$1.8 million. He recommended this return be set at the investment returns that this capital subaccount generates.

Testimony of Wes Blakley (Public's Ex. No. 10)

OUCU Senior Utility Analyst Wes R. Blakley testified on CEI South's proposal to account for the removal and restoration costs that may exceed the approximately \$27 million estimate. Mr. Blakley testified if removal and restoration costs exceed the securitized removal and restoration costs included in the RBB, those costs should be charged to accumulated depreciation. Mr. Blakley also testified regarding CEI South's calculation of its proposed SRR annual credit to its customers, specifically with the calculation of the return component in the SRR. CEI South proposed calculating the "return on" component of the SRR using the estimated original book cost of the Brown Units, net of estimated accumulated depreciation and cost of removal as of February 28, 2023. Mr. Blakley proposed a different credit calculation for the return component based on what CEI South customers are actually paying on the Brown Units as of the end of the test year in CEI South's last rate case in Cause No. 43839. By including the return "on" actually paid by customers in current rates on the Brown Units, customers should receive a \$35,454,496 credit for return on assets to be included in the SRR.

Citizens Action Coalition filed the following Case-in-Chief testimony, described in greater detail throughout this Order:

Testimony of Ben Inskeep (CAC Ex. No. 1)

Mr. Inskeep made the following recommendations:

1. CEI South's proposed Minimum Bill should be rejected as it is non-compliant with the plain language of the Securitization Statute, securitization best practices, and just and reasonable rates and instead approve CAC and the OUCU's proposed alternative to assess non-bypassable per-kWh-based Securitization Charges and Credits based on all customers' gross imported electricity usage in the billing month for the following major reasons:
 - a. The Minimum Bill would result in a net bill *increase* for some customers as a result of securitization, contrary to the utility's claims that its securitization proposal is a "win-win" for the utility and its customers.
 - b. The Minimum Bill, justified by CEI South as a mechanism to make Securitization Charges non-bypassable for NEM and EDG customers, would create severe collateral damage because it would primarily impact non-NEM and non-EDG customers, including low-income customers and customers on fixed incomes.
 - c. The Minimum Bill allows CEI South to overcollect Securitization Charges from some customers and undercollect them from other customers, creating an undesirable cost shift and rates that are not based on cost causation.
 - d. The Minimum Bill threshold is arbitrary and not adequately justified by CEI South.
 - e. The Minimum Bill applicability to only select rate classes is discriminatory and could enable certain customers to bypass Securitization Charges.

CAC Ex. 1 at 11-24.

2. The Commission should approve a securitization bond structure that maximizes the net present value of the securitization benefits from the ratepayers' perspective, including increasing the term from 15 years to 18 years minimum, or 19 years if feasible. He testified that CEI South's concerns about intergenerational equity are not persuasive in this instance given the significant and tangible benefits ratepayers would realize from a modestly longer securitization term. CAC Ex. 1 at 25-27.
3. The Commission should deny a return on CEI South's equity contribution, or, in the alternative, approve a return on the equity contribution that is no larger than the interest rate on the longest tranche of the securitization bond. CAC Ex. 1 at 27-28.
4. The Commission should deny CEI South's proposal to prohibit stakeholder participation in the post-financing order process and instead modify the financing order to allow for one or more ratepayer representatives to both observe and fully participate in the post-financing order process and decision-making. Furthermore, all intervenors in this proceeding should be kept apprised of developments during this process and have the opportunity to provide comments to the Commission on the draft and final advice letters, and the Commission should have at least two business days to review the final advice letter. CAC Ex. 1 at 28-35.
5. The Commission should adopt a lowest cost standard and accordingly modify CEI South's financing order to require fully accountable certifications from the lead underwriter(s), CEI South, and a ratepayer representative that the actual structure, marketing, and pricing of the securitization bonds resulted in the lowest Securitization Charges consistent with then-prevailing market conditions and the terms of the financing order and other applicable law. CAC Ex. 1 at 33-35.

The CenterPoint Energy Indiana South Industrial Group filed the following Case-in-Chief testimony, described in greater detail throughout this Order:

Testimony of Michael Gorman (IG Ex. No. 1)

Mr. Gorman made the following recommendations:

1. Securitized costs should be synchronized with the actual issuance of bonds and the implementation of revenue credits, and the ADIT balance, and all additional ADIT balances that may be available to the utility after the plant is fully retired and written off for tax purposes. Mr. Gorman explained that these measures are necessary to ensure that customers receive the maximum benefits associated with the securitization bonds. IG Ex. 1 at 4, 8, 12-15, 26.
2. The costs associated with handling coal ash for the retiring Brown units should be securitized. Mr. Gorman explained that these costs should be included in the proposed securitization to reflect their connection to the operation of the retiring plant and to limit the overall cost impact on ratepayers. IG Ex. 1 at 4, 8-9, 18-21.
3. The contingency component of decommissioning costs should be removed from qualified costs included in the securitization bonds. Mr. Gorman explained that these costs are not known and measurable and would have to be paid over the life of the bonds. He recommended that to the extent the decommissioning cost estimate needs

to be trued up later, it should be dealt with when the costs are fixed, known, and measurable. IG Ex. 1 at 4, 9, 16-18.

4. The Company's proposed SCP tariff adjustment should be adjusted to extend that maturity date of the securitized bonds to lower the annual revenue requirement and reduce the net present value of costs. Mr. Gorman explained that doing so would decrease the annual revenue requirement and reduce the net present value of costs. IG Ex. 1 at 4, 9, 22.
5. The SAC Tariff should be adjusted to add any additional amounts of ADIT related to the Brown Units that can be recorded after the plant is written off from plant in-service to a regulatory asset, including the environmental upgrades. Mr. Gorman explained that doing so would ensure that customers will receive the full deferred tax benefits associated with Brown Units 1 & 2, and the environmental upgrades, as a credit offset to customers' burden of paying the securitization charges in this case. IG Ex. 1 at 4, 9-10, 26-30.
6. The SRR tariff should be amended to credit customers for O&M costs currently in base rates after the Brown Units are retired and refinanced using securitization bonds. He explained that Company will no longer be incurring the same level of costs, and therefore customers should be made whole for the direct termination of expenses or avoidance of ongoing fixed O&M and working capital requirements for these units. IG Ex. 1 at 4, 10-11, 30-36.
7. The proposed rate design for Rates LP, HLF, and BAMP should be changed in order to recover the SCP on a per KVA basis rather than a volumetric KWh basis. Mr. Gorman explained that this change is necessary to ensure that the costs recovered from customers served under those rates continue to reflect the method the Company currently uses to recover its fixed production costs. He further explained that that the Company's proposal for these rates will unjustifiably shift cost responsibility among customers within rate classes based on their load factor characteristics, creating an intraclass subsidy. IG Ex. 1 at 4, 9, 23-25. Mr. Gorman also recommended that CEI South's proposed credits, the SAC and SRR, be provided to customers on Rates LP, HLF and BAMP through the demand charge component of their bill. *Id.*
8. Saber Partners should be retained to represent consumer interests in the bond issuance process. He explained that neither the utility nor the underwriter represents the public interest, and therefore the IURC should ensure that an expert working on behalf of customers is involved in the underwriting process to help represent and safeguard the interest of the public. IG Ex. 1 at 4-5, 11, 36-37.

Reliable Energy filed the following Case-in-Chief testimony:

Testimony of Michael Nasi (Reliable Energy Ex. 1)

Michael J. Nasi testified on the background of securitization rules in Indiana and a related standard of review, the history and use of securitization proceedings by utilities, and a prudence review necessity. Mr. Nasi indicated CEI South has created a problematic circumstance that essentially avoids any prudence review of its asset retirements through a securitization proceeding, resulting in potential reliability issues throughout the Midcontinent Independent System Operator region. Mr. Nasi concluded CEI South's proposal is not just and reasonable under the current energy market conditions (Intervenor Reliable Energy's Exhibit No. 1, p. 4, lines 3-14).

Testimony of Emily Medine (Reliable Energy Ex. 2)

Emily S. Medine testified that CEI South's proposal is not just and reasonable due to the unintended consequences that will negatively impact customer's rates and services. Ms. Medine testified the proposed permanent and irrevocable securitization is imprudent in a rapidly changing energy market, the request is inflated because it makes no adjustment for A.B. Brown operating costs CEI South is recovering through base rates but not after the plant's retirement, it is clear under CEI South's proposal that ratepayers will have demonstrated savings post securitization, and there are alternatives the Commission should consider in place of CEI South's proposal. She concluded CEI South's proposal is not just and reasonable (Intervenor Reliable Energy's Exhibit No. 2, p. 3, line 17, to p. 4, line 11).

The Petitioner's rebuttal testimony included the following, as described in greater detail throughout this Order:

[Joint Parties accept CEI South's rebuttal testimony summary]

Rebuttal Testimony of Richard Leger (Pet. Ex. No. 1-R)

Rebuttal Testimony of Brett Jerasa (Pet. Ex. No. 2-R)

Rebuttal Testimony of Eric Chang (Pet. Ex. No. 3-R)

Rebuttal Testimony of Jessica Thayer (Pet. Ex. No. 4-R)

Rebuttal Testimony of Ryan Harper (Pet. Ex. No. 6-R)

Rebuttal Testimony of Benjamin Vallejo (Pet. No. 7-R)

Rebuttal Testimony of Matthew Rice (Pet. No. 8-R)

6. Commission Discussion and Findings.

Indiana Code § 8-1-40.5-10(b) states:

Not later than two hundred forty (240) days after the date a petition is filed by an electric utility under subsection (a) [Ind. Code § 8-140.5-10(a)], the commission shall conduct a hearing and issue an order on the petition. The commission shall approve the issuance of securitization bonds, the collection of securitization charge, and the encumbrance of securitization property with a lien and security interest under section 15 [Ind. Code § 8-1-40.5-15] if the commission: (1) makes the findings set forth in subsection (d) [Ind. Code § 8-1-40.5-10(d)]; and (2) finds that the net present value of the total securitization charges to be collected under the commission's financing order under this section is less than the amount that would be recovered through traditional ratemaking if the electric utility's qualified costs were included in the electric utility's net original cost rate base and recovered over a period of not more than twenty (20) years.

In issuing this Financing Order, the Commission makes the findings and determinations provided below. As a preliminary matter, the Commission finds that Petitioner owns or operates electric generation facilities for the provision of electric utility service to Indiana customers, is under the jurisdiction of this Commission, and has a total of not more than 200,000 retail electric customers at the time of its petition in this matter. As such, Petitioner is an "electric utility," as that

term is defined in Ind. Code §8-1-40.5-3. The Commission further finds that Petitioner has demonstrated, in satisfaction of Ind. Code § 8-1-40.5-6, that the two electric utility generation assets to be retired as provided for under this Financing Order, A.B. Brown Generating Station Units 1 and 2, will be retired from service not later than twenty-four (24) months after the filing of the Petition in this case. Pet. Ex. 4 at 5. In addition, in compliance with Ind. Code § 8-1-40.5-10(a), the Qualified Costs (as determined below), are at least five percent (5%) of Petitioner's total jurisdictional electric rate base of \$1,659,751,577. Pet. Ex. 4 at 5.³⁰ Petitioner has also demonstrated, in satisfaction of Ind. Code § 8-1-40.5-13(c) that it has not received an order from this Commission approving the recording of a regulatory asset to recover the net book value of the retiring electric utility generation assets. Pet. Ex. 6 at 8.

A. Findings under Ind. Code § 8-1-40.5-10(d).

i. Determination of Amount of Qualified Costs.

a) Overview of the Amount of Qualified Costs.

In issuing a financing order under Ind. Code § 8-1-40.5-10(b), the Commission must make a determination of the amount of the electric utility's Qualified Costs. Qualified Costs are defined as:

with respect to an electric generation facility that will be retired from service by an electric utility not later than twenty-four (24) months after the filing of a petition by the electric utility under section 10 of this chapter, the net original cost of the facility and any associated investments, as reflected on the electric utility's accounting system, and as adjusted for depreciation to be incurred until the facility is retired, together with:

(1) costs of:

(A) removal; and

(B) restoration, as applicable;

of the facility, any associated improvements, and facility grounds;

(2) the applicable portion of investment tax credits associated with the facility and any associated investments;

(3) costs of issuing, supporting, and servicing securitization bonds;

(4) taxes related to the recovery of securitization charges; and

(5) any costs of retiring and refunding the electric utility's existing debt and equity securities in connection with the issuance of securitization bonds.

Ind. Code § 8-1-40.5-6; Ind. Code § 8-1-40.5-10(d)(1).

CEI South witness Jerasa presented a summary of the total expected Qualified Costs as of February 28, 2023³¹ as follows:

³⁰ The best estimate of the total jurisdictional rate base at the time synchronized with the best estimate of qualified costs at time of anticipated bond issuance is \$1,859,485,002. Verified Petition, Paragraph 2.C.

³¹ Summary assumes that issuance of the Securitization Bonds would be February 28, 2023. To the extent the actual issuance is later than that date, it would cause relative Qualified Costs (all else being equal) to be approximately \$2.0 million per month less. Pet. Ex. 2 at 29; Pet. Ex. 6 at 8 n.6.

**Table BAJ-1:
Summary of Qualified Costs as of 2/28/2023**

Type of Cost	Amount as of 2/28/2023
Brown 1 & 2 Original Cost	\$798,297,876
Accumulated Depreciation (excluding Cost of Removal)	(534,035,130)
Cost of Removal Reserve	(6,042,788)
Regulatory Asset	59,557,019
Estimated Total Cost to Decommission, Demolish and Restore Site	26,771,245
Subtotal	344,548,222
Estimated Expert Support Costs	\$885,000
Estimated Cost to Issue Securitization Bonds	\$4,691,778
Estimated Total Qualified Costs subject to securitization at issuance	\$350,125,000
Estimated Ongoing Fees	\$9,272,933
Estimated Total Qualified Costs ³²	\$359,397,933

Pet. Ex. 2 at 8-9.

Mr. Jerasa explained the amount of Qualified Costs to be included in the Securitization Bond offering is estimated to be approximately \$350 million, in addition to approximately \$9 million in Qualified Costs associated with servicing and supporting Securitization Bonds. Accordingly, CEI South estimates the total of Qualified Costs to be \$359,397,933. *Id.*

b) Reusable Assets.

CEI South witness Thayer provided direct testimony in support of the book values associated with the retiring electric utility generation assets (i.e., Brown Units 1 and 2), including the current and projected gross plant balances and current and projected depreciation of the assets. Pet. Ex. 4 at 5-7; Attachments JLT-2 and JLT-3. Ms. Thayer described the current and projected depreciation reserve corresponding to the cost of removal and provided an inflation adjustment to the projected cost presented by CEI South witness Kopp to decommission, demolish and restore the site of the retiring electric generation assets. *Id.* at 8-9. Ms. Thayer also provided the December 31, 2021 Brown Units 1 and 2 original cost, accumulated depreciation (excluding cost of removal) and cost of removal balances by Federal Energy Regulatory Commission (“FERC”) Uniform System of Account (“USOA”) number. Pet. Ex. 4, Attachment JLT-2. She explained that reused plant assets are excluded from the balances included in the summary of Qualified Costs from the table above (Table BAJ-1). Ms. Thayer provided a breakdown of retired and reused asset components in Attachment JLT-3 to Pet. Ex. 4, which also gives the projection of each of the balances forward to February 28, 2023, by incorporating projected capital additions, retirements, depreciation, and cost

³² Estimate does not include interest on securitization bonds.

of removal accruals. Pet. Ex. 4 at 6. Ms. Thayer also described the capital projection process and testified that the book depreciation rates utilized to calculate jurisdictional electric rate base and undepreciated plant balances were the depreciation rates approved in CEI South's last base rate case (Cause No. 43839, Order issued April 27, 2011). *Id.* at 6-7.

Ms. Thayer explained the difference between the Qualified Costs incorporated in the figures in Table BAJ-1 above and the items as they will be reflected in CEI South's accounting records as of February 28, 2023. Pet. Ex. 4 at 7. CEI South witness Harper explained that most of the original cost associated with the retiring assets, net of accumulated depreciation, will be moved into a regulatory asset upon the issuance of a final order in this proceeding. Pet. Ex. 6 at 9-10. As discussed in greater detail below, approximately \$6 million of the original cost of the retiring assets will remain in plant-in-service to cover the amount of depreciation expense that will be incurred on the approximately \$798 million total gross Brown Units 1 and 2 plant cost between the date of the Financing Order in this Cause and the date Securitization Bonds are issued, utilizing currently approved depreciation rates. Pet. Ex. 4 at 7; Pet. Ex. 6 at 9.

Mr. Gorman testified regarding reusable assets, comparing what CEI South witness Thayer stated in Direct testimony at page 12 with what the Company said in its Objection to OUCC's Petition for Reconsideration in IURC Cause No. 45564 ("Objection"). IG Ex. 1 at 18-19. He testified that the Company's Objection indicates that a significant portion of the costs identified as "reused" in the Company's case-in-chief in this Cause, such as the Ash Pond and related ash handling costs, are not going to serve the new CTs. *Id.* at 19.

Mr. Gorman also testified that to the extent the reused costs have "nothing to do with" the new CTs, as CEI South's Objection indicates, then CEI South should finance the costs in a manner that minimizes costs to its retail customers. *Id.* at 20. Mr. Gorman explained that the Company's decommissioning study anticipates restoring the Brown coal unit site to allow it to operate CTs, but the Company can still fully recover all costs associated with the Brown facility using securitization bonds. *Id.* To the extent doing so benefits its retail customers via reduced annual costs, Mr. Gorman recommended that the Company should be required to do so. *Id.* Mr. Gorman also stated that securitizing these costs will reduce costs to customers and fully compensate CEI South for the unrecovered investment costs. *Id.*

Mr. Gorman testified that the fact the items specific to retiring Brown coal units will remain on the site alongside the new gas CTs does not mean that the new gas CTs will actually be using or will need the coal ash handling assets. *Id.* He explained that the mere fact the ash handling assets will still operate into the future to remove ash from the site for recycling by a third party offsite does not mean that they should not be subject to securitization. *Id.* Mr. Gorman further explained that ash handling investments are still part of a plan to handle waste from the coal plants when used to provide service and that these coal investment costs should be retired alongside the rest of the retired coal plant. *Id.* He clarified the assets do not have a clear intended purpose for supporting the operation of the CTs, but rather are assets that were needed to operate the coal units. *Id.* Mr. Gorman estimated that the approximate amount of this investment was \$80 million, based on a direct quote taken from CEI's South Objection. *Id.* Mr. Gorman noted that refinancing this investment with securitization bonds will benefit customers through lower charges, make CEI South whole, and limit traditional utility capital for infrastructure needed to operate the CTs. *Id.*

Mr. Gorman testified that leaving these new assets in base rates, where they will be subject to a return of, and on, CEI South's authorized rate of return—instead of securitizing them along with the rest of the Brown coal units—will significantly and unnecessarily drive up costs for ratepayers for assets that have not yet been proven to be needed to operate the CTs. *Id.* at 21. He

noted the Indiana General Assembly has made securitization available to address costs of retiring plants; therefore, CEI South should be utilizing this mechanism to address the costs of handling coal ash at the Brown site in order to reduce costs to ratepayers. *Id.*

In rebuttal, CEI South challenged Mr. Gorman's position based on two legal arguments, neither of which are availing. First, CEI South incorrectly suggested that the coal ash handling costs do not meet the definition of "qualified costs" in I.C. § 8-1-40.5-6 ("Section 6") because the costs will not be retired within 24 months of CEI South's petition initiating this Cause. Pet. Ex. 4-R at 5. However, the plain language of the statute does not require that restoration costs be retired within 24 months. Instead, it requires only that the "electric generation facility" be retired within 24 months of the filing of the petition.

In contrast, coal ash handling costs are addressed by Section 6(1)(B) because they constitute the costs of "restoration of the facility, associated improvements, and facility grounds." The statute plainly does not require that costs of "restoration" of the facility under Section 6(1)(B) be retired within 24 months of the petition in order to meet the definition of "qualified costs." Indeed, the statute treats those costs as "qualified costs" "together with," but apart from, the value of the electric generation facility subject to securitization. Because the coal ash handling costs are restoration costs, such costs need not be retired within 24 months in order to be included in the securitization bonds. Accordingly, the coal ash handling costs meet the definition of "qualified costs" pursuant to Section 6(1)(B).

Second, CEI South contends that the Company cannot be forced to securitize the coal ash handling costs, citing I.C. § 8-1-40.5-13(b). Pet. Ex. 4-R at 6. This subsection of the Securitization Act provides, "This chapter does not prohibit an electric utility from requesting, or the commission from approving, alternative methods for recovery of the costs of an electric generation facility upon retirement." Yet by its plain terms, this statute does not diminish the Commission's authority over the scope of the securitization bonds. It simply permits a utility to "request" an alternative method for recovery of retired assets, and empowers the Commission to grant such approval.

Finally, CEI South's "voluntary" argument ignores the procedural posture of this case, in which securitization bonds are already being proposed. The question at issue is the proper scope of assets to be included in any securitization bonds authorized by the Commission, not whether the Commission should require the utility to pursue securitization.

We denied CEI South's Motion to Strike Mr. Gorman's testimony at the evidentiary hearing and again reject the Company's contention that the statute prohibits securitization of the coal ash handling costs. The plain language of I.C. § 8-1-40.5-6 requires only that the electric generation facility be retired within 24 months after the filing of a petition. It does not require that "removal" and "restoration" costs like the coal ash handling costs be retired within 24 months. Instead, the statute specifically separates those types of costs and imposes no temporal limitation upon them, clearly contemplating the possibility that post-closure removal and restoration activities may occur at a later date than retirement of the plant.

These coal ash handling costs constitute investment to serve the retiring Brown units and will not be needed to serve the new natural gas-powered CTs planned for the Site. Securitizing these costs would have presented a significant benefit to customers by removing plant that will not be used to serve the new CTs from base rates. In addition, this approach would have been consistent with the overall purpose of the Securitization Statute, which is to reduce costs to ratepayers for the retirement of generation assets versus those which would be imposed on ratepayers under traditional ratemaking.

CEI South has chosen to forego this option of offering significant additional savings to ratepayers by refinancing the coal ash handling costs. Though CEI South contends the Commission lacks authority to require CEI South to securitize the bonds, we find no such limitation of our authority in the Securitization Statute. Nevertheless, we find the appropriate method of addressing CEI South's decision to voluntarily forego the savings it could have offered ratepayers is by considering this decision as part of the overall case in order to ensure the final result is just and reasonable.

In particular, we find CEI South's decision not to securitize the maximum amount of plant possible provides additional basis to support our decision requiring other adjustments to CEI South's proposal. This includes, but is not limited to, our finding that CEI South shall credit customers with the O&M associated with the retired Brown units upon their retirement.

c) Regulatory Assets.

The Qualified Costs also include some of CEI South's existing regulatory assets associated with the retiring assets. Mr. Harper explained these regulatory assets are associated with Mercury and Air Toxics Standards (MATS) and dense pack investments at A.B. Brown, and include amounts for deferred depreciation, post in-service carrying costs as well as the 20% deferred portion of the revenue requirement for MATS spend approved in CEI South's Environmental Cost Adjustment ("ECA") annual filings – Cause No. 45052 ECA-XX. The total of these regulatory assets to be included in Qualified Costs is estimated to be \$59 million. Pet. Ex. 6 at 11.

d) Upfront Costs to Issue Securitization Bonds.

Mr. Jerasa described the anticipated costs to issue and maintain the Securitization Bonds. He described the upfront costs as those costs incurred to issue the Securitization Bonds, similar to any public debt capital market issuance, including Securities and Exchange Commission ("SEC") registration fees, underwriting fees, rating agency fees, legal, accounting and auditing expenses, and other fees. Pet. Ex. 2 at 18. CEI South estimates upfront costs incurred will be approximately \$4.7 million. Pet. Ex. 2, Attachment BAJ-1. Mr. Jerasa described each component of these upfront cost estimates, which he said were based on the experience of CEI South's parent company CenterPoint Energy, Inc., precedent transactions, consultation with Barclays Capital, and publicly available information. Pet. Ex. 2 at 18. He identified \$885,000 in expert support costs estimated to be incurred by CEI South to engage experts and provide support in the field of securities and Securitization Bond issuances, tax, decommissioning studies, rates, and legal. Pet. Ex. 2, Attachment BAJ-1.

In addition, Mr. Jerasa testified that due to the credit-enhancing structure of utility securitizations, there will be ongoing costs to service and administer the Securitization Bonds, including annual servicing fees, annual administrative fees, rating agency surveillance fees, return on CEI South's capital contribution in connection with formation of the SPE and closing of the securitization bond offering, ongoing Indenture Trustee fees, ongoing audit fees, and other costs including independent manager fees and other miscellaneous fees incurred in the ongoing operations and management of the SPE. Pet. Ex. 2 at 19-20. He estimated the total ongoing costs of \$9,272,933.

As discussed further below, OUCC witness Mr. Fichera expressed concern regarding upfront and ongoing costs. Mr. Fichera noted CEI South does not have a detailed budget that allows anyone in this proceeding to determine whether the costs are reasonable and appropriate. In other states, Mr. Fichera has found that other transaction costs for basic services could be reduced by opening the selection up to competitive bidding to a group that meets the minimum qualifications for the services. Pub. Ex. No. 3 at 27-28. Additionally, as proposed by Mr. Fichera and other OUCC witnesses and discussed further below, the OUCC recommends a "Bond Team," which includes the

OUCC, CEI South, and their financial advisors in the bond issuance process to achieve the lowest issuance costs possible for the securitization bonds. Additional expenses will be required for the inclusion of the OUCC and its designated representative in the post-financing order bond issuance process, as discussed further below.

CEI South witness Mr. Jerasa responded that CEI South will competitively bid the underwriters and indenture trustee services. Pet. Ex. No. 2-R at 30. CEI South's estimate for these upfront costs are \$1.4 million for the underwriter and \$35,000 for the trustee. Pet. Ex. No. 2, Attachment BAJ-4 Ongoing Fee Comps. Mr. Jerasa's rebuttal testimony included the proposal for a "Bond Team" consisting of CEI South, the Commission, CEI South counsel, and a Commission financial advisor, if hired. Mr. Jerasa testifies that the cost of a financial advisor for the Commission, if hired, would be included with qualified costs. Pet. Ex. No. 2-R at 30-31.

e) Decommissioning Costs.

Mr. Kopp presented a decommissioning study for Brown Units 1 and 2. His study was prepared assuming the site would be used for industrial use. He explained that the decommissioning cost estimates were developed based on estimates of direct costs, indirect costs, and contingency. Pet. Ex. 5 at 7. The direct decommissioning cost estimates were based on what an outside contractor, selected through a competitive bidding process, would be expected to charge CEI South to demolish the site, dismantle all equipment, address environmental issues, and restore the site to a condition suitable for industrial use, based on performing known decommissioning and demolition tasks within the set of assumptions outlined in the decommissioning study and under ideal conditions. *Id.* Site-specific direct cost estimates were developed using a "bottom-up" cost estimating approach, where cost estimates are developed from scratch through the development of site-specific quantity estimates and the application of unit pricing to the quantity estimates. *Id.* The quantity estimates include but are not limited to items such as tons of steel; pounds of other metals such as copper and stainless steel; tons of debris; cubic yards of concrete; cubic yards of site grading; acres of seeding; and the labor hours required to complete the decommissioning and demolition activities. *Id.* Mr. Kopp did not include the cost to close ash ponds and landfills, since, as stated in his testimony, recovery of the cost of closing the ash ponds has been addressed in other proceedings, and the landfills are not anticipated to be closed. *Id.* at 7. Mr. Kopp estimated the total net cost for decommissioning the retiring assets to be \$24,502,000 in 2021 dollars. *Id.* at 5 and Attachment JTK-2. Ms. Thayer then escalated this number to the anticipated retirement date of 2023, for total estimated costs of decommissioning of \$26,771,245. Pet. Ex. 4 at 8.

The Industrial Group objected to the inclusion, within the proposed Qualified Costs, of approximately \$6,026,000 in contingencies related to the decommissioning cost. Mr. Gorman testified that inclusion of such contingency costs was inappropriate as they were at this time not fixed, known and measurable. He, therefore, recommend that the amount of decommissioning costs subject to securitization be reduced by the \$6,026,000 included as contingencies within CEI South's proposed decommissioning costs. IG Ex. 1 at 16-18.

While this Commission has, in the past, permitted recovery of contingency costs, we believe that the Securitization Act presents an alternative that warrants adoption of Mr. Gorman's proposal in this case. Specifically, the Securitization Act allows for bonds with a life of up to twenty years, which customers, through non-bypassable charges, will pay the debt service on regardless of whether a future cost such as a contingency for decommissioning, is, or is not, incurred. To saddle ratepayers with contingency expenses for such a period, when they are not fixed, known, and measurable, is markedly different than allowing recovery of contingencies under other regulatory

mechanisms such as the Federal Mandate statute which allow for simultaneous recovery of the majority of costs, including contingencies.

Further, under a mechanism like the Federal Mandate statute, ratepayers are exposed to contingency cost risk for only a relatively short period of time and, more importantly, can see modifications to the utility's revenue requirement through periodic rate adjustments if the contingency cost is not incurred. Under Securitization, conversely, there is no such possibility for a downward adjustment if the expense is not incurred. The Qualified Costs, once securitized, are subject to recovery regardless whether they are ultimately incurred. We are unwilling to burden ratepayers with that form of risk for that period of time as such a result would be unjust and unreasonable. Further, the Securitization Act otherwise allows a utility, such as CEI South, to recover any costs in excess of the amounts subject to securitization through later proceedings, thus ensuring the utility will be kept whole as to those costs. We, therefore, disallow inclusion of the \$6,026,000 in contingency costs from inclusion as "qualified costs" subject to securitization.

f) Taxes Associated with Qualified Costs.

CEI South witness Vallejo testified that the transaction will qualify for an IRS safe harbor (IRS Revenue Procedure 2005-62) under which the receipt of the proceeds of the Securitization Bonds and the true sale to the SPE (discussed in Section 6.A.iii below) will not create a taxable event. Pet. Ex. 7 at 6-9. Mr. Vallejo testified there is no remaining investment tax credit related to the Brown Units 1 and 2, and so no investment tax credit has been included in the Qualified Costs. *Id.* at 9. The Securitization Charges will be taxable income upon receipt, but Mr. Vallejo explained there is no need to gross up the Securitization Charges for this income tax due to the tax deduction for interest paid on the Securitization Bonds and the presence of ADIT associated with the retiring assets. *Id.* at 17-18. As detailed below, CEI South has developed a proposal to ensure that its customers receive the full benefit of this ADIT. Mr. Vallejo testified that, absent a change in the tax rate (which would need to adjust the ADIT credit), there are no estimated taxes related to the recovery of Securitization Charges to include in Qualified Costs. *Id.* at 21.

g) Depreciation Timing.

Mr. Gorman testified the Company's proposal estimates to securitize qualified costs net of depreciation as of the end of February 2023. However, Brown Units 1 & 2 will not be retired until approximately October 15, 2023. As such, CEI South's position is at odds with the definition of "qualified costs" in IC § 8-1-40.5-6, which are defined to include net original costs as adjusted for depreciation to be incurred until the facility is retired. IG Direct at 12.

Mr. Gorman recommended the Commission issue a financing order that requires synchronization of the amount of qualified costs the Company is authorized to securitize with the best estimate of undepreciated value of the plant as of the actual date of issuance of the securitization bonds. This will ensure the amount of qualified costs that are securitized will be equal to the estimate of the unrecovered Brown Units 1 & 2 net plant costs, as well as any unrecovered regulatory asset costs as of the expected date customers will see those costs credited back to them through the SRR tariff adjustment. *Id.* at 13. Mr. Gorman also testified that a delay could result in a decrease in qualified costs over time. *Id.* at 14. He further explained that the qualified costs will decrease on a monthly basis due to corresponding recovery of additional depreciation expense, increases in decommissioning reserve, and the ongoing recovery of regulatory assets. He stated there are also additional carrying charges on any regulatory assets not currently included in base rates. *Id.* at 15.

OUCG witness Mr. Loveman expressed concerns with the net book value of the Brown units CEI South included in its qualified costs. Citing Ind. Code § 8-1-40.5-6, as shown above, Mr. Loveman testified the qualified cost amount should be adjusted for depreciation to be incurred until the facility is retired, which will occur on or around October 15, 2023, approximately seven and a half months after CEI South expects to issue the RBBs. This creates an approximately \$17 million variance between the time the RBBs are issued and the time the Brown Units retire. Pub. Ex. No. 1 at 15. Mr. Loveman recommends the Commission require CEI South to adjust the net book value for the Brown Units to the estimated retirement date of October 15, 2023, \$241,227,484, to be included in the determination of qualified costs for the proposed Securitization, resulting in a \$16,992,747 reduction to CEI South's proposed qualified costs. Mr. Loveman also recommends the Commission permit CEI South, after requiring the above adjustment, to defer any differences in qualified costs between the date the RBBs are issued and actual date of retirement for the Brown Units, and also to return or recover this difference in the next occurring true-up filing once the Brown Units are retired. *Id.* at 15-16.

CEI South witness Mr. Harper responds to Mr. Loveman's criticism. Mr. Harper stated Mr. Loveman fails to recognize that generally accepted accounting principles ("GAAP") requires the units be removed from utility plant in service when it becomes probable that the asset will be abandoned. CEI South will continue to record the depreciation expense through the date the securitization proceeds are received and the SRR and SAC take effect. Pet. Ex. No. 6-R at 5. Mr. Harper testified Mr. Loveman is seeking to adjust for depreciation CEI does not intend to record. Mr. Harper stated if the Commission approved Mr. Loveman's proposal, it would reduce CEI South's initial new regulatory asset by \$17 million (from \$258 million to \$241 million) and also create a \$17 million loss on abandonment. *Id.* at 6. Mr. Harper stated once the SRR and SAC tariffs become effective, there is no more recovery in CEI South's base rates of depreciation expense associated with Brown Units 1 and 2. So under Mr. Loveman's proposal, CEI South would receive in proceeds less than the full net book value of Brown Units as of that date. Mr. Harper continued that in order for Mr. Loveman's proposal to work, CEI South would need to be authorized to establish a regulatory asset, which accrues carrying costs based on the Company's weighted average cost of capital ("WACC"), by the Financing Order to recover any amounts of Brown Units excluded from the Qualified Costs, such as the discussed \$17 million, in the first true-up following the date Brown Units 1 and 2 cease operations. *Id.* at 7.

h) Findings on Amount of Qualified Costs.

The Commission finds Petitioner's total Qualified Costs consist of \$350,125,000, as modified herein, to be included in the securitization bond offering at issuance, plus expenses for the OUCG's financial advisor, Saber Partners, included as part of the Bond Team, as discussed below, plus approximately \$9,272,933 in estimated ongoing fees for a total of \$359,397,933, as modified herein.³³ The Securitization Charges through which Qualified Costs will be recovered are subject

³³ Costs described in IC 8-1-40.5-6(3) of issuing, supporting and servicing the Securitization Bonds, including the payments of debt service on the Securitization Bonds as well as fees, costs and expenses payable by the Special Purpose Entity ("SPE") under the transaction documents described in Section 6.A.iii of this Financing Order (i.e., the Administration Agreement, the Servicing Agreement, the Purchase and Sale Agreement, the Indenture and the Amended and Restated LLC Agreement) may be adjusted pursuant to IC 8-1-40.5-12(c). Other elements of Qualified Costs described in IC 8-1-40.5-6(1), (2), (4) and (5), to the extent they differ from the Qualified Costs approved in this Financing Order, would be subject to IC 8-1-40.5-12(d)(1) providing that any difference between Qualified Costs approved in this Financing Order and Qualified Costs at the time the electric generation facility is retired shall be accounted for as a regulatory asset or liability.

to the true-up mechanism provided for in this Financing Order, pursuant to Indiana Code § 8-1-40.5-12(c) and variances between actual total qualified costs and the amount financed at issuance of the Securitization Bonds will be dealt with in such true-up. See Section 8 below.

ii. Securitization Bond Proceeds: Reimbursement of Qualified Costs and Rate Reduction. Indiana Code § 8-1-40.5-10(d)(2) requires the Commission to make a finding that the proceeds of the authorized Securitization Bonds will be used solely for the purposes of reimbursing the electric utility for Qualified Costs, that the electric utility's books and records will reflect a reduction in rate base associated with the receipt of proceeds from the Securitization Bonds, and that such reduction will be reflected in retail rates when the Securitization Bonds are issued.

CEI South witness Jerasa testified the immediate use of the proceeds of the authorized Securitization Bonds will be to reimburse CEI South for Qualified Costs. Pet. Ex. 2 at 23. Mr. Harper provided the proposed journal entry to reflect this use of proceeds. Pet. Ex. 6, Attachment RPH-3, part (c). Mr. Jerasa explained that upon receipt of the net proceeds from the securitization bond offering upon the sale of the Securitization Property to the SPE, CEI South will i) in the short term, reduce capitalization in line with retired generation property, and ii) in the long term, reinvest the proceeds in capital investments. Pet. Ex. 2 at 23-24. He stated that after the net proceeds of the Securitization Bond offering are received, CEI South will retire debt at the lowest friction cost available so as to minimize costs and will retire intercompany promissory notes which can be redeemed at par with no premium. In addition, CEI South may redeem certain tax-exempt securities as these loans funded projects associated with the A.B. Brown property being retired. Mr. Jerasa explained the indentures of these tax-exempt securities contain an optional redemption provision allowing for a redemption at par upon the occurrence of extraordinary events, which includes when the continued operation of the retiring assets is impracticable, uneconomic or undesirable for any reason. Mr. Jerasa stated CEI South will evaluate the redemption of these securities based on the impact to CEI South's cost of capital versus alternatives. *Id.* at 24.

CEI South witness Harper described the accounting entries to be made upon issuance of the Order in this Cause, as well as upon the issuance of the Securitization Bonds. He explained that CEI South will make an initial capital contribution to fund and form the SPE, as shown on part (a) of his Attachment RPH-3, and then the SPE will issue and sell Securitization Bonds, as shown in part (b) of Attachment RPH-3. The SPE is projected to incur approximately \$6 million of costs to issue the Securitization Bonds (including expert support costs), bringing the total issuance amount to approximately \$350 million. CEI South will then sell the new regulatory asset to the SPE, with the purchase funded by the net proceeds of the Securitization Bond offering. Pet. Ex. 6 at 12; Attachment RPH-3, part (c).

CEI South witnesses Harper and Rice described the mechanism for reflecting in retail rates the reduction in rate base associated with the receipt of the proceeds of the Securitization Bonds. Mr. Harper explained that when the Securitization Bonds are issued and Securitization Charges are implemented, there is a corresponding rate reduction tariff (the "Securitization Rate Reduction Tariff" or "SRR Tariff") which facilitates removal of Brown Units 1 and 2 related charges from customer rates. The SRR Tariff is based on a revenue requirement which Mr. Harper sponsored, which is a function of (1) the Qualified Costs removed from CEI South's rate base; (2) CEI South's weighted average cost of capital; and (3) recovery of depreciation expense. Pet. Ex. 6 at 16. That revenue requirement is set forth below. The Qualified Costs shown here reflect a regulatory asset balance which only includes amounts associated with the MATS and not the dense pack investments.

**TABLE RPH-2:
REVENUE REQUIREMENT FOR THE SRR TARIFF AS OF 2/28/2023**

	2/28/23
Brown Units 1 & 2 Original Cost	\$ 798,297,876
Accumulated Depreciation (excluding Cost of Removal)	(534,035,130)
Cost of Removal Reserve	<u>(6,042,788)</u>
Subtotal Qualified Cost	258,219,958
Pre-tax weighted average cost of capital*	<u>7.66%</u>
Return on rate base	19,779,649
Plus: Depreciation and Amortization - annualized	
Depreciation Expense (excluding Cost of Removal)**	25,721,104
Cost of Removal Expense**	1,466,855
Amortization Expense for MATS Regulatory Asset***	<u>1,376,761</u>
Depreciation and Amortization - annualized	<u>28,564,719</u>
Revenue requirement	\$. 48,344,368

The SRR Tariff is discussed in greater detail in Section 6.A.v below.

The Commission finds Petitioner has shown the proceeds of the Securitization Bonds will be used solely for purposes of reimbursing Petitioner for Qualified Costs. The Commission further finds the entries to be made on Petitioner’s books and records will reflect a reduction in rate base associated with the proceeds. We also find the proposed Securitization Rate Reduction Tariff, as discussed below, will be implemented to reflect the reduction to rate base when the Securitization Bonds are issued.

iii. Structuring and Expected Pricing of Securitization Bonds are Reasonable and Consistent with Market Conditions. Under Ind. Code § 8-1-40.5-10(d)(3), the Commission must find that the expected structuring and the expected pricing of the Securitization Bonds will result in reasonable terms consistent with market conditions and the terms of this Financing Order.

CEI South witness Chang provided an overview of the market for securitizations. He provided historical information regarding utility securitization transactions, including recent transactions in 2022. Pet. Ex. 3 at 4-9. Mr. Chang described the unique characteristics of utility securitizations, which are typically supported by a “statutory credit enhancement” rather than commercial or consumer assets. *Id.* at 7. CEI South witness Jerasa described the statutory provisions codified in the Securitization Act that enable Petitioner to use securitization to recover “Qualified Costs” as defined in the Securitization Act. Pet. Ex. 2 at 5-6. Among the key features of utility securitization permitted under the Securitization Act, Mr. Jerasa identified the following: (1) the irrevocable nature of the Securitization Charges and the true-up mechanism under the Financing Order, such that the Securitization Charges are not subject to reduction, impairment, or adjustment by further action of the Commission or another statute or rule, except as otherwise provided for in the Securitization Act; (2) the fact that the Securitization Charges are non-bypassable and must be paid by all existing and future electric retail customers and customer classes until the securitization bonds are paid in full and may not be avoided by CEI South’s customers; (3) the State of Indiana’s pledge that it will not take or permit any action that impairs the value of the Securitization Property, or, except as allowed under the Securitization Act (relating to true-up adjustments), reduce, alter, or impair the Securitization Charges that are imposed, collected, and remitted for the benefit of bondholders; (4) a non-impairment pledge from the Commission that the Financing Order and the

Securitization Charges are authorized, irrevocable, and not subject to reduction, impairment, or adjustment by further action of this Commission except with respect to a request made by Petitioner under Section 10(h) or 12(c) of the Securitization Act; and (5) statutory requirement that the Securitization Charges must be reviewed and adjusted at least annually to correct any over or under collections of Securitization Charges and allow CEI South to make interim true-up adjustments at any time and for any reason in order to ensure the recovery of revenues sufficient to provide for the timely payment of all debt service, ongoing expenses, and replenishment of any draws on the capital subaccount; and generally to correct for any under-collection or over-collection true-up mechanism. *Id.* These features are discussed in greater detail below.

Mr. Chang testified that utility securitizations are “episodic” as they arise to address specific financing needs of the electric utility market and have historically been issued to recover costs such as rate stabilization, stranded costs, pollution control costs, early retirement of rate base generation assets and storm recovery costs. Pet. Ex. 3 at 7. He explained this means that the amount of utility securitizations is unrelated to the overall market capacity and investor appetite for such issuances at the time. *Id.* Mr. Chang stated utility securitizations are also a well-established asset class that are broadly understood in capital markets. He testified utility Securitization Bonds are able to receive high credit ratings even when the sponsor utility has entered into bankruptcy or the rating agencies have issued a downgrade of their credit, thus justifying investors’ confidence in the bonds and their ability to withstand certain stressful outcomes. *Id.*

Mr. Chang presented a diagram illustrating the general structure of a utility securitization and Mr. Jerasa provided a diagram illustrating the structure of Petitioner’s proposed securitization in this proceeding. Pet. Ex. 3 at 10, Diagram A; Pet. Ex. 2 at 11. Mr. Chang explained that the asset being securitized in a utility securitization is the right of a utility to bill and collect, on behalf of the SPE, a non-bypassable Securitization Charge paid by the utility’s customers in the utility’s service territory in an amount necessary to generate cash flow sufficient to pay the debt service of the bonds and other ongoing costs of the transaction. The right to bill and collect the Securitization Charge is a property right (the “Securitization Property”) authorized and created by statute and a financing order issued by the Commission. Pet. Ex. 3 at 10. Mr. Chang noted the Securitization Property includes the right to periodically adjust the Securitization Charges through a true-up mechanism to ensure the timely collection of Securitization Charge revenues sufficient to pay debt service and other ongoing costs of the securitization. *Id.* at 10-11.

The OUCC provided extensive testimony on the bond issuance process. While the OUCC does not dispute the general procedure of issuing bonds and the background of securitization issuances, as described by Mr. Chang, the OUCC does advocate for ratepayer involvement in the issuance process. OUCC witness Mr. Courter, while stating the OUCC does not oppose the use of securitization, testified that the participation of the OUCC in the bond issuance process, as the statutory representative of Indiana ratepayers, is necessary to ensure the lowest securitization charges for the structuring, marketing, and pricing of the RBBs, maximizing savings for CEI South’s customers. Pub. Ex. No. 2 at 2. Mr. Courter recommended the OUCC and its financial advisors, Saber Partners, fully participate in negotiations throughout the post-financing order structuring, marketing, and pricing discussions until the RBBs are issued. Mr. Courter further recommended CEI South and the OUCC file certifications as to whether the Issuance Advice Letter is consistent with market conditions and the terms of the financing order. Finally, Mr. Courter recommended detailed information explaining the securitization charges be mailed (U.S. or email) to customers within 30 days of the bonds’ issuance. *Id.* at 2-3. Mr. Courter noted the OUCC is statutorily mandated to represent the interest of ratepayers before the Commission. Mr. Courter also

testified the Securitization Act is silent regarding interested parties' rights and responsibilities in the post-financing order bond structuring, marketing, and pricing processes. *Id.* at 5-6.

Mr. Courter also noted CEI South's proposal does not allow the opportunity for anyone but the Commission to object in the Issuance Advice Letter process as this would prevent the bonds from receiving a AAA rating. However, Mr. Courter also stated a pending objection to their issuance would undoubtedly add an element of risk that might jeopardize the issuance or rating, but this would apply to the Commission as well as any intervenor. *Id.* at 8-9. Mr. Courter testified CEI South indicated that the intervenors will have no further rights to object to the bond issuance or even participate in pricing discussions. Mr. Courter testified this process does not include customer protections and the OUCC's active participation will ensure the Commission's final decision is based on post-financing processes where CEI South's customers' interests were well represented – rather than from a unilateral proposal from CEI South and its underwriter. *Id.* at 11. CEI South's process is not transparent, as the structuring, marketing, and pricing of the bonds would occur without the OUCC viewing these processes and representing CEI South's customers' interests and asks the Commission to make its final phase three determination based on CEI South's unilateral presentation of evidence. Mr. Courter testified CEI South's customers should not be required to pay RBB charges for the next 15-20 years without being represented at the negotiating table by the OUCC during the structuring, marketing, and pricing processes. *Id.* at 12-13.

Mr. Courter described the difference between general financing by the utility and securitization bonds. When traditional utility bonds are issued, the shareholders are responsible for paying the debt service and recovering the cost of the debt service through general rate cases. The utility has an economic incentive to lower the interest costs its shareholders are paying. Also, the Commission has ongoing review of the debt service in each general rate case. Conversely, in securitization issuances, all costs are passed directly to the utility's customers and there is no Commission review of the bonds once they are issued. *Id.* at 14-15. Mr. Courter argued the primary duty of CEI South, Barclays (CEI South's financial advisor), underwriters, rating or marketing agencies is to parties other than CEI South's customers, and the only party with a statutory duty to represent CEI South's customers is the OUCC. *Id.* at 16. While the Securitization Act states the electric utility retains sole discretion regarding whether to assign, sell, or otherwise transfer securitization property or to cause securitization bonds to be issued...,” this language does not exclude CEI South's customers – who are going to pay the securitization charges – from representation by the OUCC at the post-financing order structuring, marketing, and pricing negotiations. *Id.* at 18. Mr. Courter provided a reference to securitization in Florida which included the statutory “sole discretion” language while the Florida Public Service Commission (“FPSC”) also created a Bond Team actively involved in the bond issuance. Mr. Courter also testified CenterPoint was involved in securitizations in Texas which also included the participation of a financial advisor. Mr. Courter also remarked the FPSC noted the same difference between typical debt offerings and securitization bonds as noted above. *Id.* at 18-22.

OUCC witness Mr. Fichera also provided extensive discussion on the bond issuance process. As the CEO of Saber Partners, Mr. Fichera has participated as a financial advisor in 14 RBB proceedings in other states totaling almost \$10 billion for 9 different utilities. Mr. Fichera testified his role was to better represent the interests of ratepayers in the transactions and provide an independent opinion to the utility commissions at the conclusion of the process for them to consider whether to approve or disapprove the final issuance of the bonds in what is known as an “Issuance Advice Letter” process. Pub. Ex. No. 3 at 4. Mr. Fichera provided a background of RBBs, noting a recent increase in issuances, but the amount of RBBs is very small compared to corporate, utility, and structured finance bonds in the market. *Id.* at 11-13. Mr. Fichera testified on the differences

between traditional utility financing and securitizations. He stated with traditional utility bonds the IURC retains full regulatory review of the utility's costs. Further, when a utility decides to issue a traditional bond, the utility has a strong incentive to negotiate hard with underwriters for the lowest possible interest rates as well as the lowest possible underwriting fees to minimize the utility's costs. However, with RBBs, while the utility has a general business interest in keeping overall customer rates low, it will have no direct or indirect obligation to repay the RBBs and will have no direct or indirect responsibility to pay any of the financing costs. Ratepayers alone will bear all costs and the costs will not directly impact the utility's return to its shareholders. *Id.* at 16-27.

Mr. Fichera testified there are different incentives for the different entities in the bond issuance process. The sponsoring utility's highest priority will likely be completing the issuance and receiving the cash quickly, with cost control may be a lower priority. For underwriters, income and profit come from transactions, so there is tremendous pressure to conduct transactions – and to do so quickly. *Id.* at 30. However, neither the structuring advisor nor the underwriters are obligated to do anything in the best interests of ratepayers as opposed to their own financial interest. Mr. Fichera stated that because neither utilities nor the underwriters are incentivized to minimize the rates or the costs to ratepayers, it calls for the inclusion of a third-party in the transaction, one who is empowered to protect ratepayers and has a duty to those ratepayers. Here, the entity best positioned and statutorily charged to do that in Indiana is the OUCC and its advisors. *Id.* at 32. Mr. Fichera agreed the IURC should make the final “go, no go” decision before the bonds' issuance. However, the process leading up to that final decision needs to produce an informed and meaningful result and expert analysis of the information the IURC receives from the utility, structuring advisor and underwriters by the OUCC as the statutory representative of the ratepayers, for the IURC to review and consider. *Id.* at 33. Simply having a AAA rating is not sufficient protection and ensure the best rate for the RBBs. There is no one “AAA” rate so that ratepayers get the best deal no matter what. Thus, there can be a widespread variation in rates even with AAA rated bonds. *Id.* at 34.

Mr. Fichera provided a list of best practices seen in transactions in other states. The first is a decision-making standard that will lead to achieving the lowest cost to the ratepayer. Mr. Fichera testified the IURC's goal in this proceeding should be to ensure ratepayers receive the lowest cost possible and maximum present value savings while still achieving the securitization goal consistent with the Indiana law. There is no reason to pay anything more for a bond issue than is necessary. Ratepayer costs are at financial risk throughout the financing process and need specific protections. *Id.* at 36-37. Second is ratepayer representation in all matters relating to the structure, marketing, and pricing of the bonds. Without OUCC involvement, there would be no advocate for the ratepayers in the process. *Id.* at 40-41. Third is unqualified written certifications from the utility, underwriters and ratepayer representative's financial advisor that the structure, marketing and pricing of the bonds achieved the lowest cost under market conditions for the chosen maturity at the time of pricing of the bonds. Mr. Fichera provided the requirements for certifications and confirmed he had provided these types of certifications in other proceedings. *Id.* at 42-50. Fourth is the Commission makes the final decision of whether the bonds meet the conditions of the financing order and whether to issue a stop order or not. Mr. Fichera provided examples of these best practices in other states, including several in Texas involving CEI South's Texas affiliate, in which the Public Utility Commission of Texas (“PUCT”) provided for a financial advisor to represent the Commission in the bond issuance process and unqualified certifications that the structure and pricing of the bonds resulted in the lowest transition-bond charges. *Id.* at 50-62.

OUCC witness Ms. Klein described her experience with the three RBB transactions as Chair of the PUCT. She stated the Texas statute required the “structuring and pricing of the transition bonds result in the lowest securitization charges consistent with market conditions,” although the

securitization process did not have a way for the utility customers' interests to be represented in the structuring, marketing, or pricing phases of the bond transaction. Pub. Ex. No. 4 at 5-6. Ms. Klein testified an underlying principle of securitization is to lower costs for ratepayers and help address affordability for customers. She further stated the quest to reach lowest securitization terms consistent with market conditions is not unreasonable, particularly since statutorily the Commission has no recourse later to review or change any elements of a final financing order. Ms. Klein stated that even absent the statutory requirement, she would have pursued the lowest cost to ratepayers for the very simple reason that this was the PUCT's fundamental public interest responsibility to ratepayers under its general statutes. *Id.* at 6-8. Ms. Klein also recognized the normal incentives to minimize waste and eliminate inefficiencies that are inherent in traditional rate cases are absent with RBBs, and stated the same elements seen in Indiana, such as the true-up mechanism and irrevocable nature of the bonds, were the same in Texas. *Id.* at 8-10. Based on her experience in Texas, Ms. Klein stated that absent a pro-active approach by an entity having specific statutory responsibilities to consumers, Indiana ratepayers will not be represented meaningfully in the process of structuring, marketing, and pricing the bonds. and it will be difficult to hold utilities and recovery bond underwriters accountable for any failure to achieve the best possible outcome for ratepayers. *Id.* at 11.

Ms. Klein testified ratepayer interests are not clearly aligned with CEI South's interests in this case. In the transactions she oversaw, she stated the utility was to receive hundreds of millions of dollars, but without any direct or indirect obligation to pay it back, and the utility's interests were already protected by the nature of the transaction. However, she also stated there is no reason ratepayer interests and CEI South's interests cannot be aligned in light of the fact that any savings that could benefit ratepayers do not affect the amount the utilities will receive as part of the securitized amount. *Id.* at 13-14. Ms. Klein also recommend the use of certifications from the sponsoring utility, the lead underwriter and the PUCT's independent financial advisor that the lowest securitization charge was achieved. Ms. Klein also recommended a Bond Team approach. *Id.* at 19-23.

OUCC witness Mr. Schoenblum described his experience at Consolidated Edison, the largest public utility in the state of New York, as vice president and treasurer, and Chief Financial Officer of its subsidiary Orange and Rockland Utilities, and his experience in capital financing approximately \$1 billion in debt over several transactions and direct involvement with various financial institutions. Pub. Ex. No. 5 at 1-4. Mr. Schoenblum recommended the best practices seen in other states, including a Bond Team as discussed by other OUCC witnesses. Mr. Schoenblum recommended this approach because the statute's constraints limit Commission reviews to "after-the-fact" reviews for prudence in evaluating any aspect of the structuring, marketing, and pricing of these bonds, and the Commission adding a degree of oversight at the outset is necessary. *Id.* at 7-9. Mr. Schoenblum also recognized the different between standard utility ratemaking and RBBs. Issuers of standard utility securities are incentivized to reduce interest rates on their debt offerings and other ongoing financing costs below the target level set in rates through the standard ratemaking process. However, this very strong incentive is not present regarding RBBs. *Id.* at 9-10. Mr. Schoenblum also recommended the Issuance Advice Letters to include a lowest securitization charge confirming certification. *Id.* at 16.

OUCC witness Mr. Maher described his experience at ExxonMobil, holding positions of Treasurer for all international operations and Assistant Treasurer of the corporation and for over ten years, included supervision of all of ExxonMobil's capital markets activities. Pub. Ex. No. 6 at 1. Mr. Maher also described the relationship between the various parties in the bond issuance process, particular a fiduciary relationship, where the fiduciary acts in the best interest of its client. Most

significantly, where a fiduciary relationship does not exist, it is extremely important for the client to stay actively involved because the service provider could be subject to motivations in some way contrary to the best interests of the client. Mr. Maher testified underwriters do not have a fiduciary duty to issuers. *Id.* at 5-8. As with the other OUCC witnesses. Mr. Maher recognized the difference between RBB transactions from traditional corporate debt issues. In traditional corporate bond sales, the issuer has a direct interest in minimizing the cost of the transaction to maximize economics for its shareholders. Here, CEI South does not have the direct incentive to minimize costs in this transaction as the ratepayers alone will bear all costs of the transaction. *Id.* at 10. Mr. Maher testified that CEI South's proposal relies too heavily solely on CEI South, their advisors and the underwriters, none of which has a fiduciary responsibility to ratepayers in the proposed RBB transaction. Mr. Maher recommended following the best practices described in other OUCC testimony and set out specific practices for parties to follow in the bond issuance process, including certifications. *Id.* at 12-14. Mr. Maher also testified that AAA rated bonds do not guarantee the lowest overall costs, as not all AAA rated debt is viewed alike by investors. RBBs will need an intensive investor education effort and an aggressive marketing process are warranted to ensure that the bonds achieve the tight pricing they deserve. Mr. Maher also suggested including language in SEC registration statements providing detail about the unusual and superior credit quality of the securities. *Id.* at 17-20. Mr. Maher recommended a Bond Team approach, that the Bond Team operate independently and entirely in the interest of the ratepayers and not include any of the underwriting banks due to their inherent conflict of interest. *Id.* at 21-22.

OUCC witness Mr. Sutherland provided additional testimony on RBBs. He testified on the use of a Bond Team, as described by other OUCC witnesses, and stated ratepayer representation is particularly important in a utility securitization since the ratepayer is directly responsible for repayment of the bonds. Pub. Ex. No. 7 at 8. Mr. Sutherland testified CEI South should not be given broad flexibility, as these are not normal utility bonds subject to the Commission's standard review. The Commission should require the final terms and conditions be determined in a joint, collaborative process with the OUCC, and/or its independent advisors participating actively, visibly, and in real-time. *Id.* at 8-9. The issuer of securitization bonds can negotiate the spread off pricing benchmark rates. Mr. Sutherland testified if the OUCC and its advisor have the authority as a Bond Team member to fully participate in the structuring, marketing, and pricing of the bonds, there will be greater ability to negotiate the tightest possible credit spreads and, therefore, the lowest possible yields on the bonds. *Id.* at 12. Mr. Sutherland provided extensive discussion on how to measure the performance of the bonds relative to certain benchmarks. *Id.* at 13-21.

OUCC witness Mr. Heller provided testimony on the structuring of the RBBs and data that must be provided when structuring RBBs. Mr. Heller testified CEI South conducted very limited analyses and provided only some of the basic data needed for such a model. Pub. Ex. No. 8 at 4-6. Mr. Heller stated RBBs should not be compared to asset backed securities, as was done by CEI South in its technical conference. *Id.* at 11. Finally, Mr. Heller stated the typical time from financing order to the sale of bonds is 3.5 to 4 months, at a minimum. *Id.* at 11-12.

IG Witness Mr. Gorman recommended the Commission allow a consumer party representative to participate in the securitization bond underwriting to ensure that the bonds are issued in the most favorable terms available to ratepayers. He proposed the IURC should ensure that an expert working on behalf of customers is involved in the underwriting process to help represent and safeguard the interest of the public. He also recommended the IURC ensure a ratepayer advocate is involved in the marketing of the securitization bonds to ensure the best price and terms for the bond issuance is available to the special purpose entity, and that the interest and overall cost of the bonds to customers will be minimized as much as possible. IG Ex. 1 at 36-37.

Specifically, Mr. Gorman proposed to allow the OUCC's experts at Saber Partners serve this role on behalf of all consumer parties. He also noted that the Industrial Group and other consumer parties should be permitted to communicate with Saber Partners during the bond issuance process, but that Saber Partners should be the single voice for all ratepayers in order to streamline the bond issuance process. Further, he recommended that Saber Partners have access to all information related to the bond issuance and be permitted to provide that information to all parties of record who have executed a non-disclosure agreement. Finally, he recommended that Saber Partners be permitted to be involved with all communications between CEI South/Barclays/the Special Purpose Entity and the IURC. *Id.* at 37.

CEI South Witness Mr. Jerasa responded to the testimony on the bond issuance process and the OUCC's involvement. Generally, Mr. Jerasa stated CEI South's proposal as a "win-win for customers and the company," but stated certain recommendations are either punitive to CEI South or ultimately do not benefit customers. Mr. Jerasa stated if some of the requests were accepted, it would have a chilling effect on CEI South's decision to move forward with securitization. Pet. Ex. No. 2-R at 4-6. Mr. Jerasa expressed concerns about the selection of Saber Partners by the OUCC, that it was not selected pursuant to an RFP, and that this consultant be accepted as a ratepayer representative is a significant departure from best practices. Mr. Jerasa also expressed concern that Saber cannot provide data confirming its cost reduction in other proceedings and that Saber did not provide any cost estimate of what it expects to be paid. *Id.* at 8-9. Mr. Jerasa also stated the level of participation proposed by the OUCC is unprecedented as in no other states has the ratepayer advocate played the role that the OUCC and Saber seek to fulfill. Mr. Jerasa is concerned the OUCC would refuse to issue a certificate if its demands are not met, could be unreasonable or expose CEI South to unnecessary level of legal liability. *Id.* at 9-10. Mr. Jerasa rebutted Mr. Courter, stating after the appeal period concludes in this matter, the Commission's investigatory powers would apply and allow the Commission to observe the process. *Id.* at 10-11. Mr. Jerasa acknowledged that neither Barclays nor the eventual underwriter will owe a fiduciary duty to customers, but neither will the OUCC or Saber. *Id.* at 11. Mr. Jerasa also rebutted Mr. Heller's contention that CEI South conducted a limited analysis. Mr. Jerasa stated CEI South, consulting with its structuring advisor Barclays, developed a structuring model that offers full modeling flexibility to optimize the structure, is similar to those models used in past utility securitizations, and provides the requirements needed for the rating agency review process. *Id.* at 17.

With regard to a "lowest recovery charge" standard, Mr. Jerasa stated CEI South shares the goal of structuring, marketing, and pricing the securitization bonds to achieve the most competitive coupon available at then-market conditions. Mr. Jerasa also stated CEI South is committed to structuring the securitization bonds to appeal to a wide range of investors that should result in competitive pricing for the securitization bonds reflecting market conditions. *Id.* at 25-26. Mr. Jerasa also agreed it is common for Commissions to be involved in the post-financing process in other jurisdictions. The Securitization Act does not include a role for the Commission, but it has general investigatory powers that supports its role in the post-financing order process. Mr. Jerasa does not believe Saber partners should be involved as it has already been engaged by the OUCC and other advisors have more recent experience. *Id.* at 26-27.

Mr. Jerasa noted the Securitization Act does not specify a Bond team. Mr. Jerasa proposed a Bond Team composed of CEI South, CEI South counsel, designated Commissioner or Commission staff, and a Commission financial advisor (if hired). The Bond Team will coordinate with other parties during the structuring, marketing, and pricing of the securitization bonds, including CEI South's structuring advisor, underwriters, and underwriters' counsel. CEI South and the Commission representative have joint decision-making power and the Commission retains the

power to review and ultimately reject the deal if it does not meet their expectations or is not in line with the Financing Order or Securitization Act. Mr. Jerasa insisted CEI South would need to maintain sole decision-making authority for any recommendations that would expose CEI South or the SPE to securities law and other potential liability or contractual law liability. *Id.* at 27. Mr. Jerasa also stated CEI South agrees to file certifications as required by the Commission that the Company has followed the Securitization Act, Ind. Code §§ 8-1-40.5-10(b)(2) and (d)(3). Mr. Jerasa stated CEI South does not believe certificates are required from advocates or their advisors since they may use this method to impede deal close without providing any additional benefit to customers. *Id.* at 28. Mr. Jerasa did not agree that the OUCC's financial advisor should provide an unqualified certification as it would be unprecedented for an adversary to be given such a role, fairness opinions are unnecessary for this transaction, and this would add costs without a clear benefit. *Id.*

Mr. Jerasa stated the selection of underwriters is an important task. CEI South will conduct an RFP to select the bank that will underwrite the bonds. It is the responsibility of CEI South to manage the performance of the underwriters, push for competitive pricing in line with the standards of the Financing Order. Mr. Jerasa stated the vast majority of securitization bonds is sold under a "best efforts" approach, and the "best efforts" contractual commitment, plus the compensation arrangement, aligns incentives to execute the securitization bonds sale at competitive levels. *Id.* at 29. Mr. Jerasa also stated the Commission will make the final decision on the issuance of the Securitization Bonds. *Id.* at 30.

Mr. Jerasa indicated he has concerns about the OUCC's suggestion to participate in the post-financing order process. He remarked this was different from every other utility securitization in the country. Mr. Jerasa indicated concern that this difference will cause tremendous problems reaching a successful closing on the securitization bonds. *Id.* at 31-32. Mr. Jerasa argued that the OUCC has a statutory role to represent ratepayers in proceedings in front of the Commission, and the issuances in Florida and Texas cited by the OUCC show the Commission protecting ratepayer interests, not the consumer advocate. *Id.* at 32-33. Mr. Jerasa argued CEI South has motivation to negotiate the lowest cost possible, and Mr. Fichera's argument that the sponsoring utility's highest priority will likely be completing the issuance and receiving the cash quickly is a bad faith argument that does not recognize the facts of this proceeding. Mr. Jerasa argued this is voluntary filing for CEI South, CEI South made numerous comments on cost savings, and the Commission could deny future securitizations if benefits are not realized. Additionally, moving quickly in a rising interest rate environment, the cost of waiting is higher interest rates. *Id.* at 33-34.

Mr. Jerasa argued that the role to monitor the issuance process is the IURC. Mr. Jerasa argued the inclusion of the OUCC in the marketing phase could implicate certain securities law regarding written and verbal communication with potential investors, which could expose CEI South to securities law liability. Mr. Jerasa cited to a Wisconsin proceeding on this issue. *Id.* at 35-36. Mr. Jerasa also disagreed with including Saber's fees as qualified costs. There was no estimate provided for this fee, and Ind. Code § 8-1-1.1-6.1(c) requires OUCC consultant to be paid from the expert witness fee account, so it is not clear whether and OUCC costs could be reimbursed. Additionally, if the Commission should hire a consultant, Mr. Jerasa argued Saber is disqualified from the role as it claims a fiduciary duty to the OUCC and the OUCC did not conduct a competitive bidding process to select Saber. *Id.* at 36. Mr. Jerasa responded to Mr. Courter's argument that the transaction is not transparent stating CEI South will provide copies of the draft and final Issuance Advice Letter to all parties. *Id.* at 37. Finally, in response to Mr. Schoenblum's recommendation that regulatory oversight should be preserved concerning the servicing agreements and other documents for the life of the securitization bonds, Mr. Jerasa discussed preserving the Commission's authority to investigate these agreements as affiliate agreements. However, if these

agreements were subject to collateral attack, that would prevent closing of the securitization bond offering. *Id.* at 37.

Mr. Chang responded to Mr. Fichera's argument that the sponsoring utility's highest priority will likely be completing the issuance and receiving the cash quickly with additional information on the bond issuance process, specifically the marketing and syndication / pricing processes and timelines. Mr. Chang stated the primary objective of the extensive, oftentimes multi-week, marketing process and timeline for utility securitizations, is to try to optimize pricing coupons on the utility securitization and therefore increase ratepaying customer savings, by providing adequate time for broad investor outreach, investor education and investor credit processes and approvals. Mr. Chang described the marketing materials and strategies and the marketing process. Pet. Ex. No. 3-R at 4-8.

a) Structure of the Utility Securitization.

Mr. Chang provided background information on the structure of utility securitizations. He testified utility securitizations have historically been offered as amortizing structures based on an established debt service amortization schedule. The date in the amortization schedule where the principal of each Securitization Bond (or tranche of bonds) is expected to be fully paid down is known as the "scheduled final maturity date." Mr. Chang noted that when structuring a utility securitization, the targeted scheduled final maturity date can vary depending on the required debt service profile. It is not guaranteed, nor is it a legal obligation, for the Securitization Bonds to be fully paid down on the scheduled final maturity date. Furthermore, Mr. Chang testified that Securitization Bonds must be paid in full by the "legal final maturity date", which is typically set approximately two years after the scheduled final maturity date and rating agencies rate the transactions assuming the utility securitization pays off by the legal final maturity date. Pet. Ex. 3 at 20. The details of CEI South's proposed tranches, pricing, maturity and amortization for this securitization are discussed in greater detail below.

(i) SPE.

Mr. Chang explained that in utility securitizations, legal isolation, or "de-linking" of the credit quality of the issued Securitization Bonds from the credit quality of the utility (as originating company) is accomplished when the utility sells the Securitization Property to a newly established, non-recourse and bankruptcy-remote SPE in a transaction that represents a "true sale" for bankruptcy purposes, isolating the Securitization Property from consolidation with the utility and claims by creditors of the utility. Pet. Ex. 3 at 11. He explained the de-linking process serves to protect investors from changing credit circumstances or a potential bankruptcy of the utility. *Id.* CEI South witness Jerasa stated the SPE is expected to be a limited liability company formed under the laws of the State of Delaware, but that final structure and terms will need to take into account market conditions and rating agency feedback. Pet. Ex. 2 at 11, 13. He confirmed that CEI South will transfer the Securitization Property to the SPE via a "true sale." *Id.* at 10.

Mr. Chang testified the SPE will then issue the bonds supported by a pledge of the Securitization Property (the "primary collateral") and certain other limited assets of the SPE (the "other collateral") to investors (or "bondholders"). An Indenture Trustee will act on behalf of the bondholders, routinely making payments to the bondholders, paying servicer fees and other ongoing costs, and ensuring bondholder rights, created by the statute, the Financing Order, and the bond documents, are protected. He stated that the utility, acting as the servicer of the Securitization Property, performs routine billing, collection, and reporting duties for the SPE pursuant to a Servicing Agreement between the utility and the SPE. Mr. Chang testified the ability to segregate

the collateral in a bankruptcy-remote SPE and the ability to make periodic adjustments to the Securitization Charges are critical to the rating agencies' analysis to reach the highest possible rating category (AAA (sf)), the typical target rating in most utility securitizations. Pet. Ex. 3 at 11.

Mr. Chang testified the bankruptcy-remote SPE must comply with certain independent director requirements, and have a limited purpose and scope of the activities in which it may engage. The SPE must deal with its utility parent on an arm's-length basis to ensure that it remains bankruptcy-remote from the utility parent. Pet. Ex. 2 at 11; Pet. Ex. 3 at 11-12. Mr. Chang testified the SPE can be structured as a discrete trust, or as a series trust structure which may allow for more than one issuance from the same trust. He opined that CEI South should maintain the flexibility to structure either trust structure ultimately based on market receptivity and demand. *Id.* at 12.

OUCS Witness Mr. Fichera testified on the standard of care that CEI South, as servicer, and the special purpose entity established to issue the bonds must adhere to and indemnify ratepayers for any actions that increase costs to ratepayers. The standard of care should be a "negligence" standard, not "gross negligence" as proposed by CEI South. Mr. Fichera testified CenterPoint Energy Houston Electric, LLC, an affiliate of CEI South, included this standard of care in a previous securitization filing for PUCT Docket No. 30485. This standard of care should apply to the draft servicing agreement. Pub. Ex. No. 3 at 38. Mr. Fichera also recommended ratepayers should be beneficiaries of all CEI South representations and warranties provided to the trustee, underwriters or others in the agreements, such that any breach of those representations or warranties that cause an increase in cost to ratepayers, CEI South will make ratepayers whole. This applies to the Servicing Agreement, Administration Agreement, and C. Sale Agreement. *Id.* at 38-39. Mr. Fichera also recommended there should be no amendments or waivers of default without Commission Consent in Indenture, Servicing Agreement, Administration Agreement, and Sale Agreement. *Id.* at 39. Finally, Mr. Fichera recommended if deemed collections of the securitized charges are not remitted daily, any servicer float/investment earnings of collections before remittance to the trustee will accrue and be credited for the benefit of ratepayers. *Id.* at 39-40.

OUCS witness Mr. Sutherland testified that there is a period in which the Securitization bonds will have been repaid, but the Company will still be collecting securitization charges that were billed but not collected by the date when the last bond payment is made. Mr. Sutherland referred to this a "tail end collections." Based on his experience. Mr. Sutherland estimated this amount could be over \$3 million. Mr. Sutherland suggested language by which these amounts could be refunded to customers without waiting to the next rate case. Pub. Ex. No. 8 at 29-30.

(ii) *Structural Protections.*

CEI South witnesses Mr. Chang and Mr. Jerasa described the key features of utility securitizations generally and Petitioner's proposed securitization. Mr. Chang testified the key security feature in a utility securitization is a statutorily authorized "true-up mechanism" or "true-up adjustment," which is the primary form of credit enhancement unique to utility securitizations. Pet. Ex. 3 at 13. The true-up mechanism at least annually adjusts the Securitization Charges billed to the utility's customers based on projected electric consumption, collections, and expected delinquencies and charge-offs. The true-up mechanism ensures the estimated Securitization Charge collections match the scheduled payments on the securitization bonds and related financing costs. In order to obtain the highest possible credit rating, true-ups are typically required on an annual or semi-annual basis, although more frequent true-ups are often permitted on an as needed basis. *Id.* Mr. Jerasa testified to the extent that Securitization Charges are insufficient to pay debt service on the Securitization Bonds and ongoing costs, CEI South will be able to apply for periodic adjustments to the Securitization Charges via the true-up mechanism no less frequently than annually but not

earlier than 45 days before the anniversary of the issuance of the Securitization Bonds. Pet. Ex. 2 at 10-11. In addition, CEI South proposes that the Servicer be permitted to do an interim true-up, at any time, if the Servicer projects that collections will be insufficient to pay interest, scheduled principal and ongoing costs. Mr. Jerasa explained this “true-up” mechanism is the primary form of credit enhancement unique to utility securitization and adjusts the Securitization Charges based on projected electric consumption, collections and expected delinquencies and charge-offs. Pet. Ex. 2 at 11. Mr. Chang said the rating agencies will be primarily concerned with the nature and frequency of the true-up adjustments to be performed by the Servicer. The role and importance of the rating agencies is discussed in greater detail below, but Mr. Chang testified they will want to see that true-up adjustments are required to occur at least annually in the initial years and more frequently in the last year the transaction is expected to be outstanding. Pet. Ex. 3 at 23. In addition, Mr. Chang testified more frequent true-ups should be permitted if the Servicer deems it necessary to meet debt service and other ongoing costs. *Id.*

Because the true-up mechanism allows the cash flow in a utility securitization to be adjusted to satisfy the debt service of the bonds and other ongoing financing costs, Mr. Chang explained that other forms of credit enhancement that are common in commercial securitizations, such as overcollateralization, have generally not been required in utility securitizations. Pet. Ex. 3 at 13. Mr. Jerasa testified that based upon the advice of CEI South’s advisor and the current market conditions, CEI South does not anticipate including additional credit enhancements for this transaction (e.g., overcollateralization, letters of credit, or bond insurance). However, if circumstances warrant the inclusion of additional credit enhancement, he stated CEI South requests the flexibility to include any such credit enhancement in the utility securitization structure. Pet. Ex. 2 at 15-16. Additional credit enhancement features would be included in the Issuance Advice Letter process described below.

CEI South witness Jerasa testified that the SPE may obtain additional credit enhancements to ensure repayment of the Securitization Bonds in the form of an overcollateralization subaccount if the rating agencies require overcollateralization to receive the highest possible credit rating on the securitization bonds, or if the all-in cost of the Securitization Bonds with the overcollateralization would be less than without the overcollateralization. Pet. Ex. 2 at 16. He explained that overcollateralization is a credit enhancement technique in which amounts collectible in relation to a financial asset exceed the required payments on security, ensuring investors timely payment. The required amount of overcollateralization, if any, may be collected via the Securitization Charges. The overcollateralization requirement, if any, would be sized based upon input from the rating agencies indicating the amount necessary to achieve the highest possible credit rating. Any overcollateralization that is collected from consumers in excess of total debt service and other issuance costs would be the property of the SPE until returned to CEI South to be refunded to customers in a final true-up mechanism filing. *Id.*

Mr. Jerasa testified CEI South may also obtain bond insurance, letters of credit, and similar credit-enhancing instruments, but only if required by the rating agencies to achieve the highest possible credit rating on the Securitization Bonds, or if the all-in cost of the Securitization Bonds with these other credit enhancements would be less than without the enhancements. *Id.* He reiterated that CEI South does not anticipate requiring any external credit enhancements for this transaction and stated that based upon current market conditions, CEI South does not anticipate being required by the rating agencies to establish an overcollateralization subaccount for this transaction. *Id.* To the extent such an account is required, the exact amount and timing of its collection via the Securitization Charges would be determined before the Securitization Bonds are issued and approved through the Issuance Advice Letter process described below. In addition, the bond

collateral held by the Indenture Trustee would be available as a credit enhancement. This collateral would include an equity (or capital) contribution (described below) in an amount required to obtain favorable IRS tax treatment for the transaction, as described by Petitioner's Witness Benjamin D. Vallejo (i.e., currently 0.50 percent of the initial aggregate principal amount of the securitization bonds). *Id.*; Pet. Ex. 7 at 6, 8. If the equity capital is drawn upon, Mr. Jerasa explained it may be replenished from future Securitization Charges. Pet. Ex. 2 at 16-17. CEI South has requested that it be entitled to receive a return on its equity contribution equal to the WACC. This equity return would be paid as an ongoing cost from the Securitization Charges collected and would be distributed to CEI South on an annual basis, after payment of debt service on the Securitization Bonds and ongoing costs. *Id.*

In addition to the true-up mechanism, Mr. Chang testified utility securitizations utilize a closed cash flow structure, with excess cash captured and held in an excess funds account to be used as a credit in the subsequent true-up adjustment. Pet. Ex. 3 at 13-14. He stated typically, the only other credit enhancement in a utility securitization is the equity (or capital) contribution by the utility parent in the SPE which is usually limited to 0.50 percent of the initial aggregate principal amount of the Securitization Bonds. This equity (or capital) may be used if available cash flow is insufficient to pay debt service of the bonds and other ongoing costs. *Id.* Mr. Jerasa testified CEI South expects to contribute an amount equal to 0.5% of the initial aggregate principal amount of Securitization Bonds issued as a capital contribution to the SPE, which, assuming an issuance size of approximately \$350 million, is estimated to be approximately \$1.8 million. Pet. Ex. 2 at 15. As described by Mr. Chang, this cash will be deposited by the SPE with the indenture trustee in the capital subaccount and may be used if available cash flow is insufficient to pay debt service and other ongoing costs. Pet. Ex. 2 at 15; Pet. Ex. 3 at 13. Mr. Jerasa stated if cash from the capital subaccount is required to be used, revenue requirements will be true-up and increased in order to replenish the subaccount to an amount equal to 0.5% of the initial aggregate principal amount of Securitization Bonds. Pet. Ex. 2 at 15. CEI South witness Vallejo explained that the capital contribution in the amount of at least 0.5% of the aggregate principal amount of the securitization bonds is one of the conditions for meeting the safe harbor provided under IRS Rev. Proc. 2005-62. Pet. Ex. 7 at 8.

The OUCC disagreed with regard to earning a return on the capital contribution equal to the WACC. OUCC witness Mr. Dellinger testified the totality of the securitization process is to minimize the SPE's risk and ensure the highest possible bond rating. The equity contribution must, therefore, be considered extremely low risk and does not have a similar risk profile as CEI South's business operations. Pub. Ex. No. 9 at 2-3. Mr. Dellinger testified that applying CEI South's WACC of 9.29% to a virtually risk-free investment is not in the ratepayer's interest and proposes the return on the capital contribution be the investment return this account earns. *Id.* at 3. Mr. Dellinger testified that other states authorized much lower returns on the capital contribution, with the average return less than one-fourth of what CEI South is requesting. *Id.* at 3-4.

CAC witness Mr. Inskeep also disagreed with allowing a return on the capital contribution equal to CEI South's WACC. Mr. Inskeep testified this would significantly overcompensate CEI South shareholders for the associated risk of the capital contribution. CAC Ex. 1 at 27. Mr. Inskeep also testified that other state regulators have recognized it would be inappropriate to overcompensate as utility for its capital contribution. Mr. Inskeep recommended the Commission deny a return on CEI South's required 0.5 percent of the principal amount to maximize benefits to ratepayers, or, in the alternative, the authorized return on CEI South's capital contribution should be no larger than longest maturing tranche interest rate on CEI South's securitization bond. *Id.* at 28.

In response, CEI South witness Mr. Jerasa testified the capital contribution is paid by CEI South, not from securitization bond proceeds, and would otherwise be available for CEI South to invest. Mr. Jerasa testified CEI South's request for WACC is to compensate the Company for the opportunity cost of the capital contribution. Pet. Ex. No. 2-R at 20. However, as an alternative, Mr. Jerasa proposed allowing a return equal to the coupon of the longest tenor tranche of the securitization bonds. This is consistent with the alternative recommendation from CAC Witness Mr. Inskeep. Additionally, if there is any overcollateralization required during the rating agency review beyond the 0.5% contribution to receive a AAA rating, CEI South requests a return of WACC on that amount. *Id.* at 21.

While noting the capital contribution is funded by CEI South, the Commission agrees that the low risk of the capital contribution does not merit a return at the utility's WACC. We find the alternative recommendations proposed by Mr. Inskeep and Mr. Jerasa is a reasonable method that assigns the same risk, as reflected in the interest rate, to the capital contribution that is given to the longest tenor tranche of the securitization bonds.

(iii) *Security for Securitization Bonds.*

Mr. Chang explained the principal security for a Securitization Bond is the Securitization Property that is sold to the SPE. Securitization Property under Ind. Code § 8-1-40.5-11 consists of the rights to impose, collect and receive non-bypassable Securitization Charges from the utility's customers for amounts necessary to pay principal and interest on the Securitization Bonds, as well as to pay the other ongoing costs, on time and in full. The Securitization Property includes the right to adjust the Securitization Charge at least annually, if not more frequently, through the true-up adjustment. Pet. Ex. 3 at 23. Non-bypassable under Ind. Code § 8-1-40.5-12 means the Securitization Charges are payable by all customers and customer classes of the electric utility, including customers that supply a portion of their own electricity demand. Pet. Ex. 2 at 14. Under the Securitization Act, the SPE's interest in the Securitization Charges is not subject to setoff, counterclaim, surcharge, or defense, and a Financing Order authorizing Securitization Charges remains in effect and unabated notwithstanding the bankruptcy of the electric utility. *Id.* "Other collateral" generally consists of the trust accounts – typically consisting of a "Collection Account" and various subaccounts – established by the SPE at transaction closing to be held by the bond trustee for the benefit of the bondholders. Pet. Ex. 3 at 21. The subaccounts will hold (i) Securitization Charge remittances pending application by the bond trustee under the "waterfall" provisions of the trust indenture ("General Subaccount"); (ii) the initial equity (or capital) contribution by the utility discussed below ("Capital Subaccount"); and (iii) Securitization Charge collections, together with earnings on the Collection Account, in excess of required periodic payments of debt service and all other ongoing costs (the "Excess Funds Subaccount"). Amounts in the Excess Funds Subaccount are used as a "credit" in future true-up adjustments to the Securitization Charge. *Id.* In some securitizations, the bond trustee also creates an account to hold any Securitization Charges collected in excess of the required debt service for the purpose of providing additional credit support (any "Overcollateralization Subaccount"). *Id.* at 21. Mr. Chang testified he does not anticipate that an Overcollateralization Subaccount will be required for the CEI South securitization, but recommended CEI South have the ability to include such an account should market conditions warrant. *Id.*

(iv) *Upfront Costs.*

As described in Section 6.A.i above, Mr. Jerasa presented Petitioner's estimated upfront costs for the proposed securitization (assuming no credit enhancement) in total amount of approximately \$4.7 million (not including expert support costs), which is approximately 1.34% of

the initial principal amount of the Securitization Bonds. Mr. Chang opined these upfront cost estimates are reasonable and appropriate and consistent with prior utility securitizations. He reached this conclusion by comparing CEI South's estimated upfront costs to total upfront costs of recent utility securitization ranging from approximately 0.6-4.5 percent of the original principal amount of the utility Securitization Bonds. Pet. Ex. 3 at 35.

Additionally, as discussed below, the OUCC will participate in the post-financing order process, along with its designated representative. Based on the information in the record, the range in past proceedings for these expenses is \$50,000 to \$1.6 million. This information is from Mr. Jereasa's Attachment BAJ-4 "Upfront Fee Comps" using "Commission's Cost and Expenses" as a proxy for the OUCC's involvement.

(v) *Ongoing Costs.*

Mr. Chang described "ongoing costs" incurred in connection with securitization generally, while Mr. Jerasa presented a detailed estimation of the ongoing costs for CEI South's proposed Securitization Bond issuance as described in Section 6.A.i above. Mr. Chang testified these ongoing costs are expenses that are incurred on an annual basis to service the Securitization Bonds and support the operations of the SPE. He said they include, but are not limited to, servicing fees, administrative fees, bond trustee fees, legal and accounting fees, rating agency surveillance fees, other operating expenses of the SPE, credit enhancement expenses (if any) and related costs. Pet. Ex. 3 at 21-22. Mr. Chang testified ongoing costs also typically include a permitted rate of return on the utility's invested capital, often equal to the weighted average rate of interest payable on the Securitization Bonds or the utility's cost of capital. This return would be paid to the sponsor (CEI South) from Securitization Charges in accordance with the waterfall established in the indenture providing for the issuance of the Securitization Bonds. *Id.* at 22.

(vi) *Servicing Agreement and Servicer.*

As noted above, CEI South will act as the initial Servicer of the Securitization Property. Mr. Chang described the servicing function in utility securitizations generally. He explained that the Servicing Agreement between the utility and the SPE will govern certain duties the utility, as Servicer, must perform on behalf of the bondholders, including performing billing functions and collection of the Securitization Charge from customers, applying to the public utility commission for periodic true-up adjustments, remitting the Securitization Charges to the bond trustee, and providing periodic reports summarizing current aspects of the transaction. Pet. Ex. 3 at 24. He testified servicing fees must allow the utility to recover its cost of servicing the Securitization Property to help ensure the SPE can be treated as bankruptcy-remote from the utility. Servicing fees in utility securitizations are most commonly expressed as a fixed percentage of the original principal balance of the transaction, which allows the servicing fee to remain constant over the lifetime of the transaction. *Id.* at 14. He presented recent utility securitization annual servicing fee percentages, which ranged from 0.05 percent to 0.10 percent of the initial principal balance of the Securitization Bonds. *Id.* CEI South witness Jerasa testified the proposed servicing fee for Petitioner's proposed securitization is 0.05 percent per annum, which Mr. Chang noted is consistent with the fee percentage charged in recent utility securitization transactions. Pet. Ex. 2 at 21; Pet. Ex. 3 at 15.

Mr. Chang and Mr. Jerasa explained the circumstances under which a replacement or Successor Servicer might be appointed, and the anticipated servicing fee that would apply under such circumstances. Mr. Chang explained that replacement servicing fees in past utility securitizations have generally been pre-approved up to approximately 0.60 percent of the initial principal balance in the financing order to avoid any interruption in collections as a result of

selecting a replacement Servicer. Pet. Ex. 2 at 21; Pet. Ex. 3 at 15. Mr. Jerasa testified CEI South is proposing a higher annual servicing fee consistent with market conditions at the time if a third party replaces CEI South as Servicer (with the flexibility to pay a higher fee if necessary), updated in the true-up filing. Pet. Ex. 2 at 21. Mr. Chang explained that the difference in servicing fees for a third party replacement Servicer reflects the potential cost and difficulty of securing a replacement Servicer that is not already involved in the customer billing and collection process. Pet. Ex. 3 at 16. He testified the Servicing Agreement will prohibit the initial Servicer's ability to resign as servicer unless it is unlawful for the initial servicer to continue in such a capacity. In order to continue servicing the Securitization Charges without interruption, the initial Servicer's resignation would not be effective until a Successor Servicer has assumed its obligations. The Servicer may also be terminated from its responsibilities upon a majority vote of bondholders under certain circumstances, such as the failure to remit collections within a specified period of time. Any merger or consolidation of the Servicer with another entity would require the merged entity to assume the Servicer's responsibility under the Servicing Agreement. *Id.* at 22. Mr. Chang and Mr. Jerasa both noted that they are not aware of any utility securitization where the utility Servicer has been replaced. Pet. Ex. 2 at 21; Pet. Ex. 3 at 16.

Mr. Chang explained that the terms of the Servicing Agreement are critical to the rating agency analysis of the Securitization Bonds and the ability to achieve the highest credit ratings, as discussed in greater detail below. Pet. Ex. 3 at 23. He said the rating agencies will require that the Servicing Agreement generally contemplates a Servicer's ability to remit Securitization Charges within a couple of business days of receipt or posting to the utility's account. *Id.* Mr. Jerasa testified that CEI South, as Servicer, will then remit the collections of the Securitization Charges to the SPE (this is typically done routinely during each month), where the funds will be reinvested by the Indenture Trustee until interest and principal on the Securitization Bonds become due. Pet. Ex. 2 at 10.

Mr. Sutherland testified regarding a mechanism to credit back to the ratepayer amounts received by the Company exceeding the costs incurred in providing administrative services for the bonds. If there is no mechanism, the Company would likely recover the same costs twice from customers, once through base rates and once through the bond servicing fee. To avoid double collection or collection of servicing and administrative fees in excess of actual incremental cost to the utility acting as servicer, Mr. Sutherland recommended such fees collected to be included as a revenue credit and reduce revenue requirements in each subsequent rate case and that the actual expenses incurred to perform the servicing and administrative function be included in each subsequent base rate case. Mr. Sutherland also provided a mechanism to account for these expenses in between rate cases. Pub. Ex. No 8 at 27-29.

(vii) *Administrative Agreement and Administrator.*

Mr. Chang and Mr. Jerasa described the role of Petitioner as administrator in the proposed securitization. They explained that the bankruptcy-remote SPE issuing the Securitization Bonds will have no employees. As a consequence, the utility must provide administrative services to the SPE for the SPE to function as an independent legal entity. The administrative services will include, among others, maintaining general accounting records, preparing quarterly and annual financial statements, arranging for annual audits of the SPE's financial statements, preparing all required external financial filings, preparing any required income or other tax returns, and related support. Pet. Ex. 2 at 22; Pet. Ex. 3 at 23. Mr. Chang noted these services are separate from the servicing obligations performed by the Servicer. Pet. Ex. 3 at 23. He presented recent utility securitization annual administration fee data, showing a range of \$50,000 - \$100,000 per year. Petitioner's

proposed estimated annual administration fee of \$75,000, plus reimbursement of third party expenses, is in line with this range. *Id.*; Pet. Ex. 2 at 21. The administrative fee will be collected as Securitization Charges collections and remitted to the Indenture Trustee by the Servicer and included in the ongoing costs proposed. Pet. Ex. 2 at 21. CEI South will be paid the administrative fee in two installments on a semiannual basis on each payment date of the Securitization Bonds. *Id.*

(viii) *Bond Trustee.*

Mr. Chang explained the role of the bond trustee, who receives and processes Securitization Charges from the Servicer, calculates the amounts due to bondholders on each payment date, allocates collections in accordance with the priority of payments for the transaction, invests amounts on deposit in each Collection Account subaccount in eligible investments, and provides periodic reports that detail account activity and balances to various parties. Pet. Ex. 3 at 24. He testified the bond trustee generally operates at the direction of the Servicer, as agent for the SPE. *Id.*

(ix) *Transaction Documents.*

Mr. Jerasa described the basic documents that would be used in the securitization. He provided copies of drafts of the following: (1) Servicing Agreement; (2) Administration Agreement; (3) Purchase and Sale Agreement; (4) Amended & Restated LLC Agreement; and (5) Indenture. Mr. Jerasa noted that as with all major transactions, there can be modifications to the draft agreements up through the ratings process and until the closing on the issuance of the securitization bonds. He testified that he did not expect the core terms of the execution versions of these agreements to change substantially from those set forth in the draft agreements. Pet. Ex. 2 at 22. Mr. Jerasa testified that the first three of the agreements listed above are between CEI South and the SPE which will be a wholly owned subsidiary of CEI South. The Amended & Restated LLC Agreement will be signed by CEI South as the sole member of the SPE and will govern the conduct and governance of the SPE. He stated that because all aspects of the transaction must be insulated from collateral attack in order to achieve the AAA rating on the Securitization Bonds, Petitioner is seeking an Order in this Cause that these affiliate agreements are in the public interest and that the submission of the draft agreements with Petitioner's case-in-chief and the final agreements with the Issuance Advice Letter (discussed below) satisfies CEI South's obligations under Ind. Code § 8-1-2-49(2). *Id.* at 23.

(x) *Issuance Advice Letter.*

Mr. Jerasa described CEI South's proposal to file with the Commission an Issuance Advice Letter, given the actual structure and pricing of the Securitization Bonds remains unknown until pricing and issuance. He explained the Issuance Advice Letter will contain the final pricing terms and updated estimates of upfront and ongoing financing costs. Importantly, the Issuance Advice Letter will confirm that the Securitization Bonds were issued in a manner consistent with the Financing Order and the Securitization Act. Pet. Ex. 2 at 29-30. A sample form of the Issuance Advice Letter was provided as Attachment BAJ-5 to Mr. Jerasa's Direct Testimony. CEI South proposed to provide a copy of the draft Issuance Advice Letter to the Commission no later than two weeks before marketing the Securitization Bonds. Any credit enhancement provisions or other terms not described in the evidence herein would be included in that draft. CEI South would then provide a copy of the final Issuance Advice Letter within three (3) business days after the pricing of the offering of the Securitization Bonds, to provide the Commission an opportunity to review and reject, no later than noon on the 4th business day after pricing, the Issuance Advice Letter if the Securitization Bonds were issued in a manner inconsistent with this Financing Order or the Securitization Act. Absent a rejection of the Issuance Advice Letter by the Commission, the

Securitization Bonds would close on the 5th business day after pricing. Pet. Ex. 2 at 30. Mr. Jerasa testified Petitioner will keep the Commission apprised of the pricing process and invites the Commission to appoint a representative (either a Commissioner or a senior staff member) to observe the pricing discussions. *Id.*

b) Description of Utility Securitization Bonds.

Mr. Chang provided an overview of utility Securitization Bonds generally. Mr. Jerasa introduced the preliminary proposed structure for the Securitization Bonds, including the balance for each tranche, along with the average life, indicative yield, scheduled final payment dates, and legal final maturity dates, among other details. Pet. Ex. 2 at 12. That information is included in his Table BAJ-2, copied below:

Table BAJ-2: Proposed Preliminary Structure

Class	Balance	Coupon	Price	Yield	Treasury Benchmark	Spread	Average Life	First Principal Payment	Last Principal Payment	Principal Payments Window	Legal Final
A-1	180,000,000	4.19%	100.000	4.188	2.788	140	4.97	10/15/2023	10/15/2032	0.5-9.5	10/15/2034
A-2	170,125,000	4.58%	100.000	4.579	2.829	175	12.33	10/15/2023	4/15/2038	9.5-15	4/15/2040
Total	350,125,000										

(i) Fixed Rate.

Mr. Chang explained utility Securitization Bonds have traditionally paid interest on a fixed rate basis, largely dictated by the need to achieve predictable savings to utility customers, as well as the AAA(sf) ratings typically assigned to utility securitizations and the need to use complex derivative structures to achieve a floating rate. Pet. Ex. 3 at 25. Mr. Jerasa confirmed each tranche of Petitioner’s Securitization Bonds will be fixed rate instruments, in order to ensure predictable ongoing costs. Pet. Ex. 2 at 12.

(ii) Public Offering.

Mr. Chang testified most utility securitizations have been offered pursuant to an offering registered with the U.S. Securities and Exchange Commission (“SEC”), generally referred to as a public offering, though it depends on prevailing market conditions at the time of issuance. Pet. Ex. 3 at 25. While Mr. Chang noted that public offerings are generally considered to be more liquid than a private placement, and therefore may be more attractive to investors, which would likely lead to lower overall costs for CEI South’s customers, he nevertheless noted that it may be important for the utility to retain flexibility to issue the Securitization Bonds in a Rule 144A (pursuant to the Securities Act of 1933) private placement transaction which provides for certain exemptions to registration requirements, to address possible market or other disruptions that may arise, such as the recent pandemic. *Id.*

(iii) Pricing; Tranches; Maturity and Amortization.

Mr. Chang stated utility Securitization Bonds have historically priced off of the mid-swap benchmark rate index, although more recent transactions have tended to price off a treasury benchmark. He explained that the credit spread is the incremental return required by investors over the benchmark rate to invest in a specific security – in this case, the utility Securitization Bonds. The total yield for any tranche of utility Securitization Bonds is the sum of (i) the benchmark rate and (ii) the credit spread. These spreads are used to determine the various tranches (or maturities)

of Securitization Bonds to be offered and sold as well as their respective expected and final maturity dates, to minimize the cost of borrowing. Pet. Ex. 3 at 25-26. Mr. Jerasa testified the benchmark rates for Petitioner's proposed securitization are driven by the representative cost of borrowing for United States Treasury securities at different tenors. Pet. Ex. 2 at 12.

Mr. Chang testified the maturity and amortization structure for utility securitizations varies based upon various considerations, including statutory constraints, the nature of costs being recovered, ratemaking or other regulatory considerations, and bond cash flow considerations. Pet. Ex. 3 at 25. Mr. Jerasa testified the Securitization Act requires the securitization bonds not have a term of more than twenty (20) years, so no tranche of securitization bonds will have a legal final maturity date that exceeds this duration. Pet. Ex. 2 at 10. However, Mr. Jerasa proposed a fifteen (15) year scheduled final payment date and a legal final maturity date of seventeen (17) years to balance customer savings with intergenerational equity issues. *Id.* Mr. Chang described the quantitative and qualitative considerations that are taken into account when structuring the tranching of the securitization bonds, including:

- General market conditions at the time of pricing,
- Interest rate environment,
- Shape of the underlying benchmark yield curve,
- Perceived investor liquidity of the Securitization Bonds,
- General investor risk appetite,
- Investor maturity preferences,
- Competing supply in the new issue market,
- Secondary trading levels for comparable securities,
- Relative value versus comparable securities, and
- Issuance calendar in general.

He stated the goal of the structuring process is to design a tranching structure that will appeal to different classes of bond investors. Achieving that goal will increase the number of investors seeking to invest in that security and, in turn, obtain a lower practicable debt cost consistent with a market clearing offering, thus providing a lower total cost to the utility customers. Pet. Ex. 3 at 26. Mr. Jerasa explained the tranches, issued on the same date, would each have their own scheduled final payment date and their own legal final maturity date occurring after the scheduled final payment date, a feature which allows for delays (due to variations in cash flows) in scheduled principal payments from the Securitization Charges. He stated the scheduled final payment date and legal final maturity dates would be determined at or shortly before issuance based on market conditions at the time. Mr. Jerasa testified the average life (or maturity) of each tranche of Securitization Bonds is a function of the weighted average timing of cash flows expected to be paid and determines the pricing benchmark used for that tranche. Pet. Ex. 2 at 12. CEI South recommended a fifteen (15) year scheduled final payment date of the longest-termed tranche of the Securitization Bonds in order to balance customer savings with intergenerational equity issues. Mr. Jerasa explained the legal final maturity date of the longest-termed tranche of Securitization Bonds would be seventeen (17) years from the issuance date, before the twenty (20) year requirement included in the Securitization Act. Pet. Ex. 2 at 10. Typically, level payment of interest and principal on the Securitization Bonds will be payable by the SPE semiannually, according to a mortgage-style amortization schedule. *Id.* at 10-11.

Mr. Jerasa explained the rationale for proposing a 15-year scheduled final payment date for the securitization bonds, citing the need to weigh the cost to customers, total interest paid by customers, and the generational impact the bonds can have. Pet. Ex. 2 at 26. Mr. Jerasa explained that while the securitization bonds can be issued for a legal maturity of up to 20 years, they are being issued to finance the retirement of generation assets that will not operate in the future. Though it is important to provide savings to customers, the longer the securitization bonds are outstanding, the greater the likelihood for intergenerational inequities. *Id.* He presented a sensitivity analysis comparing the same tranching structure across three different cash flow tenors: (1) 10-years, (2) 15-years and (3) 18-years (with 12-years, 17-years, and 20-years to legal maturity, respectively). *Id.* at 27, Table BAJ-3. He explained that the structures with shorter cashflow tenors benefit from the lowest weighted average bond coupons and lower total interest paid as a whole. On the other hand, the 18-year structure allows for cashflows to be discounted over a longer period of time, and for a given discount rate, will typically result in the lowest net present value of costs. *Id.* at 26.

Mr. Chang discussed the implications of the interest rate environment for bond issuance. While Treasury yields have risen significantly since the start of 2022 on the back of heightened expectations for the Federal Reserve to hike rates multiple times throughout 2022 and potentially into 2023, the Treasury curve has also flattened as the rise in rates has a more substantial impact on shorter dated tenors relative to longer dated tenors. Pet. Ex. 3 at 26-27. He explained that the flatness of the curve has implication for both investor demand and the relative value of a given tranche of securitization bonds. *Id.* at 27. He described the overall interest rate environment as relatively volatile, impacting all financial instruments, including both traditional debt financing and securitization bonds, and predicted the backdrop could be materially different at the time the transaction is marketed. *Id.*

OUCW Witness Sutherland stated significant incremental net present value (“NPV”) savings of \$15.6 million can be achieved with a 19-year final scheduled maturity. He testified that by increasing the frequency of true-ups in the last year of scheduled payments, it is possible to reduce the gap between scheduled and legal final maturity to just one year with no objections from the rating agencies. Mr. Sutherland stated that two of the most recent 11 transactions were structured with a year between the scheduled and final maturity. Pub. Ex. No. 8 at 23-25. Mr. Sutherland acknowledged the intergenerational concerns with extending the final maturity beyond 15 years, but stated, in this situation, the NPV benefit outweighs intergenerational concerns. *Id.* at 25-26.

Mr. Gorman also testified regarding the proposed term of the securitization bonds. He opined that the public interest is served by minimizing as much as possible the cost to customers of the annual securitization charge. He observed that if the Company increased the cash flow length from 15 to 18 years, the annual securitization bond revenue requirement would decrease from \$32.8 million to \$29.3 million. Additionally, he noted that doing so would also result in the lowest present net value of cost. Mr. Gorman concluded that maximizing the term can minimize the annual impact on customers’ bills over the period the Brown Unit abandoned plant costs are recovered from customers as well as the net present value of costs. IG Ex. 1 at 22. Accordingly, Mr. Gorman recommended that the proposed SCP tariff be adjusted to extend the maturity date of the securitized bonds in order to lower the annual revenue requirement and reduce the net present value of costs. *Id.* at 4.

In response to the final maturity date, Mr. Jerasa stated CEI South continues to recommend a 15-year schedule but would not object to an 18-year schedule with a 20-year legal final maturity date. Mr. Jerasa acknowledged there were minimal intergenerational impact issues between a 15-year and an 18-year maturity. Pet. Ex. No. 2-R at 13-14. Mr. Jerasa did not agree with a 12-month

period between the scheduled final payment date and the legal final maturity date. Mr. Jerasa explained the rating risk for this proposal and stated the small customer count for CEI South could increase the risk for this collection period. A 24-month period reduces the risk associated with this practice. If there are more securitizations in the future, this period could be reduced once there is more comfort around the predictability of cash flows. *Id.* at 14-16.

c) Rating Agencies.

Mr. Chang explained the role of rating agencies in the securitization process. He testified the issuer of the Securitization Bonds (*i.e.*, the SPE) will engage nationally recognized statistical rating organizations, otherwise known as rating agencies, to evaluate the creditworthiness of the securitization and provide credit ratings on specified classes of the transaction. Pet. Ex. 3 at 16-17. He stated obtaining the highest possible ratings on the Securitization Bonds from the rating agencies is an important component of preparing for the marketing and pricing of the securitization bonds. Pet. Ex. 3 at 27. Mr. Jerasa testified to the importance of achieving a ‘AAA’ rating for the

Securitization Bonds, as it allows for the bonds to achieve a lower cost of debt, thereby benefitting CEI South’s customers. Pet. Ex. 2 at 13. Mr. Chang explained that, similar to other types of securitizations, all major rating agencies have published methodologies for assigning ratings in utility securitizations. He outlined the rating agency process, consisting generally of (1) Preparing and distributing an initial rating agency presentation and accompanied Securitization Bond cash flows, including cash flow stress scenarios unique to each transaction; (2) Questions from each rating agency to the utility, its lead underwriter, and its legal counsel, based on the initial rating agency presentation and cash flows; (3) A legal review of the transaction; and (4) A servicing due diligence review. Pet. Ex. 3 at 27.

CEI South witnesses Chang and Jerasa testified that in reviewing utility securitizations, the rating agencies will focus on key elements of the securitization legislation, the Financing Order, the true-up mechanism (which ensures payment of the required debt service), the non-bypassability of the Securitization Charge, and any overcollateralization or other forms of credit enhancement. Pet. Ex. 3 at 28-29; Pet. Ex. 2 at 13. Mr. Chang stated that as the sources of payment for the transaction are limited only to the Securitization Property, the rating agencies will perform various “stress tests” on the cash flows (which vary by each rating agency) to ascertain whether interest will be paid on time and principal will be paid by the legal final maturity date. He explained that rating agencies’ stress test analysis is most commonly focused on projected vs. actual consumer consumption, delinquency, and net charge-off rates. Rating agencies will also review the Securitization Charge as a percent of total customer billing to ensure it is not greater than certain predetermined thresholds. *Id.* at 18. Additionally, Mr. Chang stated the size and diversity of the customer base, classes within the base and the size of the Securitization Charge as a percent of the aggregate customer electric bill are important factors in the rating agency process. *Id.* at 28. He described the key legal elements of the transaction rating agencies will review. He also described the important features of the financing order that will establish the foundation necessary to secure the highest possible rating from the rating agencies and the flexibility to structure the financing in a manner consistent with investor preferences at the time of pricing. To accomplish this, he identified that the Financing Order must:

- (1) include a mechanism to ensure that the Securitization Charges will produce revenues adequate to meet scheduled debt service requirements and the other ongoing costs on a timely basis;
- (2) provide provisions describing the non-bypassability of the Securitization Charges;

(3) provide adequate provisions to mitigate any potential risk to the SPE of a utility's bankruptcy, which is accomplished via a legal "true sale" for bankruptcy purposes to a bankruptcy-remote SPE;

(4) contain a reaffirmation by the Commission of the State's non-impairment pledge;

(5) include provisions that facilitate favorable "debt-for-tax" treatment for the securitization; and

(6) include provisions giving the utility flexibility to include additional credit enhancement and otherwise structure the tranching and other terms of the bonds to obtain the highest possible credit rating and therefore the optimal pricing through an Issuance Advice Letter process.

Mr. Jerasa provided a form of proposed Financing Order that CEI South requested the Commission adopt as its final decision and Order in this Cause. Pet. Ex. 2, Attachment BAJ-6. He emphasized that the precise language of the Financing Order is critical to obtaining the high credit rating. Pet. Ex. 2 at 31.

Mr. Chang explained that ultimately, the rating agency's analysis will determine the amount of credit enhancement the structure will need. Pet. Ex. 3 at 29. He also relayed the approach taken by Moody's and S&P to assessing the qualitative and quantitative impact of securitization on a company's credit. He noted that qualitatively, Moody's believes that the utility benefits from securitization given the immediate source of cash and that consumers benefit from lower rates due to the lower cost of capital associated with the bond coupon. Quantitatively, Mr. Chang stated Moody's focuses its analysis on credit metrics without securitization debt for the utility since there are significant differences and benefits between securitization debt issuances and the utility's traditional debt financing arrangements. Pet. Ex. 3 at 30-31. Qualitatively, S&P views securitization as at least neutral, and generally positive for credit quality. Quantitatively, S&P deconsolidates securitized debt and associated revenues and expenses when assessing a utility's credit as long as the structure contains a number of protective features. These include making the Securitization Charge irrevocable and non-bypassable; and that the securitization structure is an absolute transfer and holds a first-priority interest in the Securitization Charges, contains periodic "true-ups" to handle any over- or under-collections, and a reserve account to handle any temporary shortfalls. *Id.*; Pet. Ex. 2 at 13-18.

d) Commission Discussion.

Pursuant to Ind. Code § 8-1-40.5-10(b)(2), we are required to find that the net present value of the total securitization charges to be collected under this Financing Order is less than the amount that would be recovered through traditional ratemaking if the electric utility's qualified costs were included in the electric utility's net original cost rate base and recovered over a period of not more than 20 years. In this proceeding, we are presented with several options regarding the length of maturity of the bonds. Extending the maturity date of the bonds does not affect the amount of qualified costs recovered in this proceeding; it only affects the amount paid by ratepayers over the term of the bonds. CEI South proposed a 15-year maturity date but would "not object" to an 18-year maturity, while the OUCC proposed a 19-year term and the Industrial Group supported a longer term as well. While CEI South disagreed with Mr. Sutherland's specific calculation of the net present value savings, no party disputed that the longer maturity generated greater net present value savings for customers. Therefore, in order to ensure the net present value of the total securitization charges to be collected are lower than would be recovered through traditional ratemaking, we find

a 19-year maturity for the Securitization bonds is appropriate and complies with the statute. During the final year between the scheduled final payment date and the legal final maturity date, CEI South can increase the schedule of true-ups in the last year of collection. Given that CenterPoint was involved in three transactions in Texas utilizing this procedure, the Commission is confident CEI South can utilize this experience to enable a one-year period. Additionally, the Commission does not find the comparison of risk to Entergy New Orleans is appropriate as New Orleans can, and has, seen “weather related event risks” (i.e., hurricanes) that are not seen in CEI South’s service territory. However, during the rating agency review process, should the rating agencies determine this risk would prevent a AAA rating, the maturity date may be changed to 18 years.

Pursuant to Ind. Code § 8-1-40.5-10(d)(3), the Commission must make a finding “that the expected structuring and the expected pricing of the securitization bonds will result in reasonable terms consistent with market conditions and the terms of the financing order.” In order to ensure the requirement of this term is carried out, it is reasonable to create a “Bond Team” that includes members who can provide representation of ratepayer interests. It is further reasonable and appropriate that decisions regarding the structuring, marketing, and pricing of the Securitization Bonds will be made by the Bond Team, with input and advice from all members of the Bond Team. CEI South will retain sole discretion regarding whether to assign, sell, or otherwise transfer securitization property or to cause securitization bonds to be issued as required under Ind. Code § 8-1-40.5-10(k). It is reasonable and appropriate that the Bond Team comprise of representatives of CEI South, as applicant, and the OUCC, as the statutory ratepayer representative. CEI South and the OUCC may designate staff, counsel, and consultants to participate on the Bond Team on their behalf. The OUCC will have a decision-making role co-equal with CEI South with respect to the marketing, structuring, and pricing of the Securitization Bonds and all matters related to the marketing, structuring, and pricing of the securitization bonds shall be determined through a joint decision of CEI South and the OUCC. The role of the OUCC is to participate independently of CEI South in the bond issuance process. It is the Commission’s goal that this process will seek to achieve the lowest Securitization Bond charges consistent with market conditions and the terms of this Financing Order. The expenses relating to the OUCC’s participation are costs related to the issuance of the Securitization Bonds and are therefore qualified costs under Ind. Code § 8-1-40.5-6(3) and recoverable in this proceeding. As discussed above, the range of costs seen in previous proceedings in other states for these types of expenses are \$50,000 to \$1.6 million. We find the reasonable amount for this expense to be the mid-point of this range, or \$775,000.

Because the actual structure and pricing of the Securitization Bonds are unknown as of the issuance of this Financing Order, following determination of the final terms of the Securitization Bonds and before issuance of the Securitization Bonds, CEI South will file with the Commission for each series of Securitization bonds, an Issuance Advice Letter. We find Petitioner’s proposal regarding updating the Issuance Advice Letter should be approved, such that Petitioner is directed to submit an updated Issuance Advice Letter at least two weeks before marketing the Securitization Bonds. The update will include current market conditions and the decision on whether any of the credit enhancements described by Mr. Jerasa will be included. The final Issuance Advice Letter will be submitted within three business days after pricing in order to provide the Commission the opportunity to review and reject the sale within the next day. The form of the Issuance Advice Letter as proposed by Petitioner is approved.

As part of the Issuance Advice Letter, it is reasonable that Petitioner file a certification statement, worded as the form of certification included with this Financing Order. The certification statement by Petitioner is to certify that the marketing, structuring, and pricing of the Securitization Bonds, as described in the Issuance Advice Letter, sought to achieve the lowest Securitization Bond

charges consistent with market conditions and terms of the Financing Order. The certification will describe the actions taken to meet this goal. The certification proposed by Mr. Jerasa is redundant, as it merely certifies findings we have made in this Financing Order and upon which we will make a final determination on the issuance of the Securitization Bonds. It is reasonable that the OUCC, or its designated representative, file a certification statement regarding whether the marketing, structuring, and pricing of the Securitization Bonds sought to achieve the lowest Securitization Charges consistent with market conditions at the time the Securitization Bonds were priced and the terms of this Financing Order. Additionally, the bookrunning underwriter(s) shall also certify that the structuring, marketing, and pricing of the Securitization bonds sought to achieve the lowest Securitization bond charges consistent with market conditions and the terms of this Financing Order.

CEI South argues it is concerned the OUCC or its representative would impose unreasonable demands in the bond issuance process or would refuse to issue a certificate if its demands were not met. The Commission finds these concerns are inconsistent with the testimony in this case and reflect a misunderstanding of the post-financing order process. First, the OUCC's designated representative, Saber Partners, has been involved in 14 securitization transactions over the past 20 years. The members of Saber Partners have held high-level positions such as, for example, Chair of the Public Utility Commission of Texas, assistant treasurer at ExxonMobil, one of the largest corporations in the United States, and vice president and treasurer at Consolidated Edison, one of the largest utilities in the United States. While Mr. Jerasa believes certain proposals by the intervenors are unreasonable, none of those proposals relate to the proposals made by the OUCC's Saber witnesses. To state this group would present unreasonable demands is speculative and goes against their professional backgrounds and prior experience with Securitizations. In fact, the evidence presented from Florida and Texas securitizations (Public's Ex. CX-2 and CX-3) show approval from the Commission and parties in those proceedings with Saber's performance, including from then-PUCT Commissioner and current CenterPoint Board member Barry Smitherman. Additionally, should the OUCC and Saber refuse to certify the actions of the post-finance order process, we have the final decision-making authority to allow the bond issuance to proceed, and can make the decision as to whether the concerns are valid or "unreasonable." The OUCC and Saber would not be able to hold the issuance "hostage" by refusing to issue the certification.

Saber's participation as the OUCC's financial advisor in the post-Financing Order process will facilitate the OUCC performing a function comparable to the role a Commission and its financial advisor have performed in several other RBB transactions highlighted by Saber. The Commission has previously determined it did not intend to retain the services of an outside financial advisor. Public's Ex. CX-1, Petitioner's Response to CAC DR 4.1(j) and attachment, including the May 12, 2022 email exchange between the IURC to Mr. Fichera. The OUCC's active participation in the post-Financing Order day-to-day process can help optimize cost savings for ratepayers while the Commission retains ultimate authority to both balance all parties' interests and determine whether or not the Securitization Bonds shall be issued.

We also find Mr. Sutherland's issue of service fees in excess of incremental costs to be valid. To avoid double collection or collection of servicing and administrative fees in excess of actual incremental cost to the utility acting as servicer, we direct CEI South to include the fees collected as a revenue credit and reduce revenue requirements in each subsequent rate case and that the actual expenses incurred to perform the servicing and administrative function be included in each subsequent base rate case. In between base rate cases, CEI South will track excess fees and excess collections as provided by Mr. Sutherland for refund at the next base rate case. Pet. Ex. No. 8 at 28.

We also agree with Mr. Sutherland's proposal on the issue of "tail-end collections," which could occur when the Petitioner will still be collecting securitization charges that were billed but not collected by the date when the last bond payment is made. Mr. Sutherland's testimony contains language addressing the refund of such amounts from a proceeding in Florida. Pub. Ex. No. 8, Ex. PS-12, page 3 of 3. We find it is reasonable that such amounts of "tail-end collections," if any, be credited back to customers consistent with the proposed language.

Mr. Fichera raised several issues in his testimony relating to the various SPE agreements, all unrebutted by CEI South except for one issue. Pub. Ex. No. 3 at 38-40. The Commission finds it is reasonable that the standard of care in the agreements that CEI South, as servicer, and the special purpose entity established to issue the bonds must adhere to and indemnify ratepayers for any actions that increase costs to ratepayers should be a "negligence" standard. The Commission also finds it is reasonable that ratepayers be beneficiaries of all CEI South representations and warranties provided to the trustee, underwriters or others in the following agreements, such that any breach of those representations or warranties cause an increase in cost to ratepayers, CEI South will make ratepayers whole. With respect to the special purpose entity being permitted to issue additional bonds so that the issuer is not an asset-backed securities issuer, Mr. Jerasa provided the proposed Financing Order contain this recommendation. Pet. Ex. No. 2-R at 29-30. We also find it reasonable there should be no amendments or waivers of default without Commission consent in the Indenture, Servicing Agreement, Administration Agreement, and Sale Agreement. Such requests can be made through a 30-day filing process. Finally, we find it reasonable that if deemed collections of the securitized charges are not remitted daily, any servicer float/investment earnings of collections before remittance to the trustee will accrue and be credited for the benefit of customers/ratepayers. Regarding Mr. Schoenblum's recommendation the Commission reserves regulatory oversight concerning the servicing agreements and other transaction documents, we will retain jurisdiction over the agreements pursuant to Ind. Code § 8-1-2-49(2).

While noting the capital contribution is funded by CEI South, the Commission agrees the low risk of the capital contribution does not merit a return at the WACC. We find the alternative recommendations proposed by Mr. Inskeep and Mr. Jerasa are a reasonable method that assigns the same risk, as reflected in the interest rate, to the capital contribution that is given to the longest tenor tranche of the Securitization Bonds. Further, if additional capital contributions are required above the initial 0.5%, the additional contributions shall earn a return at CEI South's WACC of 9.29%.

We find that, provided the final structure and terms of the Securitization Bonds remain reasonably consistent with the findings and procedures described above after taking into account market conditions and rating agency feedback, the expected structuring and pricing of the Securitization Bonds will result in reasonable terms consistent with market conditions and the terms of this financing order. We further find that the proposed Servicing Agreement, Administration Agreement, Purchase and Sale Agreement and Amended & Restated LLC Agreement, as described and amended herein, are in the public interest and direct that Petitioner shall submit the final versions of these agreements when it submits its draft issuance advice letter, which submission shall satisfy the obligations to file such affiliate agreements pursuant to Ind. Code § 8-1-2-49(2). It is our understanding and intention that our approval in this Order will permit the resulting transaction to be a true sale as provided under Ind. Code § 8-1-40.5-14.

iv. Capital Investments are Equal To or Exceed CEI South's Qualified Costs. Indiana Code § 8-1-40.5-10(d)(4) requires the Commission to find that Petitioner has demonstrated it will make, subject to appropriate approvals of this Commission, capital investments in Indiana in an amount equal to or exceeding the amount of its Qualified Costs, over a period of not more than

seven (7) years immediately following the planned issuance date of the Securitization Bonds. For purposes of the Commission's determination, costs to purchase energy or capacity through a power purchase agreement do not constitute a capital investment for purposes of this subdivision. CEI South is a public utility organized under Indiana law with operations in the State of Indiana. Accordingly, the Commission interprets this requirement to mean Petitioner must show that it is going to make investments in its system.

CEI South witness Leger presented CEI South's plans to invest an amount equal to or exceeding the amount of CEI South's Qualified Costs over a period of not more than seven (7) years immediately following the planned issuance date of the Securitization Bonds, not including amounts for purchases of energy or capacity through a power purchase agreement. Specifically, he stated CEI South plans to invest \$2.7 billion in capital from 2022-2026, with such investment designed to provide reliable energy to our customers in Southwestern Indiana. Pet. Ex. 1 at 11. Included in that capital budget are several projects designed to support CEI South's Generation Transition, which he described. Pet. Ex. 1 at 5, 11. As part of that transition, the Company plans to invest nearly \$1.5 billion over the next 10 years for clean energy projects including wind, solar, and natural gas fired generation. *Id.* at 11. Specific to projects located in Southwestern Indiana are nearly \$600M of solar projects and the combustion turbines currently before this Commission in Cause No. 45564 which are projected to cost nearly \$350 million. *Id.*

The Commission finds that Petitioner has demonstrated it will make capital investments in Indiana over the seven (7) years following the planned issuance of the Securitization Bonds in an amount which exceeds CEI South's Qualified Costs as set forth in this Financing Order. The proposed investments described by Mr. Leger are not purchases of energy or capacity through a power purchase agreement and they consist, at least in part, of construction and ownership of clean energy resources described in Ind. Code § 8-1-37-4(a)(1). Accordingly, the direction in Indiana Code § 8-1-40.5-10(d)(4) that we encourage such use of the proceeds from the securitization bonds has been met.

v. CEI South Proposed Rate Reduction Mechanism. Indiana Code § 8-1-40.5-10(d)(5) requires us to make a finding that Petitioner has proposed a reasonable mechanism to reflect a reduction in its base rates and charges upon the assessment of Securitization Charges on customer bills, so as to remove any Qualified Costs from the electric utility's base rates and that such mechanism will provide timely rate savings for customers.

a). SRR Tariff

CEI South witness Harper presented the Qualified Costs to be reimbursed from the Securitization Bond proceeds as well as those Qualified Costs that are currently reflected in CEI South's base rates. Mr. Harper calculated the revenue requirement to reflect a rate reduction to facilitate removal of such Qualified Costs from rate base upon issuance of the Securitization Bonds. Pet. Ex. 6 at 16. He explained that not all of the Qualified Costs are currently reflected in CEI South's rates, specifically the additional decommissioning costs as well as the regulatory asset associated with the dense pack assets. This reflects a total of \$258,219,788 in Qualified Costs that are currently reflected in CEI South's base rates. *Id.* at 17. To this, he applied CEI South's approved depreciation accrual rates and the current weighted average cost of capital ("WACC") to determine the revenue requirement for the rate reduction to be implemented upon issuance of the Securitization Bonds. *Id.*

Mr. Rice explained that the SRR Tariff will be effective upon implementation of the Securitization Charges and is meant to remain in place until an order is received in CEI South's next

general rate case. He described the basis for allocation of revenue requirements to each rate schedule for the SRR Tariff, stating CEI South proposes to first allocate a portion of the revenue requirement for street lighting, equal to the amount included in the Securitization Charges. Mr. Rice testified CEI South will then allocate the remaining revenue requirement in the SRR based on the four coincident peak (“4CP”) allocation factor percentages as approved by the Commission in Cause No. 43354-MCRA 21 S1. Pet. Ex. 8 at 13. He stated the securitization rate reductions (“SRRs”) should be allocated to each tariff class based upon the same 4CP allocation factor percentages used to develop the Securitization Charges. Mr. Rice presented the proposed SRR allocation for each class. Pet. Ex. 8 at 13, Table MAR-3. He provided the calculation of the SRR rate for each of the tariff classes, consisting of the SRR amounts allocated to each tariff class divided by that class’s 2023 budgeted annual kWh to produce the \$/kWh rate, consistent with the calculation of the proposed Securitization Charges. Pet. Ex. 8 at 14, Table MAR-4. Mr. Harper provided the accounting entries supporting the annualized impact of the SRR Tariff. Pet. Ex. 6 at 17.

i) Appropriate Net Book Value

OUCG Witness Mr. Blakley calculated a different revenue requirement for SRR credit based on what is currently included in rates for the Brown units. As of June 30, 2009, the test year cutoff for CEI South’s most recent base rate case, the amount for book cost is \$651,372,234 and \$303,434,593 of accumulated depreciation, which equals a \$347,937,641 net plant amount. Pet. Ex. No. 10 at 7. Mr. Blakley also testified the WACC approved in the most recent base rate case is 7.29% and the tax gross up to be applied to the weighted average cost of equity is 59.475%, resulting in a 10.37% pre-tax WACC. By applying the actual WACC grossed up for taxes, and approved in CEI South’s most recent rate case, to the net plant embedded in base rates for the Brown Units, results in a revised SSR credit:

Brown Units 1 & 2 Original Cost	\$ 651,372,234
Accumulated Depreciation (excluding Cost of Removal)	(303,434,593)
Net Cost of Brown Unit 1 and Unit 2	347,937,642
Less: Recovered cost of removal in base rates	<u>(6,042,788)</u>
Net Qualified Cost of Brown Units	341,894,854
Pre-tax weighted Cost of Capital	<u>10.37%</u>
Return on rate base	35,454,496
Plus: Depreciation and Amortization - annualized	
Depreciation Expense (excluding Cost of Removal)	25,721,104
Cost of Removal Expense	1,466,855
Amortization Expense for MATS Regulatory Asset	<u>1,376,761</u>
Depreciation and Amortization - annualized	<u>28,564,719</u>
Revenue requirement (SRR Credit)	\$ 64,019,216

The only response to Mr. Blakley was from Mr. Jerasa: “Witness Blakley (pp 7-8) asks that we remove from present rates the net book value of Brown as of June 30, 2009. The net book value of the retiring units from more than a decade ago are not qualified costs (else the bond issue would be significantly higher).” Pet. Ex. No. 2-R at 7.

However, this characterization is incorrect as Mr. Blakley is not asking to use the net book value from the rate case test year as qualified costs. Rather, he is basing the refund on the Actual

amount currently reflected in customer's rates. CEI South's proposed SRR credit is based on adjusted amounts as of the bond issuance date and does not reflect what customers are currently paying through their rates. CEI South is currently recovering \$35,454,496 in base rates related to the book value of the Brown units but will only be returning \$19,779,649 through the SRR credit. CEI South did not dispute Mr. Blakley's calculations. To continue to allow CEI South to recover those costs from ratepayers following the Brown Units' retirement in October 2023, without an offsetting adjustment, would not produce a just and reasonable result. As the statute requires we find the proposed securitization to be "just and reasonable" under Ind. Code § 8-1-40.5-10(d)(6), we see the statutory requirement under Ind. Code § 8-1-40.5-10(d)(5) as establishing a minimum obligation on the part of the utility to provide immediate rate relief to customers related to the removal of securitized assets from rate base. Therefore, we find the amount currently recovered through base rates is the amount that should be refunded to customers, not solely the amount reflected in the qualified costs. We find the SRR credit should reflect the book value and accumulated depreciation of that amount as included in current rates, as approved by the Commission in CEI South's most recent rate case. The credit will be adjusted accordingly at CEI South's next rate case.

ii) Treatment of A.B. Brown Operations and Maintenance Expense in SRR Tariff

Mr. Gorman, on behalf of the Industrial Group, testified that while he generally agreed with the manner in which CEI South developed the SRR Tariff to reflect a credit for the offset amount of depreciation expense, costs of removal and amortization of regulatory assets associated with the securitized assets included in the Company's base rates, the Company was not fully reflecting the credit necessary to make customers whole upon the retirement of the Brown Units and their removal from service in October 2023. Specifically, Mr. Gorman testified that to reflect, fully, the removal of the units from service the SRR Tariff should reflect removal of coal and material supply inventories that will no longer be in service as of the date of retirement; fixed operations and maintenance (O&M) cost that will be avoided once CEI South retires the units, but which will otherwise remain reflected in base rates; and property tax expense included in rates that will, likewise, no longer be incurred upon retirement of the plant. IG Ex. 1 at 30-31. Mr. Gorman explained that upon retirement of the Brown Units, these costs will no longer be incurred. He explained that insofar as those costs are embedded in CEI South's base rates, and the costs avoided upon retirement, CEI South's customers should be see the reduction in rates associated with the savings tied to the termination of expenses or avoidance of ongoing costs. IG Ex. 1 at 32. Ultimately, because CEI South refused to provide information regarding these costs in discovery (IG Ex. 1 at MPG-2 pp. 5-6), Mr. Gorman recommended that CEI South's proposed SRR reflect an additional annualized credit of \$31 million based on an analysis relying on financial information provided by S&P Global Market Intelligence. IG Ex. 1 at 35-6.

CEI South objected to this proposal arguing, principally, that the "Securitization Act's definition of qualified costs does not include operating and maintenance costs" and proposals to remove such costs "outside the relief CEI South has sought" in this case. CEI South's 8-26-2022 Motion to Strike at 5. See also IG Ex. 1 at MPG-2 pp. 5-6. CEI South further asserted that inclusion of Mr. Gorman's \$31 million annualized adjustment would financially harm the Company as evidenced by its FAC filings show it is presently under-earning and that including O&M in the SRR would dissuade other utilities from pursuing securitization. Notably, CEI South did not dispute or otherwise present evidence indicating that Mr. Gorman's calculation was inaccurate.

We denied CEI South's Motion to Strike Mr. Gorman's testimony at the evidentiary hearing and again reject the Company's contention that consideration of further adjustments to the amount included in its SRR Tariff are outside the scope of this proceeding. The Securitization Act, Ind. Code ch. 8-1-40.5, does require a utility to propose a "reasonable mechanism" to reflect a reduction in the utility's base rates and charges so as to "remove any qualified costs from the utility's base rates." The statute, however, also requires that we find the proposed securitization to be "just and reasonable." I.C. §8-1-40.5-10(d)(6). We therefore see the statutory requirement under Ind. Code §8-1-40.5-10(d)(5) as establishing a minimum obligation on the part of the utility to provide immediate rate relief to customers related to the removal of securitized assets from rate base. Contrary to CEI South's position, the provision does not set a ceiling on the amount of costs and expenses embedded in base rates which can, and should, be removed from those rates when assets such as the Brown Units and related improvements are retired and are no longer "used and useful" for the provision of service to customers. Indeed, nothing in Ind. Code ch. 8-1-40.5 diminishes the Commission's authority, and obligation, to conduct investigations and adjust a utility's rates in order to ensure they are just and reasonable as set forth in statutes such as Ind. Code §§8-1-2-58, -68. Nor, does the statute diminish our obligation, as the regulator, to ensure that CEI South's rates remain, and the securitization proposal is, "just and reasonable." I.C. §8-1-40.5-10(d)(6). In other words, we conclude our ability to consider, and if appropriate, approve additional credits to customers is not hindered by the Securitization Act.

Here, we have been presented with evidence from the Industrial Group that an annualized amount of \$31 million should be added to the proposed SRR Tariff to account for the fact that CEI South's base rates set in the Company's last general base rate include expenses the Company will no longer incur following the removal of the Brown Units and associated improvements from service in October 2023. Whatever position CEI South might now take, its last base rate case set a revenue requirement based on level of expenses, including those costs identified by Mr. Gorman, it expected to incur for the operations of its system which undeniably included A.B. Brown. To continue to allow CEI South to recover those costs from ratepayers following the Brown Units' retirement in October 2023, without an offsetting adjustment, would not produce a just and reasonable result. Rather, it would result in CEI South's customers continuing to pay to cover rates which reflect costs for the operation of units which are no longer used and useful for the provision of service.

CEI South has presented this case as one that benefits ratepayers. CEI South Ex. 1 at 9. The harm to ratepayers of failing to reflect an adjustment for costs that will no longer be incurred is evident. While CEI South indicates it will remove the costs identified by Mr. Gorman in its next base rate case; that rate case does not need to be filed until December 2023, two months after the retirement of the units. Assuming that CEI South files its case at that time under Ind. Code §8-1-2-42.7, it would not be until approximately October 2024, when new rates would reflect the removal of the costs identified by Mr. Gorman. Thus, potentially for a full year, CEI South's customers would be obligated to pay rates, without adjustment, which reflect costs for the operation of facilities which are no longer providing service to the public. Again, this would result in an unjust and unreasonable outcome.

We are not persuaded by CEI South's claims that approving this adjustment would cause financial harm to the Company. It may be true that CEI South is presently under-earning as shown in its FAC filing; but whether it is presently under-earning says nothing about whether it will be under-earning in October 2023, when the Brown Units are retired and removed from service, and when the additional credit would begin being reflected in the SRR Tariff. Likewise, CEI South is not without recourse if the addition of the credit causes it financial harm. CEI South is under no

obligation to delay the filing of a rate case and there is no statutory bar to its doing so at any time prior to December, 2023. It has the ability to seek adjustment to its rates, just as it has the obligation to efficiently manage its operations and control costs.

Further, we are not persuaded that other Indiana utilities will turn their back on securitization as a means to retire assets if customers see the benefits of operational saving achieved through the retirement of assets. As Mr. Gorman pointed out, this Commission has approved regulatory mechanisms that credit customers for such savings. See, e.g., Cause Nos. 45502, Order Nov. 17, 2021; 45546, Order Dec. 8, 2021 and 45576, Order Feb. 23, 2022. See also Cause No. 45159, Order Dec. 4, 2019 (approving tracking mechanism to credit customers with differential in revenue requirement due to rate of return between value of rate base assets at close of test year and value as retired assets depreciate). In other words, other utilities have shown an appreciation that customers should see the benefits of operational and other savings associated with the retirement of assets. We are, accordingly, inclined to believe that utilities will do so in the future should facts and circumstances of the case justify the result.

We therefore approve the proposed adjustment to the SRR Tariff. Specifically, we order that as of October 2023, until such time as new base rates are set which fully remove the costs of the AB Brown Units from those rate, the SRR Tariff should include an additional \$31 million on an annualized basis to reflect an adjustment for costs no longer being incurred by CEI South, but which are otherwise reflected in rates, for the operation of A.B. Brown.

b). SAC Tariff

(i) Previously accrued ADIT at the Brown plant.

Mr. Harper also described CEI South's proposal to assure that customers receive the full benefit of ADIT associated with the retiring assets. He proposed to reflect an additional credit to customers through a separate Securitization ADIT Credit ("SAC") Tariff. Pet. Ex. 6 at 19. The beginning balance of ADIT associated with the retiring assets is estimated to be \$46,157,897 at February 28, 2023. It will then amortize over the life of the Securitization Bonds using the amortization schedule presented in Pet. Ex. 2, Attachment BAJ-4. CEI South proposes to multiply the unamortized balance of ADIT each year by the then current WACC using only CEI South's cost of investor-supplied capital and reflect the product as an ADIT credit to be captured as a separate rate through a Securitization ADIT Credit Tariff. Throughout the life of the Securitization Bonds, the ADIT associated with the retiring assets would be segregated from all other ADIT and not included in the calculation of Petitioner's return in future rate cases. In this fashion, customers would be assured of the full benefit of the ADIT associated with the retiring assets. Pet. Ex. 6 at 19. Mr. Rice testified the SAC Tariff would remain in place for the duration of the Securitization Charge until the remaining ADIT balance is fully amortized. Pet. Ex. 8 at 17. Mr. Rice testified that a portion of the ADIT credit would be allocated first to street lighting customers based on 0.45% of expected sales as further described by Mr. Zarumba. The remaining revenue requirement in the SAC Tariff will be allocated based on the same 4CP allocation factor as for the SCP and SRR Tariffs. Pet. Ex. 8 at 15; Pet. Ex. 9 at 8-9.

(ii) ADIT associated with the write off of the Brown units and the regulatory asset

Mr. Gorman testified that CEI South's testimony in this case is not clear enough to determine whether there is any potential for increased ADIT balances for Brown Units 1 & 2 when they are written out of plant in-service and recorded in a regulatory asset, or after environmental improvements for Brown Units that are included as a regulatory asset and qualified costs would no

longer be recovered through traditional rate mechanisms. IG Ex. 1 at 26-27. He stated that to the extent tax basis of these facilities can be written off upon securitization, the amount of ADIT balance available to provide credits to customers will increase. Mr. Gorman recommended the IURC require CEI South to prove it is providing all ADIT balances available for the early retirement of Brown Units 1 & 2, along with the environmental improvements included in the regulatory asset, after these facilities are securitized and retired. Further, he recommended that all ADIT balances related to Brown Units 1 & 2 upon the time they are written off from plant in-service to regulatory assets and all the regulatory asset balances once they are written off, be reported as additional ADIT and used to reduce CEI South's cost of service and customers' rates over the amortization of the securitization bonds. Mr. Gorman stated this is necessary to ensure that customers receive maximum benefits from securitization bonds because the increase in ADIT will lower cost of service in base rate cases. *Id.* at 27.

Mr. Gorman raised the same concerns with respect to ADIT associated with retirement the regulatory assets. He recommended that for tax purposes, unless there is a restriction by the IRS, CEI South should immediately write off the regulatory assets' balance at February 28, 2023 in order to enhance its amount of ADIT that can be used to create rate credits to customers. Not doing so, Gorman stated, would deprive customers of deferred tax savings available for refinancing the regulatory assets. *Id.* at 28.

In conclusion, with respect to both the Brown units and the regulatory assets, Mr. Gorman recommended that CEI South write these plants off immediately preceding financing with securitization bonds. This increase in deferred taxes should then be credit back to customers over the life of the securitization bonds. He recommended that no tax benefits should be retained by CEI South or passed up to its parent company in the Company's consolidated tax filing agreement. *Id.* at 29-30.

In rebuttal and during the hearing, CEI South Witness Mr. Vallejo confirmed that when an asset like the Brown units is stranded, retired, or abandoned, the taxpayer is entitled to a tax deduction equal to its basis, and that the amount of the tax deduction for the Brown units will be \$100 million. Pet. Ex. 7-R at 4-5; Hearing Tr. at A28. Mr. Vallejo testified the amount of ADIT that will be generated immediately upon abandonment of the Brown units is \$24 million, which is incremental to the \$46 million existing ADIT balance. Pet. Ex. 7-R at 4-5; Hearing Tr. at A29. Mr. Vallejo acknowledged that CEI South is not proposing to return the \$24 million to customers as either a credit in the tax rider or to reflect it as zero cost capital in the Company's capital structure. Hearing Tr. at A29-A30. He testified that the Company is going to use it to offset future tax liability associated with the receipt of the bond payments received from ratepayers. Hearing Tr. at A30. However, Mr. Vallejo admitted that the Company would not owe taxes on those bond payments until it actually received those payments from ratepayers. *Id.* In other words, CEI South would not owe the full \$24 million in year one; rather, this obligation is going to be spread out over the life of the bonds. *Id.*

In addition to the ADIT associated with the write-off of the Brown units themselves, Mr. Vallejo also testified regarding the ADIT associated with the \$60 million of regulatory assets. Although he testified that CEI South does not presently believe there is a tax impact with respect to these regulatory assets, he acknowledged uncertainty on this point, and indicated the Company will avail itself of all tax deductions. Pet. Ex. 7-R at 4-5; Hearing Tr. at A31-32. In discovery and during the hearing, Mr. Vallejo acknowledged that should the regulatory assets be written off in a manner similar to the A.B. Brown plant, the impact on ADIT should be similar (*i.e.*, the creation of more ADIT). Hearing Tr. at A32; IG CX-1. The Company further indicated that this tax deduction

will be offset in the future by taxable income upon collection by CEI south of the securitization payments from customers. *Id.* CEI South indicated if it was determined that the Company is allowed to deduct the regulatory assets, the Company would treat the deduction in a manner similar to the deduction related to A.B. Brown plant. Hearing Tr. at A33; IG CX-2. In other words, the Company would use the deduction to offset future income upon collection of the securitization payments from customers. *Id.* However, Mr. Vallejo again admitted those securitization bond payments from customers will be made over the life of the securitization bonds. *Id.*

We agree with Mr. Gorman that CEI South ratepayers should retain all tax benefits associated with the write off of the Brown units and the regulatory assets. In fact, CEI South has expressed the same goal with respect to ADIT accrued prior to retirement of the Brown units. *See, e.g.,* Pet. Ex. 6 at 18 (proposing the SAC tariff “to make certain that customers receive the full benefits of ADIT in a fashion that matches the net present value analysis underlying the proposal.”) Yet although CEI South proposes to return ADIT accrued prior to the retirement of Brown to ratepayers via the SAC tariff, CEI South inexplicably is not proposing the same treatment with respect to ADIT that will be generated immediately upon retirement of the Brown units. Nor is the Company proposing to return to ratepayers any ADIT that may be generated upon retirement of the regulatory assets.

CEI South has attempted to justify its decision to retain all tax benefits associated with the plant write offs by claiming that returning the ADIT would increase the securitization payments. Pet. Ex. 7-R at 6. Specifically, the Company contends the tax deduction will be used as an offset to future tax obligation associated with receipt of the securitization payments from ratepayers. Hearing Tr. at A30. However, CEI South’s argument ignores two key facts. First, it is undisputed the Company will receive the full amount of the tax deduction associated with the write offs in the first year, but that the Company will not owe taxes on the receipt of securitization payments from ratepayers until those payments are actually received—which will occur over the life of the securitization bonds. *Id.* Thus, there is a significant temporal difference between receipt of the tax deduction benefit and incurrence of the tax obligation it will be used to offset. We find that ratepayers, who are responsible for actually making the securitization bond payments, should keep the tax benefits associated with this temporal difference. Second, CEI South’s suggestion that it would need to increase the bond amounts if it had to “continue” to include the existing ADIT and/or newly created ADIT as a result of abandonment of the assets, (Pet. Ex. 7-R at 6), ignores the fact that the Company can amortize the ADIT associated with the write off via the SAC tariff. In fact, that is precisely what the Company proposes to do with the ADIT that has accrued to date. Pet. Ex. 6 at 18-19. There is no reason to treat the ADIT incurred to date and the ADIT that will be generated immediately upon retirement of the assets differently. In both cases, the full benefits of the ADIT associated with the plant should be returned to ratepayers. Accordingly, we find CEI South should credit all ADIT associated with the retirement of the Brown units to ratepayers via the SAC tariff in the same manner as all other ADIT, and amortized over the life of the bonds.

For the same reason, we agree with Mr. Gorman that CEI South should pass back the ADIT benefits of any tax deduction obtained by the write off of the regulatory assets. Though CEI South has committed to “avail itself of all tax deductions allowed under U.S. federal and state income tax law” (Pet. Ex. 7-R at 5), the Company has not committed to pass these benefits along to its ratepayers. We find CEI South should fully investigate all possible tax deductions associated with the regulatory assets and report its findings back its findings on this issue in the first tariff proceeding. We further find CEI South should return to ratepayers any ADIT associated with such deductions via the SAC tariff.

c) Variances for both SRR and SAC Tariffs

Mr. Rice also explained how variances will be treated in the SRR and SAC tariffs. He stated the over- or under-recovery variance will be determined by comparing actual rate reduction provided to customers, to the approved rate reduction from the SRR for the same period. Actual rate reduction represents returned SRR proceeds from CEI South's customer billing system by month and by rate schedule for this period. Pet. Ex. 8 at 19. He explained the over- or underrecovery variance will be determined by month and by rate schedule. He stated that while the specific identification of the variance by rate schedule will be tracked, if the rate reduction to customers exceeds the revenue requirement in the prior period, the difference will be collected from all customer classes in the true-up period based on 4CP allocation regardless of how each rate class contributed to the exceedance in rate reduction. *Id.* at 20. Likewise, if less rate reduction is provided to customers than what was owed in the prior period's revenue requirement, the difference will be returned to all rate classes based on 4CP, regardless of how each class was affected. *Id.* He said the same process will be followed for the SAC Tariff. *Id.*

d) Design of Tariff Adjustments

Mr. Gorman testified that he has concerns related to CEI South's proposal to impose charges through the SCP Tariff, and provide credits through the SRR and SAC Tariffs, on a volumetric kWh basis to all customers. IG Ex. 1 at 23, 25. Mr. Gorman proposed, that in order to properly align the rate design with cost-causation and to reduce intra-class subsidies, CEI South implement a demand charge for Tariff SCP or demand credit, for Tariffs SRR and SAC, for customers served under Rates LP, HLF, and BAMP. CEI South did not object to this proposal, rather, Mr. Rice, affirmatively stated that implementing a demand charge and credits was possible. Pet. Ex. 8-R at 14. Mr. Rice did indicate that doing so "introduces some complexity into the true up process"; but neither he, nor any other witness on behalf of CEI South, provided any evidence describing the nature of any such "complexity." Pet. Ex. 8-R at 14. Importantly, no Company witness testified or otherwise suggested that implementing a demand charge or credits would impair or otherwise endanger the securitization bonds.

This Commission has repeatedly indicated that aligning rates with the principles of cost-causation and the elimination of subsidies, whether intra- or inter-class, are among the considerations taken into account when establishing rates. Here, the undisputed evidence is that a demand charge for Tariff SCP and demand credits for Tariffs SRR and SAC better align with principles of cost-causation and reduce the intra-class subsidies among CEI South's large industrial customers served under Rates LP, HLF, and BAMP. We therefore direct CEI South to revise those Tariffs to reflect the imposition of charges, and the provision of credits, through the demand charge rather than on a kWh basis. To the extent CEI South and the parties, including the Industrial Group, reach an alternative agreement with respect to the rate design of Rates LP, HLF, and BAMP, they may present it to the IURC for approval and incorporation within this Financing Order within thirty (30) days of the issuance of this this Order.

e) Conclusion on SRR and SAC Tariffs

The Commission finds the proposed Securitization Rate Reduction Tariff, as adjusted above, is reasonable and will reflect a reduction in CEI South's base rates and charges upon the assessment of Securitization Charges on customer bills. The Commission further finds CEI South's proposed Securitization Rate Reduction Tariff along with the Securitization of Coal Plants Tariff and Securitization ADIT Credit Tariff (described below) constitute a reasonable mechanism to provide timely rate savings for customers.

vi. CEI South's Proposal, as Modified, is Just and Reasonable. Indiana Code § 8-1-40.510(d)(6) requires that this Commission find Petitioner's proposal to be just and reasonable.

The Commission has found Petitioner's proposed Securitization Rate Reduction Tariff, Securitization ADIT Credit Tariff and Securitization of Coal Plants Tariff, as modified herein, provide a mechanism to allow customers to realize timely rate savings. This Commission has found the ultimate proceeds of the Securitization Bonds will be used solely for the purposes of reimbursing the electric utility for Qualified Costs. In Section 6.A.ii of this Financing Order, this Commission has approved, as modified, Petitioner's proposed accounting entries that will ensure its books and records will reflect a reduction in rate base associated with the receipt of proceeds from the Securitization Bonds. This Commission has also found, in Section 6.A.iii of this Financing Order, the expected structuring and the expected pricing of the Securitization Bonds, as modified herein, will result in reasonable terms consistent with market conditions and the terms of this Financing Order. The Commission has also found Petitioner has shown it intends to make capital investments in Indiana that will equal or exceed its Qualified Costs (Section 6.A.iv.). Accordingly, the Commission determines the terms of the securitization, as discussed in this Financing Order, are just and reasonable. In Section 6.B below, we discuss our finding that the net present value of the total securitization charges to be collected under this Financing Order is less than the amount that would be recovered through traditional ratemaking if Petitioner's qualified costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years. In Section 6.C below, we approve the allocations of qualified costs. Based upon these findings, we find Petitioner's proposal, as modified herein, in this Cause is just and reasonable.

B. **The Net Present Value of CEI South's Total Securitization Charges is Less Than What Would Have Been Recovered Through Traditional Ratemaking (Ind. Code § 8-1-40.5-10(b)(2)).** In order for the Commission to approve the issuance of Securitization Bonds, the collection of Securitization Charges, and the encumbrance of Securitization Property with a lien and security interest, Indiana Code § 8-1-40.5-10(b)(2) requires the Commission to find that the net present value of the total Securitization Charges is less than the amount that would be recovered through traditional ratemaking if CEI South's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years.

CEI South witness Jerasa presented a schedule comparing the net present value ("NPV") of the total of the proposed Securitization Charges with the NPV of the recovery of the Qualified Costs through traditional ratemaking, over a period not to exceed twenty (20) years. Pet. Ex. 2, Attachment BAJ-3. He also provided schedules and supporting documentation for the estimated numbers relied upon to support the Case-In-Chief, including all assumptions used in any NPV calculation. Pet. Ex. 2, Attachment BAJ-4.

Mr. Jerasa explained the calculation of the revenue requirement associated with traditional ratemaking, which calculated the estimated retiring assets' year-end rate base for the years 2023-2033 and applied CEI South's current pre-tax rate of return to establish the annual return on rate base. Pet. Ex. 2 at 25. This was added to depreciation and the amortization of the regulatory asset described by CEI South witness Ryan Harper to calculate the annual revenue requirement if CEI South did not pursue securitization. *Id.* Mr. Jerasa's traditional ratemaking analysis assumed recovery of depreciation and return for the retiring assets through 2033, which is an extremely conservative assumption. As summarized above, CEI South witness Thayer described the original cost, accumulated depreciation, and cost of removal reserve and Mr. Harper described the regulatory asset. The pre-tax rate of return used to calculate the return on rate base is 9.29%, which is CEI South's pre-tax weighted average cost of capital calculated with pre-tax debt and equity components

only as of December 31, 2021. The same pre-tax rate of return was used to as the discount rate for the NPV analysis. *Id.* at 27. Mr. Jerasa explained the deferred taxes were treated as an offset to rate base for the NPV analysis for simplicity's sake and the pre-tax WACC was used for the discount rate since the NPV analysis should include the full return on and of rate base otherwise required if the assets were to remain after 2023. *Id.* at 29.

Mr. Jerasa described how CEI South intends to calculate the revenue requirement for Securitization Bond payments. He stated CEI South will estimate the periodic revenue requirement for an upcoming collection period (i.e., the period covering a collection period's next two Securitization Bond payments), consisting of any scheduled principal and interest payments, amounts to cover the ongoing expenses detailed above, taxes, and any amount needed to replenish the capital subaccount to its required level. Pet. Ex. 2 at 23. He said any excess funds collected in prior periods will offset this periodic revenue requirement. In addition, the revenue requirement will be adjusted for any projected over- or under-recovery of costs in the collection period that will be completed at the time of the true-up adjustment. *Id.* A forecast for the annual revenue requirement over the proposed fifteen (15) year expected life of the Securitization Bonds was presented in Petitioner's Exhibit No. 2, Attachment BAJ-2. CEI South estimated the revenue requirement on an annual basis to be approximately \$32.9 million. *Id.* The revenue requirement is equal to the annual principal payments, interest payments, and ongoing costs to service the Securitization Bonds over the proposed fifteen (15) year scheduled final payment date. *Id.* Mr. Jerasa testified if the Securitization Bond payment occurs after the fifteen (15) year scheduled final payment and before the seventeen (17) year legal final maturity date, additional revenue would be required, though this is not expected. *Id.* at 26.

The securitization financing analysis assumed a 15-year scheduled final payment date for the Securitization Bonds and a weighted average coupon rate of 4.46%. *Id.* at 28. Mr. Jerasa noted the fifteen (15) year maturity period reduces the bill impact on CEI South's customers versus traditional ratemaking, as demonstrated in CEI South witness Rice's testimony, manages the total interest paid over the life of the Securitization Bonds, and manages generational issues for future customers by limiting the expected recovery period to fifteen (15) versus eighteen (18) years. *Id.* at 26.

Mr. Jerasa's NPV analysis showed that the cost to customers on a present value basis of recovering the total Securitization Charges (estimated to be approximately \$249 million, reduced further by approximately \$21 million for the ADIT credit) will be less than the amount that would be recovered through traditional ratemaking methods if the Qualified Costs were included in CEI South's net original cost rate base and recovered over a period of not more than twenty (20) years (estimated to be approximately \$286 million). Pet. Ex. 2 at 27 and Attachment BAJ-3. Mr. Jerasa stated that by issuing the Securitization Bonds for the Qualified Costs, customers will avoid the cost of traditional ratemaking, including the capital return on the decommissioned plant. In addition, the Qualified Costs are spread over fifteen (15) years versus the ten (10) year assumption with traditional ratemaking, which decreases the annual impact on customers' bills. *Id.* at 28. He estimated the securitization would result in overall savings to customers in the amount of \$57.5 million on a net present value basis. *Id.* at 29. He explained that this assumes that issuance of the Securitization Bonds would be February 28, 2023. As explained by CEI South witness Harper, to the extent the actual issuance is later than that date, it would cause relative Qualified Costs (all else being equal) to be approximately \$ 2.0 million per month less. Through the Issuance Advice Letter process, CEI South will provide an updated net present value analysis, which will reflect the actual Qualified Costs. *Id.*; Pet. Ex. 6 at 9 n.6. Mr. Jerasa testified that any delay from February 28, 2023

for bond issuance, however, will not cause the net present value of the Securitization Charges to exceed the net present value under traditional ratemaking. Pet. Ex. 2 at 29.

As noted above, we find the appropriate maturity for the bonds is 19 years. Mr. Sutherland's analysis shows a NPV savings of \$60.59 million for the 19-year maturity. While CEI South witness Mr. Jerasa had a disagreement with Mr. Sutherland's specific method of calculation, Mr. Jerasa stated the savings numbers for the 15-year and 18-year maturities were not materially different from Mr. Sutherland's calculations, and Mr. Jerasa did not specifically address Mr. Sutherland's 19-year NPV calculation. Accordingly, the Commission finds the net present value of the total Securitization Charges to be collected by Petitioner under this Financing Order is less than the amount that would be recovered through traditional ratemaking if Petitioner's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years.

C. **Allocation of Qualified Costs Under Ind. Code § 8-1-40.5-10(b) and (c).**

CEI South witness Rice described CEI South's proposal to allocate the revenue requirement for the Securitization Charges based on the four coincident peak ("4CP") allocation factor percentages approved by the Commission in September 2020 in an Order in Cause No. 43354-MCRA 21 S1 ("MCRA 21 S1 Order"). Pet. Ex. 8 at 6-7. He testified the Securitization Act allows for adjustments to allocations outside of base rate proceedings to "avoid unreasonable rates to customers in customer classes that have experienced material changes in electric load or in the number of customers." Ind. Code § 8-1-40.5-10(c). CEI South's last base rate case was in Cause No. 43839, with the Commission issuing an Order in April 2011 (the "43839 Order"). The 4CP allocation factor percentages proposed for the Securitization Charge were approved subsequent to the 43839 Order due to "material changes in electric load [and] the number of customers" in one of CEI South's customer classes. Therefore, Mr. Rice opined the application of the 4CP allocation factor percentages approved in the MCRA 21 S1 Order to allocate the Securitization Charge revenue requirement and SRR is appropriate, and consistent with Ind. Code ch. 8-1-40.5. Pet. Ex. 8 at 7. Mr. Rice presented the estimated revenue requirement for the Securitization Charges by each tariff class under this allocation methodology. He also presented the calculation and allocation of the ADIT credit discussed previously.

CEI South witness Zarumba testified in his experience Securitization Charges are generally consumption-based (kWh) consistent with CEI South's proposal in this proceeding. Pet. Ex. 9 at 4. No CEI South witness, including Mr. Zarumba, indicated that use of a demand based kVA charge we approved above would impair the bonds. He explained CEI South's proposal to use a "minimum bill" mechanism to place a floor on the level of consumption to which the Securitization Charges are applied in order to ensure the Securitization Charges are applied to all customers and customer classes in accordance with Ind. Code § 8-1-40.5-8 and 12(b). He stated in most cases the Securitization Charges will be assessed based on metered kWhs; however, for residential, small commercial service ("SGS") and demand general service ("DGS") customers a minimum bill mechanism will be applied. *Id.* CEI South witness Rice stated these three customer classes contain the majority of CEI South's Rider Net Metering ("Rider NM") and Rider Excess Distributed Generation ("Rider EDG") customers. Pet. Ex. 8 at 9. Mr. Rice stated that Rate OSS, which is very similar to DGS and closed to new customers, currently has eight (8) customers under Rider NM. Accordingly, CEI South proposes that Rate OSS also receive a minimum bill equal to the DGS minimum bill. *Id.*

Mr. Zarumba explained the minimum bill mechanism will be applied to the greater of the metered usage or the minimum bill quantity (kWhs). He testified CEI South is proposing to set the minimum bill threshold at the tenth percentile of average monthly kWhs for the Residential, SGS

and DGS customers based on calendar year 2021 data. The tenth percentile of average monthly usage is approximately 369 kWh for residential customers, 17 kWh for SGS customers and 431 kWh for DGS customers. *Id.* at 5. Mr. Zarumba testified that a Rate Divisor Gross-up is needed to calculate the Securitization Charges for Residential, SGS and DGS customers because when the minimum bill thresholds are applied, the actual billed kWhs, or effective kWhs, will be greater than the metered kWhs. Accordingly, a gross-up adjustment to the rate divisor (2023 forecasted metered kWhs) is applied; otherwise CEI South would always over-collect the Securitization Charge revenue requirement, assuming actual metered kWhs matched the forecasted metered kWhs. *Id.* 6. He provided the detailed calculation for the Rate Divisor Gross-up factor for Residential, SGS and DGS customers. *Id.*

OUCW Witness Mr. Loveman and CAC Witness Mr. Inskip both disagreed with CEI South's minimum bill proposal. Mr. Loveman testified the three proposed tariffs, the SCP, SAC, and SRR tariffs will be applied unequally among the customer classes. For example, residential customers with electric use lower than the 369 kw threshold will pay the securitization charge at that level, but will receive the credit at the lower level, even if these customers are not one of the customers targeted by Ind. Code § 8-1-40.5-12(b). Pub. Ex. No. 1 at 9-10. Mr. Loveman noted that it is unclear how and why CEI South decided the tenth percentile of annual average customer usage was appropriate to determine a minimum bill for these four rate classes. Pub. Ex. No. 1, Attachment CRL-1. Mr. Loveman stated CEI South confirmed some customers may actually see a rate increase under this minimum bill proposal. *Id.* A major benefit of securitization to customers will be the rate reduction. However, low usage customers will fail to see this benefit due to CEI South's minimum bill proposal. Additionally, CEI South is not aware of securitizations in any other jurisdiction that have a minimum bill requirement, despite applying "non-bypassable" charges. Pub. Ex. No. 1 at 12, Attachment CRL-1. Mr. Loveman testified the OUCW is aware of two different methods to apply the non-bypassable charges. Wisconsin Electric Power Company allocates its Environmental Control Charge to customers with certain energy generating systems or NM customers and only have the Environmental Control Charge applied when a customer is a net purchaser. Pacific Gas and Electric Company ("PG&E") allocates its non-bypassable charges to its NM customers for each kWh consumed from the grid, prior to any netting. These charges cannot be reduced for any credits or exports to the grid. *Id.* Mr. Loveman proposed that all customers, including customers specified under Ind. Code § 8-1-40.5-12(b), should instead be charged based on consumption prior to netting any production, as implemented by PG&E. Mr. Loveman explained this methodology ensures customers with self-generation are unable to bypass the securitization charge, complying with Ind. Code § 8-1-40.5-12(b), by generating more electricity at times when they are not drawing energy from CEI South. Additionally, the credits would be allocated using the same method, resulting in a net benefit to all customers.

Mr. Inskip testified the Securitization Statute does not mention the specific term "minimum bill," and the minimum bill proposal is non-compliant with the plain language requirements articulated for the Securitization Charges and credits and must therefore be rejected by the Commission. CAC Ex. No. 1 at 12. Mr. Inskip testified CEI South did not address the explicit statutory requirement that the Securitization Charges be non-bypassable for a customer who "supplies at least part of the customer's own electricity demand" under Ind. Code § 8-1-40.5-8(2)(b), and instead focused its justification of the minimum bill exclusively on NM and EDG customers. *Id.* at 13. Mr. Inskip also testified the minimum bill proposal is patently discriminatory in its applicability to only some customer classes, noting at least one existing customer with a distributed energy resource in CEI South's service territory is in a customer class that would not be assessed a minimum bill. *Id.* at 13, Attachment BI-1. Mr. Inskip also argued CEI South has not sufficiently

justified the tenth percentile as the appropriate threshold for applying a minimum bill, stating the bottom tenth percentile of usage encompasses thousands of customers each month, the vast majority of which are not distributed generation customers. *Id.* at 14. Mr. Inskeep also testified the minimum bill proposal is not “charged for the use or availability of electric services,” as provided by Ind. Code § 8-1-40.5-8(3), as the minimum bill, by definition, is charged regardless of the customer’s use and the availability of electric services to the customer. *Id.* at 15. Mr. Inskeep also testified as to the policy behind the non-bypassable nature of Securitization Charges, stating while reducing under-recovery risk, are not usually designed to completely eliminate it, and that a true-up mechanism is ultimately the safeguard that ensures that under-recoveries in one period will be made up for in the future. Mr. Inskeep also argued the lack of a minimum bill in other jurisdictions has apparently not produced any discernable negative impact on the collection of Securitization Charges or bond credit ratings. Finally, Mr. Inskeep testified the minimum bill proposal would negatively impact all low-usage customers in the RS, SGS, OSS and DGS customer classes, with approximately 93% of minimum bills assessed on non-NM residential customers, and 7% of minimum bills assessed on NM customers. Mr. Inskeep proposed the Securitization Charges and Credits Securitization Charges and Credits, each assessed on a per-kWh basis, should be applied to a customer’s metered gross monthly purchases, or inflows, from CEI South. Mr. Inskeep testified collecting Securitization Charges assessed on gross monthly inflows would comply with the plain language of the Securitization Statute because it would allow for the full recovery of qualified costs (Ind. Code § 8-1-40.5-8(1)(a)), be collected from all retail customers and customer classes (Ind. Code § 8-1-40.5-8(2)), be charged for the use or availability of electric services (Ind. Code § 8-1-40.5-8(3)), and be collected by the electric utility (Ind. Code § 8-1-40.5-8(4)). *Id.* at 24. Furthermore, applying the Securitization Credits based on inflows will also ensure all customers in all customer classes benefit from securitization.

CEI South witness Mr. Rice rebutted the OUCC’s and CAC’s arguments on the minimum bill. Mr. Rice responded that Mr. Inskeep’s position would depart from the statutory charge on non-bypassability and have CEI South ignore the risk of bypass from NM and EDG customers. Pet. Ex. No. 8-R at 5. Mr. Rice responded to the potential “mismatch” by stating the billing determinants will be the same for the SCP as the SRR and SAC if the customer meets the minimum threshold. Mr. Rice testified a customer who has zero or negative consumption would be able to bank credits, allowing bypass of current securitization charges, and adding risk for bypass of securitization charges in the future. Mr. Rice argued it would not be fair to other customers to allow other customers to bank these credits. *Id.* at 5-6. Mr. Rice responded to the proposal from CAC and OUCC, and stated the approach is not tenable. First, Mr. Rice noted that a customer with 0 inflow would not pay the SCP. Second, Mr. Rice stated the terms of the NM tariff cannot be changed pursuant to Ind. Code § 8-1-40-11(1), and the CAC’s and OUCC’s proposal would require a change to the NM tariff. Further, CEI South’s current billing system is not set up to charge NM customers based only on energy delivered to the NM customer. Mr. Rice testified non-bypassable fixed charges do not change the terms and conditions of the NM tariff and may be assessed to RS, SGS, DGS, and OSS customers. *Id.* at 6. Mr. Rice explained it is not discriminatory to apply the minimum bill to the four classes, as all NM and EDG accounts fall into these classes. Mr. Rice stated CEI South also considered a flat fee for each class and is not opposed to this approach. *Id.* at 7-8. CEI South chose to charge based on kWh with a Minimum Bill because it more closely aligns customer usage with the amount of the Securitization Charge a customer receives. *Id.* at 8. Mr. Rice testified the minimum bill approach is consistent with the Securitization Act and does not subsidize Securitization Charges paid by other customers. It does not make sense to include other customer classes, and CEI South will regularly conduct a review of customer billing data to ensure customers are not bypassing the Securitization Charge. *Id.* at 12-13. Mr. Rice also testified the 10% threshold

is not arbitrary, and CEI South chose a level well below what a typical customer uses, which minimizes the amount of non-NM and non-EDG customers subject to the minimum bill while ensuring low usage customers pay a meaningful amount towards securitization. *Id.* at 13. Finally, Mr. Rice testified the cost of the adjustment to the net metering customers under the CAC/OUCC proposal would be greater than that proposed by CEI South. *Id.*

Pursuant to Ind. Code § 8-1-40.5-12(b), the financing order must include terms “ensuring that the securitization charges authorized under the order are non-bypassable charges that are payable by all customers and customer classes of the electric utility,” including any NM or EDG customer specifically listed in this section. CEI South’s proposal to apply a minimum bill would ensure that no customer with self-generation capability would avoid paying the charge. However, the minimum bill proposal would also affect numerous low-usage customers that do not have self-generation capability, and in some instances, would actually increase rates for these customers, as the minimum threshold would not apply to the SRR and SRC credit. The alternative proposal recommended by CAC and the OUCC would apply the Securitization Charge to all customers based solely on the inflow of electricity, that is, the amount of electricity consumed by a customer from the utility prior to any offset for self-generated electricity, thus including those customers specifically mentioned in Ind. Code § 8-1-40.5.12(b). Mr. Rice confirmed CEI South records inflow and outflow for all its meters. Tr. at A-63, line 14. However, as explained above, we find that rate classes HLF, LP, and BAMP shall be charged on demand, rather than energy. Accordingly, we will apply the OUCC/CAC proposal only to all other rate classes.

The proposal offered by the OUCC and CAC would ensure all customers in these classes pay based on their usage of electric services and not allow any customer to bypass the Securitization Charge based on offsetting self-generation, as required under Ind. Code § 8-1-40.5-8. While CEI South argues this charge is not allowed for net metering customers, CEI South’s net metering tariff specifically requires customers “shall remain responsible for all applicable Rates and Charges.” The Securitization Charge based on inflow would be an “applicable” charge to all such customers, not just net metering customers, and would be appropriate to avoid bypassing the charge. Additionally, while raising the issue, CEI South did not provide any specific evidence that zero usage customers are a significant concern. No other state has enacted a minimum bill requirement to address non-bypassability or zero usage for the Securitization Charge, and we do not find a zero-usage customer would bypass the charge. The Securitization Charge would still apply to the customer; however, as it is assessed on an energy basis, the customer would not be charged for that particular billing period. We find the proposal from CAC and the OUCC to bill such customers based on inflow, or gross consumption, is a more reasonable method to apply Securitization Charges to customers, would be non-bypassable for all customers, would more appropriately align costs with benefits, especially for low-usage customers, and would apply to all customers in these rate classes, including those specifically referenced in the Securitization Statute.

Mr. Zarumba also testified about an alternative approach for allocation of the Securitization Charges to street lighting customers. He explained that street lighting has a zero percent allocation under 4CP because the 4CP allocator is based on meeting a peak that traditionally happens in the late afternoon in summer, when street lights are not operating. Pet. Ex. 9 at 7. He explained that because Ind. Code ch. 8-1-40.5 does not authorize any customer or customer class to bypass the Securitization Charge, an alternative approach is required to ensure the allocation applied to the Street Lighting tariff class remains consistent with the Securitization Act and that the opportunity for a AAA rating from rating agencies is preserved. *Id.* CEI South proposed that 0.45 percent (0.45%) of the Securitization Charge revenue requirement be allocated to street lighting customers prior to allocating the remaining portion of the Securitization Charge revenue requirement using the

4CP allocation factor percentages, since street lighting is projected to account for 0.45 percent (0.45%) of total sales for 2023. *Id.* As a result, \$128,662 of the Securitization Charge and Securitization ADIT Credit (“SAC”) revenue requirement will be allocated to street lighting and \$28,602,329 will be allocated to non-street lighting. *Id.* at 8. As for the Securitization Rate Reduction, that reduction for street lighting customers will be set equal to the Securitization Charge. *Id.* Mr. Zarumba explained that under the 4CP allocator method, street lighting customers do not pay for the retiring assets in their base rates. Because the SRR essentially offsets the retiring units’ revenue requirement included in current rates, the SRR should equal the Securitization Charge to result in a net zero impact for street lighting customers. If a 4CP allocator had been applied for the Securitization Charge and SRR for street lighting customers, the result would also be a net impact of zero for those customers. *Id.* at 9. Mr. Rice explained the rate for the Securitization Charge will be calculated for each tariff class by dividing the allocated revenue requirement for each class by the forecasted kWh sales for each tariff class, with the exception of RS, SGS, OSS, and DGS, which are divided by effective sales in kWh as described above. Pet. Ex. 8 at 11.

The Commission finds that Petitioner’s proposed allocation of the Qualified Costs and the ADIT credit, as adjusted herein, is a reasonable resolution to the statutory directive that every customer must pay the Securitization Charges even when, if Petitioner used the allocation from its last rate case, certain customer classes would be allocated \$0. The Commission further finds that Petitioner’s proposed allocation is reasonably calculated to support and maintain the desired AAA rating of the Securitization Bonds, will not impair or reduce the total Securitization Charges and is just and reasonable. In addition, the Commission finds the ADIT associated with the retiring assets should be segregated on Petitioner’s financial statements from other ADIT such that the retiring assets will not be included in the calculation of Petitioner’s rates and charges other than the ADIT credit. As described by Mr. Rice and as set forth in the proposed form of tariffs, future changes in the allocation of Qualified Costs and the ADIT credit shall be addressed in future general rate cases or other docketed proceedings, provided such changes preserve the rating on the Securitization Bonds and are otherwise compliant with the Securitization Act.

7. **Authorization under Ind. Code § 8-1-40.5-10.** CEI South witness Rice provided Petitioner’s proposed preliminary Securitization Charges. He showed the allocation to Petitioner’s tariff classes and explained that the securitization charge is calculated on a per kWh basis, is non-bypassable, and is assessed against all customers and customer classes. Pet. Ex. 8 at 10. Once the securitization bonds are issued, CEI South will be responsible for collecting the non-bypassable securitization charges from all CEI South customers as Servicer as described above. To enable this, CEI South proposed a new tariff, the Securitization of Coal Plants (“SCP”) tariff reflecting allocations and rates as described above. Pet. Ex. 8 at 9. Mr. Rice stated the SCP tariff will remain in effect until the Securitization Bonds are expected to be paid off in 15 years, as described above. Pet. Ex. 8 at 13.

Mr. Rice presented expected monthly bill impacts by customer class using expected 2023 customer sales by class. He noted there will not be an impact to street lighting customers initially, and all other customer classes are expected to receive a benefit through securitization. Residential customers are expected to receive a benefit of approximately \$5 per month when applying average monthly usage by customer group to the proposed SRR, SAC, and SCP tariffs. Following the order in the next general rate case, customers will further benefit from operations and maintenance savings associated with these units and will benefit from inclusion of regulatory assets that were included in the Securitization Charges as a Qualified Cost. This is described further by Witness Jerasa. Pet. Ex. 8 at 20; Pet. Ex. 2 at 27-29.

The OUCC and intervenors provided evidence, as previously described, that modified the amount of qualified costs and the SRR tariff credit. As discussed above, the Commission modifies the qualified costs accordingly. Based upon the evidence and the foregoing findings, the Commission finds the proposal, as modified herein, meets the requirements of Ind. Code ch. 8-1-40.5 and approves CEI South's request for authority to issue Securitization Bonds in the amount of approximately \$350,125,000, as modified herein. The Commission further approves CEI South's request to impose, collect, and receive Securitization Charges in an amount necessary to provide for the full recovery of all Qualified Costs, and the preliminary Securitization Charges as set forth in Tables MAR-1 and MAR-2 of Mr. Rice's Direct Testimony (Pet. Ex. 8 at 8 & 11), subject to necessary adjustments to be made in accordance with this Financing Order. Accordingly, pursuant to Ind. Code § 8-1-40.5-11, the rights granted in the preceding sentence and all revenue, collections, payments, money and proceeds arising out of the rights and interests described in the preceding sentence (collectively constituting the Securitization Property) constitute a present property right for purposes of contracts concerning the sale or pledge of property, even if the imposition and collection of Securitization Charges depend on further acts of Petitioner or others that have not yet occurred. Under Ind. Code § 8-1-40.5-11(b), the Securitization Property continues to exist and this financing Order under which the Securitization Property arises remains in effect, for the same period as the pledge of the State under Ind. Code § 8-1-40.5-16(b). Ind. Code § 8-1-40.5-16(b) provides:

The state pledges, for the benefit and protection of financing parties and electric utilities under this chapter, that it will not:

- (1) take or permit any action that would impair the value of securitization property; or
- (2) reduce or alter, except as authorized by section 12(c) [IC 8-140.5-12(c)] of this chapter, or impair securitization charges to be imposed, collected, and remitted to financing parties under this chapter;

until the principal, interest, and premium, and other charges incurred, or contracts to be performed, in connection with the related securitization bonds have been paid or performed in full. Any party issuing securitization bonds is authorized to include the pledge set forth in this subsection in any documentation relating to those bonds.

As provided in Ind. Code § 8-1-40.5-11(c), all revenues and collections resulting from Securitization Charges constitute proceeds of only the Securitization Property arising from this financing Order.

The Securitization Charges approved herein are non-bypassable charges payable by all customers and customer classes of the electric utility. As described above, the Securitization Charges will be charged to all customers and customer classes, including Petitioner's net metering customers under its Rider NM adopted under 170 IAC 4-4.2 and its distributed generation customers under its Rider EDG pursuant to Ind. Code ch. 8-1-40.

We further authorize Petitioner to encumber securitization property with a lien and security interest, as described in Ind. Code § 8-1-40.5-15. That section makes explicit that the lien and security interest we authorize here attach automatically from the time that value is received for the securitization bonds, and (1) constitute a continuously perfected lien and security interest in the securitization property and all proceeds of the property, whether or not accrued; (2) have priority in the order of their filing, if a financing statement is filed with respect to the security interest in

accordance with Indiana Code Article 26-1; and (3) take precedence over any subsequent judicial lien or other creditor's lien. Indiana Code § 8-1-40.5-15 also expressly states that the priority of a lien and security interest under that section is not impaired by (1) a later modification of this financing order or (2) the commingling of other funds with funds arising from the collection of securitization charges. Changes in a financing order or in customers' securitization charges do not affect the validity, perfection, or priority of the security interest in the related securitization property.

8. **Adjustments to Securitization Charges (Ind. Code § 8-1-40.5-12(c))**. CEI South witness Rice described how the over- or under-recovery variance will be treated for purposes of the proposed true-up mechanism. He explained the over- or under-recovery variance will be determined by comparing actual recoveries to the approved recoveries from the SCP for the same period. Pet. Ex. 8 at 18. Actual recoveries represent billed SCP revenues from the Company's customer billing system by month and by Rate Schedule for this period. The over- or under-recovery variance will be determined by month and by Rate Schedule. Mr. Rice explained that while the specific identification of the variance by Rate Schedule will be monitored, any over collection will be given back to customers based on 4CP allocation, regardless of how each rate class contributed to the over collection. *Id.* Likewise, any under collection will be charged to all rate classes based on 4CP, regardless of how each rate class contributed to the under collection. As mentioned by Witness Chang, delinquencies in one class of customers are a cost that should be shared by all customers, creating cross-collateralization of the debt service burden among all customer classes. Pet. Ex. 3 at 20. He noted that this practice is viewed favorably by the rating agencies, enhancing the chance for the highest possible ratings. *Id.* As mentioned above, the rate reduction is treated in the same manner.

Mr. Rice explained the calculation of approved recoveries, representing the amounts Petitioner expects to collect each month, for purposes of reconciling those recoveries in a future SCP. He stated the approved recoveries are calculated by multiplying the billing determinants by month by the applicable rates and charges for the SCP period. Any under recoveries resulting from instances in which SCP rates and charges are not in place for a full month will be recovered as an under-recovery variance in a subsequent SCP proceeding. Pet. Ex. 8 at 19.

Mr. Rice testified CEI South will closely monitor SCP revenues and project the amount needed to pay debt service on the securitization bonds and other ongoing costs, interest and principal payments on the securitization bonds will be made semi-annually. If necessary, CEI South will file with the Commission to adjust the SCP rate to ensure enough funds will be collected to make timely bond payments. *Id.* As was already noted in the testimony of Messrs. Chang and Jerasa, true-up adjustments will occur more than one time in the last year the bonds are expected to be outstanding. *Id.*

Indiana Code § 8-1-40.5-12(c) requires this Commission to include a mechanism for review, at least annually, of the Securitization Charges authorized herein. Mr. Rice sponsored an attachment describing the cash flow model which reflects and implements the true-up mechanism to be used to calculate the Securitization Charges for customers, as outlined below. Pet. Ex. 8, Attachment MAR-2. The Securitization Charges will be established sufficient, in the aggregate amount, to pay, on a timely basis, the scheduled principal and interest on the Securitization Bonds together with all other ongoing financing costs associated with the Securitization Bonds. The Securitization Charges will be imposed on all retail customers based on customer class based on the allocation factors of each customer class. The Securitization Charges will be a consumption based (kWh) charge for each customer class, except rates LP, HLF, and BAMP, which will be charged on a kVa basis.

A true-up mechanism (or “adjustment mechanism”), as described in Ind. Code § 8-1-40.512(c), and as authorized by the Commission in this Financing Order, shall be used to make necessary corrections at least annually, to (a) adjust for the over-collection or under-collection of Securitization Charges, and (b) to ensure the timely and complete payment of the Securitization Bonds and other required amounts and charges in connection with the Securitization Bonds. In addition to the base true-up, periodic true-ups may be performed as necessary to ensure that the amount collected from Securitization Charges is sufficient to service the Securitization Bonds and ensure timely and complete payment of other required amounts and charges in connection with the Securitization Bonds.

The Securitization Charges established under any true-up mechanism calculation will remain in effect until changed pursuant to the filing of a subsequent true-up mechanism calculation. The Bond cash flow model presented by Mr. Rice is based upon three basic steps: first, determine the revenue requirement necessary to pay the Securitization Bonds on a payment date; second, allocate this revenue requirement among each customer class based upon the allocation methodology, and third, determine the Securitization Charges for each customer class based upon forecasted consumption by such class during the related payment period (a “Payment Period”), using the most recent sales forecasts, consistent with the methodology described above.

Each true-up mechanism calculation will show the revenue requirement and resulting Securitization Charges for each of the next two payment periods following the proposed adjustment date. The first payment period means the period commencing on an adjustment date (or, in the case of the initial charge calculations, the Closing Date) and ending on (and including) the first payment date following the adjustment date (the “First Payment Period”); the second payment period means the period commencing on the first day of the calendar month of the first payment date following the adjustment date and ending on (and including) the next payment date (the “Second Payment Period”).

The revenue requirement for each payment period will include all scheduled (or legally due) payments of principal (including, if any, prior scheduled but unpaid principal payments) and interest on the Securitization Bonds and all other ongoing financing costs payable on such related payment date (collectively, the “Periodic Payment Requirement”). The cash flow model adjusts the Periodic Payment Requirement, using billing uncollectibles and average days sales outstanding data, to determine the “Periodic Billing Requirement” for such payment period, which is the amount of Securitization Charges revenue that must be billed during the payment period to ensure that sufficient Securitization Charges revenues will be received on or prior to the Collection CutOff Date to satisfy the Periodic Payment Requirement for such payment date. The Collection CutOff Date is the last day of the calendar month immediately preceding the payment date.

Excess funds from prior payment periods will be held in an excess funds subaccount.

To take into account cash flow from existing Securitization Charges and any excess funds held under the bond indenture from prior Securitization Charges collections, the Periodic Payment Requirement is adjusted in two steps:

First, the Periodic Payment Requirement will be decreased taking into account of any funds held or expected to be held by the Trustee in the general subaccount or the excess funds subaccount as of date no earlier than fifteen business days prior to the calculation date (the “Calculation Cut-Off Date”).

Second, the Periodic Payment Requirement will be further decreased taking into account the Securitization Charges collections projected to be collected under the then-current Securitization Charges rates after the Calculation Cut-Off Date.

The Bond cash flow model, which reflects the true-up mechanism, will be used to calculate the Securitization Charges for each customer class according to the following step-by-step process.

Step 1: Determine the Periodic Payment Requirement for the First Payment Period, as adjusted as described above, as well as the Periodic Billing Requirement for such First Payment Period.

Step 2: Allocate the Periodic Billing Requirement for the First Payment Period using the allocation methodology. For purposes hereof, the Periodic Billing Requirement allocated to each Securitization Charges customer class will be derived by multiplying the Periodic Billing Requirement for the First Payment Period by the applicable Securitization Charges allocation factor percentages.

Step 3: Determine a rate per kWh for each customer class for the First Payment Period (a "Clearing Rate") by dividing each customer class's respective portion of the Periodic Billing Requirement for the First Payment Period by their respective forecasted sales for the First Payment Period. CEI South will adjust this step to charge rates LP, HLF, and BAMP on a kVa basis.

Step 4: Determine the Periodic Payment Requirement for the Second Payment Period, as adjusted as described above, as well as the Periodic Billing Requirement for the Second Payment Period.

Step 5: Repeat Steps 2-4 to allocate the Periodic Billing Requirement and determine the Securitization Charges Clearing Rate for each Securitization Charges customer class.

Step 6: Compare the Clearing Rates for each Securitization Charges customer class in each payment period, and the appropriate Clearing Rate will be the Securitization Charges Rate for the customer class effective upon the next adjustment date. Any excess funds collected in the First or Second Payment Period will be taken into account in the next true-up mechanism calculation.

Mr. Rice provided a Confidential Workpaper MAR-2 that illustrated the calculation of Securitization Charges for purposes of the true-up adjustments described herein.

We find this true-up mechanism for Securitization Charges as described herein to be appropriate and in compliance with the Securitization Act and therefore approve it. We find such true-up adjustments may occur more than one time in the last year the bonds are expected to be outstanding as described in Petitioner's evidence. CEI South may also, on its own initiative, file an application with this Commission as needed outside the annual review process described above in order to (1) correct any over or under collections of Securitization Charges and (2) ensure the expected recovery of amounts sufficient to timely provide all payments of debt service and other required amounts and charges in connection with the Securitization Bonds. Pursuant to Ind. Code § 8-1-40.5-12(c), the Commission's review of an application under that section "must be limited to determining whether the application contains any mathematical or clerical errors in the application of the formula-based mechanism relating to the appropriate amount of any overcollection or undercollection of the securitization charges and the amount of an adjustment. If the proposed securitization charges have been appropriately calculated, the Commission shall issue an order approving the application and the proposed securitization charges not later than forty-five (45) days

after the filing of the application.” This is true for true-up applications filed outside of the annual review schedule as well.

9. **Accounting Treatment; Ind. Code § 8-1-40.5-12(d)**. Mr. Harper also explained the proposed accounting entries to be made upon issuance of a final Order in this Cause, but before the securitization bonds are issued. He described the removal of most of the original cost of Brown Units 1 and 2, net of accumulated depreciation, from plant-in-service and recognition of the amount authorized for securitization recovery as a new regulatory asset. He testified that this methodology follows U.S. GAAP requirements for accounting on abandonment. Pet. Ex. 6 at 9. He explained that pursuant to guidance from PricewaterhouseCoopers Utilities and Power Companies accounting guide (“PwC Guide”), “[a] regulated utility should recognize a loss on abandonment when it becomes probable that all or part of the cost of an asset will be disallowed from recovery in future rates and such amount is reasonably estimable [and i]t should record the amount that the regulated utility expects to recover, if any, as a new regulatory asset.” *Id.* Mr. Harper stated that the PwC Guide addressed the issue of the impact on accounting for an abandonment when a plant continues to operate for a period after the criteria for abandonment recognition has been met. The PwC Guide advises that “it would be acceptable to reclassify to a regulatory asset only that portion of the recovery expected to occur after the plant is abandoned. The regulated utility should record the reclassification and any related loss at the time the abandonment becomes probable, consistent with guidance in ASC 980-360-35. The utility should recognize the balance still classified in utility plant over the period remaining until the plant is abandoned. Therefore, in such situations, an adjustment to the estimated life of the asset and, accordingly the rate of depreciation, is likely appropriate to recover the asset while it is still providing service.” Pet. Ex. 6 at 10. Mr. Harper noted that this approach is consistent with the USOA guidance for account 182.2 Unrecovered plant and regulatory study costs, which states the account shall include “significant unrecovered costs of plant facilities where construction has been cancelled or which have been prematurely retired” when authorized by the Commission. *Id.* He noted that, consistent with the PwC Guide, the entries presented in this case reflect full return, as Petitioner will continue to earn a return on the assets until the bond issuance date. *Id.*

Mr. Harper testified that upon issuance of a final, non-appealable Order in this Cause, there will also be accounting entries to address the other amounts in the Qualified Costs to be recovered through the issuance of the securitization bonds. *Id.* He stated the new regulatory asset created by Petitioner will also include the projected decommissioning costs, net of the cost of removal reserve. The portion of the new regulatory asset associated with the decommissioning costs is offset with a liability which will be paid upon retiring and fully decommissioning the Brown Unit 1 and 2 assets. *Id.* at 10-11.

Mr. Harper stated the Qualified Costs also include some of Petitioner’s existing regulatory assets associated with Mercury and Air Toxics Standards (MATS) and dense pack investments at Brown, and include amounts for deferred depreciation, post in-service carrying costs as well as the 20% deferred portion of the revenue requirement for MATS spend approved in the Company’s Environmental Cost Adjustment (“ECA”) annual filings – Cause No. 45052 ECA-XX. *Id.* at 11. He presented in Attachment RPH-2 the specific regulatory asset amounts, including the estimated impact of future accruals and amortization expense to be recorded as well as future ECA filings leading up to the assumed securitization bond issuance date. He noted the combined balance of these unrecovered costs will be transferred to the new regulatory asset for inclusion with the other qualified costs. The cumulative balance reflected in the entries associated with the new regulatory asset is approximately \$344 million. *Id.*

OUCW Witness Mr. Blakley disagreed, testifying if removal and restoration costs exceed the securitized removal and restoration costs, those excess costs should not be deferred as a regulatory asset for recovery in the next rate case. Rather, these costs should be charged to accumulated depreciation, per the Uniform System of Accounts for Electric Utilities description of Accumulated Provision for Depreciation of Utility Plant in Service for account 108 (B). Pub. Ex. 10 at 5. Mr. Harper responded by acknowledging these costs should be charged to accumulated depreciation and stated Mr. Blakley said nothing in his testimony regarding recovery in future rate proceedings. Pet. Ex. No. 6-R at 8-9. However, we note if any excess removal and restoration costs are included in a regulatory asset for recovery, the amount should not also be charged to accumulated depreciation, as this would lead to double recovery of the excess amount through both the regulatory asset and through the reduction in accumulated depreciation. Mr. Harper's rebuttal testimony seems to acknowledge that both approaches would take place. *Id.* Therefore, as Ind. Code § 8-1-40.5-12(d) requires that any difference "shall" be accounted for as a regulatory asset, we find that any excess amount of removal and restoration costs must also not be charged against accumulated depreciation.

Other than the entry relating to excess removal and restoration costs described above, we find the journal entries described by Mr. Harper upon issuance of this Financing Order, upon issuance of the Securitization Bonds, and over the life of the receipt of the Securitization Charges should be approved.

Mr. Vallejo testified that once the assets are securitized and reclassified to a regulatory asset, they no longer are technically property, plant and equipment related. He explained that while there continues to be a book-tax difference on the Brown Units 1 & 2 ADIT, upon reclassification such ADIT associated with Brown Units 1 & 2 may no longer be considered protected under the Internal Revenue Code normalization rules. Pet. Ex. 7 at 18. Mr. Vallejo testified that upon reclassification to a regulatory asset, not only are the Brown-related ADIT possibly no longer considered protected, but also the excess ADIT may no longer be considered protected. As a result, the excess ADIT may no longer have to be reversed to customers using the Average Rate Assumption Method ("ARAM"). *Id.* However, Mr. Vallejo explained the Internal Revenue Service ("IRS") has provided guidance on the continued reversal of protected excess ADIT in situations in which assets are sold or retired in an extraordinary retirement situation. Consistent with that guidance, CE South is proposing to amortize the excess ADIT relating to the securitized regulatory asset for Brown Units 1 and 2 on a straight-line basis over the proposed 15-year amortization/recovery period. Under this approach, annual amortization of the Brown Units' excess ADIT is \$1,025,099. *Id.* at 19. Mr. Vallejo testified that this is not unlike the treatment FERC has discussed for excess ADIT related to protected property-related book-tax differences existing on protected PP&E that are sold or retired. Upon sale or disposal, the assets themselves are removed from the Company's books and records, along with the associated ADIT. *Id.* Mr. Vallejo described the adverse consequences of a potential normalization violation on the excess ADIT if the return were to be accelerated faster than the 15-year period proposed. He also testified that in the event of a tax rate change, CEI South would need to adjust the ADIT credit described by Mr. Rice. *Id.* at 22.

OUCW Witness Mr. Loveman testified CEI South did not indicate how the excess ADIT would be refunded to customers. Mr. Loveman stated CEI South currently credits excess ADIT through its TDSIC Tracker in accordance with the stipulated provisions in the final order in Cause No. 45032 S21. Pub. Ex. No. 1 at 16. Mr. Loveman indicated CEI South intends to update the excess ADIT resulting from the finance order through the TDSIC tracker and the OUCW does not oppose this process. *Id.* at 17. Mr. Loveman also recommended the Commission require CEI South to update the amortization period to match the RBB issuance, based on the term of bonds ordered in

the financing order in this cause, and require CEI South update its TDSIC Tracker to reflect the updated excess ADIT amortization within 30 days of a final financing order in this cause. *Id.*

CEI South Mr. Rice responded to Mr. Loveman's proposal, stating CEI South can agree to submit the revised tariff and calculation after the issuance of the financing order, but stated the tariff should take effect at the same time as the other rate changes that will take effect upon the closing of the securitization bonds due to normalization concerns. Pet. Ex. 8-R at 14-15.

We find the OUCC's proposal to amortize the Brown-related excess ADIT through the TDSIC tracker over the same period of the Securitization Bonds to be appropriate and in the public interest. We also find CEI South shall make a compliance filing within 30 days of the issuance of the financing order to reflect the change in the amortization period to be effective upon the closing of the securitization bonds. We further find that in the event of a future income tax rate change, the ADIT credit shall be adjusted to reflect such change.

Pursuant to Ind. Code § 8-1-40.5-12(d), any difference between Petitioner's Qualified Costs approved in this Financing Order and Petitioner's Qualified Costs at the time A.B. Brown Units 1 and 2 are retired shall be accounted for as a regulatory asset or liability and addressed in a separate proceeding. Any adjustments after the issuance of the securitization bonds shall not impact or impair this Financing Order, the Securitization Property or the Securitization Charges.

If Petitioner ultimately incurs costs of removal and restoration greater than the amount estimated at the time A.B. Brown Units 1 and 2 are retired, Petitioner may defer such amounts in a regulatory asset pursuant to Ind. Code § 8-1-40.5-12(d) and may seek recovery of such incremental costs through rates. This Commission may approve recovery of Petitioner's incremental costs through rates for any costs incurred for removal and restoration that are greater than the amount estimated at the time A.B. Brown Units 1 and 2 are retired if the Commission finds such costs to be just and reasonable.

10. Irrevocability; Limitation on Authority (Ind. Code § 8-1-40.5-13). In accordance with Ind. Code § 8-1-40.5-13, Securitization Bonds issued under this Financing Order may not be considered to be the debt of Petitioner other than for federal income taxes. Securitization Charges paid under this Financing Order shall not be considered revenue of Petitioner for any purpose, and securitization costs or financing costs specified in this Financing Order shall not be considered to be the cost of Petitioner. This Financing Order and the Securitization Charges authorized herein are irrevocable and not subject to reduction, impairment, or adjustment by further action of this Commission under Ind. Code § 8-1-2-72 or any other statute or rule, except with respect to a request made by Petitioner under Ind. Code § 8-1-40.5-10(h) or Ind. Code § 8-1-40.5-12(c).

11. Request for Extension of 90-Day Period for Issuance of Securitization Bonds (Indiana Code § 8-1-40.5-10(k)). Indiana Code § 8-1-40.5-10(k) provides that if Petitioner does not cause Securitization Bonds to be issued not later than ninety (90) days after the appeal period has run for this Order, Petitioner is to file a statement of abandonment containing the reasons for the abandonment. For good cause shown, however, we may extend the 90-day period upon Petitioner's request. CEI South witness Jerasa testified that it is CEI South's intention to pursue marketing and issuance of the Securitization Bonds within the 90-day period. However, if the marketing will exceed 90 days following the expiration of the appeal period after the Financing Order is issued, Mr. Jerasa stated CEI South will seek an extension from the Commission within the appropriate time frame under the Securitization Act. We find this approach to be reasonable and within the contemplation of the Securitization Act.

12. Confidentiality. CEI South filed a motion for protection and nondisclosure of confidential and proprietary information on May 10, 2022. In its motion, CEI South states certain information redacted in the evidence is confidential, proprietary, competitively sensitive, and/or trade secrets. A docket entry was issued on [TBD], 2022 finding such information to be preliminarily confidential and protected from disclosure under Ind. Code §§ 8-1-2-29 and 5-14-34. The confidential information was subsequently submitted under seal. The Commission finds the information for which CEI South seeks confidential treatment, including future iterations of the confidential information in other submissions and proceedings contemplated by this Financing Order, is confidential pursuant to Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3, is exempt from public access and disclosure by Indiana law and shall continue to be held by the Commission as confidential and protected from public access and disclosure.

13. Conclusion. Based on the evidence presented, the Commission finds the proposed securitization, as amended herein, warrants such findings and determinations made above. In addition, the Commission finds the evidence, which the Commission has reviewed and evaluated, provides support for such findings and determinations. The Commission concludes that the benefits for customers set forth in the evidence of the securitization approved in this Financing Order exceed the costs, including the amount that would be recovered through traditional ratemaking if CEI South's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years.

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

(1) CEI South's proposal under the Securitization Act, as modified herein, is just and reasonable. CEI South is authorized to issue Securitization Bonds in the amount of approximately \$350,125,000, as modified herein.

(2) CEI South's total Qualified Costs consist of \$359,397,933, as modified herein, including \$350,125,000, as modified herein, of Qualified Costs to be included in the Securitization Bond offering at issuance, plus ongoing costs currently estimated to be approximately \$9,272,933. Costs described in IC 8-1-40.5-6(3) of issuing, supporting and servicing the Securitization Bonds, including the payments of debt service on the Securitization Bonds as well as fees, costs and expenses payable by the SPE under the transaction documents described, as amended in Section 6.A.iii of this Financing Order (i.e., the Administration Agreement, the Servicing Agreement, the Purchase and Sale Agreement, the Indenture and the Amended and Restated LLC Agreement) may be adjusted pursuant to the mechanism described in Ordering Paragraph 4 below under IC 8-1-40.5-12(c). Other elements of Qualified Costs described in IC 8-1-40.5-6(1), (2), (4) and (5), to the extent they differ from the Qualified Costs approved in this Financing Order, would be subject to IC 8-1-40.5-12(d)(1) providing that any difference between Qualified Costs approved in this Financing Order and Qualified Costs at the time the electric generation facility is retired shall be accounted for as a regulatory asset or liability.

(3) CEI South will adjust Qualified Costs to remove contingency amounts from decommissioning costs.

(4) The Securitization Charges are subject to the true-up mechanism described in Finding Paragraph 8 of this Financing Order. The true-up mechanism shall be used to make necessary corrections at least annually, to (a) adjust for the over-collection or under-collection of Securitization Charges, or (b) to ensure the timely and complete payment of the Securitization

Bonds and other required amounts and charges in connection with the Securitization Bonds. In addition to the annual true-up, periodic true-ups may be performed as necessary to ensure that the amount collected from Securitization Charges is sufficient to service the Securitization Bonds and ensure timely and complete payment of other required amounts and charges in connection with the Securitization Bonds. The calculation of Securitization Charges for purposes of the true-up adjustments authorized herein shall be made in the manner set forth in Petitioner's Exhibit No. 8, Confidential Workpaper MAR-2.

(5) The proceeds received by Petitioner of the Securitization Bonds will be used solely for purposes of reimbursing Petitioner for Qualified Costs. The journal entries to CEI South's books and records that will reflect a reduction in rate base associated with the proceeds of the Securitization Bonds, and the Securitization Rate Reduction Tariff, as modified, that will be implemented to reflect the reduction to rate base when the Securitization Bonds are issued are approved.

(6) Provided the structure and terms of the Securitization Bonds, as described above, remain reasonably consistent with the evidence of record after taking into account market conditions and rating agency feedback, the expected structuring and pricing of the Securitization Bonds will result in reasonable terms, including lowest reasonable cost, consistent with market conditions and the terms of this Financing Order.

(7) A "Bond Team" will be created, consisting of CEI South and the OUCC, and their designated staff, counsel, and consultants, to provide for the marketing, structuring, and pricing of the Securitization bonds, as described above.

(8) Petitioner's proposal regarding the Issuance Advice Letter is approved, such that Petitioner is directed to submit a draft Issuance Advice Letter at least two weeks before pricing the Securitization Bonds. Such draft will include current market conditions and the decision on whether any of the credit enhancements described by Mr. Jerasa will be included. The final issuance advice letter will be submitted by CEI South to the Commission within three business days after the pricing of the offering of the Securitization Bonds in order to provide the Commission the opportunity to review and reject the issuance within the next business day. In the absence of action by the Commission within this time period to reject, the issuance advice letter and the transactions contemplated thereby shall be considered to be in compliance with this Financing Order.

(9) As provided above, CEI South, the OUCC, and the bookrunning underwriter(s) shall certify, as part of the Issuance Advice Letter, that the structuring, marketing, and pricing of the securitization bonds sought to achieve the lowest securitization charges consistent with market conditions and the terms of this Financing Order.

(10) To the extent the proposed Servicing Agreement, Administration Agreement, Purchase and Sale Agreement and Amended & Restated LLC Agreement, as described and modified herein, constitute affiliate agreements pursuant to Ind. Code § 8-1-2-49(2), such agreements are in the public interest and the provisions of Ind. Code § 8-1-2-49(2) are satisfied.

(11) Upon the occurrence of an event of default under the Servicing Agreement relating to CEI South's performance of its servicing functions with respect to the Securitization Charges, the Indenture Trustee is authorized to replace CEI South as the Servicer in accordance with the terms of the Servicing Agreement. No entity may replace CEI South as the servicer in any of its servicing functions with respect to the Securitization Charges and the Securitization Property authorized by this Financing Order if the replacement would cause any of the then current credit ratings of the Securitization Bonds to be suspended, withdrawn or downgraded.

(12) CEI South or any subsequent servicer shall impose Securitization Charges on customers and remit collections of the Securitization Charges to the SPE in accordance with the terms of this Financing Order and the Servicing Agreement.

(13) CEI South is authorized to structure the securitization as described in this Financing Order.

(14) Petitioner will make capital investments in Indiana over the seven (7) years following the planned issuance of the Securitization Bonds in an amount which exceeds CEI South's Qualified Costs. The proposed investments are not purchases of energy or capacity through a power purchase agreement and they consist, at least in part, of construction and ownership of clean energy resources described in Ind. Code § 8-1-37-4(a)(1).

(15) Petitioner shall adjust the SAC Tariff to return to ratepayers all ADIT related to the Brown Units, including ADIT that will be created upon retirement of the Brown units. This ADIT shall be amortized over the life of the bonds.

(16) CEI South shall fully investigate all possible tax deductions associated with writing off the regulatory assets upon retirement of the Brown units and report its findings to the Commission in the first tariff proceeding. To the extent that any tax deductions can be taken, CEI South shall avail itself of this opportunity and credit all associated ADIT back to ratepayers via the SAC Tariff, to be amortized over the life of the bonds.

(17) Upon retirement of the Brown units, CEI South shall adjust the SRR Tariff to return to ratepayers the O&M associated with the Brown units that is currently embedded in base rates as set forth in this Financing Order.

(18) CEI South's implementation, collection, and receipt of Securitization Charges, as set forth in this Financing Order, are approved. Petitioner's proposed Securitization Rate Reduction Tariff, Securitization ADIT Credit Tariff and Securitization of Coal Plants Tariff, as modified herein, provide a mechanism to allow customers to realize timely rate savings. These tariffs, as modified herein, are approved. The ADIT associated with the retiring Brown Units 1 & 2 shall be segregated from all other ADIT and not included in the calculation of Petitioner's capital structure or otherwise be used in finding CEI South's authorized return in future rate cases.

(19) Petitioner shall revise those Tariffs to reflect the imposition of charges, and the provision of credits, through the demand charge rather than on a kWh basis for rates LP, HLF, and BAMP. To the extent that CEI South and the parties, including the Industrial Group, reach an alternative agreement with respect to the rate design of Rates LP, HLF, and BAMP, they may present it to the IURC for approval and incorporation within this Financing Order within thirty (30) days of the issuance of this this Order.

(20) The proposed allocation of the Qualified Costs and the ADIT credit based upon the 4CP method with the modifications described by Witnesses Rice and Zarumba, as modified herein, are approved. Future changes to the allocation shall be addressed in future general rate cases or other docketed proceedings, provided the changes are consistent with the Securitization Act.

(21) CEI South is entitled to bill, collect and must remit, consistent with this Financing Order, the Securitization Charges from all retail consumers receiving service from CEI South as of the date of this Financing Order and any future retail customers during the term of the Securitization Bonds. Any retail customer of CEI South that switches to new on-site generation who remains a retail customer of CEI South afterwards shall be and hereby is required to continue paying the Securitization Charges.

(22) The net present value of the total Securitization Charges to be collected by Petitioner under this Financing Order is less than the amount that would be recovered through traditional ratemaking if Petitioner's Qualified Costs were included in its net original cost rate base and recovered over a period of not more than twenty (20) years.

(23) CEI South is authorized to encumber Securitization Property with a lien and security interest as provided in Ind. Code § 8-1-40.5-15.

(24) CEI South is authorized, through the SPE, to issue the Securitization Bonds as specified in this Order. The ongoing Qualified Costs approved in this Order may be recovered directly through the Securitization Charges. The Securitization Bonds shall be denominated in US Dollars.

(25) All Securitization Property and other collateral shall be part of the Indenture "trust estate" as set forth in CEI South's Case-in-Chief. The SPE shall establish a collection account with the indenture trustee as described in the Indenture and this Financing Order. Upon payment of the principal amount of, and interest on, all Securitization Bonds issued pursuant to this Financing Order, payment in full of all ongoing costs, and the discharge of all obligations in respect thereof, all amounts in the collection account, other than amounts in the capital subaccount (including investment earnings therein), and any amounts required to replenish the capital subaccount to the level of CEI South's capital contribution and pay principal amount of the Securitization Bonds, if any, shall be released by the indenture trustee to the servicer and credited back to ratepayers consistent with this Financing Order. Petitioner is authorized to earn a return on its capital contribution equal to the coupon of the longest tenor tranche of the securitization bonds. If CEI South must contribute additional capital above the 0.5% to achieve a AAA rating, CEI South is authorized to earn a return of the WACC on the additional amount.

(26) Upon transfer by CEI South of the Securitization Property to the SPE, the SPE is granted all of the rights, title, and interest of CEI South with respect to such Securitization Property, including, without limitation, the right to exercise any and all rights and remedies with respect thereto, including the right to authorize and direct CEI South to disconnect electric service and assess and collect any amounts payable by any retail customer in respect of the Securitization Property.

(27) All additional relief requested by CEI South in its Petition and Case-in-Chief is authorized consistent with the Findings included in this Financing Order, including CEI South's request to implement the accounting treatment described in this Financing Order.

(28) This Financing Order and the Securitization Charges authorized herein are irrevocable and not subject to reduction, impairment, or adjustment by further action of this Commission under Ind. Code § 8-1-2-72 or any other statute or rule, except with respect to a request made by Petitioner under Ind. Code § 8-1-40.5-10(h) or Ind. Code § 8-1-40.5-12(c).

(29) This Financing Order, together with the Securitization Charges authorized herein, shall be binding on any successor to CEI South that provides electric service to retail consumers in CEI South's certificated service territory as of the date of this Order, and any other entity that provides electric service to retail consumers within that service area.

(30) All regulatory approvals within the jurisdiction of the Commission that are necessary for the issuance of the Securitization Bonds and the billing and collection of the Securitization Charges and all related transactions contemplated thereby, shall be and hereby are granted.

(31) This Financing Order constitutes a legal financing order for CEI South under Ind. Code ch. 8-1-40.5 and complies with the provision of the statute. A financing order gives rise to rights, interests, obligations and duties as expressed in Ind. Code ch. 8-1-40.5 and this Order expresses the Commission's intent to give rise to those rights, interests, obligations, and duties.

(32) The Commission guarantees that it will act pursuant to this Financing Order as expressly authorized by Ind. Code ch. 8-1-40.5 to ensure that expected Securitization Charge revenues are sufficient to pay on a timely basis scheduled principal and interest on the Securitization Bonds issued pursuant to this Financing Order, including financing and other ongoing costs, in connection with the Securitization Bonds.

(33) The Securitization Bonds are not (1) a debt or obligation of the state; or (2) a charge on the state's full faith and credit or on the state's taxing power.

(34) The State of Indiana, and the Commission, as an administrative agency of the State of Indiana, pledge for the benefit and protection of financing parties and Petitioner, that it will not: (1) take or permit any action that would impair the value of Securitization Property; or (2) reduce or alter, except as authorized by Section 12(c) of the Securitization Act, or impair Securitization Charges to be imposed, collected, and remitted to financing parties under the Securitization Act; until the principal, interest, and premium, and other charges incurred or contracts to be performed, in connection with the related Securitization Bonds have been paid or performed in full. Petitioner and the SPE are authorized to include the pledge set forth in this subsection in any documentation relating to the Securitization Bonds.

(35) Our findings in the Finding Paragraphs in this Financing Order shall be and hereby are approved even if not otherwise specifically addressed in these Ordering Paragraphs.

(36) The Confidential Information submitted under seal in this Cause pursuant to CEI South's requests for confidential treatment is determined to be confidential trade secret information as defined in Ind. Code § 24-2-3-2 and shall continue to be held as confidential and exempt from public access and disclosure under Ind. Code §§ 8-1-2-29 and 5-14-3-4.

(37) This Financing Order shall be effective on and after the date of its approval.

HUSTON, FREEMAN, KREVDA, ZIEGNER, AND VELETA CONCUR:
APPROVED:

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

Dana Kosco
Secretary of the Commission

FORM OF CEI SOUTH'S CERTIFICATION

[CEI South Letterhead]

Date:

Indiana Utility Regulatory Commission
101 W. Washington Street, Suite 1500E
Indianapolis, IN 46204

Re: Application of CenterPoint Energy Indiana South, Cause No. 45722

CenterPoint Energy Indiana South ("CEI South") submits this Certification pursuant to Ordering Paragraph No. 9 of the Financing Order in Cause No. 45722 ("Financing Order").

In its issuance advice letter dated ____, CEI South set forth the following particulars of the Securitization Bonds:

Name of Securitizations Bonds:

SPE:

Closing Date:

Amount Issued:

Expected Amortization Schedule:

Distributions to Investors (quarterly or semi-annually):

Weighted Average Coupon Rate: __%

Weighted Average Yield: __%

The following actions were taken in connection with the design, structuring and pricing of the Securitization Bonds:

[Description of actions specifically taken]

Based upon information reasonably available to the officers, agents, and employees of CEI South, CEI South hereby certifies that the structuring and pricing of the Securitization Bonds, as described in the issuance advice letter, is intended to result in the lowest securitization charges reasonably consistent with market conditions and the general parameters set out in the Financing Order (including the amortization structure).

The foregoing certification does not mean that lower securitization charges could not have been achieved under different market conditions, or that structuring and pricing the Securitization Bonds under conditions not permitted by the Financing Order could not also have achieved lower securitization charges.

CENTERPOINT ENERGY INDIANA
SOUTH

By:

Name:

Title:

CERTIFICATE OF SERVICE

This is to certify that a copy of the *Proposed Financing Order* has been served upon the following parties of record in the captioned proceeding by electronic service on October 7, 2022.

Jason Stephenson
Heather A. Watts
Jeffery A. Earl
Michelle D. Quinn
Matthew Rice

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